JUSTICE AND ETHICS IN INDIA – AN ASSESSMENT

Abstract

The write-up is devoted to exploration of the pattern and characteristics of governance through the norms, beliefs and practices of public ethic in the service of attainment of social justice in India. It is a matter of substantive significance that the architects of the constitution of India have given rather overriding place to the ideal and aspiration of social justice. Attaining social justice has been the principal concern of and consideration under the directive principles of state policy. It has been the cornerstone of the constitutional morality in India. The theme of social justice in matter of food provisioning, employment assurance and child welfare, which is case studied, has been a major spirit of the constitutional ethics in the country. The relations among ethical governance, moral discourses and practices of social justice are explored.

Keywords: Affirmative action, directive principles of state policy, food, employment, child welfare, India, social justice, public ethics, governance.

Author

Mahmood Ansari
Professor in Economics
Assam University
Silchar
Assam, India.
mahmoodalam1963@gmail.com

I. INTRODUCTION

To begin with, justice is integral to governance. To govern a country is to impart propriety, impartiality and fairness to the populace. And, it is only in a regime of good and righteous administration an regulation that such a doing is possible, feasible and practicable between one individual and another in interpersonal interaction – individualistic uprightness and between one group and another on a larger scale of the society – societal fairness. The securing of the fair deals for one and all individuals in a society is never a stand-alone activity. It is not a separate and un-entangled action. To think of justice as a set of actions that is in isolation of the wider canvas of actions of governance is erroneous and unrealistic.

The steerage and administration in a nation serves many purposes and leads to multiple accomplishments. One of its crucial purposes, however, is to render freedom, equity and fairness and offering something valuable and valued to its citizenry. It is the aggregate level of efficient and effective management and administration across a polity, society and economy of countries that do necessarily induce, buttress and facilitate the interpersonal conduct of propriety, uprightness and fairness on a mass scale. It is then imperative to assert at least three concise and relevant observations on the relation of uprightness with governance in the context of India, a country under consideration in the present research project, as elsewhere in the world.

One, justice[1], fairness and uprightness for the populace is a set of hybrid actions. It is a mix of actions of private individuals and that of public functionaries of the government. These hybrid actions are integral part of the wider canvass of a plethora of similar hybrid actions but of the steering, managing and governing of a nation.

Second, the route to the endeavor towards assessment of the extent and level of attainment of the fair play, propriety and uprightness in the society and economy must then necessarily and unfailingly pass through and mediated by an extensive analysis of the characteristics and patterns of the governing and administration in a nation.

Third, the conceptual framework on the relation of the performance of justness for citizenry with the executions of steering and managing the nation is necessarily conjoint on the issue of assessment of the uprightness and fairness. This conjoint perspective is therefore a befitting and realistic approach to proceed with.

The study is centered at the analysis of aggregate justice, that is, the socio-economic fairness and uprightness. This is justice at the societal level among those who are starved,

---

[1] Justice is an ancient aspiration of human settlements. Such aspiration may be traced in as remote an edict as the Babylonian Codes of Hammurabi. The Roman jurists and medieval Semitic theologians had their own specific religious doctrines and sermons on the theme of fairness and justice. The idea of justice had its journey from antiquity till the dominance of classical liberal philosophy. Classical liberalism, whose foundation was laid down with the European Enlightenment project, construed justice in terms of *'individual rights'* and *'legal egalitarian values'*. Being distinct from benevolence, charity, prudence, mercy, generosity and compassion, the notion of justice demands something in excess of, and of course, beyond such values and virtues of human beings. Seekers of justice in all ages have meant various things in the name of fairness and justice – commutative justice, retributive (restitution) justice and distributive justice.

hungry and destitute. It is fairness among those who are workless and unemployed. It is uprightness among the children who are uncared, unprotected and insecure in the country. The case study is therefore in three areas: food security, employment assurances and child welfare. The ethical directives in these fields of the civil society and government bureaucratic interventions are the litmus test of the good, effective and efficient governance in securing the socio-economic justice in food, employment and child care.

With regard to methodology, the verbal and semantic arguments are relied on to ascertain the level of attainment of equity and justice. The tabulations of quantitative information as well are used. The data and information used are mostly from published secondary sources. There is no field survey and visits involved. The content of the thesis is based on the table work of synthesis of theoretical frameworks and systematization of the collated information from secondary sources of data in published literature in India.

What follows in three sections below is an inquiry and exploration. In the first section, the status and features of the concrete public ethical and moral prescriptions and recommendations regarding undoing injustices in India is furnished. The second section deals with the description of the ethical public discourse on the principles of fairness in distribution of benefits and burdens associated with and in matter of food provisioning, employment assurance and child welfare in the country. In the third section, an analysis of the relation of the public ethical practices with the discourse on the social justice in general in the Indian society is put forward, followed by concluding remarks.

II. PRACTICE OF PUBLIC ETHICS

To begin with the social and cultural identity of India, it is home to populations[2] of the *Aryan, Dravidian* and *Mongoloid* stocks since long. In the course of time, it embraced the arrival of the Arabs and the Afghan migrants as well. It is home to a large community of Hindus who have been in majority and the minority communities of the Muslims, Sikhs, Christians and Parsis. The rest of the populations comprise of approximately 2000 ethnic entities of various denominations. India as a country has for long been characterized by a mosaic of racial and ethnic compositions of populations and the division of society along these lines as well as on the lines of caste stratification and continuing otherwise differentiation. It continues to be a country of social and cultural divisions and diversity.

In the process of evolution as a nation, it has also been a home to a burgeoning category of economically excluded in population. The economically excluded group has included the landless and other asset-less labourers as well, whose ranks have included large numbers of unemployed and underemployed persons as well as employed persons who earn very low incomes. Other socially and economically excluded groups include the small and

---

[2]To quote a perceptive remarks about statistical infrastructure regarding population enumeration in the region:

The three most densely populated countries, India, Pakistan and Bangladesh, have taken regular censuses since the end of the nineteenth century. India has held one every ten years since 1871 ………….. In five out of eight, census information is complemented by demographic and health surveys ………….. the most densely populated country in the region is also the one for which we have the most demographic data, thanks in part to India's Sample Registration System (SRS) which constitutes a valuable additional source (Veron, 2008, pp. 12-3).

marginal farmers, small artisans and informal sector operators, disadvantaged women, ethnic minorities, hill people, and people with mental and physical disabilities in the country.

The marginalized and disadvantaged people living on the marginal lands such as riverbanks, coastal areas, and *chars* (riverside flood-prone areas and low-lying sandy islands) and also on the semi-arid lands, and hence on the front line of severe types of natural disasters such as cyclones, floods, and river erosions, have also belonged to the excluded groups. Of all these groups, a chunk of populace has been more excluded than others. For example, the women have been as yet more excluded than the men in the male-dominated poor families in the Indian society. In a social matrix of domination and subordination, the tragedies of social exclusion of a number of caste and tribe and degenerate status of women have been historic.

It has never been easy to locate a unitary ethical codes and practices among the populace of the country. There have been multiple standards of considerations and diversified concerns across the castes and communities in the civil society with regard to the desirable and the undesirable, the recommended and the restricted, the beneficial and the harmful, the blissful and the sinful, the right and the wrong. In such diversified populations with divergent cultural and religious practices, the individual moralities of caste groups, religious communities and racial and ethnic identity clusters have been divergent. Such social divisions, diversities and exclusions among population along the lines of community, caste, race, ethnicity and social exclusion have had sharp impact and implications for the evolving panorama of collective social ethics in the country.

Historically speaking, there have been a base of a mixed, plural and hybrid public ethics and morality, and these have been much influenced by the diverse principles and recommendations of the religion and culture of diverse sects and traditions. The diverse stocks of Indian populations have carried the divergent reservoir of moral codes and ethical practices of their respective traditional ancestors for quite long. There have been a diverse set of inherited ancient and medieval moral codes and ethical standards that have been prevalent among the diverse populace. The socio-cultural diversities have always meant that an anticipation of a uniform civil morality and ethical code has been unimaginable.

Within the framework of divisions in gender-specific practices and comportment and a general dominance of codes of patriarchy for long, if there has been one predominant ethical code and belief that have been prevalent among all such divergent groups, sects and communities that specific one has been the principle of karma (human deeds). This morality of good and the ideology of consequentialism has been based on the belief that a 'good karma' (good action) does always reward with, and thereby, always produces, a good outcome for a person, in the present as well as future life.

Such a moral belief on karma (befitting reward of action over a long horizon of time) had swayed the traditional ethical horizon for quite long before the wheels of the evolution of uniformity in the ethical codes and norms began in real earnest in the country. Beyond such cultural belief and social recommendations of normative content, the predominant ethics and moral practices have always in the last resort cantered on seeking the livelihood by one means and the other in normal times as well as during the times of the natural hazards, for example, the notorious famines in the country.

The British colonialism had created a disruption in such a social order in two ways: first, it allowed and rather accentuated the social and cultural divisions for realising the purpose of effective rule and domination over all communities, and second, it rather reluctantly encouraged a small group of citizens to get introduced to a universal code of ethics and morality. Retrospectively speaking, it had been the political resistance against the British colonialism that had led to the quest for universal moral values and adoption of the universal norms of individual liberty, autonomy and justice for individual citizens in the otherwise diversified and heterogeneous Indian society.

Much influenced by the ethics of later utilitarianism of the British colonial age, it has been only much later that the deontology of claims, entitlements and rights has been strengthened after political independence in India. The politically independent and sovereign country introduced the Constitution and through it the base of the universal standards of constitutional ethics. The Constitution of India that was drafted and came into vogue in 1950 enshrined the deontology of claims, entitlements and rights of individual human beings in the country.

A distinct pattern of stewardship of society and economy emerged since 1950, and it was through insistence and advocacy of conformity to the constitutional ethics in public life. Over last seven decades, a constitutional ethics through the provisions of the directive principles of state policy has been superimposed over the contradictions and conflicts that have been inherent in the plurality and complexity of the ethical lives of the citizens in the civil society. The government, bureaucracy and other state organs that have started functioning under the umbrella of the framework of the directive principles of state policy have regularly been embracing the universal moral obligations to promote the objectives and actions recommended therein through mostly non-legislative and non-statutory means and modes over the years. Such constitutional impositions have specifically been in the direction of convincing, recommending and justifying the overriding universal principles and spirit of social justice[3] in the nation.

The public ethics and concerns for social justice have evolved over a number of decades in the country. It has accommodated the modern concerns while carrying forward the

---

Social justice is a bit different genre of idea and action programme. Social justice is required because human beings are dependent beings and have dependencies – both natural dependencies and man-made dependency. In the lottery of luck and predetermined location of birth, one is not responsible for things beyond one's reasonable control, and therefore, one is not deserving of bad luck and inferiority of birth in a group, caste and community. It is therefore that one is not responsible for and deserving of distress and dislocation in life; rather one is entitled for "rights of man" and equal treatment and equal entitlement to get away from these ill-luck. Care is needed; altruism is needed.

A Sicilian priest, Luigi Taparelli d'Azeglio, used the term 'social justice' in 1840 for the first time, and it was given prominence by Antonio Rosmini Serbati in 1848. The doctrine of social justice has become cardinal and paramount since the approaching of a welfare state in Europe and elsewhere. The modern concept of social justice emerged out of the throes of early industrialization in France and Britain in the 1840s. Social justice is conceived today as principally redistribution of assets and incomes through a social policy of the government supported by responsibility-bearing and accountability-seeking civil society.

past traditions and moral beliefs and paradigms of action. The universal normative values and principles of public action as enshrined in the constitution have been superimposed as the all pervasive constitutional morality on the multiple structures of the public civilian morality. It has been premised on the recommended, justified and desired adherence to the principles and spirit of the framework of the constitution of the country, specifically the sections dealing with the directive principles of state policy.

The contemporaneous public ethics has been built on the diverse familial and group moralities of the legislators, executives, judiciary and the members of Indian civil society. The moral principles and ethical codes of professional unions (of merchants, farmers, workers), religious associations (of creeds, sects, communities) and nongovernmental organizations (of interest groups, pressure groups, charities) have worked in conjunction with the ethics and moral precepts of the welfare state and the constitution of the country.

The conjoint framework has been conducive and instrumental to creation of a foundation of a social consensus so as to keep the ethical interest above self-interest of individual citizens (and households, families), and it is working as a basis for unanimity to resolve conflicts in value and norms of action in public life. The hybridization of public ethics and Constitutional morality as it exists today has been in response to resolve the tensions of accommodating the divergent interests and aspirations of the caste and community divisions among populace and undo the harmful inheritances of injustice committed by the policies and system of repressive and exploitative colonialism over the years and centuries. Both the oral traditions of civil society morality as well as the written compositions of the constitutional ethics have been reflecting the aspirations and values of the majority of citizens in the country.

The constitutional ethics has been based on the widely agreed social contract, and it has been the stable, permanent and objective notions of the good and bad, the right and wrong, and the claims and obligations. In contrast, the civil society morality (also called public morality) has been based on the inherited ancient and medieval customs and traditions, and these have the relatively unstable, shifting, and complex base of moral notions of the way of life as these have been influenced by a plethora of the subjectivity of moral judgments and evaluations of free individuals of varying caste, classes and regional identities in the country. Over the years and decades, there have been attempts and endeavours to reduce and resolve the tensions and conflicts between the two sources of public ethics and morality in the country.

What goes in the name of public ethics today is a synergy between the singular ethics of the written Constitution and the plural, mixed and hybrid oral codes of social and cultural informal interactions in the civil society. In this ongoing synergy, the public ethics today is ethics with social freedom to act without interference, and is always an outcome of consensus and unanimity about the universal notions of freedom and justice. It is not a stand-apart civil society ethics alone but a combination with the Constitutional ethics in India. It is a combination of overlapping ethics of the organs of the civil society and that of the Indian

State with a written Constitution[4], which in turn has been justifying and recommending the social justice as the overriding goal of the public policy in the nation.

In this mixed morality framework of the public and constitutional ethical practices, the moral concerns have been varied, multiple and hybrid. Some constitutional and public ethical directives have been of the nature of deontological moral imperatives. These have been pursued as a matter of principles of actions, that is, irrespective of a concern for its outcomes. Others have however often been based on morality of consequentialism whose following have required assessing the common good and welfare generated as outcomes of actions of the masses in the country. In the plural, hybrid and differentiated morality framework of diverse ethical practises of caste, creed, race and religious communities, however, the common-sense morality has been a staple among the populace. The accommodation has evolved over last few decades to characterise the moral and ethical steering, managing and governing of the society in India.

In this plural, mixed and hybrid morality and ethical framework of control, regulation and oversight in India, the attainment of fairness and justice[5] has been a dominant public prescription and recommendation for the sake of promotion of the good and the righteous practices of social interactions[6] amongst citizens in the country. The constitutional public

---

The spirit and content of ethics as inherited from the past and as filtered from the dominant traditions and customs of the day was vigorously debated by members of the Constituent Assembly year after year and finally, got compiled as Part – IV under the heading of Directive Principles of State Policy in the Constitution of India in 1950. It constituted the Constitutional ethics in the country. The civil society ethics was presumed to embrace it.

As of now, much of the present conception of morality and justice have been moulded by the Constitutional ethics and public morality enshrined in the Directive Principles of State Policy in the Indian Constitution in force since 1950. Among many uniform public ethical concerns, the morality of social justice was made the paramount pillar of ethical governance in the country. India adopted the goals of a welfare state immediately after the Independence from the British colonial empire, and enshrined the social justice as the constitutional obligation.

[5] To recall, the moral and political philosophy elsewhere have been far ahead in comparison to other established academic disciplines of knowledge in attempts to define, re-define, refine and reformulate the conceptual framework of normative categories of justice, equality and virtue. The liberals and libertarians have been champions of ethics and morality in the service of fairness and justice. The Indian academic and scholastic fields have not been oblivious to such developments and these trends since the days of British colonialism of 18th and 19th century.

[6] The concept of social justice is used in contexts where people understand social justice to be about fairness beyond individual justice. In contemporary time, distributive justice is concerned with distribution of benefits and burdens in equal and fair manner while social justice is concerned with the distribution of provisioning of public goods and services.

This has been the principal claim of all 'social policy' theorists from Richard Tittmus (1956; 1970) to Robert Pinker (1971; 1979) that a good life is the universal goal, and well-being is a need that requires altruism spirit and care work to address the issues of dependencies of children, women, and elderly, deprived and excluded in markets for property and work opportunity.

Social justice is conventionally concerned with distribution of education, health-care and opportunities of gainful employment in equal and fair manner among all, principally by including the socially excluded. The

morality of liberty, equality and fraternity have over the years subsumed the divergent public moralities of varied social groupings of the civil society, and such morality has never been pure but rather hybrid – a combination of judgment based on respect for certain principles (deontology) and a judgment based on outcomes of citizen action (teleology and consequentialism).

The constitutional ethics and provisions of rights and duties therein have not merely set the public ethics of the welfare state model but also provided the requisite guidance to ensure the dignity of individual citizen, secure the social justice[7] for the marginalised and excluded, and eliminate the inequalities and asymmetries among the social groupings and economic classes in the country. The postcolonial India stands on its firm ethical footing as this foundation has been enshrined in the directive principles of state policy of the constitution of the country.

In a regime of ethical governing of the society and economy, the spirit of the guiding directive principles, policies and recommendations has increasingly percolated down to the masses over the last seven decades. It has become the agenda of discussion, discourse and practical reasons among the private citizens and public functionaries to organize public actions according to moral injunctions on social justice as contained therein the directive principles of state policy in the country.

It is a novel feature of the Constitution of India that it has set the social and economic ideals and it has organized its multiple articles as the "instruments of instructions" to the legislature (Parliament) and the executive (bureaucracy). The article – 36 to article – 51, contained in part - IV of the Constitution of India and under the title of the directive

---

concept of social justice takes within its sweep the objectives of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities.

Social justice seeks to ensure systematic and structural social arrangements to improve equality as a core social and political value. The term social justice is a blanket term so as to include both social justice and economic justice. In 1994, a political report entitled the "Social Justice: Strategies for National Renewal" was published in England. It was based on the Report of the Commission on Social Justice that was set up by John Smith, the leader of the new Labour Party in Britain. It was however completed and published under the leadership of former Prime Minister of Britain, Mr Tony Blair.

[7] In India, social justice has not been construed as distribution of economic resources among individuals. It continues to be construed as fair distribution of social status (respect and power), employment and education. Since beginning, social justice connoted that social groups, rather than individuals, were the units of justice calculation and benefit allocation that in turn was based on the assumption that individuals were disadvantaged on account of belonging to a group or a caste.

A new movement for social justice through affirmative action for disadvantaged groups, mainly lower castes called the 'Other-Backward-Castes' (OBCs) began in 1990. In the 1990s, the disproportionate 'representation' of lower-castes in bureaucracy and legislature was seen as evidence that inequalities in opportunities persist. The politics of social justice in the 1990s has been one informed by growing political clout of lower-caste parties and leaders in Indian politics who have been arguing on the basis of caste inequalities, social justice and job quotas.

principles of state policy (DPSP) as it is set in the backdrop of the preamble of the constitution and it is inspired by the Ireland model, are moral persuasion and guidance to promote and advance the national character of a democratic constitutional socialist secular republic in India.

Within the constitutional directives, there has been four amendments that have been brought to the corpus of articles – 35 to articles -51 by the Parliament in 1976 (42nd amendment), 1978 (44th amendment), 2002 (86th amendment) and 2011 (97th amendment) respectively. These amendments have enriched the constitutional ethics on the road towards recommending and persuading to the citizens to instil the practicable and pragmatic morality in their private life and public realm of interactive conduct and action in general.

While the welfare provisions under the aegis of the welfare state as inspired by the public ethics have been available since 1950s in India, there has been a surge in the making of the social policy innovations in the country since 2004 – last ten years. Attempts have been made to make steps towards creating a transformative and rights based developmental welfare states as a tactic to assuage the grievances of the citizens and orchestrate the pacifying policies to palliative effects.

There has been a surge in social sector policies to initiate and strengthen the social protection measures as part of the innovations in intent and design of welfare policy of the governments in India. The public constitutional ethics as summarized in article – 33 and article – 47 under the directives on the state policy have often been pitched to test the scope of the positive laws on the fundamental rights of citizens under article - 21 in recent years in the courts. All these have formed part of the regime of ethical governance and promotion of social justice in the country.

III. ETHICAL DISCOURSE ON FOOD, EMPLOYMENT AND CHILD WELFARE

In the civil society framework of plural, mixed and hybrid morality and ethics of governance, whether a person goes hungry and sleeps without a meal, a person goes around as a vagabond without a fruitful engagement and a child grows without opportunity to gain numeracy, literacy, health-care assistance and protection against the evils of society were mostly normative issues and required moral considerations. In the country, there had been a social tradition of patron-client relations, known locally in vernacular language as the "jajmani" system in the framework of which the masters, lords and the rich sections of the society used to take care of the food requirements and employment needs of the beneficiaries in the villages.

While inheriting diversity from the past and carrying a multiplicity of religious and moral influences as cultural and social baggage, the philosophical and political proclamations about Niti (just policy) and Nyay (justice) have been traceable to ancient literature, and the narratives about medieval Adl (fairness) and Insaaf (justice) have been handed down to the present generations on the Indian subcontinent from medieval times. These inherited conceptions did not fully wither away from the memories of populace. In the mainstream public life of both rural and urban citizens, the set of rituals of charity, benevolence, dana-dharma (religious gifts), khairaat-zakaat (religious givings), Bhandara (ceremonial feasting) and alms-distribution, and giving heed to the voices of fairness have been a cornerstone.

The system in which the charity and compassionate actions used to be practised had certainly been of ad-hoc, piecemeal and localised nature. Of course, the protection of children against the social ills and dangers and the provisioning of education and healthcare to children used to be considered the sole obligation of the family, and not of the government.

The colonial rule disrupted the feudal and semi-feudal system everywhere as the colonial administration brought in the budding capitalist framework of the economy. With the budding and maturing capitalist framework, the economy got increasingly dis-embedded and un-enmeshed from the culture and society, and the monetary relations got strong. In times of scarcity caused by the man-made and natural disasters, the market as allocation and distribution mechanism often failed. To deal with such situations of failures of the markets in times of catastrophe, the colonial economic administration introduced the ad-hoc arrangement of a system of distribution of food during the times of famines and natural disasters among the adults and children.

The utilitarian ethical moorings did survive in the minds and mentalities of the colonial masters, as the economy was not completely dis-embedded with society. In Indian society, the championing of the cause of making provision for food to the hungry, of jobs to the diligent and protection of children from the dangers have survived as the principles of charity and compassion, and the colonial rule reflected it in haphazardly way.

The postcolonial society has however been built on the strength of the constitutional public ethics and morality that brought, though slowly but inevitably, the public ethics of the governmental provisions of access to food, employment guarantees and child welfare to the needy and deserving ones to the centre stage. The moral and ethical actions in India that have variously been desired have often been recommended and justified by a number of instructions contained in the directive principles of the state policy (DPSP)[8] (containing sixteen articles numbering from 36 to 51 in part IV of the Indian Constitution), and at least five articles among them, viz., articles 38, 39, 41, 45 and 47 - have been directly relevant to the themes of food, employment and children welfare[9].

---

[8]To quote:

Although explicitly declared non-justiciable, the Directives cast a 'paramount' duty of observance in the making of law and policy. Because of this, Indian courts have deployed the Directives as a technology of constitutional interpretation: they have favoured interpretation that fosters, rather than frustrates, the Directives. This 'indirect' justiciablity has contributed a good deal towards the fructification of the substantive /'thick' versions of the Indian rule of law (Baxi, 2004, p. 325).

[9]India is the representative example:

In south Asia, targeted interventions like public works existed under Mughals and British rule ....in India, targeting has been a common element of a wide range of social policies, carried out on the basis of a well-developed system of categorization, of social (SC, ST, Other Backward Castes) as well as economic ("Below the Poverty Line") categories, and on the basis of the post-colonial pact with businessmen that realized the need for anti-poverty programs ....One of the best known example has been the Maharashtra Employment Guarantee Scheme, which provided rural employment on the basis of "self-targeting", in

The public administrative and macromanagement practices in the country have often derived the ethical inspiration and justification from these articles. To complement it, the Supreme Court ever invoked the article -14 of the Constitution that emphasized the equality before the law and equal protection of laws in the country. To present the ethical directives one by one on the themes of provisions of food, employment and child welfare in order, the Article 47 (DPSP) has stated:

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

With regard to the labour employment, the ethical directives to the government have been contained in the Article 41 (DPSP) that states:

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

In the country, the recent researches show that migration from rural to urban areas are likely to continue on a large scale and that this is an essential part of the livelihood coping strategies of the rural poor. Rural survival strategies demand that young people fully contribute to meeting the livelihood needs of their households from an early age. Most of the rural youths are either employed (waged and self-employed) or 'not in the labour force'. The issue, therefore, is not so much about unemployment, but serious under-employment in low productivity, predominantly household-based activities.

In addition to the issues of nutrition and employment for the populace in need, there is recommendation and justification for the free and compulsory education of children. The Article 45 (DPSP) has stated:

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

A comprehensive set of moral imperatives are however compiled in the Article 39 (DPSP) that recommends that:

---

which wages provided are low enough so that better-off would not apply for the scheme .... Food aid played a big role in the 1974 famine in Bangladesh............. In Bangladesh, particularly following the war and natural disasters, international organizations have played a large role, with a big impact on targeted food distribution schemes, and the support to "national" NGOs .... The big challenge for social policies in the region, in the context of continued economic transition and globalization, is for transformative forces to find strong anchors in public institutions, and to shape a more inclusive social contract (Haan, 2010, pp. 204-7).

The State shall, in particular, direct its policy towards securing:

- *That the citizen, men and women equally, have the right to an adequate means of livelihood;*
- *That the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good;*
- *That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;*
- *That there is equal pay for equal work for both men and women;*

that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength;
that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Such ethics and morality has ever been required be backed by befitting legislations and laws from time to time. It has been expected that the civil society would participate in carrying out the ethical obligation, but the government was directed to enact proper legislations to create binding obligations. In this regard, the Article 39 (a) (DPSP) recommended:

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The Article 38 (DPSP) states:

- *The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.*

- *The State shall, in particular, strive to minimise the inequalities 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 vocations.*

The constitutional ethics that was set was highly emphatic to spread the message that unless inequalities and asymmetries are reduced, the moral order to ensure social security, guaranteed employment to adults and welfare and security to children are not possible. And, it is therefore, Article -39 has given befitting moral directives to the government.

Article – 39 (b) and Article 39 (c) were added after the 25th amendment in 1971 states as moral judgment. The Article – 39 (c) sets the negative duty and obligation of the State, while the Article – 39 (b) however sets the positive moral obligation as follows:

The State shall, in particular, direct its policy towards securing: that the ownership and control of the material resource of the community are so distributed as best to sub-serve the Common Good"

The Article - 39 (c) states:

"The State shall, in particular, direct its policy towards securing: that the operation of the economic system does not result in concentration of wealth and means of production to the Common detriment"

The purpose of laying down these articles as the directive principles in the formulation of policy of the nation has been to set a constitutional ethical directions and recommendations to the state machineries and functionaries in the country. These directions have been available to the politicians, bureaucracy and judiciary as well as common citizens. These are in the nature of moral persuasions to act towards justice through social, political and economic policy and at best whenever possible through befitting legislations and law.

The public debate, discourse and practices in the spheres of judiciary, bureaucracy and politics of the nation over such written constitutional directives, though non-judiciable, have ever stimulated a civil society ethical codes of behaviours through which an ethical regulation and direction has been made possible in India. A common secular understanding and practices in line with the constitutional ethics, though sometimes disrupted by corruption and rent-seeking phenomena, has evolved to impact a majority of civil society actions, often carried forward by trade unions, farmers' organization and non-profit societies, trusts and associations in the country.

In a globalised world (at least since the economic restructuring of 1991 onward), the public ethics and moral practices had not been independent but rather linked to, interdependent with and often buttressed by the international proclamations[10] as well. The global ethics and its evolution had always impacted the patterns of domestic governance in India. India's commitment to upholding human rights and the rule of law through mechanisms that ensure equality of treatment and equity in outcomes mirrors that many long-standing obligations it has committed itself to honour as a leading member of the international community of nations.

---

[10] In the international context, the United Nations in its Development Summit in September 2015 adopted almost 17 sustainable development goals (SDGs) and 169 targets to achieve as the 2030 Agenda for Sustainable Development (ASD), and it was endorsed by 193 member-countries.

These global goals were outcome of a politically negotiated consensus about post-2015 development, and such consensus were fortunately not at all the outcome of any exercise in simplification in the name of simplicity and not outcome of any attempt at reductionism through quantification of goals but rather it did set intangible qualitative objectives of equitable and sustainable development.

The power of these SDGs lies in the normative value of a call to action on the principle of common but differentiated responsibilities to be shared by committed individuals, organisations and nations.

Most recently, this has been articulated in the form of the universally agreed upon UN sustainable development goals. The relevant global goals, as set in the framework of Sustainable Development Goals by the United Nations Organization and which India has also adopted for the duration of years 2015-2030, have been impacting the ethical governance, in addition to constitutional directive principles on food, employment, child care and wealth distribution in general. These relevant SDG have been as follows:

Goal 2: end hunger, achieve food security and improved nutrition and promote sustainable agriculture
Goal 4: ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
Goal 8: promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
Goal 10: reduce inequality within and among countries

Just prior to adoption of sustainable development goals as normative values, the Maastricht principles[11] on extraterritorial obligations of states in the area of economic, social and cultural rights has also been impacting the governance in India. Two principles in particular have had relevance to the evolution of public ethical governance in India as well. Principle 23 in part IV on the obligations to protect does narrate the General obligation:

> *All states must take actions, separately, or jointly through international cooperation, to protect economic, social and cultural rights of persons within their territories and extraterritorially ………*

Principle 29 (b) in part V on obligations to fulfil and to create an international enabling environment states:

> *measure and policies by each state in respect of its foreign relations, including actions within international organisations, and its domestic measures and policies that can contribute to the fulfilment of economic, social and cultural rights extraterritorially.*

Such moral commitment and pursuance of ethical imperatives on the part of politicians, judges and bureaucrats in professional fields and social reformers and activists in the civil society towards securing food for all, fructifying employment guarantees to seekers of jobs and advancing welfare and care of children have formed the of public ethics practices in modern India over decades, and continues to impact the life of citizenry and the nation.

In retrospect, the evolution of public ethics and efficacy of ethical governance have been considerably successful in creating a political agenda in favour of evolving positive law, and thus, inducing enactment of corresponding legislations in the Parliament and state assemblies and influencing the political economic policies, country-wide programmes and

---

[11]The source is Maastricht University (2012) (Ed.), "Maastricht Principles of Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights", Maastricht

schemes to guarantee the employment to non-engaged, provide food to the needy and facilitating holistic care of children over the years in the country.

IV. RELATIONS OF ETHICAL DISCOURSE WITH SOCIAL JUSTICE

Century old structure of plural mixed and hybrid collective morality and ethics of the civil society and the recent foundation of the constitutional ethics superimposed upon it to bring uniformity and universality with regard to sensitization regarding the urgency of social justice, the most significant discourse has been on the affirmative action by the government in India. The affirmative action in the country has taken the form of reserving the seats of admission in schools, colleges and universities and reserving the jobs and employment in the government and public enterprises for the scheduled tribes, scheduled castes and other backward classes of the Indian society.

The social justice argument has also focused on achievement of non-discrimination against, general welfare of and compensatory justice to excluded, marginalized and disadvantaged ones. It has also inspired the provisioning of food for the hungry and the protection of women and children in general. The attainment of social justice[12] has been a cornerstone of the non-justifiable directive principles of the state policy in Part four of the Constitution of India. The Indian State has often followed the constitutional moral obligatory directives, and the bureaucracy has mostly sought the guidance from the constitutional ethical spirit in furthering the foundation for universal education and health-care in the country.

Theoretically speaking, the most prominent modern defender and advocate of social justice has been John Rawls (1971; 1972). It was not merely a core idea of the political philosophy but also a powerful argument of the public ethics on the basis of which that the idea and practice of social justice was defended. Being a prominent advocate of the idea, John Rawls (1971)[13] argued and the distinctive aspect of his work has been the argument in

---

[12]To continue to quote:

> *Let me end with a plea for accountability at all levels: local, national and local. .... Social justice has to be looked at from the ground level, where the poor live. .... Democratic decentralisation that utilises local information, initiative, and ingenuity is thus extremely important for the poor .... Finally, social justice has to be ultimately demanded and achieved from below, not from above .... Ultimately, if the demand for, and achievement of, social justice has to come from below, the people to whom these institutions are to be accountable have to play their part in terms of responsible behaviour (Bardhan, 2001, pp. 471-80).*

[13] It is an egalitarian theory of justice of institutions of the basic structure of society in general. Integrating concerns regarding individual liberty, conditions of opportunities available to individual person and the status of benefits to the least-advantaged, two principles of justice (of institutions in a society) and distribution of basic social goods in an ideal, liberal and democratic society was propounded by John Rawls in early part of seventies of twentieth century.

Being characterised by the significant propositions regarding the moral worth of human liberty, fairness in procedures and equality in opportunities as integral and defining contents of the idea of justice, Rawlsian principles of justice (see Rawls, 1971, p. 302) are to the effect that:

favour of both equality of opportunities and equality of outcomes. Rawlsian liberal egalitarians share a normative focus on the question of the fair division of the fruits of social cooperation among people who are regarded as free and equal. They also insist on the fair division of some basic social goods. The realisation of justice[14] is in the form of establishing a basic just social structure in the society, and it is conditional on features of human actions. What is distinctive is that the idea of institutional justice in Rawlsian framework of principles does presuppose the moral capacities of a person (endowed with the traits of personhood) in human agency.

So far as the idea and principle of equality is concerned, it has not been among the foremost revolutionary demands even so late as in eighteenth century Europe and America. According to Amartya Sen (2009), there has also not been an extraordinary consensus on its importance in the post-Enlightenment world, for a prominent example is that of Frederick Hayek[15] who criticised the idea of social justice (to the extent of declaring this ideal as a

---

One, each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for others,
Second, social and economic inequalities are to be arranged so that they are both:
to the greatest benefit of the least-advantaged, consistent with the just savings principles, and
attached to offices and positions open to all under conditions of fair equality of opportunity.

The priority rules of justice of Rawlsian ideal theory is sacrificed in the course of action that is geared to realization and attainment of transitional justice. A partial-compliance non-ideal theory of justice requires a set of moral principles to govern the individual conduct in non-ideal conditions in a non-ordered society.

The partial-compliance theory and transitional theory of justice do not prescribe the tasks of building up institutions and undertaking reforms to make basic structure and institutions just in a well-ordered liberal society.

In the backdrop of pioneering theoretical work of Plato and Aristotle on the themes of commutative and distributive justice and insightful commentaries of David Hume, Immanuel Kant, John Locke, John Stuart Mill and Adam Smith on retributive and distributive justice, John Rawls was a modern pioneer theoretician on the theme of social (distributive) justice.

[14] The classic by John Rawls entitled 'A Theory of Justice' was published in 1971. Social justice has enjoyed a significant audience among theorists under the pseudonym of distributive justice since then. John Rawls' conception of social justice is probably the most influential. Rawls paid attention to those who were disadvantaged at birth with undeserved inequalities; his principle of redress required that those with fewer native assets should be compensated. In 1989, he brought further clarity to his views on the subject.

[15] Most devastating critic of social justice idea has however been the liberal economist, Frederick Hayek. Though being a liberal, Frederick Hayek argued about the mirage of social justice. While supporting the notion of justice of classical liberal tradition, Hayek termed social justice conception of twentieth century as a 'myopic delusion'.

In his view, social justice is wholly devoid of meaning or content, and therefore, the very idea of social justice is necessarily meaningless within the context of an extended market order - a system of market order that is a spontaneous order. The idea of social justice has however withstood the scathing criticism, and survived.

It was much more later that a hybrid conception of a combination of the virtue ethics, care ethics and Rawlsian liberalism was successively attempted to assert that individual virtue of compassion, altruism and benevolence on the one hand and free and fair institutional set up of society on the other are both needed for justice. More and more theories have come up recently in favour of the idea and political agenda of social justice.

mirage and a chimera). In general, the demand for seeing people as equals relates today to the politics and the corresponding normative demand for impartiality, and the related claims of objectivity. The clamour for equality in this respect does figure prominently today only in the contributions of select egalitarian liberal political philosophers, for example, John Rawls, James Meade, Ronald Dworkin, Thomas Nagel and Thomas Scanlon. John Roemer (1996) has put forward the idea of justice in which a case is made for compensating people for the disadvantages that are related to circumstances[16]. The Roemerian conceptualization has been successful in shifting the attention of the development economics toward equality of opportunities. It has been effective in highlighting issue of equal access to basic services in the society. The weakness of this paradigm has however been its toleration of 'the remaining inequality of outcomes' (Rama, et al., 2015, p. 37).

Amartya Sen (2009) in the book entitled "The Idea of Justice" has put forward a view in which the idea is to make society less unjust, rather than aiming to make society perfectly just. The effectiveness of actions and institutions are judged in terms of reducing injustices rather than pursuing some transcendental perfect justice. Amartya Sen (2009) has favoured the urgency of private and public human actions centered at curing particular injustices[17] without the need to have a theory of perfect, ideal justice, and advocates piecemeal changes without a blueprint of perfection. In this framework of public ethics and political philosophy, more urgent than identification of the features of justice and a theory of ideal, perfect justice is the practical requirement to identify the instances of injustices and other moral wrongs, and the practices of minimizing such injustices through welfare dialog among critically reasoning agents.

In the corpus of moral philosophy and ethics that is also addressed to the concerns regarding social justice, the notion of (extra-legal, extra-juridical) transitional justice is a new entry. Theorization on transitional justice (de Greiff, 2012) has focused on adjudicating between retributive or restorative justice through reconciliation between victims and perpetrators in favour of establishing peace in post-conflict societies. Of late, the literature on transitional justice has included the issue of fair distribution of goods (de Greiff, 2009; Fuller, 2012). The idea of transitional justice, which is inspired by the works of John Rawls

---

[16]To quote John Roemer (1998):

> *I think that some egalitarian theory, or of the Rawls-Sen-Dworkin-Arneson-Cohen variety, is needed to justify the Marxian accusation that workers are unjustly treated under capitalism. It may be unjust, for example, for any small group to own a factory, if in a market economy, that makes the equalization of opportunity impossible. Or the method by which the capitalist came to acquire the factory may have been unjust. In either case, we need a deeper theory (Roemer, 1996, p. 9).*

[17] While comparative injustice instances can be known by knowing the comprehensive outcomes, that is the process through which the end-state has come about as well as the end-state itself, and without knowing the ideal, perfect justice, the specific failures of justice may be different from other moral failures, according to Amartya Sen. Failures of justice are to be distinguished from failures in other moral duties. An open (or non-parochial) impartiality is required. What injustices are' are better known at the grass-root level of the society. What seems to be plausible is the idea and instances of an imperfect theory of non-ideal justice in the case of underdeveloped society.

(1999) on non-ideal theory of justice, is associated with attempts to remove not merely the material scarcity but also the human vulnerability.

Lisa Fuller (2011) has propounded a model of a non-ideal theory of 'transitional justice'[18] in political philosophy that attempts at policies and courses of actions required for lifting-up the 'worst-off representative person' of a 'burdened society'. Such courses of lifting up the worst-off persons are required urgently in societies suffering from structural injustices. In the concept of "transitional justice", there is no need to know what perfect, ideal, transcendental, absolute justice is all about in knowing what comparative injustices are. What is required is the bottom-up type of deliberation and thinking (Kamm, 2011).

The appropriate goal is simply be to reduce injustices, in addition to the goals of maximising the self-interested preferences, commitment, sympathy, charity and others. Such an idea of justice is befitting to the circumstances in which the background institutions of society are either unjust or do not exist at all[19]. While empirical study focuses on the details of what has happened (a number of injustices of the past to be rectified) or is happening in transitional societies, attempts at theorization on transitional justice have been investigating what ought to have happened or what ought to happen in the future – a normative concern about transitional policies, laws, and procedures (de Greiff, 2012, p. 33). The transitional justice is first and foremost the undoing of harms and injustices[20] that has been carried forward till present as a baggage from the past.

Leaving aside the detour to the theoretical discourse, the constitutional ethics of the directive principles of the state policy does not constitute the will in India. It also does not constitute the command of the sovereign State. It does not form part of the constitutional law. It is not binding on the legislature and the judiciary. In other words, the various directives towards making the government policies are not judicable in any judicial court. It has been declared non-justifiable in the judicial courts of law.

---

[18] The non-ideal policies of transitional justice are contrasted with the ideal principles of perfect justice. In contrast to the dominant prevalent conception of absolute perfect ideal maximal justice, there is an alternative tradition of conceptualising an imperfect justice as well. It is variously argued that what seems to be plausible is the idea and instances of an imperfect theory of non-ideal justice in the case of underdeveloped society.

[19] The agent-relative, comprehensive-outcome-sensitive, fair opportunity for capability formation as a moral principle of action is one such paradigm of imperfect justice, according to Amartya Sen (1999). It is argued that the incommensurability of multiple factors that are considered and evaluated in ranking that in turn itself may be incomplete and partial ranking of outcomes and state of affairs due to lack of information in answering questions ought not to paralyze us in declaring that a state of affair is unjust in comparison to another state of affair and/or more or less unjust in comparison to all other states of affairs.

[20] It is but tragic that such actions of injustices of the past are merely declared blameworthy, guilt-worthy and shameful. While the theories of individual morality and public ethics are effective guide to present and future good, caring, virtuous and righteous actions by providing justification and recommendation, these are silent on questions of rectifying, restoring and remedying the immoral, unethical and unjust actions of the past. These ethical theories and paradigms also do not account for reimbursement, compensation and reparation for injustices meted out to the 'others' at present and in the past.

The organs of the state are under no legal compulsions to follow, execute and implement it. Neither the morally recommended positive duty for the state to frame principles and policies to serve the Common good, that is, welfare' nor the negative obligation of the state to avoid the outcome and consequences of the common bad, for example, the detrimental concentration of income, asset and wealth in few hands of citizens, can be directly challenged in a court of law.

The directives principles however do assign a number of obligations and responsibilities to the institutions of the state and government to be fulfilled in the course of time. The constitutional ethical codes contained in these directive principles is a source of the recommending and justifying reasons for action – practical reasons - on the part of a welfare state in the country. In contrast to legal positivism approach of separating law from the morals, it however recommends rules, regulations, statutes and acts of parliament and state assemblies to be compatible to and with the requirements of justice and morals. It recommends the desirability of right and claims to decent socio-economic life and dignity of citizens.

It does not insists on the legal positivism ideology of recommending a moral duty to comply with the demands of the rules and the standards of the positive law, whatever their contents. It is nonetheless a corpus of public morality and ethics which it is obligatory for the State to apply in the spirit of social welfare and social justice while drafting legislations, and making policies, programmes and socio-economic planning. It inspires the acts, statutes, by-laws, standards of organization to move in the direction of facilitating social and economic justice and good governance of the country. It is a fact that a number of principles and the directives have over the years been converted into the provisions of positive law.

A number of moral recommendations contained in the directive principles of state policy have been popularized over the years through the print media, political speeches in the parliament and on the streets. Recommended and justified under such directives, the political and economic schemes of inclusive social policy of free education, free primary health, subsistence-guarantees, income-assistances and social-protection measures for welfare and the common good of the populace have been part of the governance in public ethics framework in the country.

The morally-persuaded (often with the spirit of political populism) ethical rhetoric of the ruling parties with their welfare-cart in the government has variously recommended wiping out of the caste untouchability, advocated the adopted measures to enhance voices of marginalized castes and classes, and undertook many family and social welfare measures in ad-hoc and often protracted manner to institute the collective moral values of social democracy, socialistic patterns and secular public life oriented towards the social justice.

The Indian constitution has explicitly sanctioned preferential treatment for disadvantaged groups of the 'Untouchables' (achhut), Scheduled Castes (dalits) and Scheduled Tribes (adivasis). The purpose of the preferential treatment was their 'upliftment' and closer 'integration' in the national progress. The demand for social justice has been the political plank in the mobilization of support from the masses for quite some time in the recent past.

The affirmative action, welfare strand of the centrally sponsored schemes (CSS) and social justice movements of the regional political parties (as inspired by the recommendations of the Mandal Commission) have all got inspiration and content from the constitutional public ethics to clamour for obtaining justice, unburdening the past historical injustices[21] and undo the ongoing harms and injuries through the public actions of restoration, retribution and redistribution of social benefits.

The moral philosophy arguments of equal opportunities to all citizens have of late been invoked too frequently to maintain and continue the reservation policy in India. the policy has worked as a mode of delivering the benefits of education, jobs, public utility benefits and social assistances. There has been a sense of consequentialist justice that informed the provisions of quotas and reservations in jobs and employment. As a key component of the plank of social justice, the affirmative action of the states has taken the forms of reserving a stipulated number of seats of admission into the educational institutions and reserving a stipulated number of jobs in the government and the public enterprises for the disadvantaged and historically oppressed castes and tribes – an attempt to bring equality in opportunity[22].

---

[21]There are fables and mythologies knitted around the biographies of ancient kings whose life revolved around delivering justice and whose fame multiplied for a concern for the overriding value of justice in their lives and their system of governance. Ancient Indian philosophical preoccupation with the virtue of 'Nyay" (justice) and the 'Niti' (policy) of welfare of the subjects abounds in 'shashtras" (books of learning).

There had been values glorified by the Manu-Smriti and Arthasashtra - two significant sources of ancient laws on individual behaviour and regulations of society by individual morality and ethics. Medieval Indian slave dynasties and Mughal Kings issuing farmans (court orders) and delivering "insaaf' (justice) are recounted in in both oral and recorded history. There had been written moral instructions and societal regulations of the medieval kingdoms on land, property, crime.

It is in continuum of ancient Indian values, medieval Persianised Mughal norms and Colonial British standard operating procedures that the foundation of modern public ethics and morality of justice was laid with the passing of the Directive Principles of State Policy as Part-IV of the Constitution of India by the erstwhile Constituent Assembly in the Parliament in 1950.

[22]This has influenced the reality of the idea of equality and distributive justice in south Asia:

Equality of opportunity is considered a key condition for a society to ensure distributional justice ……. Equality of opportunity requires compensating people for disadvantages related to circumstances so the distributions of outcomes can be entirely attributed to efforts …………... The Universal Declaration of Human Rights, the United Nations Convention on the Rights of the Child, and the Millennium Development Goals (MDGs) all reflect this consensus. The idea of opportunities as equal access to basic services by children is also consistent with the "rights approach" upheld by several countries in South Asia …………The idea of opportunities as equal access to basic services by children is consistent with rights-based approaches to service delivery.............. More recently, four South Asian countries joined the Scaling-Up Nutrition movement, which had been launched in 2010 and renewed in 2012 with updated goals. These four South Asian countries are Bangladesh, Nepal, Pakistan, and Sri Lanka. Complementing the MDGs, Scaling-Up Nutrition aims at saving and improving lives through greater availability of nutritious food. Despite this widespread commitment to rights, access to services related to health and nutrition tends to be limited in South Asia (Rama, et al., 2015, p.95-7).

India has been the home to one of the oldest and most complex policy regimes of social justice through affirmative action, which dates from the late 19th century[23]. The public discourse regarding the affirmative action[24] has been the principal intervention on the road towards achieving social justice. It has simply been a sort of reverse discrimination against the majority. To quote:

Unlike the United State's constitutionalism, affirmative action in India is not a pre-eminent gift of judicial review, subject to its manifold vagaries. Indian justice no doubt invent ways of adjudication that draw bright lines between and among various notions of equality (equality of opportunity/equality of results/horizontal equality versus 'vertical' forms, for example), but affirmative action ('compensatory', 'preferential' and 'reverse' discrimination, and these descript6ions do make and mark an important difference) remains the leitmotiv of the Indian rule of law, defining its core of 'good governance' (Upendra Baxi, 2004, p.329)

The popular type of affirmative action has often been the setting up of a 'quota' - designating a specific number of hiring decisions, admission positions, or contractor awards to racial/ethnic minorities or women. The quotas have been a form of reparation – a form of atonement by the current generation for the misdeeds of their ancestors. It has been a sort of the compensation owed to the victims of past injustices. In India, the quota and reservation policy continues as part of affirmative action programs. It is not merely for the scheduled tribes and scheduled castes but also for the 'other backward caste' that quotas have been set.

The government has implemented the job quotas for the OBC (lower caste Hindu groups and also equivalent non-Hindu groups) in line with the recommendations of the second Backward Classes Commission (popularly, known as the 'Mandal' Commission)[25]. The caste-based politics received its official sanction with the acceptance of

---

[23]**To quote an observer:**

Colonial traditions continue to influence approaches to social welfare, primarily by the state in India, and much more strongly determined by the large non-governmental organizations (NGOs) in Bangladesh. Political democracy and the way this emerged from the colonial period gave a particular shape to the implementation of the social policy model in India, including in the dualism between modern (organized) and informal (unorganized) sectors, its many "centrally sponsored" schemes, and notably , through the "reservation" policies for marginalized groups (de Haan, 2010, p. 12).

[24]The slogan and the practice of "affirmative action" were first developed in the early 1960s under President Kennedy in America. That was the appeal to take public action to address the inequality and discrimination that the Blacks experienced. President Johnson strongly supported this policy and expanded it. Later, President Nixon was the first to set up specific federal guidelines to implement affirmative action policies.

[25] In 1992, the Supreme Court upheld quotas for OBCs but asked for the exclusion of economically well-off OBCs – the creamy layer. Since 1993, the job "quota" of Indian Constitution of 1950 for the SC and ST was extended for the 'Other-Backward-Castes' (OBCs). The education quotas in higher education institutions which was instituted since 2006 was extended to the admission of 'Other-Backward-Castes' (OBCs) in institutions of higher education in 2008. It was the culmination of the landmark parliamentary debate in 1990. All these constituted the state policy of group preference through legislative quotas of job/employment for castes in national bureaucracy.

recommendations of the Mandal Commission in 1990, as these recommendations endorse a number of rational, moral and data based arguments in favour of the other backward classes of Indian society.

In the social movement towards attainment of social justice and the public discourse regarding the social morality of assisting the disadvantaged, the politicization of 'caste' has been a recent phenomenon. The social policy on social justice has recently been as such that caste census was introduced for the first time in the country. With this, some sort of legitimization was added to the caste-based politics of "quotas" and "reservation". The Census of 2011 enumerated the caste composition for a considerable number of populations; it recorded the names, addresses, and caste of some 1.2 billion citizens at an estimated cost of 30 billion to 40 billion rupees, but the report has not been made public till date.

There is now demand of the corporate responsibility of the private sector for the disadvantaged, requiring a move from the corporate governance to social governance in the business sector in India. In addition to affirmative action that has concentrated on the marginalized sections of the society such as scheduled caste and tribe and also other backward caste, there has been demand for social protection measures as part of the universal and proactive social policy for the children, women and disabled in India in recent years. The social justice argument has centered at achievement of non-discrimination, general welfare and compensatory justice for all classes of citizenry. In short, the local, state and central governments have come forward to institute public care and security to citizens.

In the long course of national stewardship through the public ethics of social justice, the supported legislations have been passed in the Parliaments and the Constitutions have been amended from time to time in response to the global drive for a human rights agenda. With the motive to establish the "developmentalist" welfare state the mottos of 'growth with re-distribution' and 'growth with social justice' have been publicized. It has been made an ethical rhetoric throughout the country over the years and decades.

The public discourse has been couched in ethical language, the best example of which has been the text of the directive principles of state policy in the constitution of India. While the Indian Constitution has provided the base, the popular political rhetoric has regularly championed the cause of social justice in India. The demand for such justices and social movements to sensitize the ethics of it has speeded up with strengthening of caste and identity centered regional parties in the country.

The political parties at the grassroots has variously espoused the moral and ethical requirements of social justice, and vigorously pursued these during the times of national and state elections. The regional political parties have often come up to mobilize the popular opinions in favour of the public ethics of social justice to be backed up by legislations and economic programmes of the government. They have ever promised free food rations to the hungry and deserving destitute, assured employment and jobs to the needy, minimum income to people in distress, and the free education for children. These have however been more of a political canvassing and political manifesto with objectives to win elections rather than a moral political response to the inherited guilt and blame worthiness of past injustices.

The tragedy is that the affirmative action has not yet covered the working migrants and displaced populations in India. Moreover, there has been affirmative action for the caste

and gender but yet not for the faith-community and Diaspora community in the region. That remains true even today. The reservation debate in India has largely been an intramural debate among partisans of equality. The movement for social justice has meant the struggle for a share in state power rather than the struggle for livelihood for the leaders and politicians.

One of the crucial shortcomings has been to the effect that the social disabilities rather than economic deprivation have been the focus for rectification of the ills and ensuing compensatory justice. The system of quotas from the beginning has however been very controversial in nature and generated much resentment from the citizens belonging to the majority group who felt that they were arbitrarily and unfairly being denied access to such opportunities. The social justice[26] has meant the idea of favouring the notion of equality in social status and power, and not the equal distribution of wealth and income in society.

Beyond the history of social justice through affirmative action, there is a long history of wider ambit of social policy in India. In modern times, one of the defining functions of the government is to chalk out a social policy[27] and devise public actions accordingly in tandem with private actions in the civil society. Right from the late 1940s and early 1950s, there has been the institutionalized attempts at formulation of welfare state policies in India. The moral discourse and the constitutional ethical injunctions on the theme of social justice have not been confined to the affirmative action of 'reservation' in India, however. India is today a hotbed of new direction, innovation and experimentation in framing strategies of social development through social protection and social policy of a resurgent welfare regime.

---

[26] An Indian economist has put a perceptive remark on the notion of social justice in the following words:

I think social justice demands that all of us, particularly the poor, should be entitled to some form of income security or safety net, and in the case of job dislocations, all employees have the right to an adequate programme of retraining and redeployment .... Globalisation is about market competition and efficiency. For social justice, in which we all have an interest, to be sustainable it has to be based on a reasonably efficient economy. Productivity is extremely important from the point of social justice (Bardhan, 2001, pp. 471-77).

[27] Social policy is often defined as social services such as education, health, employment and social security. It is about 'redistribution, protection and social justice'. It is but also 'an instrument applied by governments to regulate and supplement market institutions and social structures' (UN-DESA, 2007 quoted in Arjan de Haan, 2010). Joseph Stiglitz, Amartya Sen and Jean-Paul Fitoussi (2009) treat the policy of social protection and income distribution as 'core automatic stabilizers'. These help in 'cushioning the impact of crises on people while maintaining aggregate demand'. These facilitate and enable 'workers and their families to overcome poverty and social exclusion'.

Further, these enable the workers 'to find decent jobs'. In other words, social protection and income distribution are not merely the 'pillars of social justice and peace' (ILO, 2011, p.2). While social policy of the government is broadly concerned with public welfare and care, it also covers a policy of social protection, security and insurance of individual citizens and households against man-made and natural risks, vulnerabilities and harms by a third party.

It also covers a policy of social service delivery comprising of services related with education, health, family welfare, welfare of child, women and elderly, and care of disabled/other-wise-abled population.

A social policy model is constituted by a welfare state[28] model. According to the political economy approach of Esping-Andersen (1990), there are three types of welfare state regimes with their public actions (either Beveridgean or Bismarkean): liberal/neo-liberal, conservative corporatist, and social democratic. The liberal regime has a central role for private actions in the market and a truncated role for public actions of the state[29]. The corporatist regime emphasizes the individual and family responsibilities, with a larger, yet relatively marginal, role for the state. The social democratic regime chooses more generous, universalistic policies, with a central role for the public actions of state. Beginning from the 1960s and 1970s and throughout 1980s and 1990s, the residual role of social policy had been invoked to realise the instrumental value of it. It was since the very early stage of the planned economic development that the need to reconcile growth and social justice had been explicitly recognized in India (Kurien, 1992).

In India, the new innovations has been marked for not only affirmative action and reservations for the excluded marginalized class of people but also the introduction of rights-language, backing-legislations, universalization, diversification, food-security-centeredness.

---

[28] There are five pillars of welfare state functions: education, health access for all, social protection including the social security and assistance, active labour market policies to generate employment, microcredit and insurance provisions, and family policy related with child policy and welfare services. There are social goods and services. These are in the nature of public goods and merit goods, viz., education, health-care, housing provisions, guarantees of employment, family welfare of children, women and aged, social security and insurances, social solidarity and protection against crimes, violence and foreign aggression.

Significant phenomena and processes of the social sector of a political system are those related with education, health-care, housing and hygiene provisions, employment guarantees, family care and care of children, women and elderly, food and water security, social solidarity and peace, and basic income guarantees.

[29] There have been at least two theoretical perspectives on the nature and scope of social policy as an academic discipline and discourse: social welfare unitarism and social welfare pluralism. In the theoretical perspective of welfare unitarism with which the name of Richard Titmuss (1956) is originally associated, the state should be the main funder and provide of social services and implementer of redistributive policies because the egoism of the private market alienated people from each other. Beveredgean welfare state was founded on such a perspective.

The name of Robert Pinker (1971, 1990, and 2011) has however been associated with the theoretical perspective connected with welfare pluralism. In this perspective, it has been important to study the actual applications of altruistic thought and practice by ordinary people in their everyday lives, in their aspirations off social change and in their conceptions of for what and on what principle the state, as opposed to markets, families and community organizations should assume responsibility- public attitudes towards social services.

Neither should there be a unitary system of privatized welfare nor a unitary system of statutory welfare. In theorizing the regime of welfare state and social policy, what was favoured was the individualistic approach in theorizing about welfare in social policy rather than the collectivist approach.

A welfare regime is more reticent category than governance regime. A welfare regime is constituted by a government working in tandem with households, civil society and market under a welfare state in making social policy and economic policy oriented to the allocation of public resources with objectives of enhancing the dimensions of welfare of citizens.

The issue of social justice has been in the nature of demand for transitional justice, and has required positive government intervention in minimizing inherited injustices from the past.\

It was therefore the case that the welfare states in early 1950s laid the foundations of land reforms, credit reforms, marketing reforms, and chalked out food policy, employment policy, family welfare policy, instituted provident funds for government employees, pensions for government employees, established public hospitals and public schools. Many policy announcements have been made over the decades and years in the country to ensure food availability to poor and needy, employment provisions for the deserving and needy and child welfare disbursement from time to time.

India has been a region as one centre of policy innovation with a series of programs designed to advance inclusive human development, which are cast as "rights-based". Of late, with growing middle class population and a surge of vibrant civil society organizations, the political situations across the region has transformed, and this has forged a certain degree of aspirational adherence to overarching norms and values of social and economic justice (Gabriele, 2014b). It is of course different from earlier phases of social policy of 1950s as many of the current social policies in the region has referred to citizenship as a notion, and even to the rights of citizen as normative framework (Gabriele, 2014, p.5).

In line with the ethical commitments, over the years and decades, the public schemes have been launched to fight against hunger, improve health, guard against income insecurity, reduce social exclusion, and improve the standards of citizenship in the country (refer to table - 1). With an eye to limited social-insurance coverage, the Indian state has long provided subsidized goods and services as a counterpart to social protection available in developed countries. This has included subsidized food through the public distribution systems (and the allied fair price shops), free education and health care in public facilities, and subsidized energy. A huge surge in opening the new schools, colleges and universities followed just after political independence from the British Empire. The National Literacy Mission was begun lately. All these attempts have been on the road to provide educated employment. With regard to the programmes and schemes launched to improve the social sector, an active social policy has been followed.

Table 1: South Asia: Social Protection Panorama and Design

Food-Related Measures	Cooked School Meals; Subsidized Public Distribution System; Subsidized Public Distribution System; Subsidized Grain Prices
Social Assistance	Unorganized Sector Health Insurance
Public Works	National Rural Employment Guarantee
Affirmative Action	Child Grants For Girls (India); Rural Development And Community Based Interventions (India)
Human Rights	National Food Security Act; Mid – Day Meal; Right To Education; Right To Health Service; Right to Work (India) and Right to Information

Source: Based on Bonnerjee and Koehler, 2011 quoted in G Koehler, 2014a, p. 5

In the course of national governance as recommended by public ethics and constitutional morality, the measures of social protections during 2004-2014, though still residual, fragmentary and non-universal one and mostly stated under the nomenclatures of poverty reduction, food security, employment guarantees and basic income guarantees, is a new direction of social policy.

Though under-funded, inequitably resourced and non-synchronized in design format, the innovation nature of recent social protection measures of social policy is the provision of "rights" based or citizen-beneficiary centered, judiciable or judicial-activism-tolerant, food-entitlement directed measures of social protection in India. Though mostly means-tested social provisioning of basic income, assured minimum employment, and essential student stipends for girl child or general free-bees, initial pilot schemes are all implemented universally throughout all regions of a country on India[30].

In the continuity of ethical piloting and navigating through the public discourse on social justice, a number of millions of episodes, events and actions of individuals associated with charitable, benevolent and social work organizations, associations and unions have been matched by an equally considerable number of millions of actions of selfish, self-centred and unfair individuals in their daily life. Over decades and years, the mass media of newspapers, magazines, radio, televisions and internet have been replete with descriptions of events of fairness and unfairness, justices and injustices, charities and exploitations, and benevolences and oppressions in India. There have been millions of actions of no-harms, no-injuries, millions of actions of charity, benevolence and altruism as there has been millions of counter actions of harms, hurts and unfairness and millions of actions of discriminations against deservedness, actions of attack on freedom, and violations of basic tenets of social and economic justice in the country.

There has been faltering and deficits in pursuing the agenda of social justice through constitutional morality induced social policy, however. There had been social divisions among the population since long past and such divergence has further been concreted and expanded. While public ethics of provision of food, employment and child welfare have impacted a considerable number of public actions, there are still malnourished children, unemployed youths and hungry populace in the country who are excluded out of the zone of influence of orchestration of public civil society and constitutional ethics. In India, social security has typically been perceived as residual, with a strong emphasis on targeted safety nets.

---

[30]A pertinent remark is to the effect of the critical observation:

Recent health and nutrition indicators show extremely poor implementation of public services, except again in Sri Lanka, which before 1950, introduced general public health interventions and after 1950, also modern obstetric interventions which brought down maternal mortality ....public spending on health and education is very low in Pakistan and Bangladesh, though increasing rapidly during the 1990s in the latter ....Remarkably poor nutrition indicators and health records have been observed for India, leading to a label for India as "economic powerhouse and nutritional weakling" .... South Asia's political democracy, and how this has evolved since the late colonial period, has provided a particular shape to the evolvement of social policies (de Haan, 2010, pp. 191-8).

In the residual and welfarist social policy approach in India, the public funding has been treated as a cost (and not an investment, for example, in human capital) and as a "safety net" (Haan, 2010, pp. 204). It is also the case with the employment guarantee scheme in India – a recent rights-based policy (Haan, 2010, p. 191). India has not ratified the fundamental ILO convention on 'employment promotion and protection against unemployment'; it has not yet been a party to the ratification of 'social security (minimum standard) convention of the ILO (Koehler, 2014b, p. 8).

Table 2: India: Social Policy Programmes

Particulars	Social Policy Programmes
Hunger	Cooked School Meals; National Food Security Act
Health	National Rural Health Mission ; Free Basic Health Services and Medication; Health Insurance
Income Insecurity	Social Security; Bill For Unorganized Sector Workers
Un-/under-employment	National Rural Employment Guarantee Act and Scheme
Social Exclusion	Child Grants for Girls; Rural Development and Community Based Interventions; Recognition Of Forest Common Rights
Citizenship	National Food Security Act; Mid-Day Meal; Right to Education; Right to Work; Right to Information

Source: Based on Koehler 2014; Chopra 2014 reproduced in Koehler, 2014, p.5

The only insurance available is the National Rural Employment Guarantee Scheme, introduced in 2005 in India, and this too is for merely rural labour. This relatively moderate scheme has helped to stabilize employment and put upward pressure on agricultural wages. Otherwise, there is no system of comprehensive unemployment insurance in place for all labourers – rural and urban. Seeing the popularity of the National Rural Employment Guarantee Scheme (NREGS), which helped the Congress to win the 2009 parliamentary elections, the newly constituted Government has thought of bringing out the Food Security Act within the first 100 days of its stay in the office for the second time.

The government set up a National Commission for Enterprises in the Unorganized Sector under the chairmanship of Arjun Sengupta on September 20, 2004, tasked with "review(ing) the status of (the) unorganized/informal sector in India including the nature of enterprises, their size, spread and scope, and magnitude of employment." The Commission, which completed its term in April 2009, submitted a Report on Social Security for Unorganized Workers in May 2006. The report recommended legislation providing social security for unorganized workers, a proposal enacted by the government in 2008. The findings of the commission also noted that the need to improve the quantity and quality of employment in the unorganized sector would require a new approach to economic planning in India, in order to attain the objective of "maximizing employment" and ensuring inclusive growth.

Table 3: Scial Sector in India: 1984-2008 Safe Water, Sanitation, Doctor and Expenditure on Health

Particulars with Years of Observation in Parentheses	India
Total Estimated Population (In Millions) (2000)	1,014
Population Per Doctor (1992-95)	2,083
Population without Access to Health Services (Number In Millions) (1995)	143
Population with Access to Safe Drinking Water (Percentage) (2008)	88.0
Population without Access to Safe Water (Number In Millions) (2008)	142.0
Population with Sanitation (Percentage) (1990-96)	16.0
Population with Access to Sanitation (Percentage) (2008)	31.0

Source: MHDC, 2010, pp. 152-62; HDC, 2002, pp. 228-37

While the crisis of 'youth unemployment' (particularly in urban areas) has been a persistent concern of politicians and policymakers since the 1960s, youth development has remained at the margins of national development strategies in most countries. It is certainly the case that, with a few exceptions (such as South Africa), youth as a target group is not a major policy priority of most governments in low-income developing countries.

The government ministry and departments of youth are generally very poorly resourced and are usually subsumed (or combined) with other government responsibilities, most commonly culture, sports and education. The 2007 World Development Report on youth concludes that 'youth policies often fail'. Almost one-quarter of young people live in the households where income per head is less than one dollar a day.

The Indian labour market is overly complex, with around 50 different governing laws that often protect jobs in the formal economy. Some of these laws date back to colonial times. There has been a need of changing the role of labour commissioners for long time. The simplification of the labour regulations Has also been long due. In India, According to the National Sample Survey Organization (NSSO) that has used 2009 – 2010 data, the unemployment rate in India was at that time 9.4 percent. It meant that almost 94 persons out of 1000 persons in the labour force were not getting jobs.

Table 4: Literacy and Schooling in India: 1970-2009

Particulars with Years of Observation in Parentheses	India
Total Estimated Population (In Millions) (2000)	1,014
Adult Literacy Rate (Percentage Age 15 And Above) (2005-08)	63.0
Adult Literacy Rate (Percentage Age 15 And Above (1970)	34.0
Adult Literacy Rate (Percentage Age 15 And Above) (2000)	57.2
Combined Enrolment for All Levels of Education (Percentage) (1980)	40.0
Percentage of Children Dropping-out from Schools before Grade V (1995-1999)	48.0

Children Not in Primary Schools (In Millions) (1997)	27.0
Illiterate Adults (Number In Millions) (2000)	434
Mean Years of Schooling (2010)	4.4
Pupil-Teacher Ratio at Primary Level (2009)	40.2

Source: MHDC, 2010, pp. 152-62; HDC, 2002, pp. 228-37

In the rural sector, the unemployment rate was estimated at 10.1 percent, compared to 7.3 percent in urban areas. The position of women was worse. The unemployment rate for women was 14.6 percent, compared to 8.0 percent for males. The unemployment rate for youth continued to remain high. Ten further years down the line, the unemployment situation has gone from bad to worse.

Table 5: Expenditure on Education and Health in India: 1970-2009

Particulars with Years of Observation in Parentheses	India
Public Expenditure on Education (Percent of GDP) (1995-97)	3.2
Public Expenditure on Education (Percent of GDP) (2006-09)	3.1
Public Expenditure on Health (Percent of GDP) (1995-99)	0.8
Public Expenditure on Health (Percent of GDP) (2009)	1.4

Source: MHDC, 2010, pp. 152-62; HDC, 2002, pp. 228-37

A grim reminder with regard to the lacklustre social policy has been the fact that so far the percentage of gross domestic product and national income spent on the social sector has hardly crossed the one percent in the country (World Bank, 2006; ADB, 2008: UNICEF ROSA Fiscal Budget database, 2009). The social sector public expenditures in the country have been pretty low. A number of schemes to provide social security to population have been started, and corresponding legislations were made over the years (refer to table - 2). The right to education was legislated in the Parliament quite late. The outcomes have not been satisfactory. The achievements have not been encouraging.

There were almost 142 million populations without access to safe drinking water facility in the country, so late as in the year of 2008. Only 31 percent of the population was having access to sanitation in 2008 (refer to table – 3). In 2008, the adult literacy rate improved to 63 percent. The percentage of children dropping out of the schools was 48. The number of illiterate adults was 434 millions in the year of 2000. The pupil-teacher ratio at primary school level was 40 in 2009 (refer to table - 4).

Table 6: Nature of Governance as Practiced in India

Historical Paths	Contemporary Trends	Future Challenges
Break Away With Colonialism	Widening of Scope, Allowing other Actors to Join the Process of Governance	Establishing Rule of Law
Overextended and Over-Centralized State and Less Governance	New Public Management Inspired Reforms; Allowing Civil Society And Private Sector Engagement	Fostering Citizen's Trust in Public and Political Institutions
Experience With Military and Authoritarian Leadership	Globalization and Primacy of Economic Growth	Reinventing Government And Bureaucracy as Neutral, Goal- and Performance-Oriented Institutions
Strong Bureaucracy Based on Strong Hierarchy	Policy Transfer From International Organizations in Setting of Policy Agenda for Reforms	Political and Managerial Accountability and Transparency of Actions
Regulated Economy	Paternalism In Politics, Leading to Patron-Clientelistic Policy Making	Making Institutions Perform and Deliver
Governmentality in Governance	Alliances Among Political Parties in Dividing Nations, with the Consequence of Infighting amongst Various Groups	Governance, Equity And Citizenship Rights; Provision of Human Safety And Security; Reducing Corruption; Access to Health and Education

Source: Based on Cheung (2007, 2011) and produced in Jamil and Dhakal, 2013, p. 344

Table 7: Magnitude and Value of Governance Indicators In India, 2006 (Percentile Ranks) (Perception Based Indicators)

Particulars with Years of Observation in Parentheses	Ranking
Voice and Accountability	58.2
Political Stability	22.2
Government Effectiveness	54.0
Regulatory Quality	48.3
Rule of Law	57.1
Control of Corruption	52.9

Source: Kaufmann, et al., 2007

The expenditures on health as share of GDP has been merely 1.2 percent, and the expenditure on education as share of GDP has hardly crossed 3 percent in 2010 (UNDP, Human Development Report, 2013) (refer to table - 5). In the country in mid-1990s, one doctor served almost two thousand populations, and nearly 143 million people were without any access to health services. Retrospectively speaking, the public ethical discourse in the civil society and the corridors of the government has been instrumental in pioneering the new public management in which the private sector was encouraged to build up trusts among public.

Table 8: Perception of Individual Well Being and Perception of Society in India: 2007-2011

Particulars with Years of Observation in Parentheses	Ranking
Perception of Individual Well Being – Life Satisfaction (On a Scale of Ten) (2007-2011)	4.6
Satisfaction with Freedom of Choice (2007-2011)	80.0
Satisfaction with Job(2007-2011)	71.2
Perception of Society - Trust In People (2011)	20.0
Satisfaction with Community (2007-2011)	82.6
Trust in National Government (2007-2011)	58.0
Perception of Safety (2007-2011)	70.0
Homicide Rate (Per 100,000 People) (2004-2011)	3.4
Suicide Rate (Per 100, 000 People) (2001-2010)	20.8

Source: Based on Gallup World Poll Survey, 2012 quoted in UNDP-HDR, 2013, pp. 175-76

The Gallup World Poll Survey (2012) found that the perceptions of people regarding individual well-being, life satisfaction, and trust in people and government have been low and the suicide rate and homicide rate in the heterogeneous society of the country have relatively been high (refer to table – 8).

With multiple instances of deficits and faltering, the poor quality of free public services have often encouraged even poor people to opt out of many public schemes of social justice and welfare. For example, the current women-related policies primarily tend to make women responsible for their own children's care. Those women-related benefits that are provided by the government cater to women in the organized sector and in government jobs.

In 2008, the recommendations of the Sixth Pay Commission (2008) was to the effect of increasing the period of maternity leave provided to women to two years. The problem was that it retained the framework of women serving as primary child care providers. Moreover, whatever other social assistance benefits have been there, these have been of small size, without meeting the needs sufficiently. With regard to the Public Distribution System, there have been massive leakages in the spread of the benefits to individuals who did not need public support (Croissant, et al., 2014).

V. CONCLUDING REMARKS

Given the features of public ethics of civil society that has been carried forward and inherited from the past and that of the recent superimposition of the constitutional ethics over it in India, the ethical governance through the spirits of the provisions of the directive principles of state policy in the specific areas of provisioning of food for survival, guarantees of employment for earnings and engagement of daily life and welfare and care of children has continued for long in the country. It is this context and ethos created by governance as a set of actions by public functionaries in the government and the private actions of individual citizens in the civil society in harmony with each other that has enabled the bureaucracy and citizenry to be sensitive to the concerns of fairness and justice in the social interactions in daily life.

A welfare state with comprehensive social policy (social sector policy chalked out through deliberation and dialogs among citizens and altruist activists in the civil society) has been on the path of reducing injustices through affirmative action and other programmes of social justice at various fronts in the country. Persuaded and inspired by the proceedings, messages and directions of the Constitutional, Parliamentary and State Assembly as well as by the ethical codes of the executive wing of the government and bureaucracy, a considerable number of individuals as social workers and activists associated with the religious, cultural, social, political, and welfare associations and organizations as well as professional and trade unions have contributed to a minuscule of billions of doings and actions over several decades in the country towards obtaining and securing justice, equity and fairness to the deserving and needy populations. The millions of actions emanating from individual moralities have however been counteracted by billions of selfish and self-interested actions as well. With multiple instances of deficits and faltering, the poor quality of free public services have often encouraged even poor people to opt out of many public schemes of social justice and welfare.

It is neither the hybrid nor plural ethical edifice of the social and cultural governance nor the growth with justice framework of the political economy governance that could adequately overpower the obstacles and constraints on the path towards fairness, equity and justice for the Indian masses over the last seven decades. The ethical persuasions, recommendations and prescriptions towards justice have largely fallen on deaf ears, and those ears which have been receptive of such ethical calls have often been constrained by the pull of materialistic and monetary gains and profits. Sidelining the altruists, charity givers and the formal and informal organizations who are at the forefront of social and political movements for economic justice and diminution of economic harms and injuries and whose numbers among the population are but quite limited, a majority of individuals remain indifferent to the concerns of economic justice, fairness and equity.

Individuals in India are citizens who are rather horizontally and vertically stratified rather than being homogeneous mass, and are continuously differentiating in the course of life time. Being a non-homogeneous mass, an individual citizen belong to a horizontal strata of a caste, race, community and religious group or a vertical strata of an economic class, profession and income bracket. What goes thus in the name of individual morality are various strata and class of moralities ad ethical standards. Call them akratic, lumpen, lunatic or a corrupt or a criminal, these individuals do share a different world view and morality from the rest of individuals. There are individuals whose moral considerations and ensuing actions have evolved, got refined and in consonant with the spirit and force of the

constitutional ethics, political economy and positive law (and judicial activism of the era) in India but there are equally a great mass of individuals who are still stuck with caste-specific, community-specific, cult-specific and religion-specific moralities and whose orientation towards immoralities and injustices have magnified.

REFERENCES

[1]   Bardhan, Pranab (2001), "Social Justice in the Global Economy", Economic and Political Weekly, vol. 36, no. 5/6, February

[2]   Bardhan, Pranab (2001), "Social Justice in the Global Economy", Economic and Political Weekly, vol. 36, no. 5/6, February

[3]   Baxi, Upendra (2004), "Rule of Law in India – Theory and Practice" in Randall Peerenboom (ed.), Asian Discourses of Rule of Law: Theories and Implementation of Rule of Law in Twelve Asian Countries, France and India, Routledge, London and New York

[4]   Bonnerjee, Aniruddha and Gabriel Koehler (2011), "The Challenge of Food and Nutrition Insecurity and Policy Innovations from the South - Rethinking Development in an Age of Scarcity and Uncertainty", Report of the XIth EADI/DSA Conference, London (Mimeo.)

[5]   Cheung, A B I (2011), "NPM in Asian Countries" in T Christensen and P Laegried (2011) (Eds), The Ashgate Companion to New Public Management, Ashgate , Farnham

[6]   de Greiff, Pablo (2012), Theorising Transitional Justice, New York University Press, New York

[7]   de Haan, Arjan (2010), Towards a New Poverty Agenda in Asia: Social Policies and Economic Transformation, Sage Publications, New Delhi

[8]   Epsing-Andersen, Gosta (1990), Three Worlds of Welfare Capitalism, Cambridge: Polity Press

[9]   Fuller, Lisa L (2011), "Burdened Societies and Transitional Justice", Ethical Theory and Moral Practice, Published Online, 30 June
            Gallup World Poll Survey (2012), at www.gallupworldpoll.com

[10]   Haan, Arjan de (2010), Towards a New Poverty Agenda in Asia: Social Policies and Economic Transformation, Sage Publications, New Delhi

[11]   Human Development Centre (HDC) (2002), Human Development in South Asia 2002: Agriculture and Rural Development, Oxford University Press, Karanchi

[12]   Jamil, I, S Akvik and T N Dhakal (2013), Understanding Governance in South Asia, Springer, New York

[13]   Kamm, F M (2011), "Sen on Justice and Rights: A Review Essay", Philosophy and Public Affairs, vol. 39, no. 1, Winter

[14]   Kaufmann, D., A. Kraay and M. Mastruzzi (2007), "Governance Matters VI: Aggregate and Individual Governance Indicators 1996-2006", World Bank Policy Research Working Paper 4280, Washington, July

[15]   Koehler, Gabriele (2014a), "Is There An Asian Welfare State Model? – East and South Asian Trajectories and Approaches to the Welfare State", Friedrich Ebert Stiftung- Department for Asia and the Pacific, Berlin, Germany, March

[16]   Koehler, Gabriele (2014b), "New Social Policy Direction? Some Reflections on South Asia", UNRISD Workshop on New Directions in Social Policy, 7-9 April, Geneva

[17]   Koehler, Gabriele and Deepti Chopra (2014) (Eds.), Development and Welfare Policy in South Asia, Routledge, Abingdon

[18]   Mahbub ul Haq Human Development Centre (MHDC) (2002), "Human Development in South Asia 2002: Agriculture and Rural Development", Mahbub ul Haq Human Development Centre, Oxford University Press, Karachi (Author: Khadija Haq)

[19]   Mahbubul Haq Human Development Centre (MHDC) (2010), Human Development in South Asia 2010/2011: Food Security in South Asia, Oxford University Press, Lahore

[20]   Pinker, Robert (1971), Social Theory and Social Policy, Heinemann, London

[21]   Pinker, Robert (1979), The Idea of Welfare, Heinemann, London

[22]   Pinker, Robert (1986), "Social Welfare in Japan and Britain: A Comparative View", in E. Oyen (Ed.), Comparing Welfare States and Their Futures, Routledge, London

[23]   Pinker, Robert (1990), Social Work in an Enterprise Society, Routledge, London

[24]   Pinker, Robert (2011), "Social Inequality, Poverty and Social Redistribution", Journal of the National Centre for Social Research, vol. 13, no. 136

[25]   Rama, Martin, Tara Beteille, Yue Li, Pradeep K Mitra and John Lincoln Newman (2015), Addressing Inequality in South Asia: South Asia Development Matters, World Bank Group, IBRD, Washington DC

[26] Rawls, John (1971), A Theory of Justice, Harvard University Press, Cambridge, Massachusetts and London, England
[27] Rawls, John (1993), Political Liberalism, Columbia University Press, New York
[28] Rawls, John (1999a), A Theory of Justice: Revised Edition, Harvard University Press, Cambridge
[29] Rawls, John (1999b), Law of Peoples, Harvard University Press, Cambridge
[30] Roemer, J. E. (1996), Theories of Distributive Justice, Cambridge: Harvard University Press
[31] Sen, Amartya (2009), The Idea of Justice, Penguin Books, London
[32] Titmuss, Richard (1956), Essays on the Welfare State, Allen and Unwin, London
[33] Titmuss, Richard (1974), Social Policy, Allen and Unwin, London
[34] United Nations Development Programme-Human Development Report (UNDP-HDR) (2013), "Human Development Report 2013: The Rise of the South – Human Progress in a Diverse World", United Nations Development Programme, New York (Author: Khalid Malik)
[35] Veron, Jacques, Krystyna Horko, Rosemary Kneipp and Godfrey Rogers (2008), "The Demography of South Asia from the 1950s to the 2000s: A Summary of Changes and a Statistical Assessment", Population (English Edition), vol. 63, no. 1, January-March