



JAWAHARLAL NEHRU: A TRULY SOCIALIST PARLIAMENTARIAN

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ABSTRACT :

Jawaharlal Nehru great freedom fighter, first Prime-Minister of India and prominent congress leader occupies a very essential position among the leaders of India, who believed in socialism. His powerful skills of oratory, art of presentation, non-violent approach and elegant personality put him at the top amongst the other socialists in India. Nehru became interested in socialism from an early stage in his life, when he was a student at Cambridge. But such ideas on socialism were formed mainly from books, and not from practical experiences. In 1920, Nehru visited some villages in U.P. and this adventure was a revelation to him, because he was totally ignorant of village-life before it and the dumb misery of the starving peasants who were clad in rags, hunger and emancipation. That why, Nehru has not only built his own idea of socialism during the freedom movement, but also applied it in India after the independence. But he never described his idea of socialism. His idea of socialism has less doctrinal and more of empirical in nature, because Nehru was more concerned with the real problems of social and individual life of people in India and he did not spend more time to correct his thought in viewpoint of doctrines of socialism. According Nehru, "I am convinced that the only key to the solution of the world's problems and of India's problems lies in Socialism, and when I use this word, I do so not in a vague humanitarian way but in the scientific economic sense. Socialism is, however, something even more than an economic doctrine, it is a philosophy of life and as such also it appeals to me. I see no way of ending the poverty, the vast unemployment, the degradation and the subjection of the Indian people except through Socialism."¹

Thus, his idea of socialism was mainly based on the democracy, secularism, nationalism, economic factor and economic betterment of the masses, greater equality of opportunity, social justice, more equitable of higher incomes generated through the application of modern science and technology, the ending of the acute social and economic disparities, the application of the scientific approach to the problem of society, ending of the acquisitive mentality, class distinction and domination. For Nehru, nationalism, as has been seen, was largely a preliminary step to the major step, which was to modernise India, and especially, to bring in socialism.² In the present study an efforts will be made to know why Nehru adopt the idea of socialism. Why socialism was necessary for India at the time of Nehru era? Beside, an effort will be made to know how socialism is necessary for development of India. These and others related question is the main thrust of this research paper.

KEYWORDS : Jawaharlal Nehru, Democracy, Socialism, Capitalism, Economics, Congress, Development

INTRODUCTION

Socialism and Democracy had been main objectives of the Indian National Congress for independent India. Nehru's theory of socialism was deeply rooted in the Indian soil. Socialism for Nehru was



not just an economic theory that he has adopted because of compelling conditions but a fundamental principle governing his whole idea and action. He was the leading supporter of socialism, interpreting India's religious and cultural heritage in the context of modern problems and advocating the socialist creed so that Indian society could forge ahead in the upheaval of the twentieth century.³ He has not only visualised a new social order free from political, economic and social justice, but also his philosophy of life for the individual and the society was a combination of justice and equality through socialism.⁴ On 29 December, 1929 Nehru as the President of the Indian National Congress had told the vast throng on the bank of the Ravi that "India will have to go the socialistic way if she seeks to end her poverty and inequality, though she may evolve her own methods and may adapt the ideal to the genius of her people".⁵ Thus, Nehru may be given credit for adopting socialism (Land reform) as an ideology of the congress in 1931, when congress accepted resolution on Fundamental Rights and Economic Policy (drafted by Nehru) which stated that "The system of land tenure and revenue and rent shall be reformed and an equitable adjustment made of the burden on agricultural land, immediately giving relief to the smaller peasantry, by a substantial reduction of agricultural rent and revenue now paid by them, and in case of uneconomic holdings, exempting them from rent so long as necessary, with such relief as may be just and necessary to holders of small estates affected by such exemption or reduction in rent, and to the same end, imposing a graded tax on net incomes from land above a reasonable minimum".⁶

Nehru, the socialist had realized that the acute poverty, from which the people of India suffered, could not be wiped out from the country until and unless radical land reforms were not introduced and the old system of *Zamindari*, introduced in India by the British was not abolished. Nehru opined that the only solution to the problem of landlordism was its abolition, there could not be any 'half way house'. It is a feudal relic of the past totally out of keeping with modern situations. The abolition of landlordism must therefore occupy a prominent place in our programme.⁷ Thus, Nehru's views on land reforms in India became congress view when a resolution on Agrarian Programme drafted by Nehru was adopted in 1936 at the Lucknow congress, as the resolution stated that "the final solution of this problem involves the removal of British imperialistic exploitation, and a thorough change of the land tenure and revenue system".⁸

SOCIALISM AND THE MAKING OF INDIAN CONSTITUTION

To achieve the goal of socialism, democratic polity was the only political system in which justice, liberty and equality could be secured. That is why, objective resolution of the Indian Constitution moved by Nehru proposed that "wherein shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status of opportunity and before the law; freedom of thought, expression, belief, faith, worship vocation, association and action, subject to law and public morality."⁹ Nehru while elaborated his view point regarding objective resolution said that "We have given the content of democracy in this resolution and not only the content of democracy but the content, if I may say, so, of economic democracy in this resolution. Others might take objection to this resolution on the ground that we have not said that it should be a socialist state. Well, I stand for socialism and I hope, India will stand for socialism and that India will go towards the constitution of a socialist state and I do believe that the whole world will have to go that way. What form of socialism again is another matter for your consideration? But the main thing is that in such a resolution if in accordance with my own desire, I had put in that we want a socialist state, we would have put in something which may be agreeable to many and may not be agreeable to some and we wanted this resolution not to be controversial in regard to such matters. Therefore, we have laid down not theoretical words and formulae, but rather the content of the thing we desire. This is important and I take it there can be no dispute about it. Some people have pointed out to me that our mentioning a republic may somewhat displease the rulers of Indian states. It is possible that this may displease them. But I want to make it clear personally and the House knows that I do not believe in the monarchical system anywhere that in the world today monarchy is a fast disappearing institution".¹⁰

Nehru may be considered an impatient and committed person for the welfare of the people which is evident from his observations on 22 January 1947 and 14 August 1947 in the Constituent Assembly. On 22

January 1947 he observed that "There has been waiting enough. Not only waiting six weeks, but many in this country have waited for years and years and the country has waited for some generations now. How long are we to wait? And if we, some of us, who are more, prosper out can afford to wait, what about the waiting of the hungry and the starving? This resolution will not feed the hungry or the starving people, it brings a promise of many things, it brings the promise of freedom; it brings the promise of food and opportunity for all. Therefore, the sooner we set about it the better. So we waited for six weeks and during these six weeks the country thought about it, pondered over it and other countries also and other people who are interested have thought about it. Now we have come back here to take up the further consideration of this resolution".¹¹ On 14 August 1947 in his famous 'Tryst with Destiny' speech he said that "That future is not one of ease or resting but of incessant striving so that we might fulfill the pledges we have so often taken and the one we shall take today. The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear and every eye. That may be beyond us but as long as there is tears and suffering, so long our work will not be over".¹²

To achieve the goal of socialism Nehru wanted to make amending process of the constitution less rigid in which any amendment related to fundamental rights should not require ratification by the states, so that only parliament may get power to amend the fundamental rights particularly fundamental right to property with a view to fulfill the ambition of greatest man Gandhi Ji. Shruti Gopalan in her thesis has described the role of Nehru in detail in this regards as follows:

"Given the enormous debate over the property rights guaranteed by the Constitution, it was important to consider the amendment rule to the Constitution with respect to the takings clause. To consider the amendment rule in conjunction with other parts of the Constitution, a Union Constitution Committee (UCC) was formed with Jawaharlal Nehru as the Chairman. The UCC adopted the amendment procedure as recommended by B.N. Rau. In its July 4, 1947 report, the UCC had taken into account the debates over the right to private property and socially beneficial legislation and watered down the amendment clause. "An Amendment to the Constitution may be initiated in either House of the Federal Parliament and when the proposed amendment is passed in each House by a majority of not less than two-third of the members of the House present and voting and is ratified by Legislatures of not less than one-half of the units of the Federation, it shall be presented to the President for his assent; and upon such assent being given, the amendment shall come into operation." Further, in the meeting of the UCC, it was decided that "The ratification of the amendment to the Constitution should be a majority of the legislatures of each class of units that is the provinces, the federated states and where states are grouped together to form a unit, such group states". The most important change in this meeting was that the majority requirement was brought down from two-third of the votes to one-half of the votes and the quorum for voting was specified at two-third of the total membership of each House. However, members of the Constituent Assembly were dissatisfied with such a rigid provision, since there was no clear picture of the Fundamental Rights guaranteed by the Constitution. To look into this provision in further detail, the Sub-committee on ratification of amendments was appointed. The Sub-committee on ratification of amendments met on July 11-12, 1947 and Nehru submitted a supplementary report to the President of the Constituent Assembly, on July 13, 1947. These were perhaps the most important meetings because they drastically changed the form in which the amendment procedure would be debated by the Constituent Assembly. B.R. Ambedkar chaired the meeting of the Sub-committee on July 11, 1947 where the draft clause from the July 4, 1947 meeting was accepted. However, Jawaharlal Nehru was not present at this meeting and he called for a second meeting the very next day. In this subsequent meeting, on July 12, 1947 the Sub-committee on ratification of amendments created two categories of constitutional clauses, one that could be amended by the federal parliament without requiring ratification and a second category of entrenched clauses that required ratification by the state units. Per this draft clause, Fundamental Rights could be amended with a majority of the votes, with a quorum of two-third present and voting and did not require ratification by a majority of state legislatures. On the following day July 13, 1947 the supplementary report of the UCC embodied the

above decision. This was done with great haste by Nehru, who personally wrote the letter to the President of the Constituent Assembly submitting the recommendation for the amendment procedure. This draft clause was included as clause-X of the memorandum and read as follows: "The amendment of the Constitution may be initiated in either House of the Federal Parliament and when the proposed amendment is passed in each House by a majority of the total membership of that House and by a majority of not less than two-third of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given the amendment shall come into operation. Provided that if such amendment is in respect of any provision of the Constitution relating to all or any of the following matters, namely: (a) any change in the federal legislative list; (b) representation of units in the Federal Parliament; and (c) powers of the Supreme Court, it will also require to be ratified by the legislatures of units representing a majority of the population of all the units of the federation in which units representing at least one-third of the population states are included".¹³

It is noteworthy that Nehru proposed only one amendment in the draft constitution which was related to fundamental rights to property on 10 September 1949. Nehru proposed that, "That for article 24 the following article be substituted:

- (1) No person shall be deprived of his property save by authority of law.
- (2) No property movable or immovable, including any interest in or in any company owning, any commercial or industrial undertaking shall be taken possession of or acquired for public purposes under any law authorizing the taking of such possession or such acquisition; unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined.
- (3) No such law as is referred to in clause (2) of this article made by the Legislature of a state shall have effect unless such law having been reserved for the consideration of the President has received his assent.
- (4) If any bill pending before the Legislature of a state at the commencement of this Constitution has, after it has been passed by such Legislature, received the assent of the President, the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2) of this article.
- (5) Save as provided in the next succeeding clause, nothing in clause (2) of this article shall affect: (a) the provisions of any existing law, or (b) the provisions of any law which the state may hereafter make for the purpose of imposing or levying any tax or penalty or for the promotion of public health, or the prevention of danger to life or property.
- (6) Any law of a state enacted, not more than one year before the commencement of this Constitution, may within three months from such commencement be submitted by the Governor of the State to the President for his certification; and thereupon, if the President by public notification so certifies, it shall not be called in question in any court on the ground that it contravenes the provisions of clause (2) of this article or sub-section (2) of section 299 of the Government of India Act, 1935".¹⁴

To justify his amendment he said that, "Sir, this House has discussed many articles of this Constitution at considerable length. I doubt if there are many other articles which have given rise to so such discussion and debate as this present article that I have moved. In this discussion many eminent lawyers have taken part in private discussions and discussion in another place and naturally they have thrown a great deal of light, so much light indeed that the conflicting beams of light have often produced a certain measure of darkness. But the questions before us really are fairly simple...Sir, I was saying that in spite of the great argument is taken place, not in this House but outside among members over this article, the questions involved are relatively simple. It is true that there are two approaches to those questions, the two approaches being the individual right to property and the community's interest in that property. There is no conflict necessarily between those two, sometimes the two may overlap and sometimes there might be, if you like, some petty conflict. This amendment that I have moved tries to avoid that conflict and also tries to take into consideration fully both these rights, the right of the individual and the right of the community. First of all let us be quite clear that there is no question of any expropriation without compensation so far as this Constitution is concerned. If property is required for public use it is a well established law that it should

be acquired by the state by compulsion if necessary and compensation is paid and the law has laid down methods of judging that compensation. If we have to take the property, if the state so wills, we have to see that fair and equitable compensation is given because we proceed on the basis of fair and equitable compensation. But when we consider the equity of it, we have always to remember that the equity does not apply only to the individual but to the community. No individual can override ultimately the rights of the individual unless it be for the most urgent and important reason".¹⁵ Further he explained that "the first clause in this article lays down the basic principle that no person shall be deprived of his property save by authority of law. The next clause says that the law should provide for the compensation for the property and should either fix the amount of compensation or specify the principles under which the compensation is to be determined. The law should do it. Parliament should do it. There is no reference in this to any judiciary coming into the picture. Much thought has been given to it and there has been much debate as to where the judiciary comes in. Eminent lawyers have told us that on a proper construction of this clause, normally speaking, the judiciary should not and does not come in. Parliament fixes either the compensation itself or the principles governing that compensation and they should not be challenged except for one reason, where it is thought that there has been a gross abuse of the law, where in fact there has been a fraud on the Constitution. Naturally the judiciary comes in to see if there has been a fraud on the Constitution or not. But normally speaking one presumes that any Parliament representing the entire community of the nation will certainly not commit a fraud on its own Constitution and will be very much concerned with doing justice to the individual as well as the community. There are some honorable members here who at the very outset were owners of land, owners of *Zamindaries*. Naturally they feel that their interests might be affected by this land legislation. But I think that the way this land legislation is being dealt with today and I am acquainted a little more intimately with the land legislation in the United Provinces than elsewhere, the way this question is being dealt with may appear to them not completely right so far as they are concerned but it is a better way and a jouser way from their point of view than any other way that is going to come later. That way may not be by any process of legislation. The land question may be settled differently. If you look at the situation the entire world and all over Asia, nothing is more important and vital than a gradual reform of the big estates. It has been not today's policy but the old policy of the National Congress laid down years ago that the *Zamindari* institution in India, that is the big estate system must be abolished. So far as we are concerned, who are connected with the Congress shall give effect to that pledge naturally completely, one hundred per cent and no change is going to come in our way. That is quite clear and we will honour our pledges. Within limits no judge and no Supreme Court can make itself a third chamber. No Supreme Court and no judiciary can stand in judgment over the sovereign will of Parliament representing the will of the entire community. If we go wrong here and there it can point it out but in the ultimate analysis, where the future of the community is I concerned, no judiciary can come in the way and if it comes in the way, ultimately the whole Constitution is a creature of Parliament. But we must respect the judiciary, the Supreme Court and the other High Courts in the land. Therefore, if such a thing occurs, they should draw attention to that fact but it is obvious that no court, no system of judiciary can function in the nature of a Third House, as a kind of Third House of correction. So, it is important that with this limitation the judiciary should function".¹⁶

It seems that Nehru was satisfied with the acceptance of his amendment by the Constituent Assembly. But Renuka Rai pointed out that for the enforcement of directive principles of state policy bases of economic rights, constitutional amendment will be required very soon as she had observed that "It is very unfortunate that although the political rights are in these fundamental principles, the economic rights of citizens have not been able to be put in as justifiable rights today. Conditions in our country are such that it has not been possible for us at the present moment to have them as fundamental rights which are enforceable through courts of law. They have been put in as directives principles of state policy. Sir, it is also all the more unfortunate that among these directives principles of state policy are some of the most vital rights of citizens and along with them are lumped many matters of much lesser moment. At the same time, I do not think there is anything to despair because it is possible for the Parliament and the government of the

future to bring these rights which are now directives as economic rights and as fundamental rights in the near future...Sir, the content of democracy is not political democracy alone and although it is quite true that we have laid down a Constitution which with adult suffrage has brought political democracy to this country, it is equally true that this Constitution has not been able to provide as effectively as possible for the economic rights of the citizens, although there is no bar in attaining them. I said a little while ago that there is one great flaw, one great transgression in the Fundamental Rights which is a blot on this very Constitution. While, every other economic right is in directives principles of states policy, the right to hold and acquire private property alone remains as the fundamental justifiable right. Not only it is there in article 13(f) but it is further entrenched because of article 31 the Fundamental Rights. It is entrenched in such a manner that the Parliament of the day has not the final authority to even determine the amount and value of the compensation that has to be paid when property is acquired in the national interest...Sir, the very exemptions that have been made in article 31 show how firmly these rights are entrenched".¹⁷ She further explained that "these exemptions are in regard to *Zamindari* property in certain provinces and even for these there is a time-limit. So that in the case of all other forms of property as well as in the case of *Zamindari* property which cannot be legislated for in the prescribed time limit, Parliament will have little voice. There was a great deal of confusion on this matter. I feel there were many who seemed to think that if it was Parliament who had the final right to lay down the manner of compensation it may so happen that no compensation at all would be paid. Sir, I am sure you will agree with me and the House also will agree with me that no constitutional authority could ever have laid down any such principles in which no compensation whatsoever was paid. Therefore, I consider that there was a great confusion of issues when this point was raised and I feel and I would humbly submit that many of us did not quite realize what we were doing when we allowed this clause in the present form to be included in the Constitution...Posterity may well say of us that here, we did try to lay down the economic structure of future times, for all time, perhaps there is only one compensation, one consolation that we can by amendment of the Constitution change this and I am sure that very shortly it will be necessary to bring in such an amendment".¹⁸ Therefore, the First Constitutional Amendment Act 1951 has proved her very much right.

NEHRU'S IDEA OF SOCIALISM AND INDIAN CONSTITUTION

After India's independence Nehru looked at socialism in wider perspective. He said "The world is basically international today, although its political structure lags behind and is narrowly national. For socialism to succeed finally it will have to be international world socialism".¹⁹ The election manifestos of Congress party, which have Nehru prepared for the General Elections stated that "Socialism involves basic changes in the social structure, in the ways of thinking, in the ways of living, caste and class have no place in the social order that visualized by the Congress".²⁰ One must remember that despite his deep attraction for Marxism Nehru was far from being a communist. He confessed very clearly that my roots are still perhaps partly in the nineteenth century and I have been too much influenced by the humanist liberal tradition to get out of it completely.²¹ However, Nehru's leaning towards Soviet Russia, after the attainment of independence, reveals that he was enamoured of Soviet system though as a pragmatist he wanted it to be modified to Indian situations.

Requirement and urgency to resolve the conflict between Nehru's ideology of socialism and judicial interpretation of Fundamental Right to Property and Directive Principles of State Policy aiming to establish socialist pattern of the society erupted very soon which compelled Nehru to introduce first Constitutional Amendment 1951, (prior to first general election to the Lok Sabha) with a view to nullify the various judgments of the courts. As the objects and reasons of the act states that "During the last fifteen months of the working of the Constitution certain difficulties had been brought to light by judicial decisions and pronouncements specially in regard to the chapter on Fundamental Rights. Another article in regard to which unanticipated difficulties had arisen was article 31. The validity of agrarian reform measures passed by the State Legislatures in the last three years had, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject matter of dilatory litigation, as a result of which the implementation of these important

measures, affecting large numbers of people, had been held up. The main objects of this bill were, accordingly, to amend article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of *Zamindari* abolition laws in general and certain specified state acts in particular”.²²

The purpose of the first constitutional Amendment was to put land reform related legislations outside the jurisdiction of the judiciary for that Ninth Schedule was added to the constitution. While moving this bill is referred to select committee Nehru said that

“This bill is not a very complicated one, nor is it a big one. Nevertheless, I need hardly point out that it is of intrinsic and great importance. Anything dealing with the Constitution and change of it is of importance. Anything dealing with Fundamental Rights incorporated in the Constitution is of even greater importance. Therefore, in bringing this bill forward does so and the government does so in no spirit of lightheartedness in no haste, but after the most careful thought and scrutiny given to this problem. I might inform the House that we have been thinking about this matter for several months, consulting people, State Governments, Ministers of Provincial Governments, consulting when occasion offered itself, a number of members of this House referring it to various committees and the like and taking such advice from competent legal quarters as we could obtain, so that we have proceeded with as great care as we could possibly give to it. We have brought it forward now after that care, in the best form that we could give it, because we thought that the amendments mentioned in this bill are not only necessary, but desirable and because we thought that if these changes are not made, perhaps not only would great difficulties arise, as they have arisen in the past few months but perhaps some piece of the main purposes of the very Constitution may be defeated or delayed...Now I shall proceed with the other article, the important one, namely Article 31. When I think of this article the whole gamut of pictures comes up before my mind, because this article deals with the abolition of the *Zamindari* system, with land laws and agrarian reform. I am not a *Zamindari*, nor am I a tenant. I am an outsider. But the whole length of my public life has been intimately connected or was intimately connected, with agrarian agitation in my Province. And so these matters came up before me repeatedly and I became intimately associated with them. Therefore I have a certain emotional reaction to them and awareness of them which is much more than merely an intellectual appreciation. If there is one thing to which we as a party have been committed in the past generation or so it is the agrarian reform and the abolition of the *Zamindari* system...It is patent that when you are out to remedy inequalities, you do not remedy inequalities by producing further inequalities. We do not want any one to suffer. But inevitably in big social changes some people have to suffer. How are we to meet this challenge of the times? How are we to answer the question? For the last ten or twenty years you have said, we will do it. Why have you not done it? It is not good for us to say, we are helpless before fate and the situation which we are to face at present. Therefore, we have to think in terms of these big changes and the like and therefore we thought of amending Article 31. Ultimately we thought it best to propose additional Articles 81(A) and 31(B) and in addition to that there is schedule attached of a number of acts passed by State Legislatures, some of which have been challenged or might be challenged and we thought it best to save their from long delays and these difficulties, so that this process of change which has been initiated by the state should go ahead...Now I come to Articles 31, 31(A) and 31(B). May I remind the House or such members of the House as were also members of the Constituent Assembly of the long debates that we had on this issue. Now the whole object of these articles in the Constitution was to take away and I say so deliberately to take away the question of *Zamindari* and land reform from the purview of the courts. That is the whole object of the Constitution and we put in some proviso etc. in regard to Article 31...What are we to do about it? What is the government to do? If a government has not even the power to legislate to bring about gradually that equality, the government fails to do what it has been commanded to do by this Constitution. That is why I said that the amendments I have placed before this house are meant to give effect to this Constitution. I am not changing the Constitution by an iota; I am merely making it stronger. I am merely giving effect to the real intentions of the framers of the Constitution and to the wording of the Constitution, unless it is interpreted in a very narrow and legalistic way. Here is a definite intention in the Constitution. This question of land reform is under Article 31 (2) and this clause tries to take it away from the purview of the courts and somehow Article

14 is brought in. That kind of thing is not surely the intention of the framers of the Constitution. Here again I may say that the Bihar High Court held that view but the Allahabad and Nagpur High Courts held a contrary view. That is true. There is confusion and doubt. Are we to wait for this confusion and doubt gradually to resolve itself, while powerful agrarian movements grow up? May I remind the House that this question of land reform is most intimately connected with food production, we talk about food production and grow more food and if there is agrarian trouble and insecurity of land tenure nobody knows what is to happen? Neither the *Zamindari* nor the tenant can devote his energies to food production because there is instability. Therefore, these loud arguments and these repeated appeals in courts are dangerous to the state, from the security point of view, from the food production point of view and from the individual point of view, whether it is that of the *Zamindari* or the tenant or any intermediary".²³

Nehru was hopeful that after adding 13 legislations related to land reforms there would not be any need to enlarge the Ninth Schedule. But his hope diminished as various judicial interpretations of legislations related to land reforms and Fundamental Right to Property turned stumbling block to implement these legislations. But as a committed socialist Nehru confronted with judiciary through 4th and 17th constitution Amendment.

Objects and Reasons of 4th constitutional Amendment 1955 stated that "This bill sought to amend articles 31, 31(A) and 305 of and the Ninth Schedule to the Constitution. Decisions of the Supreme Court had given a very wide meaning to clauses (1) and (2) of article 31. Despite the difference in the wording of the two clauses, they were regarded as dealing with the same subject. The deprivation of property referred to in clause (1) was to be construed in the widest sense as including any curtailment of a right to property. Even where it was caused by a purely regulatory provision of law and was not accompanied by an acquisition or taking possession of that or any other property right by the state, the law, in order to be valid according to these decisions, had to provide for compensation under clause (2) of the article. It was considered, therefore, necessary to restate more precisely the states power of compulsory acquisition and requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the state results in "Derivation of property". This was sought to be done in clause 2 of the Bill...The *Zamindari* abolition laws which came first in the programme of social welfare legislation were attacked by the interests affected mainly with reference to articles 14, 19 and 31 and that in order to put an end to the dilatory and wasteful litigation and place these laws above challenge in the courts, articles 31(A) and 31(B) and the Ninth Schedule were enacted by the Constitution First Amendment Act. Subsequent judicial decisions interpreting articles 14, 19 and 31 had raised serious difficulties in the way of the Union and the States putting through other and equally important social welfare legislation on the desired lines".²⁴

Objects and reasons of 17th constitutional Amendment Act 1964 stated that "Under article 31(A) of the Constitution a law in respect of the acquisition by the state of any estate or of any rights therein or the extinguishment or modification of any such rights shall not be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by articles 14, 19 and 31. It was also proposed to amend the Ninth Schedule by including therein certain state enactments relating to land reform in order to remove any uncertainty or doubt that might arise in regard to their validity".²⁵

Though Nehru had gone to the extent of constitutional amendments to nullify the various judgments related to Fundamental Rights to Property and land reforms, yet it seems that judiciary never doubted the democratic credentials of Nehru that is why Supreme Court validated Ninth Schedule through *Shankari Prasad* case 1954 and *Sajjan Singh* cases 1964 during his life time. Similarly Nehru had also never imagined that in future Parliament might misuse that route of 9th Schedule frequently for other purposes than land reforms and thus subverting the constitutionalism and source of democracy. Post *Nehruvian* politics compelled the Supreme Court to limit the parliamentary power to amend the constitution by evolving the theory of "Basic Structure of the Constitution" through *Keshavanand Bharati* Case 1973. But the Parliament continued to expend Ninth Schedule through constitutional amendments which further compelled the Supreme Court to establish judicial review over Ninth Schedule. As in *Waman Rao v/s Union of India* 1986 case, the Supreme Court decided that "The First Amendment has made the constitutional ideal of equal justice a living truth. It is like a mirror that reflects the ideals of the Constitution; it is not the destroyer of its

basic structure. The provisions introduced by it and the 4th Amendment for the extinguishment or modification of rights in lands held or let for purposes of agriculture or for purposes ancillary thereto, strengthen rather than weaken the basic structure of the Constitution. The First Amendment is aimed at removing social and economic disparities in the agricultural sector. It may happen that while existing inequalities are being removed, new inequalities may arise marginally and incidentally. Such marginal and incidental inequalities cannot damage or destroy the basic structure of the Constitution. It is impossible for any government, howsoever expertly advised, socially oriented and prudently managed, to remove every economic disparity without causing some hardship or injustice to a class of persons who also are entitled to equal treatment under the law...All amendments to the Constitution which were made before 24 April, 1973 the date on which the judgment in *Keshavananda Bharati* was rendered and by which the Ninth Schedule to the Constitution was amended from time to time by the inclusion of various acts and regulations therein, are valid and constitutional. Amendments to the Constitution made on or after 24 April, 1973 by which the Ninth Schedule to the Constitution was amended from time to time by the inclusion of various acts and regulations therein, are open to challenge on the ground that they or any one or more of them are beyond the constituent power of the Parliament since they damage the basic or essential features of the Constitution or its basic structure, If any act or regulation included in the Ninth Schedule by a constitutional amendment made on or after 24 April, 1973 is saved by Article 31 (A) or by Article 31 (C) as it stood prior to its amendment by the 42nd Amendment, the challenge to the validity of the relevant Constitutional amendment by which that act of the regulation is put in the Ninth Schedule on the ground that the amendment damages or destroys a basic or essential feature of the Constitution or its basic structure as reflected in Articles 14, 19 or 31, will become otiose...The Ninth Schedule was added to the Constitution by section 14 of the 1st Amendment Act, 1951. The device or mechanism which sections 5 and 14 of the 1st amendment have adopted is that as and when acts and regulations are put into the Ninth Schedule by constitutional amendments made from time to time, they will automatically by reason of the provisions of Article 31(B) receive the protection of that article. Items 1 to 13 of the Ninth Schedule were put into that schedule when the 1st amendment was enacted on 13 June, 1951. These items are typical instances of agrarian reform legislations...The Ninth Schedule is gradually becoming densely populated and it would appear that some planning is imperative. But that is another matter. We may only remind that Jawaharlal Nehru had assured the Parliament while speaking on the 1st amendment that there was no desire to add to the 13 items which were being incorporated in the Ninth Schedule simultaneously with the 1st amendment and that it was intended that the schedule should not incorporate laws of any other description than those which fell within items 1 to 13. Even the small list of 13 acts was described by the Prime Minister as a long Schedule".²⁶

Again in *I.R. Coelho V/s State of Tamilnadu* the Supreme Court decided that "Since the basic structure of the Constitution includes some of the fundamental rights any law granted Ninth Schedule protection deserves to be tested against these principles. If the law infringes the essence of any of the fundamental rights or another aspect of basic structure then it will be struck down. The extent of abrogation and limit of abridgment shall have to be examined in each case...Each exercise of the amending power inserting laws into Ninth Schedule entails a complete removal of the fundamental rights chapter vis-a-vis the laws that are added in the Ninth Schedule. Secondly, insertion in Ninth Schedule is not controlled by any defined criteria or standards by which the exercise of power may be evaluated. The consequence of insertion is that it nullifies entire Part-III of the Constitution. There is no constitutional control on such nullification. It means an unlimited power to totally nullify Part-III in so far as Ninth Schedule legislations are concerned. The supremacy of the Constitution mandates all constitutional bodies to comply with the provisions of the Constitution. Fundamental rights enshrined in Part-III were added to the Constitution as a check on the state power particularly the legislative power. Through Article 13, it is provided that the state cannot make any laws that are contrary to Part-III. The framers of the Constitution have built a wall around certain parts of fundamental rights, which have to remain forever limiting ability of majority to intrude upon them. That wall is the 'Basic Structure' doctrine. Under Article 32, which is also part of Part-III, Supreme

Court has been vested with the power to ensure compliance of Part-III. The responsibility to judge the constitutionality of all laws is that of judiciary. Thus, when power under Article 31(B) is exercised, the legislations made completely immune from Part-III results in a direct way out of the check of Part-III including that of article 32. It cannot be said that the same Constitution that provision for a check is necessary or the rights and freedoms created by the fundamental rights chapter can be taken or destroyed by amendment of the relevant article, but subject to limitation of the trine of basic structure. True it may be the efficacy of Article 31 (B) but that is inevitable in view of the progress the laws made post *Kesavananda Bharati's* case which has limited the power of the Parliament to amend the Constitution under Article 368 of the Constitution by making it subject to the doctrine of basic structure...While laws may be added to the Ninth Schedule once Article 32 is triggered, these legislations must answer to the complete test of fundamental rights. Every insertion into the Ninth Schedule does not restrict Part-III review it completely excludes Part-III at will. For this reason, every addition to the Ninth Schedule triggers Article 32 as part of the basic structure and is consequently subject to the review of the fundamentals rights as they stand in part-III".²⁷

Ratio-decided of the judgment is based upon the principle of constitutionalism as the Supreme Court observed that "The principle of constitutionalism is now a legal principle which requires control over the exercise of governmental power to ensure that it does not destroy the democratic principles upon which it is based. These democratic principles include the protection of fundamental rights. The principle of constitutionalism advocates a check and balance model of the separation of powers, it requires a diffusion of powers necessitating different independent centers of decision making. The principle of constitutionalism underpins the principle of legality which requires the Courts to interpret legislation on the assumption that Parliament would not wish to legislate contrary to fundamental rights. The legislature can restrict fundamental rights but it is impossible for laws protecting fundamental rights to impliedly repealed by future statute".²⁸

To establish a socialistic state, Nehru added Ninth Schedule to the constitution through the First Constitutional Amendment Act 1951 and 13 acts were included in the ninth schedule. Nehru added total 64 acts in the Ninth Schedule during his life time through fourth and seventeenth constitutional amendment also. But expansion of Ninth schedule (284 acts) through various constitutional amendments had compelled the Supreme Court to put Ninth Schedule under its authority which was never the intention of Nehru. It is submitted that for this state of affair Parliament not the judiciary may be held responsible as in the post Nehru era Parliament has continued to loose people's confidence due to its own functioning. Parliamentarians as politician began to cease people's representatives. With the result while socialism as constructional goal as aspired by Nehru is still hope of the people, judiciary not the Parliament has emerged last resort of people's hope which can protect their socio economic rights while preserving rule of law. Judicial Activism is being preferred by the people of India. In this regard Justice R.C. Lahoti, former Chief Justice of India has rightly quoted Guillermo O. Donnell's view that "The rule of law is among the essential pillars upon which any high quality democracy rests. But this kind of democracy requires not simply a rule of law in the minimal, historical sense...What is needed, rather is a truly democratic rule of law that ensures political rights, civil liberties and mechanisms of accountability which in turn affirm the political equality of all citizens and constrain potential abuses of state power. Without a vigorous rule of law, defended by an independent judiciary, rights are not safe and the equality and dignity of all citizens are at risk. Only under a democratic rule of law will the various agencies of electoral, societal and horizontal accountability function effectively without obstruction and intimidation from powerful state actors. And only when the rule of law bolsters these democratic dimensions of rights, equality and accountability with the responsiveness of government to the interests and needs of the greatest number of citizens be achieved".²⁹

CONCLUSION

Thus, Nehru was not only a great freedom fighter but a real socialist of India. He was the maker of India and his vision about society, development and democracy was beyond questionable. He has not only

developed the initial infrastructure after independence, but also done major land reforms in India. That is why; he has not only proposed first constitutional Amendment, but also added Ninth Schedule in Indian Constitution to abolish the then Zamindari system. Although in the initial year of Nehru's government he could not support his idea of socialism, but in later years after the *Avadi Resolution of 1955*, he brought his understanding to socialism, which guided India towards mixed economy and welfare state. Many thinkers and experts have criticised Nehru for not supporting socialism after independence in India. It was totally wrong to say that Nehru has not played much important role to develop the concept of Indian Socialism. But the time was not right to introduce such system in India. Because, at that time India was facing many problems and it required strong and stable economy and unity between Indians. After *Avadi Resolution of 1955*, his policies guided India toward mixed economy and government played significance role in the development of economy. It has incorporated the features of democracy, liberty, social justice economic betterment of the masses, better equality of opportunity, which are the basic features of Nehru's idea of socialism. After the deep analysis of Nehru's effort in the pre-independence era, in the making of Indian Constitution and post-independence era his contribution is beyond doubt for Indian society and it would be better to say that Nehru is the father of Indian Socialism. However, despite his massive personal popularity and power at his disposal in the party and government, he could not put his ideas into practice. The reason is that Nehru would not discard or bypass the democratic institutions in order to put his ideas into practice. Because in our country, with a long history of feudalism, religious divergence, caste hierarchy, multiplicity of custom and language, it has not easy to correlate tradition and change and eliminating economic and social inequalities. Nehru was aware this fact that revolution in our situation or society had to be by consent and could not be by imposition. He accepted the ultimate ideas of Marxism and socialism and admired the Soviet achievements, but he did not make a secret of his reservations about applying the same methods in case of our country. Thus, the relevance of Nehru remains undiminished at contemporary time. In fact, his ideas and approach to economic, social and political issues are more relevant in compression with his life time. At present, it become a fashion to say that socialism is a vague concept and only a slogan, but this is basically the argument of believers in states quo and those who are afraid of radical change that will either hurt their own interest or demolish their pet theories.

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