CHAPTER 7
CONCLUSION.

The Preamble of the Constitution sets out the aims and aspirations of the people of India and these have been translated into the various provisions of the Constitution. As a welfare State, India is committed to the welfare and development. For a welfare state to thrive and to maintain its constitutional goal, legislation aimed at social welfare is cardinal for the common good and common interest of the people. Directive Principles impose an obligation of the state to take positive action for creating socio-economic condition in which there will be an egalitarian social order with social and economical justice to all, so that individual liberty will become a cherished value and the dignity of an individual a living reality. Thus the Directive Principles enjoy a very high place in the Constitutional scheme and it is only in the frame work of the socio-economic structure envisaged in the Directive Principles that the fundamental rights are intended to operate. Further The Constitution declares the Fundamental Rights of a citizen and lays down that all laws made abridging or taking away such rights shall be void.

In our study we have been able to find out that unquestionably the Constitution of India is a social document. A study of the philosophy of the Constitution does safely indicate that the intention of the makers of the Constitution was to make the document a social document and that the Constitution still remains to be a social document.

We have been able to study that the fundamentals of the Indian Constitution are contained in the Preamble which secures its citizens, Justice, social, economic and political, Liberty of thought, expression, belief, faith and worship, Equality of status and opportunity, and to promote among them all Fraternity assuring the dignity of the individual and the unity of the nation. The theme of the objectives permeates throughout the entire constitution. It was to give effect to this objective the Fundamental Rights and the Directive Principles of the State policy was enacted in Part III and Part IV of the Constitution, and through them the dignity of the individual was sought to be achieved and maintained. It can be thus safely said that the preambular promises are the goal of the Constitution.
Rightly the constitution makers had decided to incorporate Fundamental Rights in the Constitution because of several reasons, such as, consciousness of the massive minority problem in India, memories of the protracted struggle against the despotic British Rule, acknowledgement of the Gandhian ideals, the climate of international opinion and the American experience.

But it can be seen from the past history that inclusion of Fundamental Rights under the Indian Constitution was also a reasonable step towards the natural apprehension of any such autocratic rule and arbitrariness in future and to prevent it. In other words, to limit the government acts.

The courts are also playing a crucial role in guaranteeing these rights to the people besides broadening them with changing circumstances and conditions and making them even more efficient for protection against any arbitrary act on the part of the govt. or any individual.

It is very well noted that under the Indian Constitution Fundamental Rights have been provided in different forms. Only a free society can ensure the all-round progress of its members which ultimately helps the advancement of human welfare. Therefore, every democracy pays special attention to securing this basic objective to the maximum extent without, at the same time, endangering the security of the State itself. The Fundamental Rights envisaged in Part III of the Constitution of India has a tremendous contribution in rendering social justice to the country at large and till date it thrives to maintain its constitutional goal, in guiding legislation aimed at social welfare for the common good and common interest of the people.

Part III of the Constitution dealing with the Fundamental Right Chapter has played a pivotal role in ensuring the principle that the right to Fundamental Right is a necessary concomitant to social justice or else such rights would be rendered illusory.

From the study one thing is crystal clear that the edifice of our Constitution is built upon the concepts crystallized in the Preamble. We resolved to constitute ourselves into a Socialist State which carried with it the obligation to secure to our
people justice, social, economic and political. We therefore, put Part IV into our Constitution containing Directive Principles of State Policy which specify the socialistic goal to be achieved. Legislation is always based on the quintessence of the public opinion. India after attaining independence by a series of social welfare legislations based on the mandate of our Constitution proved that law could be active and dynamic. No longer was the State seen as standing to one side of the society and performing the role of a night watchman, but as a manager of social and economic interests.

It is argued that since the directive principles are not enforceable by any court, they are not laws, much less constitutional laws and therefore their non-observance by the State does not entail legal consequences. For the same reason a law giving effect to the directive principle has to observe all the constitutional limitations such as fundamental rights and in case it violates these limitations, it must be held unconstitutional. The idea seems to have changed during the course of time, and over last few years one can on evaluating the judgment of the Supreme Court find that the Directive Principles have been given much more importance.

It is noticed that the amendments made to the Constitution in order to implement the Directive Principles have also encouraged the Courts to enforce those directives as any other Constitutional Rights though it is not a Fundamental Right.

We from the study can definitely conclude that almost all the Directives have now become executable by the Courts except a few, despite the express bar under Article 37 and thus can safely come to an inference holding that the Directive Principles are the means to achieve the goal of the preambular promise.

The reality of inequality, and its possible solution, is manifest in the Preamble, followed by the Fundamental Rights and Directive Principles. The Preamble makes explicit, the resolve to create a “socialist and democratic republic” in order to secure political justice, equality, liberty and dignity. The principle
assertion being that in order to obliterate social injustice, upholding the dignity of the human personality is paramount. The Indian Constitution, as a social document, seeks to foster this by striving to create the requisite social, cultural, political and economic conditions that are required to attain this noble goal.

Equality before law connotes absence of any discrimination in law. The concept of equal protection required the State to mete out differential treatment to persons in different situations in order to establish an equilibrium amongst all.

The basic rule as from the study reveals that equals should be treated equally and un-equals must be treated unequally. It is observed that this doctrine of equality is one of the corner-stone of our Constitution as the same is to be duly implemented.

The constitutional goal is the establishment of a socialist democracy in which justice-economic, social and political is secure and all men are equal and have equal opportunity, and we can safely argue that equality embodies social justice.

For a welfare state to thrive and to maintain its constitutional goal, legislation aimed at social welfare is cardinal for the common good and common interest of the people. Directive Principles of State Policy, and Fundamental rights together constitute the ‘conscience’ of the Constitution, and represents the basic rights inherent in human beings in this country.

The courts are continuously playing a crucial role in guaranteeing these rights to the people besides broadening them with changing circumstances and conditions and making them even more efficient for protection against any arbitrary act on the part of the govt. or any individual.

On the study of the cases before the Supreme Court with regard to issues of social welfare it is observed that the Supreme Court has played the role of the sentinel on the qui vive, and survivor on call. It has on almost all occasion have reminded the State that it is constitutionally obligated to enforce the fundamental rights of all the citizens of the country and to protect them from exploitation and to provide guidance and direction for facilities and opportunities to them for securing
socio-economic justice, empowerment, securing life and liberty to make all enjoy the fundamental rights ensured to them under the Constitution.

In this study we have seen that the Supreme Court has given many of the Directives the status of Fundamental Right and other Constitutional or Statutory rights, by giving wide possible interpretations to the Fundamental Rights or any other Constitutional or Statutory rights in the light of the Directive Principles.

Furthermore, the Courts, in many occasions, in appropriate cases, issued many directions/guidelines and laid down policies to give effect to the directive principles either directly or indirectly in order to remove the grievances which have been caused by non implementation of the Directives.

It can be safely said that the present directives is in furtherance of the Constitutional goals for establishment of political democracy, and to ensure social and economic justice and minimizing inequalities in income, status, facilities and opportunities for the establishment of an egalitarian social order in Secular Socialist Democratic Bharat Republic.

Globalization, Liberalization and Privatization are the inevitable consequence of the development all around the globe. It is eminent that the global economy will search for new markets to sell their products. However it has to be understood that a Welfare State has certain criteria that needs to remain static or there is a threat that the basic fabric of nation would be put to jeopardy. The Globalization, Liberalization and Privatization should be suitably adapted to the existing global condition as well as the peculiar situation of the Indian conditions in order to lead toward overall prosperity of mankind.

India is a multi-cultural pluralistic society with tremendous diversity. There are a large number of religions, castes, languages, ethnic groups, cultures, etc. in our country.

Concept of socialism or a socialist state has undergone changes from time to time from country to country and from thinkers to thinkers. But some basic concept still holds the field.
Undoubtedly in the beginning of the new economic era doubts were serious about the working of a Welfare State when provisions of social welfare legislations were being curbed to befit liberalization. Labour laws in the country had started taking the bites in the guise of economic liberalization.

But in recent times we can observe that the Supreme Court and the High Courts have played an important role to remind the State the Constitutional objectives and have tried to suggest the State to create a balance between development and the constitutional goals by evolving the concept amongst others of sustainable development.

It has been held in many decisions of the Supreme Court had reminded the State of its preambular promise and have stressed that the constitutional provision be interpreted, by taking the Preamble as the guiding star and the Directive Principles of State policy as the book of interpretation. It is very encouraging to observe that in some case the Supreme Court has often reminded the State that the preamble embodies the hopes and aspiration of the people and Directive Principles set out the proximate grounds in the governance of the country. Over adventurerism in cases of enforcing global economic policy can lead to disaster in the country like India.

The Hon’ble Supreme Court of India has in a large number of cases held that a beneficial piece of legislation or welfare statues should receive a liberal and wider interpretation and not a narrow and technical one.

In today’s time it seems that some of the policies of government are not in conformity with the obligations of a welfare state. It has been seen that the government at tames have taken a pro-corporate stand, by neglecting the plight of the people, in the guise of the glit and glamour of globalization. It is to be reminded that the state cannot derogate its stand from its constitutional responsibilities of creating an egalitarian society and providing social and economic justice by simply making a competitors market. It has to be remembered that people are not just means to achieve higher economic growth, but they are ends in themselves and that in every policy of government the people should be at the centre of it as beneficiaries.
Enforcement of global economic policy needs to be debated extensively and in some cases some rethinking is necessary in the developing country like India where disparities exist between different segments of the population and different regions of the country. It is necessary for shortening gaps between rich and the poor and there is an urgency in moving towards a more balanced development of the nation.

We have in our study observed that Constitutionalism recognizes the need for government with powers but at the same time insists that limitation be placed on those powers. The antithesis of constitutionalism is despotism. It envisages checks and balances by restraining the powers of governmental organs by not making them uncontrolled and arbitrary. The study clearly opines that Fundamental Rights of the people, Directive Principles of State Policy, Federalism, de-centralization of powers are some of the principles and norms promotes Constitutionalism in the country. Preamble to the Indian Constitution lays down principles for the promotion of constitutionalism. One can safely declare that socialism is the constitutionalism of the Constitution of India. It has been observed that the doctrine of basic structure propounded by the Supreme Court is one of the most dynamic doctrine that has been propounded in the working of this modern Constitution. It envisages the principle of check and balance which is the constitutionalism of the Constitution. This dynamic doctrine of basic structure of the Constitution has always been applied to whenever there is a threat to the constitutionalism of the Constitution. However from the study we can safely conclude that as of now there is no such threat that demands a change in the Constitution. We feel safe with the dynamic activist approach of the Supreme Court of our country and remain optimist that WE THE PEOPLE will live up to the expectation of our founding fathers and remain to be a social welfare state.

As a research student and based upon the study I would propose to put forward some suggestions to the legislatures and all the law makers.

The state is constitutionally obliged to take care of the needs of society, and to maintain the social, economic and political justice hence it must change its
policies along with the changing needs of people keeping the welfare of the people at the centre.

There needs to be a constructive policy to fill the gap between the rich and poor so that the people at the bottom level of the pyramid is brought into the loop of the developmental process, and we be successful in building an inclusive society.

The bureaucracy still seems to have retained colonial characters and it the mindset in the working of the bureaucracy that needs some refreshment. The bureaucracy has to be well versed with the rights of the people. It is beyond comprehension as to why a citizen will have to approach the Courts for enforcement of their rights.

Judicial reforms should be implemented with immediate effect to clear millions of cases which are pending in various courts all over the country.

There is a need for police reforms and the legislature should participate intelligently to make sure that the welfare state of ours does not turn into a police state.

Social welfare schemes launched by the government need strict monitoring and it is to be seen that the intended beneficiaries get the benefit and the perpetrators of frauds should be severely punished. Avenue of new social welfare schemes benefitting and affecting the mass poor and creating employment opportunity and removing economic backwardness should also be taken up on priority basic.

Criminalization of politics is an evil in a democracy and unless urgent steps are required to be taken to counter it.

Political and administrative corruption is a sad reality of Indian administration and this cancer should be removed from the body politic of Indian democracy on an emergency basis.
The state must focus to eliminate poverty and inequality among the different sects of society. Necessary and urgent steps are needed to be taken to reduce the actual number of persons below poverty line.

The state must ensure that the benefits of globalization are not confined to some particular sections of the society and there must be some law regarding corporate responsibilities.

Since India still largely remains to be dependent on agriculture, there is a need to focus on the development of agriculture. The government must increase the public expenditure in agriculture and more funds must be devoted towards the area of research in agriculture as like in the area of production of better quality seeds.

There has to be some corporate environment responsibility as we in our study have seen that environmental damage has mostly affected poor people because they lack sufficient resources to avoid the impact of pollution. The government must have strict environmental laws and there should be a proper administrative set up to monitor and see that all industries fulfill the requisite environmental clearance norms. Polluters Pays principle should be applied strictly in case of breach and the State should be strict in ensuing proper compensation to the affected.

There is a very urgent need for the enhancement on the spending on healthcare. The problem of malnourished children in India is to be addressed on an urgent basis. Government hospitals need to be well equipped with necessary infrastructure and medicine. Continuous effective steps needs to be taken to lift the child mortality rate.

Female feticide should be declared as a grievous crime. Women empowerment programmes needs to be taken up on priority basis.

There is a very urgent need for the enhancement on the spending on education and increase the enrolment rate in schools and college.
The need of hour is to ensure the proper and balanced implementation of policies so as to make social justice an effective vehicle of social progress.

All the three organs, namely, the Legislative, the Executive and the Judiciary should work collectively to ensure civil, political, social, economic and cultural rights to the citizens and to further ensure to protect and preserve human dignity by assimilating the poor, the depressed and deprived in the national mainstream for ultimate equitable society and democratic way of life to create unity, fraternity among ‘WE THE PEOPLE’ in an integrated Bharat.