CHAPTER IV

CONSTITUTIONAL ASPECTS OF PROPERTY RELATIONS AND JUDICIAL CONSERVATISM
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(1) Property relations as the primary index of advancement towards Socialism.

Finding the wisest way to economic development for a backward country is a vexed question. Of the many models that have been talked about and tried in the course of planning in India, there seems to be a consensus of opinion on the point that the primary requirement is that of technological and structural (or institutional, so to say) changes. Economic development means a rise in the level of productivity which is mainly dependent on these two sets of factors. To some extent, technological factors help to raise productivity without any change in the institutional factors. By contrast, the socialist thinking is that the institutional factor is the prime mover of production. One cannot introduce fundamental changes in technology without radically altering the institutions which sustain an out-moded production system. In fact technology and social institutions are not mutually exclusive but complementary to each other.
In the discussion that follows the focus of attention will be confined to the structural aspects only. Of the structural factors, landed property seems to be an important element which requires considerable attention. In each and every society, there is a particular form, distribution and relation of property. With the advancement of society, the form, pattern and relations of property do not remain constant but change.

It would be relevant, in this context, to refer to the Marxian interpretation of the path of change of production relations. From the Marxian point of view, the mechanism of social change from one stage to the next one is dialectical i.e. through contradictions and conflict within a given system between forces trying to retain the production relations and forces trying to develop production forces and for that reason to develop new production relations. This contradiction between thesis and anti-thesis generates quantitative changes. It is evident that the dynamics of social evolution is given by the interaction of the forces of production with the relations of production. The only available objective criterion of progress is the rising productivity of labour. Productivity of labour is, in turn, dependent on the level of development of the forces of production i.e. the means and instruments of labour, technology.
skill and organisation of labour. Relations of production are those into which human beings enter in order to operate on nature through the forces of production. Relations of production constitute the core of the whole superstructure of society, its laws, its forms of property, its culture-pattern and so on. Forces of production are primary and their continuous development is irreversible and inevitable. But relations of production are intrinsically conservative and change-resisting.

In India, prior to independence, there existed a feudal or semi-feudal land system. In the post-independence era, with the introduction of the Constitution of India, property relations occupied increasing public attention. Since property is essentially a part of the relations of production and which, on the other hand, is change-resisting and of a conservative nature, any change in property relations in our country does not seem to be easy. In particular, the written constitution that we have in India, until recently, guaranteed the right to property as one of the fundamental and justiciable

rights of the citizens. Obviously, as long as this right retained its fundamental character, the presupposition was that a guaranteed right to property would not constitute any stumbling block on the path of peaceful transition to socialism in India. Later political and constitutional developments, however, completely belied this expectation. It will be interesting, therefore, to see how the concept of private property has played a role in the making of the constitution, how much stress is given on the aspect of property. It remains to be seen whether constitutional amendments, which were later introduced to modify the right to property, were not enough for the purpose of achieving democratic socialism. Prolonged and heated debates in the parliament clearly underlined the controversial character of these amendments. Moreover, the amendments, while being challenged in the courts, led to a confrontation between the Parliament and the Supreme Court, the apex of our Judiciary. Fundamental constitutional issues have also been raised whether fundamental rights prevail over directive principles or vice-versa.

Before an assessment is made of the positions taken respectively by the Government and the Judiciary on this question, it will be necessary to see the kind of structural changes that have taken place throughout this period with respect to some strategic sectors, viz., banking, transport, trade and industry, etc, to examine the extent of concentration of economic power taking place in India in this period, and to examine the actual position of the public sector compared to the private sector. These alone could provide the necessary perspective for appreciating the reasons and motivations behind the reactions of the different organs of Government on the question of property.

2. Basic liberalism running through the Constitution compelled retention of the right to property but not in an undiluted form: Scope for take-over.

In the Constituent Assembly* the debates** relating to the draft Article 19 (I) (f) and Article 31 clearly show

* The Constituent Assembly of India examining the Constitution of several countries, which guarantee the basic rights. In "Constituent Assembly of India, Constitutional Precedents (Third Series)" (1947), it is stated:

"Broadly speaking, the rights declared in these Constitutions relate to equality before the law, freedom of speech, freedom of religion, freedom of assembly, freedom of association, security of person and security of property. Within limits these are all well-recognised rights ........."

** See Appendix.
that the framers of our Constitution laid sufficient emphasis on property so as to include in it the Chapter on fundamental rights. The provision regarding freedom of trade and intercourse which was originally in the Chapter on fundamental rights was later removed from that Chapter, and put into a separate part (Article 301), in view of the suggestions made by some members of the Constituent Assembly. It is significant that similar suggestions in respect of the right to property were not accepted. 4

A glance at the provisions of the major constitutions of the world would make it clear that on the one hand, the right to private property is recognised and on the other, that right may be annulled for public purpose, sometimes subject to payment.

*Foot-Note* There is no democracy in the world where the right of property is not respected and recognised either in the rule of law or in constitutional practice. In countries where the rule of law prevails, the right of property is enshrined in the Constitution, whether it is Magna Carta (1215) or American Declaration of Independence or French Declaration of the Right of Man (1789) or German Constitution. Even in the U.S.S.R. the right to private property as a fruit of labour and the right to inherit is recognised.

Article 5 of the United States Bill of Rights (1791) lays down that no person shall be deprived of property "without due process of law", "nor shall private property be taken for public use, without just compensation".

Art. 51 (XXXI) of the Australian Constitution (1900) secures the right to property by enacting that Parliament shall have power to acquire property on "just terms" which has been construed by the Australian Courts to signify fair compensation.

Art. 29 of the Japanese Constitution (1947) provides that "the right to own or to hold property is inviolable" and that "private property may be taken for public use upon just compensation therefor".

Art. 14 of the West German Basic Law (1949) guarantees "the rights of ownership and of inheritance" and permits expropriation of property "only in the public weal" and only upon payment of just compensation.

Art. 16 of the Socialist Constitution of the United Arab Republic (1964) enacts that "private ownership is safeguarded and the law organises its social function, and ownership is not expropriated except for the general good and against a fair compensation in accordance with the law."

(Contd......)

of compensation. That is to say, the right to property must always remain subject to the need of achieving the welfare of the masses and the necessity of fair and reasonable distribution of income and wealth. In India also, the right to property is recognised as a fundamental right and it is also a justiciable right. For the phrase 'public purpose', there are some explications in the constitution, in the context of directive principles although those principles are made non-justiciable. Because of this non-justiciability of the directive principles, a lot of controversy arises in recent times involving the question of supremacy of one over the other. Moreover, acquisition of property by the State being subject to payment of compensation, confusion arises as to what is meant by just and equitable compensation particularly in the Indian context.

*Foot-Note (contd.)

Even in the Russian Constitution where socialism has been accepted as the basis, the right to private property is protected. Art. 10 of the Russian Constitution says: "The personal property right of citizens in their incomes and savings from work, in their dwelling houses and subsidiary husbandries, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law".

Article 17 of the Universal Declaration of Human Rights (1948) also recognises the right to private property. And it is interesting to note that India is a signatory to that Declaration.

There are two ways of looking at the provisions of the property clause as laid down in the Indian Constitution. The position is sometimes taken that property clause as incorporated in our Constitution does not stand in the way of transition towards socialism. Contrary to this view, it is possible to assert that property clauses are ambiguous and their meaning and interpretation are uncertain.

The reasonings in support of the first position are broadly as follows: - Whereas the French National Assembly of 1789 mentioned property as a Natural Right and whereas the 5th Amendment and Section I of 14th Amendment of The U.S. Constitution guarantee the sanctity of private property, there is no such provision, elevating private property as an axiomatic principle, in the Indian Constitution and rightly so, because the Indian Constitution was by implication a socialistic Constitution and became explicitly so after the 42nd amendment. It does not regard private property as sanctimonious, but concedes full compensation to the owner of the property when it is taken by the State.7

Even before the twenty-fifth Amendment (1972) which took away the right to compensation from Art. 31(2) and inserted Art 31(c), the right to property was very limited and flexible and so framed as not to interfere with the requirements of incipient socialism. This is evident from the fundamental right under Art 19(1)(f) which explicitly provides to acquire, hold and dispose of property subject to all reasonable restrictions in the interest of the general public. The right to property cannot be invoked at all against laws relating to Zamindaries and other estates in land or against other laws relating to agrarian reforms. Further, it cannot be invoked in cases where (a) the management of any property, e.g. a sick mill, is taken over by the State for a limited period either in the public interest or in order to secure the proper management of property, (b) two or more corporations are amalgamated either in the public interest or to secure proper management, (c) the rights of managing agents, managing directors, directors or managers, or the voting rights of share-holders, are extinguished or modified, or (d) any lease or license for the purpose of prospecting or winning any mineral or mineral oil is modified or terminated (Art.31A). Many Acts passed by the Union Parliament and the State
legislatures are constitutionally declared to be valid under Art 31(B), although they may directly infringe the right to property. Hidayatullah J has stated in the Sajjan Singh's case 8 "Even the agrarian reforms could have been partly carried out without Arts 31-A and 31-B, but they would have cost more to the public exchequer". Thus, the right to property, as originally framed under this constitution, had been conceived in an abridged form compared to the same right in other democracies in the world.

As a retort, the following considerations merit our attention:

(i) The Constitution, except in the amended preamble, nowhere uses the term 'Socialism'. Even though the terms 'Socialist' and 'Secular' have been incorporated into the preamble to the Constitution, the term 'socialism' has not been clearly defined. Naturally, any pursuit of policy in this direction is bound to create confusion and may itself be self-defeating.

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(ii) There is a basic contradiction between our liberal democratic political structure and our socialist aspirations. Liberal democracy means a free society. It permits freedom of economic exploitation in the name of freedom of individual. This is not consistent with socialism. That is why there exists a basic contradiction, the nature of which has been well depicted in the following observation of an Indian Political Scientist: 9-

"That our present Constitutional structure was forged on the anvil of western liberal democracy was no historical accident. The Indian national bourgeoisie, wresting power from the hands of colonial masters, naturally had to produce a constitution suitably tailored to serve their class-interests and under the shelter of this constitution a class-oriented, highly stratified society has flourished in our country. To bring in a radical change in the pattern of this society .......... which is, indeed, what socialism presupposes .......... is a hard task that can scarcely be accomplished by some startling piece-meal efforts now and then".

A Similar view has been expressed by Rajeev Dhawan in his "The Amendment - Conspiracy or Revolution?"
Small wonder, therefore, that the Constituent Assembly opted for a compromise on the basic question of private ownership of the productive forces. Independent India was not as independent as people made it out to be. The Congress Party's socialist fervour, inspired by Nehru, was temporized by the presence within the party and in the country of landlords, princes and businessmen, while it insisted that landlordism should go, it wanted, however, the businessmen to stay. It would not legislate them out of existence. The result was the halfway house called mixed economy, with a meaning that keeps changing with the change of men in power.

Role of the Judiciary: early conservatism of the 50s:

On the eve of independence, Indian land system looked like a cobweb of various tenures, a system unsuitable either from the viewpoint of greater production or from the viewpoint of social and economic justice. As a result, the necessity of reorganising the land tenure system was felt urgent and imperative.

After independence a spate of enactments were passed so as to abolish intermediaries in land. But abolition of intermediaries entailed the vexed problem of payment of compensation to them. The Congress Party which assumed
power after independence was committed to a system of peasant proprietorship and this transformation was to be done after the payment of compensation to the landlords. On the question of compensation, the controversy did not centre round whether to pay or not to pay compensation, but round the problem how much to pay as compensation. Although the makers of the constitution provided for compensation they did not clearly mention 'just' and 'equitable' compensation. Consequently, the Zamindari Abolition Acts were challenged in the High Courts and later taken to the Supreme Court for adjudication. The Supreme Court while upholding the right of the Government to acquire lands for a public purpose, ruled that compensation is a justiciable issue. The judgment of the Supreme Court that compensation should be paid at market value added another dimension to the problem in favour of vested interests.

It is interesting to note that the rulings of the Court led to contradictory results involving this compensation issue. As a result Article 31 relating to right to property has had a chequered history. Since 1950, several measures were taken for land reforms, for agrarian reforms, for abolition of Zamindari and so on. Other social measures like
Taking over of the management of commercial and industrial undertakings were taken. In Mrs. Bela Banerjee's case, the Supreme Court held that compensation would mean "just equivalent" of the assessed value of the property being nationalised. Such an interpretation of the Court stood in the way of land reforms and other measures. Consequently, the constitution underwent its fourth amendment, and Article 31(2) was reframed, making the adequacy of compensation non-justiciable. Then came the Bank Nationalisation Case*.

In that case, it was held that despite the Fourth Amendment, the continued use of the word "compensation" meant that the money equivalent of the property acquired must be given for any property taken by the State for a public purpose. And this interpretation given by the Supreme Court clearly defeated the intention of the Fourth Amendment Act. But in a subsequent case, viz, the Shantilal Mangaldas Case, the Supreme Court held that adequacy of compensation was not justiciable and it was in tune with the object of the Fourth Amendment. Soon after there was another judicial somersault and the judgment in the case of Shantilal Mangaldas was

overruled and the Supreme Court once again laid down that compensation meant money equivalent; in other words, it means the market value of the property. 10

Those who argue that socialism should be achieved only after payment of 'just' compensation to those whose property is to come under social ownership, thus overlooked the possibility that the claim for compensation itself cannot be used as a formidable if not insurmountable barrier to a just redistribution of wealth. The theory of 'just compensation' ensures the maintenance of status-quo in the class structure of a society. And that would continue as long as the constitution left any room for the Court to pronounce that each and every case of nationalisation was subject to a judicial scrutiny of the adequacy of compensation given to the previous owners. After all, it is strange that the judiciary should remain insensitive to the plain fact that a high quantum of compensation makes it simply impossible to implement any measure of socio-economic reforms. The question of social justice is not one of ensuring that the State acts

as an honest broker facilitating sale of ownership from the hands of a few to the community as a whole; it is one of putting an end to the unjust accumulation of wealth and its exploitative use which, by no stretch of imagination, can have further title to a market price. It is the exploited and not the exploiter who ought to have a title to compensation. It would be relevant to quote Pandit Jawaharlal Nehru, participating in the debate on the Fourth Amendment in Parliament in 1955. He said: "If we are aiming, ................. at changes in the social structure, then inevitably we cannot think in terms of giving what is called full compensation. Why? well, firstly because you cannot do it, secondly because it would be improper to do it, unjust to do it, and it should not be done even if you can do it for the simple reason that in all these special matters, laws etc, they are aiming to bring about a certain structure of society different from what it is at present. In that different structure, among other things that will ...... change is this, the big difference between the haves and the have-nots. Now, if we are giving full compensation, the haves remain: the haves and have-nots have-nots. It does not change in shape or form if compensation takes place".
In the 70s, judicial opposition to acts of nationalisation not merely hovered round the compensation issue, but raised some basic questions. It asked about the true meaning of the two words: Law and Amendment. Does "Law" mean only statutory law or does it also include constituent Law? Does amendment merely mean alteration or does it include total destruction?

The relevance of these questions is this: Article 13, as it originally stood, provided that "The state shall not make any law which takes away or abridges the rights conferred by this part (Fundamental Rights)". This naturally involved the meaning of the word "law". If it meant only statutory law, then Parliament must not adopt any legislation which would come into conflict with the Fundamental Rights but may, in its constituent capacity, amend the constitution and thereby whittle down the Fundamental Rights. However, if the word "law" included also constituent law, then parliament was forbidden from so amending the constitution as to abridge the Fundamental Rights.
Until the Golaknath case came up, the Supreme Court was of the view that "law" meant only statutory law. Thus Parliament was free to amend any part of the constitution, including the Fundamental Rights. But in the Golaknath Case*, the Court, by a majority of six to five, decided that "Law" meant both statutory and constituent law, thereby putting a check on parliament's powers to amend Fundamental Rights. As a result, parliament is considered to have no power to take away or curtail any of the Fundamental Rights guaranteed by Part III of the Constitution even if it becomes necessary to do so for giving effect to the Directive principles of State Policy and for the attainment of the objectives set out in the Preamble to the Constitution.

It is, therefore, considered necessary to provide expressly that the parliament has the power to amend any provision of the constitution so as to include the provisions of Part III within the scope of the amending power. For this purpose, the 24th Amendment Act, 1971 sought to amend Article 368 and made it clear that Article 368 provided for

amendment of the constitution as well as procedure therefor. That is to say, it clarified that Article 368 not only laid down the procedure but also gave Parliament the authority to amend the constitution. It further made it clear that "notwithstanding anything in the constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this constitution in accordance with the procedure laid down in this article".

Article 31 of the Constitution as amended specifically provides that no law providing for the compulsory acquisition or requisitioning of property which either fixes the amount of compensation or specifies the principles on which and the manner in which the compensation is to be determined and given shall be called in question in any court on the ground that the compensation provided by that law is not adequate. In the Bank Nationalisation Case 11 the Supreme Court has held that the constitution guarantees right to compensation, that is, the equivalent in money of the property compulsorily acquired. Thus in effect the adequacy of compensation and the relevance of the principles laid down by the legislature for determining the amount of compensation have virtually

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become justiciable inasmuch as the Court can go into the question whether the amount paid to the owner of the property is what may be regarded reasonably as compensation for loss of property. In the same case, the Court has held that a law which seeks to acquire or requisition property for a public purpose should also satisfy the requirements of Art. 19 (I) (f).  

The twenty-fifth Amendment substituted the word "amount" for compensation and also laid down that any legislation passed in furtherance of two directive principles (control of material resources, for the common good and prevention of concentration of wealth) could not be questioned on the ground of violation of Fundamental Rights.

Some of the wide-ranging provisions of the twentyfifth Amendment Act, are as follows:

Firstly, the twentyfifth amendment amended Article 31(2) and provided that any property may be acquired on payment of an "amount" instead of "compensation". The intention was that the citizen's right to property should be transformed into the State's right to confiscation and the State should be able to deprive any one of any property in return for any

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amount payable at any time or on any terms; and the executive action, however, arbitrary or irrational, should not be subjected to the Court's scrutiny. The amended Article 31 has nothing to do with concentration of wealth, and permits any common citizen's property, however small in value, to be acquired by the State without the payment of what would be compensation in the eye of the law. 13

Secondly, the Supreme Court had held in the Bank Nationalisation case that the power of acquisition or requisition envisaged by Article 31(2) was subject to the citizen's right to acquire, hold and dispose of property under Article 19(1)(f), which in turn, was subject under Article 19(5) to reasonable restrictions in the interests of the general public. The twenty-fifth Amendment enacts that Article 19(1)(f) would be inapplicable to acquisition or requisition laws. Since all reasonable restrictions in the public interests are already permitted under Art. 19(5), the only object of making Art.19(1)(f) inapplicable would be to enable acquisition and requisition laws to contain restrictions and procedural provisions which are either unreasonable or not in the public interest. It is impossible to perceive

the social content of a law which is not reasonable or not in the public interest. After the twenty-fifth Amendment, any law requisitioning or acquiring property may be passed with an express provision which violates the rules of natural justice. The land acquisition can be amended to provide expressly that any man's land or house can be acquired without any notice to the owner to show cause against the acquisition or to prove what "amount" should be paid to him for the property acquired. In fact, many industrial undertakings have been nationalised over-night by ordinances which fixed, without any notice to any one, ridiculous amounts payable by the State.

Thirdly, the twenty-fifth Amendment inserted Article 31(c) which provided that "no law giving effect to the policy of the State towards securing the principles specified in clause (b) or clause (c) of Article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Art. 19 or Art. 31; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any Court on the ground that it does not give effect to such policy."
The Directive Principles of State Policy set out in Article 39(b) and (c) deal with the entire economic system, and therefore, countless categories of law can claim the protection of Art 31 (c) since most laws can be related to economic system in one way or another. These are questions which cannot be settled once and for all by making peremptory amendments of the Constitution in order to enfeeble the judiciary in its attempt to probe the validity of a social legislation. What is more urgently required is the prevalence of a social philosophy which will be shared by all the organs of Government, including the judiciary. The main issue between the judiciary and the Government today is whether the reformist zeal of the latter could be pursued without any regard for the tolerance limit of the existing social system. Implicit in this conflict is the fundamental question: what compelling reason is there for the judiciary to be convinced that the time has come for it to construe the constitution always in favour of the social legislations of the Government oblivious of vested interests affected by social legislation. Our judiciary is not a committed judiciary, the architects of our constitution set a great store by the judiciary. And it would be no exaggeration of the fact that they objectively strengthened the case for judicial supremacy in post-independence India. That is why, the
judiciary was never under any obligation to adopt a committed stand. The constitution does not ensure that the judiciary would not sit over the verdict of parliament on issues involving substantive justice, as for instance, the case of the right to property, fundamental rights, etc. The magnitude of judicial power is not objectively stated in such cases.

Not only that. There is no guarantee that the judiciary would act according to an enlightened awareness\textsuperscript{14} for the interests of the common man. This is because of the fact that although socio-economic justice was fixed as a goal in the Objective Resolution the means of achieving it were left undecided. The importance of socio-economic justice in India is necessitated because of the following reasons; firstly, the rejection of the system of social status-quo; secondly, a qualitative transformation of the material conditions of propertyless majority; thirdly, curbing of the rights and status of the propertied class without which the betterment in the conditions of the propertyless majority cannot be achieved.

An improvement in socio-economic structure in India is barred by two reasons:

(i) The constitution contemplates a change in the material conditions of the common man without curtailing the status and position of the rich; and

(ii) Inspite of all its professed social values, it was never intended to be an antidote to the kind of individualism through which individual interests in the society got precedence over the social good.

It is this individualistic temperament which, more or less, prompted the judiciary to act against any radical social change and to maintain status-quo. This defence of individualism, in a sense, stands in the way of transition to socialism in India. And this trend towards individualism which, some call it as "desirable conservatism", has primarily guided judicial thought leading to a confrontation between Fundamental Rights and Directive Principles of State Policy and ultimately a difference in attitude towards justice between Parliament and the Supreme Court.

It is interesting enough to note that the Constitution of India does not objectively provide any "catalogue of values"
compelling the Supreme Court to interpret laws regarding the issue of socio-economic justice in a non-conservative manner. It only lays down that the mode of judicial reasoning would be determined by "procedure established by law". It rejects, on the one hand, the American "due process of law" and on the other an emphasis on legality implying laws interpreted strictly in terms of narrow legal procedure. This 'legal positivism' occupies a crucial role in the decisions of the Supreme Court involving socio-economic justice.

The Golaknath Case is a single instance through which it can be shown how the Supreme Court pursues legal formalism in its ruling. The case followed from a conflict between the vested interests of the owners of surplus lands and the interests of the common man. Following a decision of 6 : 5, the Supreme Court held that Parliament had no power to amend Part III of the Constitution.

The following points would explicitly show the legal positivist outlook of the Supreme Court in that case.

(1) That Article 368 is nothing but a procedure of amendment which differs from the power of amendment.
(2) That constitution amendment is also a 'LAW' within the meaning of Article 13(2) and hence this can be declared void, if it infringes Fundamental Rights.

(3) That there is no specific mention of amendment on Fundamental Rights in the chapter on Amendment and so Part III could not be amended at all.

(4) That since Fundamental Rights are 'fundamental' these were transcendental and beyond the reach of the constitution.

An astute observer of the trends of judicial disposition in this country has justifiably observed:

"The Logic of the Supreme Court's reasoning in Golaknath's case has clearly proved how the argumentation of the Court from the point of view of legal formalism objectively leads to a defence of individualism at the cost of the broader interests of society ......................

This craze of the Supreme Court for legal positivist interpretation explains in a way the failure of the court to locate the Fundamental Rights, the Directive Principles or a statute in the context of changing socio-historical matrix of post-independence India and the inability of the Court to pursue the
path of sociological reasoning. The obvious implication is that the legal positivist stand of the court on these crucial issues has objectively led to a defence of the rights of the privileged few, nay a defence of Indian capitalism and the values most cherished by that class". 15

What we see from the above discussions is that the constitution fails to provide any catalogue of values by which the Supreme Court would be guided in taking decisions involving matters of socio-economic justice. Sometimes, the judiciary takes up judicial discretion due to incorporations of words and clauses in the constitution which remain ambiguous and unclear. As a result, the Supreme Court has been provided vast scope for the interpretation of statutes subjectively to use its judicial discretion as a substitute for legislative prescriptions. This has obviously led to judicial conservatism and because of this conservatism, the Supreme Court got enough scope for the defence of existing social order, resisting thereby the stream of change.

15. Dattagupta, Sobhanlal, ibid, p. 177.
A number of architects of the Constitution talked of the Fundamental Rights as permanent and inalienable:

(i) "The Declaration of the Rights of Man ...... has become part and parcel of our mental make-up ...... These principles have become the silent, immaculate premise of our outlook" - Dr. B.R.Ambedkar in Constituent Assembly Debates, Vol. I, pp.99-100.

(ii) "We must safeguard the liberty of the human spirit against the encroachments of the State. While State Regulation is necessary to improve economic conditions, it should not be done at the expense of the human spirit ........ This declaration, which we make today, is of the nature of a pledge to our own people and a pact with the civilized world" -- Dr. S. Radhakrishnan in C.A.D. Vol. II, p. 273.

(iii) "A fundamental right should be looked upon, not from the point of view of any particular difficulty of the movement, but as something that you want to make permanent in the constitution" — Pandit Jawaharlal Nehru in C.A.D. Vol. II, pp. 465-66.