CHAPTER V

Conclusion
India cast aside the foreign yoke and embarked upon a new era with the attainment of Independence on 15th August, 1947. It is the result of selfless sacrifice and restless sweat and toil of people from all walks of life. Dr. B.R. Ambedkar remarked "By independence we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves". Transfer of power by the British rulers was inevitable and inescapable due to the political conditions that prevailed in India and the circumstances in which Great Britain found herself at the end of II World War. The national leaders under the banner of Indian National Congress established in 1885, launched a struggle against the British government to attain independence to the Mother India. Mahatma Gandhi who returned to India from South Africa in the year 1915 played a key role in the national movement through non-violent and peaceful means. After a prolonged, patient, peaceful protest
India attained independence as per Mountbatten plan. Dr. Pattabi has aptly summed up the Chief operating factors, resulting the dawn of India's independence as "the inexorable march of time and the force of circumstances".

After the attainment of independence the herculian task of preparing a Constitution to our country basing on some sound principles was taken up by constitutional experts under the chairmanship of Dr. Rajendra Prasad. Constitution is the life line of a nation and reflects the will and wishes of the people. It is the embodiment of their desires and reflects the intentions of the people. The constitution represents India's cherished desire to introduce an ear of liberty, equality and justice. It stands for the pursuit of peace and tranquility as fraternity is one of the cardinal principles. Framers of our constitution saved the country from chaos and disorder by providing the best possible document to the nation, keeping in mind the prevailing economic, social and political conditions. It will have to be accepted that it is always difficult to produce a unanimously accepted constitution and the Indian Constituent Assembly succeeded in accomplishing this difficult task. Though the Congress leadership played a vital role in the constituent Assembly, the members from reactionary and revolutionary groups also had their share in drafting a new constitution for India.

THE INDIAN CONSTITUTION:

The origin and growth of the Indian Constitution is rooted in the history of India during British rule. India's claim to independence and the right to decide her future Constitution was definitely recognised by the British Parliament on March 15, 1946. When the Cabinet Mission was sent to India, Indian Constitu-
tion is a borrowed document from several other constitutions of the world. The members of the Drafting Committee had examined the constitutions of other countries and adopted a few, discarded some, considering the Indian conditions and past political heritage. It is commented by political critics that it is a 'hotch-potch' of several documents of the world Constitutions, yet it has its unique character and a few distinct identities so as to suit the Indian conditions and values. The Indian Constitution is the longest and most detailed written document in the world, Consisting of 395 Articles grouped in 22 parts and 11 schedules and its volume is five times that of the Constitution of America. Our Constitution is a legacy of the past and a detailed legal code dealing with all important aspects of the constitutional and administrative system of the country. The preamble to the Constitution declares India to be a sovereign, democratic, secular, socialistic, republic with justice, liberty, equality and fraternity as its basic ideals.

The establishment of Pakistan and subsequent withdrawal of Muslim League from the Indian scene freed the constituent Assembly from a great handicap. The Assembly could now fulfil its mission with missionary zeal without restraint from outside or disruption from within. Although the Constituent Assembly was an indirectly elected body not responsible to the Indian masses it was a highly representative body with more than 300 members. Nehru while explaining the base of the Constitution said "This cannot be done by the wisest of lawyers sitting together in conclave; it cannot be done by small committees trying to balance interests and calling that constitution-making; it can never be done under the shadow of an external authority. It can only be done effectively..."
when the political and psychological conditions are present and urge and sanctions come from the masses". Constituent Assembly set up a drafting Committee of seven members under the chairmanship of Dr. B.R. Ambedkar and B.N. Rau, another illustrious son of India, assisted the committee as constitutional Advisor. Mr. Nehru, our beloved first Prime- Minister and Sardar Patel, Iron man of India, were the sources of constant guidance and inspiration to the constitutional Pandits. Infact Nehru, Patel, Prasad and Azad constituted an oligarchy within the Assembly. Their practical experience, their personal popularity, their intellectual ability made the members of the Assembly incapable of doing any harm to the people. The members of the Assembly decided that the lofty and noble ideas of Mahatma Gandhi and the rich heritage and culture of India should be given top priority in framing the constitution.

The Drafting Committee submitted the Draft Constitution to the president of Constituent Assembly on February 21, 1948 after putting in strenous effort for 141 days. The consideration of the Draft constitution commenced on November 4, 1948. The Assembly held altogether eleven sessions running upto 165 days, out of which 114 days were devoted to the consideration of the Draft constitution. The Assembly decided all vital issues democratically after full, fair and frank discussions at times heated and acrimonious. The total number of amendments tabled was approximately 7635 out of which 2473 amendments were actually moved. After elaborate discussions, the draft was finalised with suitable amendments on November 26, 1949. Thus it took the Assembly two years eleven months and 18 days to frame the Constitution of the Indian Republic. The 25th session of the Assembly which was held on January 24, 1950; Unanimously
elected Dr. Rajendra Prasad, as the first President of Indian Union. The constitution represents India's cherished desire to introduce an era of liberty, equality and justice. The preamble of the constitution reflects the image of the constitution and ambition of its makers. As the preamble is not the integral part of the main document and as such not subject to judicial review. The provisions of the constitution can be examined by the touch stone of the preamble and thus decide whether constitution is good or not. The preamble of the constitution contains in nut-shell its ideals and aspirations. The preamble shows the general purpose behind the several provisions of the constitution. The preamble is not superficial appendage of the Constitution but a very useful and important key to it, which expresses the hopes, wishes, aspirations and dreams of its founding fathers.

THE INDIAN CONSTITUTION & DIRECTIVE PRINCIPLES OF STATE POLICY:

A Constitution to a country is a pious document and the fundamental law of the land and occupies a unique and Supreme position in the fundamental law of the land. Every branch of the government will derive its power from the constitution and they are directed to work within the frame-work of the constitution only. If any branch of government acts against the provisions of the constitution, these action will be nullified by the court of law. Though the word "Federal" is not used any where in the constitution, the main features of Federalism are prevailing in the country. India is a Quasi-federal state, extremely federal state, decentralised federal state. India is unitary and federal according to the requirements of time and circumstances. If we observe the practical
conditions that are prevailing in the country, we must say that there is a lot of centralisation in the country and the states are mere administrative organs; not sovereign bodies. The states should depend on the central government for each and every aspect of administration because they should work according to the whims and fancies of the central government due to economic insufficiency. Hence whatever may be political party prevailing at the state level; it should maintain cardial and co-operative relations with the central government lest their existence may be dethroned by the strong centre without any sound reasons or prior notice whatsoever. Many commissions were appointed both by the union and state governments to study and suggest the guidelines to be followed by the union and states. All commissions with some slight changes finally advised to have a strong centre to protect the unity and integrity of the nation. The commissions, however advised the union government not to interfere in the day today administration of the state governments unnecessarily. In this connection it is worth mentioning that the state governments are welcoming enemity with the central governments for silly reasons. The central government should follow some norms and bye-laws in extending any financial assistance to any state for the establishment of welfare state.

The basic motive of our constitution is to free Indian masses from untold suffereings and miseries. In pursuit of this object, the makers of the consitution adopted the socialist society based on socio-economic, justice for India. Thus, on 26th January, 1950 the Indian people started their new voyage with firm determination to reach the goal of socio-economic justice. This popular elected government under the liberal dynamic Prime- Minister Nehru embarked upon a
large number of socio-economic legislations for laying down a solid base so as to free the common man from unequal human bondages. But all efforts to achieve this goal must be consistent with the human freedoms. Undoubtedly the way to reach the goal of socio-economic justice is a long, arduous, hard, weary, difficult and full of hazards and legal hurdles. But having firm faith in the viability of our constitutional democratic means, we can overcome these difficulties and reach our objectives. In this gigantic national task it is the prime duty of each Indian citizen to contribute his mite. It is then and only then that our Parliamentary democracy can become a reality in which the millions of the down-trodden people of this country can effectively participate and enjoy its fruits.

With the basic aim of reconstructing a new society, through peaceful social revolution, a separate chapter is prescribed for the Directive Principles of State Policy. Though Directive Principles are not enforceable in the Court of Law, these are regarded as the essence of the Constitution and germs of socialist government. These Principles are the instructions of constitution to the Union and state governments to implement them to the maximum extent possible because these are the result of the amalgamation of noble aspiration of Mahatma Gandhi, Father of the Nation and socialistic ideas of Karl Marx, the greatest German political Philosopher. While deliberation on the importance of the Directive Principles K.C. Markandtan has remarked "Far from being a proclamation or promulgation of principles, the Directive Principles constitute a pledge by the framers of the Constitution to the people of India and a failure to implement them would constitute not only a breach of faith with the people but would also render a vital part of the constitution practically a dead letter". (K.C.
The constitution of India aims at the establishment of not merely a political democracy but also a welfare or social service state. It was not the intention of the framers to prescribe any rigid programme for the attainment of the ideal of economic democracy. Dr. Ambedkar declared that "The Directive Principles are like the Instruments of Instructions which were issued to the governor - General and to the governors of the colonies of India by the British government under the government of India, Act 1935. What is called Directive Principles is merely another name for the instrument of Instructions. The only difference is that they are instructions to the legislature and the executive". Directive Principles are most cardinal, important and creative features of our Constitution. They serve as the basic sentiments of social revolution. These principles act as the guide, Philosopher and friend in taking decisions in executive and legislative matters. The Directive Principles contain the entire philosophy on which the welfare state can be founded. They serve as a crucial test for the performance of the government. They create a favourable atmosphere for the citizens for enjoying their rights mentioned in Part III of the Constitution. They help the judiciary in deciding the actual scope of the Fundamental Rights and serve as useful beacons to Courts. These Principles ensure stability and continuity of our national and international policies. M.C. Chagla remarked "If all these principles are carried out, our country would indeed by a heaven on earth .......". Justice Beg said "It is not right to characterise the Fundamental Rights contained in Part III are merely the means whereas the Directive Principles contained in Part IV as the ends of endeavours of the people to attain the objectives of their constitution."
On the other hand, it would be more correct to describe the Directive Principles as laying down the oath which was to be pursued by our Parliament and state legislatures in moving towards the objectives contained in the preamble. The Directive principles were accorded a very high and honourable position in the scheme of the Indian Constitution by the framers, because these principles are considered as Instruments of Instructions, national objectives, Guidelines and advises to government authorities, humanitarian socialist precepts, essence of the constitution, germs of socialistic government, aspirations of the people. Though Directive Principles are considered as mere moral precepts, as Gledhill expressed "The lives of the countless millions have been shaped and directed by moral precepts impinging on their minds and it is not difficult to find instances of similar precepts directing the course of history and nations".

Though Directive Principles are given top importance by many political Pandits, some authors criticised these principles vehemently. Mr. Nasiruddin, a member of the Constituent Assembly criticised that "these principles are not better than the new year resolutions which are broken on the second of January". Prof. Ram Sarma said "the chapter on Directive Principles contains some sublime pious wishes and a few rights, that could well be guaranteed by the Constitution. Raghavachari said that these principles are mere political philosophy than practical politics and except as a parade of high sounding sentiments. Fundamental rights are injunctions to prohibit the government from doing certain things, the Directive Principles are affirmative instructions to the government to do certain things. Fundamental rights have a legal sanction behind, the Directive Principles have moral sanction only. The Directive Principles are considered as
high sounding sentiments, mere pious superfluities, political manifestoes, New Year resolutions, Manifesto of aims and aspirations, veritable dustbin of sentiments, moral precepts for state authorities, parade of high sounding sentiments, ingenious blend of sublime pious wishes, noble aspirations, empty promises, economic maxims, holy wishes etc.

The founding fathers of our Constitution did not contemplate any disharmony or anti-thesis between the Fundamental Rights and Directive Principles and none of them are subordinate to the other, but are complementary and supplementary to each other. The Directive Principles have been described as means by which the goal set out in the preamble i.e. to bring a radical socio-economic transformation based on justice and guaranteeing certain rights which are the basic elements of valuable human freedom can be realised. Now a situation has come when the country must faithfully implement the Directive Principles codified in Part IV of the Constitution. Unless these principles are implemented honestly and faithfully, the civil liberties will not be enjoyed by all, without first satisfying the minimum economic needs of the under privileged people, the benefits of human rights can not be realised and are of no value. There is no rational in the argument that the Directive Principles can't be implemented unless the Fundamental Rights are curtailed. These doctrines can be implemented without touching the rights enshrined in Part III of the Constitution. It is not proper to assume that the Fundamental Rights are obstacles in the implementation of the Principles.
The framers of the Indian Constitution seriously attempted to bring to an end to the age-old sufferings of half-naked and semi-starved masses of the people by incorporating Directive Principles and the union and stage governments are instructed to implement these principles to the maximum possible extent. Though no one can give directions or bring pressure on governments for implementation, the governments will fall down sooner or later if they neglect to implement these principles to the maximum extent possible, irrespective of their insufficient financial resources. The Directive Principles spell out certain social objectives which any political party in power, must try to fulfil. Since the Directive Principles are part of the Constitution, it is the bounden duty of any party in power to try its best to implement them. What has happened however, is that successive government have found it convenient to blame the Fundamental rights for their ills and amend the Constitution again and again. The confusion arises from the words 'Fundamental' and 'duty' because both have been used in Article 37. In Fundamental rights the word "Fundamental" means a right which was considered "basis" or "essential" for achieving the objectives of the constitution. The word "Fundamental" used in Article 37 means important and not basic or essential. These are the moral or political goals and nothing can be said to be "basic" or essential in the governance of the state. Similarly the 'duty' which a state owes not to violate Fundamental rights is a legal duty and the duty which it owes to implement Directives is a moral or political duty. Part III and IV of the Constitution form not a competing but complementary complex of provisions, both Fundamental and humanistic, both the paramount obligations of the state. Both men in the courts and the legislative halls must realise that both courts and
the Parliament are the creations of the constitution. The judges in interpreting the
constitution and parliamentarians while legislating must keep in mind the guiding
principle viz., wiping every tear from every eye. The sole function of the judiciary
is limited to point out the wrongs done by the executive and legislative branches
of the state. In discharging this duty the court should not adopt a rigid and
pedantic approach but should be flexible and liberal. After all the court is a living
and dynamic organ not a dead and static one. While the court is interpreting the
law like legislature it has to give weight Directive Principles in order to translate
the preambular promises. Because these Directive Principles give flesh and
blood to the bare bones of the promises specified in the preamble of our
constitution. Sometimes it happens that the executive headed by a political party
takes shelter by blaming the judiciary that it creates hurdles in the implementation
of the Directive Principles. If the Supreme Court declares as unconstitutional
certain legislations intending to implement certain Directive Principles on the
ground of certain constitutional requirements it should be accepted by the
government. It should be accepted because it is the duty of Supreme Court to
point out those flaws and weaknesses, if any, in the laws, the Supreme Court
should not be treated as an enemy of the Executive; Parliament or of the people.
The Supreme Court is equally alive and sensitive to the hopes and aspirations of
the poverty stricken people as the Republican government is and of which
judiciary is an integral organ. Because the judges of the Supreme Court and the
High Courts are appointed by the President on the advice of the union council of
Ministers headed by Prime- Minister. Like the Ministers, M.P's and M.L.A's, the
Judges can not enter into any public debate so as to determine who is at fault and who is showing scant regard to the Directive Principles.

IMPLEMENTATION OF DIRECTIVE PRINCIPLES OF STATE POLICY:

From the dawn of Indian Independence earnest attempts have been made by the governments at the union and state level to translate the Principles into action. To establish a welfare state, Zamindari system was abolished and land ceiling Acts were passed; to prevent concentration of wealth certain industries have been nationalised; to raise the standard of living of the people, Five Year Plans have been launched; to remove social and economic inequalities the community Development schemes have been formed; to combat the evil of drinking prohibition has been enforced; to follow the policy of peace and friendship and to check the arms race a principle of 'Pancha sheel' has been followed; to protect the historical and national monuments an Archaeological department has been established; to safeguard the interests of minorities a Minority Commission has been appointed; to reorient the present outmoded educational system many reforms have been implemented; to separate judiciary from the executive many laws have been framed; to protect the interests of the labourers minimum wages Act has been provided; to review the entire plan progress and process the National Planning Commission and National Development Council was established; to achieve equality between men and women Fundamental Rights have been incorporated in the constitution; to establish harmonies relations between the employers and employees several Industrial policy Resolutions Acts were passed; to curb the concentration of economic power in a few hands Monopolies Restrictive Trade Practices Act (MRTPA), Wealth Act, Income - Tax Act,
Wealth Act, Income - Tax Act, Estate Duty Act were passed; to protect the welfare of the village communities and Schedule Castes and Tribes (Weaker sections of the society) a 20 point economic programme has been formulated; to preserve and promote health and strength of the people massive programmes with the help of World Health Organisation have been implemented; to extend an opportunity for the participation of people in the affairs of village Panchayats many laws have been passed by accepting the recommendations of Balwant Rai Mehta Committee (The Seventy - Third Amendment Act 1992 endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self - government and authorised to collect such taxes, duties, tolls and fees for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule); to encourage the people to start and organise cottage and small- scale industries several agencies like All India Handloom Board, All India Khadi Commission, All - India Silk Board, All India Coir Board were set up; to extend financial assistance to the cottage and small - scale industries simplified and liberal procedures have been formed by the Reserve Bank of India, the State Bank of India and its allied agencies; to protect the educational and economic interests of the people belonging to the weaker sections, the fathers of the Constitution have been provided reservations for weaker sections in employment, education and legislatures; to provide valuable medical assistance to the cattle many veterinary hospitals have been established in villages; to preserve the environment purification programmes have been taken up; to enact a uniform civil code, the government made sincere efforts and passed Hindu Marriage Act,
The Hindu succession Act, The Hindu Minority and Guardianship Act, The Hindu Adoption Act etc.; to impart free and compulsory education to the children below the age of 14, Navodaya Schools were established even in remote areas of the country; to provide free legal aid to poor Lok Adalat Act has been passed by the Union Government. The heterogeneous social and economic conditions and beliefs prevailing in the country and the ideological differences of the people and natural calamities that often occur in the country, the conflict between sound economy and moral precepts are some of the hurdles that are coming in the way of proper implementation of the Directive Principles.

Inspite of the above achievements, in various fields, much remains to be done to improve the lot of the common man, to fulfil the wishes of the framers of the constitution. Until these principles find a place on statute book, these may be considered merely ornaments of pious expressions, economic maxims, noble aspirations, which ultimately degenerate into sublime nonesense. Even though a large number of measures have been taken by the union and state governments to implement the Directive Principles, they proved ineffective to transform Indian society along with the lines of socio-economic justice. It appears that something went wrong somewhere and the principles could not be fully implemented. Un-employment in the country is raising its ugly head and the gap between the rich and poor is tremendous. Most of the 'Nation's wealth is concentrated in some Twenty big business houses and monopolistic tendencies have found much encouragement. There are complaints that the people belonging to SC, ST and other Backward Classes are not getting fair and equal treatment and Directive Principles in their cases are not being fully implemented. No solid and
substantial steps have been taken in regard to prohibition and protection of cows. Adultration in the food stuffs and raising prices beyond the purse of the Common man are the phenomena of the day. Millions of people in the country, particularly rural men and women, do not know how to read and write. The Harijan's uplift is still a distant dream and they continue to suffer from the age-old disabilities. Several social problems like food, education and health still remained unsolved. While the life of the common man has become more burden some and difficult. The problems of eradication of poverty, achieving full employment, raising the standard of living of the people, equitable distribution of wealth, uplifting the destiny of millions of hungry, thirsty, half-naked; providing fair and free treatment to the down-trodden and weaker sections of the community, controlling adultration of food stuffs and raising prices are some of the burning social problems which should be solved in letter and spirit on war foot irrespective of the political party that capture political power at the union and state level. The government should be committed to implement these principles by taking more sincere and serious steps lest the sonorous objectives set out in the preamble of the Constitution could remain as castles in the air. If sincere efforts are made in this direction, it can safely be concluded that governments efforts in the implementation of these principles are really very commendable and fairly substantial.