

**ECONOMIC RIGHTS: ISSUES & SUGGESTIONS WITH REFERENCE TO  
CONSTITUTIONALIZATION, ADJUDICATION & POLICY MAKING**

- Palak Jain\*

**I. INTRODUCTION**

The Economic Darwinism in the past three centuries has resulted in a significant increment in the desires and needs of an industrial man. However, the existing system has failed to create means to address them. In such scenarios of increasing failure of systems to address the needs and desires of people, if the law has to act as ‘a system of social engineering’, it is essential that it creates a framework to eradicate social frictions by providing dignity through authority of rights.

Rights are most commonly defined as legal, ethical, normative or social principles and basic rules about what is allowed to people, or what they are entitled to according to some legal, social, theological, or ethical systems.<sup>85</sup> With the evolution of civilizations and mankind, it is steadily being concluded that in order to secure a dignified life, it is essential that certain basic inalienable human rights are addressed and upheld by the State.

In the evolution of these human rights, while initially the primary focus was on civil and political rights, the second generation has advanced to addressing the social, cultural and economic rights and finally the third generation i.e. minority rights have also become a pertinent topic of discussion in the realm.<sup>86</sup> The author focuses on the second generation of human rights, i.e. socio-economic rights. The term socio-economic rights have become so common, that often it is assumed that social rights and economic rights are interchangeable.

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\* Palak Jain is a third year student of law at Institute of Law, Nirma University.

<sup>85</sup> Mohamed Reza Sarani et al. *The Concept of ‘Right’ & Three Generations*, 5INT’L. J.SC. S, July 2017, 451, 455.

<sup>86</sup> *Id.*

The Constitutions of numerous countries, with special reference to India have granted the economic rights to its citizens, as if a term *in vogue*. However, the reach of such rights to the stakeholders remains doubtful. The author seeks to analyze the existing literature on economic rights and the debate surrounding the issue in Part I. Further, it is also essential to understand the stand-point of Judiciary of India in addressing economic rights violation of the citizens. A pertinent question must be raised, as to the manner of redressal of such economic, the justiciability of such rights in case of state actions and adequacy of directive principles in such redressals. Finally, it is often observed that bringing and enforcing economic rights through policy-making often proves to be a futile and tedious task. The author aims to investigate the problem linked with such enforcement through policy-making from a political perspective. On the basis of these studies, the author concludes the existing state of economic rights in India and suggests corrective measures that can be adopted by the policy-makers for upholding the economic rights of the citizens in a true sense

## II. ECONOMIC RIGHTS – LIMITATIONS OF THE EXISTING LITERATURE

### 2.1. MEANING & SCOPE OF ECONOMIC RIGHTS

The term ‘economic’ rights is often used to describe rights that are essential to sustain a ‘dignified’ life. For instance, while right to life and personal liberty shall constitute a civil or political right, a right to education is necessary to ensure that right to life is enforced in a dignified manner. Many scholars have distinguished the study of rights into three generations – first generation, comprising of civil and political rights, second generation comprising of social, cultural and economic rights, and third of minority rights.<sup>87</sup>

### 2.2. EXISTING DEBATE

#### 2.2.1. Classification of Rights

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<sup>87</sup> Pierre Elliott Trudeau, *Economic Rights*, 8 McGill L. J. 121 (1962).

In the recent times, this classification of rights has been called into question. It is also often examined if the social, cultural and economic rights can be at all referred as a single term as indistinguishable from one another.<sup>88</sup> It is also argued that it conceals different patterns of national development that exist.<sup>89</sup> The debate also questions the justiciability of the economic rights and their difference when compared with the first generation of rights.<sup>90</sup>

The Covenant of Economic, Social and Cultural Rights<sup>91</sup> recognized rights such as that of right to strike, right to enjoy just and favorable conditions, right to social security etc.<sup>92</sup> These rights were however not clearly categorized into straight-jacket compartments. It is often observed that the securing a particular form of economic rights, leads to further acknowledgement some or the other form of social or cultural right or vice-versa.

For instance, providing adequate housing rights will automatically lead to social acceptance and fulfillment of allied rights. In fact, when the fulfillment of economic rights is to be compared among different countries, Human Development Index (HDI) and Physical Quality of Life Index (PQLI) are such indices that take into consideration factors such as social and cultural inclusion.

### 2.2.2. Economic Rights vis-à-vis Right to Property

The term 'economic' is defined as the study of production, consumption, transfer of wealth and most importantly material prosperity.<sup>93</sup> It is often assumed that a literature of economic rights is centered around possession of property. There are two fallacies associated in making such assumptions. *Firstly*, even if assumed but not conceded, that property is the center of discussion for economic rights, while the Universal Declaration

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<sup>88</sup> ASBJORN ELDE & ALLAN ROSAS, *ECONOMIC, SOCIAL & CULTURAL RIGHTS: A TEXTBOOK 3-5* (Kluwer Academic Publishers 2nd ed. 2001).

<sup>89</sup> *Id.*

<sup>90</sup> Martin Schenin, *Economic & Social Rights as Legal Rights*, *ECONOMIC, SOCIAL & CULTURAL RIGHTS: A TEXTBOOK 29-54* (7<sup>TH</sup> ED. 2013).

<sup>91</sup> International Covenant on Economic, Social and Cultural Rights, adopted on Dec. 16<sup>th</sup>, 1966. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>, last visited on Jun. 10<sup>th</sup>, 2019.

<sup>92</sup> *Id.* art. 6-15.

of Human Rights acknowledges economic right as a human right, neither the Civil and Political Rights Covenant, nor the Covenant on Economic, Social and Cultural recognizes the right to property. *Secondly*, the interpretation of property must include good that an individual must dispose, including labor and personal capacities.

Thus, a denial of any economic right would mean deprivation or impairment of any personal capacity which can be viewed as property. However, this implies that interpretation has to be given in the broadest of sense and thus the 'lawyer's understanding' of a property shall not be sufficient. The interpretation must be as wide as to include right to control sexual behavior.<sup>94</sup>

However, the opponents of this school of thought perceive such an interpretation of economic rights as social. The issue as to what is the center point of economic rights has two opposing views – one that favors the market-based approach for securing wealth, collective liberty etc., whereas the other view has a more legal approach, that believe in fulfillment of economic rights by way of authority through the Constitution.

Therefore, these are some of the voids and debates in the existing understanding of the economic rights. The author has restricted the scope of this article to the consideration of economic rights through a legal approach and not analyzed existing scenario from the free-market perspective.

### III. CONSTITUTIONALIZING THE ECONOMIC RIGHTS

#### 3.1. CONSTITUTIONAL LAW & ECONOMICS

As stated in the Universal Declaration of Human Rights, economic rights, which in its umbrella term encompasses a vibrant set of rights, including the right to standard of living, the right to employment, the right to food etc can be achieved through a number of ways. While some may favor achievement of such rights through absolute forces of

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<sup>93</sup> Merriam Webster Dictionary <https://www.merriam-webster.com/dictionary/economic>, last visited 10:14 PM June 15<sup>th</sup>, 2019.

market, while others may advocate the lobbying for allocation of higher budget while still others and most commonly advocate for the method of constitutionalizing by way of legal recognition of such rights.<sup>95</sup> As a result of this constitutionalizing process, the government is obligated to ensure that the economic rights are fulfilled. In a study done by Lanse Minkler, the empirical relation between governmental effort and constitutionalizing economic rights is determined, which shall be referred subsequently.

It is often argued by the opponents of the constitutionalizing group that such an approach leads to proliferation of rights at best and in fact dilutes the Constitution with rather unachievable goals. Such constitutional process and effort if directed elsewhere would produce greater and more certain results, opponents argue. In a study of 165 constitutions, wherein 116 constitutions made references to right to education, it was revealed that they were seen as a mere duty of the government,<sup>96</sup> thereby resulting in narrow difference between the understanding of a human rights activist and that of an economist.

### 3.2. STANDARD OF LIVING & ROLE OF THE CONSTITUTION

In several studies, the degree of validity of constitutional law in understanding the difference among people have been addressed and further whether giving constitutional legitimacy to the rights would solve the problem<sup>97</sup> (Frank Michelman).

Two important studies exist, namely that of Mwangi Kimneyi and David Cingranelli & David Richards which compares economic rights fulfilment and government efforts in consideration with Directive Principles through Human Development Index (HDI) and Physical Quality of Life Index (PQLI). Both these scores pertain to issues other than

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<sup>94</sup> TRUDEAU, *supra* note 87.

<sup>95</sup> Lanse Minkler, *Economic Rights and Political Decision Making*, 31 HUM. RTS. Q. 368 (2009).

<sup>96</sup> Varun Gauri, *Social Rights and Economics: Claims to Health Care and Education in Developing Countries*, 32 W.D.L. REV. 465, 466 (2004).

<sup>97</sup> Jack M. Balkin, *Respect-Worthy: Frank Michelman and the Legitimate Constitution*, 39 TULSA L.REV. 485 (2004), 485-86.

GDP, such as standard of living, birth rate, employment rate etc. which are directly related with a country's income.<sup>98</sup> It compares and ranks 173 nations.

As per this study, ratings were given according to the economic rights conferred to the citizens by the Constitution. While rating 3 denotes weak or no provisions, 2 denotes fewer provisions and 1 denotes maximum rights protection.

Despite India's robust claim of longest Constitution, it failed to secure any top ratings or rankings in this study. The top ranked constitutions provided rights such as that of adequate housing, employment, etc. and more importantly that to a form of social security. The study highlights the need to give higher importance to standards of living beyond mere non-justiciable directives and the need for an explicit conferment of right under the Constitution for better protection.

### 3.3. NEED FOR INCORPORATION OF JUSTICIABLE ECONOMIC RIGHTS UNDER THE CONSTITUTION

#### 3.3.1. Directive Principles & Constituent Assembly Debate

With respect to the Constitution of India, the importance of these economic rights was understood and thus imbibed in various forms through Preamble, DPSP and other such constitutional rights and duties. It is intriguing to note that while on one hand, the economic rights are enforceable merely as a general duty of the administration under DPSP, on the other hand, that very directive principle utilize articulation of 'rights'. For instance, Art. 39(a) lays down the State's Obligation to ensure 'right' to satisfactory means of livelihood etc.

Even at the time of drafting of this constitution, while it was generally accepted by the Constituent Assembly members that DPSPs were general principles of administration, debates arose over the justiciability of such principles.

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<sup>98</sup> David Beetham, *What Future for Economic and Social Rights?* 43 POL. STUD. 41 (1995).  
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The Preamble of the Constitution of India recognizes Economic Justice. However, the Constituent Assembly did not recognize any economic right as a part of fundamental rights. A reading of the Constituent Assembly Debates highlights the questions raised for non-justiciability of economic rights. It was questioned that will it not be arbitrary to draw a distinction between justiciable rights and social and economic rights.<sup>99</sup> Even the rights that have been acknowledged by the Constitution, were followed by a proviso.

### 3.3.2. Justiciability – Needs, Requirements & Possible Solutions

It is essential that a minimum standard of living is provided under the Constitution as an obligation of the government to secure. Considering the demographics of India, it is plausible to argue that ‘such a recognition would be a mere breeding ground for rights which will have no effect reality.’<sup>100</sup> However, as Albie Sachs argues, there are some rights which cannot be held dependent upon government resources and efforts.<sup>101</sup>

As argued in the subsequent sections, as a policy-maker there are instances of giving into populist policies in order to claim credit while still in office. Acknowledgement of such an obligation on the part of State and right of the people under the Constitution will ensure that such errors are minimized.

By such a contention, the author does not mean to argue for making all forms of remote economic rights justiciable. The author argues that of the pool of rights, there are certain unqualified rights, which cannot be waited upon to be progressively realized depending upon the government’s resources.

One of the possible way-outs for essential social or economic rights, consider the example of expensive medical treatment can be ‘rationing of resources’<sup>102</sup> in a fair and rational way by reasonable utilization of what is available. It is the duty of the executive

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<sup>99</sup>Vol. IV Constituent Assembly Debate 265-297.

<sup>100</sup>Terence Daintith, *The Constitutional Protection of Economic Rights*, 2 INT’L J. CONST. L. 56 (2004).

<sup>101</sup>Albie Sachs, *Enforcement of Social and Economic Rights*, 22 AM. U. INT’L L. REV. 673 (2007).

<sup>102</sup>*Id.*

and legislature, and not judiciary to form standards of determination of such rationing and judiciary acting as a watchdog.

A Constitution that permits the judges to raise questions for securing the rights to the people which are inalienable will not only raise our rank in such indices but also lead to a faster security and effective policy-making. In the absence of such provisions, the judiciary has resorted to the interpretation of the already granted fundamental justiciable rights. With the advancement of judicial understanding and interpretation in the Nation, the current discussion of these DPSP and economic rights have changed over time and have been dealt with in the subsequent section.

#### IV. JUDICIAL TENDENCY REGARDING ECONOMIC RIGHTS IN INDIA

##### 4.1. ECONOMIC RIGHTS – KEY TO UPHOLD CIVIL & POLITICAL RIGHTS

The Supreme Court, which owes its existence to the Constitution<sup>103</sup> has been granted an original jurisdiction under Art. 32 of the Constitution. As a result of powers under judicial review, the Indian Judiciary has indulged itself in not only interpreting the law, but also making it.<sup>104</sup> While on one hand, judiciary was being viewed as the ‘arm of social revolution’, on the other hand, there was resistance among the Constituent Assembly Members in granting the power of judicial review. It was feared that judiciary would impair the legislative and executive actions under the garb of upholding the rights.

In the case of *Francis Coralie Mullin v. Union Territory of Delhi*<sup>105</sup>, the Supreme Court extended the right to life and personal liberty under Art. 21 to include a right to human dignity and not mere animal existence.<sup>106</sup> From being viewed as a hurdle in furthering the

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<sup>103</sup> INDIA CONST. art. 124, cl 1.

<sup>104</sup> MALCOM LANGFORD SOCIAL RIGHTS JURISPRUDENCE: EMERGING TRENDS IN INTERNATIONAL AND COMPARATIVE LAW 102-125 (Cambridge, Cambridge University Press 2008), *See Also* Madhav Khosla, *Making Social Rights Conditional: Lessons from India*, 8 Int'l J. Const. L. 739-765 (2010), Gautam Bhatia, *Directive Principles of State Policy: Theory and Practice*.

<sup>105</sup> *Francis Coralie Mullin v. Union Territory of Delhi*, (1993) 1 SCC 645(India).

<sup>106</sup> *Id.*



goals of legislation to playing an important role in ensuring the economic development, the judiciary has come a long way.

As a result of this interpretation, the judiciary not only marked the existing refinement of civil and political rights, but in fact, made the economic rights a key to uphold the civil and political rights. This was done in the process of making the second generation economic right enforceable in a court of law, by regarding it an importance, so pertinent as that of right to life. This, in turn, demolished the conception of economic rights as negative rights and resolved the dependency over ideas such as that of laissez-faire and free market.

The Supreme Court further went on to acknowledge various other rights, such as that of food<sup>107</sup>, education<sup>108</sup>, shelter<sup>109</sup>, medical and health aid<sup>110</sup> etc. as justiciable socio-economic rights, which were only at the peril of administrative action and non-justiciable by reason of being a directive principle.

In the case of *Bandua Mukti Morcha v. Union of India*<sup>111</sup> the Supreme Court reiterated the importance of human dignity and basic necessities of life<sup>112</sup> and re-placed the economic right on an equal pedestal with the civil right. Yet again in *Sodan Singh v. New Delhi Municipal Corporation*<sup>113</sup>, availability of legal choices were seen by the court as the advancement and acknowledgement of fundamental rights.

In order to achieve this accomplishment, the Supreme Court significantly depended on the Part III, precisely Art. 21 of the Constitution instead of the complicated, unenforceable and non-justiciable language under Art. 37. The right to life thus includes a right to a life of dignity, and thus many directive principles become enforceable.

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<sup>107</sup> PUCL v. Union of India (2002) 3 S.C.R. 294 (India).

<sup>108</sup> Unni Krishnan v. State of Andhra Pradesh (1985) 3 SCC 545 (India).

<sup>109</sup> Olga Tellis v. Bombay Municipal Corporation (1996) 4 SCC 37 (India).

<sup>110</sup> Paschim Banga Khet Mazdur Samiti v. State of West Bengal (1996) AIR SC 2426 (India).

<sup>111</sup> Bandua Mukti Morcha v. Union of India, (1997) 10 SCC 549 (India).

<sup>112</sup> *Id.*

<sup>113</sup> Sodan Singh v. New Delhi Municipal Corporation, 1989 SCR (3)1038 (India).

#### 4.2. INDIVISIBILITY OF HUMAN RIGHTS

The South African Philosophy talks about the concept of *ubuntu*. *Ubuntu* literally means mutual acknowledgement of humanity and interdependence.<sup>114</sup> A similar conception of *ubuntu* is required to be acknowledged with respect to the human rights. Human rights are indivisible.<sup>115</sup> These rights are such that one right cannot be indivisible from another. A right to adequate housing cannot be separated from a right to human dignity. Moreover, it would be a gross violation of fundamental right to deny dignity due to financial incapacity of an individual.<sup>116</sup>

The judiciary does not certainly have the authority to define the policies of the government or intervene with the powers and functions of the executive or legislation. However, in the light of these indivisible rights, as an authority responsible for the protection of rights, it has the responsibility of demarcating a degree of reasonableness in the policies of government.

Therefore, the Judiciary of India has played a significant role in protecting the human rights in absence of justiciability of the economic rights in the light of constitutional values and principles. In the context of future, an important question before the Court is to determine to what extent limitation of resources can be a 'reasonable' ground for not being able to uphold the rights of citizens. It is for the State to demonstrate in such situations that reasonable action is being taken to fulfill its obligation.

#### 4.3. MODIFICATION IN ADJUDICATION MECHANISM

The Jurisprudence developed by the Indian Supreme Court is of much reference around the world when it comes to the enforcement of socio-economic rights. As referred above, the case-laws decided by the Supreme Court have extended strong constitutional

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<sup>114</sup> Dikoko v. Mokhatla 2007 (1) BCLR 1 (CC) at 33-36 (S. Afr.).

<sup>115</sup> USHA RAMANATHAN, IN THE NAME OF THE PEOPLE: THE EXPANSION OF JUDICIAL POWER, IN THE SHIFTING SCALES OF JUSTICE: THE SUPREME COURT IN NEOLIBERAL INDIA 156 (3<sup>RD</sup>ED. 2014).

<sup>116</sup> Uday Shankar, *Setting Socio-economic Rights in the context of Human Dignity in India* 8 RMNLU L.J.20 (2016).

protection to socio-economic rights both in terms of jurisprudential understanding as well as the quantum of cases.

With the development of doctrines such as that of continuing mandamus, which allows the Court to intervene periodically to check-upon the implementation of the judgements stultify the enforcement of economic rights, the Courts have expanded the scope of rights. However, it has also been observed that such decisions are often reduced to annuity by other organs of government.

A Study published in the Hong-Kong Law Journal suggested that apart from the Supreme Court giving decisions, National Human Rights Commission (NHRC) must be entrusted as the implementation-overseeing authority given the powers it has in accordance with the Protection of Human Rights Act 1993.<sup>117</sup>

The appointment of NHRC Chairperson is a governmental function. The post of Chairperson is held by a retired Chief Justice of the Supreme Court.<sup>118</sup> Numerous cases have surfaced of 'safe actions' taken by judges considering the post-retirement plans. Hence, making NHRC the only overseeing authority may not serve the purpose entirely. The role of NGOs must be expanded by framing guidelines to ensure that the decisions rendered by the Courts are effectively implemented. Suggesting a well-planned out mechanism for the same is beyond the scope of this article.

## V. ISSUES RELATING TO POLICY ENFORCEMENT OF ECONOMIC RIGHTS

Every country varies in terms of the history, structure of society, culture and pertinent socio-economic issues. This difference often explains the varying approach adopted by different nation-states to resolve their economic problems. As stated earlier, while some address the economic problems by way of free market, others approach them by way of

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<sup>117</sup> Rohan J. Alva, *Continuing Mandamus: A Sufficient Protector of Socio-Economic Rights in India*, 44 HONG KONG L.J. 207 (2014).

<sup>118</sup> The Protection of Human Rights Act 1993, § 3(2)(a), No. 10, Act of Parliament, 1994 (India).

lobbying for higher budget. Another approach is by constitutionalizing either as rights or as directive principles.

### 5.1. POLICY V. PERK – A POLICY MAKER’S PROBLEM

Lanse Minkler in his analysis distinguishes between policy and perks as the manner of diversion of perks.<sup>119</sup> The funds received through tax (T) and foreign aids (F) can be utilized in primarily two manners- either for implementation of policy, such as public employment, increasing literacy level, developmental goals etc., or as perks that are furthering of self-interest of the policy-maker. The price of perks (u) if low, denotes relative ease in diversion of funds to fulfill self-interest of the policy-maker. On the other hand, a high price of perk denotes difficulty in creating such a diversion.

The job of a good policy maker in this scenario is to maximize the Utility Index (U). If a policy x yields more utility and a policy y yields less utility, finally the marginal benefit/marginal cost ratio is equalized. In order to maximize this ratio, it is necessary that the policy-maker determines the amount and efforts required in optimization.

In order to create more optimization for policies serving lesser economic interest, the price of economic rights fulfilment policies might be reduced relative to other policies. Some examples can be increasing prices for indulging in fraudulent activities, corruption, unethical perks etc. This kind of behavior of the voter will result in decrease of favoring of self-interested policies. Thus, in order to fulfill self-interested utilities, a policy-maker will have to address the economic-rights fulfilling policies so as to secure a second term.

Therefore, if the voters are aware about their economic rights and put them on a high pedestal, the policy-makers will be necessitated to direct their funds in such a manner as to secure more economic rights to the people.<sup>120</sup>

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<sup>119</sup> MINKLER *supra* note 95.

<sup>120</sup> *Id.*

Further the basic rights can be classified into two types: security rights and subsistence rights.<sup>121</sup> While the security rights may denote the role of State to be that of protection from criminal activities such as rape, assault etc., it is the subsistence rights that cover major economic rights. Since all these rights are 'basic' rights, there is no question as to preference of one over the other.

## 5.2. BARRIERS & ERRORS IN IMPLEMENTATION OF POLICIES

An important error that often occurs with respect to policy implementation of these rights is dependent upon the fact that substantial uncertainty exists between policy implementation and its outcomes. Therefore, it is essential that instead of subject conjectures, policymakers rely more on objective probabilities of the outcome.

In predicting the outcomes of these policies, it often occurs that certain policies are overvalued or undervalued as we take into account various considerations. Amartya Sen has written extensively to dispel the notion that higher income is intrinsically good.<sup>122</sup> Rather, according to him, it results in fulfilment of good, long, happier life and more social inclusion.<sup>123</sup> Due to this error, at times, the policy maker fails to take into consideration policies that would produce same outcomes more directly.

Another barrier to implementation is that there are some policies which may involve high costs initially and the results may be visible only after a point of time when policymakers may no longer hold the office in order to claim the credit. This discourages them in making long-term policies and the decisions are often given into popular public opinion.

## 5.3. TRANSCENDING PRIVATE-PUBLIC DICHOTOMY – REQUIREMENT OF A PERFECT BALANCE

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<sup>121</sup> ALVA *supra* note 117.

<sup>122</sup> MINKLER *supra* Note 95.

<sup>123</sup> *Id.*

As a policy-maker being involved politically and aware of the possible errors being committed due to various reasons, it is essential that the laws are designed in such a manner, so as to transcend the public-private dichotomy. That is to say, ignorance of what happens in the private sphere makes exploitation of economic rights by private bodies irrelevant.

It is essential that the policy-makers through its various organs realize that often what happens in the public domain is a result of interaction with the private entities through formal or informal relationships.<sup>124</sup> A State-centered approach will fail to address these issues and capture reality. As a result, meaningful access to essential economic rights will be denied.

The power is generally yielded from the private parties in terms of providing goods and services. Making economic rights enforceable only against the State will result in turning a blind-eye from the source which has yielded the power in the first place.

In such a scenario, the application of rights horizontally becomes all the more essential.<sup>125</sup> Such a horizontal approach will result in a balance in addressing the economic rights violation both in public and private sphere. This will result in expansion of the legal capacity of an individual, more accountability, better judgement of the policies in force, judicial sensitivity towards rights and thus, effective enforcement of the economic rights.

## VI. CONCLUSION

Economic rights do not comprise merely of some negative rights. It comprises of rights that '*make life worth living*'. They range from right to food and security to right to employment. The current literature on economic rights and unsettled debate raise several questions with respect to upholding these economic rights in their true sense and spirit to

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<sup>124</sup> Mary E. Becker, *Politics, Differences and Economic Rights*, 8U. CHI. LEGAL F. 169 (1989).

<sup>125</sup> Marius Pieterse, *Relational Socio-Economic Rights*, 25 S. AFR. J. ON HUM. RTS. 198 (2009).

each and every individual, irrespective of financial or social position. The pertinent question that rises is, what is the best means to address them.

The author suggests a three-pronged approach by involving the process of constitutionalizing, adjudicating and policy-making. This study highlights the lack of recognition of economic rights as 'rights' but as directives merely. The direct impact of this is visible on Human Development Index (HDI) and Physical Quality of Life Index (PQLI). The Indian Judiciary has come a long way in establishing a direct correlation between these 'second generation rights' and the very essence of the Constitution, i.e. Right to human dignity. In the absence of justiciable rights, judiciary needs a modification in the adjudication process by conferring greater role to bodies not only like NHRC but also to other Non-Government Organizations to ensure that the orders are implemented. The third prong of this approach is that of policy-making.

The author has highlighted the errors that are committed by the policy-makers due to various political or personal interests which directly impact the Utility (U). A relation has been expressed between the government effort and its utility. Thus, if the voters are well aware about the implementation of their economic rights, making policies beneficial economically will secure another economic term to the policy-maker more easily.

Finally, in order to address all these issues, a state-centric approach may not serve the purpose. It is essential that the activities in the private sphere are also made a part of these economic right protection measures. A relational socio-economic approach is required by the policy-makers as well as the judiciary to ensure that law acts as a social engineer to fulfill the needs of a modern man.