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Resisting the Socialist Fetish

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VIEW: Resisting the socialist fetish —*Shubhankar Dam*



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Article 19 of the Indian Constitution guarantees all citizens the right to form associations and unions. And yet, the Representation of Peoples Act (RPA) necessarily requires all parties to specifically affirm their commitment to “socialism”. Is the law constitutionally valid? The Supreme Court of India has recently been called upon to declare the law invalid.

Incidentally, a proposal to amend the RPA and delete the reference to “socialism” was introduced in the Parliament in 2005. In a remarkable speech in the Upper House of Parliament, MP Anantrao Joshi submitted eight arguments for amending the RPA and deleting the “socialist” pledge.

First, India's freedom struggle, Joshi said, did not have any significant connections with socialist ideology. Neither Gandhi nor Patel expressed any sympathies for socialism. Patel, on the contrary, he said, “compared the socialist in India to a dog walking under the bullock cart, which thinks that it is driving the bullock cart.” And while Nehru was personally committed to socialism, he acknowledged that the majority in the Congress party did not share his views.

And this opposition to socialism, he added, explains why the word was omitted from the Constitution in its original text. Socialism was inserted only in 1977 as an afterthought by some vested political interests.

Secondly, his opposition to socialism, Joshi said, was borne out of his belief in the right to dissent. “I am not an anti-socialist,” he declared. But it was only after visiting the erstwhile USSR that he came to realise the significance of his right to dissent, of protecting his right not to be a socialist. By necessarily requiring every political party to swear by socialism, the RPA, he said, did not allow space for disagreeing with socialism.

Thirdly, his opposition to socialism, he said, was borne out of personal experience. Based on his belief that state intervention in artificially controlling the prices of agricultural commodities was detrimental to the interests of farmers, he decided to form a political party to lobby for the interests of the farmers in India. But his application was rejected by the Election Commission because he refused to affirm his commitment to socialism. Swearing by socialism to gain the status of a political party would be “rank dishonesty”, he said, and he did not want to do that.

Fourthly, the RPA, he thought, promoted hypocrisy. There were many parties in India that did not believe in secularism. And similarly, there were many left-wing parties that did not believe in democracy. And yet the Election Commission was reluctant to act against them because they had, even if falsely, sworn to uphold secularism and democracy respectively. The law, he argued, should not reward (or tolerate) hypocrisy while penalising honesty.

Fifthly, a mere commitment to “socialism” meant nothing. The term, he thought, was incorrigibly vague and “has been applied to a large spectrum of theories over the last two centuries”. The term has been associated with a wide number of thinkers including Saint Simon, Robert Owen, GB Shaw, GDH Cole and John Keynes. However, when used without any qualifications, the term “socialism”, he added, “is interpreted to refer to the system of thought propagated by Marx, Engels and supplemented by lesser prophets like Lenin, and Stalin.”

And “certain traits of mainstream theory of socialism”, according to him, “were clearly opposed, if not repugnant to the basic principles and structure of the Constitution of India: for example, class-contradiction, atheism, and dictatorship of the proletariat.” In other words, socialism at best was too vague and at worst contradictory to the basic principles of the Indian Constitution.

Sixthly, the RPA, he argued, was violative of the right to equality. Individuals taking oath to hold public offices under the Constitution do not need to affirm their commitment to socialism: they merely affirm their “true faith and allegiance to the Constitution”. But political parties cannot be recognised unless they specifically affirm their commitment to socialism and this, he thought, was violative of the right to equality under Article 14.

Seventhly, the RPA, he argued was also discriminatory. Only parties had to affirm their belief in socialism. The RPA did not require individuals desiring to stand for elections to make any commitment to socialism. This differentiation, he thought, was wholly arbitrary and violative of the right to equality.

Finally, Joshi submitted that by tying all political parties to a particular economic ideology, the law denied the possibility of change by legal means. By appropriating the entire legal space for socialism, the RPA, he said, left no room for advocating change.

This meant that the RPA prevents committed and sincere non-socialists from agitating as an organised force and trying to get the Constitution modified in their favour by entering the Legislative State Assemblies as also the Parliament.

Not surprisingly, Joshi’s arguments created a tumult in the Upper House: many staunchly opposed his amendment. EM Sudarsana and Jairam Ramesh reiterated the usual socialist banter about social and economic justice and riled against the “exploitative” nature of capitalism.

And with Anantrao Joshi refusing to withdraw the amendment, the proposal was put to vote. The motion was negated: majority of the members voted against it (i.e., they voted in favour of retaining socialism in the RPA).

Why? As India’s foremost criminal lawyer, Ram Jethmalani, pointed out during the debates: “To oppose socialism is a very unpopular thing”. While in personal agreement with Joshi’s argument, he advised his friend to withdraw the amendment: “I want to tell my friend”, he said “he has no chance of getting this Bill through this Parliament.”

“But,” he added, “in the Supreme Court of India, [Joshi] is bound to succeed on the

constitutionality of the provision.” A conscientious NGO has finally brought the matter to the SC.

Our politicians obviously have a socialist fetish: the popular rhetoric serves their interests well. Can the judges avoid it? Can they prove Jethmalani right?

Shubhankar Dam is an Assistant Professor of Law at the Singapore Management University School of Law. This is the concluding article in a two-part series. The first article appeared yesterday