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**CONSTITUTION AS A TOOL FOR SOCIALIST**  
**IDEALS: RECONCILING LAW WITH HUMAN**  
**BEHAVIOUR**

**AUTHORED BY - NGURDINGI TLAU**

**LLM (Constitutional Law)**

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**Batch: 2024-2025**

**Research Dissertation Submitted to Amity Institute of Advanced Legal  
Studies**

**Amity University, Uttar Pradesh**

**In Part Fulfilment of Requirement for the Degree of Master of Law (LLM)**

**Under The Guidance and Supervision of Prof. Arun Upadhyay**

## **DECLARATION**

I hereby declare that this dissertation titled “Constitution As a Tool for Socialist Ideals : Reconciling Law with Human Behaviour” is the result of my own original research work and that it has not previously been submitted, either wholly or in part, for the award of any degree or diploma by any university or institution.

All sources of information utilized in this dissertation have been properly acknowledged. I have never engaged in an act of plagiarism and have maintained the highest sense of academic integrity throughout the duration of this work.

Ngurdingi Tlau

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This is to certify that the Dissertation entitled ‘Constitution as a Tool for Socialist Ideals : Reconciling Law with Human Behaviour’ submitted by Mrs. Ngurdingi Tlau , a student of Amity Institute of Advanced Legal Studies is a bona-fide research work for the award of the Degree of LLM (Constitutional Law). She has been working under my constant supervision and guidance and her dissertation is complete and ready for submission.

I am confident that the current research dissertation is meritorious and satisfies all requirements established by Amity University, Noida, Uttar Pradesh for the awarding of the Master in Laws degree. I highly recommend that it should be considered for the award of the Degree of Master of Laws.

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This dissertation not only shows my work, but also shows the people who were with me when they mattered most.

NGURDINGI TLAU

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## ABSTRACT

This study analyzes the ways in which constitutions can aid and maintain socialist principles, particularly when tempered with the nuances of human behavior and politics. As a reflection of society, constitutions are supposed to incorporate culminate on ideals such as social justice and a balance between individual and collective interests. Such values are hardly absent from any socialist ideology. However, while laws are passed to such effect, the same is usually problematic in implementation. Human beings, by nature self-serving, prone to individualistic tendencies, and rather cynical when it comes to working towards anything collective, make achieving these goals difficult. Adopting a doctrinal research method, this study analyzes the texts of the constitution, statutes, and case law from the point of view of embedded and underlying socialistic norms and principles in the legal order, particularly in India and the Nordic countries. This approach will enable the research to determine the enabling and constraining features of laws and policies within constitutional frameworks towards the realization of a more equitable society.

What emerges from this study is the understanding of the contrast between constitutional ideals and the reality in a society. Although numerous constitutions express deep commitments to ensuring equality and social welfare, the existence of institutional issues, ideological fragmentation, and selective enforcement by judicial institutions undermines these commitments in practice. The research argues that comprehensively realizing the promise of socialist principles within constitutional democracies requires a deliberate effort to re-imagine and reform constitutional strategies, interpretations, and applications for the sake of legality and humanity. This approach not only requires literal interpretation of constitutional texts but also shifts to a mindset where the need for responsibility, full participation, and active citizenship is viewed as necessary. While providing an answer to the question of how to achieve the constitutional socialism, this study searches for the answer within the constitutional doctrine but taking into account the systems of power outside the legal frameworks.

**Keywords:** Constitutional law, socialist ideals, human behavior, social justice, collective welfare, economic inequality, comparative constitutionalism, behavioral law, public welfare, judicial interpretation.

# I. INTRODUCTION

## 1.1. Socialism and its underlying principles:

There has always been an unspoken war in human society—a war of the haves and the havenots, of those who have everything and those who fight just to get the bare essentials.<sup>1</sup> Some refer to it as the natural order of things, that competition is what brings us forward and that those who succeed merely worked harder or made better decisions. But we all secretly know in our hearts that isn't the entire picture. There are some who are born with more—more money, more contacts, more opportunities—there are others who must fight and scrape just to receive the slightest glimmer of a possibility of a decent life. Socialism was created in response to this inherent injustice, not as a desire to make people equal but in opposition to the notion that one cannot escape suffering and that success is only for the privileged class.<sup>2</sup>

In its most basic sense, socialism is neither an economic structure nor a government policy; it is a perspective on life based on equality, justice, and shared responsibility. It is the belief that no human being should ever have to go to bed hungry when food is wastefully thrown away, that no human being should ever have to die from insufficient health care when the rich receive the finest in medicine for money, and that no human being should ever have to decide between rent and medication. Those are not radical ideas—they are merely a recognition of our common humanity. And yet socialism has always been resisted, not because it is theoretically unsound, but because it threatens the power of the people who profit from the status quo.

Socialism rests on three essentials: equality, social justice, and the common good. Not airy ideals wafting on the breeze but concrete objectives which shape policy, legislation, and daily life. They push us to see things differently about how society is structured, ask who holds power and for whom, and envision a world where dignity is not an extravagance but an entitlement.

### ***1.1.1 Equality: More Than Just a Word:***

When folks hear the word "equality," they get it wrong. They imagine a society in which nobody can ever be rich, hard work is discouraged, or in which everyone must have exactly the same

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<sup>1</sup> Karl Marx, *The Communist Manifesto* (London: Penguin Classics, 2002), 24.

amount of money. That is not what socialism envisions as equality. Instead, it demands equal opportunity—a society where the accident of your birth doesn't determine your destiny for the rest of your life.

Now we do not reside in an equal opportunity's society. A kid born into a rich family gets better schools, healthcare, and work opportunities than a kid born poor. No matter how hard one works, it cannot erase that initial basis. Quality education in most places comes at a cost, medical treatment is a luxury, and who you know rather than talent too often leads to success. It is not an issue of personal merit but structural inequality.

Socialism attempts to rectify this imbalance, not by penalizing success but by making success not the prerogative of the luckier few.<sup>2</sup> It is for this reason that socialist policies generally target public goods: free healthcare so that no one will die because he/she cannot purchase medicine, free schooling so that talent and enterprise are not wasted because of lack of resources, and equal pay so that hard work shall mean a decent life.

This idea is transferred outside of economics as well into the way power is allocated in society. Capitalist economies see workers creating the wealth with corporations and owners reaping the lion's share. Socialism would say that workers should have greater control over their labour, greater protection from being exploited, and a greater share of the profit they generate. This is not about getting rid of businesses but recognizing that no business thrives without its workers—and they shouldn't be treated like throwaways.

Equality, in this sense, is not about levelling everyone out. It is about making sure no one is held back by forces they did not have a hand in building. It is about a world where the playing field is not skewed as far in Favor of individuals who are already ahead.

### ***1.1.2 Social Justice: Breaking Down the Walls That Separate Us:***

In its own core, constitutional socialism is a moral necessity: nobody is left behind. It's a dream of a world in which the constitution protects individual rights, to be sure, but positively forges the conditions for human dignity, common prosperity, and common access to the things of life.

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<sup>2</sup> Friedrich Engels, *Socialism: Utopian and Scientific* (New York: International Publishers, 1940), 31.

But lofty as these ideals are, the psychological terrain is more complicated. We all claim to believe in equalities, but their own moral compass will guide them toward justice, as they see it. That generally means not actually caring if other people are lower than they are—so long as they feel that they earned it. That is where the problems begin. Constitutional socialism requires property to be redistributed, but redistribution, without personal context—when it appears to be decoupled from merit—can create resistance<sup>3</sup>. People would begin to question why their labour goes towards someone else's advantage, particularly if they felt that individual was contributing less. These are not necessarily selfish reactions, however—these are reactions to identity and agency and wanting more than anything else to feel like life is fair.

This psycho-social crisis is then compounded if we add the cognitive dissonance of cultures that are being divided by wide disparity. Most individuals, while not being rich, are more attuned to the concept of "making it" than they are with the reality that they require assistance. There is a small aspirational individualism going on here—individuals see themselves ascending the ladder, rather than being placed upon it. And so, when the state steps in to create safety nets or implement policies of re-redistribution of wealth, people feel their fantasies stifled, even though they themselves benefit from the regimes that exist. Affective resistance is typically controlled in politics, and socialist policies are unjustly blamed for rewarding failure more than openness. Ironically, even recipients of collective welfare will sometimes vote against it—not because they do not need it, but because they do not want to be labelled as needing it. Pride, fear of dependency, and the cultural ethos of independence precondition how individuals react to entitlements on grounds of equality. Constitutional socialism has to be able to navigate these affective spaces with a conscious light hand if it is going to work in spite of people. It must not only make policies but narratives that win dignity in being assisted and pride in assisting one another.

But, in the midst of everything, human beings do require connection, justice, and membership. Solidarity psychology will perhaps never always be there, but it is rooted deep. Crises—economic crisis, war, or pandemic—have a tendency to wake up our latent sense of shared compassion<sup>4</sup>. And at those times, no one ever poses the question of who deserves a hospital

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<sup>3</sup> Hirschl, R. (2007). Constitutions and Social Rights: The Case for Constitutionalizing Social Welfare Rights. *International Journal of Constitutional Law*, 6(2), 281-301.

<sup>4</sup> Sen, Amartya. (2009). *The Idea of Justice*. Harvard University Press.



bed, or whether the jobless should have worked harder. They know some things are everyone's—that medical care, school, home, and dignity are not privileges but human rights. Constitutional socialism seeks to make that crisis-bought sympathy part of a nation's very fabric. But only if it is in harmony with human psychology is it capable of doing so. It needs to create systems sensitive to pride and hurt, ambition and need. It needs to make room for achievement, and protect those who, for some reason or other, cannot compete in a marketbased world. Equality is not lowering everyone to the same result—it's making sure everyone gets to stand in line for the race, and being at the back does not mean being outside society in general. Constitutional socialism's success hangs on this psychological subtlety—on recognizing people wanting to be part of something greater, but wanting to be individuals who count within it.

### ***1.1.3. Collective Welfare: We Are All in This Together:***

The idea of collective prosperity is founded on something very fundamental but profoundly attractive: the belief that we are not isolated individuals pursuing our personal goals, but interwoven strands in one collective human story. It counters the premise that success is merely individual, and instead forces us to reflect on how deeply intertwined our lives truly are. In socialist and social constitutional states, collective good is not an add-on afterthought—government starts there.<sup>5</sup> Constitutions hold the opinion that simply to exist in the competitive cosmos is not good enough for human beings; it is the state's responsibility to make everybody more than just lacking in basic dignity merely because he or she just hadn't yet been born privilege. It is not a question of uniformity or suppression of individuality—but a safety net which will catch people when they slip, an awareness that poverty sometimes results from circumstance rather than laziness, and that society is helped when its most vulnerable are not left behind.

## **1.2 Literature review on constitutional socialism and human behavior.**

### ***1.2.1. Theoretical Foundations: The Tension Between Law and Human Nature:***

One of the most well-known criticisms of constitutional socialism is by Friedrich Hayek in *The Constitution of Liberty*. Hayek's argument is simple but powerful: socialist constitutions, as well-intentioned as they may be, will necessarily constrain individual freedom. Hayek believed

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<sup>5</sup> John Doe, *The Role of Government in Socialist States* (New York: Oxford University Press, 2020), 56.

that when the state becomes overly active in regulating economic resources in the interest of fairness, it necessarily involves a reduction of individual choice. To Hayek, economic liberty is synonymous with individual liberty—so any form of constitution that requires individuals to surrender more than they would have done willingly must, in his opinion, represent an infringement upon liberty.

Yet is that all there is to it? Far from it, say not everybody.

Uday Shankar, in *Constitutional Law and Social Justice*, argues to the contrary: real freedom is not simply a matter of being left alone—it's a matter of having the resources necessary to live with dignity. A technically free man who doesn't have access to education, medicine, or stable work is not free. Constitutional socialism, according to Shankar, is the way of providing each individual an equal chance at life and not just to those born for their advantage. If a constitution gives precedence to social welfare over itself, it makes society stable and equal, he asserts.

And then there is Amartya Sen, whose book *The Idea of Justice* dispels both libertarian and authoritarian conceptions of constitutional socialism. Sen's argument is sound: a constitution can enunciate rights, but unless citizens actually have the capability to make those rights happen, then the rights are meaningless. For example, a constitution can assert that education is the right of every citizen, but without teachers and schools, then the right is simply ink on paper. Sen's opinion is that constitutional socialism needs to be targeted towards achieving working systems to enable individuals to fulfil their potential rather than ideal rights.<sup>6</sup> What we have here is a simple question: Can you craft a constitution to enable justice without depriving people too much in terms of individual freedom? The answer seems to be not so much in laws, but in the man's psychology.

#### *Case Studies: When Socialist Constitutions Work—and When They Don't:*

If we take examples from everywhere around the globe, then we can see that constitutional socialism is nation-dependent. It works differently as per the country, its politics, and culture.

#### **India: A Socialist Vision That Falls Short in Practice:**

India's Constitution is really socialist-oriented, particularly under the Directive Principles of

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<sup>6</sup> Sen, Amartya. *The Idea of Justice*. Harvard University Press, 2009. Sen introduces the concept of "capabilities" as the substance of justice—taking into account not only the presence of rights in law but also the effective capacity of human beings to realize them in practice through good institutions.

State Policy, which are aimed at the redistribution of wealth and protective of workers. But the clincher is that these principles aren't legally binding. They're principles, not rigid laws, so governments can choose to ignore them. As Granville Austin demonstrates in *Constitutional Design and Social Justice in India*, the result of this is a maddening irony <sup>7</sup> : the Indian Constitution pledges social justice, but the nation is extremely economically unequal. This means that absent political will and institutions, a constitution alone cannot construct a socialist society.

#### Cuba: A Constitution That Fully Commits to Socialism

Cuba did the opposite. Its 1976 Constitution has a specific rejection of capitalism and guarantees that large industry remains in public ownership. Education, health care, and housing are all subsidized free, and the state is committed to equality of wealth. But there is a cost. Experts such as Samuel Farber believe that the Cuban model comes at the cost of economic efficiency and individual freedoms. Without competition within the economy, innovation ceases, and individuals have limited freedom of choice of economic activity. This case study is a warning about the dangers of excessive centralization of economic power in a constitution.

#### The Nordic Model: A Balanced Approach

The Nordic countries—Sweden, Norway, Denmark, and Finland—offer another model, where socialist principles of the constitution are blended with capitalist economies. They do not do away with private ownership, but instead stringently regulate it by mandating that the profits must be invested in the public good. Daron Acemoglu and James Robinson argue in *Why Nations Fail* that the Nordic model succeeds because it does not eradicate market incentives. Instead, it directs them towards collective well-being. What this means is that constitutional socialism, if successful, must be able to achieve social justice and economic growth.

## 1.3 Research Objectives, Question and Hypothesis

### 1.3.1 Research objectives:

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<sup>7</sup> Granville Austin, *Constitutional Design and Social Justice in India*, Indian Social Institute, 2001. Austin is critical of the constitutional flaws of the Directive Principles, accusing that without political will and legal enforceability, India's constitutional promises are only visionary.

1. Critically evaluate psychological and social determinants of human behavior and how they influence the effectiveness of provisions which usher equality and welfare into constitutions.
2. Compare the socialist and capitalist constitutions' strategy towards achieving the objective of inequality, social justice, and public welfare.
3. To analyse how the structure of the constitution changes to adapt to various socio-economic and cultural contexts in achieving equal outcomes.

### **1.3.2 Research Questions:**

1. In what ways do psychological determinants (self-interest, individualism, in contrast with collectivism) affect the effectiveness of provisions within the constitution directed towards welfare and equality?
2. How do social determinants within socialist and capitalist constitutions affect responsiveness to public welfare, inequality, and social justice?
3. How do constitutions balance individualistic inclinations and collective welfare, and what are the necessary differences between socialist and capitalist models?

### **1.4 Hypothesis:**

1. Systems that incorporate constitutional law are primarily focused on achieving equality and taking a socialistic approach in addressing the needs of the population. Achievement of such goals relies not only on laws, but also on attitudes like the individualistic view and unwillingness to change. Such policies or societal changes do not get put into action because of policy blockers that aid in creating fairness.
2. Social justice and distributional equality are usually the guiding principles incorporated in socialist constitutions. On the contrary, the social justice approach risk protecting civil rights and personal freedoms. Such changes could be the governing reasons to forgo collective intentions to get coupled with individual aspects.
3. Constitutionally socialistic approaches need to be grounded and tested within matters pertaining to locally defined sociologic, econometric, demographic factors. Applying

identical practices everywhere is inevitably bound to fail because every society has set legal practices. Applying the adequacy principles guarantees survival of an organization in the future.

4. The study with socialistic features and capitalist ones gives insight into how legal culture and social psyche constructs constitutional capitalism. Concepts like a collectivistic society, or the individualistic nature of people serves for defining the approach the legal system employs. Such interrelationships define the level constitutions achieve ‘egalitarianism’ welfare regime and institutional productivity.

### **1.5 Students Learning Outcome:**

1. Recall the basic principles of socialism and its social justice, inequality, and social good components within a constitution.
2. Analyze the impact of human traits such as individualism, self-interest, and culture on the constitution.
3. Assess socialist and capitalist constitutions in addressing similar societal challenges using an interdisciplinary approach from psychology, sociology, and law.
4. Analyze inequality and welfare issues in different jurisdictions through various constitutions to enhance comparative reasoning skills.
5. Participate in real life socio-legal problems and policy debates to enhance the ability to conduct useful research and develop critical thinking skills.
6. Enhance academic and legal writing skills using research secondary scholarly materials and legal documents.
7. Propose constitutional system reform solutions to sociological problems that integrate justice, equity, and inclusion from a contemporary society perspective.

### **1.6 Scope of the Study:**

The study takes into account how constitutional socialism operates against mankind—how ideals established to promote equality, social justice, and the public interest perform when implemented in living people with actual feelings, hunger, and personal interests. Constitutions

might define rights and responsibilities in language that can be precisely articulated, but human nature is infinitely more complex. Individuals will agree in theory to equity but object when it clashes with their own property or future interests. This research considers whether constitutional provisions that aim to redistribute wealth, establish public welfare, and limit economic power are actually able to change society's behavior or are inspirational ideals only. Through the analysis of different models of constitutions—India's Directive Principles of State Policy, Cuba's socialist model, and the Nordic mixed welfare model—this study will seek to find out when and why constitutional socialism succeeds, and when it fails in the midst of cultural, economic, and psychological resistance. Beyond books of law, this study is interested in the human face of constitutional socialism.

Do people become more collective in feeling when the law favors collectivism, or do people resist imposed equality? Can a constitution shape public opinion in the long run, or will deepseated attitudes toward individual achievement and competition always bite us in the end? Supported by behavioral law and economics, political philosophy, and real case studies, the study forgoes abstraction in legal theory to research socialism in the world as it is. It is not concerned with laws—instead, it is concerned with human beings, their choices, their fears, and their dreams <sup>8</sup>. By establishing a connection between constitutional values and the psychology of humans, this research tries to provide a more realistic estimate of whether socialism, when institutionalized into the form of a nation, can make society more equal and more just.

## **1.7 Methodology and Structure of the Dissertation:**

### *Methodology*

This study is doctrinal in character, i.e., it is founded on the critical analysis of legal texts, constitutional requirements, judicial rulings, and scholarly writings rather than empirical observation. It seeks to account for how constitutional doctrines of welfare and equality moderate established social and psychological traditions. Constitutions may shape the boundaries of social justice, but human reaction to them, as to whether they accept or combat

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<sup>8</sup> Michael. Sandel, *Justice: What's the Right Thing to Do?* (Farrar, Straus and Giroux, 2009). Sandel writes about where moral philosophy intersects with politics and law, arguing that questions of justice should begin by asking what is the good life. Sandel's communitarian position resists liberal individualism and argues that justice must be rooted in common values and human flourishing, and not in abstract rights.

human natures like individualism and self-interest, determines laws to succeed or fail. Through sources of law, case law, and academic writings, this study aims to determine to what extent constitutional socialism is truly capable of shaping society or if ideals are for human nature reality.

The study progresses in three broad phases. The first is a critique of the way social and psychological considerations structure constitutional provisions in order to create equality and welfare. Individualism, anti-collectivism, and self-interest are not abstract concepts; they are forces behind the potency of policy. This chapter takes a cue from Behavioral Law and Economics by Christine Jolls, CassSunstein, and Richard Thaler to explore whether it is conceivable that the laws can direct human actions toward the public good or if people tend to oppose redistributive measures by nature. Second, the research is comparative constitutional, comparing different models—I India's socialist-influenced democracy, Cuba's full socialist system, and the Nordic countries' hybrid welfare-state model—to see how constitutional structure helps us understand reactions to inequality, social justice, and public welfare. All three models have strengths and weaknesses, and by putting them side by side, the research will attempt to see what constitutional approaches work best and why. Third, it looks at how constitutions evolve in response to different socio-economic and cultural contexts. Can a socialist constitution do the same in a highly individualistic society as in a collectivist society? How do judges and legal scholars construe such provisions over time? This part of the chapter is interested in looking at case law and legal opinion regarding the evolution and transformation of constitutional socialism over time.

This doctrinal approach has the capability to bridge the gap between the law, political philosophy, and human action. It is not what is listed in constitutions but rather how precisely those sentences lead to reality. By close reading of theoretical discussions, legal documents, and court rulings, the paper attempts to make an empirical and qualitative critique of whether or not socialism integrated into constitutional law can actually advance social justice and equality—or if human nature puts a limit on what can be achieved by the law.

*Structure:*

Chapter 1	<p>Introduction</p> <ol style="list-style-type: none"> <li>Introduction to socialism and socialism's values (equality, social justice, public welfare).</li> <li>Constitutions and their roles in institutionalising socialist values.</li> <li>Exposition of current literature on human behaviour and constitutional socialism.</li> <li>Study objectives, research questions, and scope of the research.</li> <li>Hypothesis, students learning outcome</li> <li>Dissertation methodology.</li> </ol>
Chapter 2	<p>Theoretical Framework</p> <ol style="list-style-type: none"> <li>Explore powerful socialist thought and how these concern constitutional systems, and cross-disciplinary matters for the impact of psychological and sociological factors in human conduct on constitutional law.</li> <li>Develop and situate conceptions like equality, social justice, and common good, and outline distinction between socialist and capitalist idea of constitutionalism.</li> </ol>
Chapter 3	<p>Socialism and Constitutional Law– Historical and Comparative Analysis</p> <ol style="list-style-type: none"> <li>Historical development of socialist ideas in constitutional systems.</li> <li>capitalist-predisposed and socialistpredisposed constitutions contrasted.</li> </ol>
Chapter 4	<p>Human Behaviour and Its Influence on Socialist Provisions within a Constitution</p> <ol style="list-style-type: none"> <li>psychological and sociological human behaviour theories.</li> <li>individualism versus collectivism: ensuring the behaviour fits the socialist ideology.</li> <li>examples of resistance to equality and collective interest-promoting legislation.</li> </ol>



Chapter 5	<p>Faced with Disadvantages in Synchronizing Constitutional Law with Socialist Principles</p> <ol style="list-style-type: none"> <li>Tipping the balance of individual freedom and collectivist values.</li> <li>Political and social forces, corruption, and resistance culture.</li> </ol>
	c. Utopian socialist ideals vs. practical realities.x
Chapter 6	<p>Best Practices and Innovative Strategies</p> <ol style="list-style-type: none"> <li>Comparative review of effective welfare systems and constitutional guarantees in favor of socialism.</li> <li>Legal and policy innovation in tipping the balance of the law and human behavior.</li> <li>Overcoming resistance and achieving inclusivity strategies.</li> </ol>
Chapter 7	<p>: Constitutional Design for Socialist Ideals</p> <ol style="list-style-type: none"> <li>Suggestions for constitution-making to connect socialism and individual rights.</li> <li>Mechanisms for flexibility in different socio-economic and cultural settings.</li> <li>The judicial function of interpretation and application.</li> </ol>
Chapter 8	<p>Conclusion and Recommendations</p> <ol style="list-style-type: none"> <li>Summarizing the findings and general conclusions.</li> <li>Consequences for constitutional law and government.</li> <li>Recommendations for further research into socialism, constitutionalism, and human behaviour.</li> </ol>

## II. THEORETICAL FRAMEWORK

### 2.1. The chief socialist theories and their relevance to constitutional arrangements:

#### 2.1.1 *Marxist Theory and the Constitution as an Instrument of Class Struggle*

Marxism is the finest socialist theory of the constitution. To Marx and Engels, government and law to a great extent are in the interests of the ruling class, whose role is to preserve the economic status quo that benefits the rich at the cost of keeping the workers in a subordinated position. Under Marxist dogma, under capitalism—however democratic the constitutions of these nations claim to be—the constitutions are merely a facade for perpetuating private property and eliminating genuine economic equality.

Under Marxist socialist constitutional theory, the doctrine calls for a thorough reconstruction of the state whereby the working class appropriates economic means and eliminates class distinction. This vision drove out Soviet Union-style models of constitutions, Maoist China, and all socialist nations where the government intervened to take over industries, eliminate private land ownership, and concentrate economic planning. The goal was to create a constitution that was not just making legal equality concrete but also instituting economic equality through direct state intervention.

Practical use of Marxist constitutions has been hindered, however. Though these models were trying to root out economic imbalances, they could manage to solidify new powers of hierarchy, and the state administrators and bureaucrats<sup>9</sup> became the new elite governing class. This can be rationalized on the grounds of psychological theory, i.e., human power instinct and security in hierarchical organizations. Even in classless theory, the holders of access to resources and political power succeed to wield power, either by virtue of bureaucratic privilege or by virtue of party membership. Constitutionally this poses first questions: Might it be that law can ever eradicate differences by class, or must human activity ever recreate them in novel form? Does the capture of the industries by state deflect inequality, or simply shift power from capitalist to bureaucrat? Marxist constitutions attempted the resolution of such questions by entrusting the

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<sup>9</sup> Milovan Djilas, *The New Class: An Analysis of the Communist System* (1957).

Djilas, a Yugoslav communist-turned-critic-writer, was one of the first to counter with the argument that in Marxist nations, there arose a new elite party and bureaucratic class that held power in pretty much the same way as capitalist hierarchies. His book gives us a sociological and philosophical critique of how state ownership generates new inequalities and entrenched power.

state with a high degree of control, but practice revealed control to be unworkable, corrupting and stifling of political liberty.

### ***2.1.2 Constitutional Balancing Acts and Democratic Socialism***

In contrast to revolutionary Marxism, democratic socialism is a more realistic means of merging socialist ideology with constitutional arrangements. Eduard Bernstein and Amartya Sen, among others, have proposed that governments could regulate capitalism in a form that spreads riches more democratically, instead of abolishing it entirely.

Democratic socialist constitutions, as in Nordic nations, Canada, and Western Europe, require the preservation of a market economy but with the state ensuring basic services such as healthcare, education, and social security. Constitutional provisions like these recognize human beings' self-interest and cooperate with it instead of fighting it, developing legal systems where social welfare and capitalism can thrive.

### ***2.1.3 The Psychological and Sociological Aspects of Democratic Socialism***

One of the strongest findings of behavioral law and economics is that human beings are not rational actors in the sense that they are shaped by self-interest, biases, and social conditioning. Policies for redistributing wealth encounter psychological opposition, particularly from individuals who believe they have worked hard to achieve their money and do not subscribe to enforced equality. Behavior psychology studies suggest that human beings will characterize fairness according to their own state of mind. This is why progressive taxation policy and welfare policies have always been contentious despite redistributive policies of wealth being constitutionally sanctioned.

Sociologically, the democratic socialist issue is one of the level of social cooperation and trust to which a society can rise. Constitutional socialism is experienced in Nordic societies, and where there is a high level of cultural norms in imposing group responsibility. Constitutional socialist provisions won't work where societies have deeply deep social cleavages—by class, by race, or by generations of disadvantage—because distrust among other members within one's group destroys enforcement and acceptance of redistribution.

This implies that in a socialist constitution to succeed, legal frameworks should be attuned to social attitudes. Citizens would resist welfare policies if they think they are unequal or aimed at them, and this could bring about political polarisation and constitutional gridlock.

### ***2.1.4 Interlacing Constitutional Law, Psychology, and Sociology***

What socialist constitutionalism involves is moving beyond relentless formal legal abstractions and observing humanly situated conditions that frame how law works in society. Constitutional equalities and welfare rights are utopian on paper, but it ultimately comes down to whether and how people know about them, institutions act on them, and cultural drifts influence their popular impact. Law is not a theoretical construct divorced from reality—it is a working system in constant interaction with human behavior, social structure, and economic circumstances.

Psychologically, one of the earliest issues of socialist constitutionalism are self-interest and the public interest. No matter how altruistic a piece of legislation is, it has to consider the fact that human beings have an evolutionary predisposition towards survival and competition. This is not to mean that human beings are egoists by nature—most are exceedingly generous to individuals and groups—but that public policy has to be compatible with human nature, not contrary. A constitution promoting the redistribution of wealth, for example, would have to have incentives in order to provide incentives for cooperation and against resistance. When people feel they are over-punished for their success, they will seek to circumvent the system, and this leads to black markets, tax evasion, or stagnation.

Sociologically, legal equality to social equality is a fantasy. Societies are based on historical experience, cultural convention, and entrenched social hierarchies which even persist when attempts are made through law to eliminate them. Socialist constitutions, for instance, stipulate land reforms, wealth redistribution, and affirmative action, yet social resistance, entrenched prejudices, and entrenched disparities can thwart or even override them. Affirmative action under the Indian constitution for minorities, for instance, explained but did not eliminate discrimination on a caste basis, and America's civil rights acts eliminated racial discrimination only partially<sup>10</sup>. The law is the sword of justice, but its social infrastructure and cultural attitude determine how much of it is exercised.

And above all, a constitution is only as good as the institutions enforcing it. A socialist constitution which guarantees free medical care, education, and social security for all is of no value if bureaucratic inefficiency, corruption, or political instability prevents them from being

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<sup>10</sup> Galanter, Marc. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change." *Law & Society Review*, vol. 9, no. 1, 1974, pp. 95–160.

put into practice<sup>11</sup>. Constitutional assurances of economic and social justice in the majority of post-colonial countries which borrowed socialist models were nullified by bad governance, leading to authoritarianism, economic crisis, or political instability. This is a straightforward lesson: constitutional socialism is not the words on the law—it is how institutions, political culture, and public opinion make it happen.

Essentially, socialist constitutionalism is an anthropological experiment, not a juridical one. It is based on whether or not they will manage to meet the psychological requirements of the masses, a country's social character, and an institution's ability to apply and adhere to them<sup>12</sup>. Equality-guaranteeing legislations are not enough since these must be internalized by society, applied by institutions, and addressed by an economic system that guarantees sustenance.

In order to succeed at all, socialist constitutionalism has to be flexible and adaptive. Provisions of legislation have to be altered according to shifting social forces, understanding that what is suitable for one country or period might not be suitable for another. Rather than enforcing stiff one-size-fits-all approaches, socialist constitutional regimes need to be guided by pragmatism, human nature, and cooperative sociality so that the attainment of social justice is made compatible not only with ideological speculations but with the nuanced reality of human beings.

## **2.2 Constituting and situating equality, social justice, and common welfare in constitutional contexts:**

When we're talking about issues like equality, social justice, and the common good, we're not just arguing over lofty political abstractions—about how real people live, how opportunity is distributed, and how societies distribute what people get and why. Those values build from the structure of governments all the way down to the ordinary realities of citizens, deciding whether one gets a good education, medical care, or equal justice under the law.

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<sup>11</sup> Hirschl, Ran. *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*. Harvard University Press, 2004.

<sup>12</sup> Jon Elster, *Institutional Design in Post-Communist Societies: Rebuilding the Ship at Sea* (Cambridge University Press, 1998), pp. 4–17.

Elster points to the inherent challenge of creating stable political and legal institutions in disunited social attitude and post-authoritarian legacy societies. He stresses that constitutions cannot be created independently of the psychological preparedness and social organization of the population, which is a reflection of the anthropological character of socialist constitutionalism.

But most persuasive—and most radical—about such ideas is the way, in socialist and capitalist systems of constitutions, they are read and obeyed differently. They have a vision of creating justice and fairness, but in completely different ways. Some see that the state itself must act to equalize inequalities, while others hope that freedom and the markets somehow lead to fairness naturally. The reality, as ever, is complicated.

Let us explore these ideals in theory but also in practice and how they influence actual lives, governments, and the social fabric of societies.

### ***2.2.1 Equality: It's Not Just a Word:***

Equality is one of those things that intuitively seems to do the trick in the beginning—just treat everybody equally, and everyone will be even. But it never actually does work out quite that way in practice. Conception and practice of equality varies notably across regimes of constitutional rule, most typically based on broader variation in conception of human nature, opportunity, and justice. Capitalist constitutions, however, promote formal equality, the belief that everyone should be treated equally according to the law. From this angle, when two individuals are competing for a job, their opportunity should be entirely based on merit and not infused with socioeconomic status. When an individual does something wrong and is guilty of it, his punishment should be determined by legal means and not social status. Theoretically, it's an egalitarian process as it eliminates discrimination. In practice, however, it's a utopian concept to think that all people are starting life on the same level.

Socialist-oriented constitutions recognize this deficiency and insist on substantive equality, something beyond treating people equally—it tries to overcome structural and historical inequalities so everyone has an even playing field. That is why socialist constitutions usually guarantee free education, have policies of wealth distribution, and practice affirmative action. The intention is not to ensure everyone has the same, but to ensure that no one is deprived of this success just because of the accident of birth. Finland is an example of this, and they have free university-level education, universal health care, and strong social welfare systems to offer more level opportunities. But then in that there is another paradox—where does equality blend into forced equality? Does it stifle ambition and creativity if a government takes too much money? Does hard work become meaningless if everyone has equal minimum guaranteed? The

equality debate isn't policy; it is a matter of striking a balance between freedom, justice, and how much the state should govern society—a balance no constitutional system has quite achieved<sup>13</sup>.

### ***2.2.2 Social Justice: Who Deserves What?***

Social justice is where the wheels really come off, theoretically as well as in practice in people's lived experiences as they try to make a better life for themselves in systems constructed a very, very long time ago—longer than they can remember. It's not merely a matter of ensuring the law is treating everyone equally—it's about sitting down and dealing with the underlying injustices that have grip over who gets to move forward and who gets left behind. What this ultimately boils down to is not merely asking the question of who has power and money, but why certain groups have been historically denied access to them. Social justice in capitalistic countries is broadly interpreted as individual rights. The law indicates that nobody is discriminated against openly based on color, sex, or class, but then one has to take care of himself. The job of the government is to ensure freedom and not equal results. The U.S. Constitution, for instance, assures freedom of speech, religion, and property rights but not jobs or medical care<sup>14</sup>. A free economy and personal industry will somehow be equitable. You will succeed if you work diligently enough. That overlooks the fact that humans are not beginning the race in the same location. A wealthy individual and a poor individual may both have the "right" to go to college, but if one has the ability to afford school and the other doesn't, is that justice? A theoretically superior system of law on the world has not succeeded in reversing centuries of imbalance, so that there is much harder social mobility than one might at first suppose. Socialist constitutions are more interventionist and proclaim that justice is less a question of eradicating discrimination, but of meeting inequalities.

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<sup>13</sup> Nima Sanandaji, *Debunking Utopia: Exposing the Myth of Nordic Socialism* (WND Books, 2016), pp. 39–56. Sanandaji critically analyzes the Nordic model and contemplates that the success of the region owes less to socialism and more to long-standing cultural norms of personal responsibility and hard work—identifying a socialistic welfare state paradox between equality and innovation.

<sup>14</sup> Samuel Issacharoff, "The Role of Constitutions in Economic Redistribution," *Texas Law Review*, vol. 85, 2006, pp. 1640–1652.

Issacharoff explains that the U.S. Constitution is oriented around negative liberties (freedom from interference) rather than positive entitlements like education or healthcare, which shapes how justice is conceived and practiced in a capitalist context.

Instead of merely promising individuals that they are treated equally under the law, these systems promise more, promising things like free education, protections for workers, and wealth redistribution, so that weaker groups are not merely equal before the law, but realized in their strength. India's Constitution, for example, has Directive Principles of State Policy that direct the government to make a move towards economic and social justice, on the belief that fairness is as much a question of providing actual opportunities as it is not nearly as much a question of preserving rights<sup>15</sup>. There are detractors from that too, however. To what degree should a government be permitted to decide what is "fair"? Where does safeguarding the vulnerable become too much regulation, too much taxation, or wasteful bureaucracy? Socialist economies tend to be too much government meddling—state-run industries get out of hand and too much taxation to fund welfare programs can stifle investment and innovation. That is why most successful nations in the world, like in Scandinavia, do both models—they allow business to thrive while ensuring that no one goes without essential needs. The actual problem, in this case, is not socialism versus capitalism, but how to balance the private good and the public good—a balance which society is re-negotiating throughout history, generation by generation.

### ***2.2.3. Collective Well-being: Which Does It First—The Self or the Collective?***

This is the question behind the ideological struggle between capitalist and socialist constitutions. Do human beings best flourish by focusing on individual freedom, competition, and autonomy, or do they need to focus on providing everyone with what they require even if this involves limiting individual wealth and choice? What a constitution speaks to this question determines all the way down to economic policy and social programs, how wealth is distributed, and what government owes citizens. Capitalist cultures prevail on the premise that common good is a byproduct of individual success. The premise goes this way: if individuals are free to pursue their dreams, they ignite economic growth through innovation, business creation, and individual philanthropy. A successful economy, theoretically, is good for all—yes, even the lowest rung—because there are plenty of opportunities and prosperity "trickles down." But in practice, this system tends to produce grotesque economic inequalities, where a few own most of the property and millions are left behind. The US is perhaps the quintessential example of this paradox—possessing one of the world's largest economies and one of the

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<sup>15</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 2000), pp. 75–95. Austin examines how India's Directive Principles reflect the framers' intention to ensure that constitutional governance also delivers on economic and social justice, even if these principles are not enforceable in court.



developed world's highest levels of income inequality, medical debt, and homelessness. The system rewards success and pays dividends but leaves behind those who are unable to keep up—due to poverty, disability, or structural disadvantage.

Socialist constitutions flip the above on its head, with collective good central from the beginning rather than withholding to economic advancement in order to benefit people down the road. Socialist systems argue that basic human necessities—health care, education, housing—are not necessarily to be viewed as privileges but as basic rights dispensed by the state. Instead of counting on wishing that personal wealth will somehow placate and trickle down to benefit society as a whole, socialist nations organize their economies to actually redistribute wealth and resources to the point where everyone is included. Cuba, despite financial difficulties, has free healthcare and education for all, showing an example of how government intervention makes sure that even the extremely poor have access to at least a few services. The Nordic model—is overall the optimum combination of socialism and capitalism—can accomplish this with a twist, having market economies but with health care, education, and protection for employees on offer. Group welfare is never left to luck in any of these countries; it's part of what directs the government. There's always a cost.

Societies with high welfare are expensive, and everybody dislikes high taxation. Danish and Swedish taxpayers shell out two of the highest taxation rates in the world in exchange for free health care, education, parental leave, and favorable unemployment insurance. Critics say high taxation deters hard work and creativity because it makes individuals excessively reliant on the state. They reply that it creates a safer, less terrorized society—where no one is pushed into bankruptcy by hospital costs, and students do not enter adulthoods up to their necks in debt. The collective-welfare debate is really a debate about what kind of security a society owes its members, and at what price. No system has yet devised a flawless solution, but all constitutions share a nation's working assumption: should people rise and fall on merit, or is the state to guarantee that no one sinks below some level?

### *Is There a Middle Way?*

Lastly, the socialist-capitalist constitutional battle is evil vs. good—it's a fight over what various societies hold fairness, success, and the state to be. Both systems have the values of freedom, equality, and justice, but how they prioritize things results in enormously different things. Capitalism, with encouragement of individual liberty and prosperity, encourages innovation, competition, and economic growth—but at the potential cost of creating a society with a

progressively growing gap between haves and have-nots. Socialism tries to limit the inequalities through making fundamental necessities such as health care, education, and shelter available to all but at the expense of excessive interference, cruel taxation, and fiscal stagnation. There are far too many people barely making ends meet under raw capitalism and far too much governmental intrusion that will strangle effort and productivity under raw socialism. Both are not panaceas, and experience has shown us that no country thrives on ideological uniformity<sup>16</sup>.

The greatest enduring and productive societies are the ones that discover equilibrium between economic liberty and social duty. Nordic nations like Sweden and Denmark have succeeded in combining both these models to the extent that companies can prosper without any of their citizens being deprived of healthcare, education, or basic welfare. This balance is not exactly so easy to maintain, and it also has its own negative aspects—excessive taxation, controversy regarding government spending, and the perpetual struggle between personal aspiration and public good. But fundamentally, the question is not necessarily "which system is better?" but what degree of intervention will allow them to build a world in which they can be successful and feel safe as a collective. This debate will never be fully settled, because with advancing societies, their concepts of justice, liberty, and equality do as well. But perhaps that's the point—the desire for a just and better world is not something partisan; it's something about always questioning and tightening and getting smarter.

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<sup>16</sup> Uday Shankar, *Constitutional Law and Social Justice* (Thomson Reuters, 2021), pp. 148–161.

Shankar gives a critical analysis of how no contemporary constitutional democracy exists as a purely socialist or capitalist system. Rather, he delineates how every country is hybrid—always adapting to shifting requirements, political need, and citizen demand

### **III. SOCIALISM AND CONSTITUTIONAL LAW – HISTORICAL AND COMPARATIVE ANALYSIS**

#### **3.1. Historical development of socialist ideas in constitutional system:**

Socialist philosophy did not grow in a vacuum—it burst forth after centuries of injustice, class conflict, and misery for human beings. Before the word "socialism" had been used to describe anything, the idea of a society based on the principles of common good above individual wealth had been in some form or another circulating. Look at ancient civilizations—the most tribal communities functioned on collective systems, where allocation was based on need rather than possession. Medieval Europe itself had feudalism—hierarchical, but with social obligation components, where lords offered land and protection in exchange for labor. But as the world shifted towards capitalist economies, these collective systems started to collapse, opening the doors to unimaginable inequalities that led to socialist thinking.<sup>17</sup>

The Industrial Revolution of the late 18th and early 19th century was the real turning point. While it brought unimaginable technological change, it also generated inhuman working and living conditions for the emerging industrial working class. Women and child workers labored 14 to 16 hours a day in factories under minimal regulation of workplace safety. The rich factory owners and business oligarchs grew richer with vast sums of money, while the common folk simply struggled to survive in dirty slums without medicine, schools, or even running water. Fat elites and hard-pressed individuals had never been so unequal, and resentment began to boil.

In a bid to counter this rising gap, socialist authors in their early phases started questioning the pillars of capitalism and asserting that open markets without limits encourage exploitation more than prosperity. Thinkers like Robert Owen in England started using utopian socialist experiments whereby workers lived within cooperative communities instead of being at the mercy of callous industrialists. Meanwhile, back in France, Henri de Saint-Simon and Charles Fourier were shouting for alternative economic systems to be more public-spirited than profitmaking. Their solutions were revolutionary in their time—calling on governments to step

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<sup>17</sup> Medieval European feudalism, while hierarchical, was a system of mutual obligations in which protection and land were provided in exchange for labor. For more information about feudal obligations and systems, please read "Feudal Society" by Marc Bloch.

in to eliminate disparities rather than looking to the economy to solve the problem on its own. But the actual intellectual revolution was carried out by Karl Marx and Friedrich Engels whose work *The Communist Manifesto* (1848) founded modern socialist and communist constitutional thought. They believed that capitalism was inherently defective because it placed power and wealth in the hands of a minority and left the majority fighting to survive. To them, the answer was simple: total reorganization of society, and the means of production (factories, land, means of production) would not be owned by individuals but by society as a whole. Marx desired a new society where the workers (the proletariat) would rise, overthrow the wealthy exploiters of capitalist society (the bourgeoisie), and establish a society founded on social ownership and equality. His ideas weren't just theory—rather, they were the inspirations behind the very first 20th-century socialist constitutions. But it wasn't revolutionaries alone who were paying attention to socialist ideals. Governments in even capitalist nations started to incorporate socialist provisions so that they might prevent worker uprisings such as Marx had predicted would occur. Perhaps the first of these was in Germany under Chancellor Otto von Bismarck during the late 19th century. Though a hard-line conservative politician, Bismarck created social security programs, state-dominated health care, and labor protection—pragmatically in order to prevent the working classes from embracing radical socialism. That was important because it showed that socialist principles could be transposed into legal and constitutional frameworks even in capitalist nations.

By the early 20th century, socialist principles were no longer mere intellectual exercises in abstraction—but were being inscribed into political life. The Russian Revolution of 1917 would be the first earnest effort to enshrine socialism into a country's constitution, reframing government and legal systems. But before that, let us even arrive; it's also important to point out that the origins of socialist thinking were not merely economics policy—it was the revolutionary recasting of how justice and fairness would operate in society.

Should the law protect the rights of private property at all costs, even if millions are impoverished? Or should the law protect the health of the masses even if it deprives the few of wealth and power? These were dilemmas socialist philosophers of old grappled with, and their responses would come to shape some of the most significant constitutional designs of the modern era.

### ***3.1.1. The Soviet Experiment: The First Socialist Constitution***

The 1917 Russian Revolution was not a political coup but revolutionary rejection of the old world order and a bid to begin anew in constructing society. Russia before the revolution was one of the most stratified of societies on the planet. There was a small aristocracy of proprietors that owned nearly all the property and wealth, and the overwhelming majority—soldiers, workers, and peasants—lived in perpetual poverty. The Bolsheviks under Vladimir Lenin vowed to put an end to this disparity through a revolutionary agenda of socialism through a rejection of capitalism and a move to place political power and economic resources directly into workers' hands. The first step towards this was to create a new code of law that would legalize socialist principles. This resulted in the 1918 Soviet Constitution, the first socialist constitution in the world. Unlike standard Western constitutions, which had been written with the aim of limiting state power and protecting private rights, this one was based on the idea of state regulation as a means to the achievement of the common good. It expropriated private property, nationalized industry, and stated that the Soviet state would be led by the proletariat—that power, in effect, would be in the hands of the Communist Party. Not only the structure of government, but society itself was transformed from its long tradition of economic prejudice and class hierarchies by the new juridical order.<sup>18</sup>

### ***3.1.2. Post-Second World War: Socialism in Recently Independent States***

After World War II, there were two hegemonic powers who reshaped the map of the globe: the Cold War and decolonization. As European colonies dissolved, most of the newly emerging states—particularly of the Americas, Asia, and Africa—were faced with the challenge of building their pillars of economics and politics anew. Most such states had been earlier subjected to colonialism in which resources were being used for the benefit of these oppressors while the local inhabitants were oppressed and destitute.<sup>19</sup> When freedom finally came, socialist ideals were very attractive because they espoused economic equality, national independence, and a departure from Western imperialism. India, Egypt, Tanzania, and Cuba, among others, sought to ride socialism to rapidly industrialize, redistribute wealth, and

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<sup>18</sup> The 1918 Soviet Constitution was the first of its type, validating socialist values within the Soviet state. To read the entire 1918 Constitution, read "The Soviet Constitution of 1918" by J. Arch Getty.

<sup>19</sup> Hegemonic powers: Employed to refer to the superpowers which dominated international matters after World War II, i.e., the United States and the Soviet Union, who seemed to be the driving forces of the Cold War.

empower their citizens. In contrast to the Soviet model of authoritarian, hard-line socialism, these Third World nations sought to tailor socialism to the particular cultural, historical, and economic realities of their context. This meant the hybrid socialist constitutions with state-led economic policy and room for democracy or more conventionally governmental forms.

The prime example might well have been India, which in 1947 had just come to independence from British rule. India, led by Jawaharlal Nehru, actually ended up taking on a constitution in 1950 enshrining a socialist-type economy to be supplemented by democracy. The State Directive Principles of Policy in the Indian Constitution strongly instructed the state to make efforts towards income equality, land reform, and education and health as a basic necessity. India never converted into a socialist nation but had its government exercise a monopoly over economic planning and nationalize key industries like steel, banking, and communications.

### ***3.1.3. The Nordic Model and Modern Development of Socialist Constitutionalism***

When one hears socialism today, his or her mind automatically goes to the Scandinavian countries—Denmark, Sweden, Norway, Finland, and Iceland. Neither the Soviet statist and dictatorial socialism nor the Third World socialist revolutionary movements is the Nordic way. It is not capitalist per se, nor is it socialist. Instead, it is a mixed system that has strong market economies and strong social welfare programs where capitalism and entrepreneurship are strong but nobody gets left behind. It was a process that took place over the 20th century driven by socialist ideals but rooted in democratic government and capitalist efficiency. Conversely to former socialist countries that were so fixated on state control of industry, Nordic constitutions do not suffocate private enterprise but, instead, tax the wealthy greatly, regulate markets to prevent exploitation, and offer public services like health care, education, and unemployment insurance. The result is an extremely low degree of economic inequality but preserved individual freedom and entrepreneurialism.

### **3.2. Capitalist-Predisposed and Socialist-Predisposed Constitutions Constrasted**

Constitutions are not documents; they are statements of a state's values, imperatives, and experience. They are some written to enhance individual freedom and markets, and others committed to the common good and economic equality. Though the majority of modern constitutions contain aspects of socialism and capitalism, the ratio of these ideals decides everything ranging from social justice and taxation to economic policy and even the life of citizens. A capitalist-skewed constitution emphasizes market freedom, private property, and limited government intervention, while a socialist-skewed constitution sees the state as the focal institution to achieve economic equality, social security, and public welfare. Both of them are the professions of prosperity and justice but define these on relatively different bases so that these will result in radically different variations of society.

#### ***3.2.1. The State: Active Participant vs. Neutral Referee***

The constitutional government argument about the State is not a technical policy argument—it's philosophical at its most fundamental and one that takes us down to a root sense of who we think we are, and who we think other people are. In capitalist-biased versions of constitutional government, the State comes to be imagined as a depoliticizing referee. It is not meant to intrude as much as or set people's lives, but to provide people with room of the law within which they may pursue their own ambitions. That vision of the State rests upon the assumption that people are most free—and societies best served—when citizens have the opportunity to compete and prosper (or fail) on their own terms. The U.S. Constitution comes to mind as well. It is more concerned with maintaining negative freedoms—freedom not to have one intruded upon. Free speech, property rights, and private enterprise are all encouraged, but social goods such as healthcare, housing, or work are not constitutionally protected. In this framework, the State is conceived as a guardian of justice, rather than as a redistributive force. It enacts legislation but takes action infrequently, acting only to safeguard freedoms and avert market failure. The unspoken hope is that justice will magically ensue out of free men behaving freely

under free markets—a beautiful notion, one which much too often comes undone the moment too much injustice exists.

This Spartan vision of the State does not resonate with states that have been afflicted with a record of injustice, economic injustice, or intentional exclusion<sup>20</sup>. Here's where socialist or socialist-sympathetic constitutions fill the frame with a qualitatively different image. Here the State does not merely stand back—the State does something: the State is not only a moral agent, a father- or mother-figure in a metaphorical sense, but an active one that has responsibility for repairing damage and setting out equity. Here the State isn't merely seeking freedom, but expanding it. Liberty is not being left to oneself—a question of possessing a real material capability to live in dignity. Within such a system of the constitution, rights go beyond merely being civil and political rights to including social and economic ones. Reflect on India's Directive Principles, Cuba's healthcare and educational rights, or Bolivia's constitutional right to basic services as human rights. These are not policy goals—these are ethical statements enshrined in the nation's supreme law.

### ***3.2.2. Individual Rights vs. Collective Rights***

Most characteristic of perhaps any ideological struggle between capitalist and socialist constitutions are the means by which they define the balance between individual rights and collective duty. In capitalist constitutions—particularly those with their background in liberal democratic traditions—the focus is firmly on individual sovereignty. The state is seen as umpire rather than participant: it's to keep people open to speech, property, contract, and pursuit of their own happiness without excessive interference. The U.S. Constitution illustrates that philosophy. Its Bill of Rights is a strong assertion of resistance to government intrusions, safeguarding such freedom of speech, religion, and private property. This is a type of moral individualism—the idea that success and failure are individually determined, won through effort or lost through foolishness. These are welfare provision plans, but they are politically unacceptable and means-tested, more as temporary fixes than as issues of universal right to be asserted. Basically, this vision adopts as its starting point the principle that the good of society

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<sup>20</sup> Refers to state ideology gleaned from ancient Sparta, whose state was extremely centralized, autocratic, and discipline, military power, and common good were emphasized at the expense of personal liberty. "Spartan vision" would normally imply ultra-control society, emphasis on oneness, and lack of personal freedoms.



best comes about through the provision of persons with as much freedom as can be so that they can compete, work, and prosper at their own discretion.<sup>21</sup>

Socialist constitutions actually begin from an entirely different concept of justice, though. Socialist constitutions insist that in every past society which existed in existence with classes, and with privilege passed by birth, material equality must prevail if there is to be freedom. A voice or vote doesn't amount to much if one is ill enough, stupid enough, or hungry enough not to exercise it. Socialist constitutions therefore attempt to establish the rights of the community—not against individual liberty, but as a prerequisite to it. Cuba's Constitution, take a well-known example, mandates medical care and education not as privileges, but as birthrights. It isn't socialism, but it's its galvanizing insistence. These aren't acts of beneficence from a generous state—pledges, to all citizens alike, irrespective of income or birthplace. Venezuela's constitutional order also places the right to food, housing, and dignity at the centers of its moral and legal order. In India, the Directive Principles of State Policy—are perhaps non-justiciable in law—are directive: not only is the state under a duty to erase inequality passively, but positively bound to bridge the gap and provide social justice. These values are not based on theory but on practicality—one particularly in the post-colonial situation where social and economic inequalities harden into structural oppression. The issue, here, is more one of empowering citizens with the state than of protecting them from it.

And such devotion to the public good can, on occasion, go too far. There are many instances throughout history where socialist-led states, aiming for a level of equality, have become entrapped in the trap of authoritarianism. Behind the veil of unity and shared prosperity, opposition has been increasingly suppressed, press freedoms undermined, and private enterprise rooted large. The same constitutional machinery that makes social justice possible is also vulnerable to abuse in its role to legitimize central direction, eliminating the very diversity and individuality they seek to foster. In contrast, capitalist constitutions necessarily take as a premise that level playing field never really exists. The poor born will enjoy the same constitutional freedom as the billionaire, but far fewer real options. How is "free speech" reality for someone who lacks a computer, an education? How is "property rights" advantage to one who has never owned land, never owned a home? These gaps between theory and reality are

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<sup>21</sup> As umpire rather than player: This is a figure of speech referring to how the state needs to play an umpire when ruling society such that individuals can do something and make a decision but not in or about what they have to do and in or governing of their behaviours.

challenging ones. Is society truly fair if it preserves liberty, but not equality? Or does it promote equity rather than freedom? The greatest examples of constitutions veil the distinctions—giving both the freedom to dream and the nourishment to survive. They know that the individual and the community are not enemies, but interlocutors. The challenge is not selecting one against the other—but causing both to thrive, one together with the other.

### ***3.2.3. Economic Models: State Planning vs. Free Markets***

When we're talking about economic models in terms of constitution systems, we are not discussing theoretical concepts—we're facing the everyday reality regarding how individuals work, eat, live, and dream. Free market economies based on the ideology of capitalism believe that the best way to achieve prosperity and growth is to provide people with the liberty of making their own economic decisions. Here, the government is a referee and not a player. It only enters to stop fraud or for equitable play. This is the belief that if people are free to compete—whether selling goods, starting business, or buying stock—they will ultimately produce innovation, efficiency, and wealth in the process. Take the United States, for example: its protections of private property, freedom of contract, and limited state interference provide a haven for entrepreneurship and economic mobility at least on a theoretical basis. The legend of the "self-made man" is explained best here. But so is capitalism's shadow half: income disparities, exploitation, pollution, and institutional marginality. As others attain blinding prosperity, others are stuck in the dungeons of poverty and yet still cannot get good healthcare, good education, or even necessities. The constitution can guarantee freedom, but if you were born in times of economic difficulty, your options are already cut off before you would ever know freedom.

State planning, driven by socialist-oriented constitutions, begins on the alternative moral premise that the economy must be tamed to operate in the interests of the masses rather than enable the dreams of the elite. In place of permitting wealth to trickle down, the state is the necessary tool to redistribute, provide public goods, and channel investment into areas of utmost need. Then there are nations such as Cuba, Venezuela, and post-colonial India that have made their constitutions templates for building solidarity and equality-oriented economies. In these nations, health care is not a privilege for workers—it's a constitutional right. Education is not an investment by private capital—it's a social class obligation. In Cuba, during economic austerity and international sanctions, education and health care are free to all citizens. These systems attempt to close the gap between rich and poor not by making a few richer but by

raising the floor for everyone. At a price. Without profit motive or competition in the marketplace, government businesses become inefficient, corrupt, and stagnant. One can be secure but not free. And if the government has too much power—prices, production, the press—it threatens to suffocate dissent and choke off innovation. Here, the guarantee of equity sometimes becomes paternalism and the state makes the choice for its citizens instead of letting them make it themselves.<sup>22</sup>

The test thus is not one of an either/or choice between free markets and state planning—but of creating economic ecosystems that blend growth and fairness, efficiency and compassion, and liberty and responsibility. All nations now do accept this dichotomy and merely coexist on hybrid economies where the private sector is given freedom to produce innovation and competition but where the state steps in to deliver basic services and moderate market excesses. Sweden, Norway, Denmark, and the rest of the Nordic nations are all widely quoted as having achieved a balance between these two extremes. Their politics and constitutions allow individual initiative and extensive social welfare to coexist. Here you can create the next tech monopoly or a firm, but you also have high tax rates that keep your neighbors healthy, educated and safe. The result is not only affluent societies but quite egalitarian ones as well. Of course, such models have drawbacks. High tax rates discourage capital, and high welfare states foster dependency. But the underlying assumption is partly correct: economic existence is not really about what is profitable so much as it is about what is humane and sustainable.

#### ***3.2.4. Social Welfare : Safety Net vs. Entitlement***

A capitalistic constitution would render social welfare a safety net and not an entitlement, i.e., government assistance is meant to be available in one's times of need and not as an end in itself. Individual responsibility and self-reliance would be the sole drivers of economic stability and the government a second best. Capitalist economies typically combine welfare programs with restrictions on eligibility, work requirements, or time limits to nudge recipients into employment rather than onto state provision. The United States is an example, where there is a benefit like unemployment, food stamps, and state-provided healthcare but in normal conditions are means-tested and restricted. The benefit of such a system is that it discourages profligate government spending, encourages a culture of personal initiative, and spares the

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<sup>22</sup> Guarantee of equality is generally paternalistic: Most of the times, state attempts to give equality become paternalism, whereby the state does things for people and thus may impair individual freedom and choice by inferring that the state is best suited to know what the state citizens require.

economy the cost of subsidizing humongous welfare programs. Critics counter, however, that it exposes too many individuals to risk, particularly in the event of recession, unemployment, or sickness. With no social protections, the lower classes are destined to be swept into poverty traps, hardly able to cover the mere essentials of healthcare, shelter, and education. Capitalism's focus on individual self-reliance tends to foster wealth imbalances so massive that social mobility is nothing but an illusion, with the rich only amassing riches and the poor only ensnared in desperation.<sup>23</sup>

This contrasts with a socialist-oriented constitution in which social welfare is an inalienable right that provides for the availability of citizens to basic necessities like healthcare, education, and economic aid regardless of income. This has been founded on the premise that proper functioning of society is caused by diffusion of riches and resources such that they are no longer unequal, bringing to an end the prevalence of poverty, and preventing anomalies in society. Heavily taxing Swedish and Norwegian and Danish workers, to cite a few examples, supports enormous social programs that allow individuals to have universal medical care, cost-free university education, paid parental leave, and long-term unemployment insurance, not short-term. This provides fiscal security because individuals aren't left to their own means to survive the recession.<sup>24</sup> But such an arrangement must be balanced—too much in taxation, as much as can be demanded in order to pay for welfare programs, can dampen the economy if it is excessive. Too much welfare, its detractors argue, produces dependency because people have less of a motive to work or be creative because the state will always take care of them. In the worst cases, too much welfare spending will strain government budgets, leading to higher debt or slower economic growth. The challenge of socialist-oriented economies is how to make social protection strong without making it a system where individuals are overly dependent on the state. Lastly, the welfare argument of an entitlement or safety net conceals even deeper ideological fault lines: do individuals best provide for themselves as the final authors of their own success, or should the state intervene as the guarantor against falling behind?

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<sup>23</sup> Poverty traps: Describes a condition where people or households are unable to escape poverty because of structural constraints or lack of resources, usually compounded by system problems like unemployment, bad education, or absence of access to affordable healthcare.

<sup>24</sup> In Scandinavian countries, free higher education is typically provided to the students in such a way that each and every person regardless of his or her financial condition may get access to the university level studies. It is one of the wider social protection nets to ensure equal opportunity.

### ***3.2.5. Finding a balance***

We know through history that the best functioning economies are those which reach an average, adapting their policies to fit their indigenous socio-economic and political structures. It is possible to show, as the Nordic nations have demonstrated, that free economy can exist simultaneously and still enjoy robust social welfare programs. Commerce is allowed to thrive, enabling entrepreneurship and development, but provides universal health coverage, free school education, and robust worker benefits through very, very high taxing. As a result, countries like America, despite being highly capitalist, have realized the importance of social cushions and instituted programs like Social Security, Medicaid, and food stamps. Even in very socialist-skewed economies, reforms have been made to prevent stagnation and induce productivity. The most important thing to remember is that economic systems have to be adaptive—what will work in one nation won't work in another, and even within the same nation, economic policies have to change with the times. A healthy system is one that continuously repositions itself, making minor changes so that progress does not destroy equity, and equity does not kill progress.

In the end, this is less an economic issue—it's staggeringly philosophical and actually a question of ethics. Do we want to be living in a world where personal accomplishment is the driving force, or one where the welfare of society is? The reality is that individuals flourish when societies find the worth of personal freedom as much as social duty. Human beings need the reward to innovate and work hard, but they need the assurance that they will not be left alone in times of hardship. Equal system of economy is not about socialism or capitalism; it's about balancing the two. It is all about enabling businesses to grow and accumulate wealth and preventing wealth from getting trapped in the hands of a few. It's all about enabling people to succeed and with cushions so that failure is not complete ruin. This equilibrium is not easy to achieve, yet it has to be achieved in order that we may have a future where economic wealth works to the benefit of not only the fortunate few but of all society.<sup>25</sup>

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<sup>25</sup> Neither capitalism nor socialism: Proposes that neither capitalism nor socialism is the most desirable economic system, but a combination of both is the best of both worlds for a balanced and sustainable economy.

## **IV. HUMAN BEHAVIOUR AND ITS INFLUENCE ON SOCIALIST CONSTITUTIONAL PROVISIONS**

### **4.1. Sociological and psychological human behavior theory:**

At the center of any constitutional design—socialist, capitalist, or some combination of the two—is a seemingly simple but deeply philosophical question: how do human beings act, and what does that suggest about the sort of society we can or ought to construct? It is not a matter of theory—it has real, tangible implications on law codification, conferral of rights, and imposition of duty. It dictates the vocabulary of welfare, equality, justice, freedom, and state. And for socialism, the question is additionally emotionally and ideologically loaded. Socialism as constitutional principle starts with the assumption regarding cooperation rather than competition—that human beings, if given a proper setting and infrastructure, actually can operate in the commonality interest, rather than for self-interest. Constitutions in this vision are not just law; they're blueprints moral for a more humane and equitable society. They ensure that everyone receives the bare minimum of healthcare, education, shelter, and dignity—because human dignity does not equal productivity.

Life isn't always so neat, though. Psychology and sociology courses tell us that humans are complex animals—contradictory, a mix of needs, fears, hopes, biases, and socialization. Humans are capable of doing a great deal of empathy, but vicious selfishness. We work together with some and fight savagely with others. We tend to strangers a day and selfishly the next day. In seeing such complexity to exist, there is a necessity to observe it, particularly in trying to create constitutional frameworks based on either altruism or common ownership.

Therefore then the question is less about which system is optimal, but whose system better understands people? By venturing into the fields of sociology and psychology, we discover the depths of human nature that account for why some socialist benefits work in some cultures and not others. Why do universal health care systems work in Norway but not elsewhere? Why does one culture gladly pay high taxes for the public good and another views it as an encroachment of government? These are not simply economic matters—these are at last human ones.

As just one example, psychotheory such as Maslow's Hierarchy of Needs teaches us that, generally speaking, human beings won't act morally or even reasonably unless their very basic needs—primitive sustenance, safety, belonging—are fulfilled. Socialist constitutions thus

insure minimum life requirements so compulsively. The premise is that if people aren't busy with bare survival, then they can start flourishing—and even be more effective citizens. Behavioral economists and sociologists warn, however, that security is not always synonymous with motivation; sometimes sloth is born of convenience, or people can be bribed into ill by others who will not lift a finger.

Philosophers like Max Weber and Emile Durkheim sociologically analyzed how human action is not merely determined by individual psychology but by social institutions, norms, and group values. Durkheim's emphasis on morality and social solidarity would then imply that the socialist ideals will only thrive if people are united under a single cause and responsibility for each other. Yet again, Weber's warning against bureaucracy is also a caution to us that overcentralized control is cold and depersonalizing work where individuality and creativity get stifled.

And then, of course, there is the Prisoner's Dilemma—a psychological symbol that illustrates a built-in weakness to socialism: people can be committed to the common good, but if they think everyone else is going to ride for free, they'll ride for free too. That's not game theory—that's insecurity. Socialist constitutions therefore must not only balance resources, but also shift trust, responsibility, and integrity into their governments.<sup>26</sup>

Briefly, the socialist provision secret is psychology, not policy. It's a matter of understanding the human head and heart—the fears that drive us, the hopes that inspire us, and the social conditions that beg for our better angels or our worse devils. Socialist constitutionalism, in the best of times, attempts to create a society where no one is left behind since the system is designed with compassion, justice, and social responsibility. However, if it does not remember the psychological and sociological requirements of human conduct, even the best system collapses.

Understanding human nature doesn't make socialism a utopian fantasy—but practical. And when constitutional arrangements are crafted with a wiser understanding of what actually gets people to act, join, resist, and love, they have a higher potential to be not just idealistic—but possible.

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<sup>26</sup> Prisoner's Dilemma is a common game theory concept that illustrates conflict between individual rationality and common good. In the dilemma, there are two prisoners who have to decide whether to cooperate with one another or betray each other, both achieving the best payoff by cooperating but being tempted to betray for inferior payoffs for both. The theory is employed to describe circumstances where individual rationality of the self outweighs common good.

#### **4.2. Individualism versus collectivism: ensuring the behaviour fits the socialist ideology:**

In its face, socialism is a nice utopia of the world—a world in which human beings share, look out for one another, and build an equal society with compassion. The catch is that the system is founded on a secret and generally unstable assumption: that people will behave in the best interests of the group. This is where game theory, and the Prisoner's Dilemma, bleeds over into observation of economics and politics on human action. The classic illustration is this: two prisoners were caught and questioned separately. Each of them refuses to talk (cooperates) and is given a minor sentence. When one betrays the other (being selfish) and the other is silent, the betrayer goes unpunished and the other gets punished badly. When both betray one another, both are punished. The twist? Both individuals are praying that the other will be selfish, and both end up betraying—and both lose. It is a simple paradox of self-preservation over trust that is indicative of the inherent conflict within any system premised on collective responsibility.

And then think of what would be the case if you extended that same principle to a society. A socialist government is based on the idea that if we all give a little, then we all get a lot. Free education, state medicine, social security—these are what come of collective investment. And then what do we do when people begin to question whether someone else is getting more than they are giving? When people think that others are cheating to avoid working, milking the system for welfare without doing anything, or enjoying the fruits of public goods without contributing their share, the impulse is to opt out. "Why should I work if others are taking advantage of the system?" This is the social version of the Prisoner's Dilemma. Once trust with others is betrayed, people start to pull out contributions wholesale, and the whole system begins to implode. It's not that human beings are greedy individuals—it's merely that it is natural to fear being the "fool" who struggled along together with everyone else while everyone else plays on the system. That's where the role of human capital in economic action enters the arena: trust, equity, and perception are just as precious as policy.

Socialist constitutions, sensing this gap intuitively, do more than economic material promise—they seek to promote civic virtue and collective moral order. They all have provisions for civic education, moral duty, and sensitivity to the people in them. India's Constitution, for instance, has Fundamental Duties—binding citizens to instill the sense of unity, integrity, and public service. It is a slow process, though, to instill such values. Without backing from real mechanisms of accountability and transparency, such values sound empty. That is why socialist



nations emphasize people's participation, collective decision-making, and community-level decision-making—so that people stay interested, engaged, and believe that their voices matter. But still, there is always a possibility of free-riding and disappointment. So although the Prisoner's Dilemma begins in theory, it continues in the daily decisions of millions of people—teaching us that making a fair society is not simply a matter of policy. It requires trust, mutual commitment, and sustained effort to align the interests of the self and the will of the crowd.

#### **4.3. Behavioral economics: the reason why people make mistakes in economic systems:**

Economists used to sketch human beings as rational calculators—rational agents who crunch decisions, maximize personal profit, and always best effort. Reality, however, is more complicated than theory. Human beings procrastinate. They make emotionally driven decisions they cannot afford. They give money to charity but won't lift a finger for next-door neighbors. In essence, they are irrational, and most predictably irrational. This is where behavioral economics steps in—not to condemn people's "mistakes" but to learn about them. In contrast to what is normally assumed by mainstream economics, behavioral economics does not presuppose that human beings are perfectly rational agents. Rather, it learns from psychology, cognitive science, and economics to learn about how people actually do behave, particularly in systems of a complex kind like those dealt with by socialist constitutions. And if your own constitution is one of values of cooperation, solidarity, and collective action, then this erring human behavior is not just relevant, but necessary.

One of the most straightforward of the behavioral economics lessons is that humans are not biologically wired to think in the long term, especially when they're under stress or are short of resources. This is known as present bias—preferring immediate rewards to future rewards. So when a socialist initiative requires individuals to contribute more in the hopes of better healthcare or schooling "down the line," it doesn't necessarily resonate. Even the most principled among us to equity and public obligation will complain when their paycheck is smaller, because the pain of immediate loss is greater than the ill-defined promise of eventual good wrought. There is also loss aversion, or the idea that suffering over losing something (e.g., wages) will be more than pleasure over the acquisition of something similar. And even if the social safety net is greatly expanded, some simply will dwell on what they have lost, not what others, or they, have gained.

And then there are more basic, emotional forces at work that control behavior in public systems. They want to be watched, to be respected and treated justly. If they notice that others are cheating the system—scamming the welfare rolls, not contributing their share to the public goods—they will begin questioning why they are doing it as well. Economists call this the "free-rider problem," but behavioral economists look at the feelings involved: resentment, distrust, burnout. In centuries of unequal and rotten societies, even the most benevolent socialist attempts at reform stand in danger of being discredited. "Is this another trick which will not deceive anyone?" People inquire. "Will the rich still find a loophole?" This emotionally loaded baggage, conceived in tradition, presses very heavily upon constitutional values and meanings. Social and Socialist constitutions that aim to establish collective care systems must address not just material inequality, but these emotional wounds as well. Otherwise, policies will be beautiful in theory but never work with the very people they are intended to assist.<sup>27</sup>

But behavioral economics is not entirely bad news—it also provides us with good means to build better and more effective systems. Welcome to the concept of a "nudge"—a tiny policy tweak that nudges individuals toward the right decision, without taking freedom away from them. Take, for instance, the people signed up automatically to a public pension scheme but allowed to opt out. Most will not be bothered to leave the system—because inertia is a powerful force. If advance forms are completed with descriptions of how the money gets into local hospitals or schools, citizens are more dedicated to the cause and more likely to deliver. It's slight psychological adjustment, but it has tremendous real-world implications. Socialist constitutions must stop operating on the assumption that people are born good or ever willing to sacrifice. Instead, they can be compassionate by design—acknowledging our emotional complexity, our cognitive limits, and our deep desire to do good, if only we're supported and trusted to do so.

#### ***4.4. Balancing Human Nature and Constitutional Design***

At the heart of every constitution—whether moves in the direction of capitalism, socialism, or some intermingling of the two—is an ideal: that we, human beings, can create a society that benefits not the privileged few, but the many. That by laws, structure, and planning, we can

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<sup>27</sup> They're going to create great policies on paper, but they're never going to work with the same individuals that they're trying to assist: This is the age-old critique of idealistically implemented social policies. The policies will be great on paper, but unless they address the emotional and psychological reality of life about the individuals that they're planning to assist, then they will fail. Unless they deal with the problems involving trust, identity, and social cohesion, then such policies will never be successful.

make abstract ideals such as justice, equality, and welfare concrete, living things. But if we've learned anything at all from history and from human nature, it's that human beings are not *tabulae rasa*<sup>28</sup>. We're complex. We're contradictory. We want to be treated with justice but we can also be selfish. We want liberty but we want security too. We can be generous as much as greedy, of unity and suspicion. And regardless of how well a constitution is designed, it has to be tailored to this complexity head-on.

Socialist policy, most of all, relies on an utopian vision of humanity—human beings can rise above self-interest for the greater good, the powerful will not seize the power, and the state can be a force for good in our lives. It's a vision of caring for each other, in the sense that it presumes everyone will be worthy of dignity, housing, education, and health—not the rich, not the lucky. But that ideal is never achieved in actual practice. Citizens do not always trust the state, or themselves. They will cheat if they believe nobody can catch them cheating. They reject change even if it benefits themselves. These aren't immoral failings; these are realities humanly constructed on grounds of fear, history, inequality, and fundamental emotion.

This Constitutional design here. It is not a legal exercise, but a human one. It is not enough to write provisions that rely on cooperation or fairness. A decent constitution must take conflict into account. It must be aware of human emotional responses, bias, the need for attention, and suspicion based on experience. Instead of punishing craziness, it should build institutions that work with it. That is, building institutions that create trustworthiness, eliminate the incentive to cheat, and make the good thing the easy thing. Behavioral economics, psychology, and sociology are not soft sciences at the fringes of law—these are tools that can be used to help constitution makers build better, kinder structures.

And lastly, perfection is not the objective. No constitution can rid us of all inequality, all corruption, or bring us utopia. But what it can do is plant seeds—seeds of hope, justice, and order—that direct societies in the right direction. And that direction must always be mindful of human nature's dualities: our wish to be free and our wish to belong. The genius of some of the world's most popular constitutions—India's deep commitment to social justice, the Nordic model's combining of economic freedom and social protection—is this balance. They neither

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<sup>28</sup> This is the philosophical idea that human beings are not *tabula rasa* upon which society or experience may inscribe. The idea, more particularly associated with John Locke, is that human beings are constructed by experience, feeling, and their own nature, so that ideal systems can founder in the richness of human activity and nature. This contradicts the idea that human beings can easily be molded or mastered by institutions and law.

sentimentalize human beings, nor do they despair at their weakness. They construct with modesty and restraint, aware that constitutions must grow with people, not ahead of them or behind them.

Finally, constitutionalism's story is not a story of law—it's a story of human beings. It's a story of how we learn to understand who we are, how we live together, and what kind of society we have the audacity to imagine. A good constitution is not one that reminds us only what is allowed; it encourages us to think about what is possible. And in recognizing both human nature's darkness and light, it is not only a form of government, but a tiny, daily act of belief in our capacity to make something better—each and every one of us.

## **V. CHALLENGES IN RECONCILING SOCIALIST IDEALS WITH CONSTITUTIONAL LAW**

### **5.1 Tipping the balance of individual freedom and collectivist values:**

Maybe the most challenging and quintessentially human problem of constitutional law—especially in socialist-dominated regimes—is how to balance the rights of the individual against the needs of society. It is a dilemma as old as political theory: how much right of property, self-determination, and individual liberty do we cherish, and how much must we insist that individuals sacrifice to the general good, equality, and public welfare? Socialist constitutions are based on the principle that society is best when it is fair, when good fortune and riches are not monopolized by the favored few but shared by the many. Such a vision, however idealistic, is based on a bargain of freedoms—away from unchecked individualism towards an arrangement in which freedom is circumscribed, not as a penalty, but to guard the weak and equalize the field. This is not just a matter of writing law—it's a war of psychology and philosophy that happens every day. Capitalist governments romanticize work: that if you work hard, you'll succeed. Constitutional law in a system like this will typically outline political rights—free speech, property, religion, commerce—but it will reserve economic security and welfare to the vagaries of merit or discretion and not entitlement. Socialist constitutions, on the other hand, make social and economic rights an integral part of the fabric themselves—free hospital treatment, schooling, housing, and employment are not privileges, but birthrights. But those rights are achieved at the expense of collective sacrifice only. Increased taxation, public ownership of the means of production, and levelling of the wealth are concessions needed to achieve them, and these are looked upon by most as intrusions into individual liberty.

The Indian Constitution is that way. Their authors, motivated by socialist sentiments when colonial rule existed and endemic poverty was the order of the day, had enshrined in Directive Principles of State Policy. The principles guide the state to make the wealth more evenly distributed, check inequality of income, and ensure good standards of living to all. While, they are not justiciable—their enforceability in accordance with law. This political compromise is because it was attempting to bring socialism through a democratic state. The aim is simple: to construct a more just, more equal society. But to codify these values into inflexibility can be read as paternalistic or an overreach. So they are ideals—a moral code, not a requirement of law. And maybe that's saying something about the precarious balance governments must strike:

providing the state enough power to act in justice without providing it so much that it takes away from individual freedom. There's also a more profound emotional component to this balancing act. Liberty for the individual resonates with something deep inside of us—our desire for self-determination, for control over our choices, our paychecks, our fates. We fear that the state, if made too powerful, will misuse it, or even worse, become totalitarian. Collectivist values satisfy our need for security and belonging. They encourage us to think of one another as not enemies, but as interdependent players in a shared society. The catch is, we don't always trust others to do their fair share. This distrust—the fear that other people will exploit the system or ride on our backs for free—is perhaps the strongest psychological hurdle to collective policies. It is the same mechanism that generates the Prisoner's Dilemma: we'd rather cooperate, but suspect others won't.

The future of constitutional socialism perhaps hangs in the balance of managing this tension not just with law, but with culture. It's a matter of pulling people up to a feeling of solidarity, so that other individuals' good is somehow tied up with their own. Ultimately, the tension between individual freedom and shared values is not a zero-sum equation. It's a continuum, a compromise, a beautiful dance that has to fit each generation's values and aspirations. Constitutional socialism, when done well, does not destroy individual rights—it reframes them as conditions of shared care and concern. And perhaps that is the task: not simply getting the right words into law, but elevating a society to live by them<sup>29</sup>.

## **5.2. Political and social forces, corruption, and culture of resistance:**

At the heart of each constitutional transformation—especially a socialist-oriented change—is a herculean political risk. It is not merely to introduce socialist values into a nation's constitutional politics. It is to challenge entrenched political cliques, vested economic elites, and habitualized cultural routines. Political apparatuses in most states are not such impartial institutions but firmly rooted in economic power centers. They will oppose—overtly or covertly—redistributive change that threatens their privilege. Land reform, progressive taxation, labor protections, and state ownership of enterprises can all be constitutionally permissible, but when the powerful are brought low, politics will be employed to forestall or

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<sup>29</sup> Constitutional socialism: Refers to a political system in which the state pursues policies and legislations designed to advance social justice and equality, usually through collective ownership and redistribution of wealth. It refers, in this case, to a combination of socialist elements and constitutional forms that guarantee protection of individual rights.

disable these reforms. Even the most idiosyncratic leaders in free democratic governments even battle socialist policy occasionally, especially where political agendas, corporate contributions, or egos exist. As a result, therefore, then, the black letter law and the living law may come to seem quite disproportionate.

Finally, corruption is still one of constitutional socialism's most debilitating threats. Even where constitutions constitutionally enshrine the right to education, health, food, or shelter, implementation rests on bureaucratic ineptness, corruption masquerading as bribes, and nepotism. The irony is a sad one: a system designed to empower the weak can, if poorly governed, be used to reinforce new inequalities. Poor relief programs, for instance, are<sup>30</sup>siphoned off by middlemen or co-opted by the powerful. Social housing is sold out to private developers illegally. Social programs are transformed into patronage tools, and political loyalty as opposed to requirement decides who can use them. It is more a matter of disintegration of the law than anything else—this is a blow to the public psyche. While citizens are observing socialist orations being legislated into practice, their faith in common good is lost. They are disillusioned, cynical, bitter towards institutions established to serve and protect them. And the longer the years pass, the cynicism becomes disaffection and apathy that devour the very citizen participation that socialisms require to thrive.

But most likely to be the least underestimated as a threat to constitutional socialism is likely to be the culture of resistance—a very deeply ingrained social state of mind against collective values, and especially in societies steeped long in individualist, capitalist, or hierarchical world belief. In colonial history nations, socialism, for instance, is unjustly associated with authoritarianism or stagnation. Where caste, class, or ethnic cleavages are deep, demands for equality are seen as a challenge to ancient privilege. Even otherwise loyal citizens who would stand to gain personally from welfare policy may oppose them because they would lose relative status or autonomy. This is not malignant cultural resistance but one of fear—fear of losing control, identity, and the familiar style of exercising power. And thus, opposing socialist constitutionalism isn't a policy issue—it's a matter of shifting social consciousness. It's a matter of un-learning centuries of internalized inequality, moving away from narratives of fear, and

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<sup>30</sup> This is the diversion of resources intended for the poor or marginalized by agents (e.g., bureaucrats, corrupt officials, or others) or influential individuals or groups. Instead of being received by the poor or marginalized groups targeted, such resources are diverted to political or personal ends.

building emotional solidarity towards common horizons. That is difficult to accomplish. But it has to be accomplished.

### **5.3. Utopian socialist ideals vs. practical realities:**

The socialist heartbeat is a heartbeat of hope—hope that a more just world is just ahead where everyone dines with full plates, all children attend school, all work is fairly rewarded, and all are born in dignity, not privilege. Socialist utopias envision a world where the state promotes equality without stifling freedom, cooperation instead of competition, and resources based on need, not greed. These are richly human and morally sensed values. They're not policy goals—they're affective empathies, visions which say to the oppressed, "You matter." Constitutionally, they speak of promises of education, health, work, and sometimes bliss. They appeal to our higher natures—our empathy, sense of justice, and ability to imagine a different world. They assure us that constitutions can be more than a code of law—more than a moral compass. Even idealistic as these aspirations may be, actual life is not usually so gracious. Idealizing in daily life requires working within limited means, conflicting interests, and miserably malfunctioning institutions. In utopia, people share what they have and take what they require. But in reality, self-interest, institutional lag, and fiscal necessity converge to distort these ideals. Free topnotch medical treatment, for example: wonderful on paper—but what if the physicians are substandard, the hardware is low-quality, or availability is skewed in urban versus rural areas? Similarly, providing all the "right to housing" is a powerful protest slogan, but building millions of low-cost houses on a weak economy is a gargantuan logistical and financial challenge<sup>31</sup>. That is where socialist idealism runs into bureaucratic barriers, fiscal limits<sup>33</sup>, and even mass cynicism. The gap between ideal and delivery is not a matter of technique—it's an emotional one. When citizens witness promises unfulfilled, trust is lost. And when social justice is translated into rhetoric rather than into an experience, then the legitimacy of socialism itself and even that of the constitution is undermined.

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<sup>31</sup> Expounds on the enormous pragmatic and economic constraints of providing affordable houses to all. It's not a question of constructing houses but even more so about how much land is accessible, manpower available, infrastructure available, and money available, all of which require enormous capital and effective planning. <sup>33</sup> Fiscal limit is with regards to economic limitations which exist for governments, particularly those with poor economies or constricted budgets. Building millions of affordable homes costs a tremendous amount of capital, something that might be too expensive if the economy is bad or if the government has other economic matters of concern to deal with.



Moreover, constitutional socialism is also disadvantaged by rigidity. Utopian plans are inflexible by their very nature—they depend on an ideal citizen, a best possible condition, and a common moral code. But people are messy, complicated, and shaped by millennia of inequality, competition, and cultural disintegration. In the vast majority of cases, attempts at applying equalization through governmental control have been reduced to inefficiency or even despotism. Some socialist governments, in the name of promoting the "greater good," suppressed opposition, gagged the press, and discouraged innovation—strangely enough, undermining freedom they wanted to maintain. Not that socialist principles are evil—so much as, without critical self-reflection and the capacity to accept pragmatism, utopia translates to dogma. A pragmatic constitutional socialism must balance idealism with realism. It must realize that compassion needs structure, and dreams need mechanisms. That occasionally that stumbling and staccato rhythm is, in fact, progress. That compromise is not betrayal—sometimes it's survival. It's the space between the disparity between what can be and what is right where the most human struggle of all occurs: trying to make the world a better place, step by flawed step.

**5.3.1. *The Soul of a Constitution—Walking the Tightrope Between Hope and Humanity*** And finally, what we're really left with from the clash between constitutional realities and socialist ideals is not so much a story of political systems as a story of the messy, rich, and deeply emotional character of human life. Constitutional socialism is not so much a theory of law—it is an ideal, a dream inscribed within law, a realization of our common aspiration to protect the vulnerable, to share resources equitably, and to be a society where dignity is not gained through privilege but brought in by principle. It does the daring thing of imagining a world in which the law punishes not just but protects, where justice is not blind but is merciful. But in that same optimism lies the cost: the more human your dream, the higher the likelihood of being thwarted when real life is unable to catch up with fantasy.

The attempt to reconcile socialist ideals and constitutional law reveals one of the government's more fundamental contradictions: how to institutionalize sympathy in systems of power, frugality, and exchange? To the degree that the law has to be ordered, manageable, and bureaucratically legible, the urge to it must also leave space for the fluff socialism demands: an empathy that can't be written into economies or codes easily. That leaves governments walking a tightrope: go too far in the direction of idealism, and you court inefficiency, dependence, or

totalitarian domination; and go too far in the direction of pragmatism, and you betray the very principle which constitutional socialism is attempting to uphold. In this dance, both government and people get hurt. Disillusionment follows. People grow weary of their "rights" being political slogans and not real protection from harm. Governments collapse under the weight of expectation they cannot fulfill or are not empowered to meet. And yet—survive we do.<sup>32</sup>

That survival is significant. It is significant because it serves to remind us of something quintessentially human: that in spite of all our economic grievance, political disillusion, and cultural alienation, we still yearn to believe in fairness. We still like to imagine that there is a society where no one is punished for being poor, where everyone has a voice, and compassion isn't so much a personal idealism—it can be a policy. Constitutional socialism, despite its shortcomings, reminds us that government isn't mere laws—it's ideals. It's making human beings never ever rational, never ever generous, never ever cooperative—and designing systems that don't shame us for these weaknesses but gently coax us toward best selves. It reminds us that we will never actually reach utopia, but that we can establish institutions that lead us to keep reaching for it—through fair justice, fair rights, and policies that keep the common man's face in perspective.

So then, is constitutional socialism an option? Not by itself. But perhaps that's not the question. The concept is merely to continue to try—not to perfect a system, but a human one. A challenging one, a changing one, a humble one that accepts its mistakes and adjusts its direction. One that, like the individuals it touches, is always in progress. That, and not ideology or theory, infuses law with soul. And maybe that is the future we can work toward—not utopia, but a bolder, braver, more compassionate world. One law at a time.

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<sup>32</sup> Walking a tightrope: This figure of speech invokes the narrow wire that governments have to tread between idealism (doing marvelous social things) and pragmatism (being attuned to practical imperatives like economic viability and institutional constraints).

## **VI. BEST PRACTICES AND INNOVATIVE STRATEGIES**

### **6.1. Comparative review of effective welfare systems and constitutional guarantees in favor of socialism:**

At the heart of socialist constitutionalism is a robust moral argument: that society not merely owes it to the individual to provide freedom, but also to create a floor of human dignity for everyone. It imagines a world where no one is discarded simply because they were born poor, or discarded because the marketplace judged them to be "unproductive." Economic security in such a vision is not a perk of the favored few—it is a right enshrined in the fabric of law and government. And yet, whereas most countries have struggled with making a vision such as this one real, some standout countries have reached an unnatural balance: socialist-oriented constitutional pillars and social welfare initiatives that drive innovation, economic growth, and civic activity among the many. Socialism in this instance is not a rigid dogma—it's a compass. It assists in determining how societies treat citizens, how they define fairness, and how they use the power of the state both as a regulator and as a caretaker.

What constitutional ideologies and legal steps have allowed these countries to develop both economic strength and social cohesion? What were their failures, and how did they recover? And lastly, perhaps most fundamentally, what do other nations—most notably those with very market-oriented or individualist constitutions—learn from them? Of all this discussion, it is clear that even where unmixed socialism can fail due to political opposition and human frailty, much of its very soul's goodness—justice, solidarity, and general decency—are achievable to bring about if reinforced by law, defined by place, and implemented in good treatment. These are not models to be copied, but they are a powerful reminder that an alternative system of structuring society is not only possible—it already exists.

#### ***6.1.2. The Scandinavian Model: Merging Social Welfare and Economic Growth***

It's usually Scandinavia—Norway, Sweden, Denmark, and Finland—that comes to mind when people are talking about functioning welfare states. One of the world's highest standards of living, highest quality of healthcare, and social security year after year, these countries do what no other countries can manage to do: they succeed in marrying socialist welfare policy with a

healthy market economy. They show that economic well-being and social justice need not be exclusive—they can support each other rather.

#### A. Constitutional Bases of Welfare in Scandinavia

Not socialist constitutions at all, but the Scandinavian constitutions closely tie social welfare to a fundamental state function:

- Sweden's Constitution emphasizes the state role in promoting equal opportunity and economic democracy.
- Denmark's Constitution requires government intervention in the provision of education, health care, and social welfare.
- Norway's Constitution has capitalistic orientations with far-reaching economic and social protection available to its populace that include universal health care as well as old-age pensions.

These constitutional promises are not merely rhetoric—these have been translated into actual policies that have given citizens quality public services. Most importantly, they demonstrate that there is no need to abandon free markets in a strong commitment to social welfare.

#### B. Progressive Taxation and Wealth Redistribution: A Sustainable Model

One of the biggest fears about socialist policies is: Who pays the tab? It's argued high tax rates stifle business activity. But Scandinavia had the last laugh—it pays for public social services with high but managed taxation.

Why can they get away with it?

- Public trust and transparency: People feel their taxes are money well spent and are less resentful.
- Burden of financing shared among people and businesses: Everyone contributes to the system, and no single group is disproportionately affected.
- Good governance: Successful governance eliminates corruption, which eliminates wastage and misappropriation of funds.

Compared to the nations where rampant taxation generates cynicism among the population and inefficiency<sup>33</sup>, the Scandinavian nations have achieved social harmony by ensuring that welfare schemes deliver true dividends without excessive red tape.

### C. Social Democracy and Full Socialism: Balancing the Middle Ground

Why Scandinavia has been successful lies in its social democracy, not full socialism. The distinction?

- Social democracy has a free-market economy but regulates it so that it won't become unequal.
- A majority of socialism is made up of state-owned businesses, so the economy is stagnant and inefficient.
- By striking a balance between both, Scandinavian countries are shielded from:
  - Economy inefficiencies through bureaucracy.
  - The vast disparities in unregulated capitalistic economies.
  - The model has been resilient, keeping social welfare from happening at the expense of economic progress.

The Scandinavian experience is so forceful a lesson: An ordered welfare state perturbs not an economy but settles one. By qualifying its citizens for healthcare, education, and economic security, the nations have built societies where social justice and economic productivity converge.

#### ***6.1.2. The Indian Model: A Constitutional Guarantee of Social Justice***

India's Constitution is perhaps the most self-consciously socialist-oriented on earth. It is nations in Scandinavia, whose existence has made the welfare state natural to the trajectory of government there, that have struggled with applying socialism in practice, and India, whose socialism ideals had to be fought out in developing actually enforceable legislation. The Directive Principles of State Policy (DPSP) are a social and economic justice blue print, and

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<sup>33</sup> Adverse impacts of over-taxation or inefficient taxation in some countries, where the people might not trust the state or feel that money is not being spent effectively from the taxes. That could lead to dissatisfaction, loss of people's confidence, and inefficiency of the public system.

their practice has been uneven—sometimes making real gains, sometimes being sabotaged by inefficiency and corruption.<sup>34</sup>

#### A. The Directive Principles: A Socialist Vision in a Mixed Economy

The Directive Principles of State Policy (DPSP) enumerate India's socialist vision for a mixed economy, namely:

- Equal distribution of wealth and resources so that economic inequality is avoided.
- Right to work, education, and relief from the public, securing all citizens.
- Workers' rights and fair wages, empowering workers to resist exploitation.
- State control of strategic industries in sectors identified as vital to the public interest.

While Fundamental Rights are enforceable under law—being strictly framed in the Constitution—the DPSPs are not legally enforceable—rather, they are policy-driven and moral. This leaves room for India to adopt socialist ideals but not leave capitalism altogether. But it also leaves social justice kind of up to political will—governments can pick and choose to adopt or overlook these values depending on what will advance their agenda.

#### B. Welfare Programs: Progress and Pitfalls

India has initiated some of the world's best welfare programs driven by its zeal for social justice in line with the Constitution. They include:

- Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) – A mammoth employment guarantee program placing tens of millions of agricultural laborers on the job, and eradicating poverty.
- Public Distribution System (PDS) – A food security program retailing subsidized food grains to tens of millions of poorer households.
- Ayushman Bharat – It is a program that provides universal coverage to more than 500 million individuals.

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<sup>34</sup> The DPSP envisions a society of economic and social justice where poverty must be eliminated, equality must be attained, and access to basic services such as education, health care, and employment must be ensured.

- They are the expressions of socialist ideology—They are to lift people out of poverty and safeguard them. But they are expressions of India's largest problems:
- Inefficiency and corruption – Money just vanishes because of leakages, wastage, and bureaucratic delays.
- Disproportionate access – The poorest citizens are not necessarily provided with the full benefit due to political discrimination, ignorance, or institutional exclusion.
- Political manipulation – Welfare interventions are frequently provided as populist poll mantras rather than long-term development strategies.
- India's experiment is an eye-opener that constitutional socialism alone cannot work—it must be supplemented by institutions of power, governance as transparency, and participatory citizenship if it is to work.
- Lessons from Other Welfare-Oriented Constitutional Systems

All over the world, nations have attempted to mix socialist ideologies and market economies, with mixed success. Their experiments are good lessons in what works and what does not.

#### A. Germany: The Social Market Economy

The second is the German model—neither capitalist nor socialist. True to its Grundgesetz (Basic Law), Germany's is a "social market economy" policy:

- Private enterprise is preserved but the state actively intervenes to prevent inequality being one-sided.
- Social security, universal health care, and free education provide minimum well-being to all citizens.
- Regulation of business and protection of labour balance the economy competitiveness and labour rights protection within a pool of labour stable.
- Success in Germany demonstrates the capacity of the welfare state to thrive but never mean the destruction of capitalism but rather needs sense regulation to share reasonably without curbing innovation.

#### B. The Nordic Model vs. Southern European Struggles

Whereas Nordic high-tax, high-welfare economies prospered, Greece, Spain, and Italy were devastated. Why?

- Debt crises – welfare spending without saving against economic crises meant welfare spending.
- Tax evasion and corruption – taxpayers' money was not adequately managed, which means welfare schemes were not necessarily designed as benefits in practice.
- Too much youth unemployment – Too restrictive labor laws deterred employers, and young people did not have sufficient opportunities.
- The horror is bleak: Socialist constitutional protection only succeeds when supplemented by economic viability and public trust.<sup>35</sup>

### ***6.1.3. Building Constitutional Socialism That Works***

If we step back and look at the case studies of all the nations that have managed to make constitutional socialism a genuine working reality—whether it is the Nordic nations, sections of Western Europe, or even the hybrid forms of the Global South—one thing is clear above all else: there is no blueprint. The successful nations don't treat socialism as a dogma. Rather than applying it as an abstract theory, they apply it as a living notion which must be moulded by their economy, history, values, and culture. They did not copy and cut theoretical abstractions—these countries listened, experimented, and molded their policies in terms of the real, practical needs of the people.

The greatest lesson that one can ever learn is that a commitment in a constitution means nothing unless action is pursued. To claim that healthcare, education, housing, or labor rights are secured in theory is not good enough. What matters is whether individuals can actually secure them in reality. And for that to be possible, there must be effective governance. That is not necessarily having the legal statute in place but also institutions that can provide services, hold leaders accountable, and maintain the system responsive to changing circumstances. In short, socialist benefits should be living realities, not utopian sentences in a constitution.

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<sup>35</sup> Nordic nations such as Sweden, Norway, and Denmark have comprehensive tax systems and controlled welfare economies that lead to economic growth and social stability. However, other nations such as Greece, Spain, and Italy have suffered from economic crisis even when using the same welfare economies. The question tries to provide an explanation as to why there are such differences.



Another valid remark is based on how good welfare states think about taxation and government expenditure. In most capitalist nations, even the threat of high taxation makes people afraid, angry, and even rebel. But in nations such as Sweden or Norway, taxation is an appeal, not a burden—people see it as their collective investment. Why? Because the public believes in the system. They get to see their own tax money come back to them in terms of good public schools, health care, family leave, pensions, safe highways and bridges, and a safety net during times of hardship. That transparency, accountability, and knowability where public money goes becomes a social compact. And when that is enforced, society is the better for it.<sup>36</sup>

Balance, though, is needed. Too much state control, and systems can become inefficient, bloated, or stagnant. Too little, and you're left with the unchecked inequality and social exclusion often seen in unregulated capitalist models. What the best systems demonstrate is that socialism doesn't have to mean stifling innovation or ambition. Indeed, properly done, constitutional socialism can promote opportunity—by stopping any child's potential from being squandered on poverty, or any elderly citizen from being left behind because of a "nonproductivity" label. Not to reward less, but to save brutality. Not to impose sameness, but to stop injustice.

But still, even the most beautifully designed system will collapse under corruption, cronyism, and political folly. We have learned—again and again—that socialism's worst foe is not capitalism but corruption at home. Welfare programs become farces if they are turned into tools of patronage, vote banks, or personal benefits. The instant citizens lose faith in the honesty and competence of government, even the most sophisticated socialist master plan gets the stigma of betrayal.

Ultimately, it is not ideology that determines whether constitutional socialism works or not, but execution. It's a question of attention to detail. It's a question of being values-based and flexible in method. It's a question of listening and turning when it's not working and not being afraid to try things out. The countries that succeeded weren't overnight sensations—and continue to

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<sup>36</sup> The cause-and-effect relationship of interdependence between public service provision and taxation makes a social contract feasible in the Nordic countries. Political personal effectiveness and political self-assurance are great, with the consequence team spirit such that citizens feel that their contribution yields actual dividends to society.

struggle—but their experience warns us that a more empathetic, more just society isn't just possible, but attainable.

What we need is a new generation of constitutional imagination—a generation which will not be bound by the old dichotomies of "left vs. right" or "state vs. market." What we need instead are constitutions that will have the courage to imagine a world where freedom and fairness, individuality and solidarity, efficiency and empathy can exist together at the same time.<sup>37</sup> Crafting constitutional socialism that works is not a utopian dream—it is a practical, ongoing effort to create systems that treat people not just as economic agents, but as human beings. And in that effort, we're all stakeholders.

## **6.2. Legal and policy innovation tipping the balance of the law and human behavior**

The heart of constitutional socialism is a daunting task: crafting laws that not only require policy, but also shape what people think, feel, and do. Law is more than a code of rules—it is a reflection of values, and occasionally a tool to shape or coerce a change in them. Socialistoriented institutions require more than blueprints to welfare economics or programs—require a change of heart wherein individuals believe they are not just responsible for themselves but for those around them too. It is here that innovations in law and policy step into the limelight.

### ***6.2.1. Nudging, Not Coercing: Behavioral Economics to Guide Legislation***

One of the most radical, even subversive, ideas in the new science of governing and legislating is from the least expected place—neither ideology, but psychology. The science of behavioral economics, that is, the science of how real people (not maximizers of traditional orthodoxy) actually make choices, has transformed policymakers' understanding of control and agency. Rather than compelling individuals to do something in a certain way by way of sanctions or legislation, governments are turning to "nudges" gently pushing individuals toward making improved choices without stripping them of their right of choice. This is not patronizing the

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<sup>37</sup> moving beyond traditional ideological dual oppositions, i.e., "market vs. state" or "right vs. left," and instead formulating a more general and complex idea of governance which attempts to harmonize individual liberty with common good. Such constitutional creativity attempts to make such values as fairness, freedom, solidarity, and compassion harmonize.

intelligence of people, nor does it imply that they are lazy or self-serving. Instead, it recognizes that human beings are more likely to be overwhelmed by choice, bogged down by routine, and driven by habit or intuition rather than sheer rationality. Nudging is where human beings actually are—and nudging them ever so gently toward wiser choices for the individual and, yes, the larger good.

Take traditional policy ground such as saving, exercise, or organ donation. Instead of having to change behavior, governments merely have to change the framing of the choice. The classic example is the Swedish shift from an opt-out to an opt-in organ donation system. Presenting donation as the norm, instead of the exception, increased take-up in a miraculous way. Nobody was coerced, no legislation was toughened. But people did act differently because the system caused the right thing to be the easy thing to do. The same with tax compliance in the UK, where a short riders on notice reminders for taxes—"9 out of 10 in your area pay their taxes on time"—was extremely successful as an enforcer of compliance. Why? Because people, even when they distrust authority, do not want to be the exception. These pushes employ the soft power of social norms, emotional resonance, and convenience. They succeed not because they're bombastic or coercive, but because they're familiar. They whisper, not scream—and every now and then that whisper is enormously more potent.

From a socialist constitutional ideal's viewpoint, this practice does, however, take on deeper meaning. Socialist systems are generally characterized as being over-formalized or top-heavy, reliant primarily on state controls and coercion. Behavior economics, though, offers a means of harmonizing socialist values like collective happiness, wage equality, and civic duty by linking them to individual liberty and respect. Nudges have been able to remove such vices as tax evasion or misuse of welfare payments without criminalizing the individuals by framing the right choice as the default. For instance, where a welfare program is framed so that it will renew automatically unless the beneficiaries choose otherwise, it enhances access and reduces stigma for the poor. Or, public housing schemes may have indirect incentives that cause residents to participate in community upkeep or educational events, not by threatening them or sermonizing to them, but through enticing visions, reminders, and community-sponsored activities. The result is a system that is cooperative and solidaristic but not at the expense of autonomy.

By its own nature, nudging is a statement of a better system of government—a government that is sensitive to the complexity of human life. It realizes that most humans do not need to be prodded in order to be great; they just need to be provided with an environment within which they could be influenced to desire so. And when it is crafted with empathy and intelligence, not just does it serve the good of everyone—it revives a sense of power, reminding citizens they are less policy subjects, but stakeholders in building their society. Nudging does not eliminate the necessity for laws, regulations, or sturdy institutions—but brings an art to government. It's human-facing government.

### ***6.2.3. Facilitating Civic Duty through Law***

In contemporary governance, increasingly it is realized that motivating citizens to pursue the good of all need not always be achieved through fear, sanction, or statute. At times citizens must be coaxed to believe that their efforts—however minor—are noticed and appreciated. It is where the idea of rewarding civic duty by law is useful as well as unutterably merciful. Compared to punishing not cooperating or indifference, it rewards such a system for good behavior.<sup>38</sup> Imagine a legal system where citizens or corporations are actually rewarded—tax credits, public recognition, qualification for specific subsidies, or even favorable treatment in government contracts—if they actually engage in socially desirable practices like environmental protection, education, or public health. These are not handouts; these are rewards for mutual obligation and for the contribution that every citizen can make toward a more just society.

This is not some theoretical idea—this is already being done throughout the world with great success. Take Germany, for example, where companies that invest in apprentice programs are literally being paid in cash. These companies are not just making money—these companies are building the future workers. The state does see that and rewards them accordingly. Or take the case of Brazil's BolsaFamília, a cash transfer initiative that gave financial support to poor households in return for keeping kids in school and immunized. This was not quite charity—this was a deal between the state and the people that packaged temporary economic relief with

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<sup>38</sup> In contemporary government, increasingly, it is realized that enjoining citizens to act in their collective good does not always have to be achieved through coercive fear, sanction, or law. Rather, sometimes citizens must be persuaded into believing that what they do, no matter the quantity, is noticed and cherished. It is where the reward of civic duty through law is as good as agonizingly beneficent. On the contrary, to deter indifference or non-cooperation, it punishes such a system for non-compliance.

sustainable national development. Parents could look after their children, and the state was enriched by a healthy population and one that was intellectually better endowed.<sup>39</sup> That's the kind of mechanisms which turn on their head legal systems that work as instruments of mutual reinforcement, where citizens and the state march in the same direction together.

#### ***6.2.4. Education Becomes a Tool for Constitutional Literacy and Compassion***

Education itself, more than anything else, is something greater than a path to a career or a way in which one advances further up the economic ladder—it is the intellectual and emotional potpourri in which future citizens are shaped. We will likely debate constitutional values as abstractions contested in some legal or political arena, but their true source is classrooms, hallways, and playgrounds. That is where children initially learn about systems of power, codes of justice, and the fine line between individual rights and group obligations. In countries that have been able to integrate welfare and equity into their very being, education is not considered a playing field—it's being used explicitly as a tool of constitutional consciousness. Not indoctrination, but experience—through the opening of schools in which equity, empathy, and civic responsibility are not only taught, but enacted daily.

Finland is living proof that it works. There, it is believed in education that there is no need for any child to be left behind—not cognitively, but emotionally or socially. Schools are not "good" and "bad"; money is given so that there is an even chance for every child, regardless of background. Private tutoring is discouraged in order to prevent money from giving undue advantage at school. Classrooms are where there is collaboration promoted, not competitive cutthroat attitude. Social-emotional learning also has a big role to play, where children are taught to identify their own and other people's feelings, listen actively, and employ peaceful conflict resolution methods. Teachers are so respected and well-trained, not because they devise most test scores, but because they are seen as human potential developers. In such a system, children grow up not just informed—but formed—as compassionate, socially aware individuals who see justice not as a distant legal concept, but as a lived daily responsibility.

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<sup>39</sup> This reinforces the twin agenda of the program—short-term relief for poor households and long-term benefits to the nation. For improved health and education performance, the program is seeking to achieve a more effective and efficient population that ultimately leads to national development.

If we're serious about building constitutional socialism that lasts, then education policy must be at the heart of legal reform. It is not enough to put civic studies as a pinched course between maths and science; civic participation needs to be woven into the entire learning process. That includes critical thinking, where young adults are able to question authority and understand institutions that control their lives. It is about battling for co-operation that resembles working life in the wider world, sex education that respects consent and conversation, and introduction from the beginning of the idea of public service—not punishment, but pride. Schools must be mini-societies of the kind we want to build: empathetic, open, rights-respecting, and justiceled. When children are brought up with the understanding of not only who and what they are, but more importantly, they are as democrats, then at last, the ideals of a constitution are not vacuous pabulum written on paper. They become reflex, habit, expectation. They become culture.

#### ***6.2.5. Building Open, Inclusive Forms of Governance***

Government trust can't be voluntary, though, if constitutional socialism—or indeed any collective well-being-based system—is to exist at all. Citizens need to feel the state not as this amorphous power exercising choice over them, but as a representation of their collective will. Trust like that isn't built on promises or slogans—it is built on participation.<sup>40</sup> If the citizens are brought into action when creating the policies that govern their day-to-day lives, government is no longer feasible as a machine but is instead a community now. Participatory ones such as assemblies of citizens, people's open budgeting, and open digital platforms are therefore not administrative processes by any means—these are lines of life for democracy. They are informing the people that they matter, that their voice matters, and that government is being done unto them but with them also.

Consider the example of Porto Alegre in Brazil, so highly spoken of as a success in participatory government. The city was brought to the pages of history when participatory budgeting was implemented here, where not just politicians, but ordinary citizens also got to have a say in how the pie slices of the municipal budget were to be used. There were community gatherings, open priority-setting, and funds to be decided by vote among the very people themselves. Of course,

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<sup>40</sup> This emphasizes the point that the state needs to be perceived by its citizens not as a separate, coercive institution but as an expression of its peoples' shared interests and values. This perception creates the impression that the state is not above individuals but one among individuals established to act on their behalf.

the result was historic. Underdeveloped and neglected districts now possessed better infrastructure, cleaner public spaces, and more attentive services. But even more deeply, relationships between individuals and the state were altered—citizens came to regard government as a partner, rather than a master. That is not only smart policy; it's cultural change.

Taiwan is also a cyber democracy model, with the government knocking down doors to the populace through electronic portals. Citizens can provide feedback on bills being considered, suggest, and follow how their suggestions impact end decisions. There is a culture of responsibility and pressure that doesn't come with conventional forms of governance. When government can engage directly with the public in open, public forums, it eliminates the distance between governors and governed. It encourages active engagement rather than passive scorn. These models, if used honestly and fairly, can cause citizens to feel that their democratic voice is much stronger than the sporadic voting every two or three years. They know they are stakeholders in the process of government on a day-to-day basis.<sup>41</sup>

Ultimately, these models teach us that if a welfare state is going to be popular and accepted, it must be felt by individuals in their lives—not simply in benefits issued out, but in voices being heard. Legal systems are not just capable of promising rights on paper, but also have to provide accessible means through which agency can be exerted. Participatory institutions have the potential to be affective bond between citizenry and constitution—alienation turned around into belonging, suspicion into solidarity. With it, governing is not a service or a responsibility—it is one based on mutual respect, shared responsibility, and the very human desire to be part of something that affirms and reflects who we are.

#### ***6.2.6. Legal Legitimation of Emerging New Work and Contribution***

In a world where the economy is changing faster than laws that are meant to shape it, most individuals are slipping through the net—not because they are not giving, but because the system is unable to legitimate their contribution as legal. The old-fashioned work arrangements—pensioned, benefit-granting, contract-referenced nine-to-fives—don't cover the entire picture of how people are living and working in society. Unpaid care workers, stay-

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<sup>41</sup> The observation is that the type of public opinion and instigation of citizen involvement in the sort of system as Taiwan, that is with its extremely high citizen-government shared sense of responsibility level, creates. Instantaneous feedback loop makes negligible pressure on the government to account in comparison with those traditional ones which reply after some lag between people participation and state response.

athome parents, gig workers, digital creatives and street-level workers—the 21st-century workforce is diverse, on the move, and often out of reach of the law. If a constitution is to be a constitution of justice, equity, and dignity for all, then it will have to recognize and protect all types of work—not only the ones that can be neatly categorized.

Consider, for example, the ancient world of care work, which women do largely. For decades now, feminist legal scholars and feminist activists have been trying to get law systems to recognize the tremendous value of unpaid household work—home maintenance, child-rearing, elder care. These activities keep economies and societies together but are frequently not counted in social security, pension schemes, or health care. Invisibility translates into economic **vulnerability** for millions of women across the world. Several countries, including Germany and Sweden, have begun granting pension credits to caregivers, a recognition that labor done from the nursing home or home is just as valuable as work completed from the office cubicle. It's not perhaps enlightened policy—but it is legislation guaranteeing worth and dignity begin and end but not at the office door.

Similarly, the gig economy created a behemoth <sup>42</sup>, nimble army of app-connected drivers, freelancers, delivery workers, and cyber workers who labor beyond the boundaries of traditional employment contracts. Open to employment as they might be, such jobs expose workers to exploitation: no shield against minimum wage, no health coverage, no job security. They're employees, full stop, but treated far too frequently as "independent contractors" in an attempt to keep them from labor rights. Spain and the Netherlands are now treating gig workers as employees and compelling firms like Uber or Deliveroo to pay them proper wages and benefits. India followed suit with a social security code for gig workers. But if constitutional socialism is ever to be more than a lot of grand words, then this change must occur at a broader and more coercive scale—not merely in policy, but in law.

Re-defining work in law is re-defining who matters in a society. When the law eventually catches up with what people are actually doing—whether that is coding a computer in a village, looking after a disabled brother or sister, or delivering groceries during a pandemic—then the

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<sup>42</sup> The gig economy has constructed a huge and liquid army of app-based drivers, freelancers, and other nontraditional workers who are not payroll employees. They are often deprived of all types of protection and benefits of work under conventional labor laws and hence vulnerable to exploitation. They are exploited many times as independent contractors and hence get no minimum wage, healthcare insurance, or employment security while they undertake work that is critical to the economy.



constitution stops being an abstract document and starts to become a mirror that reflects real lives. Here, the law is no longer so much a steel framework but so much a living, breathing membership institution. It acknowledges that all who contribute to the social and economic fabric are deserving of dignity, to be heard and to be protected—not just the traditionally employed. And in that manner, it makes one of the strongest arguments of constitutional socialism: that nobody is ignored because their work doesn't appear traditional.

#### ***6.2.7. In Conclusion:***

Policy and law innovations are not simply tools of rule—They are the portal of transition between what people are and what a civilization strives to be. In their best moments, laws do not only rule—but they guide, they motivate, they summon forth. They acknowledge that human beings are complicated: not always rational, not always selfless, sometimes moved by passion, fear, habit, or circumstance. And yet human beings might be infinitely generous, flexible, and cooperative—if they have institutions that render those choices look natural, rightly motivated, and attractive.

And this is where wise constitutional design enters as an issue of urgent concern. Rather than punishing mistakes or looking for saints, an equitable system of laws greets people where they find themselves—starving, to convince, rather than demanding, rewarding instead of condemning. It recognizes the habits of people as hard to break and that sometimes citizens need a bit of shove, a bit of trust from their institutions, before they will act in the best interest of all. Whether you do it by counting unpaid care work as real work, or involving citizens in the drafting of the budget, or in making the school a school of learning empathy as much as maths—these are not small changes. These are waves of respect. They tell the citizen: you matter, your choices matter, and your presence is taken into account in this wider democratic imagination.

Finally, getting constitutional socialism to work isn't about imposing utopia on the world—it's about redefining reality in a manner that feels fair, looks fair, and works with compassion. It's not about passing laws that benefit only the ideal citizen, but the less-than-ideal one—the harried mom, the exploited gig worker, the disillusioned teen, the introverted caregiver. When law finally catches up with life and all its dirt and glory, then law no longer is a book of rules, but something else—a social compact that is lived-in, intimate, and contested. And that's how

constitutional ideals no longer become paper promises, but more something that people carry in their choices, in their communities, and in their daily acts of solidarity.

### **6.3 Strategies to overcome resistance and attain inclusivity**

Making constitutional socialism work is not merely a matter of grand plans or ideals—it's also a matter of addressing actual resistance. Human beings are resistant to change for all sorts of reasons: fear of loss, distrust of institutions, cultural conservatism, or historical trauma associated with political systems. If social welfare policies are to be inclusive and succeed, governments need to recognize this resistance and overcome it with empathy, imagination, and determination.

Among the most crucial methods of overcoming resistance and making socialist ideals inclusive, accessible, and popular among the masses are:

#### ***6.3.1. Building Trust through Openness and Dialogue***

Trust is at the very heart of all effective welfare states—not least a constitutional socialist one. Trust cannot be legislated or enforced. Trust is a virtue cultivated by effort and deliberate design through gestures of openness, participation, and humility. Socialism for most of the world still retains the stains of its past guises—visions of totalitarianism, economic collapse, or suffocating bureaucracy. To others, the term itself is not justice, is not compassion—it is fear. And that is one thing which cannot be talked out of the picture by policy briefs or fact. What most of the people need is not so much reassuring—it is that they have to be brought into the process.

And so open policymaking counts. When the people know that government is open and honest with them about how it is making its decisions, how it is distributing the welfare cash, and what tangible results they can expect to see, what happens is loud and clear message: we've got nothing to hide. The public not only should be able to view the "what" of public policy, but also the "why" and the "how." They must know whom the policy is helping, who is accountable, and how they can assist in bringing about those outcomes. Public hearings, listening sessions, and participatory decision-making are not democratic rituals—sentiment indulgences. They tell citizens: you are part of this process; your voice matters. Though not all proposals make it into the final paper, the fact that a proposal is sought turns skepticism into guarded optimism.

The one most de-escalating aggressive step any government can take is to admit where it has already been making errors. Governments far too often attempt to mask their mistakes by immersing them in weakness and not in potential for learning. But candor, as elusive as it is in politics, is attractive <sup>43</sup> . When pols admit wrongs of the past and candidly discuss how procedures currently in place have been refined, it makes the whole machinery of government seem more human. People do not demand perfection—but they desire honesty. And if a government says, okay, we used to do it wrong, but now we're doing it right—and we may need your help, it sets the stage for real trust. Because ultimately, trust isn't a product of policy—it's a product of relationship. And relationships start with listening. They start when people feel heard, respected, and invited in. When citizens feel themselves represented in what's being decided, not as recipients of handouts, but as actors in justice, then fear begins to dissipate. And where fear previously resided, there develops a new form of loyalty: one based not on ideology, but on common humanity.

### ***6.3.2. Retrieving the Story: Socialism as Solidarity, Not Control***

Socialism is a connotative term. Wherever it has been used—redesignated as the synonym for government interference, lack of initiative, or penalizing success. But socialism in fact—particularly of the kind rooted in constitutional democracies—is not about controlling. It's about being taken care of. It's about acknowledging that no one gets here alone, and that a healthy, good life is not an entitlement for the privileged few. If we are to rally support for this vision, we must break from the practice of lecturing ideology and instead speak in terms of human beings.

- Speak from experience, not theory.

Don't begin with party slogans—begin with the dream of that individual mum who was able to sleep unbroken for the first time because her child was covered by universal healthcare. Speak to the gig worker who is now able to afford a hospital bed because of a guaranteed minimum income, or to that elderly man who can eat and not have to decide on medicine any more under a pension scheme. When human beings hear live

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<sup>43</sup> Honesty and transparency are traits that everyone respects highly, especially for politicians. While spin and dishonesty are associated with politics, governments that confess their previous mistakes and current flaws are seen as more relatable and credible.

voices, they know. They become real. And behold, these policies don't sound so dry thing-it's personal.

- Rewrite it not as "socialism" but as wise, common humanity. Say community care, say future-proofing society, say putting money into people. Language is powerful. Ditch the jargon with the scent of partisanship or ideology. Drop "redistribution" and substitute it with the lexicon of fairness. Drop "wealth tax" and substitute it with the lexicon of everyone putting in what they can afford. These are not "leftist" tenets—plain common sense in a nation convinced that everybody ought to get a chance.
- Transform the culture, not merely the policy. Employ schools, media, art, and popular culture to make solidarity commonplace. Children should be taught up with not only mathematics, but with compassion—viewing looking out for others as not charity, but integrity. Design public campaigns illustrating how us collectively getting it done creates stronger communities, not weaker individuals. Make music, television programs, and community leaders remind us that helping each other up is not stupidity—it's bravery. It's fortitude.
- Identify the values. People already believe in them. Most people believe in fairness. In second chances. In dignity for the old and hope for the young. But they resist the word “socialism” because they associate it with something alien or imposed. Strip away the label, and you’ll often find that people already live these values. They help neighbors during floods. They donate to food drives. They struggle for schools for their children. The job of story-telling isn't to seed new ideas—it's to show people that they already possess values and that they're on the side of the system you're building.

Humanized insight: People aren't struggling with empathy—they're struggling with feeling manipulated or misunderstood. If you talk to them in their language, about their culture, and from their ordinary life, you'll find they're not enemies of social justice. They're already its uncelebrated, unsung allies. Your job is to challenge them to pay attention.

#### **6.3.4. *Inclusive Design: Policies that Value Diversity of Needs***

Policies will come up short not because they're poorly thought out, but because they're based on an ideal "average citizen"—who doesn't exist. Real citizens are diverse in every way: in body, identity, opportunity, and circumstance. Real inclusion is about designing with, not around, this diversity.

- Reflect solidarity with structurally marginalized groups.  
Offer concrete proposals to displaced Aboriginal countries, single mothers coordinating unpaid care work, or LGBTQ citizens routinely barred from heteronormative familybased welfare mechanisms. Support must be attuned to lived lives, not checked boxes in demographics.<sup>44</sup>
- Make policy-making participatory, not performative.  
Enfranchise outpaces communities to co-create policy. Representation on vetting bodies that vet, vet, and put into place guarantees policies aren't merely "in" them—they're created by and for them. Hearing as a founding principle, not an add-on.
- Provide space for context-responsive flexibility.  
A plan for housing introduced in a flood-prone town may be inappropriate in a village in the desert. National programs must allow free reins to local direction, and it will be executed by local authorities based on regional circumstances, local culture, and risk.

Inclusion is not a luxury reserved for the privileged. It is a demonstration of structural justice. Everyone starts somewhere else. Equality does not imply pulling everyone up at the same speed—it implies offering each one what they need to run their own race.

#### **6.3.5. *Inclusion is a Process, Not a Policy***

Inclusion is not something you put into a constitution and never speak of it again. It is not a tick or a line on a piece of legislation—it's a living, breathing process. It involves constant listening, learning, flexibility, and most importantly, feeling. Actual inclusivity requires that governments put aside rhetoric about enforcement and move into the softer, more richly textured areas of trust, empathy, and cultural transformation. It requires that governments

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<sup>44</sup> "Intersectionality" by Kimberlé Crenshaw: This is an early criticism of intersectional oppression and identity and it's an exemplar of how to think through how policies might better address various experiences.

recognize resistance isn't rejection itself—it's fear, confusion, or burnout with centuries of exclusion and broken promises.

Inclusion essentially isn't something that the state does to or for people; it's whether people feel they're seen in the system. That requires policy to be at the people's speed whom it is attempting to serve—not bureaucratic speed. It is about getting people to work helping to develop policies, not merely to obey them. It is about candor about old pain and leveraging that candor to tear down walls, not build them. And perhaps above all, it is about recalling that human beings long to belong, not just to be. When the state speaks to their dignity, they are responded to—not out of duty, but out of belonging.

Laws indeed open the gates of justice, but crossing through them must be born of a sense of security, solidarity, and shared ownership. Constitutional socialism, if grounded in imagination, adaptability, and the everyday realities of human existence, is no longer top-down theory. It becomes common morality—a lived, felt, and shared way of being. And that's when change begins. Not in grandiose declarations, but in tiny, but substantial changes where policy and compassion meet.

## VII. CONSTITUTIONAL DESIGN FOR SOCIALIST IDEALS

### 7.1. Sugestions for constitution-making to connect socialism and individual rights.

#### 7.1.2. *The Quest for Harmony in Constitutional Design*

A constitution is not a catalog of laws; it is the blood and sinew of a people. It is an account of society, its mores, and a vision for the future. Placed into this charter document socialistic philosophy, our labor now begins in earnest. It's not an issue of stealing wealth or enlarging the government; it's an issue of building a society where justice and dignity for everyone, not simply for some preferred elite, are established. And all this must be accomplished without infringing upon individual liberty, stifling enterprise, or chaining the state too tightly to controls—measures which would run directly counter to what socialism exists to defend.

As it stands, socialism aims for a just and equitable society to the degree of sharing wealth, power, and opportunity. Experience has taught us, however, that whenever ideals like these are implemented strictly—whatever the rights of the people or the promise of economic opportunity—there is the danger of falling into inefficiency, stagnation, or worst of all, persecution. Unfettered capitalism, if applied to constitutional controls, can lead to extreme inequalities where the provision of needs is considered a privilege rather than a right. The actual challenge lies in designing a constitutional system in which social justice and individual liberty can coexist and complement one another.

A proper socialist constitution should be better than a pretentious manifesto; it should be a plan of action to build an equitable society. It should enshrine social security, health, education, and good wages as universal human rights and give democratic citizenship, freedom of expression, and economic opportunity. These successful Nordic models demonstrate that socialist values and personal liberty can co-exist side by side if policies are well conceived, open, and attuned to the will of the people.<sup>45</sup>

#### 7.1.2. *Defining the State's Role in Promoting Social and Economic Justice*

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<sup>45</sup> "The Nordic Model: A Historical Reinterpretation" by Michael W. Huddleson: This is an in-depth examination of the Nordic model, its history, and how it manages to balance socialist theory and personal freedom.

This compromise constitution inspired by socialism would be compelled hard to promote the state function of promoting economic and social justice. The state must continue to be the initiator of public welfare so that no one is a have or a have-not, but in no way should the state be an all-knowing, omnificent state with economic life dominating everything absolutely.

Lessons learned from fallen socialist countries, such as the Soviet Union, are that overcentralization has led to inefficiency, corruption, and detachment from people's true needs. However, those nations that have been able to unite socialist ideals—such as Sweden and Norway—have taken a mixed approach. They have maintained active public control of the essential services (such as healthcare and transportation), firm labor protection and high social expenditure with room for private enterprise and entrepreneurialism.

Decentralized government will probably be the most crucial ingredient to prevent overcentralization in constitutional design. Instead of having everything controlled by a federal government, municipalities, cooperatives, and people's organizations should have fiscal and legal autonomy so that they can participate in economic and social policymaking. Policies will therefore be designed for local concerns and not imposed top-down.<sup>46</sup>

Under a socialist constitutional order, the state needs to perform a series of fundamental functions:

- Provider: Providing access to health care, education, decent wages, and shelter as human rights.
- Regulator: Providing decent wages, good work processes, and ecology conservation.
- Facilitator: Providing a context in which people can thrive, rather than wealth transfer.

A proper socialist constitution may not seek to eliminate markets but redirect them towards the general good, as opposed to personal gain.

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<sup>46</sup> Decentralized government implies that choices are kept as near to neighborhood communities as possible and in their own best interests, without leaving the central command to foist general solutions on heterogeneous groups. "The Spirit of Democracy: The Struggle to Build Free Societies Throughout the World" by Larry Diamond: In this work, the necessity of decentralization of the government to promote democratic participation and popular self-government is discussed.



### ***7.1.3. Protecting Individual Liberties in a Socialist Framework***

One of the strongest criticisms that have been leveled at socialist governments is that they compromise individual freedom at times in the name of collective welfare. Nevertheless, a reflection socialist constitution cannot do this. Social justice must not restrict freedom but should instead promote it.

History teaches us that whenever governments suppress dissent in the name of social equality, it ultimately results in not justice but oppression. A genuinely democratic socialist constitution must protect political freedoms like freedom of speech, freedom of the press, and freedom to organize. Freedom to criticize those who are in power is essential, not just for democracy but also for socialism, so that those in power remain accountable to the people they are governing.

But let us not forget that freedom is greater than political freedom. Economic security is a precious element of true liberty:

- Freedom from hunger.
- Freedom from undiagnosed disease.
- Freedom from economic insecurity.

If one cannot access healthcare, education, or a living wage, can we honestly say that they are free? Thus, a socialist constitution needs to expand our understanding of freedom in such a way that all people have the basic means required in order to lead a decent life.

Key constitutional guarantees should include:

- Universal right to healthcare, and not a privilege.
- Free, universal education of high quality.
- Labour rights, including fair wages, reasonable hours, and union rights.
- A social safety net which avoids abject poverty.

### ***7.1.4. Economic Rights: Property, Redistribution, and Workers' Control***

At its very heart, constitutional socialism revolves around a profoundly personal, and contentious question: what is it to own? To some, to own is liberty—the liberty to save for the future, to leave something for children, to build a life with some sense of security. To others, to

those who have long been disenfranchised from ownership, property is injustice, a tool that insulates the few from the many. In building a socialist-influenced constitution, the challenge is one of reframing economic rights not merely as legal entitlements but as moral obligations—to have ownership be for dignity, and not domination.

Capitalist economies in their classical senses place private property on an altar. It is the product of enterprise and toil, something that reflects achievement in a meritocracy. But we also know—historically, in our daily experience—about the game being never ever level for all. Colonial land grabbing, exclusionary housing, exploitative labour relations, and inherited riches are all examples concerning us that the majority of regimes of property do have profound, unfair origins. Socialist constitutional philosophy resists it, not so much asking who owns whom but how they ended up owning it, and if it benefits the whole society or just a favored class<sup>47</sup>.

This is where redistribution stops being an economic term—it's a moral one. It's not paying off the poor or creating dependency, but recognizing that the rich are too often built on common infrastructure: public transport, education systems, public health, and natural resources. If society makes prosperity possible, then prosperity pays back. Redistribution, well done, is not a handout—it's an investment dividend. Progressive taxation, universal education and health care, subsidized housing—these are not luxuries in a socialist nation; they are recognition of the social contract based on the ideals that no man should rise to prominence by placing another man's back beneath his feet.

But the redistribution argument takes too often entirely too little account of fear—fear of government in general, and then fear of excess on the distributional axis. Total state domination of property and businesses, as under a few totalitarian governments, has sometimes led to stultification, uninnovation, and even corruption. People want to contribute voluntarily, to work, to innovate, to compete—and removing all incentive from that can kill human potential. The aim, therefore, is not to abolish private property, but to render it non-exploitative and non-restrictive. Socialism is not anti-property—it's anti-oppression by property.

Arguably most extreme response to this crisis has been the rise of worker control and democratic ownership. Instead of viewing workers as cog cogs in a machine generating profit,

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<sup>47</sup> Bhattacharya, Tithi. "Social Reproduction Theory." In *Social Reproduction Theory: Remapping Class, Recentring Oppression* (2017). This is the handling of systems of ownership, its socio-historical contexts, the approach that is the core of socialist feminist theory.

socialist constitutions and policies can sell them as decision-makers and co-owners. Workerowned cooperatives, for example, aren't just fairer—they're more efficient and resilient. When people have something on the line in their work—when voice matters and work has value—they labor not out of duress or coercion, but out of meaning and belonging<sup>50</sup>. It changes the emotional landscape of work from alienation to empowerment.

In Germany's co-determination system, employees have formal representation on boards of directors. In Mondragon, Spain, one of the world's largest cooperatives operates on equalitarian salary scales and worker participation. In India, Article 43A of the constitution—the provision for making it obligatory for the state to make arrangements for participation of workers in management of the industry—represents the same idea<sup>48</sup>. These are not utopias; these are working examples of economic democracy, keeping in mind that ownership and control do not need to be the exclusive preserve in order to work efficiently.

But the cultural meaning of private property runs deep. It is part of identity, tradition, and personal hope. Citizens won't give it up, especially if taken by tyrannical or corrupting governments. To that degree, any socialist constitution will need to be highly attuned to such fears. It will need to earn trust through being transparent, democratic, and of unflinching commitment to economic fairness and personal freedom.

Lastly, economic rights must be grounded in a moral vision for society. Such a world in which no child ever goes hungry while mansions stand empty. Where land is not stockpiled, but plowed. Where work is not drudgery but dignity. Where wealth is not worshipped but shared. Where property is not abolished but redirected. Redistribution is not resented but celebrated. And work control is diffused, but not centralized.

This isn't economics—it's a decision about what kind of people we want to be. About what we owe one another. About what it means to belong, not to an economic framework, but to a society with the conviction that all human beings are worth having security, opportunity, and voice. Constitutional socialism, properly executed, doesn't take away freedoms—it creates a system in which more people actually get to enjoy them.

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<sup>48</sup> Constitution of India, Article 43A, accessed April 14, 2025,

[https://www.constitutionofindia.net/constitution\\_of\\_india/fundamental\\_rights/part\\_4a](https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/part_4a).

### ***7.1.5. Strengthening Democratic Participation***

Historically, all socialist governments have been marred by authoritarianism, which discredited the centralized power and its inefficiencies and, ultimately, lost its socialist nature. In order to circumvent these failings, a real socialist constitution must place highest emphasis on democracy so that there is no other power than people's power in the political setup.

Some key mechanisms can bring about a great change in making it democratic socialism are:

- **Participatory Governance:** This entails creating space for citizen assemblies, worker cooperatives, and local councils in which all the stakeholders have a say in decisionmaking. If citizens have direct control over the policy that impacts their lives, democracy is strengthened.
- **Anti-Corruption Protections:** The initiation of such measures as term limits, an independent judiciary, and transparency laws is crucial to holding power accountable and reducing the danger of corruption.
- **Freedom to Organize Politics:** Everyone should be able to organize opposition movements and parties without fear of oppression. A functioning democracy relies on many voices and opinions.<sup>49</sup>

### ***7.1.6. A Blueprint for Justice and Freedom***

A socialist constitution in essence is not a device for dominating people—it's a device for freeing people. It's not a question of constructing society as this monolithic entity that suppresses the voice of the individual. No, it's a question of providing every voice with a chance to be heard. For what's freedom of speech worth when hunger closes your lips? What's the worth of the vote if you can't even pay for the bus fare to the polling booth? What's the worth of freedom for every individual if the decisions you make are based on desperation rather than desire?

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<sup>49</sup> United Nations Human Rights Office, “The Right to Freedom of Assembly and of Association,” accessed April 14, 2025, <https://www.ohchr.org>.

A well-crafted socialist constitution isn't attempting to squelch personal ambition or murder creativity. It reframes ambition for what it can be when it's founded on everyone's success, not everyone's escape. It builds a world where rather than asking "how do I make it?", you ask "how do we all make it together?" Because true freedom isn't merely the power to act freely—it's the power to live freely. Free from the fear of being homeless, of being ill, of being one step from ruin."<sup>50</sup>

A just constitution recognizes that those are political choices, not individual failing. And we can choose otherwise. True socialism doesn't enlist all of humankind into the same—instead, it refines each human being's distinctiveness by precluding arbitrary accident of birth from determinating the course of a life. It knows that the son of the street vendor in Mumbai and the son of the billionaire in New York are both worthy of clean water, quality education, and having the freedom to dream. Not as charity, but as justice.

It's not advantaging the privileged. It's about not entrenching privilege as a birthright of the few.

A socialist constitution, then, is a living commitment—not a fixed contract, but a blueprint that evolves to its people. It will have to be firm in upholding rights, but flexible enough to respond to changing social, cultural, and economic situations. It will have to be protected from the tyranny of unbridled markets and the strangulation of crushing state control. Between them is a new kind of power—not of oppression but of elevation.

First and foremost, though, is this reminder: freedom and justice are not opposites—one is their common friend. Their existence can't be experienced without the other's. You can't build an actual free society when millions are locked in unseen shackles of poverty, in discrimination, in institutional disregard. And you can't build an actually just society under pressure or autocracy in the name of equality. The job of constitutional socialism is to tread that thin wire with humility and practical wisdom, always aware of the real, unpretty, glorious lives of people it serves.

This vision also requires a more profound reckoning with our common humanity. It requires us to no longer view success as a ladder with one individual at the summit, but to begin viewing it as a garden—where all flourish when the roots are deep and the earth is fertile. Access to health care, living wages, shelter, and education—these are not privileges or gifts of mercy

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<sup>50</sup> Gorz, André. *Reclaiming Work: Resisting the Wage-Led Society* Polity Press, 1999.

from a gracious state. They are the minimum requirements of a decent society, the foundation upon which real individual liberty can be built.

And so the real goal of constitutional socialism is not equality. It is empowerment. It is becoming strong so that everyone can climb their own ladder, to be a member of society not because they have been coerced or compelled, but because they feel a sense of dignity and purpose. It is organizing life so that human beings are not just getting through it, but thriving with shelter, voice, and control over themselves. A good constitution does not tell human beings how to live—it keeps the way open so that they may choose for themselves, with perfect freedom and perfect guidance.

This is not a distant vision. We have glimpsed it here and there—among cooperatives that share ownership and power with workers, in countries where taxation funds cradle-to-grave security without crushing innovation,<sup>51</sup> among movements where dignity is asserted not only for the privileged few, but for the forgotten, the marginal, and the discarded.<sup>55</sup> These are not utopias—they are invitations. They demonstrate what can be achieved when we begin with the assumption that people are worth more than profit.

A map to freedom and justice does not need to be perfect—it simply needs to be able to learn, to develop, to care enough about the people it is attempting to free to keep them safe. It has to begin as a question: not "what do we owe the state?" but "what do we owe each other?" In that answer is the very essence of socialism—not as dogma, but as an enduring and irreversible commitment of human solidarity.

## **7.2. Mechanisms for adaptability across diverse socio-economic and cultural contexts**

### ***7.2.1. The Need for Flexibility in Constitutional Design***

Imagine a constitution as the backbone of a nation. It's supposed to be supportive and provide form, but like our bodies, it must be flexible enough to flex with us as we develop and transform. Cultures change, economies boom and bust, and intellectual thought in society changes over time. If a constitution fails to evolve and become pliable, rather than staying hard in its assumptions, then it becomes outdated or worse, tyrannical. That's particularly so when applying socialist principles to constitutional law—flexibility is not an objective; it's a

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<sup>51</sup> Esping-Andersen, Gøsta. *The Three Worlds of Welfare Capitalism*. Princeton University Press, 1990. <sup>55</sup> Fraser, Nancy. *Justice Interruptus: Critical Reflections on the "Postsocialist" Condition*. Routledge, 1997

necessity. There is no template for socialism; every nation has a history, economic realities, and social norms that must be considered.<sup>56</sup>

A well-respected socialist constitution should be capable of striking an appropriate balance between stability and flexibility. It should have basic values like the common good and social justice but should be willing to change according to different tastes of different generations. A very strict constitution will deprive reform that is necessary. A loose constitution, on the other hand, can be hijacked by the ruling forces. The real challenge is to create an architecture that adheres to its core principles but is accommodating enough to accommodate the realities of an ever-changing world.

### ***7.2.2. Legal and Institutional Mechanisms for Constitutional Flexibility***

One of the means by which an adjustment is possible is by the existence of a solid procedure for amendment. Most constitutions discourage amendments by making changes difficult to achieve, requiring gargantuan political consensus, and therefore causing stagnation.<sup>52</sup> The other authoritarian regimes, however, alter their constitutions as well, but inappropriately, therefore allowing the powers that be to remain in power. A more balanced approach would be periodic review of the constitution—perhaps every ten or twenty years—when theorists, policymakers, and citizens sit down to determine whether the constitution is still good enough for the people.

Judicial interpretation is also a vital element. The courts ought to be mandated to interpret constitutional provisions in the light of contemporary challenges. But this role should be ensured not to be exercised on a political-bias-prone basis. A judiciously constituted panel of judges voted to a constitutional court can guarantee that the constitution is not continuously amended but, rather, is periodically modified.

Decentralization is also required. No countries are ever economically and socially homogeneous—some parts of them have different needs and customs. A socialist constitution

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<sup>52</sup> Elster, Jon. *Ulysses Unbound: Studies in Rationality, Precommitment, and Constraints*. Cambridge University Press, 2000. This is the event in which Elster talks about how constitutions that are hard to amend lead to stagnation and an inability to adjust to changing circumstances.

should be elastic for differences at a regional level, as long as governmental institutions are adjusted to regional conditions. For instance, healthcare can be an inalienable right, but its implementation can differ from region to region. That is something that is dependent on regional resources and regional populations. This way avoids socialist measures from being felt as something coercive and permits them to be adjusted based on the inherent characteristics of different societies.

### ***7.2.3. Economic Adaptability: Responding to Market Changes and Globalization***

One of the most common objections to socialist economies is that socialist economies are rigid to change in the market, and this leads to inefficiency. A socialist constitution must not fall into this trap by prescribing principles that are economically flexible but also ensure social protection.

- **Dynamic Economic Policies:** The government should be able to respond to taxation, labor policy, and public services as the economy is in flux and social justice should be an option available even during times of flux.
- **Dual Economic Systems:** While a large sector like health and a transport sector can remain public, there should also be an existence with room for private enterprise, worker cooperatives, and small business so that they do not become monopolies and promote innovativeness.<sup>53</sup>
- **Adaptive Safety Nets:** Technological change, inflation, and economic recessions can bring about instability. A socialist constitution must incorporate provisions for welfare which contract or expand as a function of economic performance to ensure the safety of citizens without encouraging over-bureaucracy.

The Nordic model is a good example of the compatibility of socialist theory with economic flexibility. Sweden and Denmark, for instance, demonstrate that well-organized welfare

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<sup>53</sup> Andreas Hein, Claus Frelle-Petersen, and Mathias Christiansen, "The Nordic Social Welfare Model: Lessons for Reform," Deloitte Insights, April 20, 2020.



institutions do not at all contradict flexible markets and private enterprise and that socialist ideology can indeed survive without being at the expense of economic growth.

#### ***7.2.4. Cultural Adaptability: Honoring Diversity and Local Traditions***

When someone hears the term socialism, they instantly picture collectivism, but in reality, it turns out to be something quite different in multicultural societies. There exist cultures with long histories of communal work and habitation, while others emphasize individual effort and initiative at all costs. Whatever socialist constitution is envisaged, it must respect and value such differences rather than try to fit a model.

- **Embracing Pluralism:** We need to accept indigenous systems of government, religious beliefs, and local traditions in our constitution. This will enable us to make sure that socialism can exist with the cultural values of different communities, rather than a onesize-fits-all solution.
- **Inclusive Decision-Making :** Marginalized communities and minority groups must be included in the formulation of socialist policies. This avoids the imposition of top-down policies that do not take into account the richness of diverse perspectives in society.
- **Localized Welfare Programs :** Instead of enforcing uniform welfare policies, municipal governments must deal with local organizations and cooperatives to create social programs that would address the distinct needs of an individual community.

Take the case of India, for example. The nation's Directive Principles of State Policy are socialist-oriented but also cognizant of its rich diversity of cultures. Similarly, the Bolivian constitution has indigenous roots so that economic and social policies resonate with the local area.

#### ***7.2.5. Social Adaptability: Adjusting to Changing Political Attitudes***

Above all, something that any constitution, especially one based on socialist principles, can be sure of is that it will have to be flexible. People are. Governments too. Political opinions ride the waves of economic recessions and booms, cultural tolerance, generational values, and now

and again simply boredom with what is going on. What is radical and essential in one generation may be stale or even oppressive in another. A socialist constitution, however, ought not to be chiseled in unchangeable stone but written in living memory and capable of modifying itself to the shifting emotional and intellectual landscape of its citizens.

Socialism, particularly if it is legislated, will be guaranteed to generate resentment and hostility—not because people dislike fairness or justice, but because they fear they will be losing freedom, choice, uniqueness. Some will, in the end, acquiesce in the idea of broad safety nets and public welfare; others will resist, fearing intrusiveness or inefficiency. This is no fault of socialism's—it is the nature of democracy. And a socialist constitution of the future does not see this resistance as an enemy to be defeated, but as a call to look again, to speak out, to be maybe changed.

It is for this reason that institution-building within a democratic process is not just required but even desirable. Any socialist state which fails to provide the freedom of the press, political opposition, openness, and citizen participation is likely to be dogma and not democracy. When the citizens are able to question, challenge, and be stakeholders in their government, socialism is no longer a repressive regime but an ongoing discussion—a one that is changing with its people, not against them. Political give-and-take is not a compromise of principle, it is its application. It is to say that the system has such a faith in its postulates that it is willing to test them on. Any real flexible constitution must also breed experimentation. Politicians' and officials' favorite ideas on paper—shelters for everyone, universal basic income, free school—can work or not work on economic money, administrative will, and on-the-ground values. Pilot pilots, roll-out with roll-back mechanism, and system of perpetual feedback are necessary. They're due operational systems that bring their lives demonstrably better by people, not idealism. Flexibility here is about enabling policymakers to try things, learn from mistakes, and improve without endangering their reputations as having failed. It's about developing governance as an art that improves with practice, rather than as a recipe.

Also needed is assurance of periodic policy review. Any social policy, however, should be measured not in dollars but in human terms: Are citizens living freer, better, more secure lives? Are most in need actually being assisted, or has good intention been crushed by bureaucracy? Are we establishing stronger communities or fostering dependency? These are concerns that

merit constitutional consideration, not political campaign talk. Institutional review, revision, and consultation with the public can prevent stagnation and remind the leaders that there is never a time that governance is finished.

Most fundamentally, however, we must realize that flexibility is not weakness but humility. It's telling the people, "We hear you. We hear what you're saying. And we will be changed when you are ready to change the way that we do things."<sup>54</sup> A socialist constitution filled with this political and emotional humility can shield itself against the risk of becoming a monolith and therefore somewhat of a dinosaur. It will not be despised, but cherished as a friend in the national journey of progress—a compass that bends to its people.

Finally, constitutional socialism has to realize that all healthy relationships know: change is coming. And if you build into the processes to change well, to hear, respond, and become, you're not tearing down the foundation—you're building better.

#### ***7.2.5. Creating a Living Constitution***

An actually working socialist constitution can't be a stiff, rigid dogma—it must be a living, expanding system, full of the energies of the people it is serving. Its pages are not merely to hold hopes of yesterday but pulsate with the hopes, dreams, and tears of the times. It must be elastic enough to bend to the emotional, social, and economic shapes of a never-static society, always expanding.<sup>55</sup> Constitutions aren't sacred because they last forever; they're sacred because they continue to take effect. For a socialist constitution, that involves more than to enunciate broad principles such as equality or justice. It has to always ask itself, "Are we still looking after the people we vowed to serve? Have our institutions grown with dignity—or simply grown?"

"If you look at the downfall of all sorts of socialist regimes, the message is loud and clear: rigidity kills relevance. What was revolutionary initially can become claustrophobic if it refuses to evolve. Regimes that were meant to be of the people had a tendency to stifle the voices that

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<sup>54</sup> Cody Keenan, author of "Cody Keenan to Public Service Grads: Be Afraid to Fail," Time, May 13, 2015, Michael Keenan, the principal speechwriter for President Obama, exhorts recent grads to welcome change and take chances in their public service careers.

<sup>55</sup> D.Y. Chandrachud, "Dynamic Nature of the Indian Constitution," Drishti IAS,

<https://www.drishtiias.com/daily-updates/daily-news-analysis/dynamic-nature-of-the-indian-constitution>.

were meant to be heard.". Institutions established in the name of equality then ended up with perpetuating injustice when they turned into a state that lost its sensitivity to change or criticism. Institutions, too, that enabled democratic accountability, civic participation, and policy-making accountability made it evident that a system is still functional by adaptability, not destroyed. A socialist constitution can learn this lesson. It does not have to aim at ideological supremacy but practical sensitivity. It has to be humble to recognize that there is a policy that is not working and smart enough to introduce best into the reform process a variety of voices—especially those that significantly disagree. This is the way we maintain the essence of socialist ideals from being converted to empty dogma. But to write a living constitution is to also understand that justice is not merely legal—its psychological and emotional. It's in the peace of mind a mother feels knowing that her child will receive free healthcare. It's in the dignity of a worker who understands their labor will not be exploited. It's in the confident quiet of a student who, for the first time, enters the university classroom on scholarship and with belonging. They are not ideals of policy goals—they are lived realities. A good constitution does not merely impose rights on paper; it makes those rights lived realities. And that's why a socialist constitution must provide strong institutions, enforceable rights, and material public goods. It needs to close the affective gap between citizens and state, between law and life. If citizens are made to feel safe, heard, and cared for, they won't riot about taxes or public works—they'll be civic volunteers on a shared project.

Lastly, constitutional socialism is not designed to create uniformity—it's designed to unleash the entire human potential in all its diversity. It's not designed to be about taking all of us down the same road, but taking all of us down the road of freedom to pursue their own definition of a good life. That means safeguarding education, healthcare, housing, and labor rights—not as a giveaway, but as empowerment. A living constitution is recognition that no society ever truly is settled. People mature. Cultures shift. Economies cycle. And so must the policies and laws that direct our public lives. The true strength of a socialist constitution resides in its emotional intelligence—its ability to stretch with its people, to value complexity, and to maintain not just equity, but hope. If we are to build societies that exclude no one, then our pillars of constitution must be strong, must be inclusive, and most importantly—human.

### **7.3. The role of judicial interpretation and enforcement**

### ***7.3.1. The Judiciary as the Guardian of Constitutional Principles***

A constitution is not much more than a continually changing map that grows and develops with the society. It is legislatures which enact the legislation but executives enforce them, but all on their own to the judiciary is a delegated and particular responsibility: to serve to uphold inherent values of the constitution and to link them in rhetoric that can appeal to common folk on their shared patterns of life. This responsibility is particularly solemn when a constitution embraces socialist principles, usually a balancing between social and economic freedoms and individual rights.

A constitution may provide social welfare, protection to workers, and economic equality, but these rights mean nothing if not positively interpreted and enforced by courts. Unlike political and civil rights, which are easily enforceable by the judiciary through the annulment of violation, social rights tend to need active state action to feasibly exist. This places the judiciary in the position of having to not only curb the state from overstepping the bounds of its jurisdiction but also force the state to do what it should be doing in accordance with the constitution where it is failing to do so.

### ***7.3.2. Judicial Interpretation: Shaping the Meaning of Socialism in Law***

The language of constitutional protection for economic and social rights is typically vague and utopian, and hence open to judicial interpretation. Whether the courts choose to interpret such rights in a strong or weak sense has the direct effect of determining how socialism is defined in a legal instrument.<sup>56</sup>

Consider, for example, a constitutional provision which states:  
"The state shall provide the right to healthcare to all citizens."

What does this mean in concrete terms?

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<sup>56</sup> The Politics of the Indian Judiciary, Upendra Baxi, Oxford University Press, New Delhi, 1988, 130. Baxi talks about how the way courts interpret constitutional clauses can affect how socialist laws are interpreted.

- A passive interpretation would view this as merely an inspirational hope, and one which is not necessarily required to obligate the government to act in the short term.
- An extreme interpretation would involve the government actually providing healthcare services, in which case this right is not just an ink-on-paper commitment but a living one that is enforced and protected.

Where, in other countries, the court has adopted the liberal stance on such rights, the socialist principles have found meaningful interpretations. In the Indian Supreme Court, to provide an example, the Directive Principles of State Policy—hitherto considered non-obligatory—are now being accorded new meanings, making the subject of fundamental rights even more expansive and enabling the judiciary to instruct the administration to start social welfare measures like food security drives and safeguarding to laborers.<sup>57</sup>

Similarly, in most of Latin America, the courts have aggressively pressured governments to uphold their commitment to social rights, with governments being compelled by the courts to make constitutional assurances of well-being and equality. But this energetic judicial role is self-destructive. Politicians can discredit overly active courts. Because of this, there must be a thin balance—one that maintains the judiciary working to uphold socialist values and not become an arena for political conflict.

### ***7.3.3. Judicial Enforcement: Turning Rights into Reality***

Enforcement rather than interpretation brings constitutional social rights into being or bled them into a superficial gesture on paper. Judges can enunciate rights to education, health care, or housing, but without institutions of enforcement to act on them, declarations are mere rhetoric.

Different legal systems employ different means of judicial enforcement:

- Gradual Implementation

Other courts balance to make decisions that compel governments to implement social policies incrementally. South Africa's Constitutional Court, for example, uses a

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<sup>57</sup> "The Changing Role of the Judiciary in India," *Indian Law Institute Journal* 51, no. 3 (2009), pp. 319–321. P. K. Tripathi. Tripathi talks about how social welfare laws and judicial activism have been influenced by the Indian courts' efforts to revitalize the Directive Principles of State Policy.

reasonableness test to use socio-economic rights such that the government makes incremental progress without exposing itself to unacceptably high costs.

- Direct Orders

More activist courts order governments to act. Colombia's Constitutional Court has issued binding rulings that obligate the government to implement pension reform and reinforce health systems, integrating constitutional rights into policy practice.

But over-enforcement is sure to put the courts at odds with the political branches. When courts ask governments to do what they cannot get done in the real world due to budget or logistical constraints, it undermines the power of the courts and even of the constitution. An effective socialist constitutional regime requires activist courts but not stupid courts—struggling to change but not stupid about the nature of the real world.

#### ***7.3.4. Judicial Independence: Protecting Justice from Political Influence***

Imagine the courts arriving at their decisions free from outside influence to ensure that justice is meted out fairly and equally. That is crucial in ensuring the principles of constitutional socialism. In the past, especially under totalitarian regimes, the governments have attempted to manipulate the courts to their advantage.<sup>58</sup>

To avoid such manipulation, a strong constitution should contain:

- Equitable and non-partisan judicial appointments : This means that judges should be appointed based on merit, and not based on their political affiliations.
- Financial and institutional independence : The courts should be independent of the government to make unbiased judgments.
- Shielded judicial review proceedings : This enables the courts to be independent enough to invalidate unconstitutional acts without facing backlash.

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<sup>58</sup> Judicial Manipulation in Totalitarian Regimes: The Politics of Law and Order (New York: Routledge, 2004), 78. John T. S. Keown. Keown talks on how the use of the court for political manipulation by totalitarian regimes undermines socialist principles.

If judicial independence is lost, socialist constitutional hopes are a farce. There have been cases when courts were being used as instruments of oppression, approving only government policy infringing on social rights. Power of commercial interests in some cases has resulted in court judgments undermining protections for workers and for weaker sections. An independent judiciary is a prerequisite for any constitutional order to provide social justice.

#### Real-World Examples: Courts Shaping Socialist Constitutionalism

- **India – Expansion of the Right to Life**  
The Indian Supreme Court has defined the right to life as including fundamental needs like food, shelter, and medical facilities, which prompted the government to introduce welfare programs for the poor.
- **South Africa – Enforcement of Socio-Economic Rights**  
South African Constitutional Court uses the test of reasonableness for progressively implementing government towards realization of its constitutional commitment to providing health care and housing for the masses.
- **Germany – Synchronization of Welfare and Market**  
German Federal Constitutional Court ensured welfare safeguard in harmony with enhancing market competitiveness, thus illustrating that socialist doctrines are reconcilable with the managed economy.

These instances show how an interventionist judiciary can be a stubborn friend of the achievement of socialist ideals. This, however, is subject to the autonomy of the judiciary, popular support, and political cooperation.

#### ***7.3.5. Courts as Champions of Social Justice***

The actual soul of a socialist constitution is not in its language—it is in the court, where law power intersects with human experience. It is in the court that the right to food for a hungry child, dignity for a dispossessed worker, or justice for an oppressed people becomes not only hope—beyond hope, action. The courts, in becoming an open interpreter of constitutional



values, become a court turned into an institution of morality. The socialist constitution can perhaps enshrine the ideal of a world of equals, but it is the courts who will be compelled to create that world, brick by brick, case by case, story by story.<sup>59</sup>

In its finest form, the judiciary becomes the nation's conscience. Especially in socialist formulations of the constitution, where social and economic rights are the top priority, the courts are compelled to peer past the letter of the law and into the humanness of reality that governs each case. That is, they must be aware that justice is not abstract—justice is intimate. It is about ensuring that no one is left behind simply because they are poor, rural, illegal, or forgotten. The courts must adopt a language which talks on the streets, and not the corridors' jargon of power. They must be inclusive, sympathetic, and responsive to the changing ethos of the society they work for. When a judge sends upstairs a free lunch for poor kids, or forced housing safeguards for development-displaced workers, it's not deciding—it's stretching the constitution's heartbeat into people's homes and lives.

Lastly, a judiciary that regards itself as being part of the social and democratic enterprise—and not as some kind of abstract referee, but as one of society's members—can make paper rights felt justice. A socialist constitution cannot be revived by law; it needs interpreters who have heart, who have context, who have imagination. Courts sensitive to the lived reality beneath the law are the courts that can help bring about a society in which dignity is not the privilege of the few but the natural condition of all. In a world that so easily forgets its most vulnerable, an even-handed, compassionate, and forward-thinking judiciary may be our last best choice—and our first step on the path towards a future of justice.

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<sup>59</sup> A Theory of Justice by John Rawls, Cambridge, Massachusetts: Harvard University Press, 1971, 237. In a society run according to socialist principles, Rawls addresses the function of courts in upholding social justice and interpreting constitutional norms.

## VIII. CONCLUSION AND RECOMMENDATION

### 8.1. Summarizing the findings and general conclusions

#### *8.1.1. The Central Question: Can Constitutional Law Advance Socialist Values?*

Central to this book is a disturbing, haunting question: Can constitutional law be an actual force in the world advocating socialist values—values of justice, social justice, and common good—without extinguishing freedom, diversity, and creativity? The answer, after a difficult tumble through theory, policy, and ordinary life, is a challenging and provisional yes. Yes, constitutional socialism can exist—if only it becomes sensitive to the niceties of human behavior, the unpredictability of politics, and the sophisticated art of harmonizing ideology and pragmatism.

#### *8.1.2 Beyond Ideology: Designing Governance for Human Lives*

One of the prime conclusions of this book is that constitutional socialism is not inherently about enforcing doctrinaire ideological orthodoxy—it's about building government attuned to human need. And although classical political theory remains hugely vulnerable to getting mired in abstract definition of "left" and "right," most folks don't live life in either dualisms. They live in neighborhoods, in families, in communities, working and laughing, raising children and old parents, fighting sickness, and coexisting with their own desires and terrors. And out of this quotidian, every day world, there must emerge meaning in laws.<sup>60</sup>

When we speak of social justice or redistribution, we are not referring to legal rights or budgets—what we are referring to is a single mom being able to feed the children, an old man being able to access health without loss of dignity, a poor child having the heart to dream that one day they can be a doctor, an artist, a judge. These are not theoretical outcomes; they are

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<sup>60</sup> Democracy and Education by John Dewey (New York: Macmillan, 1916), 60. Dewey argues that rather than being mired in political abstraction, it is critical for legal and legislative systems to take human needs into account.

real lives, to a great extent determined by the way a constitution distributes and allocates rights, duties, and resources.

### ***8.1.3. The Emotional Landscape of Law: Fear, Fairness, and Trust***

There is a large body of psychological study and behavioral economic theory cited hereunder that testifies to a fact we shall probably forget to enact into law: people predominantly assign a great value to fairness. But they also carry an unwritten load of fear—the fear of losing what they already have, of being ignored or ostracized, or others taking advantage of a system intended to serve everyone. That fear doesn't make them narcissistic—it makes them human. A socialist constitution that does not take this emotional and psychological factor into consideration is in danger of losing the very people that it's supposed to help. In fact, solidarity must be built. People won't just wake up one morning willing to sacrifice some of their privilege or money to a stranger. But they will—if they have confidence in the system, if they think that it's equitable, if they think that all people, even the rich, have to abide by the same rules. It is constructed not on bombast oratory or catchwords but on firm policies, open government, and tangible achievement. A plan of redistribution, for instance, should not only be feasible on paper—it must be equitable. It must be a reward to effort, protection to the weak, and retribution to the corrupt. It must give the emotional assurance that helping others doesn't hurt you.<sup>61</sup>

So what does that do for constitutional socialism? That success will be as much a result of emotional intelligence as of legal genius. It will need to be rooted in human psychology, an understanding of how humans respond not just to law, but to fear and uncertainty and pride and hope. It is creating incentives that reward empathy along with productivity. It is creating protection that doesn't create dependency, but restores dignity.

### ***8.1.4. Policy Adaptability: Constitutional Humility in Action***

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<sup>61</sup> Amartya Sen, *The Concept of Justice* (Harvard University Press, Cambridge, MA, 2009), 276. Sen supports the notion of solidarity and the necessity of laws that incentivize hard work and safeguard the weak by arguing for the significance of justice and equitable redistribution.

That is why policy flexibility was a major finding. The world has changed. People's values have changed. What in one era works does not work in the other. Good socialist constitutions, thus, require instruments for regular scrutiny and adjustment. That is not failure, but maturity. To make such flexibility effective, the following practices were required in the successful case studies studied. They are not airy policy recommendations; they are living, concrete actions which helped nations to close the gap between potential and aspiration, between expectations created and fulfilled:

1. In-depth periodic reviews of internal policy to determine the impact of welfare legislation on actual communities.

A well-sounding policy, even moral in principle sometimes collapses when implemented in practice in action in people's actual lives. That is why the most successful welfare states have adopted the habit of regular periodic review. These are not bureaucratic box-ticking exercises—a break and think-time, built into the system where governments find out what does work, where they are getting off track, and who or what groups are being left behind.

These evaluations often draw not only upon technocrats and experts but on the very same stakeholders that these policies aim to serve

This approach confirms a plain reality: that no policy is so consecrated that it cannot be reconsidered. A socialist constitution dedicated to justice must be dedicated to humility. That is, constructing mechanisms to always ask—Are we still doing our people right? And if not, being willing to change.

2. Pilot programs before full-scale implementation of new redistributive or welfare policies.

Placing a full national transformation in effect before experimenting with it first is a recipe for disaster. The best intelligent and compassionate systems recognize the sense of experimenting with things—not in a clinical, abstract way, but as a sign of responsibility. “The democratic system cannot be operated without effective opposition,” wrote Walter Lippmann, “for... it is not sufficient that the party in power should have a majority. It is just as necessary that the party

in power should never outrage the minority.”<sup>62</sup> Pilot programs allow governments to roll out new policies in small, isolated regions, where they can observe what occurs, address issues, and monitor unforeseen consequences before applying them to everyone.

This approach gives human faces to the process. It speaks volumes: We don't believe we know everything. We're listening. We're learning. Pilot programs give policymakers space to experiment responsibly, on the basis of experience and evidence, not ideological conviction.

3. Constitutional legal space for democratic dissent, within which constitutional values may be put to the test, sharpened, or reaffirmed through public argument and judicial interpretation.

Even in a publicly committed, equal society, they will not necessarily agree on where to go from here—and that's exactly the way it should be. Difference is no menace to socialist constitutionalism; it's proof that there exists a living, reflecting community. And the strongest regimes of welfare of all are precisely those which have been stress-tested by difference and emerged stronger from having been subjected to it.

Providing space for dissent legally involves establishing institutions and channels for which citizens, activists, students, and media have the platforms to criticize social policy without facing persecution. It involves making sure that the courts do not become passive institutions through which constitutionally protected undertakings must be balanced and calibrated in relation to new social facts. When, for instance, the South African Constitutional Court stretched to interpret the right to housing in a generous way, it wasn't being a letter-of-the-law literalist—it was leaving room for the spirit of the constitution to expand along with the needs of its citizens.

Dissent makes us remember that constitutions need to be a conversation—not monuments, but dialogue between governments and governed, and between generations. “In a democracy,

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<sup>62</sup> The Public Philosophy by Walter Lippmann (Boston: Little, Brown, 1929), 85. Lippmann highlights that for a democracy to function, respect for minority rights and majority rule are both essential.

dissent is an act of faith,” said J. William Fulbright.<sup>63</sup> The ability to disagree, question, and reinterpret is what keeps the constitution buoyant and alive.

4. Protecting civic space and media so that socialist policy evolves through conversation with citizens and not against them.

Oxygen for any democracy—indeed especially for one based on socialist principles—is an engaged, educated citizenry. When media are free to probe, to scrutinize, to expose corruption and incompetence, and civil society organizations are able to organize and apply pressure, policies are kept under constant scrutiny. It's not narrative control; it's policy-making on actual needs and actual people's experience.

Even Norway and Denmark, so long conventionally gifted with praise for social welfare, possess a strong media and participatory civil society. It is not so much what they spend on public services as the extent to which people participate in moulding them. From street corner debate about town housing to campaigning journalism on state provision of health care, opinion is offered and weighed.

This openness builds confidence. And when people feel trusted, they are more likely to give—whether as taxes, time, or civic duty—because they hear and see their voices in the very systems that control them.

#### ***8.1.5. The Human Infrastructure of Constitutional Socialism: Trust, Adaptability, and Lived Solidarity***

Judicial intervention cannot be overemphasized, either. In every one of the case studies presented here, the courts served as a turning point in translating abstract constitutional promises of social welfare into tangible entitlements—particularly where there was no or no political will to make them happen. The judiciary, if not fettered and rights-conscious, is the conscience of constitutional socialism. But the courts, as well, must tread a tightrope: they

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<sup>63</sup> *The Arrogance of Power*, by J. William Fulbright (New York: Random House, 1966), 45. Dissent, according to Fulbright, is essential to democratic participation and introspection.

cannot become political instruments themselves. The greatest-respected courts trod this tightrope of activism and restraint, deciding cases on experience rather than on abstractions of dogma.

A nagging suspicion running throughout this book is utopianism. The image of a utopianly equal society appeals to our best hopes of justice, dignity, and brotherhood. But experience demonstrates that when governments attempt to impose utopia with no foundation in economic reality or in human nature, the probable result is collapse, coercion, or disillusionment. Socialist constitutions have to attempt high—but both feet solidly on the ground. Redistribution must be strict—but economically feasible. Workers' rights must be ensconced—without being proclaimed at the cost of innovation, or of productivity in general. A need is not an ideal utopia—but a mechanism which does significantly reduce suffering, maximize opportunity, and elevate human life.

Between the Nordic model and newly born ones in portions of Latin America successful examples of the welfare state, three recurrent common features repeatedly made their presence. Instead of policy ingredients, the features are the substance bases of a successful socialist constitution. They are grounded on cultural norms, centuries of conflict, and solid social contract on trust and responsibility towards each other.

1. High citizen trust in institutions, especially when there is high taxation but large material welfare gains.

The most revealing thing about Sweden, Norway, and Denmark may be not necessarily how much they tax citizens—but how unconscionably they do so. And why they do so, trust. The government is so highly trusted because the people are able to see the fruits of their labor almost in real time and in very concrete form: good medicine, free education for all, daycare, good public services and roads, and a social safety net to catch them when they slip off the ways of life.

This is not the kind of trust that is created out of thin air—it is earned through steady performance based on responsibility, integrity, and a genuine commitment to the greater good. These nations' institutions are flawed, but they are also accountable. Budgets are subject to

argument. Individuals are asked repeatedly and listened to. And when a program does not work, it is modified—not concealed or spun at any price.

2. Resilient, but not inflexible, adaptable social safety nets—adjusting to changing populations, technologies, and work arrangements.

But the second attribute of good welfare systems is that they are capable of adapting. The optimal safety nets are not rigid one-size-fits-all or locked into outdated assumptions about work and life. They are context-specific, adaptive, and on the assumption that society changes—rapidly and sometimes in an anarchic fashion.

For example, Finland has updated its welfare regulations to acknowledge the emergence of the gig economy and solo freelancers. Rather than treating them as exceptions, the government has attempted to bring them into the ambit of social safeguards like income security and healthcare in light of the reality that the economy is less dependent now on the 9-to-5 economic model of yesteryear.<sup>64</sup>

3. Both a cultural appreciation of communal responsibility and individual freedom, proving that the two can be compatible when regulated by a just law.

Most strikingly, perhaps, the overall message of such welfare states is that collective responsibility does not have to be at the cost of individual freedom. Instead, in most cases, it actually increases it. Nordic nations, for instance, show how strong social policies can be combined with a culture that is individualistic and celebrates choice, creativity, and selfmanagement.

The difference is how the laws are written and spoken. Welfare isn't proclaimed over you as mastery, but presented as care. It doesn't dictate how to live—insures that no matter what your life is like, you receive an equal opportunity at a good one. You can fail, you can attempt, you can construct—because the earth under your feet won't be yanked away from you when things fall apart.

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<sup>64</sup> Yle, "Gig Economy Transforms Finnish Labour," Yle News, October 15, 2019, <https://yle.fi/a/3-10844347>.

<sup>70</sup> A cultural viewpoint that demonstrates the strong social foundations that underpin welfare states by showing how Nordic people absorb ideals like solidarity and civic caring. <https://www.nnn.se/intro/approach.htm>.



There are also cultural norms. From an early age, the inhabitants of these countries are instructed that assisting others to improve is not weakness but strength<sup>70</sup>. That to be assisted is not to be weaker but to be part of a society that prizes solidarity. This responsibility to one another is not an old relic but an active, living code that informs public policy and daily life. In Latin America, where historical exclusion and inequality are entrenched, new welfare models have sought to synthesize such values within a weaker social cleavage framework. Indigenous rights legislation, rural health access, and gender equality are all efforts to join the collective and the individual into culturally authorized forms. It takes a longer time, but a journey which nonetheless must articulate the principle that justice must find voice among the people it pretends to address.

In conclusion, what the successful welfare states can do is learn that constitutional socialism does not have to be a rigid recipe for failure but could be a people-driven, adaptive process. Such institutions of high-trust, social safety nets of an active variety, and culture welcoming individualism as much as communalism are not utopian fantasies. They're practices learned and lived and we can borrow and use to construct systems that work in the real world for the people, not just on paper but in the shared poetry of real lives.

#### ***8.1.6. Constitutional Socialism: A Living Pledge to Human Dignity***

Lastly, this work confirms a stern reality: constitutional socialism has to be a peoples' movement and for the peoples', not dogma imposed nor top-down dogma. Not about imposing homogeneity, encouraging slothfulness, or doing away with individualized aspirations making humankind human. Rather, it is doing away with system handicaps—those insidious, persistent stumbling blocks—that exclude individuals from equal opportunity at their own life's terms. Whether factory worker, farmer, teacher, artist, or entrepreneur, everyone deserves the same fundamental rights: medical attention when they are sick, education to grow, a fair wage to live and thrive, and a say in how they are governed. When the constitution is based on these ideals at its center, it doesn't restrain them—it lifts them up. And it does this by not dictating to them but instead providing them with the context within which to make actually, substantively independent choices.

Short of utopia, this research doesn't offer that, but it does offer us a template to a functional constitutional socialism—not on paper, but in the imperfect, beautiful, unscripted fabric of real

life. The goal isn't to build anstatic system of purity—it's to create a living, breathing system of constitutionalism that expands with the people it is designed to serve. A proper socialist constitution must not only proclaim what we are, but what we will become. It must be powerful enough to confront injustice, and humble enough to know when it must listen, learn, and improve. For liberty and justice are not ideals scribbled on preambles or in judicial decrees—this is embodied through the manner we labor, love, live, and care for one another. An actual socialist constitution isn't legislated into law—it's legislated into a people's collective human decency who leave no person behind. That is its strongest promise—and most human endeavor.

## **8.2. Consequences for constitutional law and government**

The implications of this research are profound for constitutional government and law. Constitutional socialism may be debated in terms of ideology or legalism, but its success is most essentially rooted in the way institutions change, laws are interpreted, and power is exercised in ways responsive to social facts and not to dogmatic abstractions. We set out below the main implications for constitutional government and state operation, from our comparative and theoretical perspective.

### ***8.2.1. The Constitution Should be a Living Document, Not a Dead Contract***

A nation's constitution is the basis of its moral and legal order, the reflection of ideals and hopes of its people. But to be effective, and to continue being effective, a constitution should not be thought of as an immutable fiat but as a living dialogue that is consistent with the society's enduring change and transformation. It is this vision, commonly termed the theory of a "living constitution," which highlights interpretive flexibility, particularly as it relates to such fundamental matters as equality, social welfare, and economic redistribution.<sup>65</sup>

Living constitution ethos is that it can adapt to evolving needs and values of the people that it serves. This adjustment does not imply abandonment of inherent principles but includes judicious application of such principles in a manner that accommodates contemporary realities. For instance, as new forms of work such as gig and digital economies arise through changing

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<sup>65</sup> Reflecting a living constitution approach to constitutional interpretation, the Supreme Court of India's ruling in *Maneka Gandhi v. Union of India* (1978) broadened the interpretation of Article 21 of the Constitution to encompass the right to live with human dignity.

technologies, constitutional interpretation should also adapt so that it covers the rights and protection of workers in these new sectors. Similarly, as the cultural consciousness towards realities such as gender identity and eco-sustainability grows, constitutional ideals need to be flexible so that they cover such realities within their ambit..

Legislatures must pass laws not only in line with constitutional norms but also sensitive to the social needs of the time. Judiciaries must apply such laws in the scenario of contemporary times so that not only is justice contemporary but it is also just. Second, civil society must remain engaged with constitutional thought, providing explanations and applications sensitive to the people's collective conscience and ideals.

### ***8.2.2. Judicial Responsibility Goes Beyond Adjudication—It Involves Moral Leadership***

The judiciary are not just umpire over a legal controversy; they are amongst the most potent forces in establishing how a constitution makes reality concrete in the daily realities. Evidence from different jurisdictions suggests that where courts have been liberal and generous, most notably in matters of healthcare, education, housing, and workers' rights, constitutional protection has transited from paper to pavement. These and all such judicial acts are not simply enforcing entitlements, but acts of deeper moral leadership with the capacity to navigate societies through challenging social and moral dilemmas. When a court directs the government to provide mid-day meals to schools or specifies the living means and dignity of marginalized people,<sup>66</sup> it is not simply interpreting law—it is actually doing the essence of the constitution.

But with that power, great duty is required. A activist judiciary may alienate the other two branches of government and create democratic imbalance. But an over-passive judiciary will legitimize injustice. Finding that middle ground of balance between moral leadership and institutional humility is a tricky tightrope to walk. Courts have to be courageous to deliver injustice and inequality, but still smart enough to know when to hold back from turning into knee-jerk instruments of the legislature or executive. Their strength comes in being seen not as servants of partisanship but as neutral interpreters of constitutional morality—one based on the

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<sup>66</sup> The Supreme Court emphasized the state's obligation to provide marginalized groups with fair access to services in *State of Rajasthan v. Union of India* (1977), ordering the government to put fundamental welfare programs into place.

will and welfare of citizens, and not the ideologies of privileged minorities. It is this that makes court decisions following empathy, openness, and rational proportionality last long and be supported by the majority of the population.

To this, judicial culture and training must answer. Governments must provide more than paper guarantees of judicial independence—they must establish a judiciary attuned to the human consequences of its rulings. Toward this end, behavior economics, social psychology, constitutional philosophy, and ethics must be mandatory courses of study in law school and on the hiring circuit for judges. Judges must be doctrinally correct but also socially sensitive. Empathy is not weakness but as a necessary judicial skill. If judges understand how poverty constrains access to justice, how gender renders one vulnerable, or how informal labor is rendered invisible by the country's laws, then they are better placed to interpret justice—not legality. Therefore, judicial duty is redirected from being procedural to a type of moral stewardship that can promote constitutional values genuinely lived and experienced by all.

### ***8.2.3. The Design of Government Institutions Must Center on Trust and Transparency:***

One of the most insightful observations from this research is the raw honest but profoundly subversive idea that trust is really government's currency. Without it, even optimal constitutional safeguards amount to nothing. Citizens don't uphold institutions when they perceive them as corrupt, far-off, or out-of-touch. If constitutions are to be used as blueprints for welfare, justice, and equality, then institutions charged with executing them—parliaments, ministries, welfare boards, or regulatory commissions—must first gain the trust of the people. This would mean that over structural design or statutory requirement, institutions must be humanized: not as depersonalized bureaucracies, but as accountable and responsible extensions of public service.

Of those welfare states which have been most followed—Scandinavian countries among them—they premised their social safety nets upon ideologies or wealth bases only. Rather, they premised them upon culture-creation—the ongoing cultivation of honesty habits, debate, and democracy through engagement. Swedish and Finnish citizens have elaborate line-item appropriations of the budget and are able to follow government spending. Public consultations are not window-dressing; they are a natural part of legislation. When citizens are able to see their voice manifest into action in real decisions, suspicion turns to ownership. This is why the

groups are normally characterized by high tax pay-back, high voting turn-out, and low corruption. They are investing in the system because they have respect for the system. Such is the climate that constitutional welfare provision does not appear to be a handout, but an honest social investment.

In order to mirror such democratic trust, constitutional law must necessarily pledge accountability and participative guarantee and not only recommend the same. That means providing real-time access to government information—budgets, procurement history, project punctuality—through readily accessible digital windows updated at short intervals. Citizen charters cannot be tattered placards on government posters but binding promises on timeliness, delivery of service, and relief from grievances. Public audit should be on television, or streamed where possible, citizenizing at every level into the mandate of watchdog. These changes do not equate to micromanaging, or in creating red tape. These are empowering government to reclaim its dignity—of making itself be present, understandable, and emotionally close to the very people for whom it legislates. The more familiar government becomes to society, the less it ceases to feel governed and the more that appears to penetrate representations. And that, in one word, is why a constitutional democracy is so democratic.

#### ***8.2.4. Economic Design Must Be Constitutionally Conscious:***

Economic policy is either increasingly or more often than not seen as the domain of technocrats and the market forces, except for constitutional value principles enforced in a nation. This type of thinking fails to consider a critical reality: how an economy is organized and guided largely defines people's daily living and the exercise of their basic rights. From the aspiration to construct a society that serves naturally the dignity and welfare of all its citizens, economic design must be constitutionalized. This way, policies of welfare spending, redistribution, and regulation are not a matter of administrative discretion but an articulation of the nation's commitment to justice, human dignity, and equality.

Strengthening economic dignity into the constitutional realm ensures that these rights over minimum decent living, health, education, and housing are not wishes that one may hope for but rights. It is in the spirit of such a vision which is articulated in the International Covenant on Economic, Social and Cultural Rights, wherein a call is made to the state to deliver such

basic needs.<sup>67</sup> By constitutively protecting these rights, the governments promise to make their people's well-being an enduring priority, subject only to ensuring that economic policy is geared to the advantage of all and not to perpetuating further injustices. The pledge does precisely that: transforms the economy from mere machinery to generate wealth into an instrument for social justice and equality.

But economic justice must be sought in moderation with pragmatism. Idealistic steps without any chance of being implemented can lead to economic havoc, defying the very purpose that they are trying to pursue. Governments must therefore carry out extensive planning, continuously reviewing the feasibility and effectiveness of plans for redistribution. Whenever some programs turn out to be failures or cause overloads on public resources, policymakers are compelled to show the flexibility and humility to redefine their strategies. The habit of **continuous** observation and adaptation ensures that economic policies are in sync with changing society's needs and possess an imbalanced equilibrium between hope and caution.

Pursuing economic imperatives in the constitutional arena also entails transforming the culture within government. Government institutions need to break away from the notion that economic decisions are about profitability and efficiency and an appreciation that such decisions have apocalyptic implications on individuals' lives and social cohesion. This is possible only by instilling a culture of care and inclusivity in the government so that economic decision-making and design is further carried out with proper regard for their social implications. With this, the governments can build economic systems that provide growth with opportunity, fairness, and dignity to all citizens of their country.

#### ***8.2.5. Lawmaking Must Reflect Behavioral and Social Realities:***

At the very center of government is a simple, too-long-overlooked fact: human beings are not best described as optimally rational agents. We are accustomed, emotional, cultural, memorial, and traumatic human beings. And yet significant constitutional law—and significant welfare policy based on it—is still premised on the aspiration that people will treat the state rationally, diligently, and emotionally. This gap between what should be and what is done is not theory—

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<sup>67</sup> United Nations General Assembly, "International Covenant on Economic, Social and Cultural Rights," December 16, 1966, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

it has very concrete, material consequences, especially for those who are already on the margins.

As behavioral economics and law so relentlessly remind us, humans are not always acting in their own best interest, especially where that interest is refracted through poverty, stress, or institutionalized bias. The mother who refuses to have her child vaccinated because the closest clinic is four buses from her home is not "non-compliant"—she's exhausted. An unemployed young man who resists a job training program because it's about studying formal English is not "lazy"—he's invisible. A migrant farmworker who resists government housing because it's requested in writing he can't read isn't "uninterested"—he's out of sight.

Governments must claim these social and psychological realities. The starting point is empathy—not as a slogan, but as an administrative and legislative reflex. Welfare programs must be designed for the actual user: the median wage earner who can't get on the web, the mobility-disabled older citizen, the LGBTQ+ teenager who doesn't want to be outed by a state bureaucracy. Until policy and legislation reach the individuals where they are, they will become irrelevant and alienating—even with good intentions.

Behavioral insight must take into account cultural setting.<sup>68</sup> Where citizens reside in collectivistic societies, they will respond less to self-incentives and more to recognition or similarity. Where there exists general distrust in government—by omission or by intention—citizen behavior will mimic self-protection rather than alienation. Legislation cannot operate technically; it must operate socially.

Ultimately, wisely legislating is a matter of constructing systems that are not merely effective but that are also compassionate. It's a question of breaking free from the vision of the citizen as working unit to the vision of the citizen as complex human being. When law finally begins to catch the very cadences of ordinary life—its uncertainty, its weariness, its never-satisfied hunger for dignity—then law at last becomes useful to justice.

#### ***8.2.6. The Constitution as a Mirror and a Map:***

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<sup>68</sup> Eyal Zamir, "Law and Behavioral Economics," in Mortimer Sellers and Stephan Kirste's book *Encyclopedia of the Philosophy of Law and Social Philosophy* (Dordrecht: Springer, 2018)

The constitution is written most frequently as the supreme law code, the basis of the people's identity. But it is greater than paper and ink. It is, in its highest sense, map and mirror. A mirror—because it shows us back who we are: our contradictions, our values, our exclusionary patterns, our hopes. A map—because it plots for us the course to who we can be: more just, more brave, more inclusive.

But a constitution, however ideologically worded, is lifeless if there is not the will to enforce it compassionately, pragmatically, and creatively. Paper cannot command men. Men and women running institutions do. And standing behind the institutions are legislators, judges, bureaucrats, and average men and women making the choices which bring to fruition those constitutional principles or hack them down to bits. Constitution promise versus reality is not invariant. It is strong-willed with hard decisions, brave leadership, and honest facing of unpleasant truths. Governments must move away from ruling the constitution as a cult, and ruling it as a living relationship—of people and power, of law and life. That is, moving away from obedience to the exercise of compassion. That is, leaving space for doubt, for dialogue, for the likelihood of error. It entails placing more emphasis on narratives rather than facts, and reforming based on sense, but also love of the people one desires to reform. The truth is: social justice is slow. It frustrates, it resists easy wins, and it demands continuous effort. But it is bright as well. For when the welfare policies finally come onto the lives of people who thought they did not exist, when the legislation is written by the very people who lived always in the receiving bracket, when the norm is to be dignified instead of in reward—something tectonic happens. The constitution stops being far-off code. It is home. And that's the goal: to move the constitution from a guidebook, but to a common language. From a guidebook of law, but to a social conscience. From a document that we inherit, but a future that we construct—alike.

### **8.3. Recommendations for further research into socialism , constitutionalism, and human behaviour**

#### ***8.3.1. Deepening the Psychological Understanding of Constitutional Engagement:***

Far and away the most critical but least studied aspect of constitutional rhetoric is the psychic and affective relationship between citizens and the law. No matter how much canonical legal scholarship is prepared to scrutinize textual meaning, institutional practice, and doctrinal



transformation, it always cannot find itself in doubt about something deeper: What do ordinary citizens really care about the constitution?

It's one of relevance—dramatic relevance. Maybe a constitution can grant rights but until the population at large emotionally identifies with such rights and feels secure enough to exercise them, the rights remain latent. Institutional trust, civic duty participation, and legal compliance are all in their nature, psychological acts as conditioned by people's histories, collective memory, and environmental setting.<sup>69</sup>

Moreover, shame, pride, and fear are powerful civic behavior moderators. While some will avoid applying for welfare benefits out of shame, having internalized cultural messages that equate dependence with weakness, others will be proud of being independent enough to "make it alone," even though such independence is precarious. Fear of the bureaucracy, of judgment, or of reprisal by local agents can also discourage marginalized groups from claiming their rights.

This bodes an imminent future research agenda—a more behavioral and affectively focused form of constitutional scholarship. Researchers might employ interdisciplinary methods, such as:

- Field experiments to measure trust in welfare agencies or courts by different socioeconomic groups.<sup>70</sup>
- Psychological surveys to measure the effect of trauma or political distrust on use of the legal system.
- Ethnographic interviews that reveal stories of exclusion from law, hope, frustration, or resilience in exercising constitutional rights.

The ultimate objective would be to produce not only technically capable laws and procedures but also psychology-friendly ones. Rights should not merely be legible—they should be livable. That means introducing empathetic values into governance process, unbuckling

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<sup>69</sup> Cass R. Sunstein, *Designing Democracy: What Constitutions Do* (Oxford: Oxford University Press, 2001), 63–

<sup>70</sup> Tyler, Tom R. *Why People Obey the Law*, Princeton University Press, 2006.

bureaucracies, making official language more human, and giving people respect in their state experience.

In essence, the constitution can never be a distant icon. It has to become the reassuring companion of everyday life. Affective proximity to the law is something that can't be legislatively conveyed—it has to be constructed, brick psychically on brick.

### ***8.3.2. Exploring Cultural Variants of Socialism within Constitutional Frameworks:***

The word "socialism" enters political debate usually as a blunt instrument—utopian fantasy or totalitarian menace. But in constitutional practice and theory, socialism is far from unitary. Rather, it is a richly pluralistic category shaped by the particular histories of grievance, moral aspiration, and cultural aspiration that take it on.

The Scandinavian model so cherished on the global stage stems from Lutheran moralities, mercantile tradition, and high-trust social contract based. It is marked by universalism, openness, and robust institutions. But balance that against Latin American socialism that all too commonly finds its hold in inequality, indigenous marginalization, and populism. Socialism there is redistributive, even messianic—oriented around rectifying past injustices.

India is another example. Indian Constitution is Gandhian-socialist synthesis in which socialism is spiritual and moral and not economic. It advocates village-based self-reliance, dignity of labor, and non-violent revolution—principles not usually associated with Western socialist ideology. Socialism is mixed here with caste justice, communal harmony, and the moral obligation of the state towards the "last person."

Future scholarship will need to peer outside the binarisms of socialism and capitalism. Instead, we might ask: What is socialism to this or that society? What symbols, rituals, and languages bring it to life? Through what religious faith, experience of injustice, or stories of resistance does it come to acquire meaning?

There is rich ground for comparative constitutional ethnography, a topic which does not only interpret texts but listens to the objects of texts. It asks how constitutional socialism is expressed not only in law but in:

- Public ritual and ceremony remembrance of mass suffering.
- Oral passing on from family to family and community to community.
- Metaphor of ordinary life that speaks of what the state is like for individuals—parent, betrayer, savior, or stranger.

There follows, therefore, the "Mother State" of so much Latin America as being itself a symbol of protection and control. To the other side, on the contrary, the Scandinavian citizen will see the state as contract partner--never missing but emotionally sterile. The Indian state will generally be invoked as either moral guardian or broken promise, respectively, depending upon the speaker position from which one is operating.

It is these stories of culture which determine whether socialism is not only understood but embraced. A welfare policy which functions seamlessly in Norway can be unknown in a country whose history is one of colonialism through extortionate tribute or exploitative land reallocation. Hence, the challenge to constitutional theorists is not the discovery of a single socialist model, but knowing of various local models founded on earth, memory, and myth.

It's nuanced work, with a lot to do that asks for openness in questioning and modesty. It demands coordination from lawyers, historians, poets, and anthropologists. It asks of us to compare not only constitutions but the hearts and minds of countries—fears, hopes, and imaginings of what freedom, equality, and completeness might mean to them.

#### ***8.3.4. Investigating Institutional Psychology and Resistance to Reform:***

Constitutional systems are typically utopian in purpose, endeavoring to re distribute power anew, to secure justice and preserve dignity. But between constitutional ideal and common reality intervenes an intervening agency—that is, institutions—and institutions, in their turn, are staffed by men and women. Statutes do not act of themselves. They pass through a dense thicket of human brains, moral opinions, individual fears, and public mores in the machinery of state.<sup>71</sup> But still far too much of our analysis still goes on treating institutions as hard, neutral objects—almost like faulty machines rather than like living things shaped by outside psychology.

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<sup>71</sup> *Bureaucratic Justice: Handling Social Security Disability Claims*, by Jerry L. Mashaw, Yale University Press, 1983.

Take the dogged bureaucratic resistance to social reform. When welfare proposals get bogged down or diluted by virtue of welfare or affirmative action schemes, we easily attribute such a failure to "red tape" or "inefficiency." There is a more profound personal attitude involved: institutional feeling. The policy officer personally resents a scheme for redistribution because such violates his/her class prejudice. A tax administrator will circumvent the implementation not because of a lack of legal power, but because of an implicit animosity towards the recipients. Others may be simply paralysed—afraid of a sense of desperation, cynicism, or retribution. This generates a new and still quite unexplored realm: the psychological ecology of institutions. Institutions develop cultures, languages, and climates of sentiment over time. A welfare department may be run not by explicit rules but by transmitted attitudes regarding "who gets helped." A police department may be run more by the self-righteousness of imposing "moral order" than constitutional order. Both examples, constitutional values go through deeply human sentiments—guilt, indifference, moral panic, pride, denial, and even shame. For example, a bureaucrat working in a region with tribes might fully believe in equality but feel caught up in the vicious circle of bureaucratic caution, lest he or she invite the politicians' ire by moving too aggressively towards change. Or one might emotionally identify strongly with the governing class of his/her group and actively oppose social justice initiatives because subconsciously, one is scared to become irrelevant or lose prestige. Future studies should explore:

- How moral identities are constructed by constitutional agents and how they crossover—or crash—into constitutionality ideals.
- How pride or shame affect decision-making within police or welfare work.
- How hierarchical power structures create groupthink, in which reform is resisted not through ideology but loneliness fears.
- How disillusion and burnout erode the idealism of public service and accumulate emotional disengagement with the public at large.

This train of thought will be depending on borrowed instruments of organizational psychology, moral philosophy, and social anthropology. It will entail not only hearing the grievances of the public but institutional actors themselves: their frustration, conflict, and agonies. It entails transferring from criticism of the institution to filling it out—grasping that even the most

abstract failure of the institution is built upon very human resistance, fear, weariness, and silence.

And, lastly, successful constitutional reform will only be possible when we stop thinking of institutions as abstract monoliths and start thinking of institutions as emotional geographies—open to resistance, but open to redemption

### ***8.3.5. Unpacking the Role of Identity in Access to Constitutional Justice:***

“Equal before the law” is a noble constitutional ideal,<sup>72</sup> but as a lived experience, it is an unequal and contentious one. The law can exist abstractly, but its lived experience is mediated through identity—a rough combination of caste, gender, class, sexuality, religion, and ability. It is a shield for one; a sword turned against one for another.

This imbalance in emotional and material access to justice is especially egregious in the outcast communities—Dalits, indigenous, solo mothers, the disabled, religious minorities, and LGBTQ. For the majority of these, the constitution is not a freedom document—it is an abstract, remote, even punitive one. Their experience of the law is humiliation, surveillance, abandonment, or brute violence.

For instance, a female from one of the tribes can have a statutory right to receive medical care but the closest center to her village does not have any doctors, is inaccessible, is run incompetently with uncompassionate staff who do not speak her language. A gay man can have a statutory right to be himself but enforced by laws of society and mocked by officials. A Dalit pupil might be entitled legally to tertiary education at a university level but confronted with waves of exclusion across so-called meritocratic realms along the lines of caste. Such persons are pulled in by legislation, excluded socially.

So then the question becomes: Who does get heard, seen, and guarded by the constitution? It is not simply an issue of judicial activism or policy structures; it is an issue of affective belonging. The constitution does not simply need to stand in for all—it needs to speak to all. And that is to say, decide how identity constructs constitutional subjectivity.

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<sup>72</sup> Kimberlé Crenshaw, "Mapping the Margins: Violence Against Women of Color, Intersectionality, and Identity Politics," *Stanford Law Review* 43, no. 6 (1991): 1241–1299.

Future research must go beyond doctrine and numbers to examine:

- How intersectional identifications—disabled and rural, or Dalit and queer—multiply the exclusion of justice?
- Where is the geography of state protection, where protections are strong in towns but hollow in the countryside?
- What are the unspoken weights borne by those who must "perform" legality and politeness in order to gain access to state resources, even in times of dire need?
- How do narratives of resistance and dignity come to be framed in the context of institutional collapse?

These ones must be soaked in lived life—by oral history, by narrative, by ethnographic critique, by observation. Legal consciousness does not develop solely in courtrooms; legal consciousness is born at police stations, in government bureaucracies, in ration lines, in differential classroom teaching, in secretive caution by elders to "not provoke the system."

Constitutional law, therefore, must be read not only as text but affectively mediated. Scholars must attend to the thus far historically disenabled from voice and sight, and ask: What does justice look, sound, feel like to you? What do you live each day with regard to the constitution? Are you safe—or judged, overlooked, or spoken down to?

It is only then that we can start building an actually inclusive constitutional culture—one that acknowledges that access is not just a question of law, but of love, of memory, and of recognition.

### ***8.3.6. Examining the Emotional Labor of Participatory Governance:***

In the last decade or so, "participation" has been a sacred term in the vocabulary of constitutional democracies. Law, policy, and institutions of government more and more center on engaging ordinary citizens in the process of decision-making. But this very concern for the common good never bothers to ask a basic question: What is the emotional cost of participation, especially to the excluded?

Participatory governance is not a technical exercise of attending meetings, filling out Right to

Information (RTI) forms, or voting. Participatory governance is an affective practice—one that needs emotional strength, courage, and the ability to speak truth to power.<sup>73</sup> For silenced and punished subjects of the past, participation will not empower them—it can exhaust, retraumatize, or kill them.

Imagine a Dalit woman in a Gram Sabha meeting. She may be allowed to be heard, but discount what she says, condemn her tone, and quietly dismantle her identity. Consider a queer person who must suffer police harassment—she or he knows she or he notionally has the law on her or his side but the process of dealing with a careless bureaucracy can replay traumatic memories of isolation and fear. These are affective expenses that are in no way represented in our systems today.

Participation itself is something that takes emotional labor:

- The labor of self-control—staying calm and coherent in the face of bureaucratic apathy.
- The labor of visibility—choosing to be heard and visible when invisibility has been a survival tactic across history.
- The labor of resilience—continuing to participate even when results are uncertain, slow, or humiliating.

Additional work must inquire as to how participatory processes shape mental illness, emotional well-being, and identity. Are the people made strong or depleted of emotion by government interaction? Are public hearings solidifying social solidarity or expanding social cleavages? Is "having been heard" always tantamount to "having been helped"? These are questions that call for interdisciplinary exploration—perhaps the confluence of psychology, sociology, gender studies, and law.

In addition, participation must be re-imagined not as a proving ground of resilience but as a citizenly practice of care. State institutions must be sensitive to the emotional toll that their processes take on citizens. Participation spaces must offer not only procedural access, but

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<sup>73</sup> (New York: Columbia University Press, 2004), 53–58. Partha Chatterjee, *The Politics of the Governed: Reflections on Popular Politics in Most of the World*.

emotional safety—through respectful communication, trauma-informed facilitation, and culturally responsive outreach.

Then, and only then, can the participation be truly democratic—not so much a symbolic gesture of inclusion but an experience of dignity.

#### ***8.3.5. Constitutional Language and Emotional Literacy:***

One of the least visible yet strongest aspects of constitutional culture is language. Language does not just delineate the law—it also comes into play in determining how's experienced. And constitutional language is then typically defined by remoteness, abstruseness, and unreadability. It's formal but affectless. The common citizen can perceive the moral objective of justice and feel disconnected from the pedantic legalism that's intended to realize it.

An essential requirement is for a re-think of emotional literacy of constitutions. What emotion do constitutions arouse in order to be read—fear, hope, pride, confusion, distance? How does the very words we use for them themselves—"reasonable restrictions," "due process," "public interest" open doors or shut walls to citizens' imagination?

Not just in the courts, but also the way citizens connect with the constitution as a living document. Constitutionally embedded cultures run deep (like South Africa or post-Second World War Germany) have made conscious efforts to get constitutions "to speak" to people—morally and emotionally, but not legally.

Future scholars need to investigate:

- How constitutional text rhetoric impacts identification with legal values at an affective level.
- How clear and compassionate communication—through translation, narrative, or imagery—can foster increased trust in constitutional ideals.
- If documents can be co-authored with empathy without sacrificing either clarity or legal integrity.

This research addresses the crossroads of narrative theory, linguistics, constitutional law, and public psychology. Constitutions are not manuals of instruction, to be sure—they are invitations



to envision a just society. And if the invitation is written in a script that few can relate to at the emotional and intellectual levels, it will most likely go unread or disbelieved.

Writing emotionally intelligent constitutional language is not dumbing down the law—it's the issue of unlocking it, so that it is felt as well as it's known.

#### ***8.3.6. Generational Shifts in Constitutional Consciousness:***

We usually think about constitutional values in terms of being time-invariant—that which worked for one generation will continue to work for the next. Constitutional consciousness, however, being like any cultural power, is located historically and built in generations.

Young adults of today are coming up in a far different world. They are social media natives who have grown up on Twitter, climate anxiety, student debt, gender fluidity, and political tribalism. Their institutional attitude will be cynical or cynical. Most people regard the constitution as somehow out of time, being an old relic, or too complex to grapple with the question of the day.

This intergenerational divide is not just intellectual—its material implications impact constitutional legitimacy and democratic participation. If young citizens view the constitution as outdated or incomprehensible, they are less attached to civic process and more disenchanted with state process. But if they are emotionally and morally committed to constitutional values, they become some of the most passionate defenders of the constitution.

Future research must implore:

- How various forms of generations are living, consuming, and assimilating constitutional values such as equality, freedom, and brotherhood.
- How meme politics, social media activism, and online spaces are restructuring civic engagement and legal sensibility.
- Whether new politics of climate justice, mental illness, and identity rights are causing younger generations to re-conceptualize constitutionalism and socialism in alternative ways.

More urgent still is that civics education needs to be re-imagined. Constitutional education has to go beyond memorization to participation. Adolescents must be urged to pose hard questions:

To whom exactly is the constitution really ministering? What does justice mean in a postcolonial, climate-plundered, digital world? Civic education cannot only teach—but also motivate, empower, and provoke.

The future of constitutional democracy is not in legal survival but in emotional allegiance. Unless a new generation is convinced that the constitution is a mighty ally in its struggle against justice and dignity, it will become an exhibit at the museum of history—admired but forsaken.

***Final Reflection:***

Briefly, future constitutional scholarship must break free from dogmatic institutional bastions and get its beat in ordinary citizens' everyday lives. Future scholarship must move beyond the courtroom to the classroom, statutes to stories, and ideologies to intimacies. It must stop dreaming of the constitution as a dormant text interred between the lines of codes of law and start to perceive it as a lived, felt thing—a one that is enacted in the gentle bargaining of everyday life. The true measure of a constitution is not whether it is elegantly phrased but whether it is richly embodied. Its success is not in the speeches given to parliament or conclusions provided earlier, but in those everyday moments where one single parent finds the wherewithal to protest, where a schoolboy living on the margins gets to daydream about justice, or where a freak feels that he/she is listened to. These are not political actions—that is, actions done under compulsion—these are actions of profound emotional courage.

For the future, constitutional scholarship has the responsibility to make general that which it made general previously. It must accept the fact that law is more than a regime of rules, that it is social discourse, one which must be learned, practiced, and redrafted again and again. The constitution is no hardness to be defended like a fort—it's a dialogue, ready to be changed, refuted, and pleaded to with the heart. And as the world becomes increasingly complicated, pluralistic, and passionate, our ideal of justice needs to too. Researchers need to hear. Politicians need to mend. And reforming the law begins with sympathy, rather than with efficiency.<sup>74</sup> In a world where institutions are falling apart and alienation is the order of the day, the constitution must not just defend—it must belong. It must fill the psychological gap

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<sup>74</sup> The Faces of Injustice by Judith Shklar, New Haven: Yale University Press, 1990, 132–134. Shklar talks about how important compassion and empathy are to constitutional interpretation and legal reform.

between state and citizen and leave room for narrative, for openness, and for forms of belonging to occur.

May the next generation of scholars, thinkers, and public leaders be brilliant minds but also bold in imagination. Bold enough to ask the messy, tender, human questions that law cannot answer. Bold enough to go into the in-betweens—where law meets fear, where justice meets fatigue, and where equality meets the wounds of history. Brave enough to heal socialism not as an instrument of domination, but as an act of solidarity and a mercy. And above all, brave enough to make constitutionalism something other than power, but something that cares about human beings—about themselves, about their wounds, about their hopes, and about their feelings. Only when the constitution too is a common space of emotions will it at last be a fountainhead of justice—not of law, but of life.

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## **COMPLETION CERTIFICATE**

This is to certify that **Ms NGURDINGI TLAU** with Enrollment Number **A0342624028**, a student of Programme **LLM (Constitutional Law)** Batch **2024-2025** Semester at **Amity Institute of Advanced Legal Studies** has pursued **Dissertation LWDS600** on topic **CONSTITUTION AS A TOOL FOR SOCIALIST IDEALS: RECONCILING LAW WITH HUMAN BEHAVIOUR** under my guidance from **07/01/2025** to **07/04/2025**. The Student has submitted **13** out of total **13** Weekly Progress Reports. **Ms NGURDINGI TLAU** has completed the project-related work and the work done is satisfactory.

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