

JUSTICE KONDA MADHAVA REDDY MEMORIAL FOUNDATION

JUSTICE KONDAMADHAVA REDDY MEMORIAL LECTURE

"THE STATE AND ITS OBLIGATIONS"

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Revered Justice Waghray ji, Pratapa Reddy ji, Malla Reddy ji, ladies and gentlemen, I am grateful to the organisers of Justice Madhava Reddy Memorial Foundation, inviting me to express some of my views through this lecture, in commemoration of an eminent Judge and Jurist, whom I had the honour of knowing personally for a long time. As I fondly recall, we were contemporaries as lawyers, he was just one year senior to me, but in actual working, we were like twins having been the juniors of two eminent lawyers and leaders of the day, who were themselves close friends and colleagues, late Dr. Ramakrishna Rao and late Sri Konda Venkata Ranga Reddy. At that time we did not know that our ways would

part so soon and we would be moving in two different but related directions, but that was what happened and we had to be content only with occasional meetings thereafter. Mr Reddy, apart from being an eminent judge and jurist was also connected with several social and educational organizations as well as cultural and sports war dice. This shows his versatile personality and popularity. I valued his friendship greatly even though our contacts could not be very frequent. Ladies and gentlemen, I find that three of my predecessor speakers in this lecture series, who are all eminent judges and jurists. I think, I can spot out justice Jeevan Reddy right here in the first, he has'nt changed much! and of course, justice Sitaram Reddy. For his change, you seem to have thought of one, who has been at the receiving end for the best part of his active life. I do not fit in to the brilliant sect, yet there is a link between them and me, in other words, between the State, as defined in Part III of the constitution, and the other way that makes us behave with varying degrees of success or failure. In the very well sense, all of us together complete the picture. My choice of the subject for today is close to the work I was doing. I being keenly interested in the principles which according to the constitution, was supposed to have directed me in whatever I did, or trying to do. Thus, what I am going to speak about, is a short account of my experience with Part IV, which to my mind was as clear a mandate as any and left me no other choice, once I had taken my oath as Legislator and later as Minister. It was a command that brewed no doubt, no

procrastination and no disobedience, is true to be as vigorous and as arduous as a new struggle. Mr. Madhava Reddy and myself had both grown up along with the evolution of the constitution of India. When we were students in two different colleges, in what is today's, Maharashtra, mainly Pune and Nagpur, the Government of India Act, 1935 was virtually under fire from all sides. Our Professors in Nagpur had no way of answering our searching questions about what we considered as the defects of the 1935 Act. Some times, they would test our questions' ability to the utmost and when in the Nagpur Law College, my classmates and I became quite aggressive like the political leaders who inspired us at home. Prof. Hidayatullah, who later became our revered Vice President, would give us an approved smile and say alright gentleman, you win! I am sure, similar scenes must have been enacted in the Law College at Pune, at the relevant time and Madhava Reddyji must have had the same experience. So we were in no position to ignore the constitution nor take it for granted. I remember distinctly, the Post World War II situation, in which the traumatized world was heeling a sigh of relief and violent itself never again. The United Nations Organizations came into being. The same palpitations moved all over the world regarding some political and economic ideologies, they professed individually. The irony of a regular Nation State perpetrating the atrocities which Nazi Germans did. This very irony played in many atrocities that some thing had gone totally wrong in the

conceptualization, formation and purpose of the State. It was against this background that some Governments in Europe deferred into the matter and decided to lay down in their respective constitutions, some fundamental principles that could avert the State, perpetrating under its sole sovereign authority and with complete impunity such horrors which would amount to the sovereign defeat. So they incorporated these basic tenants in their constitution according to their likes. It was new ground served the world's idealism, one could see every where. Naturally, the principles brought out different responses. Civics dub them as pious platitudes that amounted to nothing, but several determined souls has positive views and took them seriously. For the first time the State was considered, not a mere agency of war and conquest and the symbol of physical might, but in entity expected to be justice of several kinds to its people as well as to the world in general, wherein it happened to be functioning. The limits to sovereignty also began to be gradually realised. We were able to see them day after the day, incidence after the incidence. We could see that there is nothing like absolute sovereignty. The chief point was that the colours of different persuasions had to be accommodated. It was not a monolith, coming from some where and getting itself imposed on the people or the Governments or the States. The limits of sovereignty were there, but sovereignty had not evaporated. While thus, the broad outline was set. The State or the States as the case may be, had to do their best to conform to

that outline. The chief point was that the colours were to be contained within that outline and not overflow it at all, bringing no disasters in their make. When such were moved and thought overwhelming the world, free India's Constitution that was on the anvil, precisely at that time, could not but be fully influenced on the same lines. In our case, there was another factor, viz., that even during the World War II, or even before that, Mahatma Gandhi had categorically denied the utility of war as a means to solve any problem whatsoever anywhere. At that time, he anticipated the outcome of war from the standpoint of humanity as a whole. He did not tell us who was going to win. But he told us very clearly that humanity is going to suffer, whatever the result. In that view only new Indian Constitution was bound to lay emphasis on the fundamentals of the State's objectives as also the means to achieve them, since Gandhiji had underscored the aspects of means as no other leader or Nation had ever done before. As I recall, one of the popular slogans in those days was that freedom should not mean just the change of masters or the colour of their skins. However legal luminaries while framing the constitutions cogitated on this topic in great detail and depth. In initial reactions again varied widely describing the principles variously as pious wishes, half hearted statements, alien ideas and suitable frosts, haphazard borrowings, totally unnecessary and at the other hand as the soul of the constitution as standing beacon light for the State etc., The debates in the constituent assembly on the subject, made extremely interesting

and instructive reading. Our prominent feature of the views expressed was that while they were different competing demands on the positive side in details, almost no one really asked that the principles should not form of the Constitution. Cynicism to which it happened to be so easy to calibrate them as now not seriously felt in this matter nor did it ever lead to a stalemate debate making necessary for those piloting the constitution, like Dr. Ambedkar and Pandit Jawaharlal Nehru to swim against the current. The current, as a whole was itself was very positive. The other important feature was that the main architects of the constitution did not belong to any single political or economic persuasions. They represented several stands, from strongly political to utterly apolitical, from status quo to the thinkers to out and out revolutionary stalwarts. All were there in the Constituent Assembly and within these two categories, extreme categories, there were umpteen further varieties, along with the brilliant bureaucrat Sir B.N. Rao, was Advisor to the drafting, produced the document so that enough room was left for people of different ways of thinking with regard to the reaching of ideas of economic democracy to strive in their own way to persuade the electorate that it was the best way to reach the economic democracy and to provide the fullest opportunity to act in the way in which they wanted to act. The directive principles, he said had a great value, for they laid down that our ideal was economic democracy and added that as the framers did not want merely a parliamentary form of Government to be

instituted through various mechanisms provided in the constitution without any direction as to what India's economic and social order ought to be. They deliberately included the directive principles in the Indian Constitution. Dr. Ambedkar pointed out that, much of the misunderstanding under which most members were labouring would disappear, if we appreciate that the purpose of the constitution was two fold. Actually there is a lot of literature in other countries, the democracy here ----- itself. If you have democracy, that should be enough. Democracy for what? The question does not arise. Democracy for the sake of democracy. That was debunked by the framers of the Indian constitution. They said it has its two fold purpose.

- 1) To lay down the form of political democracy.
- 2) To lay down that India's ideal was economic democracy with the description that every Government, which ever Government in power, would strive to bring about economic democracy. So the goal also was very well fixed and there should be no doubt about it. The use of word "strive" in the draft Constitution, he said was important because it was the intention of the framers that even if there were circumstances which prevented the Government, or it stood in the way of the Government giving effect to these directive principles, they would even under hard and

unpropitious circumstances, always strive in the fulfillment of these directives. He also said, even the word "strive" had not been there, it would be open for any Government to say that the circumstances were so bad and the finances were so inadequate that it could not even make an effort in the direction in which the directive principles wanted them to go. To this extent, he made it absolutely clear and fool proof. Thus, the directive principles even in their outline contained definite contours. For one thing, the goal is economic democracy, not economic autocracy. The goal is justice, not playgint injustice, political, social and economic. The differences hardly needs elucidation. In the same manner, the substantive goal is incorporated in clear terms while the how of it, is left to the Legislatures and the Governments, clearly, nothing more was necessary or possible even the fundamental strategy adopted, but in working out the how of it, focus thinking in the right direction is absolutely necessary. It definitely rules out confusion in aimless thinking. There may be different ways to reach the destination, the destination itself has been clearly defined. So any part which is inherently against the destination, has to be unhesitatingly rejected. There is nothing vague, nothing merely useful therefore in the directives. There is flexibility, but within the well defined overall framework as far as I could understand. Thus the provisions of

Part IV, far from being platitudes or pious wishes or the very life breaths of the State as a dynamic vehicle of National endeavour. The logic of the directives also shows that they have nothing to do with the changing political parties or their political manifestos of the day or the legislatures' terms. They are addressed to the State, the State "as such no matter, whichever party is in power, they are equally obligatory, irrespective of the likes and dislikes of the political parties or their leaders or the transcendent interests of the individuals or the political parties or the Governments of the day". The natural extension of this is that if any act done or law passed by the State, howsoever good, otherwise follows a policy that goes against any of the directives it is clearly a breach of Part IV and therefore a breach of the constitution as much as the known breach of the Part III, declared by a Court, nothing more nothing less. From this, it is clear that the Constitution gave us a fairly well said frame work of basic objectives and the Governments that come and go, can not tamper the framework. The directives are the dynamic features of the Constitution as evidenced by amendments to Article 38, 39 etc., which were carried out during the past few decades. At this point, I am listing below a few concrete situations and I want your attention, particularly attention of the legal community and our friends and the Judges, see how

ticklish some situations can develop. At this point I am listing below a few concrete situations that have arisen or may arise from time to time by virtue of the dynamic nature of Part IV.

- 1) Suppose that the State does something, that is not relatable to the directives, such acts may be judged on their own merits, but there can not be a substitute for anything which the State is duty bound to do under the constitution, under the directives the performance of the State, thus should be judged and what it has done in furtherance of the directive principles. Anything unrelated cannot be taken as part of the obligatory performance, it cannot compensate for lack of or deficiency in the obligatory performance. This becomes important from the peoples' point of view.
- 2) Unfortunately, even in the initial years of the Constitution we were embroiled in a controversy that placed Part III in opposition to Part IV. As a matter of fact, constitutionally, there is no inferior, superior relationship between part III and Part IV in the matter of sanctity. This has to be clearly understood by the State. If any obligation can not be enforced

through the Court, it does not mean that it does not exist. In deed, it is only when the effective implementation of Part IV is assured that the fundamental rights in Part III can be effectively safe guarded. Far from being entirely distinct to each other, the two parts are to be taken as complimentary in the very real sense. This is also born out by the fact that during the debates of the Constituent Assembly, the initial idea was to make no distinction between the two. Both were considered equally fundamental, but later the categorization was accepted for some other reasons perhaps mainly justiceability.

- 3) The flexibility permitted in performance, also needs to be understood clearly. For instance, if some items are not done at once, it may be so, because some items would take time in their very nature, but in the name of taking time for completion, willful cessation of all efforts and stalling implementation deliberately and indefinitely cannot be countenanced. Fortunately, in most cases it is not too difficult to distinguish one from the other.

- 3) "Telugu speech" "It is very easy to say, where are they doing, where they intend to do, but not doing, they are giving false excuses because they don't want to do",

- 4) it is not difficult, we can certainly find out".

Again any item that the state has undertaken and brought to a safe state already, should not ordinarily be given up. What was found possible and therefore implemented yesterday, cannot be suddenly pronounced as impossible and discontinued today. If this is permitted and becomes the order of the day, Part IV of the Constitution will so become a right and varied exercise for ever. No one can argue that the framers of the Constitution intended or considered such opportunism as permissible.

- 5) It is of course true that who ever captures power will not be free to do what he likes with it. In the exercise of it, he will have to implement the directive principles. He can not ignore them. The only question of questions is, how is this excellent dictum to be implemented, when in reality, there are forces that constantly snipe with the spirit of the directive principles and in practice there is no visible remedy in case of non

implementation. To my mind, this conundrum has always played in Part IV of the constitution and till today it is not been sorted out satisfactorily.

It may be recalled that most of the provisions of Part IV, were included in Mahatma Gandhi's famous constructive programme during the freedom struggle. As I can see the provisions, I can straight away count 12 directives which can be wholly or partly traced to Mahatma Gandhi's constructive programme. Here I would like to make an observation on the basis of the personal hunch, we were all there, very much there in the times, when leaders were reacting differently to the Constitution. My hunch was that, while our constitution was on the anvil, Mahatma Gandhi was not fully in favour of the Parliamentary form of Government. It was very clear to us, from various angles, we could see that he was not very happy about it. He was working on a system which in his judgement, was more in line with the country's culture and change. Even earlier in 1937, there was a very very big fight within the Congress, whether to accept provincial autonomy or not, under the 1935 Act. They accepted it, but still Gandhiji was not very happy about it. He said once you go and adorn those chairs, some thing wrong will happen to you, and it happened. He was working on something else, which would avoid the affects of office,

without affecting the administration and what the people should expect from the Government. He was working on a system which in his judgement was more in line with the country's culture and change. Fragments of his thinking were available, but in a rather disjointed form. He did not have the time to put them in shape, so as to present a complete and self-contained alternative before the Nation. That job which he alone could have accomplished, if at all, remained in limbo and what his colleagues and followers managed to incorporate in the Constitution, were some of his ideas that of universal appeal and validity as of then. In a manner of speaking, the spinster model got adopted almost adopted by default, because for one thing most of the Founding Fathers, both political and non political were fully conversant with it and there was no acceptable alternative on the table although discussions were quite extensive on the subject at the consideration stage. However, where in practice, Mahatma Gandhi's ideas were found un-enforceable in the normal course viz., by reference to a Court, they were left entirely to the mercies of the State. This was certainly not the most effective way of changing a longstanding, unjust and unpowerful feudal order. As a result, we are not quite in a position to assert even today that we have really come out of the order. Attempts and dilutions are not a substitute

for replacement and replacement was what Gandhiji clearly wanted. As the years rolled by, the situation became very unsatisfactory. Even in normal circumstances, the State is perceived as a protector of the status quo. That was why our Constitution makers took care to spell it out as a vehicle of change. Its mandate was obsequated. Time and again, the Constitution itself began to be seen as leaning towards the status quo. Obviously, this was never the intention of the Founding Fathers, whichever way one looked at it. So something needed to be done to control and minimize the damage before it was too late. It was at that stage, in the country's history, some time in the 1970's, that a whiff of fresh air emanated from the Supreme Court, which brought it into a welcome realignment with the spirit of Part IV. It was the advent of Public Interest Litigation, with all its ups and downs, doubts and debates. This process has constantly alerted the State and restored justice to the weak party to the extent feasible. I have said, "to the extent feasible" because there are inherent difficulties in the process and one has to walk, before one can be asked to sprint. After all there is a difference between jurisdiction of the Court under Part III and the one that it assumes under a P.I.L., that difference can not be whisked away. As Legislator and then as one in Government, I was personally witnessed to the manner in which

the Constitution seemed to have been gradually dragged in one direction during the first half of independent India's life. Incidentally, when I entered Government, it was as Law Minister of Andhra Pradesh. Within a few days of my entering Office, I learnt two lessons, from my officers ;

1) Lesson number one, "the threatened suit may be awaited". I asked them why should we await the threatened suit. Poor fellow can we not give him, as the executive, we have the powers, why don't we give him the relief he is asking for.

"Telugu speech: "No Sir, No Sir, Let him go to Court, No sir, we do not want this,"

So that was lesson number one.

(2) Number two was,

"Telugu Speech: "Sir What for this to us, what for sir all this, some one file a writ petition, we will get a notice, we will be sitting here only to reply to their notices, please listen us sir, we are all speaking with our own experiences". What is this, Only High Court is conferred with the authority to do justice, wherein we can do all un-justice".

It was the worst kind of perversion one could think of, here is a State, it is under an obligation to do justice and my officers say don't, don't, don't ever touch that with the Part IV. Let any body who wants justice, go to the Court. Now the kind of situation you can imagine, for a young minister, usually wants to do something, he knows how to do it, he knows that it can be done and still the administration had its own difficulties and therefore we were, completely tied up. Of course we had our own ways of doing things, but that again depends on the person. The system had developed such an inhibition, in-built inhibition that nothing could be done, where you knew you could give justice, you knew you could give relief. he only said, I don't want to touch it. So that was how it is. I was personally witnessed to the manner in which the Constitution seem to have been gradually dragged in one direction during the first half of independent India's life. There ensued a long struggle through a large number of constitutional amendments on the one hand and extreme of adverse judicial pronouncements on the other hand and we were sandwiched, as young idealistic fellows who really wanted to do something. Every day we were praying to God, that by the time I get up, nothing should be stucked up. That had become almost an obsession with us. I am

telling you my own experience. We were young people, we did not know all these things, but when this happens, do you really feel like doing anything, By ego, go about doing any thing, you keep quite, let things take their own course. So the first lesson which we got was "not to do anything". I am telling you, how these developments influenced our thinking, the thinking of almost the first or second batch of Ministers, who constituted the State at that time. I remember that in the Government, there was almost a perpetual fight of something being set aside. Is it any wonder that in the midst of that battle royal, the pro-change urges in the state got completely hamstrung and the forces of status quo had a feel day, during that formative crucial period. After all, their position was very happy, just block the effect for change, and you automatically have status quo in a driver's seat. How happy they were! It was that simple. As a conscientious political activist, both in and out of Government, I found myself under tremendous pressure from the very forces which we had vowed to fight against, in our younger days, when we had jumped into the freedom struggle. While the performance of the State, undoubtedly left much to be desired and it was therefore rightly and constantly taken to task for what was called lack of political will, the

State's own version , which I am trying to tell you, just in bits and pieces, the State's own version of the story, has not seen the light of day till today in meaning and motivation of political will. What is the meaning of Political Will? How does it come? It is not something that drops from heaven!. The meaning and motivation of political will have never been objectively analyzed along with the reasons why that political will inevitably began to sag, when the State found itself besieged from all sides. This is not the occasion of the Forum to go in to details of that part of our national life , yet I can assure you, that too an agonizing story, with many useful lessons for the future generations. I have so much to tell you, about that period, but this is not the Forum, so I just stop this topic here.

Looking back, there appear to be too distinct periods in post independent India, as my friend Mr P.P.Rao has put in a perceptive paper, he says in the early 50's , when Parliament was keen to push through radical socio economic reforms, the judiciary put speed breakers on the way. In the late 70's and early 80's, when the Court was in a mood to give a fillip to the directive principles, Parliament and State Legislatures did not take full advantage of the situation. The

result is that the directive principles still remain at this entry. However, it is also an un-deniable fact that between the two eras, there was a definite change of generation and the idealism of the freedom struggle had veined to a large extent. The State lost its élan and effectiveness. Bit by time a bit, speed breaker by speed breaker, the new ambience gradually led to a situation where the State got demoralized, finding that it was being seen as violator of the Part III of the Constitution, day in and day out. This transformation needs to be analyzed more minutely. A single pronouncement like that in Gholaknath, A single pronouncement like that in Gholaknath, sent many, many, many explosions in the fabric of the society, whose effect could not be undone, even when Gholaknath was over ruled. I would like to submit that the invisible holes that got drilled in the inspiring texture of Part IV have had devastating effects. In point of fact, the composition of the State also underwent a vast change. Who were the MLAs in 1952? Who were the MLAs in 1957? and who were the MLAs in 1973, 74, 75, 76?. A total change, total change of generation and that also had its effect and not an often, a new State as it emerged, was even obstructive and negative. Although, in theory, Part IV is party neutral and is addressed to the State as such, historical

developments that actually altered political leanings can not be whisked away, thus despite its myriad short comings, and failings, changing circumstances took their own tool of the process and the State was as much sinned against as it was the sinner. In the life of a Nation, ladies and gentlemen, in the life of a Nation, composed of fallible human beings, all movements are not uniformly propitious for all purposes. While great changes could be brought about with comparative ease in one regime, the same become almost impossible in another regime. One needs to seize the moment of the favourable wind and swift sail with all its expeditions. Who hesitated that moment, would mean the loss of that moment, often for ever. I do not wish to elaborate further, I am sure, I have made myself clear enough. In this gathering of legal luminaries, it would be totally unnecessary to dilate further on the welcome recipe of Public Interest Litigation, its logic and validity are to my mind impeccable. I can not resist the desire to quote a small portion from the judgement in the famous *Asiad's* case, in which the Court argued, "that the rule of law does not mean, that the protection of law must be available to the fortunate few, or the law should not be allowed to be prostituted", look at that word coming from the Supreme Court, mind it, "that Law should not be

allowed to be prostituted" by the vested interest for the protection of upholding of the status quo, under the guise of enforcement of the civil and political rights, in other words, under the guise of Part III. The poor too have civil and political rights and the rule of law is meant for them also, though today it exists only on paper and not in reality. These words are coming from no lesser authority than the Supreme Court itself. It is not a politician's rank, it is not some body speaking from a platform. So this is very significant coming from the Supreme Court. The Court observed further " that the Sugar barons and the Alcohol Kings have the fundamental rights to carry on their business and to fatten their purse by exploiting the consuming public, but for those belonging to the lowest strata of society, is there no fundamental right to earn their honest living through their sweat of the soil? sweat at all? The former can approach the Courts with the formidable army of distinguished lawyers paid in four or five figures per day. "Telugu speech : "Sir I am talking about you only", four or five figures per day, and lawyers paid in four or five figures per day, and if their rights to exploit or upheld against the Government under the label of fundamental rights, the Courts are appraised for their boldness and courage and their independence and fearlessness and

applauded and acclaimed. I can not think of a stronger language than this, but if the fundamental rights of the poor and helpless victims of injustice is sought to be enforced by Public Interest Litigation, then the so called champions of human rights sworn upon it as a waste of time of the Highest Court of the land, which according to them should not indulge in trifling matters. Freedom and Democracy exist for the masses above of people. The Court also deferred to "International Human Rights Conference" in Tehran called by the General Assembly in 1968, where it was declared that since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without enjoyment of economic social and cultural rights is impossible. All I can submit is that these words coming from the Supreme Court are more categorical than any other statement imaginable on the subject. Going in to some details in to the directives, there are some, which need to be done with a steady pace. Consolidating what has been already exist, there are some others that brook no delay and need to be taken up at once, sooner the better and there are yet others, that need a long term policy support, because Part IV deals with State policy as the heart of the matter. The directive regarding primary education has already received a serious set back,

although it must be admitted that a lot has been done which is hardly ever acknowledged. I remember vaguely that the criticism of this unrealistic time limit had come into public discussion even when the matter was on the anvil in the Constituent Assembly. There were some comments in the newspapers that, how can you do this in 10 years, appears to be very very unrealistic. But if the period of 10 years was too short, 50 years had not completed, seems too long, this calls for further scrutiny and extra effort. However, if the directives itself had mentioned, say 50 or 75 years, it would perhaps have been utterly incompatible with the aspirations of the people. It would have been seen as another post dated cheque, an expression, which if you recall had come in to currency during the time of crisp proposals and was attributed to Mahatma Gandhi. Such were the irresistible enthusiasm and aspirations of the people of an Ancient Nation in the throws of its emergency. However, once cold water thrown was thrown on this enthusiasm in a variety of ways, disillusionment also took hold of the people's mind, equally quickly. Once this happened, even remarkable achievements ceased to generate any enthusiasm and not many were willing to go beyond a grudging nod for even

outstanding achievements of the Nation. So the mood had changed. In the case of the directive about prohibition, the situation is worse. This is a case of clear religion from what had been given to the people in several parts of the country by virtue of the directive, but unceremoniously scrapped after being implemented for some decades. This raises another important question, whether such a flip flop at any Government's sweet will is permissible under the Constitution? I can not discover any provision in Part IV which gives this choice to the State. Therefore, the State should keep striving, even under adverse circumstances, as Dr. Ambedkar had so categorically pointed out in the Constituent Assembly and I have yet to come across a dictionary, according to which "Strive" means "Scrap". I have no intention of stepping on the toes of hon'ble thinkers, I am only raising the question under Part IV of the Constitution. Regarding uniform civil code, the decision to enlist the consent of the concerned sections of people before tampering with their personal law, is to my mind is a sensible one, time should be allowed to usher in the desirable change painlessly, but here again putting off the matter indefinitely on this pretext would become counter productive. The State should note this, striving, even hard striving, harder striving, becomes relevant here and

this can not be ignored. I do not propose to deal with each and every directive, listed out in Part IV. In general, it could be said that on a majority of the directives, the State did make efforts at least in the initial decades. What was lacking was a factual appraisal or evaluation of how each of these efforts fared in the field and the lives of the people. However, Article 38(ii) and 39 are worthy of special notice. These two substitutes every thing that could be expected of a welfare State and the concept of egalitarianism. It is obvious that when judged against criteria contained in these provisions, many policies and executive decisions that the State has taken and continues to take, can not quite stand the scrutiny of the constitution what ever the effort. When we admit even indirectly that economic disparities are increasing or that equality of opportunity could not be secured in respect of several things, such as education, health and gainful employment etc., This is a clear admission that the State has not fulfilled its duty as delineated in the Constitution. When we clearly see that there has been a concentration of wealth and means of production in a few hands or the control of material sources of the community serves only the interest of some, these phenomena are not merely failures to fulfill promises, but in reality amounts to violation

of the Constitution. The difference is so clear, whatever the reasons. The wide difference between the two angles of vision in looking at these admitted lapses simply hits you Indians. It is amazing for a long time, violation under the Constitution are merely being looked upon as breaches of election promises. I think we have to correct this vision in the first instance. Parties may make numerous local developments or other promises such as Road, Drinking Water Well, Telephone etc., these are between the elected representatives and the people of the Constituency. The Electorate take note of them at the elections and of course whatever it wants to do, it does on the basis of the performance. These are nothing to do with the State's failures to do what happened to be inalienable obligation as per the Constitution under which the State comes into being. Regretfully this real measure of dereliction has not been fully appreciated. This is mainly because of the absence of the enforceability again, as far as one could see in the process it is also added to the complacency in the State's overall behaviour. The thinking today seems to be that "doing nothing is a much cheaper course". Let me have taken to add at this point that wild allegations that nothing was done at all since the enactment of Part IV is not only, not correct, but by its blind negativism precludes any realistic appraisal

of the truth. Taking Part IV, there is hardly any Article that has not been for some kind of implementation by the State. So the State can not be accused of total indifference towards its obligations. What one really wants to know is this, how far striving by the State in its policy formulations and implementation under Part IV has fallen short of legitimate expectation. If only one goes into details on this aspect, many obscure aspects would come out, come to light, if the people do have a right to know, we can not afford to leading into blind allies all the time and more than any one else, the State itself will gain the era, but that part of the topic needs a special account after thorough investigation. We do not have, what has been done has not been done, what has not been done, why has that portion not been done, nothing at all, no appraisal, whether 5 years appraisal which the Planning Commission supposed to do, that also is very very sketchy because they are planning for the next 5 years, only to that extent they get all the figures and the appraisal, not the substantive appraisal as expected in Part IV of the constitution. They are not going to do that obviously. I am sure you will agree that in the conduct of the country's affairs, political parties have over the decades appropriated themselves, the credit that should really belong to Part IV.

Telugu version: " What I am doing, he say, what he is doing is that you yourself is doing that. why he is doing that he wont tell, there is not a single leader who says that he is doing it because the constitution has well said and directed us to do the things"

So he is actually misappropriating the credit to himself, but this has been going on for so long that there is hardly any point in repeating it, but I am just pointing out that the constitution has given you a very very clear mandate, there is no way you can either relege on it, or delay it without any strong and valid reasons. This is the point I am trying to make. This has resulted in the common people being largely unaware of the importance of the constitution in their lives.

Telugu version:" People say that what is there that they don't know, no one knows that the thing involved in the constitution is fully meant for their lives"

But we all know that politicians and parties have their own compulsions to project themselves since the constitution did not stand for election.

“ Telugu speech : “Since the constitution do not stand for the election, we can say that we are candidates for the constitution. Constitution will never protect for this, that is why we are saying that we are the constitution.”

Now as I have just pointed out, if want of justiceability is the cause for Part IV, is the cause for Part IV, being some times swept under the carpet, this is a serious matter and needs to be suitably remedied. I want Justice Jeevan Reddy and Sitaram Reddy and other friends to help disentangling this conundrum. This has become quite unbearable now. For various reasons, I need not go into those reasons, today we are really in a dilemma, State is in a dilemma, the country is in a dilemma, the people are in a dilemma and this is the time when this has to be sorted out. A partial solution as we have seen is the innovation of Public Interest Litigation, but it is only partial, because it has been concerned with the State's actions and omissions, in the executive and administrative spheres. As far as I am aware it has not concerned itself with the policies of the State which really constitute the heart of IV. So there is a clear vacuum at that point. I request

legal and political communities as well as enlightened individuals to ponder over this aspect. The State itself would become less vulnerable than today if it realizes the utility of a policy to review mechanism. No sensible and responsible State would be eager to enjoy absolute and unfettered policy making powers without so much as critical scrutiny of its policies in the light of Part IV. I attach great importance to this scrutiny of State's policies, because we can not expect right results from the wrong policies and further when a wrong policy takes route, it tends to perpetuate itself particularly in a conservative, slow changing society and most importantly any policy which flies in the phase of the principles mentioned in Part IV, is itself a breach of the constitution. So by not taking the note of policy lapse, we are really perpetuating the consequent breach of the Constitution. This is not good for us. It was wrote once upon a time that even if a person in power may not answer for his policies under Part IV, in a Court, he will certainly will have to answer for them before the Electorate at the next election. This is one of the arguments which is advanced in the debates. I am afraid that this hope has not materialised and is not likely to materialize. For one thing, a candidate at an election in fact is not the State, he is a candidate only. For instance it would be

impossible to find an independent Legislator identifying himself with a State. He can not do it, whatever the theory, what he really answers for, will only be limited to his own performance. Experience also clearly shows that no one actually makes the State answer for vital policy questions at election time. These matters no longer figure in our elections. It is being fought more and more on factors not quite determined to the directive principles. The sacred process of election has developed its own new criteria, new philosophy, new motivation and new methodology, so they are nothing to do with the Constitution. This is common knowledge by now and needs no elaboration. So I have come to this Forum to make a submission about the anomalous situation wherein the State is the Policy Maker, the Policy Implementer and Policy Evaluator, all rolled in one, in respect of its own performance under the Part IV of the Constitution. I have felt since long time that this situation is not desirable. To what extent thus Part IV figure at all in our constitutional dialogues. In how many S.O.Rs, ie., "Statement of Objects and Reasons" of our statutes, is it clearly highlighted that the source of the legislations in Part IV of the constitution, this is not done? Is it fair that the State has no one to comment or assist it in a well considered and competent way, but it

suddenly makes to stand and answer all questions on all policies from all sides. Why should the answerability imposed on the State is so skewed in actual practice.

VOTE OF THANKS : By Sri. K. Pratap Reddy

Beloved Mr P.V.Narasimha Rao Garu, Mr Justice Waghray, the President of the function Mr Malla Reddy, Mrs. Madhava Reddy and other Trustees of the Foundation, learned Judges, Lawyers and dear friends, it is my duty to propose vote of thanks on behalf of Justice Madhava Reddy Foundation. We are beholden to you sir, P.V.Narasimha Rao garu, now I may use in our terminology "P.V.Garu", to have accepted our invitation at such a short notice, to give us this illustrious, illuminous, instructive and educative lecture on the subject. We all behold of you sir, I remember the day in September, when myself and Mr. K. Ramachandra Reddy approached you inviting you to give this lecture, the warmth and enthusiasm which you have received us and responded to our call, really enriched us and we thought that you have really, not only given us the real cause, to the Foundation, the Foundation itself is enriched, for your agreeing to give this lecture today on this anticipated time by the monumental lecture. What else can we do to give to you sir, except two words, THANK YOU. Even for that also perhaps you may say, "Hey, who are you to thank me", I have come here in the memory of a dear friend of mine"i, who you have said lived as twin brothers in two illustrious offices. Therefore it is only my humble duty, my formal duty to thank you sir, thank you all, thank you very much.