

ANALYZING INTERNATIONAL CONSTITUTIONS IN ORDER TO
IDENTIFY THE RIGHT TO FOOD, COUPLED WITH A
JURISPRUDENTIAL ANALYSIS ON THE COUNTER PRODUCTIVITY OF
EMPLOYING EQUALITY

Kiran Suryanarayana

School of Law, Christ University, Bengaluru

The ideal of plentiful resources and access to the same is particularly fanciful to the largest proportion of any given population set within society. There appears to exist a particular orientation that posits the principle that all human beings irrespective of any peculiarities such as race, caste, religion or gender must have the inherent right to equal access to society's basic resources, a conception of utopian equality.¹ The idea of equal access emerges the conception of a basic right to food that people possess. (amongst rights to other basic necessities) At a secondary level, what much be considered, is that constitutions that function as basic norms or the founding principles of law² in a particular state, usually are texts of explicit and unquestionable authority on the issues of equality and the rights that arise theoretically from the same. Thereby restricting the discussion to constitutional perspectives on the inherent right to food possessed by the people belonging to the human race, this paper seeks to analyse the constitutions of different countries around the world in order to ascertain whether there exists any form of consensus between them on the issue at hand and the measures taken to guarantee such a right. At an ancillary level, the paper has two aims and they are - firstly, to assess the global implementation of a right, in those countries where it is theoretically guaranteed and secondly, to present arguments pertinent to the idea that, a right to food is at a principle level an ideal construct that is existent as a reaction to the functional problem presented by the premise of liberty³ within a society of multiple individuals/variables and hence cannot be sustainable.⁴

Keywords – Constitutions, Right to Food, Equality, Liberty, Sustainability

¹ 'Equality' (or 'equal') signifies correspondence between a group of different objects, persons, processes or circumstances that have the same qualities in at least one respect, but not all respects, i.e., regarding one specific feature, with differences in other features. (Dann 1975, p. 997; Menne 1962, p. 44; Westen 1990, pp. 39, 120)

² Hans Kelsen, Pure Theory of Law (2nd ed. 1960)

³ John Stuart Mill, On Liberty (4th edition ed. 1869). - Chapter I: Introductory remarks

⁴ Additionally, it is also stipulated that, following from the conclusion of non - sustainability, the paper seeks to present a scenario wherein it would be sustainable provided a certain degree of economic progress has been achieved.

Introduction

It would appear that with a transition into modern civil society that supposedly ushers in the age of responsible governance, wherein consolidation of state power at both national and international forums is no longer the primary goal, and the responsibility of the state has evolved in a manner, such as to address the problems experienced by a majority of its population, hitherto surreptitiously ignored under the guise of national security, especially during the World Wars⁵ and Cold era. With the culmination of the war, in the 1990's governments shifted their focus towards internal development, especially the provision of certain rights to the populace as a whole which would be essentially positive in nature, in an effort to effectuate change that was not superficial, but rather well reasoned and pervasive. The additional motivating factor that pressured a governmental shift in focus following the War period, was the quickly disintegrating state of certain basic amenities that were due to be provided to the people by governments, held morally and constitutionally responsible for the same. At the 1996 World Food Summit, representatives from 185 countries around the world gathered in order to discuss some of the important questions in the field of access to food and policy and constitutional measures to eradicate hunger and ensure an equal right of access to all sections of society. (This was reflected in the wordings of the outcome document of the conference, namely the "Rome Declaration on World Food Security")⁶

Seeing as to how, it has been accepted at an international level, by several players large and small in the field that the shortage of food in the light of the exponential rise in the world's population⁷ is an issue of grave importance and must be addressed at the earliest, the primary goal of this paper is to assess the extent to which governments have acted on their reaffirmations at several global conferences in order to improve the access of the poor and the downtrodden to food which is fit for human consumption. Changes can be introduced into a particular politico – social set up by governments in different ways. A government can always choose introduce a law that would ensure that all sections of society irrespective of their socio – economic backgrounds are guaranteed access to nutritional food. However, the drawback with such a law is that it only confers a positive duty on the government stemming from legislation, to perform the task that is enshrined within said legislative framework. It does not provide any underlying grounding for the duty that is to be discharged by the government in tandem with a 'right' of sorts that is guaranteed by the constitution of that particular state. In order to further illustrate this particular point,

⁵ Paul Cornish, "Rationing And Food Shortages During The First World War", Imperial War Museums (April, 2013), <http://www.iwm.org.uk/history/rationing-and-food-shortages-during-the-first-world-war>.

⁶ Food and Agricultural Organization of United Nations, "Rome Declaration on World Food Security" (13th November, 1996), <http://www.fao.org/docrep/003/w3613e/w3613e00.htm>;

⁷ Population Reference Bureau, staff "2013 World Population Factsheet", Population Reference Bureau, 5 December 2014, www.pbr.org.

consider a hypothetical scenario wherein the constitution of a particular state included a chapter outlining the fundamental rights to be granted to the citizens of the country in question and any violation of said fundamental rights could be challenged in a court of law, seeking relief for the same. Let us now consider, one scenario [A] where the constitution does not contain a right to food, in either explicit or implicit terms. The government then passes a law that states that it will provide 30 kilograms of food for all the families below the poverty line per month. However, if the government such a law ineffectively, or in a manner best described as incomplete it would leave the citizens with no legal recourse under the ‘challenge’ to the fundamental rights violation as no particular rights have been or are being violated in this particular instance. If were to contrast the same with one scenario [B], where the constitution of a particular state does provide for an explicit or an implicit right to food, and a similar law is passed by the government, then any ineffective or incomplete performance is liable to be challenged in a court of law as being violative of the underlying constitutional right, bringing the efficacy of such a law into question, allowing for the adequate protection of the rights of the people for the access to food.

In light of the antecedent paragraphs, the objective of this paper is quite evident. The paper seeks to assess constitutions from countries around the world, in order to determine the manner in which these nations have approached the problem of ensuring a right to food being guaranteed by the constitution to the citizens of the state.⁸ At the secondary level, the paper aims to analyze the right to food in relation to the idea of equality that it seeks to ensure and postulate that such an exercise is one that is merely a by – product of those issues that classical liberty poses. The paper also seeks to propose an alternative method of resolving the problem of classical liberty without resorting to governmental intervention to secure equality.

Let us consider the constitutions in greater detail –

1. India

A country that has since its abstract origins, millennia ago deeply respected the idea of food allowing it a place of high prominence within the religious framework of the dominant religion, Hinduism.⁹ The general premise on which the institution of higher Hinduism is functional is the idea of disenchanting oneself from the material nature of most objects and institutions that all seek to pleasure the sense organs rendering the individual in question distracted and unable to glimpse at the cosmic truth. In consonance with such a simplistic philosophy, certain philosophico – religious texts dictate terms of frugal existence to its practitioners, which seek to instill within them a deep sense of respect for the food they consume, derived from nature in of itself. Yet, for a country with such rich heritage

⁸ The paper will consider the constitutions of the following states in greater detail - 1) India, 2) Brazil, 3) South Africa, 4) Argentina

⁹ ISKCON Editorial team, “Food and Prasada, the Heart of Hinduism” ISKCON Educational Services, Last accessed on: October 19th, 2016, <http://iskconeducationalservices.org/HoH/lifestyle/809.htm>.

pertaining to respect for food, has in recent times suffered from high levels of malnutrition, and a general food shortage that has sparked some sensitive citizens into launching a long drawn out “Right to food campaign”¹⁰ which was grounded on the substratum of the case *PUCL v. Union of India (2001)*¹¹ on which the apex court is yet to pronounce a final judgment but has passed several interim orders and judgments in order to that the government undertake a more proactive role in the matter as a whole, ensuring the passage of several important policies that have taken a big step in the direction of ensuring that the levels of hunger and malnutrition in the country is reduced. This is particularly important for India to achieve, seeing as to how the World Bank ranks India as one of the worst countries in terms of the number of citizens suffering from malnutrition, and general level of access to food.¹² Additionally, according to Global Hunger Index (GHI), 2015 India ranked 20th amongst the leading countries with a serious food problem.¹³

If one were to examine the constitution of India, the right to food in the form of right does not explicitly exist under Chapter III of the Constitution of India, 1950.¹⁴ However, what must be realised is the idea that the countries that choose to have their constitutions put down in a written form, accede to a degree of rigidity colouring the functioning of their constitutions in the long run. The idea is inherent in the Constitution of India as well, seeing as to how the constitution through the procedure described in Article 368,¹⁵ making the amending process to an essentially fixed policy document flexible allowing India to pass a total of one hundred and one amendments¹⁶ in the space of sixty – nine years since its founding as a nation, as opposed to the grand total of twenty – seven amendments¹⁷ that have been made to the Constitution of United States of America, in the space of two hundred and forty years. The underlying problem of partial rigidity remains, as the written form is a choice that cannot be done away with sans serious repercussions. The Supreme Court of India however, has adopted the role of an active court in interpreting and

¹⁰ Biraj Swain, “India’s Supreme Court remains the lynchpin in 11-year public battle to tackle hunger”, Oxfam India’s work on Food Justice, last accessed on: 19th October, 2016, <https://www.oxfam.org/sites/www.oxfam.org/files/oxfam-rioplus20-case-study-india-jun2012.pdf>.

¹¹ *People’s Union of Civil Liberties v. Union of India and Ors*, (W.P(C) No. 196 OF 2001)

¹² “World Bank Report on Malnutrition in India”. The World Bank, last Accessed on, 18th October, 2016,

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/0,,contntMDK:20916955~page PK:146736~piPK:146830~theSitePK:223547,00.html>.

¹³ “2015 Global Hunger Index Report”, International Food Policy Research Institute (IFPRI), last accessed on 19th October 2016,

<http://ebrary.ifpri.org/utils/getfile/collection/p15738coll2/id/129681/filename/129892.pdf#page=21>.

¹⁴ Constitution of India § 13 - 32, 1950

¹⁵ *Id.*, § 368

¹⁶ “The Constitution Amendment Acts”, India Code, indiacode.nic.in, Last accessed on 20th October, 2016.

¹⁷ “US Constitutional Amendments”, Findlaw, Last accessed on 20th October, 2016, <http://constitution.findlaw.com/amendments.html>.

constructing meaning into the constitution, especially into the fundamental rights enshrined in Chapter III of the Constitution with particular reference to Article 21 of the same.¹⁸ This stance of the Supreme Court has ensured that the right to food is implicitly granted to the Indian citizens owing to the interpretation of the wording of Article 21, which reads as follows –

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

The words ‘personal liberty’ has been interpreted by the court as involving the existence of a human being in a manner that can only be described as being human, as opposed to an animalistic or a mechanistic existence, neither of which truly guarantee a fundamental right that is at a principle level aimed at allowing people to live a life with a shred of dignity at the very least. If such an interpretation of Article 21 is to be allowed, then a right to food becomes an inevitability to be included within the ambit of the same seeing as to how food and shelter are the basic necessities in order to ensure some dignity for man.¹⁹

Additionally, Chapter IV of the Constitution of India, 1950²⁰ which constitutes the Directive Principles of State Policy, which function as idealistic administrative guidelines convey to the government implicitly in Article 39 and explicitly in Article 47 to ensure that there exists a right to food to the masses or some form of Food security at the very least.

Article 39 (a), “(a) that the citizens, men and women equally, have the right to an adequate means of livelihood”²¹

Article 47, “The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties...”²²

It is fairly evident upon a preliminary examination of Article 39(a), the constitution recommends to the government to ensure that, all men and women in the country have the right to a livelihood and a common end goal to acquiring of livelihood is to ensure that their children have food on the table, an implicit direction. On the matter Article 47, the wording is quite straightforward, clearly issuing directions to the state to ensure that all its

¹⁸ This article is the ironic exemplification of brevity within the document in question seeing as to how the apex has read in several rights into its construction in order to ensure a vast array of rights being granted to the citizens by the government, and to consider some examples - 1) Kharak Singh v. State of Uttar Pradesh AIR 1963, 2) Maneka Gandhi v. Union of India AIR 597 1978, 3) Francis Coralie v. Union Territory of Delhi AIR 746 1981, 4) Olga Tellis v. Bombay Municipal Corporation SCC (3) 545 1985, 5) Consumer Education and Research Centre v. Union of India AIR 922 1995.

¹⁹ Shantistar Builders v. Narayan Khimalal Totame, AIR SC 630 1990, “The right to life would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view...”

²⁰ Supra note 14 § 39, 47

²¹ Id § 39(a)

²² Id § 47

citizens have adequate access to nutritious food in society so as to mitigate the problem of malnutrition that threatens to cripple the country.

2. Brazil -

Brazil has the distinction of being one of the nine countries in the world,²³ only to have explicitly recognized that the right to food is one that of such fundamental importance that it be included within the purview of fundamental rights, ones that are inalienable unless under exceptional circumstances. The actual text of the right enshrined in the constitution conveys the message with brevity. The right reads as follows, “Article 6. Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution.”²⁴ This particular right was not part of the original text of the constitution and was added on in 2010, in a constitutional amendment that was passed, which aimed at ensuring the right to food being made available to the populace at large in order to ensure any future legislation grounded in sound constitutional doctrines.²⁵

The country also has the distinction of being one of the most successful countries in their drive against the reduction of hunger and thereby taking effective steps towards securing the fundamental right to access to food enshrined in the constitution. The World Food Programme has been in collaboration with the Brazilian Government as early as 1963, establishing a midday – meal scheme that is continued to the day and has had an inordinate amount of success, reducing the levels of hunger from 22.8 million people in 1992 to 16.3 million people in 2002.²⁶ Additionally, the government has undertaken several other schemes involving public – private partnerships, within different microcosms of the society and advancing small loans to farmers and rural entrepreneurs in an effort to fulfill one of the conditions of realizing a right to food, i.e. empowering individuals to be able to feed themselves, by providing them opportunities to work and draw salaries or start small businesses and create self – sustained units within the larger economy.²⁷ By way of conclusion, it appears quite apparent that a sound constitutional grounding of any particular policy measure of the magnitude of the right to food, proposed by a government proves greatly beneficial to both the primary stakeholders involved.

²³ Knuth, Lidija, Constitutional and Legal Protection of the Right to Food around the World, Food and Agriculture Organization of the United Nations, 20 July 2012, http://www.fao.org/righttofood/publi11/constitutional_2011.pdf.

²⁴ Constitution of the Federative Republic of Brazil, § 6, Chapter II (Social Rights), October 5th 1988.

²⁵ “Constitution of the Federative Republic of Brazil”, Government Archives, 2010, <http://english.tse.jus.br/arquivos/federal-constitution>, (Page number, 380/425, Constitutional Amendment number 64 of 2010)

²⁶ WFP Editorial Team, “Brazil - A Champion In The Fight Against Hunger”, World Food Program archives, 24th June, 2014, <http://www.wfp.org/stories/brazil-champions-fight-against-hunger>.

²⁷ Id, “Malnutrition rates have decreased by 73% and child mortality rates by 45%”

3. South Africa –

It is observed from the examination of the constitution of South Africa,²⁸ that the country has adopted the right to food, as a fundamental right guaranteed to its citizens under Chapter 2 Section 27.²⁹ The text of the article, which reads,

“Everyone has the right to have access to... sufficient food and water; and...” provides explicit directions to the government, by conferring on it a positive duty to ensure that people of South Africa have equal access to food. Additionally, the constitution unlike that of Brazil, considers the case of children separately in the constitutional text and under Section 28 of the same, guarantees a separate right to food, to children in South Africa as well.³⁰ Hence, in this particular case we notice a strong constitutional basis for the right to food as a whole, thereby allowing the government to make legislative policies and executive decisions to further the cause for fighting against hunger and malnutrition in a responsible manner, wherein any violation or underperformance of the same could allow for a penalty to be levied on said government.

However, on the front of implementation, the South African government appears to be lacking seeing as to how over seven million of its population face a food crisis,³¹ even in the light of the country possessing enough resources to feed its population.³² This was highlighted in a report compiled by the Studies in Poverty and Inequality Institute,³³ which stated that the right to food was the only right guaranteed in Chapter II of the constitution that did not have an implementing act accompanying the same,³⁴ and recommended a three

²⁸ Constitution of the Republic of South Africa, 1996, § 27, Chapter II, 16th December, 1996

²⁹ Id.

³⁰ Id, § 28 “Every child has the right to - ... to basic nutrition, shelter, basic health care services and social services...”

³¹ Anim Van Wyk “Are there 13, 14 or 15 million hungry people in South Africa?” The Africa Check Organization, 10th May, 2016, <https://africacheck.org/reports/are-there-13-14-or-15-million-hungry-people-in-south-africa/>; “There is no evidence to support claims that 13, 14 or 15 million people are experiencing hunger in South Africa. A 2014 nationally representative survey revealed that there were 7 million individuals who reported experiencing feeling hungry. The same survey also measured food access. Based on this assessment, 14,060,929 people (26.2%) reported that they did not have adequate food access.”

³² Birgit Ottermann, “South Africa's 'hidden hunger”, Health 24, 9th October, 2015, <http://www.health24.com/Diet-and-nutrition/Food-security/South-Africas-hidden-hunger-20130411>.

³³ McLaren, D, Moyo, B and Jeffery, J “The right to food in South Africa: An analysis of the content, policy effort, resource allocation and enjoyment of the constitutional right to food” Studies in Poverty and Inequality Institute, Working Paper 11, (2015)

³⁴ Butho, “The right to food in South Africa: SPII launches report”, Section 27 (Catalysts of Social Change), 31st July, 2015, <http://section27.org.za/2015/07/the-right-to-food-in-south-africa-why-millions-are-starving/>; “... The right to food has long been a contentious issue and is the only socio-economic right listed in the Constitution that does not have an Act that gives content to the right...”

– policy approach,³⁵ in order to remedy the problem at hand and ensure that the citizens of the country receive equal access to the food.

4. Argentina -

The Government of Argentina has by means of an amendment to the constitution of the country ensured the indirect application of a right to food, in an effective manner onto its citizens. While the original text of the constitution does not include any specific right to food, the government in its amendment³⁶ has appended the major treaties, to which it is a party such as the –

a) The Universal Declaration of Human Rights, 1948;³⁷

b) The International Covenant on Economic, Social and Cultural Rights,³⁸ to the constitution thereby providing a constitutional background to the right to food as a whole.

With the disappearance of the Argentinian Welfare state, in the 1990's, the problem of hunger has skyrocketed in the country with the rise in the levels of poverty and hunger by 53% by 2002.³⁹ This is cause for grave concern in the nation's drive to preserve the right to food. The food emergency program and the Heads of Households Programs started by the Duhalde government in 2002⁴⁰ show some promise in alleviating the hunger problem in the long run.

³⁵ Id, Page number - 2, "... 3-step methodology which looks at firstly, policy analysis which assesses the policy effort. Secondly, budget analysis which looks at resource allocation and expenditure, and finally indicators which monitor and evaluate attainment of the right..."

³⁶ Constitution of the Argentine Republic, § 31 Chapter I, 22nd August 1994, "This Constitution, the laws of the Nation enacted by Congress in pursuance thereof, and treaties with foreign powers, are the supreme law of the Nation; and the authorities of each province are bound thereby, notwithstanding any provision to the contrary included in the provincial laws or constitutions, except for the province of Buenos Aires, the treaties ratified after the Pact of November 11, 1859."

³⁷ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc, A/810 at 71 (1948), (Art 25) "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing..."

³⁸ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-19, 6 I.L.M. 360 (1967), 993 U.N.T.S. 3;

"... 2. The States parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed..."

³⁹ Sofia Monsalve Suárez, Jürgen Reichel & Bruno Inkermann "Right to Food in Argentina", Report of the International Fact Finding Mission to Argentina, April 2003, <http://www.fian.org/fileadmin/media/publications/Right-to-Food-in-Argentina-2003.pdf>; (Page Number - 11) "In the 1990s the Argentinian welfare state, which had been considered one of the pioneering and most developed in Latin America, started to disappear, due to the crisis of the so-called "economic accumulation model... In May 2002 indicators showed that the percentage of population living in poor conditions had increased by 53% (nearly 18.5 million people)..."

⁴⁰ Id, Page number 14,

The Farcical Justifications Revolving Around Equality & its Derivative Nature from Liberty

The notion that within a constructed reality, especially one that is social in nature human beings in their capacities as individuals have the inhaled ability to make decisions that can be classed as 'free' and bereft of external influences is indeed an intoxicating one. It is from this heady mix of a societal shift in focus in individualism from a society dominated by individuals or individualistic cliques of people, or the western equivalent of sanskritization⁴¹ of importance attached to the individual itself, which allowed for the mass consciousness to accept the idea, rather greedily as they too were vested with an inherent ability to make 'free' decision, that would truly be their own. This when combined with centuries of so-called 'serfdom' and the domination of the church and the feudal economic servicing the aforementioned regulator of human behaviour.⁴²

The initial conception of liberty, the freedom to be extended to all men and similarly recognized by the state, suffered from the strong influences of the monarchies, aristocracies and theocracies that had been the status quo of governmental form and structure up until that time period. All the three mentioned forms of government had very little to do with the recognition of liberty as a fundamental right in of itself, and hence the nature of liberty itself was prima facie assumed to be negative in nature. This particular characterization involves the structure of liberty being one wherein there would be the removal of external obstacles that prevent an individual from making a particularly beneficial or efficacious decision.⁴³ This line of reasoning is directly pertinent to the oppression faced by the masses, wherein the primary obstacle to the realization of the notion of freedom and liberty were external obstacles places upon the decision making process of individuals forcing them to make decisions that were not particularly suited to or necessary to them relative to their given situation.

"President Mr. Duhalde set up in May 2002 the Heads of Household Programme. Such programme is aimed at heads of household, both men and women, that are unemployed and have children up to 18 years old, with the goal of making easier the incorporation of these children in the formal education or in some type of professional training that would help them in their future labour insertion..."

⁴¹ Harold A Gould, "Sanskritization and Westernization, A Dynamic View" The Economic Weekly, 24th June, 1961,

http://www.epw.in/system/files/pdf/1961_13/25/sanskritization_and_westernization_a_dynamic_view.pdf; "... Srinivas's concept rests ultimately on the notion that the caste system, like all status hierarchies, causes the low to invidiously compare themselves with the high and to try in every way they can to soften, modify, reduce, and even eliminate altogether the basis for these status differences..."

⁴² Candice Goucher, Charles LeGuin, and Linda Walton, In the Balance: Themes in Global History (2nd Edition, 1998), selections from chapter 7, "Ties that Bind: Lineage, Clientage, and Caste."

⁴³ Ian Carter, "Positive and Negative Liberty", The Stanford Encyclopedia of Philosophy, Fall 2016, <http://plato.stanford.edu/entries/liberty-positive-negative/>

The essential differentiation within the field of liberty itself, only arrived at a much later stage when philosophers began to introspect in order to construct well – reasoned models of thought pertinent to particular questions in philosophy. In the light of a reflective model, the notion of negative liberty seems to be quite incomplete seeing as to how, the removal of all external obstacles that impede free decision – making, does not in several situations guarantee an individual the ability to make decisions that can be terms as being liberated from all influence. This is the situation owing to the fact that there are certain biases that are a by – product of human experience which influence decision making in manner quite similar to the external obstacles that exist as a result of governmental action or inaction. This gave birth to the notion of positive liberty which when posited in a pure or theoretical form, referred to the removal of all internal impediments that would deeply influence the decision making of an individual.⁴⁴ However, when translated into practice at the political level, positive liberty is manifest as the source of authority that governs the manner in which certain individuals behave in order to ensure that the society as a whole is benefited from such behaviour, which may through a reallocation of resources ensure upliftment of certain sections or classes of society.

The fundamental problem with the initial hypothesis that the right to food in of itself which is an extension of the notion of equal access to food, for all the variables in a given system (a specific postulation of the general principle of equality) is the inability to justify adequately the reasons for certain policy decisions made by governments taking up the purpose of said policies to be that of equality propagation, when in reality the very notion of equality is farcical as it is dependent on the requirement for resolving the problems of negative liberty . This is exacerbated upon the consideration of the idea that the problems of negative liberty can be adequately resolved through the dilution of the same with the notion of positive liberty that must not be interpreted as being tantamount to the spread of equality that constitutes the basis for several poorly reasoned policy decisions, economically and socially. The reasoning for the above – mentioned assertion is the following. The original conception of liberty or negative liberty’s primary setback was the manner in which any heterogeneous society might display tendencies to strip certain unfavourable sections of society, off their liberty owing to a libido dominandi⁴⁵ that was inured in the majority. This was particularly exacerbated by the growing popularization of the democratic form of government, which heavily favoured the majoritarian rule.⁴⁶ This led to political leaders

⁴⁴ Id.

⁴⁵ Micheal E Jones, “Libido Dominandi: Sexual Liberation and Political Control”, (New Edition, 1st February, 2015) “Unlike the standard version of the sexual revolution, Libido Dominandi shows how sexual liberation was from its inception a form of control. Those who wished to liberate man from the moral order needed to impose social controls as soon as they succeeded because liberated libido led inevitably to anarchy.” **This clearly ^ showed how a liberation from the moral order of the church to a civil society, required the imposition of social controls which were decided by the majoritarian communities.**

⁴⁶ James Lindley Wilson, “Majority Rule and the Federalist Papers: Democracy, Equality, and Constitutionalism”, Princeton University, September 2009, http://lapa.princeton.edu/hosteddocs/Wilson_Majority%20Rule%20and%20the%20Federalist%20

adopting the idea of equality for all, and taking policy decisions under the guise of the same. The problem with such measures is that in the modern fragmented democracy the votes of different sections hold different value in the eyes of the politicians motivating them to selective 'equalize' certain sections of society with others in an effort to secure the votes of the electorate in question. The manner of a forced creation of quality, very reminiscent of Marxism,⁴⁷ is fundamentally problematic as –

- a) It is prone to misuse by those in power, to propagate personal agendas as opposed to protection public and social interests.
- b) It leads to the making of decisions that fly in the face of economic reason and prove to be harmful to the nation in the long run as an element of cultural dependency ingrained in equality in of itself, leaving the practitioners of the same susceptible disregarding reason in the face of emotion.

Hence, by way of conclusion a much better alternative is to dilute the negative liberty of certain classes of the population through the increasing in interventionism in order to spread positive liberty through the empowerment of the depressed classes sans the end goal being one of 'equalising' the playing field.

Papers%20092909.pdf, On page number 7, "... Surveying this backdrop allows us to appreciate the remarkable innovations that led the Federalists (along with other Americans) to view majority rule as a fundamental principle of free government, while helping us to understand the simultaneous ambivalence toward popular majorities that permeates the Federalist Papers..." **While ^ it was believed that majority rule would be beneficial to strip democracy of the class influences of earlier systems of government, it still presented the concern of minority discrimination by mere acceptance.**

⁴⁷ Karl Marx and Friedrich Engels, "The Communist Manifesto" (Edition, 21st October, 2016) "Communism deprives no man of the power to appropriate the products of society: all that it does is to deprive him of the power to subjugate the labor of others by means of such appropriation..."