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Are Private Properties Included in 'Material Resource of Community' Under Article 39(b)?

- Rohaan Thyagaraju

Abstract:

This article delves into the polarized issue regarding whether 'private property' falls under the material resources of the community as stated by article 39(b) of the Indian Constitution. The directive principle in the Constitution's socio-economic vision of the State's policy, mentions that the State must "direct its policy towards securing the operation of the organic resources of the community in such manner as best to serve the common good" in regards to the ownership and control of material resources.

The understanding of the part bears crucial consequences for economic regulation, private ownership, and liberty versus the common good. Regarding Article 39(b)'s definition and experience applied to private properties, this article aims to unveil the constitutional provisions, judicial interpretations, and scholars' opinions.

The question, however, has assumed even more topicality than before in light of contemporary issues such as economic disparity, land issues, and the status of the State in the distribution of resources in India. This article analyzes judicial precedents that define the 'material resources of community' referring to the State of Tamil Nadu v. L. Abu Kavur Bai (1984)³⁸ and K. T. Plantation Pvt. Ltd. v State of Karnataka (2011)³⁹. These cases suggest the phrasing of a broad meaning encompassing private properties, ergo not out-of-place in Article 39(b), so long as it garners the community's benefit.

The article is also devoted to the conflict between Regulation Article 39(b) and the property right guaranteed by Article 300A of the Constitution. It discusses how the courts tried to

³⁸ State of Tamil Nadu v. Abu Kavur Bai, A. . R. 1984 S. C. 326 [S. C.] [hereinafter "Kavur Bai"].

³⁹ K.T. Plantation Pvt. Ltd. v. State of Karnataka, (2011) 9 SCC 1.

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harmonize the provisions that are in contradiction. It also delves into the consequences concerning economic policies, especially those related to land and resource management.

Thus, considering the mentioned aspects, the article's objective is to give the reader a clear view of the current legal position of private properties under Article 39(b). It ends with observations on the flexible approach that the Indian law has taken and hints at future policy recommendations for improving this type of legislation in the country, this time stressing the importance of the correct proportion between the protection of the common good and the protection of individual rights.

Keywords:

Article 39(b), Indian Constitution, private property, material resources of the community, directive principles of state policy, socio-economic vision, economic regulation, common good, Article 300A, property rights, judicial interpretation, constitutional provisions,

Introduction:

Article 39(b) of the Indian Constitution, one of the Directive Principles of State Policy, directs the State to 'so distribute the ownership and control of the material resources of the community as better to subserve the common good'. This provision has been a matter of legal and constitutional controversy, especially concerning Private properties.

Thus, whether the 'material resources of community' include private properties is not an issue only for pure philosophical discourse. It implies the economic policy, ownership, and stake concerning the rights of persons and rights of the State, as well as the freedom of the individual versus the collectivity. This article sheds some light on the problem by reviewing the constitutional provisions, the judicial precedents, and scholars' views.

Arguably, the significance of this line of inquiry has become even more salient in recent decades, with India confronting problems of income disparity, land acquisition, and the State's function in dispensing resources. Answering this question would enhance the understanding of

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constitutional provisions regarding the distribution of resources on the one hand, as well as the nature and extent of applicability of such provisions in present India on the other.

Constitutional Provisions that Pertains to Article 39(b)

The provision provided under Article 39 (b) is discussed under the Doctrine of the Directive Principle of State Policy as annexed under part IV of the Indian Constitution. These are referred to as the ten principles of public life, and even though the courts do not legally protect them, they act as the basic principles of the country's governance. They afford the state proper guidance on how social and economic justice can be offered.

As observed above, locating Article 39 (b) in the DPSP is strategic. Furthermore, this indicates that although this provision is intended to steer the state policy, it is not an ironclad requirement. This positioning is feasible and more general in adapting different potential meanings to match the new socio-economic environment. Furthermore, for the same reasons that were advanced above, it must be noted that Article 39(b) has to be interpreted alongside other provisions of the Constitution, particularly Article 31C and Article 300A, which guarantees the right to property as a fundamental right.

Interpretations of Material Resources of Community

It can be noticed that the journalist was referring to 'material resources of community' to understand the notion of Article 39(b). A well-articulated constitutional definition of this term still needs to be based on the country's Constitution.

First, disputes arose due to differences in the perception of what this terminology implied, whether natural or artificial resources were considered part of these resources. It is reasonable to claim that, with time, judicial interpretations will become more liberal.

The apex court of the Indian Republic in the case of State of Tamil Nadu v. L. Abu Kavur Bai (1984) 2 S. C. C. 405 held that the 'material resources of community' are not confined to minerals or water. Therefore, the said expression has an exceedingly broad, if not residual,

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comprehensive connotation of different material resources available within the community for their use. It comprises the actual and the conceptual, the mobile and the fixed, governmental and non-governmental, and so on.

It insisted that 'material resources of community' could include private properties. However, their subject was the provision of the common good, all because of the above-mentioned liberal interpretation of St. Thomas.

The evolution of the concept of 'human rights.'

Here, the judiciary has been forthright to state provisions of Article 39(b) and the interpretations regarding players in the private sector. Several landmark cases have contributed to this evolution. These are some of the landmark cases that have led to such changes:

- a) **Kesawananda Bharati Sripadagalavaru and Ors v. State of Kerala & Anr, (1973):**⁴⁰ While this case is perceived mainly for establishing the principles of Basic Structure⁴¹, it also concerned itself with the meaning of Article 39(b). Under this section, the Court pointed out that while it does not necessarily mean the total resources must be nationalized, organizations should ensure that such resources are distributed relatively as everyone's property.
- b) **State of Karnataka v. Ranganatha Reddy (1977)** ⁴²This story informed this particular story because there was uncertainty regarding Article 39(b) aimed at turning people into owners and controllers of material resources or aimed at annihilating property that had been privatized.

⁴⁰ Kesavananda Bharati v. State of Kerala, A. I. R. 1973 S. C. 1461 [S. C.].

⁴¹ Per Khanna J., Kesavananda Bharati v. State of Kerala, A. I. R. 1973 S. C. 1461, 1492-6.

⁴² State of Karnataka v. Ranganatha Reddy, A. I. R. 1978 S. C. 215

[hereinafter "Ranganatha Reddy"].

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c) **c) Sanjeev Coke Manufacturing Company v. Bharat Coking Coal Ltd. (1983)** ⁴³

Therefore, according to Article 39(b), on the background of the policy for the equitable distribution of resources, the Court stressed that the concern is a direct, positive obligation of the State.

d) **K. T. Plantation Pvt. Ltd. v. State of Karnataka (2011)**⁴⁴This case only revealed that the 'material resources of community' are adequate even for the items of private ownership if they are being done for the general good of the community.

All these judgments together mean that while private properties are not in and out of Article 39(b) when included, they must be in the interest of the Common Good.

Delight on the Provisions of Private Property Rights and the Protection of Public Interest

Article 39(b) raises several issues on the problems of private property rights and the role of the State in the distribution of resources.

The Constitution similarly guarantees property rights in article 300A of the Constitution of Kenya, which states thus, "No person shall be deprived of his property save by authority of law" This shows that the Constitution protects property rights, in one way or the other. This provision was brought in after the property right was de-listed from the fundamental rights in 1978, which guarantees that any action the State takes against the citizen's property must be backed by law.

Thus, the issue reconciles the obligation accomplished under Article 39(b) and the protection provided under Article 300A. Based on the above analysis as to whether the regulation of property for the common good is constitutional, the following points may thus be made:

⁴³ Naniwadekar, Mihir (2009) "Sanjeev Coke, a Critique - An Evaluation of Article 39(B)," National Law School of India Review: Vol. 21: Iss. 1, Article 7.

⁴⁴ K.T. Plantation Pvt. Ltd. v. State of Karnataka, (2011) 9 SCC 1.

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The Supreme Court was dealing with *I. R. Coelho v. State of Tamil Nadu* in (2007), and they said that directive principles cannot be put above the higher importance of fundamental rights but definitely cannot be relegated to an inferior scale.

Analyzing the lesson and noting the critical discussion points on the Implication for Economic Policy and Land Reforms.

The meaning of Article 39(b), therefore, has significant implications for development strategies with an emphasis on political economy land reforms⁴⁵ as well as resource distribution.

Measures that include laws regarding factors like the eve of land have often been predetermined based on the violation of rights to property. But generally, legislations of such kind have enjoyed the approval of courts, especially in the light of Article 39(b) of the Constitution that permits state interference in property owning.

Thus, in *Bhim Singhji v. Union of India* (1981), the Supreme Court of India did not declare the Urban Land (Ceiling and Regulation) Act, 1976 unconstitutional, observing that it serves the interest of the State and promotes the principle enshrined under Article 39(b). However, the application of Article 39(b) is not confined to land reforms only among private properties. It has been called in scenarios such as the nationalization of industries, regulation of natural resources, and environmental protection legislation.

Overview of the Major Countries and the Comparative Model

The fight over the rights of the State to take possession of an individual property for the benefit of the public is global. Many countries face these challenges, though their constitutional

⁴⁵ Per Chinappa Reddy J.

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foundations may be different. In the United States, 'eminent domain' enables the government to seize a person's property for public interest but on condition that they have to compensate the owner. This is like the Indian land acquisition laws with constitutional support in Article 39 (b).

Thus, the European Convention on Human Rights⁴⁶ protects property rights, but the states can restrict it in the public interest on conditions prescribed by law. This approach ties with the Indian principle of subsidiary, which deals with protecting individual interests against the general interest.

Conclusion and Suggestions:

Having considered the provisions of the Constitution, judicial practice, and the implied policy consequences, It is concluded that private properties are not extraneous to the components of 'material resources of community' enumerated in Article 39(b), which alone the reference must be made under the provision of Article 40 of the Constitution. However, inclusion is always dealt with under the principle that it benefits the community in general, and there is a check on this by the constitution and property rights.

The current legal position suggests a nuanced approach:

1. Where the regulation or distribution of these properties benefits the community, they can be considered 'material resources of community'.
2. Any interference with the private property listed under Article 39(b) by the State must be legal and cannot be arbitrary or disproportionate.
3. It is recommended that the application of Article 39(b) to private properties should be based on equity efficiency and social justice.

Suggestions

⁴⁶ European Convention on Human Rights, Article 1 of Protocol No. 1.

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- **Legislative Clarity:** Ideally, general legislation is required to present essential aspects for the demarcation of 'the material resources of the community and the criteria that the properties that belong to the private persons fall under this category.
- **Balanced Approach:** Thus, the obvious task for the policymakers at this point is to find a reasonable compromise between the provisions of Article 39(b) and the principles of Article 300A.
- **Compensation Mechanisms:** When private assets are taken to serve the public interest, there should be a means of offering the owners fair and competitive remunerations.
- **Judicial Guidelines:** The Supreme Court might decide that it is high time to provide exhaustive non-exhaustive lists of the Article 39(b) ⁴⁷application types of the properties, including private ones.
- **Public Discourse:** Future policies concerning private property will have to be based on the ideology of social and economic justice, which should be part of public debate.

Thus, it is possible for private properties to strictly regulate the procedure of their inclusion in the 'material resources of community' under Article 39(b) by the paramount consideration of public good in the penetration of constitutional rights. Thus, although Article 39(b) has a semblance of clarity in India's legal and constitutional framework, its meaning and implementation will remain a function of India's socio-economic transformation for decades.

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⁴⁷ Kesavananda Bharati v. State of Kerala, A. 1. R. 1973 S. C. 1461 [S. C.].

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