

Directive Principles of State Policy

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Features of Directive Principles:-

- They are **non-justiciable** in nature ,which means govt. is not legally bound to implement immediately
- They are based on **morality**.
- They are based on the **welfare of community** rather than targeting a specific individual.
- They require a **legislation** for their implementation.
- DPSPs aim to create **social and economic conditions** under which the citizens can lead a good life.
- establish **Social and Economic democracy** through a welfare state.
- They act as a, yardstick in the hands of the people **to measure the performance of the government**.
- DPSPs are taken from the Constitution of the **Ireland**.
- Dr. B R Ambedkar described these principles as ‘**novel features**’ of Constitution

Object and purpose behind Directive Principles

- The Intention of the makers was to establish in India a -----
democracy- political, economic and social
- It denotes the **ideals** that the State should keep in mind while formulating policies and enacting laws.
- **It resembles the ‘Instrument of Instructions’** enumerated in the Government of India Act of 1935, which were issued to the Governor-General and to the Governors of the colonies of India by the British Government under the Government of India Act of 1935.
- It constitutes a very **comprehensive economic, social and political program for a modern democratic State** which aimed at realising the **high ideals of justice, liberty, equality and fraternity** as outlined in the Preamble to the Constitution.
- They embody the concept of a **‘welfare state’** which was absent during the colonial era.

- These principles represent the **pledges and the promises of our Constitution**, which is not merely a literary document but a **“living instrument”**
- The Directive Principles contain the social, economic, cultural and educational, objectives of the State.
- These provide a motivation for a peaceful political revolution. These also provide a **program for social reconstruction and economic upliftments of the people of India.**
- The Directives **inscribe the ideas and aspirations of the people of India** for which they had fought against the foreign rule

Provisions

- **36. In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.**
- **37. The provisions contained in this Part shall not be enforceable by any court, but the principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws**
- **38(1) The State shall strive to promote the welfare of the people by securing and protecting a social order in which justice, social, economic and political, shall inform all the institutions of the national life**
- **38(2) The State shall strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities**

Classification of Directive Principles

Social and Economic Charter

Article 38 and 39



Social Security Charter

Articles 39-A, 41, 42, 43, 43- A, 45, 46, 47,



Community Welfare

Articles 40, 43-B, 44 48, 48-A, 49, 50



Promotion of International Peace

Article 51

Socialistic Principles

38, 39, 39A, 41, 43, 43A, 47

Gandhian Principles

40, 43, 43B, 46, 47, 48

Liberal Principles

44, 45, 48, 48A, 49, 50, 51

- **39. The State shall direct its policy** towards securing—
- (a) that the citizens, men and women equally, have the right to an **adequate means of livelihood;**
- (b) **ownership and control of material resources** are so distributed as best to subserve common good
- (c) **operation of economic system** does not result in concentration of wealth and means of production to common detriment
- (d) there is **equal pay for equal work** for men and women
- (e) that the **health and strength of workers**, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocations unsuited to their age or strength;
- (f) that **children are given opportunities and facilities to develop** in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39 Certain principles of policy to be followed by state

- -----Equal rights to livelihood to men and women
- -----Ownership of resources
- -----Operation of the economic system
- -----Equal pay for equal work
- -----workers not to be abused
- -----Protection of children
- Cases
- *Olga Tellis v. Bombay Municipal Corporation* 1986 – the right to livelihood was not given much importance earlier however in this case the Supreme court declared it to be a part of the right to life guaranteed by Article 21

- *Randhir Singh v. Union of India*, 1982, the Supreme Court has held that the principle of equal pay for equal work though not a fundamental right is certainly a constitutional goal and therefore capable of enforcement through constitutional remedies
- *M.C,Mehta v. Union of India*, 1991- Employment of children within the match factories directly connected with the manufacturing process of matches and fireworks cannot be allowed as it is hazardous
- *M.C,Mehta v. Union of India*, 1997- Court gave directions to the Government to take steps to abolish child labour- Court held that children below the age of 14 years cannot be employed in any hazardous industry or mines or other work

- Article 39 A – Equal justice and free legal aid to citizens having economic or other disabilities
- The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- Cases- State of MH v. Manubhai pragaji Vashi, 1995 – held that Art. 21 read with art. 39A casts a duty on state to afford grants-in-aid to recognised private law colleges, similar to other faculties for receipt of the grants

- M.H.Hoskot v. State of MH. 1978, - Court held free legal aid is State's duty not the govt's charity. If a prisoner is unable to exercise his constitutional and statutory right of appeal including special leave petition for want of legal assistance, there is implicit in the court, under Articles 142, read with 21 and 39 A of the Constitution, the power to assign counsel to the prisoner provided he does not object to the lawyer named by the court. Every step that makes right to appeal fruitful is obligatory and every action or inaction which stultifies it is unfair therefore offends Art. 21
- Sukh Das v. Union Territory of A.P, 1986- The Court has held that failure to provide free legal aid to an accused at the State cost, unless refused by the accused, would vitiate the trial. He need not apply for the same. Free legal aid at the State cost is a fundamental right of a person accused of an offence and this right is implicit in the requirement of reasonable, fair and just procedure prescribed by Art. 21. This right cannot be denied to him on the ground that he has failed to apply for it. The Magistrate is under an obligation to inform the accused of this right

- **Article 40:-Organization of village panchayat**

The State shall take steps to organize village panchayat and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

In order to revitalise the Panchayati Raj institutions and urban local bodies Parliament enacted the Constitution 73rd and 74th Amendment Acts, 1992. The Amendment provide constitutional sanction to democracy at the grass root level by incorporating in the Constitution new parts-Part IX and part IX-A relating to Panchayats and urban local bodies.

- **Article 41: Right-to work, to education and to public assistance in certain cases**

- The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want

- **Article 42:-Provision for just and humane conditions of work and maternity relief**

State shall make provision for securing just and humane conditions of work and for maternity relief

- **43:-Living wage, good working conditions etc. , for workers**
- The State shall endeavour to secure, (by suitable legislation or economic organization or in any other way), to all workers, (agricultural, industrial or otherwise), work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas

- Article 43 refers to a living wage and not minimum wage. The concept of living wage includes in addition to the bare necessities of life, such as food, shelter and clothing, provisions for education of children and insurance etc.
- **Article 44:-Uniform civil code for the citizens.**
- The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

- Mohammad Ahmed Khan v. Shah Bano Begum mainly known as Shah Bano Case, **1985**, Shah Bano moved to Supreme Court for seeking maintenance under section 125 of Crpc when her husband divorced her after 40 years of marriage by giving triple talaq and denied her regular maintenance. The Supreme Court favoured Shah Bano by applying section 125 to all citizens irrespective of religion.

Rajiv Gandhi Government enacted the Muslim Women (Protection of Rights on Divorce) Act, 1986 to nullify the SC judgment and let the Muslim Personal Law prevails in divorce matter where Muslim woman has right for maintenance only for three months after the divorce i.e. iddat

- **Sarla Mudgal Case** In this case the question was whether a Hindu husband, married under the Hindu law, by embracing Islam can solemnize second marriage. The Supreme Court held that adopting Islam for a second marriage is an abuse of Personal laws. Hindu marriage can be dissolved under Hindu Marriage Act . Mere converting itself in to Islam and marry again does not dissolve the marriage under Hindu Marriage Law and thus will be an offence under Section 494 of IPC

- **Article 45:-Provision for free and compulsory education for children**
- 45. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years

- Article 45 required the State to make provision within 10 years for free and compulsory education for all children until they complete the age of 14 years. The object was to abolish illiteracy from the country.
- In a landmark judgment in *Unni Krishnan v. State of A.P.*, 1993 the Supreme Court has held that the right to education upto the age of 14 years is a fundamental right within the meaning of Article 21 of the Constitution, but thereafter the obligation of State to provide education is subject to the limits of its economic capacity. "The right to education flows directly from right to life", the Court declared
- The Constitution (86th Amendment) Act, 2002.-The Amendment has substituted a new article for Art. 45 which provides that "the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years." This has been necessitated as a result of making the right to education of children upto the 14 years of age a fundamental right.

- **Article 46:-Promotion of educational and economic interests of Scheduled castes , Scheduled Tribes and other weaker sections**
- 46. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation

- **Article 47:-Duty of the State to raise the level of nutrition and the standard of living and to improve public health.**
- The State shall regard the raising of the level of nutrition and standard of living of its people and improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- **Article 48:-Organisation of agriculture and animal husbandry.**
The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

- **Article 48 A:-Protection and improvement of environment and safeguarding of forests and wildlife.**
- 48A. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country
- Article 48A was added by the Constitution (42nd Amendment) Act, 1972 - The citizens of the country have a fundamental right to a wholesome, clean and decent environment. The Constitution of India, in terms of Article 48A, mandates that the State is under a Constitutional obligation to protect and improve the environment and to safeguard the forest and wild life in the country. By 42nd Amendment to the Constitution, the Parliament, with an object of sensitizing the citizens of their duty, incorporated Article 51A in the Constitution, inter alia, requiring a citizen to protect and improve the natural environment including the forests, lakes, rivers and wild life and to have a compassion for living creatures.

- with the development of law and pronouncement of judgments by the Supreme Court of India, Article 21 of the Constitution has been expanded to take within its ambit the right to a clean and decent environment.
- *Ratlam Municipality v Vardicharan*, where the problem of pollution was due to private polluters and haphazard town planning, it was held by the Supreme Court that pollution free environment is an integral part of right to life under Article 21.
- *Kendra v State of UP*, also known as the Dehradun quarrying case, the Supreme Court of India has held that pollution caused by quarries adversely affects the health and safety of people and hence, the same should be stopped as being violative of Article 21. In this case, the Supreme Court for the first time held that the right to wholesome environment is a part of right to life and personal liberty guaranteed under Article 21 of the Constitution
- *M.C.Mehta v. Union of India* , 1986, Ganga Pollution case
- *C.Mehta v. Union of India* , 1996, Taz trapezium case – shifting of 168 hazardous industries operating in Delhi as they were causing danger to the ecology and directed that they be reallocated

- **Article 49:-Protection of monuments and places and objects of national importance.**
- 49. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament] to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.
- **Article 50:-Separation of judiciary from executive**
The State shall take steps to separate the judiciary from the executive in the public services of the State.

Examples of Independence of Judiciary

- Appointment of Judges after Consulting Judges
- Removal by Special Majority: Very difficult
- Salaries and Pensions cannot be varied to their disadvantage
- Salaries charged on the Consolidated Fund of India
- Discussion of the conduct of Judges forbidden in Parliament
- After retirement prohibition to plead in Court
- Power to punish for its Contempt

- **Article 51:-Promotion of international peace and security. -just and honorable relations. -encourage settlement of international disputes by arbitration.**
- 51. The State shall endeavour to—
 - (a) promote international peace and security;
 - (b) maintain just and honourable relations between nations;
 - (c) foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and
 - (d) encourage settlement of international disputes by arbitration

The Protection of Human Rights Act, 1993.-Pursuant to the direction enshrine in Article 51 of the Constitution and International Commitments, Parliament has passed the Protection of Human Rights Act, 1993. The Act provides for the setting of a National Human Rights Commission and Human Rights Courts to meet the growing concern for human rights in the country and abroad. Similar Commission may be set up in the State also

- **Implementation of DPSPs through**
- Land Reform Acts
- Banking policy
- Fixation minimum wages for employees engaged in various employments
- Welfare schemes for the weaker sections
- Nuclear disarmament.
- Panchayati Raj
- The Equal Remuneration Act of 1976
- Consumer Protection Act of 1986
- The 86th constitutional amendment of 2002 inserted a new article, Article 21-A

DPSP

Establishment of
planning commission
under (article 38)

Minimum wages
act-1948 under
article 39

Maternity
Benefits Act
1961- under
article 42

73rd and 74th
Amendments granting
constitutional
amendments to
'Panchayati Raj';

. Criminal procedure law
1973 by separating
judiciary from executive
of public services under
article 50.

environment
and wildlife
protection act
under article 48A

.86th Const
Amend(2002) to
include Article
21A 'Education
a fundamental
Right'(article
45);

Directive Principles of State Policy

Socialist Principles

Gandhian Principles

Liberal Principles

Articles
38, 39, 41, 42,
43 and 45

Articles
40, 43, 45, 46,
47 and 48

Articles
44, 45, 49, 50
and 51

Amendments to DPSPs

- Amendment requires approval of two-thirds of members present and voting
- **Major amendments**
- Article 31-C, inserted into the Directive Principles of State Policy by the 25th Amendment Act of 1971 seeks to upgrade the DPSPs
- Article 48-A, which ensures Protection and improvement of environment and safeguarding of forests and wild life, was added by the 42nd Amndmt
- Article 45, which ensures Provision for free and compulsory education for children, was added by the 86th Amendment Act, 2002
- DPSPs are non-justiciable rights of the people
- guidelines to Govts not enforceable by any court
- considered fundamental in the governance of the country
- It the duty of the State to apply these principles in making laws to establish a just society in the country

Difference between Directive Principles and Fundamental Rights

1. Fundamental Rights are justifiable and enforceable rights while directive principles are non-justifiable
2. Fundamental rights provide political rights whereas social and economic rights are provided through Directive Principles.
3. Fundamental Rights are mentioned in the articles from 12 to 35 while directive principles are mentioned from article 36 to 51
4. Fundamental Rights are negative in nature as they prohibit the state from doing certain things. Directive Principles are positive as they requires the state to do certain things

5. Fundamental Rights do not require any legislation for their implementation. They are automatically enforced. Whereas directive principles require legislation for their implementation. They are not automatically enforced.
6. The courts are bound to declare a law violative of any of the fundamental rights as unconstitutional and invalid. The court can not declare a law violative of any of the directive principles as unconstitutional and invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.
7. Fundamental rights promote the welfare of the individual. Hence they are personal and individualistic. Directive principles promote the welfare of the community. Hence they are societarian and socialistic.