

CHAPTER 11



DIRECTIVE PRINCIPLES OF STATE POLICY : (MEANING, CLASSIFICATION, IMPLEMENTATION AND ISSUE OF RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES OF STATE POLICY)

In its Part IV, the Constitution of India describes the 'Directive Principles of State Policy' (DPSP). This part lists a set of principles which are to guide the future policies of the State. Further, it is designed as a supplementary part to Part III. It contains a list of socio-economic rights and freedoms which the State is expected to secure for the people through suitable legislative enactments. The Directive Principles of State Policy together constitute a manifesto for securing and strengthening the socio-economic foundations of Indian democracy.

MAIN FEATURES OF PART IV (DPSP)

1. The Objective of Part IV i.e. DPSP. The aim of Part IV is to provide for a welfare polity characterised by social, economic and political justice. Art. 38 explains the objective of Part IV and declares : "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice-social, economic and political, shall inform all the institutions of the national life." The state is to secure justice by securing these principles through effective legislation.

2. DPSP are not Enforceable by Courts. Directive Principles are not enforceable. The people cannot move the Court to get these enforced. Nevertheless, the Constitution calls upon the State to give these due importance and to base its policies on them. Art. 37 declares : "*The provisions contained in this Part IV shall not be enforceable by any court, but the principles laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.*" L.M. Singhvi describes these Directives as the life-giving provisions of the Constitution.

3. DPSP as the Compass of the Constitution. Part IV is a manifesto of the aims and objectives of the Constitution. It details the objectives contained in the Preamble of the Constitution. These are

the national objectives which every government is supposed to secure. These ensure a continuity of direction— socio-economic reforms and welfarism in the policies of government irrespective of the fact whether the Government is run by one party or the other. Further, these constitute the yardstick for measuring the worth of the government. Their objective is to give a proper direction to the policies and decisions of the government.

DIRECTIVE PRINCIPLES ENshrined IN THE CONSTITUTION

Part IV lists several Directive Principles from Arts. 36 to 51. These have been however, neither classified nor systematically arranged.

For the sake of convenience the scholars usually classify these into four main categories :

(1) Socialistic Principles, (2) Gandhian Principles, (3) Liberal Principles and (4) General Principles.

I. Socialistic Directive Principles or Socio-Economic Directive Principles

This category includes those Directive Principles which aim at securing a welfare socialist state in India. Most of the socialistic principles are contained in Articles 38, 39, 41, 42 and 43.

1. The State shall try to secure the welfare of the people by securing a social order characterised by Justice—social, economic and political.
2. The State shall provide adequate means of livelihood to all citizens, men as well as women.
3. To secure equitable distribution of material resources of the community with a view to ensure common good.
4. To operate the economic system in such a way as to prevent the concentration of wealth and means of production.
5. To provide equal pay for equal work for both men and women.
6. To protect the health and strength of the workers, men and women, to protect the children from entering avocations unsuited to their age or strength.
7. To protect children and youth from exploitation and moral and material abandonment.
8. To secure 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.
9. To make provisions for securing just and humane conditions of work, and for maternity relief.
10. To secure to all workers, work, a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities.
11. To secure participation of workers in the management of industries.

II. Gandhian Directive Principles

1. To organise Village Panchayats and endow them with adequate powers and authority.
2. To promote cottage industries on an individual or cooperative basis in rural areas.

3. To promote the educational and economic interests of the weaker sections of the people and in particular of the Scheduled Castes and Scheduled Tribes and to protect them from social injustice and all forms of exploitation.
4. To bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health.
5. To organise agriculture and animal husbandry and to take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milk and draught cattle.

III. Liberal Directive Principles

1. To secure a uniform civil code for Indians.
2. To provide for free and compulsory education to all children upto the age of fourteen years within ten years.
3. To secure the separation of judiciary from the executive.
4. To provide free legal aid to the poor so that justice is not denied to any citizen because of poverty.

By 86th amendment of the constitution directive principle given under article 45 was amended to make the state "*Endeavour to provide early childhood care and education for all children until they complete six years of age.*"

IV. General Directive Principles

1. To protect and improve the environment and to safeguard the forests and wild life of the country.
2. To protect every monument or place or object of artistic or historic interest from spoliation, disfigurement, destruction, removal, disposal or export.
3. To promote international peace and security.
4. To maintain just and honourable relations between nations.
5. To foster respect for international law and treaty obligations.
6. To encourage a settlement of international disputes by arbitration.

Additions in Part IV. The 42nd and 44th Amendments to the Constitution together added 5 new Directive Principles in the Part IV.

By the 42nd Amendment Act (1976) four directive principles were added:

1. 39(f) which provided that "the State shall direct its policy towards securing for the children opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and for protecting children and youth from exploitation and against material abandonment."
2. 39A which provided that the State shall secure that the operation of the legal system promotes justice and provide free legal aid to the poor and other disabled citizens.

3. 43A which laid down that the state shall secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.
4. 48A which states that the state shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

By the 44th Amendment Act (1978) a new Directive Principle, Article 38 clause (2) was added to Part IV. It reads : "The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people, residing in different areas or engaged in different vocations."

Thus, Part IV of the Constitution enumerates the Directive Principles which the State is expected to realise through effective legislation and policy making.

DIFFERENCE BETWEEN DIRECTIVE PRINCIPLES AND FUNDAMENTAL RIGHTS

Part III and Part IV of the Constitution were designed by the Constituent Assembly to be complementary and supplementary to each other. In the former are written the civil and political rights—the fundamental rights, which stand granted and constitutionally guaranteed. The citizens enjoy the right to constitutional remedies *i.e.* the right to get these rights enforced by the courts. In Part IV are written those socio-economic rights which are to be secured to the people through appropriate legislation. These stand incorporated as directives to the State and are to be the basis for future policy-making and law-making. These were made non-enforceable because of the prevailing socio-economic constraints. Nevertheless, the Constituent Assembly declared that these were to be treated as fundamental in the governance of the state.

These two parts (III & IV) of the Constitution as such contain enforceable Fundamental Rights and non-enforceable Directive Principles. The nature and content of each Part is, naturally, different from the other.

However, despite this feature both the Parts are supplementary and related parts.

1. Fundamental Rights are negative injunctions while Directive Principles are positive instructions. The first major difference between the Fundamental Rights and Directive Principles has been, while the former have been mostly of the nature of negative injunctions which prohibit the State from doing certain things, the latter constitute the positive directions to the State to attain or do certain things. For example, the Fundamental Rights under Art. 15 states : "The State shall not discriminate against any citizen on grounds only of religion, caste, sex, place of birth or any of them." Art. 21 lays down that "No person shall be deprived of his life or personal liberty..." As against this the Directive Principles give positive instructions to the State to do certain things. For example, to organise village panchayats, to check concentration of wealth and resources, to introduce prohibition, to protect historical monuments, to promote international peace and some others.. **Gledhill** rightly observes:

"Fundamental Rights are injunctions to prohibit the government from doing certain things, the Directive Principles are affirmative instructions to the government to do certain things."

2. Fundamental Rights are Justiceable, Directive Principles are Non-justiceable. A vital difference between the Fundamental Rights and the Directive Principles is that while the former are justiceable, the latter are non-justiceable. Art. 32 gives to the people the Right to Constitutional Remedies which guarantees the enjoyment of rights. They can go to the court for protecting their rights. The Supreme Court and the High Courts have been given the power to issue several writs for the enforcement of the rights. As against it Directive Principles are not enforceable. Art. 37 clearly states that "The Provisions contained in this Part (Part IV Directive Principles) shall not be enforceable by any Court." Directive Principles confer neither a legal/constitutional right nor provide for any method by which their non-implementation or violation can be got redressed by the people.

3. Fundamental Rights provide for political democracy whereas Directive Principles aim at socio-economic Democracy. The Fundamental Rights grant and guarantee civil and political freedoms and rights which are the essential political pillars of a democratic system. The freedom of expression and speech, the freedom to form associations, the right to equality, the freedom of assembly etc., all provide for the operationalisation of a democratic system. As against these, the Directive Principles aim at the establishment of the socio-economic democratic system in India. Their aim is to secure the socio-economic foundations of the Indian political system through appropriate legislation by the State.

4. Legal superiority of Fundamental Rights over the Directive Principles. Fundamental Rights are enforceable. These stand granted and guaranteed. These have been given a priority of mention in the Constitution. As against these Directive Principles are non-enforceable principles which have been incorporated in the Constitution after the incorporation of the Fundamental Rights. These features are a source of legal superiority of the latter over the former. In a conflict between Part III and Part IV, the Supreme Court has always upheld the legal supremacy of the Fundamental Rights. It has not accepted any abridgement of Fundamental Rights by the State for implementing the Directive Principles. *In the case of State of Madras vs. Champakam Dorairajan, the Supreme Court held that:*

"The Directive Principles of the State Policy which were expressly made unenforceable by a Court cannot over ride the provisions of Part III which...are made enforceable by appropriate writs, orders or directions under Art. 32. The Directive Principles have to conform to and run subsidiary to the chapter on Fundamental Rights."

While accepting the significance of Directive Principles, the Supreme Court has held that these, however, have to be placed behind and not ahead of the Fundamental Rights.

5. Fundamental Rights have already been attained but Directive Principles are yet to be attained. The Constitution grants and guarantees fundamental rights to the people. With the inauguration of the constitution, the Part III containing the Fundamental Rights of the people became operative and people got these constitutionally guaranteed and enforceable rights and freedoms. As against this, the Directive Principles of State Policy are yet to be attained. Some legislation has been enacted to implement some of these principles but most of these are yet to be secured by the State.

6. Fundamental Rights are backed by law, Directive Principles by Public Opinion. The Constitution clearly vests the Fundamental Rights in a constitutional and legal basis and makes these enforceable by the Courts. These are binding upon the State. As against this the Directive Principles

have been denied a legal basis by the constitution. However, these reflect the desire of the founding fathers and the people of India to secure socio-economic development through the implementation of these principles. The Directive Principles enjoy widespread support of public opinion. The State finds it essential to work for the implementation of these principles under the pressure of public opinion.

7. Fundamental Rights can be suspended during Emergency while Directive Principles are in a state of perpetual Suspended Animation. While discussing the difference between Fundamental Rights and Directive Principles, **Prof. S.R. Siwach** rightly observes:

"Fundamental Rights.....can be suspended during emergency under Article 352 but Directive Principles of State Policy unless implemented are in a state of permanent suspended animation."

These points clearly bring out the difference between the Fundamental Rights (Part III) and Directive Principles (Part IV). Despite these differences the two are designed to be complementary and supplementary to each other.

IMPLEMENTATION OF DIRECTIVE PRINCIPLES

The following is the account of the policies that have been adopted by the State for implementing the Directive Principles.

1. Zamindari Abolition and Land Reforms. To remove extreme concentration of land ownership in the rural areas, Zamindari Abolition Acts have been affected. The Zamindari Abolition acts and similar other such measures have been given added protection by incorporating these in the 9th Schedule of the Constitution and by providing them protection against judicial review.

2. Revamping of Rural and Urban Local Government Institutions. In accordance with the directive to organise panchayats and other local government institutions, the State has organised a three tier Panchayati Raj system in the rural areas. The Panchayati Raj institutions have been given adequate powers and authority. In urban areas institutions like municipal councils, improvement trusts, town planners, cantonment boards, etc. have been established. By 73rd Amendment Act, the Panchayati Raj and by 74th Amendment Act Municipal institutions have been revamped. These have been given fixed tenures, assured elections and more financial and non-financial powers.

3. Special Protection of the Interests of the Weaker Sections of Society. Acting under the directive to protect the interests of the weaker sections of society, the State has taken steps to provide educational and health facilities to the persons belonging to weaker sections of society. Reservation of seats in educational institutions for the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes has been affected. State has also been providing financial assistance to these sections of society. Now the State wishes to give the benefit of reservation to the economically backward classes (EBCs). Special commissions for monitoring the welfare of SCs, STs, OBCs, women and minorities have been created.

4. Special attempts aimed at Protection of Women and Children. The State has enacted several laws for protecting the rights and interests of women and for preventing them from exploitation. The Dowry Prohibition Act was passed in 1961. In 1956, the Suppression of Immoral Traffic in Women and Girls Act (SITA) was passed. The Criminal Law Amendment Act 1983 provided for punishment of rape with a minimum of seven years imprisonment. Indecent

Representation of Women (Prohibition) Act 1986 has prohibited the denigration of women in photographs, advertisements and films. In 1987 Commission of Sati (Prevention) Act was passed by the Parliament after the Deorala incident in Rajasthan. The provision for equal wages for equal work for both men and women has been given a legal foundation. The State has made the employment of child labour a crime under the Industrial Act.

5. Labour Welfare Legislation. Over the years, several legislative enactments like, the Factories Act 1948, Mines Act 1952, Plantation Act 1951, Maternity Benefit Act 1961 etc., have been made for protecting the interest of the workers. Minimum wages have been fixed. Health and accident benefits have been granted to the workers. The hours of work, compensation rates, provident fund, pension and gratuity benefits, health insurance, free/subsidised medical health through schemes like employees state insurance facilities etc., have been introduced. Workers' participation in management of industries has been secured.

6. Encouragement to Small Scale and Cottage Industries. The State extends help and encouragement to small scale and cottage industries. Several boards have been set up for the promotion of cottage industries—All India Khadi and Village Industries Board, Small Scale Industries Board, Silk Board, All India Handicraft Board, All India Handloom Board, the Coir Board and several other such boards have been established for the purpose.

7. Development of Agriculture and Animal Husbandry. The State has taken several steps to develop agriculture and animal husbandry. Establishment of agricultural universities, dairy research centres, cooperative milk plants, agro-industries, fertiliser plants etc., have been undertaken. The state has been trying to make agriculture a profitable enterprise for the farmers. The farmers are encouraged to increase their produces and are given subsidies for this purpose. The coming of Green Revolution resulting into the creation of good buffer stocks of food has been a very encouraging development. The UPA Government has decided to give top priority to the need for continuous agricultural development & rural development.

8. Free and Compulsory Education. Several states have introduced free education for the children belonging to weaker sections of society. Laws have been made for compulsory primary education. Steps have been taken for spreading adult education and women education. The state of Kerala has achieved cent per cent literacy. However, other states are still lagging behind. Now provisions for compulsory education of the children has been incorporated in the constitution. 86th Amendment Act has amended Art 45 to lay down that the state shall endeavor to provide early childhood care and education for all children until they complete six years of age."

9. Steps towards the Raising of Living Standards. For the raising of the living standards of the rural people, the state has been implementing various programmes and projects. Within the broad framework of Community Development Programme several projects have been undertaken to develop rural industries, handicrafts and cottage industries. Integrated Rural Development Programme, National Rural Employment Programme, Self-Employment Programmes and some others have been operationalised. Attempts have been made to secure better housing, better sanitation, better civic facilities, improved education and better communications in urban as well as rural areas.

10. Abolition of Bonded Labour. The evil practices of *Begaar* and Bonded Labour have been abolished by law.

11. Introduction of Prohibition. The State has taken steps for introducing prohibition. However, the problems involved in securing total prohibition have forced the State to encourage prohibition through proper education, publicity and mass media. Every attempt is being made to check the consumption of intoxicating drinks and drugs. Stringent laws have been made to prevent the smuggling of narcotics into India.

12. Nationalisation. For keeping control over industries and making these service oriented, the State has affected, nationalisation of Banks, Life Insurance and General Insurance. Major industries have been established in the Public Sector.

13. Planning. Through Five Year Plans the State has been trying to realise the objective of rapid industrialisation, technological advancement and economic development. Seven Five Year Plans have been implemented and the Ninth Five Year Plan is currently being implemented. The Tenth Five Year Plan is under preparation. Several Multi-purpose projects like Bhakhra-Nangal Project, Hirakund Project, Damodar Valley Project, Chambal River Project, etc. have been completed and these have given vital strength to the process of socio-economic development.

14. Legal Reforms. The State has appointed a Law Commission. Provision for providing free legal aid to the poor has been made. Through the system of Lok Adalats and Public Interest Litigations an attempt is being made to make justice easily available to the people.

15. Panchsheel and Non-alignment. Acting under the directives given by Article 51, the Government has adopted Panchsheel and Non-alignment as the fundamental features of the Indian Foreign Policy. India has always adhered to the principles of peace through peaceful means, development of friendship and cooperation with all the states, promotion of world peace, peaceful resolution of conflicts and aloofness from cold war, alliance politics and unhealthy power politics. The Indian foreign policy enshrines the directives contained in all the sections of Art. 51 of the Constitution.

16. Adult education, women education and promotion of equality between men and women. The State in India has been active towards the securing of women uplift, enhancement of female literacy and securing of an equal place for women along with men. Women now inherit property and they get recruited in all services including the defence services.

17. Free and Compulsory Education for Children. By the 86th Constitutional Amendment, the Indian state has implemented the Directive Principle contained in Article 45 by making right to education, a fundamental right of the children between the age group of 6—14.

In 2012 97th Constitution Amendment Act was passed which gave to the people the fundamental right to freedom of organizing and managing their cooperative societies and associations. This was intended to encourage the spread of Cooperative Movement in the country.

Besides these, the State has enacted laws for protecting historical monuments and other objects of historical significance. Laws have been enacted for pollution control and protection of environment. Several other social welfare measures have been initiated. Several commissions have been constituted for continuously monitoring the progress of laws and policies made by the state for protecting the weaker sections of society. Thus the State has shown a definite commitment towards the implementation of the Directive Principles.

However, despite all its efforts, the State has not been fully successful in realising all the aims and objectives set forth in Part IV.

ANSWER THE FOLLOWING:

1. State the main features of Directive Principles of State Policy.
2. Give the difference between Part III and Part IV.
3. State the policies that have been adopted by the state for implementing the Directive Principles.