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Directive Principles of State Policy: Role in  
Governance



The Preamble to our Constitution is an insight into the minds of our constitution makers. Everything that they sought to achieve for the people of our nation has been listed there and all the provisions inside have been formulated keeping in mind the goals enlisted in the Preamble.

It is stated that the state should aim to provide justice in all forms – social, economic and political. The goals of liberty, equality, fraternity and welfare state are also to be met. These are the objectives that the Directive Principles of State Policy seek to achieve. Although they are non-justiciable in nature, the very fact that these are stated within the Constitution as directives that the State needs to follow while formulating policies shows that they hold immense value in the governance of our country.

Through this article, the author has made an attempt to elucidate the concept of Directive Principles, its non-enforceability along with schemes like MGNREGA and landmark judgments on the same.

## **What are DPSPs?**

In simple terms, Directive Principles of State Policy (DPSP) can be understood as the directions that the state has to follow while making laws for its people. They can be referred to as positive obligations on the state. While formulating laws, the Legislature has to keep in mind the welfare of the people; no laws can be made that are harmful to its citizens and against the spirit of the Constitution. DPSPs act as guidelines that need to be taken into consideration by the Executive and Legislature both. One can also define them as instruments of instruction<sup>[1]</sup>.

Individual rights can be classified into two categories as per the reports of the Sapru Committee in 1945. These rights are justiciable and non-justiciable. The fundamental rights enumerated under Part III are justiciable which are fundamental to one's existence and the directive principles of state policy enumerated under Part IV are non-justiciable which are fundamental for the governance of the country.

The concept of Directive Principles of State Policy has been borrowed from Article 45 of the Irish Constitution and has its roots in the Constitution of Spain. As our country was socially and economically backward at the time of independence, our constitution makers incorporated these principles into our constitution with a view to eradicate backwardness and enhance equality.

Dr. B.R. Ambedkar, while speaking on Part IV of the draft Constitution in the Constituent Assembly debates, stated that, *"It is the intention of this Assembly that in the future, both the legislature and the executive should not merely pay lip service to the principles enacted in this part, but that they should be made the basis of all executive and legislative actions that may be taken hereafter in the matter of governance of the country."*

Therefore, it can be seen that these directive principles hold an immense value as regards the governance of the country as the Executive and Legislature have to take action in accordance with them.

## **Constitutional Provisions related to DPSPs**

The Directive Principles of State Policy are enumerated under Part IV of the Constitution of India starting from Article 36 up till Article 51. These provisions briefly act as guiding factors for the state.

It is clearly stated that the provisions contained in this part shall not be enforceable but will nevertheless be fundamental in the governance of the State<sup>[2]</sup>. This suggests non-justiciability. When these provisions were formulated, India was a backward country and did not have adequate resources to make these directives justiciable. Non-justiciability means that the Court does not have the power to direct the state to follow these; if the state does not adhere to these, one does not have the right to move to court for the same. If these were made enforceable when ours was a newly independent state, our courts would have been flooded with petitions demanding justice, liberty, equality, fraternity and a welfare state.

This however can be criticised on the ground that if the state has no obligation to follow these directions, why will it work for the welfare of the people? But one needs to understand that we have a democratic form of government and if the chosen government does not work for the welfare of the people and does not fulfil the promises it made before elections, it will be kicked out of power in the next elections. It is for this reason that the government tries to follow these principles as much as possible.

It is directed that the State should try to minimise inequalities in income and status by providing equal facilities and opportunities to promote a welfare state<sup>[3]</sup>. Article 39 lays down certain general principles like the availability of adequate means of livelihood, equal pay for equal work and providing children with a healthy environment in tender age so as to give them an equal opportunity.

The right to work, education and public assistance in certain cases like unemployment, tender age, and disablement has to be secured<sup>[4]</sup> and the conditions of work should be just and humane<sup>[5]</sup>. Further, the state shall also promote the educational and economic interests of the Scheduled Castes, Scheduled Tribes and other weaker sections<sup>[6]</sup>.

Article 44 provides for a uniform civil code. This suggests that instead of various personal laws that are applicable to different communities and religions as of now, there should be one single code for all religions and communities to govern matters related to marriage, divorce, adoption, maintenance, inheritance, succession, etc. This has been a widely debated topic and the courts have opined on this issue time and again. In *Shah Bano*<sup>[7]</sup>, the apex court stated that a common civil code will help in national integration by removing disparate loyalties towards laws of conflicting ideologies. The same view was reiterated in *Sarla Mudgal*<sup>[8]</sup> by Justice Kuldeep Singh.

Apart from these, there is a duty upon the state to raise the level of nutrition and improve the level of public health<sup>[9]</sup>, organising animal and agriculture husbandry<sup>[10]</sup>, protecting the environment<sup>[11]</sup> and monuments and places of national importance<sup>[12]</sup>. It is also upon the state to maintain healthy international relations<sup>[13]</sup>.

Therefore, the Constitution of our country imposes various duties and directives upon the State in order to achieve the goals of justice. On the basis of their objectives, these directives can be classified into Socialistic principles, Gandhian principles and Liberal-Intellectual principles. Socialistic principles, as the name suggests, aim to achieve a welfare state through social and economic justice. Gandhian principles aim towards reconstruction based on Gandhian ideology like organising village panchayats and promoting cottage industries among others. Liberal-intellectual principles promote the idea of liberalism like providing early childhood care and nutrition or keeping the judiciary separate from the executive for that matter.

### **Amendments to the Directives**

Mainly, four amendments have made changes in the directive principles. These include the 42nd, 44th, 86th and the 97th Amendment Acts.

The 42nd Amendment Act of 1976 resulted in the addition of four new directives to Part IV. For the healthy development of children, the state shall secure opportunities under Article 38 and shall provide free legal aid to the poor under Article 39A to promote justice. The participation of workers in the management of industries has to be ensured under Article 43A and the environment should be protected and improved under Article 48A to safeguard forests.

By the 44th Amendment Act of 1978, the state was directed to reduce inequalities in income, status, facilities and opportunities under Article 38.

Elementary education became a fundamental right by the 86th Amendment Act of 2002<sup>[14]</sup>. This modified Article 45 and the state was necessitated to provide early childhood care and education till the age of six years.

The 97th Amendment Act of 2011 added a new directive policy – Article 43B. By this, the state is required to market voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.

## Landmark Judgments

The relationship between Fundamental Rights and Directive Principles of State Policy is the focal point of issue in cases related to DPSPs. Fundamental rights are negative obligations on the state whereas DPSPs are positive obligations. The question is if one is superior to the other or both are at par. In the current scenario, both hold equal importance and one can not be given precedence over the other because both are fundamental for the governance of the country.

The importance and legality of the directive principles is questioned because of its non-justiciability. Even though these are not enforceable, the court may take suo moto cognizance in matters of public concern and issue a writ of mandamus because these reflect the ideals that our country wishes to achieve.

In the case of *Champakam Dorairajan*<sup>[15]</sup> in 1951, fundamental rights were regarded to be on a higher pedestal and it was held that in case of a conflict between the two, the fundamental rights shall prevail. It was also held that the Legislature is empowered to amend Part III of the Constitution in order to implement DPSPs.

This was overruled by the apex court in the case of *Golaknath*<sup>[16]</sup> and it was held that fundamental rights can not be amended to give effect to DPSPs. As a result, the Parliament enacted the 24th and 25th Constitutional Amendments in 1971 giving itself the power to abridge or take away fundamental rights by adding Article 31C. It provided that any law which has been enacted in order to give effect to socialistic principles can not be held void on the ground that it violates Articles 14 (right to equality) , 19 (right to freedom) or 31 (right to property). Therefore, it gave itself the power to give effect to directive principles even if it is in contravention to fundamental rights.

Again, after the case of *Kesavananda*<sup>[17]</sup>, the Legislature enacted the 42nd Amendment in 1976 to give effect to Article 31C as the judiciary held the second provision of the same as unconstitutional.

This extension of Article 31C by the Legislature was held invalid and unconstitutional by the Judiciary in *Minerva Mills*<sup>[18]</sup>. It was stated by the Court that our constitution is founded on a balance between the fundamental rights and the directive principles and this harmony between the two concepts forms a part of the basic structure. The goals set out by the DPSPs can not be met by abrogating the FRs under any condition.

Therefore, the question of supremacy between the two has come up many times. Fundamental Rights do enjoy supremacy but that does not mean that Directive Principles can not be implemented. If the need arises, Part III of the Constitution may be amended to give effect to Part IV unless the basic structure is not damaged or destroyed.

## Policies enacted to give effect to DPSPs

The government enacts various laws and policies in order to give effect to Part IV of our Constitution because the underlying principles reflect the ideals and objectives contained in the Preamble. A lot of policies are also created as a result of judicial interpretation of which directive principles form an important part.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005 can be termed as one of the best examples of the implementation of the directive principles. This scheme was implemented in the year 2005 and was originally termed as the National Rural Employment Guarantee Act. It provides guaranteed 100 days employment in a year to everyone who applies and if an applicant does not get work, he or she is entitled to an unemployment allowance making it a legal entitlement.

Therefore, this scheme is an enactment under labour law upholding the right to work and giving effect to Article 39(a) which provides for opportunities for adequate means of livelihood. As for the government, it serves a twin objective – livelihood security is enhanced in the rural areas and also leads to the creation of durable assets like dams, highways, railways, wells, etc. thereby resulting in development. It has been termed as a ‘stellar example of rural development’ by the World Bank<sup>[19]</sup>.

The Child Labour (Prohibition and Regulation) Act, 1986 gives effect to Article 39(g) which aims for the healthy development of children. It prohibits the employment of children below the age of fourteen years in hazardous activities. Certain laws prohibiting slaughter of cows and bullocks give effect to Article 48 which deals with agriculture and husbandry.

Apart from these, there are a number of laws that give effect to Part IV, namely, the Workmen Compensation Act, 1923; the Industrial Employment (Standing Orders) Act, 1946; the Factories Act, 1948; the Minimum Wages Act, 1948; the Maternity Benefit (Amendment) Act, 2017, etc.

Policies like Integrated Rural Development Program, Pradhan Mantri Gram Sadak Yojana, Integrated Tribal Development Program, Sampoorna Gram Rozgar Yojana, etc. give effect to Article 47 which aims at improving the standard of living and level of public health.

In all, all the laws and policies enacted under Part IV of the Constitution aim at the creation of a welfare state which itself is a directive principle under Article 38.

### **Conclusion – Effect on Governance**

As reiterated above, directive principles are fundamental to the governance of the country. Even though these have been criticised on the grounds of lacking legal force, being conservative and being arranged in an illogical manner, they can not be termed as a pointless addendum. The goal is not political democracy but economic democracy as stated by Dr. B.R. Ambedkar and if all these directives are implemented in their true sense, our country would be a heaven and a true welfare state, says former Chief Justice M.C. Chagla.

These principles are meant to facilitate the governance of the country and are not included only for mere existence to be overlooked because of their non-justiciable nature. As we have seen through various judicial pronouncements, these directive principles have to be taken into consideration by the government while implementing any law or policy.

They can also be regarded as a test of the governance of a particular government. As these reflect the ultimate goals of the country, people may examine the programmes and policies that the government is implementing in order to achieve these goals and if the citizens find that the efforts are not up to the mark, they can always change the representation in the next elections.

They also act as a supplement to fundamental rights by providing for social and economic rights and if these are properly implemented, citizens can enjoy their fundamental rights holistically. Stability and continuity is maintained when it comes to domestic and foreign policies despite the change in power. The opposition also gets a chance to influence and control the operations of the government in case of non-implementation.

Therefore, despite being non-justiciable, the significance and relevance of the directive principles of state policy is at par to the fundamental rights or any other provisions of the Constitution for that matter. Every party in power has to remember that these principles are a guide, philosopher and friend in its executive and legislative acts and hence every law and policy that they enact, should meet the objectives and standards of Part IV of the Constitution of India.

- [1] The Government of India Act, 1935.
- [2] The Constitution of India, art. 36.
- [3] The Constitution of India, art.38.
- [4] *Ibid.*, art. 41.
- [5] *Ibid.*, art. 42.
- [6] *Ibid.*, art. 46.
- [7] (1985) 2 SCC 556.
- [8] (1995) 3 SCC 635.
- [9] The Constitution of India, art. 47.
- [10] *Ibid.*, art. 48.
- [11] *Ibid.*, art. 48A.
- [12] *Ibid.*, art. 49.
- [13] *Ibid.*, art. 51.
- [14] The Constitution of India, art. 21A.
- [15] *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.
- [16] *Golak Nath v. State of Punjab*, AIR 1967 SC 1643.
- [17] *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.
- [18] *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789.
- [19] World Development Report, 2014.

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