DIRECTIVE PRINCIPLES OF STATE POLICY

Importance of DIRECTIVE PRINCIPLES

COMPILED BY MADHUR KAMBLE
The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The framers of the Constitution borrowed this idea from the Irish Constitution, which had copied it from the Spanish Constitution.

Dr B R Ambedkar described these principles as ‘novel features’ of the Indian Constitution.

The Directive Principles along with the Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution.

Granville Austin has described the Directive Principles and the Fundamental Rights as the ‘Conscience of the Constitution’.
F.R + DPSP

MAGNA CARTA OF INDIA

NOVEL FEATURES OF THE CONSTITUTION

F.R + DPSP

‘Conscience of the Constitution’.
Concept clear hai??
FEATURES OF THE DIRECTIVE PRINCIPLES

1. The phrase ‘Directive Principles of State Policy’ denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters.

According to Article 36, the term ‘State’ in Part IV has the same meaning as in Part III dealing with Fundamental Rights. Therefore, it includes the legislative and executive organs of the central and state governments, all local authorities and all other public authorities in the country.
2. They embody the concept of a ‘welfare state’ and not that of a ‘police state’, which existed during the colonial era. In brief, they seek to establish economic and social democracy in the country.

3. The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation.

Nevertheless, the Constitution (Article 37) itself says that these 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.
The Supreme Court has ruled many a times that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a Directive Principle (namely a/39b and a39/c), it may consider such law to be ‘reasonable’ in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.
<table>
<thead>
<tr>
<th>Country</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>Fundamental Rights</td>
</tr>
<tr>
<td>UK</td>
<td>Parliamentary Form of Government</td>
</tr>
<tr>
<td>France</td>
<td>Ideas of Liberty, Equality, Fraternity</td>
</tr>
<tr>
<td>Canada</td>
<td>Federal Structure of Government</td>
</tr>
<tr>
<td>Ireland</td>
<td>Directive Principles of State Policy</td>
</tr>
<tr>
<td>Germany</td>
<td>Suspension of Fundamental Rights</td>
</tr>
</tbody>
</table>
CLASSIFICATION OF THE DIRECTIVE PRINCIPLES

CLASSIFICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY

SOCIALIST PRINCIPLES
- Articles 38, 39, 39A, 41, 42, 43, 43A, 47

GANDHIAN PRINCIPLES
- Articles 40, 43, 43B, 46, 47, 48

LIBERAL PRINCIPLES
- Articles 44, 45, 48, 48A, 49, 50, 51
Socialistic Principles

These principles reflect the ideology of socialism.

1. To promote the welfare of the people by securing a social order permitted by justice—social, economic and political—and to minimise inequalities in income, status, facilities and opportunities (Article 38).

2. To secure
   (a) the right to adequate means of livelihood for all citizens;
   (b) the equitable distribution of material resources of the community for the common good;
   (c) prevention of concentration of wealth and means of production;
   (d) equal pay for equal work for men and women;
   (e) preservation of the health and strength of workers and children against forcible abuse; and
   (f) opportunities for healthy development of children (Article 39).

(LDC=PHC)
IF INDIA’S LAND WERE DIVIDED LIKE INDIA’S WEALTH

1% WOULD OWN THIS

9% WOULD OWN THIS

40% WOULD OWN THIS

50% WOULD OWN THIS

PER CAPITA INCOME

<table>
<thead>
<tr>
<th>State</th>
<th>Today</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goa</td>
<td>30,747</td>
<td>1,38,368</td>
</tr>
<tr>
<td>Delhi</td>
<td>26,616</td>
<td>1,16,330</td>
</tr>
<tr>
<td>Pondicherry</td>
<td>21,072</td>
<td>52,523</td>
</tr>
<tr>
<td>Punjab</td>
<td>17,450</td>
<td>48,312</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>17,268</td>
<td>47,142</td>
</tr>
<tr>
<td>Haryana</td>
<td>15,615</td>
<td>46,576</td>
</tr>
<tr>
<td>Gujarat</td>
<td>15,151</td>
<td>43,174</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>14,347</td>
<td>-</td>
</tr>
<tr>
<td>Karnataka</td>
<td>13,265</td>
<td>-</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>12,564</td>
<td>-</td>
</tr>
<tr>
<td>Delhi</td>
<td>10,831</td>
<td>-</td>
</tr>
</tbody>
</table>
3. To promote equal justice and to **provide free legal aid** to the poor *(Article 39 A).*

**NALSA**

**NATIONAL LEGAL SERVICES AUTHORITY**

The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to provide free Legal Services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes.

Hon’ble Mr. Justice H.L. Dattu, the Chief Justice of India is the Patron-in-Chief and Hon’ble Mr. Justice Tirath Singh Thakur, Judge, Supreme Court of India is the Executive Chairman of the Authority
4. To secure the **right to work**, to education and to public assistance **in cases of unemployment**, old age, sickness and disablement **(Article 41)**.
5. To make provision for just and humane conditions for work and maternity relief (Article 42).
6. To secure a living wage, a decent standard of life and social and cultural opportunities for all workers (Article 43).
7. To take steps to secure the participation of workers in the management of industries (Article 43 A).
8. To raise the level of nutrition and the standard of living of people and to improve public health (Article 47).
Isiliye aticle 43/A...haiiiiiihhh!!!

"Peter, tum log mujhe wahan dhoond rahe the aur main tumhara yahan intezaar kar raha hun" - Deewar
India’s standard of living has increased

- **Calorie Supply**: India has increased its calorie supply compared to the US and China.
- **Life Expectancy**: India has improved its life expectancy compared to the US and China.
- **Adult Literacy**: India has shown improvement in adult literacy rates.
- **Infant Mortality Rate**: India has seen a decrease in infant mortality rates compared to the US and China.

SOURCE: United Nations

http://news.bbc.co.uk/nol/shared/spl/hi/guides/456900/456964/img/1148297950.gif
CABINET APPROVES **AYUSHMAN BHARAT NATIONAL HEALTH PROTECTION MISSION**

**Ayushman Bharat Terms & Condition**

- Benefit cover of **₹5 lakh** per family per year
- More than **10 crore** families to be covered
- Beneficiary can avail benefits in any public or private empanelled hospital across the country

**BUDGET 2018-19 Health**

**National Health Protection Scheme**

- Will be the world’s largest government funded health care programme
- Covering over 10 crore poor and vulnerable families
- Providing coverage up to 5 lakh rupees per family per year for secondary and tertiary care hospitalization
Gandhian Principles

These principles are based on Gandhian ideology. They represent the programme of reconstruction enunciated by Gandhi during the national movement.

1. To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government *(Article 40).*
Left-wing extremism

The names of the 20 districts taken off the red corridor have not been revealed officially.

Number of LWE* districts
106
Worst affected LWE districts
44

LWE districts to be taken off
20 approx
Number of LWE areas police station wise
762
Police station wise LWE areas to be taken off
142

*LWE: Left-Wing Extremism
Source: 2015 data from South Asia Terrorism Portal
2. To **promote cottage industries** on an individual or co-operation basis in rural areas *(Article 43).*

3. To **promote** voluntary formation, autonomous functioning, democratic control and professional management of **co-operative societies.** *(Article 43B).*

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**Meaning Of Co-operative Society**

The term co-operation is derived from the Latin word co-operari, where the word co means ‘with’ and operari means ‘to work’. Thus, co-operation means working together. It means those who want to work together with some common economic objective can form a society which is termed as “co-operative society”.
A co-operative society is a voluntary association of persons started with the objective of serving its members. It is primarily designed for promotion of economic interest of its members with co-operation principles. It is based on an important philosophy known as “all for each and each for all”.
4. To **promote** the **educational** and **economic interests** of SCs, STs, and other **weaker sections** of the society and to **protect them from social injustice** and exploitation *(Article 46).*

5. To **prohibit the consumption of intoxicating drinks** and drugs which are injurious to health *(Article 47).*

6. To **prohibit the slaughter of cows**, calves and other milch and draught cattle and to **improve their breeds** *(Article 48).*
A COLONIAL HANGOVER?
A short history of prohibition in India
Q. Which of the following are Gandhian Directive Principles?

1) To organize village panchayats
2) To prohibit engineering
3) To promote cottage industries

a. 2, 3
b. 1, 2
c. 1, 3
d. All of the above
Liberal–Intellectual Principles

The principles included in this category represent the **ideology of liberalism**. They direct the state:

- 1. To secure for all citizens a **uniform civil code** throughout the country *(Article 44).*

**Uniform civil code** is the ongoing point of debate within Indian mandate to replace **personal laws** based on the scriptures and customs of each major **religious community in India** with a common set of rules governing every citizen.
Personal laws are distinguished from public law and cover marriage, divorce, inheritance, adoption and maintenance. Goa has a common family law, thus being the only Indian state to have a uniform civil code.

Efforts by the governments to bring about UCC

COLONIAL GOVERNMENT

Abolition of sati (1829)
Lex loci report 1840

Hindu widow remarriage act, 1856

POST INDEPENDENCE

Hindu code bill 1956

Shah bano case 1985
2. To provide early childhood care and *education* for all children until they complete the age of six years *(Article 45).*

3. To *modernise agriculture and animal husbandry* on modern and scientific lines *(Article 48).*

4. To protect and improve the *environment* and to safeguard forests and wild life. *(Article 48A).*
5. To **protect monuments**, places and objects of artistic or historic interest which are declared to be of **national importance** (Article 49).
6. To separate the judiciary from the executive in the public services of the State (Article 50).

7. To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration (Article 51).

(trick to remember –”JP CEMENT”=
J- judiciary, P-peace, C-civil code, E-education, M-modernise, E-environment, NT-National importance)
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NEW DIRECTIVE PRINCIPLES

The 42nd Amendment Act of 1976 added four new Directive Principles to the original list. They require the State:

1. To secure opportunities for healthy development of children (Article 39).
2. To promote equal justice and to provide free legal aid to the poor (Article 39 A).
3. To take steps to secure the participation of workers in the management of industries (Article 43 A).
4. To protect and improve the environment and to safeguard forests and wild life (Article 48 A).
The 44th Amendment Act of 1978 added one more Directive Principle, which requires the State to minimise inequalities in income, status, facilities and opportunities (Article 38).

Again, the 86th Amendment Act of 2002 changed the subject-matter of Article 45 and made elementary education a fundamental right under Article 21 A. The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years.

The 97th Amendment Act of 2011 added a new Directive Principle relating to co-operative societies. It requires the state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies (Article 43B).
<table>
<thead>
<tr>
<th>Article</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>36: Definition of State</td>
<td></td>
</tr>
<tr>
<td>37: Application of the principles contained in this part</td>
<td></td>
</tr>
<tr>
<td>38: State to secure a social order for the promotion of welfare of the people</td>
<td></td>
</tr>
<tr>
<td>39: Certain principles of policy to be followed by the State</td>
<td></td>
</tr>
<tr>
<td>39A: Equal justice and free legal aid</td>
<td></td>
</tr>
<tr>
<td>40: Organisation of village panchayats</td>
<td></td>
</tr>
<tr>
<td>41: Right to work, to education and to public assistance in certain cases</td>
<td></td>
</tr>
<tr>
<td>42: Provision for just and humane conditions of work and maternity relief</td>
<td></td>
</tr>
<tr>
<td>43: Living wage, etc., for workers</td>
<td></td>
</tr>
<tr>
<td>43A: Participation of workers in management of industries</td>
<td></td>
</tr>
<tr>
<td>43B: Promotion of co-operative societies</td>
<td></td>
</tr>
<tr>
<td>44: Uniform civil code for the citizens</td>
<td></td>
</tr>
<tr>
<td>45: Provision for early childhood care and education to children below the age of six years</td>
<td></td>
</tr>
<tr>
<td>46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections</td>
<td></td>
</tr>
<tr>
<td>47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health</td>
<td></td>
</tr>
<tr>
<td>48: Organisation of agriculture and animal husbandry</td>
<td></td>
</tr>
<tr>
<td>48A: Protection and improvement of environment and safeguarding of forests and wildlife</td>
<td></td>
</tr>
<tr>
<td>49: Protection of monuments and places and objects of national importance</td>
<td></td>
</tr>
<tr>
<td>50: Separation of judiciary from executive</td>
<td></td>
</tr>
<tr>
<td>51: Promotion of international peace and security</td>
<td></td>
</tr>
</tbody>
</table>
CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

Supreme Court in the *Minerva Mills case (1980).*

- The Fundamental Rights conferred by Article 14 and Article 19 were accepted as subordinate to the Directive Principles specified in *Article 39 (b) and (c).* Further, Article 31 (right to property) was abolished by the 44th Amendment Act (1978).
Difference b/w FR’s and DPSP

<table>
<thead>
<tr>
<th>Basis</th>
<th>Fundamental Rights</th>
<th>Directive Principles of state policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injunctions</td>
<td>Fundamental rights are negative injunctions</td>
<td>DPSP are positive injunctions.</td>
</tr>
<tr>
<td>Justiceable</td>
<td>Are justiceable.</td>
<td>Are not justiceable.</td>
</tr>
<tr>
<td>Superiority</td>
<td>Are legally superior to DPSP, as they are enforceable.</td>
<td>DPSP are non enforceable.</td>
</tr>
<tr>
<td>Attainment</td>
<td>Have already been attained.</td>
<td>Yet to be attained.</td>
</tr>
<tr>
<td>Backing</td>
<td>Are backed by Law.</td>
<td>Are backed by Public Opinion.</td>
</tr>
<tr>
<td>Suspension</td>
<td>Can be suspended during emergency under article 352.</td>
<td>DPSP unless implemented are in a state of permanent suspended animation.</td>
</tr>
<tr>
<td>Type of democracy</td>
<td>Provide for political democracy.</td>
<td>Aim at socio-economic democracy.</td>
</tr>
</tbody>
</table>
Q1.) Choose the false statement among the following statements:

(a) The 25th Constitutional Act came to be challenged before the Supreme Court in Kesavananda Bharti case (1973)
(b) Art. 31-c was introduced by the 25th Constitutional Act which gave Art. 39(b) and 39(c) precedence over fundamental Rights
(c) Art. 40,- to organize village Panchayats as units of self government
(d) Art. 44,- to protect all monuments of historic interest and national importance
Q1 ans = D

Q2 The Irish copied the idea of Directive Principles of State Policy from?

a. Italian Constitution
b. Spanish Constitution
c. German Constitution
d. Swedish Constitution
Q2 ans=B

Q3. Which article under DPSP proposes for the protection of environment and wild life?
(a) Art. 51
(b) Art. 50
(c) Art. 49
(d) Art. 48/A
Q4. Which of the following deal with the conflict between Fundamental Rights (FRs) and Directive Principles (DPSPs)?

1) Champakam Dorairajan case (1951)
2) keshavananda bharati case (1973)
3) 42nd Amendment Act (1976)
4) Minerva Mills case (1980)

a. 1, 3, 4
b. 3, 4
c. 1, 3
d. All of the above
Q4 ans = D

Q5.) Which of the following Directive Principles were added later?

1) Promote the educational and economic interests of SCs, STs, etc.
2) Minimize inequalities in income.
3) Secure the participation of workers in the management.

a. 2, 3
b. 1, 2
c. 1, 3
d. All the above
Q5 ans= A

Q6. Which of the following statements is not correct about Directive Principle of State Policy?

(A) If a State does not apply Directive Principle of State Policy, then a case may be filed against it in court.

(B) ‘Gandhism’ is also an element of Directive Principle of State Policy.

(C) Principles have been taken from the Constitution of Ireland.

(D) These principles are not binding on the state
Q6 ans = A

YUSS

THANK YOU