
NATURE AND JUSTICIABILITY OF DIRECTIVE PRINCIPLES OF STATE POLICY

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ABSTRACT

The Directive Principles of State Policy (DPSP), drawn from the Irish Constitution, are integral to India's constitutional vision of achieving socioeconomic justice. These principles, enshrined in Articles 36–51 of Part IV, guide the state in promoting welfare, reducing inequality, and ensuring social justice, though they are not legally enforceable, as outlined in Article 37. The judiciary has played a pivotal role in interpreting DPSPs alongside Fundamental Rights, particularly through landmark cases like *Keshavananda Bharati v. State of Kerala* and *Minerva Mills Ltd. v. Union of India*, which affirmed the complementary relationship between Parts III and IV of the Constitution. Over time, the Supreme Court has expanded the scope of Article 21, which guarantees the right to life, to include rights such as education, shelter, and dignity, by drawing on DPSPs. While Directive Principles of State Policies are not justiciable, the judiciary has creatively used them to influence legislation and public policy. The evolving relationship between Fundamental Rights and DPSPs highlights the balance between individual freedoms and the state's obligation to build a welfare state. Despite the challenges in implementation, Directive Principles of State Policy's continue to shape India's legal and political framework, providing a blueprint for justice, equality, and dignity for all. Through judicial interpretation, DPSPs have gained increasing relevance, but most of the Directive Principles of State Policies are yet to be enforced which in turn ensures enforceability of socio-economic rights as well.

Keywords: Directive principles of state policy, socioeconomic justice, judiciary, fundamental rights, enforceability.

Introduction

One of the most significant features of the Constitution of India is its provisions on the directive principles of State policy. Most written constitutions of contemporary States have included specific social and economic objectives as a general trend following World War I. Section 45 of the Irish Constitution of 1937 outlines some directive principles of social policy. Since the Indian Constitution was passed, the directive principles have played a significant role in directing socioeconomic planning and state policy. The civil and political rights which are enshrined under Part III of the Indian Constitution, and the positive socio-economic and cultural rights that are meant to be gradually achieved, which are incorporated under Part IV of the Indian Constitution, roughly represent the two main streams in the evolution of human rights. The division based on justiciability reflects the conventional separation between socio-economic rights, which require the State to protect need or poverty, and civil and political rights, which prevent the State from interfering. It is important to recognize that the Indian Constitution embraces traditional Civil and Political Rights, as well as Economic and Social Rights, which correspond to the Fundamental Rights and the Directive Principles of State Policy, respectively, in alignment with the Universal Declaration of Human Rights. The adoption of the Directive Principles pursues the Preamble goal of socioeconomic justice. Some have referred to Part IV of the Indian Constitution as the socioeconomic Magna Carta.¹ Amartya Sen has defined the constitutional protections for fundamental rights against Directive Principles of State Policy as basic entitlements that safeguard essential life necessities or establish a basis for a satisfactory standard of living. These protections are social claims. They roughly correspond to the two streams that have evolved human rights, dividing them into what are known as positive and negative rights.

The judiciary's role in interpreting and implementing the Directive Principles has been a subject of significant discussion and debate. When interpreting these constitutional provisions, the judiciary does not restrict the scope of the various Articles to what the framers intended, as evidenced by the debates held during the Constitutional Assembly. The courts have presumably read the Directive Principles of State Policy in the Fundamental Rights to advance socioeconomic justice and the whole country's welfare. In addition, as they have decided case after case involving citizens' human rights, the courts have consistently interpreted the scope

¹ State of Bihar v. Kameshwar and Others, AIR 1952 SC 252

of human rights as being by the provisions of the Universal Declaration and the other International Covenants, instilling confidence in the legal system. The justiciable rights provided in Part III are considerably enhanced by the concepts outlined in Part IV. Justiciability refers to the ability of a court to adjudicate and enforce a particular right. In order to implement the fundamental rights, the State must adhere to the guidelines outlined in Part IV. It does not follow that the judiciary cannot take note of the directive principles even though they are not subject to justiciability. Nothing stops the judge from acknowledging these principles in enforcing fundamental rights, even if they are not enforced.

Historical Background

The Irish Constitution inspired the Directive Principles of State Policy, a series of principles that our constitution's framers decided to include in part IV. In addition to resolving to create a new social structure based on social, economic, and political justice, the Constitution sought political independence from colonial rule. The first meeting of the Fundamental Rights Sub Committee took place on February 27th 1947 to discuss detailed draft lists of rights that its members had prepared. These lists were drawn from Indian rights documents and foreign constitutions, including the Sapru Report, published at the end of 1945, the Nehru Report, the Karachi Resolution, 1931, and the Constitution of India Bill, 1895. This Committee distinguished between justiciable and non-justiciable rights. Though the Directive Principles of State Policy were not made justiciable, the Fundamental Rights were immediately rendered "enforceable" and "justiciable." The rights that did not fit into enforceable fundamental rights were "dumped" into state policy's directive principles. Initially, the Congress Party of Karachi adopted a declaration of fundamental rights that contained some of the directive principles. The "rights of workers" and clauses safeguarding women and children were even included in K.M. Munshi's proposed list of rights. Dr. Ambedkar supported the idea that all Directive Principles of State Policy should become legally enforceable within a specified time.² The Irish Constitution's Directive Principles of State Policy and Fundamental Rights were discussed by Sir B.N. Rau and President De Valera in Dublin. Rau proposed some changes to the Draft Constitution, stating that the general welfare should take precedence over the two in the event of a conflict. He maintained that rights should be classified as either enforceable or non-

² VII Constituent Assembly Debates, 495

enforceable.³ Therefore, the members' original stance was that there should be no separation between Directive Principles of State Policy and Fundamental Rights; subsequently, a part of non-enforceable rights was established to allow the State to take necessary action. As a result, some changes were made to the plan. For example, the right to free primary education, which was established as a fundamental right under Article 21-A of the 2002 Constitutional Amendment, was moved from the Directive Principles of State Policy to the Fundamental Rights, and the right to equality before the law was moved from the Directive Principles of State policies to the Fundamental Rights.⁴

Regarding the instructions, some were negative and others were positive. Many referred to them as 'an actual dust dump of sentiment', placing no value attached. However, the instructions resembled the "Instruments of Instructions" to B.R. Ambedkar. They were also hailed as the most essential, noteworthy, and inventive components of the Constitution's body and content. The Constituent Assembly affirmed the importance of the directions, which were either positive or negative.

Concept of Directive Principles of State Policy

Reference of DPSP's in the Constituent Assembly Debates

The Draft Constitution of October 1947, prepared by B.N. Rau, included provisions on Fundamental Rights and Directive Principles of State Policy. Rau expressed worries about possible inconsistencies between directive principles and fundamental rights, and proposed that the Constitution include a specific clause guaranteeing the primacy of the former. In response to this proposal, he also proposed an amendment prioritizing the directive principles over fundamental rights in the event of a dispute. But in the end, the Constitution's wording did not include this addition. When Dr. Ambedkar presented the draft constitution to the Assembly on November 4, 1948, he said that although the guiding principles are not legally enforceable, that does not mean that they are not morally obligatory. The nature and importance of directive principles was the subject of an excellent discussion in the Constituent Assembly. While some

³ S. Sundara Rami Ready, FUNDAMENTALNESS OF FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES IN THE INDIAN CONSTITUTION 22 *Journal of the Indian Law Institute* 3 (1980), available at: <https://www.jstor.org/stable/43950702>

⁴ Mrunal Buva, A Critical Analysis of the Role of the Judiciary in Interpreting the Directive Principles of State Policy with Respect to Fundamental Rights, 3 *GNLU L. REV.* 53 (2010), available at: <https://heinonline-org-christuniversity.knimbus.com/HOL/License>

members gave them a place of actual significance in the Constitution, others saw them as religious aspirations with no constitutional meaning. Some members criticized the distinction between justiciable and non-justiciable rights during the framing and incorporation of directive principles. Still, ultimately, it was determined that the country's socioeconomic circumstances did not give citizens the ideal right to assert certain positive economic rights.⁵

Nature of DPSP: Article 37 of the Constitution of India

The Directive Principles of State Policy are a series of provisions that the people of independent India decided to include in Part IV of their constitution. The Irish Constitution of 1937, which had a comparable collection of rules known as the "Directive Principles of Social Policy." The framers were inspired by the Irish model, but they chose to take a different approach when formulating the provisions. Article 37 of the Indian Constitution states that "the provisions contained in this Part shall not be enforceable by any court, but the principles therein 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." This means directives are fundamental in the country's governance despite their unenforceable character. The state is required to follow these principles when creating laws, although the directives are not legally enforceable in a court of law.

Moving on to the technicalities of Article 37, it is crucial to observe that the state must use these guidelines when drafting laws. In this context, it is essential to interpret the term "duty" to determine the scope of the state's obligation. According to this article, "duty" falls into one of two categories: Hohfeldian "liberty" or Austinian "absolute duty." If a duty lacks a corresponding right, it is considered absolute. Its inability to be enforced by another individual is all that is implied by the lack of matching rights. One must compare Hohfeldian "duty," which has a distinct corresponding claim-right, with absolute duties. Conversely, the Hohfeldian concept of "liberty" is correlated with "no claim," indicating that the existence of liberty in one individual implies the existence of "no claim" in another.⁶

⁵ Kanchan Lavania, Directive Principles of State Policy: Coating of Fundamental Rights and Constructs of Human Rights Jurisprudence, 4 *Indian Journal of Law and Legal Research* 1 (2022), available at: <https://heinonline-org-christuniversity.knimbus.com/HOL/License>

⁶ Devdatta Mukherjee, Judicial Implementation of Directive Principles of State Policy: Critical Perspectives, 1 *Indian Journal of Law & Public Policy* 14 (2014), available at <https://heinonline-org-christuniversity.knimbus.com/HOL/License>

Provisions of Indian Constitution relating to Directive Principles of State Policy

Articles 36–51 of Part IV of the Constitution address Directive Principles to achieve the socioeconomic fairness outlined in the Preamble. As previously said, the Directive Principles reflect the framers' conviction that socio-economic rights and civil and political rights are inextricably linked. Articles 38, 39(b), and (c) address socioeconomic reforms; Articles 39(a), (d), (e), 41, 42, and 43 address means of subsistence, suitable to work, and legal welfare; Articles 39A, 44, and 50 address the welfare of women and children and the right to education; Article 49 protects national heritage; and Article 51 promotes international peace and security. Thus, socialist beliefs are reflected in Articles 38, 39, 39A, and 43A, whereas Gandhian ideas are represented in Articles 40, 43, 47, and 48. The clauses highlight the state-assisted social revolution's constitutional objectives of establishing an egalitarian social order and welfare state. The directives' core is enshrined in Article 38, which commands the State to work toward promoting the welfare of the people by securing and defending the social order as effectively as possible. This social, economic, and political justice is to be embedded in all national institutions, with the goal of minimizing income disparities and attempting to eradicate status, opportunity, and facility disparities between individuals and groups living in different regions or pursuing different careers.⁷

Role of Judiciary in interpreting the Directive Principles of State Policy

India's Constitution does not directly address socio-economic justice but lists it as Directive Principles of State Policy. The Indian Supreme Court has interpreted Article 21 to include a broader right to 'live with dignity', including rights to adequate food, education, and shelter. This interpretation has made socioeconomic rights as a enforceable rights.

Even though the Supreme Court clarified Part IV's reach in several judgments. The original statement that "the Directive Principles of State Policy have to conform to and run as subsidiary to the chapter of fundamental rights" was made in the **State of Madras v. Champakam Dorairajan case**⁸. The Court decided that the State Policy's Directive Principles must follow and be subordinate to the Fundamental Rights. In the *State of Bihar v. Kameshwar Singh case*⁹, however, the Court cited Article 39 to determine that a specific Zamindari Abolition Act had

⁷ Air India Statutory Corpn. v. United labour union, (1997) 9 SCC 377

⁸ AIR 1951 SC 226

⁹ AIR1952 SC 352

been passed for a public purpose as defined by Article 31. The Supreme Court noted in the **Re Kerala Education Bill case**¹⁰ that while the Directive Principles of State Policy cannot supersede fundamental rights, the court may not completely disregard them when deciding the extent and boundaries of fundamental rights."

In **Chandra Bhavan v. State of Mysore**¹¹, The court ruled that "Directives issued under Part IV are fundamental in the governance of the country, even though rights granted under Part III are fundamental." Overall, we don't perceive any inconsistency between the clauses in parts IV and III. They are added to and complimentary of one another." In **Keshavanada Bharati V. State of Kerala**¹², the Supreme Court reversed its entire stance toward the DPSP by upholding the constitutionality of the first paragraph of the twenty-fifth amendment, which introduced Article 31-C. This provision shielded laws aimed at upholding the Directive Principles outlined in Article 39 clauses (b) and (c) from challenges on the basis of violating Fundamental Rights under Articles 14 and 19 of the Constitution. For the first time, the Supreme Court ruled that the Directive Principles and Fundamental Rights can be interpreted and enforced together, as both strive to establish a welfare state and drive a social revolution.

In **Minerva Mills Ltd & ors v. UOI & ors**¹³, former CJ.Y V Chandrachud observed that rights contained in Part III are not an end but the means to an end. The end lies in Part IV. In this sense, Part III and Part IV constitute the foundation of our Constitution. The court should sincerely try to harmonize and reconcile the DPSP and Fundamental Rights, even though they are not yet legally binding. Any conflicts between the two should be avoided at all costs.

Although the Judiciary was not given any specific duties by the framers concerning Part IV of the Constitution, it has thus far shown itself to be a conscientious walker in the accomplishment of the document's objectives. This role is reflected in specific significant judicial rulings. The court invoked Article 39, 42, and 43 of the Directive Principles in **Bandhua Mukti Morcha v. Union of India**¹⁴. In *Olga Tellis v. Bombay Municipal Corporation*¹⁵, the Court held that, the right to livelihood falls under the right to life, as stated in Articles 39(a) and 41. In **Mohini Jain**

¹⁰ AIR 1956 SC 956

¹¹ AIR 1970 SC 2042

¹² AIR 1973 SC 1461

¹³ (1980)3 SCC 625

¹⁴ AIR 1984 S.C 802

¹⁵ 1985 (3) S.C.C. 545

v. State of Karnataka¹⁶ and Unnikrishnan v. State of Andhra Pradesh¹⁷, invoking the Directive Principles, specifically Article 45(a), the court interpreted Article 21's guarantee of life to include a right to education. The state must guarantee "equal pay for equal work", regardless of gender, in accordance with the directive principles. The court implemented this directive in *Karan Singh v. J and K* 16, ruling that daily workers should receive the same compensation for performing equivalent work as their full-time counterparts.

Fundamental Rights and Directive Principles of State Policy

A democratic state is built on the foundation of fundamental rights essential to individual liberties and rights. The directive principles highlight the state's socioeconomic duty to its population and serve as the cornerstone of governmental action and planning. Since the Constituent Assembly debates highlighted the connection between Fundamental Rights and the Directive Principles of State Policy, this relationship has been a topic of continuous debate and litigation. Since then, the state's various branches and the court have been engaged in a continuing effort to strike the right balance between the goals of the Constitution's authors and the demands of society's economic system. The public and government circles are frustrated by the specific language that states that directive principles are not justiciable, but fundamental rights are. The state is now in the unusual situation where it must address socioeconomic disparities, yet the courts' interpretation of the fundamental rights restricts what it can do. The way judiciary has seen the interplay between fundamental rights and directive principles has evolved throughout time. The importance of fundamental rights was initially emphasized. After that, the courts took a more pragmatic and less strict stance, resulting in a more harmonious interpretation. The courts ultimately emphasized the "public interest," the legislature's duty to uphold directive principles and the propriety of restricting fundamental rights. The directing principles are becoming more and more critical in implementing socioeconomic change. Though the principles are broad, ambiguous, and in some cases entirely out of date, they still act as the conscience and spirit of the Constitution and provide the foundation for laws that would not have been able to be passed under other conditions.¹⁸

¹⁶ AIR 1992 S.C 1858

¹⁷ (1993)1 S.C.C. 645

¹⁸ Bertus De Villiers, The Socio-Economic Consequences of Directive Principles of State Policy; Limitations on Fundamental Rights, 8 South African Journal on Human Rights, 188 (1992), available at <https://heinonline-org-christuniversity.knimbus.com/HOL/License>

Conclusion

Granville Austin claims that the Directive Principles were included in our Constitution in the hope that India would one day see true liberty blossoming. The goal of achieving the objective of the welfare state lies in directive principles of state policies, and fundamental rights are the only means to achieve the goal. Despite not being subject to legal proceedings, the Directive Principles remain essential to national governance, and it is the state's responsibility to incorporate them into legislation. These Directive Principles tend to acquire status equal to that of Fundamental Rights when interpreted creatively by the Judiciary to fall under the purview of Article 21. It is noteworthy, and a shift from the Champakam Dorairajan case, that the Indian Constitution mandates Parts III and IV to function in harmony. The Court has given socioeconomic rights constitutional justiciability by broadly interpreting Article 21. The notion that fundamental rights take precedence over directive principles is no longer valid. In addition, it is necessary to reconsider and estimate the available resources and devise ways to accomplish the goals outlined in the IV Chapter of the Constitution. The expansion of fundamental rights and directive principles by the Supreme Court has been aimed at improving the people's standard of living. India still has a long way to go before the directive's ideas are realized. Many administrative, political, technological, financial, and other barriers prevent them from being realized. A few guiding concepts have yet to receive nearly enough attention. The courts have demonstrated that, despite their inability to compel the state to enact laws, they are nevertheless able to sustain laws that are grounded in the guiding principles, even when those laws may restrict fundamental rights.

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