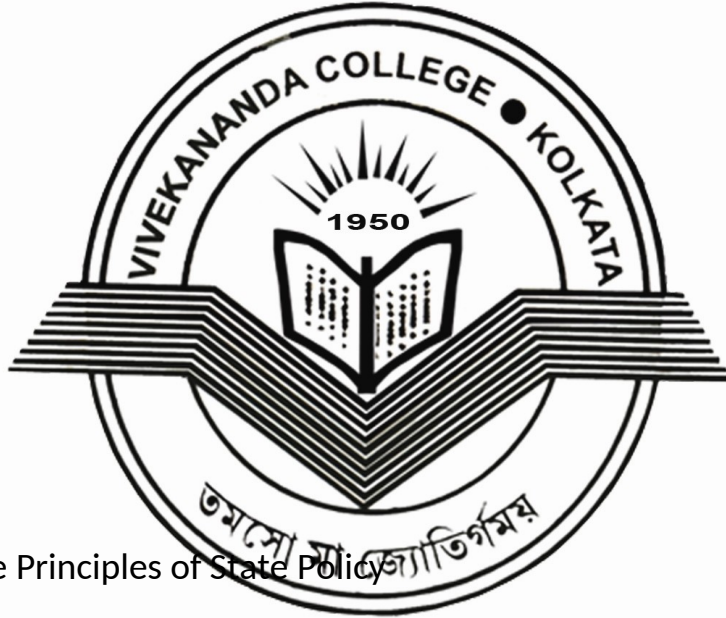


VIVEKANANDA COLLEGE THAKURPUKUR KOLKATA-700063

NAAC ACCREDITED 'A' GRADE



Topic: Directive Principles of State Policy

Course Title: Constitutional Government in India

Paper: CCH (3)

Module: 1

Semester: 2

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DIRECTIVE PRINCIPLES OF STATE POLICY

Part IV of our Constitution entitled the 'Directive Principles of State Policy' has been well described by Dr. B.R Ambedkar as its 'novel feature'. It constitutes a very comprehensive political, social and economic programme for a modern democratic state. Democracy is not merely political; it must also be present in the social and economic fields as well. While the Fundamental Rights lay down the foundations of political democracy in the country, Part IV contains a set of positive directions spelling out the charter of social and economic democracy. The Directive Principles of State Policy as contained in Part IV of the Constitution covering Articles 36 to 51 underline the philosophy of democratic socialism with a touch of Gandhian idealism. The policies that the state should adopt for the purpose of implementing this goal are outlined in detail in Part IV of the Indian Constitution. The direct source of inspiration of our Directive Principles of State Policy was the Irish Constitution of 1937. However, their purpose is much wider and nobler than those of the Constitution of the Irish Republic. The Indian Constitution in Part IV has given detailed guidelines about how the Indian state will take measures to bring about social change in India, focusing on the ideals of social and economic democracy.

Differences between Fundamental Rights and Directive Principles of State Policy:

- i. These two have been incorporated into our Constitution as separate and distinct entities. Fundamental Rights in Part III and Directive Principles of State Policy in Part IV of the Constitution.
- ii. While Fundamental Rights are negative injunctions asking the State not to do this or that, the Directive Principles of State Policy are like positive directions that the state ought to follow in order to establish social and economic democracy in the country. Thus, while the former constitute limitations upon the actions of the State, the latter are in the nature of an instrument of instructions to the government of the day to do certain things and achieve certain ends by treating them as nevertheless fundamental in the governance of the country.
- iii. While the former provides for the protection of political democracy, the latter works for the establishment of socio-economic democracy in the country. The Fundamental Rights are civil and political in nature; the Directive Principles are social and economic in nature.
- iv. A rather more important point of difference between the two is that the Fundamental Rights are enforceable by the courts of law but the Directive

Principles of State Policy are non-justiciable making them like pious declarations that the state may or may not treat as nevertheless fundamental in the governance of the country. Thus, the Right to Constitutional Remedies, as enshrined in Article 32 of the Constitution covers Part III and not Part IV of the Constitution. It follows that while the Fundamental Rights are mandatory, the Directive Principles of State Policy are like optional directives.

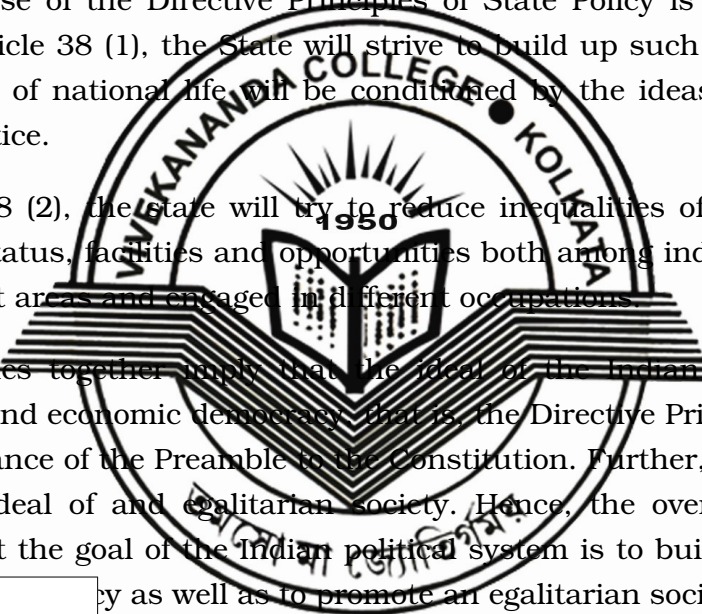
- v. The Directive Principles, unless otherwise determined by the law of the State, are subsidiary to the Fundamental Rights, the latter being primary parts of the Constitution in relation to the former. There should be no conflict between the two and in case there is any controversy, it is the rights that prevail over the principles in question.

Purpose of the Directive Principles of State Policy:

The main purpose of the Directive Principles of State Policy is stated in Article 38. According to Article 38 (1), the State will strive to build up such a social order where every institution of national life will be conditioned by the ideas of social, economic and political justice.

As per Article 38 (2), the state will try to reduce inequalities of income and remove inequalities in status, facilities and opportunities both among individuals and groups, living in different areas and engaged in different occupations.

These two articles together imply that the ideal of the Indian state is to promote political, social and economic democracy that is, the Directive Principle of Article 38 is clearly in pursuance of the Preamble to the Constitution. Further, Article 38 (2), seems to uphold the ideal of an egalitarian society. Hence, the overall implication from Article 38 is that the goal of the Indian political system is to build up political, social and economic democracy as well as to promote an egalitarian society.



<u>Socialistic</u>	<u>DI</u>	<u>Gandhian</u>
Securing a social order for the welfare of the people ensuring:	Uniform Civil Code for the country;	Organization of village panchayats to function as units of self - government;
Adequate means of livelihood for all people;	Provision for free and compulsory education for all children under 14 years;	Prohibition of intoxicants except for medicinal use;
Ownership and control of material resources of the community and their distribution for common good;	Protection of monuments and other places of historical and cultural interest;	Promotion of cottage industries;
Non concentration of wealth and means of production to common detriment;	Separation of executive from judiciary	Promotion of interests of the weaker sections of people;
Equal pay for equal work for men and women;	Protection and improvement of environment and safeguarding of forests and wildlife;	Improvement of animal husbandry
Saving the health and strength of workers from abuse forced by economic necessities;	Promotion of international peace and security, respect for international law and treaty obligations and pacific	Prohibition of cow slaughter and of other milch cattle
Protection of adult and child labour;		Organization of agriculture on

Socialistic

Opportunities for children to develop in a healthy manner in conditions of freedom and dignity and protection of childhood and youth against exploitation and moral and material abandonment;

Public assistance in the events of old age, unemployment, sickness and physical disablement;

Provision for just and humane conditions of work and maternity relief;

Living wage and decent standards of life and enjoyment of leisure;

Provision of legal aid and non-denial of justice for economic or other reasons;

Workers' participation in the management of industrial establishments;

Minimisation of inequalities in income and



The items of the comprehensive list of the Directive Principles may be classified into three parts as illustrated by the table above for the sake of a convenient study. In the first place, we have a long list of these principles that look like laying down the framework of a democratic socialist state. Article 38 is very important that provides that the State shall protect 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 national life. With this end in view, it has been laid down in Article 39 that the State shall direct its policy towards securing:

- i. Adequate means of livelihood for all citizens;
- ii. Distribution of wealth so as to subserve the common good;
- iii. Equal pay for equal work for all;
- iv. Operation of the economic system not resulting in the concentration of wealth and means of production to the common detriment;
- v. Protection of adult and child labour;
- vi. Opportunities to children to develop in a healthy manner and in conditions of freedom and dignity and the protection of childhood and youth against exploitation and against moral and material abandonment;

- vii. Provision for work and education for all people, relief in case of unemployment, old age, sickness and disablement and in other cases of undeserved want;
- viii. Just and humane conditions of work;
- ix. A living wage and decent conditions of work so as to ensure to the workers sufficient leisure and social and cultural opportunities;
- x. Raising the level of nutrition and standard of living and the improvement of public health
- xi. Operation of the legal system, promoting justice on the basis of equal opportunity and, in particular, provision of legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability;
- xii. Securing participation of workers in the management of industrial establishments;
- xiii. Minimization of inequalities in income and elimination of inequalities in status, facilities and opportunities among individuals and groups residing in different areas or engaged in different occupations

Besides, there is a set of principles that were strongly advocated by Mahatma Gandhi. These may be enumerated as under:

- i. To organize village panchayats and endow them with such power and authority as may be necessary to enable them to function as the units of self-government;
- ii. To promote cottage industries on an individual or cooperative basis in rural areas;
- iii. To promote with special care the educational and economic needs of the weaker sections of the people and, in particular, the Scheduled Castes and Scheduled Tribes in order to protect them from social injustice and all forms of social exploitation;
- iv. To bring about the prohibition of consumption, except for medicinal purposes, of intoxicating drinks and drugs injurious to health;
- v. To organize agriculture and animal husbandry on modern scientific lines;
- vi. To take steps for preserving and improving the breeds of the cattle and prohibiting the slaughter of cows and calves and other milch and draught cattle.

Finally there are some principles that may be regarded as pieces of a code suggested by men of liberal-intellectualistic approach. These are:

- i. To take steps to separate the judiciary from the executive;
- ii. To ensure for all citizens a uniform civil code throughout the country;

- iii. To provide for free and compulsory education for all children below the age of 14 years within a period of 10 years from the inauguration of the Constitution.
- iv. There are certain principles relating to the improvement of the environment:
 - a. Under Article 48A, the State shall endeavour to protect and improve the environment and safeguard forests and wildlife;
 - b. Article 49 obligates the state to protect every monument or place or object of artistic or historical interest, declared by Parliament by law to be of national importance, from spoliation, disfigurement, destruction, removal, and disposal or export as the case may be. Parliament is empowered to make such laws in terms of Entry 67 of the Union List
- v. Under Article 51, the State shall endeavour to promote international peace and security, maintain just and honourable relations between nations, encourage respect for international law and treaty obligations and try for settlement of international disputes by arbitration.

It may be pointed out that the number of Directive Principles to be found at present in Part IV of the Constitution is greater than the number of Directive Principles originally given in the Constitution. Quite a few Directive Principles have been incorporated in Part IV by constitutional amendments. For instance –

- a) A portion of Article 49 has been altered by the Seventh Constitutional Amendment Act of 1976
- b) Articles 39 (f), 39A, 43A and 43B have been inserted by the 42nd Constitutional Amendment Act of 1976
- c) Articles 38 (1) and 38 (2) are results of the 44th Constitutional Amendment Act 1978
- d) The text of Article 45 has been altered by the 86th Constitutional Amendment Act 2002.

According to Article 37 of Part IV of our Constitution, the Directive Principles are not enforceable by the court like Fundamental Rights. However, it also says that the state is enjoined to apply these principles in making laws. Thus the implication is that these principles must not be ignored by the state. Granville Austin had regarded Directive Principles together with Fundamental Rights as the 'conscience of the Constitution'. Still, during the first 21 years of the working of the Indian Constitution, the Directive Principles were not given the due importance. A change in this matter was brought about by the 25th Constitutional Amendment Act of 1971 and 44th Constitutional Amendment Act of 1978 which says that, if a law is

made to implement Directive Principles provided in Article 39 (b) and 39(c), it would be valid even if it violates Fundamental Rights embodied in Articles 14 and 19.

The Judiciary and the Directive Principles:

At the beginning, the Court took a position which was strictly based on the literal understanding of the letters of the Constitution. Thus, in the *State of Madras vs. Champakam Dorairajan, 1951*, the Supreme Court considered Directive Principles much less significant than the Fundamental Rights because of their un-enforceability. Over the years, the attitude of the Supreme Court on the mutual relation between Fundamental Rights and Directive Principles began undergoing substantive changes. For instance, in the *Kerala Education Bill Reference Case*, the Court gave due importance to Directive Principles vis-à-vis Fundamental Rights and introduced the principle of harmonious construction. The Court may not entirely ignore these Directive Principles and should attempt to give effect to both Fundamental Rights and these Directive Principles as much as possible.

In *Golak Nath vs State of Punjab, 1967* the court gave the opinion that Fundamental Rights and Directive Principles together have formed an 'integrated scheme'. In the *Kesavananda Bharati vs. State of Kerala, 1973*, the Supreme Court observed that there is no conflict between the Fundamental Rights and Directive Principles.... one supplements the other. In the *Wanjiya Mills Ltd. vs. Union of India 1980*, the Supreme Court regarded Fundamental Rights as the means to an end to be found in the Directive Principles. To give absolute primacy of one over the other is to disturb the harmony of the Constitution. The Supreme Court in the *Olga Tellis vs. Bombay Municipal Corporation, 1986*, observed that the Directive Principles are fundamental in the governance of the country and they must be used in the understanding and interpretations of the Fundamental Rights. In the *Unnikrishnan vs. State of Andhra Pradesh, 1993*, the Court observed that the Fundamental Rights must be construed in the light of the Directive Principles.

The framers of the Constitution did not make the Directive Principles enforceable keeping in mind the financial condition of the Indian state during that time. Most of these principles put a huge responsibility on the state towards the achievement of many welfare and socialist ends. If it was made mandatory for the state to give effect to them, then it would naturally pose a huge financial burden which might put a lot of constraint on the State. The huge sum of money required to give effect to these principles is far beyond the financial capacities of the state. However, despite being unenforceable in the Courts, the Directive Principles have not gone

totally unheeded by the different governments of the State. Many of these principles have been put into effect by appropriate Parliamentary laws and Constitutional Amendments from time to time. For example, Article 40, directing the state to organize village panchayats and give them adequate power and authority so that they may function as units of self-government, has been given effect by the 73rd Constitutional Amendment Act of 1992 that inserted Part IX (Articles 243 to 243O) in the Constitution. Free and compulsory education for children of the age group of 6-14 years has been recognized as a Fundamental Right by the 86th Constitutional Amendment Act of 2002, which inserted Article 21A in the Constitution. Besides, the Government of India has from time to time, enacted various laws ensuring minimum wage, limiting working hours, instituting equal pay for equal work etc. to give effect to the various principles as laid down in Part IV of our Constitution.

Finally, due credit must be given to our Constitution makers who included issues about ecology and environment in the Directive Principles way back in the late 1940s. Besides, the inclusion of Article 51 which declares India's commitment to international peace and order and constitutionally identifies India as a peace loving State, is a very noble aspect of our Constitution.

