

Directive Principles of State Policy

The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51¹. *The framers of the Constitution borrowed this idea from the Irish Constitution of 1937, 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'².

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. The Directive Principles resemble the 'Instrument of Instructions' enumerated in the Government of India Act of 1935. In the words of Dr. B.R. Ambedkar, 'the Directive Principles are like the instrument of instructions, which were issued to the Governor-General and to the Governors of the colonies of India by the British Government under the Government of India Act of 1935. What is called Directive Principles is merely another name for the instrument of instructions. The only difference is that they are instructions to the legislature and the executive'.
3. The Directive Principles constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realising the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. They embody the concept of a 'welfare state' and not that of a 'police state', which existed during the colonial era³. In brief, they seek to establish economic and social democracy in the country.
4. The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them. 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.
5. The Directive Principles, though non-justiciable in nature, help the courts in examining and determining the

constitutional validity of a law. 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, 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.

CLASSIFICATION OF THE DIRECTIVE PRINCIPLES

The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual.

Socialistic Principles

These principles reflect the ideology of socialism. They lay down the framework of a democratic socialist state, aim at providing social and economic justice, and set the path towards welfare state. They direct the state:

1. To promote the welfare of the people by securing a social order permeated by justice—social, economic and political—and to minimise inequalities in income, status, facilities and opportunities⁴ (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 children⁵ (Article 39).
3. To promote equal justice and to provide free legal aid to the poor⁶ (Article 39 A).

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 of work and maternity relief (Article 42).
6. To secure a living wage⁷, 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 industries⁸ (Article 43 A).
8. To raise the level of nutrition and the standard of living of people and to improve public health (Article 47).

Gandhian Principles

These principles are based on Gandhian ideology. They represent the programme of reconstruction enunciated by Gandhi during the national movement. In order to fulfil the dreams of Gandhi, some of his ideas were included as Directive Principles. They require the State:

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).
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^{8a} (Article 43B).
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).

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).
2. To provide early childhood care and education for all children until they complete the age of six years⁹ (Article 45).
3. To organise agriculture and animal husbandry on modern and scientific lines (Article 48).
4. To protect and improve the environment and to safeguard forests and wild life¹⁰ (Article 48 A).
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).

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).

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).

SANCTION BEHIND DIRECTIVE PRINCIPLES

Sir B.N. Rau, the Constitutional Advisor to the Constituent Assembly, recommended that the rights of an individual should be divided into two categories—justiciable and non-justiciable, which was accepted by the Drafting Committee. Consequently, the Fundamental Rights, which are justiciable in nature, are incorporated in Part III and the Directive Principles, which are non-justiciable in nature, are incorporated in Part IV of the Constitution.

Though the Directive Principles are non-justiciable, the Constitution (Article 37) makes it clear 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'. Thus, they impose a moral obligation on the state authorities for their application, but the real force behind them is political, that is, public opinion. As observed by Alladi Krishna Swamy Ayyar, 'no ministry responsible to the people can afford light-heartedly to ignore the provisions in Part IV of the Constitution'. Similarly, Dr. B.R. Ambedkar said in the Constituent Assembly that 'a government which rests on popular vote can hardly ignore the Directive Principles while

shaping its policy. If any government ignores them, it will certainly have to answer for that before the electorate at the election time'¹¹.

The framers of the Constitution made the Directive Principles non-justiciable and legally non-enforceable because:

1. The country did not possess sufficient financial resources to implement them.
2. The presence of vast diversity and backwardness in the country would stand in the way of their implementation.
3. The newly born independent Indian State with its many preoccupations might be crushed under the burden unless it was free to decide the order, the time, the place and the mode of fulfilling them.

'The Constitution makers, therefore, taking a pragmatic view, refrained from giving teeth to these principles. They believed more in an awakened public opinion rather than in court procedures as the ultimate sanction for the fulfilment of these principles'¹².

CRITICISM OF THE DIRECTIVE PRINCIPLES

The Directive Principles of State Policy have been criticised by some members of the Constituent Assembly as well as other constitutional and political experts on the following grounds:

1. No Legal Force

The Directives have been criticised mainly because of their non-justiciable character. While K.T. Shah dubbed them as 'pious superfluities' and compared them with 'a cheque on a bank, payable only when the resources of the bank permit'¹³, Nasiruddin contended that these principles are 'no better than the new year's resolutions, which are broken on the second of January'. Even as T.T. Krishnamachari described the Directives as 'a veritable dustbin of sentiments', K C Wheare called them as a 'manifesto of aims and aspirations' and opined that they serve as mere 'moral homily', and Sir Ivor Jennings thought they are only as 'pious aspirations'.

2. Illogically Arranged

Critics opine that the Directives are not arranged in a logical manner based on a consistent philosophy. According to N Srinivasan, 'the Directives are neither properly classified nor logically arranged. The declaration mixes up relatively unimportant issues with the most vital economic and social questions. It combines rather incongruously the modern with the old and provisions suggested by the reason and science with provisions based purely on sentiment and prejudice'¹⁴. Sir Ivor Jennings too pointed out that these principles have no consistent philosophy.

3. Conservative

According to Sir Ivor Jennings, the Directives are based on the political philosophy of the 19th century England. He remarked: 'The ghosts of Sydney Webb and Beatrice Webb stalk through the pages of the text. Part IV of the Constitution expresses Fabian Socialism without the socialism'. He opined that the Directives 'are deemed to be suitable in India in the middle of the twentieth century. The question whether they are suitable for the twenty-first century cannot be answered; but it is quite probable that they will be entirely outmoded.'¹⁵

4. Constitutional Conflict

K Santhanam has pointed out that the Directives lead to a constitutional conflict (a) between the Centre and the states, (b) between the President and the Prime Minister, and (c) between the governor and the chief minister. According to him, the Centre can give directions to the states with regard to the implementation of these principles, and in case of non-compliance, can dismiss the state government. Similarly, when the Prime Minister gets a bill (which violates the Directive Principles) passed by the Parliament, the president may reject the bill on the ground that these principles are fundamental to the governance of the country and hence, the ministry has no right to ignore them. The same constitutional conflict may occur between the governor and the chief minister at the state level.

UTILITY OF DIRECTIVE PRINCIPLES

In spite of the above criticisms and shortcomings, the Directive Principles are not an unnecessary appendage to the Constitution. The Constitution itself declares that they are fundamental to the governance of the country. According to L.M. Singhvi, an eminent jurist and diplomat, 'the Directives are the life giving provisions of the Constitution. They constitute the stuff of the Constitution and its philosophy of social justice'¹⁶. M.C. Chagla, former Chief Justice of India, is of the opinion that, 'if all these principles are fully carried out, our country would indeed be a heaven on earth. India would then be not only democracy in the political sense, but also a welfare state looking after the welfare of its citizens'¹⁷. Dr. B.R. Ambedkar had pointed out that the Directives have great value because they lay down that the goal of Indian polity is 'economic democracy' as distinguished from 'political democracy'. Granville Austin opined that the Directive Principles are 'aimed at furthering the goals of the social revolution or to foster this revolution by establishing the conditions necessary for its achievement'¹⁸. Sir B.N. Rau, the constitutional advisor to the Constituent Assembly, stated that the Directive Principles are intended as 'moral precepts for the authorities of the state. They have at least an educative value.'

According to M.C. Setalvad, the former Attorney General of India, the Directive Principles, although confer no legal rights and create no legal remedies, are significant and useful in the following ways:

1. They are like an 'Instrument of Instructions' or general recommendations addressed to all authorities in the Indian Union. They remind them of the basic principles of the new social and economic order, which the Constitution aims at building.
2. They have served as useful beacon-lights to the courts. They have helped the courts in exercising their power of judicial review, that is, the power to determine the constitutional validity of a law.

3. They form the dominating background to all State action, legislative or executive and also a guide to the courts in some respects.
4. They amplify the Preamble, which solemnly resolves to secure to all citizens of India justice, liberty, equality and fraternity.

The Directives also play the following roles:

1. They facilitate stability and continuity in domestic and foreign policies in political, economic and social spheres in spite of the changes of the party in power.
2. They are supplementary to the fundamental rights of the citizens. They are intended to fill in the vacuum in Part III by providing for social and economic rights.
3. Their implementation creates a favourable atmosphere for the full and proper enjoyment of the fundamental rights by the citizens. Political democracy, without economic democracy, has no meaning.
4. They enable the opposition to exercise influence and control over the operations of the government. The Opposition can blame the ruling party on the ground that its activities are opposed to the Directives.
5. They serve as a crucial test for the performance of the government. The people can examine the policies and programmes of the government in the light of these constitutional declarations.
6. They serve as common political manifesto. 'A ruling party, irrespective of its political ideology, has to recognise the fact that these principles are intended to be its guide, philosopher and friend in its legislative and executive acts'¹⁹.

CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

The justiciability of Fundamental Rights and non-justiciability of Directive Principles on the one hand and the moral obligation

Table 8.1 *Distinction Between Fundamental Rights and Directive Principles*

Fundamental Rights	Directive Principles
1. These are negative as they <u>prohibit the State from doing certain things.</u>	1. These are positive as they require the <u>State to do certain things.</u>
2. These are <u>justiciable</u> , that is, they are <u>legally enforceable</u> by the courts in case of their violation.	2. These are <u>non-justiciable</u> , that is, they are <u>not legally enforceable</u> by the courts for their violation.
3. They aim at establishing political democracy in the country.	3. They aim at establishing social and economic democracy in the country.
4. These have legal sanctions.	4. These have moral and political sanctions.
5. They <u>promote the welfare of the individual.</u> Hence, they are personal and individualistic.	5. They promote the <u>welfare of the community.</u> Hence, they are <u>societarian and socialistic.</u>
6. They do not require any legislation for their implementation. They are automatically enforced.	6. They require legislation for their implementation. They are not automatically enforced.
7. The courts are bound to declare a law violative of any of the Fundamental Rights as unconstitutional and invalid.	7. The courts cannot declare a law violative of any of the Directive Principles as unconstitutional and invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.

Table 8.2 *Articles Related to Directive Principles of State Policy at a Glance*

Article No.	Subject Matter
36.	Definition of State
37.	Application of the principles contained in this part
38.	State to secure a social order for the promotion of welfare of the people
39.	Certain principles of policy to be followed by the State
39A.	Equal justice and free legal aid
40.	Organisation of village panchayats
41.	Right to work, to education and to public assistance in certain cases
42.	Provision for just and humane conditions of work and maternity relief
43.	Living wage, etc., for workers
43A.	Participation of workers in management of industries
43B.	Promotion of co-operative societies
44.	Uniform civil code for the citizens
45.	Provision for early childhood care and education to children below the age of six years
46.	Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections
47.	Duty of the State to raise the level of nutrition and the standard of living and to improve public health
48.	Organisation of agriculture and animal husbandry
48A.	Protection and improvement of environment and safeguarding of forests and wildlife
49.	Protection of monuments and places and objects of national importance
50.	Separation of judiciary from executive
51.	Promotion of international peace and security

Our Constitution makers were fully aware of the pitiable condition of their countrymen — their poverty, illiteracy, backwardness and ignorance. So they suggested some 'guidelines' or 'directives' to the Government about how to face such situations and improve the condition of their countrymen. These guidelines are known as the Directive Principles of State Policy.

It provides one of the most novel & striking features of the modern constitutional govt.

CHAPTER V

DIRECTIVE PRINCIPLES OF STATE POLICY

dealing - Part IV of the Indian constitution, covering Articles 36 to 51, deals with the Directive Principles of State Policy. They are more or less elaborations of principles and ideas contained in the Preamble, and in them lies the core of our commitment to the social revolution. According to L.M. Singhvi, 'The Directives are the life-giving provisions of the constitution. They constitute the stuff of the constitution and its philosophy of social justice.' It is widely believed that if all these principles were fully carried out, our country would indeed be a heaven on earth..... a welfare state in which there will be economic equality between its different citizens and in which every one would have the same opportunity to educate oneself, to work and to reap the reward of one's labour.

while providing the provisions for DP, our constitution makers were inspired by the best constitutional principles.

The importance of DP of SP lies in the fact that they provide the best guidelines for the state and at the state level, according to which they should formulate their internal and external policies. They are necessary for the all round progress and prosperity of the citizens of India, and for peaceful existence in the international sphere.

cost { The politics of India becoming more and more competitive, greater and greater emphasis is being laid on the implementation of the Directives. } And the government's accountability in relation to the Directive Principles has accordingly increased. But government alone cannot achieve the ideals embodied in the Directives. There is a need for whole-hearted co-operation from the people. It is heartening that the manifestos of all political parties are, by and large, in terms of the Directives, and they (Directives) constitute a yardstick with the people to assess their performance. Three other favourable developments have also taken place. The courts have, to a limited extent, taken upon themselves the task of over seeing their implementation. Second, there has been the emergence of legal aid. Third, a number of social action groups have emerged.

I - NATURE OF CONTENTS

{ The Directive Principles of State Policy deal with diverse topics. Some of them are relatively unimportant, while some concern the most vital economic and social issues. } The Directives are neither properly classified nor logically arranged. { Some writers have, of course, divided them into three categories, viz. Socialistic, Gandhian, Liberal or General principles. } This classification, however, does not give full view of the Directives.

1. L.M. Singhvi : Journal of Constitutional and Parliamentary Studies, June, 1975.
2. M.C. Chagla : An Ambassador Speaks, p. 35.
3. S.N. Jain : Accountability in Relation to Directive Principles. (in Public Administration, p. 112)

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A. Socialistic Principles (Arts. 39, 41, 42, 43)

These principles

{The principles grouped in this category are socialistic, both in their direction and content. Art. 39 directs the state to secure : (a) adequate means of livelihood for all citizens, (b) fair distribution of wealth, (c) equal pay for equal work for both men and women, (d) protection of health and strength of workers particularly of children of tender age, (e) protection of youth and childhood against exploitation. This article is of special significance } in so far as it lays down the basic philosophy or ideal of democratic socialism. } Article 41 recognises every citizen's right to work, to education and to public assistance in cases of undeserved want. } Art. 42 requires the state to make provision for securing just and humane conditions of work and maternity relief. } Art. 43 imposes upon the state the obligation to secure to all workers a living wage, a decent standard of life, and full enjoyment of leisure and social and cultural opportunities. } This article has been acclaimed by some as the 'Magna Carta' or the 'Great Charter' of all workers. In view of the fact that every modern progressive state provides for these conditions, Art. 43 does not envisage a very tall order. } Some new Directives have been added to Chapter IV by the 42nd Amendment. They promise to secure : (a) free legal aid to economically backward classes, (b) participation of workers in the management of organizations engaged in any industry, and (c) improvement of environment and safeguarding of forest and wild life of the country. }

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B. Gandhian Principles (Arts. 40, 43, 46, 47, 48)

{The principles included therein seek to organise a new order in accordance with certain Gandhian conceptions. } They have, therefore, Gandhian mark on them. } They direct the state to take steps : (i) to organise village panchayats as units of self-government (Art. 40) ; (ii) to promote cottage industries on individual and co-operative basis in rural areas (Art. 43) ; (iii) to promote with special care the educational and economic interests of the weaker sections of the people, especially the scheduled castes and scheduled tribes (Art. 46) ; (iv) to bring about prohibition of intoxicating drinks and drugs that are injurious to health (Art. 47) ; (v) to preserve and improve the breeds of cattle and prohibit the slaughter of cows, calves and other milch and draught animals (Art. 48) ; (vi) to organise agricultural and animal husbandry on modern and scientific lines (Art. 48). }

C. Liberal or General Principles (Arts. 44, 45, 50, 51)

{The principles enumerated in this category expect the state (1) to secure for all Indians a uniform civil code (Art. 44) ; (2) to provide within ten years (from the commencement of the constitution) free and compulsory education for all children upto the age of fourteen (Art. 45) ; (3) to take steps to secure the separation of the judiciary from the executive in public services of the state (Art. 50) ; (4) to raise the standard of nutrition as also of health (Art. 47). }

Under Art. 51 of this chapter, the state is enjoined : (a) to promote international peace and security ; (b) to maintain just and honourable relations between nations ; (c) to foster respect for international law and treaty obligations ; and (d) to encourage settlement of international disputes by arbitration.

The DP have come to play an important role in the political life of this country.

Directive Principles—Non-Justiciable, though Fundamental Governance

In a democracy one government comes after the other. A new govt may be run without any experiences. But these DP can guide it what to do and what to avoid.

Even if DP are not justiciable, they provide a yard-stick to the people to assess the credibility of the govt.

Ambedkar said,

DP is merely another name

Another salient feature of the Directive Principles is that they are non-justiciable. Although the government is directed to promote these rights, failure to secure them immediately is not a justiciable issue. It means that their non-observance by the government does not lead to legal consequences ; nor the state can be forced through courts to implement them. Though unenforceable in a court of law, the Directives are nevertheless fundamental in the governance of the country and the state has been directed to apply them in making laws. It has been distinctly stated in Art. 37 that the Directive Principles are to be regarded as *fundamental in the governance of the country* and it shall be the *duty* of the state to apply these principles in making laws. According to H.M. Seervai, the words *fundamental* and *duty* in Art. 37 are quite significant. They underscore the fact that it is the moral and political duty of the state to implement the Directives. The word *state* in the Art. indicates that it is not only for the legislature to implement them by legislation ; the executive and judiciary are also expected to give them due weight and consideration.¹

