

**Directive Principles of State Policy**

- Part – IV of the Constitution.
- Article 36 to 51.
- Derived from Irish (Ireland) Constitution.
- Ireland Derived it from Spanish Constitution.
- DPSP is 20<sup>th</sup> century concept evolved due to evolution of constitutionalism.
- The Government exists for the benefit of the people is known as constitutionalism.
- To establish a welfare state or to establish egalitarian society without any class distinction or minimum class distinction are the aims of DPSP.
- It epitomize the ideals of people.
- The DPSP are also regarded as the means to establish social and economic democracy in the country.
- If DPSP is well implemented it establish highest freedom, freedom from want and freedom from hunger.

**Social Principles:**

- **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.
- **Article 37:** It 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.
- **Article 38:** State to secure a social order for the promotion of the welfare of the people.
- **Article 38(1):** ensures justice – social, economic & Political.
- **Article 38(2):** strive to minimize the inequalities in income, promote the welfare, not only of individuals but also amongst groups.
- **Article 39:** Six “Principles” (i.e.,) Policies to be followed by the state.

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- (a): The state should secure equality between men and women, have the right to an adequate means of livelihood.
- (b): The ownership and control of material resources of the community are so distributed to the best to sub serve the common good.
- (c): Prevention of concentration of wealth.
- (d): Equal pay for equal work for both men and women.
- (e): That the health and strength of workers, men & women and the tender children are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- (f): (inserted in 42 amendment act, 1976) That children are given opportunities and facilities to develop in a healthy manner, and in conditions of freedom and dignity and that childhood & youths are protected against exploitation and against moral & material abandonment.
- **Article 39A:** Equal Justice and Free legal aid (Inserted in 42 Amendment Act 1976)
  - **Article 40:** Organization of village Panchayat's (A Gandhian Principle)
  - Based on this principle, village self governments are established through 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts, 1992.
  - **Article 41:** Right to work, to education and to public assistance in certain cases-
  - The state shall, within its limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.
  - **Article 42:** Provision for just and humane conditions of work and maternity relief.
  - The state shall make provisions for securing just and humane conditions of work and for maternity relief.
  - **Article 43:** Living wages, etc for workers – state shall Endeavour to secure, by suitable legislation, or economic organization or in any other way, to all

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workers, agricultural, industrial or otherwise, work a living wage, conditions of work ensuring decent standard of life and full enjoyment of leisure and social and cultural opportunities and in Particular, the state shall Endeavour to promote cottage industries on an individual or cooperative basis in rural areas.

- For the promotion of Cottage industries Under Article 43, which is a state subject, the central Government, has established several boards to help the State Governments, in matter of Finance, Marketing and like.
- These are All India Khadi and village industries board, All India Handicrafts board, All India handloom board, Small scale industries, Silk board, coir board etc.
- **Article 43A:** Participation of workers in management of industries. (Inserted by 42 Amendment Act, 1976)
- **Article 43B:** To promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies.
- **Article 44:** Uniform civil code for the citizens- By uniform civil code, it is meant that all sections of society, irrespective of their religion, shall be treated equally according to national civil code, which shall be uniformity applicable to all.
- Civil code covers areas like Marriage, Divorce, Maintenance, Inheritance, Succession of Property and adoption.
- **Article 45:** Provision of early childhood care and education to children below the age of 6 years.
- The state shall Endeavour to provide early childhood care and education for all children until they complete age of 6 years.
- Substituted, by constitution (88 Amendment Act, 2002, inserted provision for free and compulsory education.
- **Article 46:** Promotion of education and economic interests of the Scheduled castes, the Scheduled Tribes and the other weaker sections of the society.
- **Article 47:** Duty of state to raise the level of nutrition and the standard of living and to improve public health.

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- **Article 48:** Organisation of Agriculture and Animal husbandry.
- **Article 48A:** (inserted 42 Amendment Act,1976) Protection and improvement of environment and safeguarding of forests and wildlife.
- **Article 49:** Protection of Monuments and Places and objects of national importance.
- **Article 50:** Separation of Judiciary from executives.
- As to the separation of the executive from the Judiciary the slow progress and diverse methods in the various states has been replaced by a uniform system by union legislation, in the shape of Criminal procedure code, 1973 which has placed the function of judicial trial in the hands of the judiciary and are under the complete control of the High court.
- Besides the Directives contained in Part IV there are certain other directives addressed to the state in other Parts of the constitution.
- Those Directives are non justice able they are non – Enforceable

**Directives outside DPSP:**

- **Article 350A:** Enjoins every state and every local authority with in the state to provide adequate facilities for instructions in mother tongue at the Primary stage of education to children belonging to linguistic minority groups (inserted by 7<sup>th</sup> Amendment Act, 1956)
- **Article 351:** Enjoins the union to promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression of all elements of the composite culture of India.
- **Article 335:** Enjoins that the claims of the members of SC & STs shall have be taken in top consideration consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the union or of a state.

**Features of DPSP:**

- Unique blend of socialism
- Gandhian Principles

- Liberal Principles from west and
- Ideals of freedom struggle.
- **The Socialist Principles are reflected in Articles:** 38, 39, 39A, 41, 42 and 43, 43A, 47
- **The Gandhian Principles Articles:** 40, 43, 43B, 47 and 48.
- **The Western Liberal Principles Articles:** 44, 45, 48, 48A, 49, 50 and 51

#### Nature of DPSP:

- DPSP are non-justiciable in nature and they only impose the moral duty on state.
- They are regarded as affirmative principles and they form a general instruction to the state to achieve certain things for benefit of people.
- Thus constitute social, economic and administrative programs for a democratic state.
- If DPSP are not implemented the citizens do not have any legal remedy.

#### Differences Between Fundamental Rights and DPSP:

| Fundamental Rights  | DPSP  |
|---|---|
| Fundamental Rights seeks to establish political democracy in the country                | Seeks to establish social and economic democracy in the country                             |
| Fundamental Rights are Negative<br>Obligation to state                                  | DPSP are positive obligation to state where they urge the state to do something             |
| Fundamental Rights by Nature are static, they aid to center the right that are existing | The DPSP are more dynamic- the state have to fulfill certain objectives for positive action |
| Fundamental Rights are crawled in strict legal language                                 | DPSP have been provide in general terms   |
| These are enforceable in court of law   | Not enforceable in court of law   |

### Relationship between Fundamental Rights and DPSP:

- According to Grenville Austin, they together constitute the conscience of the constitution.
- The DP shall conform to the Fundamental Rights and DPSP shall always forms subsidiary to Fundamental Rights.
- In Champakam Duraisamy Vs state of Madras Supreme Court held that the DPSP always give way to Fundamental Rights 1951.
- The Re. Kerala education bill case 1957, the court propounded the concept of doctrine of theory of Harmonization there is no interest conflict between DPSP and Fundamental Rights.
- They are supplementary to each other.
- The political democracy without social and economic democracy is meaningless and further they are complementary to each other.
- Therefore, it's the duty of courts to interpret the laws passed by the legislature whether it's based on Harmonious relationship or not.
- Thus, the scope for Fundamental Rights shall be decided with reference to DPSP. The Fundamental Rights and DPSP are considered as two sides of same coin that is welfare state.
- Accordingly, bank Nationalisation act 1971 and Privy Purse (abolition of 1971) for enacting Parliament to establish Article 39(b), 39(c) of constitution.
- This is to prohibit class banking and ensure mass banking. These acts were declared unconstitutional and void based on Article 14, 19, 31.
- Parliament introduced 25<sup>th</sup> amendment act and inserted Article 31C, which reads as if state has passed law it give effect to Article 39(b), 39(c) on under the course, the law violated Article 14, 19, 31.
- It cannot be declared unconstitutional merely on this ground and any such act cannot be challenged in court of law.
- The 25<sup>th</sup> amendment and other things challenged before court in Kasavanantha Bharathi case and court held that the 1<sup>st</sup> Part of 25<sup>th</sup> amendment was constant valid and it's struck down the second Part of Article

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31C which declared as unconstitutional and void as it was violated the basic structure of constitution that is judicial review.

- During emergency the Parliament passed 42<sup>nd</sup> amendment act. It further amended Article 31C and gave precedence of all Article of DPSP.
- Subsequently 44<sup>th</sup> amendments removed Article 31 of the constitution.
- In Minerva mills Vs Union of India 1980.
- The court struck down the 42<sup>nd</sup> amendment in Article. 31C and held that the balance between Fundamental Rights and DPSP are the part of basic structure and whole some precedence of all DPSP null and void.

**New Directive Principles:**

- The 42<sup>nd</sup> Amendment Act of 1976 added four new Directive Principles to the original list. They require the State:
  - To secure opportunities for healthy development of children (Article 39).
  - To promote equal justice and to provide free legal aid to the poor (Article 39A).
  - To take steps to secure the participation of workers in the management of industries (Article 43 A).
  - To protect and improve the environment and to safeguard forests and wild life (Article 48 A).
- The 44<sup>th</sup> 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 86<sup>th</sup> 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 97<sup>th</sup> Amendment Act of 2011 added a new Directive Principle relating to cooperative societies.

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- It requires the state to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies (Article 43B).

