

## THE ENDURING RELEVANCE OF INDIA'S DIRECTIVE PRINCIPLES

*Sagar Talukder\**

### ABSTRACT

The Directive Principles of State Policy (DPSPs) in India's Constitution present a distinctive characteristic that is of considerable interest. The subject matter is a fascinating paradox that warrants a deeper analysis, taking into consideration its technical intricacies. They impose a moral imperative upon the state apparatus, drawing legitimacy from the collective mandate of the populace. These principles are also a catalyst for raising awareness and fostering informed debate on matters of national importance. The judiciary's proactive approach to interpreting laws through the lens of the DPSPs is able to foster alignment with the Constitution's broader socio-economic objectives. This paper explores the historical context that shaped these principles, their core characteristics, and their continued relevance in the 21st century.

### Introduction

India's Directive Principles of State Policy (DPSPs) are a unique element of the Constitution, offering a fascinating paradox. Unlike Fundamental Rights, they are not directly enforceable by courts. Yet, they hold immense significance, serving as essential guidelines for the government to strive towards a just and equitable society. This essay explores the historical context that shaped the DPSPs, their core characteristics, and their continued relevance in the 21st century.

The DPSPs were heavily influenced by the Irish Constitution and the ideals of social justice, economic welfare, and international peace. Notably, they were not conceived as absolute rights but as affirmative directions for the government. This non-justiciable nature distinguishes them from Fundamental Rights, which are directly enforceable. However, Article 37 of the Constitution emphasizes their importance, making it the "duty of the State to apply these principles in making laws."

---

\* Student, Christ University (Delhi NCR)

The landscape since the incorporation of the DPSPs has undoubtedly changed. India is a vastly different nation today, grappling with new challenges like rapid technological advancements and environmental degradation. This begs the question: do the DPSPs require amendments to remain relevant in the coming decades?

While the core principles of social justice, economic progress, and environmental protection remain timeless, specific aspects might benefit from adaptation. For instance, the vision of an "adequate means of livelihood" in the 21st century might encompass access to digital technologies and skilling initiatives alongside traditional forms of employment.

The need for amendments, however, should be carefully considered. The beauty of the DPSPs lies in their flexibility. They provide a broad framework that allows the government to tailor its policies to evolving needs without constant constitutional modification. Regular review and interpretation by the judiciary can further ensure their application remains relevant in the contemporary context.

The DPSPs are not static relics of the past. They are a dynamic set of principles that, while non-justiciable, serve as a guiding light for the Indian government. By fostering ongoing dialogue and interpretation, India can ensure that the DPSPs continue to inspire its path towards a more just and equitable future in the 21st century.

### **Wording Matters**

A closer look at the wording of Articles 37 (India) and 45 (Ireland) reveals a critical distinction in their approach to enforcing Directive Principles of State Policy (DPSPs). Ireland adopts a stricter stance, employing the term "not cognizable" which suggests courts are entirely barred from even considering DPSP-related cases. In contrast, India explicitly states that DPSPs are not judicially enforceable. This, however, doesn't necessarily prevent courts from acknowledging them altogether. This subtle difference implies that the Indian Constitution leaves room for judicial interpretation. This potentially allows courts to play a role in ensuring the government at least considers DPSPs when crafting legislation.

Meanwhile, the historical context sheds light on the careful consideration in that regard, H.V. Kamath, a member of the assembly, proposed an amendment replacing "directive" with

"fundamental" in Part IV of the Constitution<sup>1</sup>. His reasoning, as documented in the debates, was that "both are looked upon or regarded as right which are fundamental"<sup>2</sup>. He found support for this position in the earlier report of the Advisory Committee on Fundamental Rights, chaired by Sardar Vallabhbhai Patel<sup>3</sup>. This Committee had recommended including "certain directives of state policy" in the Constitution, even though they would not be cognizable in courts<sup>4</sup>. They titled these principles "Fundamental Principles of Governance"<sup>5</sup>.

Dr. B.R. Ambedkar, the chairman of the drafting committee, countered Kamath's amendment by emphasizing the distinction between justiciable and non-justiciable rights<sup>6</sup>. He argued that the term "directive" effectively conveys the intention of guiding future legislatures and executives, ensuring these principles become the foundation for policy making<sup>7</sup>. Ananthasayanam Ayyangar, another key figure in the drafting committee, echoed this sentiment. He pointed out the impracticality of enforcing DPSPs through courts, stating, "In case a decree is granted by a court of law, who will carry it out? Against whom?"<sup>8</sup>. Ayyangar argued that public opinion and electoral accountability would serve as the true enforcers of these principles.

K.T. Shah, another member of the assembly, disagreed with the majority view. He felt that simply including these principles in the Constitution without a mechanism for enforcement rendered them "a mere expression of some vague desire"<sup>9</sup>. Shah argued that the DPSPs should be more than just guiding principles; they should be enforceable obligations of the state. Shah elaborated on his position by highlighting the historical context of India's struggle for independence. The Indian people had suffered for far too long under colonial rule, and Shah believed that the newly independent nation had a moral obligation to address issues of poverty, inequality, and social injustice.

---

<sup>1</sup> Constituent Assembly Debates, Vol. VII, 7.56.16.

<sup>2</sup> *Supra* note 1.

<sup>3</sup> Constituent Assembly Debates, Vol. VII, 7.56.17.

<sup>4</sup> *Supra* note 3.

<sup>5</sup> Constituent Assembly Debates, Vol. VII, 7.56.18.

<sup>6</sup> Constituent Assembly Debates, Vol. VII, 7.56.24.

<sup>7</sup> Constituent Assembly Debates, Vol. VII, 7.56.26.

<sup>8</sup> *Supra* note 5.

<sup>9</sup> Constituent Assembly Debates, Vol. VII, 7.56.51.

## Bridge Between Aspirations and Action in a Welfare State

While the socialist influence on the DPSPs is undeniable, a closer examination reveals a more nuanced picture. Principles like individual ownership (Article 39(b)) and freedom of profession (Article 41) resonate more with a liberal economic framework. This suggests that the DPSPs draw inspiration from a spectrum of ideologies, aiming for a holistic approach to societal well-being. This aligns with the concept of a "welfare state," a model that seeks to balance individual liberty with social responsibility, ensuring economic and social justice for all citizens. Professor Upendra Baxi, a leading Indian legal scholar, argues for the existence of "aspirational norms" within legal systems. These norms, while not directly enforceable, serve as guiding principles that shape legal discourse and influence policymaking. Baxi describes these norms as "standards or ideals that inform and shape judicial reasoning even when they are not directly constitutive of legally enforceable rights."<sup>10</sup> He argues that these aspirational norms can be found in various parts of a constitution, including the preamble, directive principles, and even the fundamental rights themselves. Baxi emphasizes the importance of aspirational norms in keeping the legal system oriented towards social justice. He argues that these norms "serve as a constant reminder of the distance between the normative promise of the constitution and the lived realities of the people"<sup>11</sup>. By constantly reminding the judiciary and the government of the ideals enshrined in the Constitution, aspirational norms can act as a driving force for progressive social change. However, critics of aspirational norms raise several concerns. Firstly, they argue that the lack of enforceability renders these norms toothless. Without the ability to bring legal action against the government for non-compliance, critics argue that the DPSPs are merely hortatory pronouncements that governments can conveniently ignore. Secondly, critics point out that aspirational norms can create uncertainty and ambiguity in the legal system. The open-ended nature of these principles can lead to wide discretion on the part of judges in interpreting them. This lack of clarity can make it difficult to predict how courts will apply the DPSPs in a given case. Thirdly, critics argue that aspirational norms can be misused to legitimize government actions that may not be in line with the spirit of the Constitution. For instance, a government might invoke

---

<sup>10</sup> Upendra Baxi (1967), ' "The Little Done, The Vast Undone": Reflections on Reading Granville Austin's The Indian Constitution'

<sup>11</sup> *Supra* note 10.

the DPSPs to justify policies that restrict individual liberties in the name of achieving social welfare goals.

### **Judicial Activism through DPSPs**

By the judiciary's proactive approach to interpreting and expanding the reach of Directive Principles of State Policy (DPSPs), courts meticulously analyze laws through the lens of DPSPs. This ensures legislation aligns with the broader socio-economic objectives enshrined in the Constitution. Landmark cases like *Minerva Mills Ltd. v. Union of India (1980)*<sup>12</sup> illustrate this. The Supreme Court upheld nationalization of industries (supported by Article 39(b) on equitable distribution of resources) as a legitimate exercise of legislative power. *Justice Y.V. Chandrachud (Chief Justice)* meticulously examined Article 39(b) of the DPSPs, which states that "the State shall, in particular, strive to promote the welfare of the people by securing the effective control of the material resources of the community in so far as it may be necessary for the purpose of promoting the common good." He recognized this provision as a key directive for the government to ensure an equitable distribution of material resources. In the context of the *Minerva Mills* case, the Court interpreted nationalization as a legitimate exercise of this power. The nationalization aimed to bring certain industries under state control, potentially leading to a more equitable distribution of these resources and ultimately promoting the welfare of the people, as envisioned by Article 39(b).

The Court further observed in paragraph 308 of the judgment: "The Directive Principles contained in Part IV are, undoubtedly, not enforceable by courts of law in the same manner as the Fundamental Rights enshrined in Part III, but they are, nevertheless, important ingredients of our Constitution. They reflect the basic objectives that the framers of the Constitution had in mind, for the achievement of which the machinery of the Government was set up." This emphasizes the significance of DPSPs in shaping government policy, even though they are not directly enforceable. By interpreting legislation through the lens of DPSPs, the judiciary ensures that the government's actions at least consider the social and economic well-being of the people, as outlined

---

<sup>12</sup> *Minerva Mills Ltd. v. Union of India (1980)*, AIR 1980 SC 1789.

in these guiding principles. This not only validates such actions but reinforces the constitutional mandate for social welfare.

### **Protecting Rights Through DPSPs**

The judiciary takes a proactive stance by striking down laws that violate Fundamental Rights but have implications for DPSPs. In *Olga Tellis v. Bombay Municipal Corporation (1985)*<sup>13</sup>, the Court used Article 38 (welfare of the people) to safeguard the right to life (Article 21) during an eviction case. The Supreme Court recognized the precarious situation of the pavement dwellers and the potential threat to their lives due to eviction during the monsoon. While Article 38(1) of the DPSPs specifically mentions the "right to work and to a just and humane condition of work," it isn't directly enforceable. However, the Court used this principle to buttress their argument for the right to life of the petitioners. *Justice Y.V. Chandrachud (Chief Justice)* while delivering the judgment took a nuanced approach. He recognized that the right to life under Article 21 is not just about physical existence. It encompasses a broader concept, including the right to livelihood. The Court reasoned that if the eviction threatened the pavement dwellers' ability to earn a living, the necessity for such drastic action became questionable. In the context of this case, the alternative accommodation offered by the Bombay Municipal Corporation was deemed inadequate – far from "reasonable or humane." This lack of suitable resettlement meant that eviction during the monsoon would severely disrupt the pavement dwellers' livelihoods. The Court essentially argued that jeopardizing their ability to earn a living would indirectly threaten their right to life. By drawing a connection between these two seemingly separate rights, the Court used Article 38(1) of the DPSPs, which emphasizes a just and humane condition of work, to strengthen the interpretation of the fundamental right to life enshrined in Article 21.

### **Writs for Social Progress**

The issuance of writs based on DPSPs showcases the judiciary's willingness to address systemic issues affecting socio-economic rights. *Hussainara Khatoon v. State of Bihar (1979)*<sup>14</sup> exemplifies this. The case centered around the issue of prolonged incarceration of undertrial

---

<sup>13</sup> *Olga Tellis v. Bombay Municipal Corporation (1985)*, AIR 1985 SC 1801.

<sup>14</sup> *Hussainara Khatoon v. State of Bihar (1979)*, AIR 1979 SC 1360.

prisoners in Bihar, many of whom languished in jail without access to legal representation or fair trials. The Court, in its judgment, invoked Article 39(A) of the DPSPs, which emphasizes the provision of free legal aid to ensure access to justice for all citizens, regardless of their socio-economic status. In its ruling, the Court highlighted the plight of undertrial prisoners, emphasizing the fundamental right to a speedy trial and legal aid as enshrined in Article 21 of the Constitution. The judgment underscored the duty of the state to ensure the welfare and protection of its citizens, particularly those marginalized and disadvantaged. *Justice P.N. Bhagwati*, delivering the judgment, articulated the imperative of providing legal aid to the indigent and vulnerable sections of society, stating, "We cannot close our eyes to the fact that a large number of undertrial prisoners are languishing in jails for years without trial and many of them who are acquitted by courts after the trial is concluded, have suffered incarceration for a period longer than what would be the sentence prescribed for the offence of which they are found guilty." This poignant observation highlighted the miscarriage of justice and the urgent need for judicial intervention to remedy the situation. Furthermore, the Court issued a series of directives to the state governments, emphasizing the necessity of expediting trials, ensuring legal representation for undertrial prisoners, and improving prison conditions. The judgment explicitly stated, "We direct the High Court and the District Courts to undertake a comprehensive review of the cases of all undertrial prisoners in jails and remand homes in their respective jurisdictions and to dispose of them as expeditiously as possible," thereby compelling the judicial machinery to prioritize the cases of underprivileged individuals awaiting trial. In essence, the Hussainara Khatoon case exemplifies the judiciary's proactive approach in utilizing DPSPs to address systemic issues of injustice and inequality. By invoking Article 39(A) of the DPSPs and emphasizing the fundamental right to legal aid, the Court underscored the importance of ensuring access to justice for all, irrespective of social or economic barriers.

### **Backed by the Mass Mandate**

Due to lack of direct enforceability through judicial avenues of DPSPs, their significance transcends mere legal enforceability, as they impose a moral imperative upon the state apparatus, drawing legitimacy from the collective mandate of the populace. Functionalism, a prominent theoretical framework in legal studies, posits that legal norms serve societal functions. Within the

context of DPSPs, the notion of a popular mandate can be construed as the aggregated will of the Indian citizenry, as manifested through democratic electoral processes. This collective mandate demands that the government endeavours to realize the social and economic objectives delineated in these principles.

Despite lacking coercive authority, the DPSPs exert a normative sway over state actions through various mechanisms. First and foremost, they provide a conceptual framework for public discourse on crucial socio-economic issues such as poverty alleviation, educational reform, and healthcare provisioning. Political factions and civic movements often leverage these principles to advocate for policy alterations and to scrutinize governmental performance. Through engaging in public discourse, DPSPs serve as a catalyst for raising awareness and fostering informed debate on matters of national importance.

Furthermore, while DPSPs may not be directly justiciable, they can significantly influence judicial constructions of legislative enactments. Courts may consider the principles delineated in Part IV when scrutinizing the constitutional validity of statutes, particularly if they exhibit signs of arbitrariness or prejudice. By incorporating DPSPs into their deliberations, the judiciary ensures that legislative actions are aligned with the broader societal goals outlined in the Constitution.

Moreover, DPSPs serve as a yardstick for evaluating governmental efficacy through electoral accountability. Political entities that neglect or contravene these principles risk facing electoral repercussions, as voters are increasingly cognizant of the societal objectives enshrined in DPSPs. By holding elected representatives accountable for their adherence to these principles, the electorate plays a crucial role in ensuring governmental fidelity to the constitutional precepts outlined in Part IV. The moral impetus underpinning DPSPs assumes heightened significance amidst escalating socio-economic disparities. The imperative for governmental action vis-à-vis poverty mitigation, healthcare provision, and educational enhancement remains pronounced. DPSPs function as a perpetual reminder of the state's fiduciary obligations toward its populace, notwithstanding the absence of legal compulsion. In a rapidly evolving socio-economic landscape, DPSPs provide a roadmap for policy formulation and implementation, guiding governmental actions in alignment with broader societal interests.

In summation, while the binding efficacy of DPSPs may not derive from legal coercion, their normative authority emanates from the popular mandate conferred upon them by the Indian citizenry. This normative impetus shapes public discourse, informs judicial adjudication, and influences electoral calculus. Within a democratic framework, the collective will of the populace serves as a potent, albeit indirect, instrument for ensuring governmental fidelity to the constitutional precepts enshrined in the DPSPs. As India continues on its path of socio-economic development, the enduring relevance of DPSPs as guiding principles for governance remains paramount.

### **Exhaustiveness Of Directive Principles**

A crucial question regarding the DPSPs is whether they constitute an **exhaustive list** of the state's obligations. Pigeonhole Theory, also known as the Hole Argument, is a principle in legal reasoning that suggests a legal category cannot encompass an infinite number of specific instances. Applied to the DPSPs, the theory posits that Part IV, while extensive, cannot possibly anticipate every conceivable directive principle the state may encounter. This raises the question: are there implicit or inherent DPSPs that exist beyond the explicitly enumerated ones?

Proponents of the view that the DPSPs are an exhaustive list present several arguments in favour of this interpretation. For instance, Indian legal scholar Durga Das Basu, in his seminal work "Introduction to the Constitution of India"<sup>15</sup>, argues that an exhaustive list provides clarity and certainty for both the state and its citizens. The state would have a clear understanding of the specific goals it is obligated to pursue, while citizens would have a well-defined framework to hold the government accountable. A non-exhaustive list, Basu suggests, could lead to confusion and disagreement about the state's additional obligations. Similarly, Granville Austin, another prominent scholar of Indian constitutional law, argues in his book "The Indian Constitution: Cornerstone of a Nation"<sup>16</sup> that a defined list of DPSPs ensures that the judiciary does not overstep its bounds by interpreting the Constitution in a way that creates new, unenumerated rights.

---

<sup>15</sup> Basu, D. D.. *Introduction to the Constitution of India*. Educational Printed.

<sup>16</sup> Austin, G. (*The Indian Constitution: Cornerstone of a Nation*). Oxford University Press.

Secondly, proponents emphasize the concept of legislative supremacy within the Indian Constitution. As articulated by B. R. Ambedkar, the chairman of the drafting committee of the Constitution, the legislature is the primary body responsible for making laws. An exhaustive list of DPSPs, they argue, ensures that the legislature retains this primary responsibility for enacting specific policies to achieve the goals outlined in the DPSPs. A non-exhaustive list, they fear, could empower the judiciary to expand the scope of DPSPs through judicial interpretation. This expansion could potentially encroach upon the legislative space, as the judiciary would be effectively creating new policy goals that the legislature had not previously envisioned. This could lead to a blurring of the lines between the two branches of government and create uncertainty about which body has the ultimate authority to set policy.

They point to the mechanism for constitutional amendment as a safeguard. The Constitution provides a well-defined process for amending the document. If new social or economic realities necessitate additional DPSPs, the amendment process allows for a deliberate and democratic inclusion of these principles. A non-exhaustive list, they argue, could circumvent this safeguard and introduce new principles through judicial interpretation, potentially bypassing the intended democratic process.

Opponents of the exhaustiveness view argue that the Constitution's goals and principles need to adapt to a constantly changing world. They point out that the framers could not have foreseen every social, economic, and political challenge a future India might face. To address this concern, opponents rely on several counter-arguments and alternative theories.

One argument is for a dynamic interpretation of the Constitution. Proponents of this view, like legal scholar Nani Palkhivala, see the Constitution as a living document that needs to be interpreted in a way that reflects current realities. A non-exhaustive list of DPSPs allows the judiciary to recognize and incorporate new principles that may not have been explicitly envisioned by the framers. For instance, the right to privacy, though not explicitly mentioned in the Constitution, has been recognized by the Supreme Court of India as a fundamental right inherent in the right to life and personal liberty enshrined in Article 21. This recognition came in response to evolving societal concerns about technological advancements and the potential for government surveillance.

Another argument suggests that the Constitution may contain inherent or implicit principles that are not explicitly listed in the DPSPs but can be derived from the document's basic structure and values. These inherent principles could encompass additional DPSPs that go beyond the enumerated ones. This argument finds support in the doctrine of necessary implication, which suggests that certain principles, although not expressly stated, are implicit within the overall framework of the Constitution. For example, the Supreme Court has read the right to education into the Constitution based on its interpretation of the Directive Principle in Article 41 which states that the State shall, within the limits of its economic capacity and development, endeavour to provide for free and compulsory education for all children until they complete the age of fourteen years. The Court reasoned that this directive principle reflected a fundamental right to education essential for realising other fundamental rights like equality and dignity.

The debate concerning the exhaustiveness of the DPSPs hinges on the ability to categorize them definitively. Pigeonhole Theory, which postulates limitations on the number of elements assignable to a set number of categories, offers a helpful analytical lens. However, its applicability is constrained by the inherent ambiguity in defining a "directive principle." The nebulous boundaries of this concept create a potential grey area where novel principles, though not explicitly listed, could hold relevance.

## **Conclusion**

Established as a unique element of the Constitution, the DPSPs present a comprehensive framework for achieving social and economic justice. While lacking direct judicial enforceability, they exert a significant normative influence on governance.

The historical context surrounding the DPSPs' incorporation underscores their intended role in shaping India's trajectory towards an egalitarian society. The ongoing debate regarding potential amendments acknowledges the necessity for adaptation in a dynamic world. While core principles like social justice and economic progress remain constant, specific aspects may necessitate adjustments to address emerging challenges. However, the inherent flexibility of the DPSPs allows for the formulation of tailored policies without frequent constitutional modifications. Regular

judicial review and interpretation can further ensure their continued relevance in the contemporary context.

The interplay between the DPSPs and the judiciary exemplifies their dynamic nature. Judicial interpretation of legislation through the lens of the DPSPs fosters alignment with the Constitution's broader socio-economic objectives. Landmark cases demonstrate the instrumental role of DPSPs in safeguarding fundamental rights and promoting social progress.

The concept of a "popular mandate" reinforces the legitimacy derived from the will of the Indian people. The DPSPs transcend mere legal pronouncements, embodying the collective aspirations of the citizenry. This mandate compels the government to strive towards realizing the social and economic goals outlined within these principles.

DPSPs, the guiding force propelling India towards a more equitable future. Through continuous dialogue, interpretation, and adaptation, the DPSPs can continue to inspire progressive social change and ensure that India's development trajectory benefits all its citizens.