

An Evolution Of Directive Principles Of State Policy: A Study Of Indian Constitution

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Abstract

“The whole conception of the Fundamental Rights is the protection of individual liberty and freedom. That is a basic conception and to know where from it was derived you have to go back to European history from the latter days, of the 18th century; roughly speaking you may go from the days of the French Revolution which spread on the 19th century. That might be said to be dominating idea of the 19th century and it was continued and it a matter of fundamental importance. Nevertheless, as the 19th century marched into the 20th century and the 20th century went ahead, other additional ideas came into the fields which are represented by our Directive Principles of State Policy.”

Jawaharlal Nehru

India is a democratic country and in a democratic country must be Fundamental Rights and Directive Principles also. The hope and expectations of the people have been expressed through the Directive Principles. Directive Principles are directed to the society at large. If the Fundamental Rights are necessary for a democratic State, Directive Principles are obligatory for a Welfare State. The Directive Principles in Part IV of the Constitution from an organic unit along with the Fundamental Rights in Part III, According to Justice Deshpandey Part IV deals with the object of the State and are morally binding on the Legislature and Executive. So the Directives are the result of a quest so compelling and impending. Part IV of the Constitution is designed to bring about the social and economic revolution. Prime Minister Jawaharlal Nehru believed that India's survival depended on the achievement of their social and economic revolution. This research paper evaluates the study of Directive Principles of State Policy according to Indian Constitution.

Key words: Fundamental, Constitution, Principles, Republic.

It was particularly noticed that the framing of the **Directives** in the Indian Constitution precedents in other countries more especially by the Constitution of the **Irish Republic**. The Constitutional provisions relating to social, economic and other matters, collectively to be called **Directives**, in the Constitution made during or subsequent to the framing of the Indian Constitution had made an impact on other Constitutions and influenced them in including similar **Directives** in their Constitutional documents. Thus the **Constitution of United States of Brazil** of 24th September 1946 Individual Rights is separated from Social, Economic and other Rights. Constitution of **Germany Democratic Republic** of Aug 3, 1950 Mixed-up and divided into several sections under the title 'Contents and Limits of State Authority'. **Constitution of Republic Korea** of July 12, 1948 Mixed-up and are contained in Chapter II entitled 'Rights and Duties of Citizens'. **Constitution of Libya** Oct 7, 1951- mixed up and is contained in Chapter II entitled 'Rights of the People'. **Constitution of Syria** September 5, 1950 mixed up and the rights are contained in Chapter II entitled 'Fundamental Principles'. **Constitution of the Thai Kingdom** Aug 3, 1952 there is a Chapter entitled 'Directive Principles of State Policy'.

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Historical Background

*“The idea of Directive Principles was taken from fire, which in turn had borrowed it from the Constitution of Republican Spain. People from these countries are predominantly Roman Catholics and the Roman Catholics are provided by their Church not only with a faith but also with a philosophy. On matters of faith and philosophy—social or political—their always a wide divergence of views and in fact Republican Spain witnessed a war on the heels of the enactment of its constitution, and in **Eire De Valera** was openly accused of smuggling into the constitution the pet policies of his own party – Articles 38 and 39 of our constitution are principally based on Article 45 of the constitution of Eire, which derives its authority from the Papal Bulls.”*

-Ray J. in Kesavanande Bharati's case

India is no exception. It became independent after a long strenuous trial of struggle. Recommendation for inclusion of a chapter on Fundamental Rights, not only of political but social and economic was also made for the Conference of 1928. A Committee appointed by the Conference on 22nd February, 1928, to determine the principles of the Constitution for India provided in its report an Article entitled *Fundamental Rights*¹. The Indian Central Committee appointed by the Indian Legislature towards the end of 1928² also proposed the inclusion in the contemplated Government of India Act of a declaration of Fundamental Rights. After Government of India Act 1935 the Sapru Committee in 1945 set-up framed a questionnaire regarding future Constitution of India. Sir B. N. Rau prepared on April 3, 1947 draft of the Right to be submitted the Advisory Committee by the Fundamental Rights sub-committee. The Chairman of Advisory Committee said “we have come to the conclusion that, in addition to justifiable Rights, the Constitution should include certain Directive of State Policy which, though not cognizable in any court of law, should be regarded as Fundamental in the governance of the country³. According to B. N. Rau there would not to be any occasion of conflict if the directives were merely to serve as *guidance* for State action. Ambedkar also expressed the similar view pointing out that in the Directive Principles of State Policy there were always certain implied powers, and the States, in the exercise of which, could enact laws for the general welfare of the community which even may come into conflict and contravene the Fundamental Rights. On November 30, 1947 the Drafting Committee finally decided to transfer the Directive Principles of State Policy from Part III to IV Part. The discussion relating to Part IV of the Constitution was finally shelved on 25th November, 1948 and the Directive Principles of State Policy incorporated in its Present form.

The Nature of Directive Principles in the Indian Constitution

“The Constitution lays down certain Directive Principles of State Policy and after long discussion we agreed to them and they point out the way we have got to travel. The Constitution also lays down certain Fundamental Rights. Both are important. The Directive Principles of State Policy represent a dynamic move towards a certain objective. The Fundamental Rights represent something static, to preserve certain rights which exists. Both again are right”.

Jawaharlal Nehru⁴

The Directive Principles may be classified into 3 broad categories are (A)**Socialistic Directive**, (B)**Gandhian Directive** and (C)**Liberal intellectual** directive Principles.

Definition of Directive Principles (Art. 36)

In this part, unless the context otherwise requires, *the states* has the same meaning as in Part III.

Application of the Principles contained in this part (Art 37)

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.

Socialistic Principles

State to secure a social order for the promotion of welfare of the people (Art 38)

Art 38(1) says that the State shall strive to promote 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 the national life⁵.

Art 38(2) says that the State shall, in particular, strive to minimize the inequalities in income, and Endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations⁶.

Certain principles of policy to be followed by the States (39)

Art 39 says that the State shall, in particular, direct its policy towards securing—

- That the citizens, men and women equality, have the right to an adequate means of livelihood.
- That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.
- That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
- That there is equal pay for equal work for both men and women.
- That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity the enter avocations unsuited to their age or strength.
- That the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are against moral and material abandonment⁷.

Equal justice and free legal aid (Art 39 A)

The State shall secure that the operation of legal system promotes justice, on a basic equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities⁸

Right to work to educate and to public assistance in certain cases (Art 41)

Art 41 says that the State shall, within the limits of its economic capacity and development, make effective provision of securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Provision for just and humane conditions of work and maternity relief (Art 42)

Art 42 says that the State shall Endeavour to provide for securing just and humane conditions of work and maternity relief.

Living wage, etc. for workers (Art 43)

Art 43 says that the State shall Endeavour to secure, by suitable legislation or economic or organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State Endeavour to promotes cottage industries or an individual or co-operative basis in rural areas.

Participation of workers in management of industries (Art 43 A)

Art 43 A says that the State shall takes step, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishment or other organizations engaged in any industry⁹.

Duty of the State to raise the level of nutrition and the standard of living and to improve public health (**Art 47**)

Art 47 says that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all form of exploitation.

Gandhian Principles

Organization of village panchayats (Art 40)

Art 40 says that the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

Promotion of cooperative societies (Art 43 B)

Art 43 B says that the State shall Endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies¹⁰.

Promotion of educational and economic interest of scheduled caste, scheduled tribes and other weaker sections (**Art 46**)

Art 46 says that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the scheduled castes and scheduled tribes, and shall protect them from social injustice and all form of exploitation.

Duty of the state the level of nutrition and the standard of living and to improve public health (**Art 47**)

Art 47 says that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall Endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Organization of agriculture and animal husbandry (Art 48)

Art 48 says that the State shall Endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Liberal Principles

Uniform civil code for citizens (Art 44)

Art 44 says that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Provisions for free and compulsory education for children (Art 45)

Art 45 says that the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Protection of improvement of environment and safeguarding of forests and wildlife (Art 48 A)

Art 48 A says that the State shall endeavour to protect and improve the environment and its safeguard the forests and wild life of country¹¹.

Protection of monuments and places and objects of national importance (Art 49)

Art 49 says that the State shall be the obligation of the State to protect every monument or place or object or artistic or historic interest¹² (declared by or under law made by Parliament) to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Separation of judiciary from executive (Art 50)

Art 50 says that the State shall taken steps to separate the judiciary from the executive in the public services of the State.

Promotion of international peace and security (Art 51)

Art 51 says that the State shall endeavour to-

- Promote international peace and security;
- Maintain just and honorable relations between nations;
- Foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and
- Encourage settlement of international disputes by arbitration.

Conclusion

Thus the finding of this paper is that how and at what stage an article in the Directive came to be incorporated in the Indian Constitution and whether there are analogous provisions in other Constitutions of the world. So Directive Principles are the major part of Indian Constitution. The state is expected to keep these principles in mind while framing laws and policies, even though they are non-justifiable. The Directive Principles of State Policy require to be implemented by specific legislation. The goals or directions set out in Part IV cannot be altered by the States. Justice Pandey is of opinion that Directive Principles of State Policy in Part IV of the Constitution has to be implemented by specific legislation and the legislation made in accordance with them constitutes an enforceable law.

End Notes

¹ The original recommendations of the Committee are at pp. 100-124 of the Report of the All Parties Conference which was signed by Motilal Nehru (Chairman), S. Ali Iman, Tej Bahadur Sapru, M. S. Aney, Mangal Singh, Shahib Qureshi, Subhas Chandra Bose and G. R. Pardhan.

² Report of the Indian Central Committee, 1928-29, comd. Papers 3451 of 1929.

- ³ Constitution Assembly Debates, Volume V, No. 11, p. 404.
- ⁴ Constitution First Amendment Bill moved by the Prime Minister on May 16, 1951, in the Lok Sabha. Lok Sabha Debates, Part II May 16, 1951. Col. 8820.
- ⁵ Article 38 renumbered as clauses (1) thereof by the Constitution (44th amendment) Act, 1978, section 9 (w. e. f. 20th June, 1979).
- ⁶ Inserted by section 9 by the Constitution (44th amendment) Act, 1978(w. e. f. 20th June, 1979).
- ⁷ Substituted by the Constitution (44th Amendment) Act, 1976, Section 7, for clauses (f) (w. e. f. 3rd January, 1977).
- ⁸ Inserted by section 8 under the Constitution (42th Amendment) Act, 1976 (w. e. f. 3 Jan, 1977).
- ⁹ Inserted by section 9 under the Constitution (42th Amendment) Act, 1976 (w. e. f. 3 Jan, 1977).
- ¹⁰ Inserted by the Constitution (97th Amendment) Act, 2011 (w. e. f. 15 Feb 2011).
- ¹¹ Inserted by section 10 under the Constitution (42th Amendment) Act, 1976 (w. e. f. 3 Jan, 1977).
- ¹² Substituted by the Constitution (7th Amendment) Act, 1956, section 27, for “declared by Parliament by law”.

References

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