

Directive Principles of State Policies and social Transformation

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Description of Module

Items	Description of Module
Subject Name	Law
Paper Name	Social Transformation and Social Engineering
Module Name /Title	Directive principle of state policy and social transformation.
Module No.	IV

Directive principle of state policy and social transformation.

Objective: After reading this module, the learners will have a clear picture of Directive Principles of State Policy have been instrumental in providing social justice to the citizens at large.

Learning Outcomes:

Fundamental Rights are primarily aimed at assuring political freedom to the citizen by protecting them against excessive State Action. Whereas directive principles are aimed at securing social and economic freedom by state action.

Directive Principles of State Policy:

A welfare state is a concept of government in which the state plays a key role in the protection and promotion of economic and social well-being of its citizens. A welfare state is based on the **principles of equality of opportunity** and equitable distribution of wealth. Under this system, the welfare of its citizens is the responsibility of the state. India was not a welfare state before independence. The **British rule** was not very interested in protecting and promoting the welfare of the people. When India attained independence, it had innumerable problems and challenges. The social and economic inequality was all pervasive. Economically, India's situation was miserable. Socially also India was having a number of problems. There were social inequalities and all the vulnerable sections of the society such as women, dalits, children were deprived of basic means of living. The Constitution makers were very much aware of the problems. That is why, they decided that India would be a welfare state. Accordingly, the Constitution has extensive provisions to ensure social and

economic welfare of the people of India. In this regard two specific provisions have been made, one in the form of Fundamental Rights and the other as Directive Principles of State Policy

The Fundamental Rights embodied in Part III of the Indian Constitution act as a guarantee that all Indian citizens can and will **enjoy civil liberties** and basic rights. Some of these important rights are: equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion, and the right to constitutional remedies for the protection of civil rights. But this was not enough. Indian citizens also needed opportunities for economic and social development. That is why Part IV on Directive Principles of State Policy was included in the Indian Constitution. As the fundamental rights provided in the Indian Constitution are primarily political rights. The Constitution makers were well aware that even if **all the fundamental rights** are truly enforced, the goals of Indian democracy would not be realized unless the people of India could avail of social and economic rights. But at the same time, these rights needed to be given special importance. This was done by including a separate Chapter as Part-IV known as the ***Directive Principles of State Policy*** in the Constitution. The Directive Principles of State Policy are guidelines to the central and state governments of India. The governments must keep these principles in mind while framing laws and policies. The main aim of these principles is to create **social and economic conditions** under which all the citizens can lead a good life. In other words it is to establish social and economic democracy in the country. These principles act as a yardstick in the hands of the people to measure the performance of governments in respect of achieving the objective. All executive agencies have to be guided by these principles. Even the judiciary has to keep them in mind while deciding cases.

Types of Directive Principles

If you go through the directive principles stated in the Constitution, you will find that they are of different types. Some are concerned with socio economic development; some are related to Gandhian thought, and some to foreign policy. The Constitution does not classify them under different heads, but for our better understanding, we may classify them under the following specific categories:

- _ Principles promoting social and economic equality;
- _ Principles related to Gandhian thought;
- _ Principles related to International peace and security; and
- _ Miscellaneous Principles.

Principles promoting social and economic equality

There are certain principles that are very important for realizing the goals of social and economic democracy in India. Many people in India have been suffering from social and economic inequalities since ages. The following principles, in particular, are aimed at ensuring economic and social equality:

1. The state should ensure for its people adequate means of livelihood.
2. The state should ensure fair distribution of the material resources of the country for the common good.
3. The state should distribute the wealth in such a way that the wealth is not concentrated in a few hands.
4. There should be equal pay for equal work for both men and women.
5. The state is directed to take steps to impart compulsory and free education to the children up to the age of 14 years.
6. The state should try to secure participation of workers in the management of the factory.
7. Childhood and Youth should be protected against exploitation. Men, women and children should not be forced by economic necessity to enter jobs and vocations not suited to their age or strength.
8. The state should ensure to the people (a) the right to work (b) the right to education (c) the right to state assistance in cases of unemployment, old age, sickness and disablement.
9. The state should make provisions for securing just and humane conditions of work for the workers and maternity relief for women.

B. Principles related to Gandhian thought

Gandhian thinking promotes a non-violent social order. Swaraj (Self-rule) , Sarvodaya (welfare for all) and svavlambam(self-reliance) are the basic principles of Gandhian thought. We are all well aware that Mahatma Gandhi was in the forefront of freedom movement. His philosophy and actions guided not only our freedom movement but also the framing of the Indian Constitution. The following Directive Principles in particular reflect Gandhian thought:

1. The state shall promote the educational and economic interests of the weaker sections of the society and in particular the interests of the scheduled castes and scheduled tribes.
2. The state shall take steps to organize the village panchayats. These panchayats should be given such powers and authority as may be necessary to enable them to function as units of self government.
3. The state shall make efforts to prevent the consumption of alcoholic drinks and other harmful drugs.
4. The state shall try to promote cottage industries in rural areas.
5. The state shall take steps to improve the quality of livestock and ban the slaughter of cows and calves and other draught cattle.

C. Principles related to International Peace and Security

The Constitution makers included some principles which provide guidelines to our foreign policy. These are:

1. The state shall promote international peace and security.
2. The state shall endeavor to maintain just and honorable relations with other nations.
3. The state shall foster respect for international laws and treaty obligations.
4. The state shall encourage settlement of international disputes by arbitration, i.e. mutual agreement.

D. Miscellaneous Principles

Besides, there are some notable Directive Principles which do not come under any of the above mentioned categories. These are as follows:

1. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.
2. The state shall take steps for the maintenance and protection of the historical monuments, places or objects of national importance.
3. The state shall aim at establishing a uniform civil code for all citizens throughout the country.
4. The state shall take steps to separate the Judiciary from Executive.

Role of Directive principles of state Policy for social Reform:

You may now be interested in knowing whether the central and state governments have done anything to implement these Directive Principles. Have you heard about *Sarva Siksha Abhiyan*, a massive programme of the Central government being implemented in all the States of India? You may also be aware of *Right To Education Act 2009* passed by the Indian Parliament. These are the outcomes of efforts being made to implement the Directive Principles. Some states like Bihar and Madhya Pradesh have reserved 50 percent seats in Panchayat elections for women. These instances indicate that although there is no legal force behind the Directive Principles and there is no obligation on the state to enforce them, yet the governments have been implementing these principles. Some of the implemented principles are:

- _ Minimum wages have been fixed in almost all the spheres of employment.
- _ Equal wages for equal work for both men and women have been enacted.
- _ Various programmes have been launched to boost rural employment. Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and Swaran Jayanti Gram Swarojgar Yozna are the examples.

- _ Panchayati Raj has been given constitutional status. Village Panchayats have been set up and are functioning at village level.
- _ The Eighty-sixth constitutional amendment was adopted to ensure *provision for free and compulsory education for children* and the Right to Education Act was passed in 2009 to make it a fundamental right.
- _ Many laws have been passed to protect children from exploitation.
- _ A number of welfare schemes have been implemented for the poor and backward classes and also for scheduled castes and scheduled tribes. Seats have been reserved for them in the Parliament and Vidhan Sabhas.
- _ Several laws and welfare schemes have been launched to protect women from exploitation.
- _ The forty second constitutional amendment added a Directive principle , which ensures *Protection and improvement of environment and safeguarding of forests and wild life*. A number of Programmes like *Save the Tiger* project Rhino, elephant etc. are being implemented in pursuance of the newly added directive principle. Judiciary has been separated from the executive.
- _ Cottage industries have been established *and protected* by giving tax concessions.
- _ *Our foreign policy is in consonance with the principles of international peace and security, and maintaining just and honourable relations between nations.*
- _ The Government of India supports and works for world peace.

In view of the above, it is clear that governments at central, state and local levels are working for the implementation of the Directive principles. A lot of work has been done but still problems of poverty, unemployment, poor health and illiteracy do exist. The spirit of Directive Principles is to improve the quality of life of people. This is a continuous process and the efforts of the government showing some results. There are challenges that need comprehensive response based on the Directives Principles.

Directive Principle of State Policy

Part-iv contains articles from 36 to 51. The framers of the constitution borrowed these principles from the iris constitution. Up to the 19th century states concentrated on the law and order and defense of the countries. They did not pay attention on the welfare of the people. Since the beginning of 20th centuries the outlook of the political leaders, jurists has changed from police state to Welfare state. Directive Principles of State Policy have been instrumental in providing social justice to the citizens at large. Apex Court has dealt with the Directive Principles in interpretation of social justice.

Directive Principles and Fundamental Right: Fundamental Rights are primarily aimed at assuring political freedom to the citizen by protecting them against excessive State Action. Whereas directive principles are aimed at securing social and economic freedom by state action.

Directive principle social Transformation:

Article 38 provided that the State to secure a social order for the promotion of welfare of the people; in preamble the function of Republic is to secure to all its citizens social, economic and political justice.

- (1) The State shall try hard to promote the welfare of the people by securing and protecting as effectively as it may a social order in which principle of justice, social justice, economic justice and political justice. shall inform all the institutions of the national life, and,

In the case of *Air India Statutory Corporation v United labour Union* in this case court explained the concept of social justice in Art 38. The concept of social justice consists of diverse principles essential for the orderly growth and development of personality of every citizen. Social justice is a dynamic devise to alleviate the suffering of the poor, weak, dalits, tribal and deprived section of the society helps to raise them to the level of equality to live a life with dignity of person. The social justice is not a simple idea of society but is an essential part of complex social change to relieve the poor.

- (2) **Economic Justice:** The State shall, in particular, try hard to minimize the inequalities in income, and try to eliminate inequalities in status.

Article 39 specifically requires the state to direct its policy towards securing the following principles:

- i. Equal Right of men and women to adequate means of livelihood
- ii Distribution of ownership and control of the material resources of the community to the common good.
- Iii Equal pay for equal work for both men and women.
- Iv to protect health and strength of workers and tender age of children and to ensure that they are not forced by economic necessity unsuited to their age or strength.
- V Children are given opportunities to develop in a healthy manner and protected against exploitation.

In *M.C.Meheta v State of Tamil Nadu* it has been held that the employment of children within the match factories directly connected with the manufacturing process of matches and fireworks cannot be allowed as it is hazardous.

(child labour abolition case)

Social Security:

Right to Education:

Article 41 Right to work to education land to public assistance in certain cases : The state shall within the 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 45 provision for free and compulsory education for children: 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.

Equal Justice and Free Legal Aid: Article 39-A the State shall secure that the operation of the legal system promotes justice, on a basis of 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 disabilities.

A. The Right to speedy trial is guaranteed by fundamental Rights Under article 21.

B. The right of equal justice and free legal aid are given under Article 39-A.

C. On the basis of opportunities and further mandates to provide free legal aid.

Krishna iyer J. observed rendering free legal aid is the state's duty and not Government's charity. if a prisoner is unable to exercise his constitutional and statutory right of appeal including special leave to appeal for want of legal assistance. State will provide free legal aid.

Suk Das vs Union Territory of Arunachal Pradesh (1986) 25 SCC 401

The accused was trilled Under sec 506 and 34 of IPC he did not engage any lawyer due to poorness. Without any representation by lawyer the accused was punished with two year imprisonment. on appeal the High court questioned government for not providing free legal aid. The Government replied that the accused did not apply or did not ask for providing an advocate. The high court satisfied the argument of the Govt. This was appealed in supreme court. The Supreme court and High Court make a mistake not providing legal aid to the accused.

Principles: It is the obligation of the Magistrate to inform the accused his right of free legal aid to have an advocate with the costs of the Government. The Magistrate shall not proceed without providing free legal aid to the accused, unless he refused to take advantage of it.

Community Welfare charter:

Uniform Civil code: Article 44 requires the state to secure for the citizens a uniform Civil code throughout the territory of India.