

Constitutional Law and Public Administration in India

Prof. (Dr) Sairam Bhat

Centre for Environmental Law, Education, Research and Advocacy (CEERA)

National Law School of India University, Bengaluru

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Directive Principles of State Policy (DPSP)

The Directive Principles of State Policy (DPSP), which are enumerated in part IV of the Constitution of India, extend from article 36 to article 51. DPSPs are unique to the Constitution. It demonstrates what the fundamental law of the land or the foundational law of the land that is the Constitution of India wants to give as vision for governments. These are directives, guidelines, or things that the states ought to do. They are some principles that the state must follow. The directive principles in totality seeks to achieve a fair and equal society. 75 years since India has gained independence, we are still grappling with poverty and efforts to establish an egalitarian state. And the directive principles attempt to fulfill those mandates. Like Glanville Austin has described DPSP, they are the conscience of the Constitution and something that the Constitution holds firmly to, stands firmly for the philosophy of the Constitution can be set through the moral compass of what the directive principles must state. So, these are the kind of moral guidelines or the moral principles. Moral guidelines, whether are binding; may not be. However, they are the moral compass in the sense that the policies of the state can be tested with them, whether such policies are in tune with the directive principles or not.

This idea of the directive principles of state policy is adopted from the Irish Constitution of 1937 which had got it from the Spanish Constitution. DPSP denotes that the state should keep in mind these principles while formulating policies and enacting laws and that is why they are a kind of instruction from the Constitution. What the Constitution drafters would like the state to follow in its process are the instructions from the framers of the Constitution and they are a document of guidelines from the framers of the Constitution. What the state is expected to do and not do is something that has been put across in a very comprehensive manner, because the directive principles of state policy cover the three aspects of justice, namely, political, economic, and social. They aim to realize that the preamble of the Constitution is trying to bring about justice, liberty, equality, and fraternity. Which is what one should see in the directive principles.

What is in the directive principles are not justiciable; they are not enforceable, or they are not binding in a court of law. Because these are guidelines or principles, of the foundation

to what you must do and what you ought not to do. You can't literally enforce it and seek a grievance or redressal of the same through the means of either compensation or by asking the state precisely to do that immediately. These are aims to achieve, but they may not be achieved immediately. There are several landmark judgments of the Supreme Court that have shaped the socio-economic policies of the nation. Those judgments of the Supreme Court are guided by the principles in DPSC.

The DPSP can be looked at in a sense that they are the first set of documents that state what shall be the public policy in India or what shall be the basis of public administration in India. While public policy and public administration have been reimagined, reshaped and redesigned over a period, the public policy before 1991, post 1991 could have been entirely different. However, the first foundational public policy document for public administration, state policy for public administration could be the directive principles of state policy. So, it is important to appreciate and understand what DPSP is here.

The DPSP has clearly said that the state that we have envisioned is a welfare state, a state that just seeks to bring welfare to its citizens, it is a government of the people, by the people and for the people. So, people's interest or public interest is paramount in public administration. Everything that needs to be done or ought to be done by the government must promote and nurture and take forward citizens' interest into consultation. To some extent, a few authors have said that the directive principles of state policy have two broad principles. One is that the directive principles have been shaped with socialist principles. And two the directive principles have been shaped through the Gandhian principle. There is also a third view of the liberal or intellectual principle. If you look at the content of the DPSPs, the first content that you see are all those based on the socialist principle. Socialist principle means we must look at the disparity of income between the haves and the have nots and ensure that wealth is not concentrated in the hands of human divisions. Adequate means of livelihood to all the citizens must be brought about. Inequality of income or status, facilities and opportunities must be eradicated as far as possible. We must try and ensure the common good, subservient of the common good. The common good is the only driving force for state policies. Socialism is in terms of distribution of resources, which shall be equitable only. So, directive principles face all that. It talks about equal pay for equal work, preservation of health and the strength of workers and children.

No forceful abuse of work and healthy development of children is what is in form. The directive principles of state policy, which has the component or is based on the socialist principle, also talks about promotion of equal justice and free legal aid or what is known as we call as providing legal aid to the poor or providing access to justice for the poor as well as right to work, right to education, public assistance to those who are unemployed, old, sick and disabled. Under Article 41, public assistance in cases of unemployment, old age, sickness, and disablement are provided for. Making the workplace just and humane, bringing conditions of maternity and paternity leave are all provided in Article 42.

Securing a living wage, not minimum wage, but a living wage under the Constitution, that is the distinction that is needed. Because minimum wage is the economic parameter, living wage is the actual parameter and a living wage, which can ensure you a decent standard of life, social and cultural opportunities to all workers must be ensured and that is what article 43 of the DPSP says or the Constitution of India says.

The Constitution looks at labour reforms and labour rights like collective bargaining and the spirit of collective bargaining. Article 43A says that the states must take steps to secure the participation of workers in the management of industries. A goal to raise the level of nutrition, the mid-day meal schemes, the standard of living of people and improvement of public health is provided in Article 47. From the list of principles, the socialist principle is definitely reflected in the Constitution of India, it is the socialist ideology that is the bedrock of the Constitutional structure and state policy.

The second principle that is quite evident from reading the directive principles of state policy is the Gandhian principle, or the Gandhian ideology or the philosophy of Rama Rajya. Gandhi believed in a national movement and his ideals of directive principles of state policy are for example the following. He believed in decentralized government; he believed in empowering the village panchayat. He wanted local self-government to be established and the unit of self-government should be the best model of governance in certain subjects, in certain areas.

So, if you read article 40, a local self-government is something that is mandated. Panchayats are to be empowered and created and they must be enabled to function on their own. That is the first point where Gandhi's philosophy and ideology is reflected. Second, article 43 clearly reflects Gandhi's way of life. It talks about promotion of cottage industry. Today, the cottage industry is like a small-scale unit. So, if people want to engage themselves in entrepreneurship or entrepreneur skills, the state government must facilitate the same. And this could be done either individually or like article 43 says through the cooperative movement. So, the rural areas must be able to produce goods and sell the goods. They must be able to creatively establish their enterprise skills. That is also a Gandhian introduction. Article 43B says that the cooperative movement is one of the most important movements that the state must encourage, promote, and bring into existence because the cooperative movement is completely parallel to the corporate movement. The corporate movement is profit oriented; the cooperative movement is oriented towards enriching the members of the corporation. And the producers or the manufacturers who are the members of the corporate, get direct access to the market and direct benefits or profits from the market. The cooperative movement as the case always helped India in the food security system. It has helped bring about the green revolution. It has brought access from the farmers to the consumers directly taking away the middleman out. And most importantly, the cooperative movement has been very competitive with the pricing and hence this also adds to the consumer or citizen interest.

Article 43B clearly says that cooperative societies must be encouraged because these are voluntary formations with autonomous functioning. They have a democratic and professional management. The Milk Federation cooperatives that are there in several states led by Amul is a great example of achievement of Article 43B. Educational interests of the SC/STs or the economically weaker section of the community, must get protection from social inequalities and injustices or exploitation and Article 46 mandates the same.

Gandhi's idea of Harijans and their special protection and special status is something that the Constitution propounds. The consumption of intoxicated drinks or drugs that are injurious to health comes under Article 47. Very importantly, Article 48 clearly directs the state to prohibit the slaughter of cows, calves and other milch and draught cattle so that they and their breed can be improved. Cow slaughter legislations, which have been revived, are not new.

It is a part of the Constitution itself that the states are to protect cows from being slaughtered. So Article 48 has that mandate for the states. Most of the cows, anti-cow slaughtering legislation was passed in the 1950s and 60s. The only thing that has happened very recently is that the punishments have been enhanced and the process of investigation or holding someone criminally responsible has been strengthened through some of the amendments that were brought in the recent times. So, we find the socialist principle in the DPSP and the Gandhian principle in the DPSP.

Third are the liberal principles or the intellectual principles of DPSP. First is Article 44, namely the contentious issue on uniform civil code which requires a lot of liberal approach from the state itself. And that is why it is called the liberal ideology of the DPSP. It requires people to move away from religion and detach themselves from the equal practices of religion and to achieve greater common good and to promote the equality of genders. Article 44 as it were in the Constitution very clearly had stated to bring in uniform civil code. Its implementation, in earlier times, would have resulted in a fair and equal society between men and women of all religions that is now being attempted to. To provide early childhood care and education of all children is under right to education under Article 21A, but Article 45 also talks about the same. To organize agriculture and animal husbandry on modern and scientific lines in Article 48 and to protect and improve the environment and safeguard forest and wildlife under Article 48A are also DPSP. Article 49 requires promoting and protecting monuments and places and objects of historic and artistic structures of national importance. Article 50 which is very important lays down to separate the judiciary from the executive in the public service of the state. So, the judicial independence in appointment is clearly reflected in Article 50. If the judiciary has crafted on its own basis about how it should select judges, Article 50 is one such provision of the Constitution that supports the independence of judicial appointments. Article 51 of the DPSP speaks about the obligation of the state to promote international peace and security and maintain just and honorable relations with nations. This is applicable to the states as

well as the Central or federal government. States must promote international peace and to foster respect for international law, the crucial aspect being that international law is no longer a weak law.

International law is to be respected. All treaty obligations of the state must be also honored and increase settlement of international disputes by arbitration which is what Article 51 calls for. In 1976, through the 42nd amendment, to the original principles, four new directive principles were added. In 1976 by Article 39, it was said to secure opportunities for the healthy development of children. It was added that to promote equal justice and to provide free legal aid in Article 39E. In Article 43A, there is to take steps to secure workers participation. And finally, in Article 48A, it was added to protect and improve the environment and safeguard forest and wildlife. So, this is now extended to the state. To protect and improve the environment and to safeguard forest and wildlife is something that the states ought to do. And this is where the 42nd Amendment of 1976 added it. The 44th Amendment in 1978 added one more directive principle: that the state ought to minimize inequality in income, status, facilities, and opportunities. This was in Article 38. In 2002, the 86th Amendment Act to the Constitution made elementary education a fundamental right under Article 21. So that was changed. And in 2011, the 97th Amendment Act added a new directive principle in relation to cooperatives, which is already said in Article 43B.