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Directive Principles of State Policy

Riya Kumari

Abstract

The Directive Principles of State Policy (DPSP) of the Indian Constitution are given under Part IV of the Constitution, from the Article 36 to Article 51. They list the social and economic goals the government should work towards. Unlike Fundamental Rights, courts cannot force the government to follow them, but Article 37 says they are fundamental to governing the country.

This article explains how the courts have dealt with the conflict between Fundamental Rights and DPSP. It starts with landmark case of *State of Madras v. Champakam Dorairajan*, where Fundamental Rights were held to be stronger after this the case of *Kesavananda Bharati*, which led the birth of the Basic Structure Doctrine, and *Minerva Mills*, which struck down the widening of Article 31C and by creating the difference between the Fundamental Rights and the Directive Principles of State Policy (DPSP) and after this 2024 decision came in the case of *Property Owners Association v. State of Maharashtra* it explained how far Article 31C applies today and still it apply.

The article also shows how the Hon'ble Supreme Court gave DPSP real force by enforcing them to Article 21, as in *Unni Krishnan* case (education) and *Olga Tellis* (livelihood) so we can see the enforcement of DPSP through the Fundamental Rights. It also discusses laws that put DPSP into practice through the case laws, and the criticism that rights without court remedies are hard to enforce as the state do not participate actively. It concludes that DPSP are not directly enforceable but still guide how the Constitution is understood and still the Judiciary plays an active role by Enforcing the DPSP.

Keywords: Directive Principles, Fundamental Rights, Basic Structure Doctrine, Article 31C, Article 21

I. Introduction

The Constitution of India is a codified document that has to maintain the balance of the terminology “liberty for having the social and economic rights”. As the Constitution has Part III of the chapter that talks about “Fundamentals Rights” which guarantees us all the constitutional rights i.e. enforceable by the Courts, but if we talk about the Part IV i.e. Directive Principles of State Policy (“DPSP”), which talks about the what state must achieve for fulfilling the socio-economic rights and objectives that contained Articles are from Articles 36 to 51 which are only enforceable by the States. The DPSP were influenced by the Constitution of Ireland which itself get from the historically European of Constitutional thought.¹

This article will explain about the Constitutionals wordings, judicial interpretation, law makers intention along with the legislative implantation and the significance of Directive Principles of State Policy.

II. Historical Background and Constitutional Background

The makers of the Indian Constitution were spoken about the concerns of unequal society and unequal opportunity within the codified Constitution. The were concerns and debate related to socio-economic transformative role which require positive response from the government for the development and the state had limited economic resources and the administrative growth so people need the positive response and rights on the immediate basis.²

As per Article 37³ i.e. is Directive Principles which tell us directly “shall not enforceable by any court”, but in the other hand it is declare as “fundamental for the governance for the Country”, so to enforce this the state need to apply these principles for enforcing along with the law making.⁴

III. Nature and Enforcement of the Directive Principles of the State Policy

¹ GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION 50 (1966).

² B. SHIVA RAO, THE FRAMING OF INDIA'S CONSTITUTION: A STUDY 211–15 (1968).

³ INDIA CONST. art. 37.

⁴ INDIA CONST. art. 37.

Granville Austin has discussed and described the Fundamental Rights and Directive Principles for forming an important part of the Constitutional law for achieving the transformative goals towards the society for the social transformation.⁵

Article 37⁶ of the Constitution gives the difference between the Fundamental Rights and Directive Principles of state policy. In the DPSP the court cannot compel or force the state to implement the DPSP because of the Article 37 gives it fundamental to governance.

The Hon'ble Supreme Court has clarified the relationship between the Fundamental Rights and Directive Principles after the enactment of the Constitution. In the earlier case of *State of Madras v. Champakam Dorairajan*⁷ the Hon'ble Court in this case held that Directive Principle of State Policy could not override a Fundamental Right where the two came into conflict or contradictory to each other. This case shows the clear distinction between the enforceable of the Fundamental Rights and non-enforceable Directive Principles of the State Policy.

IV. Harmonious Construction and the Basic Structure Doctrine

The relationship between Fundamental Rights and Directive Principles of the State Policy has signified in the landmark case of *Kesavananda Bharati v. State of Kerala*⁸ in this case the Hon'ble Supreme Court has recognised to introduce the Basic Structure Doctrine, in which as per Article 368⁹ where the parliament has power to amend the Constitution and from this case the parliament cannot amend or alter the Basic Structure of the Constitution. This case also led to the Twenty-Fifth Constitutional Amendment from where the Article 31C¹⁰ has been inserted.

The Constitution (Forty-Second Amendment) Act, 1976, has been led the broader expansion of Article 31C¹¹ so that it can cover the laws that are implanted under any of the Directive Principle contained in Part IV. This expansion led to the challenge before the Hon'ble Supreme Court in the landmark case of *Minerva Mills Ltd. v. Union of India*¹² the Court in this case led to invalidated the expansion of Article 31C to all Directive Principles of State Policy, the Court has focus on the balance between Fundamental Rights and Directive Principles.

⁵ AUSTIN, supra note 1, at 50.

⁶ INDIA CONST. art. 37.

⁷ *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.

⁸ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁹ INDIA CONST. art. 368.

¹⁰ Id.; see also Constitution (Twenty-Fifth Amendment) Act, 1971.

¹¹ INDIA CONST. art. 31C.

¹² *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

The position main concerning about Article 31C¹³ was subsequently clarified and made clear by the Hon'ble Supreme Court in the case Property Owners Association v. State of Maharashtra (2024)¹⁴ where a nine-judge Constitution Bench held that Article 31C continues to exist to the extent to which it was upheld in Kesavananda Bharati¹⁵, namely in relation to laws giving effect to the Article 39(b)¹⁶ and Article 39(c)¹⁷ when it was rejected to attempt to completely vanish the subject of Judicial Review of any such legislation, the ruling in this case clarified and made an important development for the constitutional relationship between Part III and Part IV i.e. Fundamental Rights and Directive Principles of State Policy.

V. Directive Principles as Enforceable Rights under the Constitution

The transformative jurisprudence that has taken in Part IV i.e. Directive Principles of State Policy has been seen through the broad interpretation of the Article 21 of the Constitution i.e. Fundamental Rights.

In the landmark case of Unni Krishnan, J.P. v. State of Andhra Pradesh¹⁸ where the Hon'ble Supreme Court has found the importance of the right to education up to the age of fourteen could be read with interpretation of Article 21¹⁹ along with the Article 41 and 45. In this case there was (Eighty-Sixth Amendment) Act, 2002, the amendment inserted Article 21A²⁰, which talks about the state should provide free and compulsory education to children between six and fourteen years of age.²¹

Similarly, the DPSP under the Article 39(a)²², which clearly states that every state require to secure for citizens, men and women equally, the right to an adequate means of livelihood, along with the Article 41²³ concerning the right to work, education and public assistance in specified circumstances that has informed the constitutional understanding of livelihood which was clearly recognised by the Hon'ble Supreme Court in the landmark case of Olga Tellis v.

¹³ INDIA CONST. art. 31C.

¹⁴ Property Owners Association v. State of Maharashtra, 2024 INSC 835 (5 Nov. 2024).

¹⁵ Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

¹⁶ INDIA CONST. art. 39(b).

¹⁷ INDIA CONST. art. 39(c).

¹⁸ Unni Krishnan, J.P. v. State of Andhra Pradesh, (1993) 1 SCC 645.

¹⁹ INDIA CONST. art. 21.

²⁰ INDIA CONST. art. 21A.

²¹ Constitution (Eighty-Sixth Amendment) Act, 2002, §§ 2–3.

²² INDIA CONST. art. 39(a).

²³ INDIA CONST. art. 41.

Bombay Municipal Corporation²⁴ where the relationship between the right to livelihood it the part for the right to life under Article 21²⁵ of the Constitution.

VI. Implementation of the Directive Principles of State Policy

As per Article 39A, which state that State should provide free legal aid to ensure justice as the Importance was found in the Legal Services Authorities Act, 1987, this Act also provide resolution for the organising Lok Adalats. Article 40, directs the state to organise village panchayats and give them all the necessary Powers for functioning as a self-government it came through the (Seventy-Third Amendment) Act, 1992, this amendment also inserted Part IX of the Constitution.

Article 43, which says that every person who is securing a living wages that must be adequate with the working conditions of the workers this led to the development of the labour welfare legislation and policy. There were 4 labour codes enacted between 2019 and 2020, that represents the major reform for the labour law.²⁶

Similarly, as per the Article 46 the state has to promote the educational and economic interests For the weaker sections of the society and also to protect them from the social injustice and any exploitation.

VII. Criticism of the Directive Principles of State Policy

The Directive Principles of State Policy has been transformed but due to is non-justiciable nature so many critics has argued that Constitutional provisions without any judicial remedies solution it will be difficult to implement them also the Sir Ivor Jennings²⁷ questioned the legal validity and effectiveness for the result of the objectives of the Constitution i.e. under the Directive Principles of State Policy.

²⁴ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

²⁵ INDIA CONST. art. 21.

²⁶ Code on Wages, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; Occupational Safety, Health and Working Conditions Code, 2020.

²⁷ IVOR JENNINGS, SOME CHARACTERISTICS OF THE INDIAN CONSTITUTION 34–36 (1953).

Conclusion

The Directive Principles of State Policy has played very different role with the Constitution of India i.e. non-justiciable obligation for the State to full fill as they were and cannot be ever ignored. As we can see from the case law of Champakam Dorairajan to Minerva Mills that shows how the Directive Principles of State Policy has clearly and affirmative role to have the proper interpretation of the Fundamental Rights. There were further more challenging for the Indian Constitution regarding the Parts III and IV that helps into the development and led to improvements of the lives of citizens, particularly for the most marginalised sections, for whom the promise of social and economic justice remains same, even today, a work in progress and improvement, but not accomplishment by the fact stated.