

# Directive Principles of State Policy – PART IV

**Article 36- 51**

- Features of Directive Principles
- Classification
- Relationship between FR and DPSP

- Idea taken from Irish Constitution
- Dr.B.R.Ambedkar described these principles as “Novel Features” of the Indian Constitution and acts as an instrument of instruction to the State.
- Granville Austin – American historian on Indian Constitution – describes DPSP as “Conscience of the Constitution”.

# Features of DPSP

- Denotes the **ideals of the State** – Keep in mind while **formulating the policies and enacting laws**.
- It is a **set of special provisions** created by the makers for giving proper **direction to the States** to act.
- **Constitutional Instruction or recommendations** to the State in legislative, Executive and Administrative matters.
- It aims at **realising the high ideals of Justice, liberty, equality and fraternity** as outlined in Preamble.

- Promotes Socio-Economic Justice
- Political democracy would be useless without economic democracy.
- Concept of Welfare State

Was this a new concept under the Constitution of India?

- It resembles the Government of India Act, 1935.
- DPSP are non-justiciable in nature – not legally enforceable by the courts for their violation.
- Duty of the State to apply these principles in making laws.
- Though non-justiciable in nature, the laws can be challenged if it violates Fundamental Rights.

# Classification

- Social and Economic Charter
- Social Security Charter
- Community Welfare Charter

Others:

- Socialist Principles
- Gandhian Principles
- Liberal –Intellectual Principles

Social and Economic Charter	Social Security Charter	Community Welfare Charter
<ul style="list-style-type: none"><li>1. Article 38</li><li>2. Article 39</li></ul>	<ul style="list-style-type: none"><li>1. Article 39A</li><li>2. Article 41</li><li>3. Article 42</li><li>4. Article 43</li><li>5. Article 43A</li><li>6. Article 45</li><li>7. Article 46</li><li>8. Article 47</li></ul>	<ul style="list-style-type: none"><li>1. Article 44</li><li>2. Article 40</li><li>3. Article 48</li><li>4. Article 48A</li><li>5. Article 49</li><li>6. Article 50</li><li>7. Article 51.</li></ul>

- **Article 36** - In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.
- **Article 37 - Application of the principles contained in this Part** - 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.
- **Debate as to the usage of two words “Directive” and “Fundamental”** – it is necessary to give **direction to the future legislature and executive** to show in what manner they have to **exercise their legislative and executive powers.**



# Social and Economic Charter

## Article 38- Social order based on justice

(1) 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 life.

(2) The State shall, in particular, strive to minimise 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 vocations.

- **Article 39 - Principles of policy to be followed by the State for securing economic justice: Article 39**

in particular, direct its **policy towards securing**—

- (a) that the citizens, **men and women equally, have the right to an adequate means of livelihood;**
- (b) that the **ownership and control of the material resources of the community** are so **distributed as best to subserve the common good;**
- (c) that the operation of the economic system does not result in the **concentration of wealth and means of production to the common detriment;**
- (d) that there is **equal pay for equal work** for both men and women;
- (e) 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 to enter avocations unsuited to their age or strength;

# Social Security Charter

## 1. Equal justice and free legal aid - Article 39A

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.

- To promote equal justice
- To provide free legal aid to the poor

- **Right to work, education and public assistance in certain cases: Article 41-** 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.
- **Just and humane conditions of work: Article 42** - The State shall make provision for securing **just and humane conditions of work and for maternity relief.**
- **Living wage for workers: Article 43** –Secure a **living wage** and a **decent standard of life** and social and cultural opportunities for all workers.

- **Art 43A – Participation of workers in management of industries-** The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry (42<sup>nd</sup> Amendment, 1976)

- **Provision for early childhood care and education to children below the age of six years: Article 45**
- **Promotion of educational and economic interest of weaker sections: Article 46** -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 forms of exploitation.
- **Duty to raise the standard of living and improvement of health: Article 47** -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.

# Community Welfare Charter

1. Uniform Civil Code: **Article 44**
2. Organisation of Village Panchâyat: Article 40
3. Organisation of agriculture and animal husbandry: Article 48 -The State shall endeavour to organise 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.

- **Protection and improvement of forests and wildlife: Article 48A** -The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country (**42<sup>nd</sup> Amendment, 1976**)
- Protection of monuments and places and objects of national importance: Article 49
- **Separation of Judiciary from Executive: Article 50** -The State shall take steps to separate the judiciary from the executive in the public services of the State.
- Promotion of International peace and security: **Article 51.**



# Differences

<b>Fundamental Rights</b>	<b>Directive Principles of State Policy</b>
<b>1. Negative – as it restricts the State from doing certain things.</b>	<b>1. Positive – requires the State to do certain things.</b>
<b>2. Justiciable</b>	<b>2. Non- justiciable</b>
<b>3. Aim to establish Political Democracy</b>	<b>3. Aim to establish Economic and Social Democracy</b>
<b>4. Legal Sanctions</b>	<b>4. Moral and political Sanctions</b>
<b>5. Welfare of individual</b>	<b>5. Welfare of community</b>
<b>6. Automatically enforced</b>	<b>6. Non – enforceable</b>
<b>7. Law violative of FR is Unconstitutional</b>	<b>7. Courts cannot declare a law to be violative.</b>

# Conflict

- Supreme court initially uphold the validity of Fundamental Rights than DPSP
- Some case – DPSP > FR
- Recent approach – FR=DPSP (Harmonious Construction)