

DPSP AND FUNDAMENTAL DUTIES

DIRECTIVE PRINCIPLES

Article 36 to 51 of the Indian Constitution embodies the Directive Principles of State policy. It acts as a guideline for the state while coming up with any new law but a citizen cannot compel the state to follow them.

Socialist	Liberal	Gandhian
<p>Provide adequate means of livelihood to citizens</p> <p>Prevent concentration and ensure equal distribution of wealth & resources</p> <p>Equal pay for equal work for all men and women</p> <p>Ensure decent standard of living & leisure for workers</p> <p>Provide opportunities & facilities to prevent exploitation of youth & children</p> <p>Make efforts to secure the right to work</p> <p>Assistance in case of unemployment, sickness & old age</p>	<p>Free compulsory education for children upto 14 yrs</p> <p>Separation of Judiciary and Executive</p> <p>Protect monuments & historical places</p> <p>Safeguard forests and wildlife of the country</p> <p>Securing participation of workers in management of industries</p> <p>A uniform civil code for the country</p> <p>Organise animal husbandry & agriculture scientifically</p>	<p>Establish panchayats to function as units of self government</p> <p>Prohibition of drugs and alcohol</p> <p>Promotion of economic & education of weaker sections</p> <p>Promotion of cottage industries</p> <p>Prevention slaughter of cows, calves & milch cattle</p>

DPSPs are positive obligations on the state. They were not made justiciable because India did not have sufficient financial resources. Moreover, its backwardness and diversity were also a hindrance in implementing these principles at that time. At the time of the drafting of the Constitution, India was a newly born independent state and was struggling with other issues and making DPSPs justiciable would have put India in great difficulty.

Prof. Freddy Singaraj

Part IV: Directive Principle of State Policy → Later added to the Constitution

- Art 36–Art 51
- Taken from Ireland

Guidelines to Central and State Government of India, to be kept in mind while forming laws and policies

Used to check Constitutional values of any law

It is a positive Rights

Art 36: Defines "State" as same as Art 12 unless the context otherwise defines.

Eg: Govt. bodies, Central Govt., etc.

Art 37: They are non-justiciable

Novel features

DPSP: Non-justiciable rights (Cannot be enforced by any court)

- Instrument of instruction — DPSP → Resembles GOI Act 1935
- Novel feature of Constitution — B R Ambedkar
- Described DPSP as "Conscience of Constitution" — Grainville Austine
- Manifesto of aims and aspirations — K. C. Wheare
- Check payable by the bank at its own conscience — K. T. Shah
- Moral percepts for the authority of state — B N Rau

Principles which would further the goal of social exclusion

Cooperative Federalism of India

- DPSP seek to establish Social and Economic democracy
- They embody the concept of Welfare State

Added by 42nd CA 1976

Art 38 → Art 39 → Art 39A → Art 40 → Art 41 → Art 42

Welfare

LDC PHC

Free legal aid

Panchayat

Right to work

• Just and humane conditions
• Maternity leaves

- Art 38: To promote welfare of people by securing a social order permitted by justice, social, economic, and political, (and to minimise inequalities in income, status, facilities, and opportunities)

Added later through 44th CA

Art 43A

Participation of workers in the management of industries

Art 43

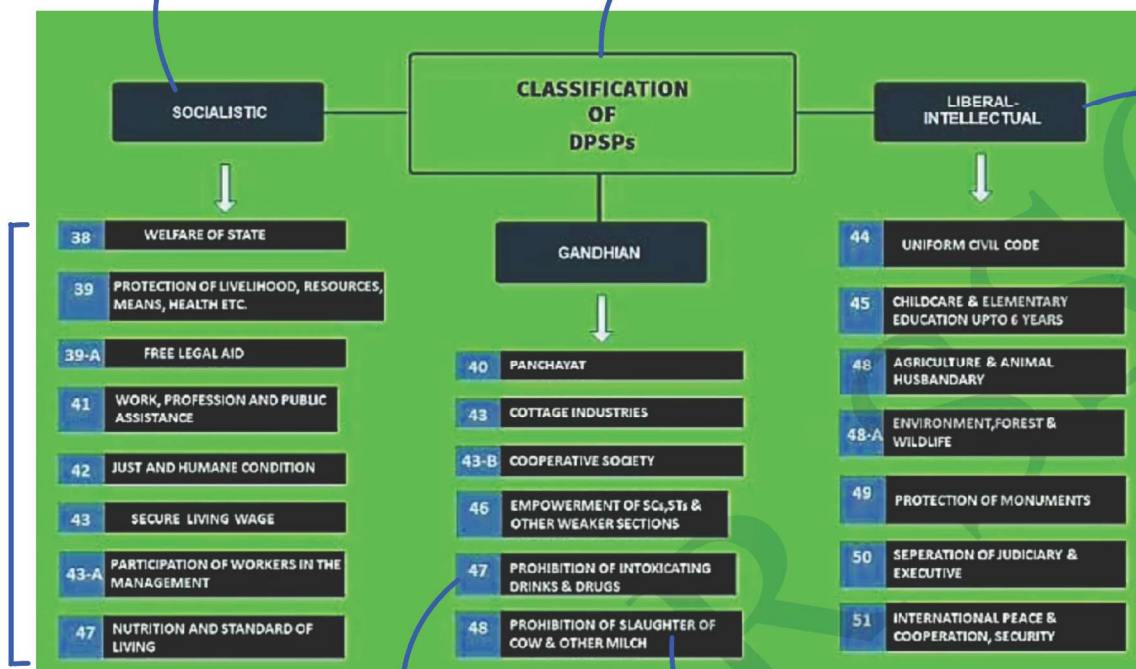
Living wages

Emphasis the need for equal opportunity and Socio-economic justice

Classification not given in Constitution

Not in order

Focuses on individual rights and liberties



To raise level of nutrition

Animal husbandry production

Art 39

- (a) Livelihood — L
- (b) Material resources distribution — D
- (c) Concentration — C
- (d) Pay for equal work for both sexes — P
- (e) Health and strength of workers — H
- (f) Children — C

Subclause (f) added by 42nd CA 1976

Art 44: Uniform Civil Code for the citizens

Art 45: Early childhood care (0-6 yrs)

Art 46: Promotion of education and economic interest of SC/ST and other weaker sections

Art 40

The State shall take steps to organise village panchayats and endow them with such powers and authority, as may be necessary to enable them to function as units of self-government

Added by 73rd CA 1992

Art 43B

The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control, and professional management of corporative societies

- **Art 47:** Duty of the state to raise the level of nutrition and standard of living and to improve public health
 - **Art 48:** Organisation of agriculture and animal husbandry
 - **Art 48A:** Protection and improvement of environment and safeguarding of forests and wildlife
 - **Art 49:** Protection of monuments and places and objects of national importance
 - **Art 50:** Separation of judiciary from executive
 - **Art 51:** (a) Promote international peace and security;
(b) maintain just and honourable relations between nations;
(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
(d) encourage settlement of international disputes by arbitration
- Amendments

- **42nd CA** —
 - **Poor:** free legal aid to poor → Art 39A
 - **Worker:** participation of workers → Art 43A
 - **Child:** opportunities for their healthy development → Art 39(f)
 - **Environment:** Art 48A

- **44th CA** — To minimise inequality in income status facility and opportunities → Art 38

- (Changes made)
- **86th CA** —
 - **FR** → **Art 21A** added (Art 21A ← ^{Justiciable} Art 45)
 - **DPSP** → **Art 45:** Early childhood care for 0-6 yrs (State)
 - **FD** → **Art 51A (k):** Guardian duty to provide education 6-14 yrs
- Changed the subject mater

- **97th CA** → **Cooperative Society** → Art 43B

* DPSP help judiciary to validate any law made by Legislature



Fundamental Rights vs DPSP

- **Champakam Dorairajan Case (1951)**: SC said —
 - FR would prevail over DPSP
 - FRs are amendmendable
- Violation of Art 15(1), 29(2)

- **Golaknath Case (1967)**: SC said — Parliament cannot take away FRs

Then

- By Parliament —
- 24th CA: Parliament can amend FRs
 - 25th CA: no law which seek to implement Art 39 (b) (c) shall be declared null and void on grounds of Art 14 and Art 19. No such law shall be questioned in any court

- **Keshavnanda Bharti Case (1973)**: 13 bench judges case

Parliament can amend FRs however cannot disturb the "Basic Structure of Constitution" (24th CA)

25th CA: 1st provision ✓

2nd provision — Unconstitutional

- **Minerva Mill Case (1980)**: Indian Constitution is found on the bedrock of balance between FRs and DPSP

Fundamental Duties

They are statutory and non-enforceable

Fundamental Duties were not originally part of the Constitution — Part IVA (Art 51A)

Taken from USSR

These are only applicable to Indians not foreigners

Added through 42nd CA 1976

Last FD → Art 51A (k) was added through 86th CA

At present 11 FDs

Art 51A (k): it is duty of guardians to provide education to 6–14 yrs

Swaran Singh Committee

Recommended the inclusion of Fundamental Duties in the Indian Constitution in 1976

Added 8 FDs

5 duties ✓

3 rejected ✗

The provision for imposing penalties for not observing any of the duties

The provision that no law imposing a penalty could be challenged in court

The duty to pay taxes

FUNDAMENTAL DUTIES

The Constitution of India

Article 51A

It shall be the duty of every citizen of India

Art 51A

- to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem ;
- to cherish and follow the noble ideals which inspired our national struggle for freedom ;
- to uphold and protect the sovereignty, unity and integrity of India ;
- to defend the country and render national service when called upon to do so ;
- to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities ; to renounce practices derogatory to the dignity of women ;
- to value and preserve the rich heritage of our composite culture ;
- to protect and improve the natural environment including forests, lakes, rivers, wild life and to have compassion for living creatures ;
- to develop the scientific temper, humanism and the spirit of inquiry and reform ;
- to safeguard public property and to abjure violence ;
- to strive towards excellence in all spheres of individual and collective activity so that the Nation constantly rises to higher levels of endeavour and achievement ;

Abide

b: Bhagat Singh

c: 3 duties

d: to defend

e: panch — to promote equality

f: fort

g: greenery

h: humanism

i: eye — Non-violence “an eye for an eye”

M K Gandhi

j: jeddu — Jadeja (all rounder)

Fundamental Duties have ethical, social, economical significance

Difference between FRs and DPSP

FRs	DPSP
<ul style="list-style-type: none">• They entail negative obligations, restraining the state from certain actions• They are justiciable, can be legally enforced• Aim to establish political democracy within the country• Backed by legal sanctions• Emphasize individual welfare• Automatically enforced without requiring additional legislations• Courts can invalidate laws violating Fundamental Rights	<ul style="list-style-type: none">• They involve positive obligations, mandating the state to take specific actions• They are non justiciable, lacking legal enforceability• Aim to establish social and economic democracy within the country• Supported by moral and political sanctions• Focus on societal welfare• Requires legislative enactment for implementation• Courts cannot invalidate laws violating DPSP• directly but may uphold laws aimed at fulfilling them

Justice Verma Committee

It identify the existence of legal provisions for implementation of Fundamental Duties

- The Unlawful Activities (Prevention) Act (1967) (UAFA)
- Prevention of insults to National Honours Act (1971)
- Wildlife Protection Act (1972)
- Forest Conservation Act (1980)
- Representation of the People Act (1951) (RPA)
- Indian Penal Code
- Protection of Civil Rights Act (1955)

• FDs are only for Indian citizens, not for alien (foreigners)

CONSTITUENTS OF THE BASIC STRUCTURE

