

TNPSC GROUP I / II - PRELIMINARY INDIAN POLITY - WORKSHEET

DIRECTIVE PRINCIPLES OF STATE POLICY

1. BASIC CONCEPTS

The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The framers of the Constitution borrowed this idea from the Irish Constitution of 1937, which had copied it from the Spanish Constitution. Dr B R Ambedkar described these principles as 'novel features' of the Indian Constitution. The Directive Principles along with the Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution. Granville Austin has described the Directive Principles and the Fundamental Rights as the 'Conscience of the Constitution'

2. FEATURES OF THE DIRECTIVE PRINCIPLES

1. The phrase 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. According to Article 36, the term 'State' in Part IV has the same meaning as in Part III dealing with Fundamental Rights.
2. The Directive Principles resemble the 'Instrument of Instructions' enumerated in the Government of India Act of 1935. In the words of Dr B R Ambedkar, 'the Directive Principles are like the instrument of instructions, which were issued to the Governor-General and to the Governors of the colonies of India by the British Government under the Government of India Act of 1935.'
3. The Directive Principles embody the concept of a 'welfare state' and not that of a 'police state', which existed during the colonial era. In brief, they seek to establish economic and social democracy in the country.
4. The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation

5. The Supreme Court has ruled many a times that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a Directive Principle, it may consider such law to be 'reasonable' in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

Article 36

The term 'State' has been used in different provisions concerning, the fundamental rights. Hence, Article 12 has defined the term for the purposes of Part III. According to it, the State includes the following:

- a. Government and Parliament of India, that is, executive and legislative organs of the Union government.
- b. Government and legislature of states, that is, executive and legislative organs of state government:
- c. All local authorities, that is, municipalities, panchayats, district boards, improvement trusts, etc.
- d. All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, SAIL, etc.

Article 37

Article 37 states that "The provisions contained in this Part (Part IV) 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"

It means that these provisions of the Constitution of India are non-justiceable, which means that these are not enforceable by any court of law. But the principles are considered fundamental in the governance of the country. It is the duty of the central and state governments to apply these principles in making laws to establish a just society in the country.

3. CLASSIFICATION OF THE DIRECTIVE PRINCIPLES

The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual.

Socialistic Principles

These principles reflect the ideology of socialism. They lay down the framework of a democratic socialist state. They direct the state:

1. Article 38: To promote the welfare of the people by securing a social order permeated by justice—social, economic and political—and to minimise inequalities in income, status, facilities and "opportunities
2. Article 39: To secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for the common good; (c) prevention of concentration of wealth and means of production; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children (Article 39).
3. Article 39A: To promote equal justice and to provide free legal aid to the poor.
4. Article 41: To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.
5. Article 42: To make provision for just and humane conditions for work and maternity relief.
6. Article 43: To secure a living wage, a decent standard of life and social and cultural opportunities for all workers
7. Article 43A: To take steps to secure the participation of workers in the management of industries.
8. Article 47: To raise the level of nutrition and the standard of living of people and to improve public health.

Gandhian Principles

These principles are based on Gandhian ideology. They represent the programme of reconstruction enunciated by Gandhi during the national movement. In order to fulfil the dreams of Gandhi, some of his ideas were included as Directive Principles. They require the State:

1. **Article 40:** To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (Article 40).
2. **Article 43:** To promote cottage industries on an individual or co-operation basis in rural areas.

3. **Article 43B:** To promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies.
4. **Article 46:** To promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation.
5. **Article 47:** To prohibit the consumption of intoxicating drinks and drugs which are injurious to health.
6. **Article 48:** To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds.

Liberal-Intellectual Principles

The principles included in this category represent the ideology of liberalism. They direct the state:

1. **Article 44:** To secure for all citizens a uniform civil code throughout country.
2. **Article 45:** To provide early childhood care and education for all children until they complete the age of six years.
3. **Article 48:** To organise agriculture and animal husbandry on modern and scientific lines.
4. **Article 48 A:** To protect and improve the environment and to safeguard forests and wild life.
5. **Article 49:** To protect monuments, places and objects of artistic or historic interest which are declared to be of national importance.
6. **Article 50:** To separate the judiciary from the executive in the public services of the State.
7. **Article 51:** To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration.

4. NEW DIRECTIVE PRINCIPLES (AMENDMENT)

The 42nd Amendment Act of 1976 added four new Directive Principles to the original list.

They require the State:

1. **Article 39 (f):** To secure opportunities for healthy development of children
2. **Article 39A:** To promote equal justice and to provide free legal aid to the poor.
3. **Article 43A:** To take steps to secure the participation of workers in the management of industries
4. **Article 48A:** To protect and improve the environment and to safeguard forests and wild life.

The 44th Amendment Act of 1978 added one more Directive Principle, which requires the State to minimise inequalities in income, status, facilities and opportunities (Article 38).

Again, the 86th Amendment Act of 2002 changed the subject-matter of Article 45 and made elementary education a fundamental right under Article 21 A.

5. CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

1. Champakam Dorairajan Case 1951

1. In the Champakam Dorairajan case (1951), the Supreme Court ruled that in case of any conflict between the Fundamental Rights and the Directive Principles, the former would prevail.
2. It declared that the Directive Principles have to conform to and run as subsidiary to the Fundamental Rights. But, it also held that the Fundamental Rights could be amended by the Parliament by enacting constitutional amendments acts.
3. As a result, the Parliament made the First Amendment Act (1951), the Fourth Amendment Act (1955) and the Seventeenth Amendment Act (1964) to implement some of the Directives.

2. Golaknath Case 1967

1. The above situation underwent a major change in 1967 following the Supreme Court's judgement in the Golaknath case (1967). In that case, the Supreme Court ruled that the Parliament cannot take away or abridge any of the Fundamental Rights, which are 'sacrosanct' in nature.

2. In other words, the Court held that the Fundamental Rights cannot be amended for the implementation of the Directive Principles.

3. 24th Amendment Act

1. The Parliament reacted to the Supreme Court's judgement in the Golaknath Case (1967) by enacting the 24th Amendment Act (1971) and the 25th Amendment Act (1971).
2. The 24th Amendment Act declared that the Parliament has the power to abridge or take away any of the Fundamental Rights by enacting Constitutional Amendment Acts.

4. 25th Amendment Act

The 25th Amendment Act inserted a new Article 31C which contained the following two provisions:

Article 31(c)

- i. No law which seeks to implement the socialistic Directive Principles specified in Article 39 (b) and (c) shall be void on the ground of contravention of the Fundamental Rights conferred by Article 14, Article 19 or Article 31.

Article 39 (b)

The state shall direct its policy towards securing that the ownership and control of the material resource of the community are so distributed as best to subserve the common good.

Article 39 (c)

The state shall direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

- ii. No law containing a declaration for giving effect to such policy shall be questioned in any court on the ground that it does not give effect to such a policy.

Kesavananda Bharati case (1973)

In the Kesavananda Bharati case (1973), the Supreme Court declared the above second provision of Article 31C as unconstitutional and invalid on the ground that judicial review is a basic feature of the Constitution and hence, cannot be taken away. However, the above first provision of Article 31C was held to be constitutional and valid.

The 42nd Amendment Act

The 42nd Amendment Act accorded the position of legal primacy and supremacy to the Directive Principles over the Fundamental Rights conferred by Articles 14, 19 and 31. Supremacy to Fundamental Rights over DPSP.

The Minerva Mills Case 1980

In the Minerva Mills case (1980), the Directive Principles were once again made subordinate of the Fundamental Rights.

The Supreme Court held that 'the Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the Directive Principles.

The present position is that the Fundamental Rights enjoy supremacy over the Directive Principles.

The Parliament can amend the Fundamental Rights for implementing the Directive Principles, so long as the amendment does not damage or destroy the basic structure of the Constitution.

6. IMPLEMENTATION OF DIRECTIVE PRINCIPLES

State Formulated various programmes for implementing the Directive Principles.

1. Planning commission(1950)
2. Niti Aayog(2015)
3. Land Reforms Law
4. Central Labour Acts
5. National-Level Commissions

6. Rural Welfare Schemes
7. Three-Tier Panchayati Raj system
8. Environmental Related Acts

7. DIRECTIVES OUTSIDE PART IV

1. Claims of SCs and STs to Services: The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or a State (Article 335 in Part XVI),
2. Instruction in mother tongue: It shall be the endeavour of every state and every local authority within the state to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups (Article 350-A in Part XVII).
3. Development of the Hindi Language: It shall be the duty of the Union to promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India (Article 351 in Part XVII).

The above Directives are also non-justiciable in nature. However, they are also given equal importance and attention by the judiciary on the ground that all parts of the constitution must be read together.

8. DIFFERENCE BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

SL.No	<u>Fundamental Rights</u>	<u>Directive principles</u>
1.	These are negative as they prohibit the state from doing certain things.	These are positive as they require the state to do certain things.
2.	These are justiciable, that is, they are legally enforceable by the courts in case of their violation.	These are non-justiciable, that is, they are not legally enforceable by the courts for their violation.

3.	They aim at establishing political democracy in the country.	They aim at establishing social and economic democracy in the country.
4.	These have legal sanctions.	These have moral and political sanctions
5.	They promote the welfare of the individual.	They promote the welfare of the community.
6.	They do not require any legislation for their implementation. They are automatically enforced.	They require legislation for their implementation. They are not automatically enforced.
7.	The courts are bound to declare a law violative of any of the Fundamental Rights as unconstitutional and invalid.	The courts cannot declare a law violative of any of the Directive Principles as unconstitutional and Invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.

9. SANCTION BEHIND DIRECTIVE PRINCIPLES

B.N. Rau

That the rights of an individual should be divided into two categories- justiciable and non-justiciable, which was accepted by the Drafting committee.

Alladi Krishna Swamy Ayyar

No ministry responsible to the people can afford light-heartedly to ignore the provisions in part IV of the constitution.

Dr. B.R. Ambedkar

A government which rests on popular vote can hardly ignore the Directive Principle while shaping its policy.

If any government ignores them, it will certainly have to answer for that before the electorate at the election time.

10. UTILITY OF DIRECTIVE PRINCIPLES

L.M. Singhvi

According to L.M. Singhvi, an eminent jurist and diplomat, the directives are the life giving provisions of the constitution and its philosophy of social justice.

M.C. Chagla

M.C. Chagla, former chief justice of India is of the opinion that, if all these principles are fully carried out, our country would indeed be a heaven on earth.

Granville Austin

Granville Austin opined that the directive principles are aimed at furthering the goals of the social revolution or to foster this revolution by establishing the conditions necessary for its achievement.

B.N. Rau

B.N. Rau the constitutional advisor to the constituent assembly, stated that the directive principles are intended as moral precepts the authorities of the state. They have at least an educative value.

11. CRITICISM OF THE DIRECTIVE PRINCIPLES

1. No Legal Force

- Pious superfluidities
- A cheque on a bank, payable only when the resources of the bank permit. **-K. T. Shah**
- A veritable dustbin of sentiments
-T.T. Krishnamachari
- Manifesto of Aims and Aspirations
-KC Wheare
- Pious Aspirations **-Sir Ivor Jennings**

2. Illogically Arranged

- No consistent philosophy

-Sir Ivor Jennings

3. Conservative

- It's based on the political philosophy of 19th century England.

4. Constitutional Conflict

Conflict Between

- a. Centre b/w states
- b. President b/w Prime Minister
- c. Governor b/w Chief Minister

- K. Santhanam

