

## **CHAPTER-III**

**DIRECTIVE PRINCIPLES OF STATE POLICY –  
NATURE OF UNDERLYING PHILOSOPHY – GOALS OF  
THE CONSTITUTION**



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Directive Principles of State Policy have been very correctly described as “life giving provisions of the Constitution and constitute its philosophy of social justice. So it becomes necessary to examine the contour and the content of Directive Principles of State Policy at great length. It is equally true that “the noble edifice of our Constitution was built after much reflection, deep study and informed and lively discussion.”<sup>1</sup> It is admitted that Sir Benegal Narasinga Rau has taken active interest in the making of our Constitution at all the formative stages. His advice and initial papers prepared by him provided “the brick and mortar for our Constitution.

The Directive Principles of State Policy “constitute the stuff of the Constitution and represent the pledges and the promises of our Constitution, which is not merely a literary document but a living instrument.”<sup>2</sup>

So far as the nature and content of the Directive Principles are concerned, it can be stated that these principles fix certain social and economic goals for immediate attainment "by bringing about a non-violent social revolution."<sup>3</sup> One may recall what Austin has said about the very nature of the Indian Constitution when he describes it "as a vehicle for social revolution." In fact, this is the philosophical foundation of the Indian Constitution in a general way. It is expected that through such a social revolution, the Constitution seeks to fulfill the basic needs of the common man and to change the structure of our society. It aims at making the Indian masses free in the positive sense."<sup>4</sup>

The essence of the Directive Principles lies in Art.38 which has very clearly stated:

"....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."

An analysis of the provision will show the following important components:

- (a) Welfare of the people
- (b) A social order
- (c) Justice – social, economic and political
- (d) The role and importance of all the institutions of the national life.

To achieve these goals, the Constitution has various provisions in Part IV. It has commanded that state is to see that the following goals are achieved:

- a) Adequate means of livelihood for citizens;
- b) Operation of the economic system and the ownership and control of the material resources for common good;
- c) Enough wages for the workers to maintain and improve their physical and mental health and that of their children;
- d) Education to make next generation as useful citizens;
- e) Adequate facilities for cultural and other social activities;

- f) Special consideration for women, children and other weaker sections of the society;
- g) Provision for raising the level of nutrition and general standard of living of the people.

The other provisions of the Directive Principles equally seek to secure the regeneration of the Indian society by improving the techniques of agriculture, husbandry, cottage industries and the like. It has been very correctly observed: "The Principles thus impose positive obligations on the state to build a safe base for democracy".<sup>5</sup>

That these Principles provide the very basis of our political and economic democracy was categorically stated in the Constituent Assembly by Nehru when he remarked:

"If one cannot solve this problem soon, all our paper Constitution will become useless and purposeless."<sup>6</sup>

What Nehru wanted to suggest is that political freedom will have no meaning unless backed by social and economic justice. The Constitution visualizes that "society as a whole and every member of the society should participate in these freedoms. In a state of society so incongruous as ours if a

man has money he is free in law and fact, but if he has no money, he is only free in law but not in fact.<sup>7</sup>

It may not be out of place here to mention Gandhiji's own ideas about Universal Declaration of Human Rights. To quote him:

"I learned from my literature but wise mother that all rights to be deserved and preserved come from duty well done. Thus the very right to live accrue to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define duties of man and woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be usurpation hardly worth fighting for."<sup>8</sup>

The inner content of Gandhiji's idea is worth noting: It is the essence of social responsibility – a collective view of the whole society. The problem of reconciliation between individual interest and social need emerges from the concept of placing individual demand over social need. But "real democracy can be built only on the sincerity with which social amelioration and economic uplift are carried out."<sup>9</sup>

One may recall what Kurt Riezler, the noted German scholar, while commenting on the tragedy of the Nazi Germany, remarked:

“If ... these duties of man should be duties towards ‘public welfare’ of the society and the state, and rights are made conditional on the fulfillment of these duties, the duties will uproot the rights. The rights will wither away .... (the) state can use the allegedly unfulfilled duties to shove aside the rights .... Any Bill of Rights that makes the rights conditional on duties towards society or the state, however strong its emphasis on human dignity, freedom, God or whatever else, can be accepted by any totalitarian leader. He will enforce the duties while disregarding the rights.”<sup>10</sup>

It demands a balancing between individual rights and social needs and this is very difficult and complex phenomenon. That is why, it is necessary to situate the philosophy of the Directive Principles in the proper perspective and it calls for an analysis of the function and role of law in a social welfare state. One should remember that Fundamental Rights and Directive Principles are the

Product of history. It has been correctly observed: "The philosophy underlying Parts III and IV was evolved from the experience of momentous events of the world in general, and India in particular, during the last three to four centuries."<sup>11</sup>

In the context of liberal democracy and laissez faire, natural law and natural rights which emerged during 17<sup>th</sup> century and thereafter, was directed towards the protection of the right to freedom of trade and free enterprise. Each individual, because of the protection under natural law and natural rights, was provided with a specific space within which he could enjoy his liberty to the maximum extent possible. For this reason, the function of the state was reduced to a minimum and were limited to essentials like maintenance of law and order, collection of revenue, foreign relations and defence of the country. It was expected that this amount of freedom would enable an individual to protect and preserve his best interest. One may recall this claim when J.S. Mill asserted that 'man is supreme over his body and mind.' He believed that there was no conflict between harmony and progress on the one hand and the protection of

private life of an individual. Freedom of contract became a fundamental operative principle in such societies.

The notion of private property and property rights began to take a new meaning with the changes of time. The legal ownership was taken away by the concept of "corporation sole" which made the corporation a legal entity. Gradually trade and commerce came under the control of a new class of power-holders.

The power-centres created many political, economic and social problems which further complicated the social relations. Means of production and distribution went into the hands of new power-holders. Artificial demands in the markets were created. By the exercise of these powers over the state machine, these classes began to control the government in general. An international nexus was created and one may consider this to be the first step towards the emergence of what we call to day, the space for multi-national corporations.

The role of the law and the state began to be viewed from a new perspective. Law became a tool in the hands of

the rich for extracting benefits for them. In the words of Goldsmith, "laws grind the poor and richmen rule the law" and also "where wealth accumates men decay." As Friedman has observed, "(Man) knows that law must serve the totality of the individuals in a community. The ultimate end of legislation is the great happiness of the greatest number."

At this point, one may cite the immortal observation by Rousseau: "Man is born free but everywhere he is in chains." Karl Marx went a step further in declaring "the workers of the world unite, you have nothing to lose but chains." The philosophy of social welfare state has its origins and foundations in the various socialistic and humanitarian movements all over the world. It is pertinent to recall the words of Buthan at this point when he said "the opulent few should be prevented from doing injury to the indignant many."

It was agreed that the rights known as basic rights are to be guaranteed to the individual. As the sametime he has duties towards the state and the society. It is expected that the society is to bring about equality for its members. That

equality should include political equality, social equality and economic equality.

## II

So far it is noticed that the central theme of the philosophical position on which the Constitution India is based is the concept of justice. The concept of justice, though a central theme has undergone tremendous changes over centuries. Thus the concept is to be situated and placed against the broad historical perspective. Historically viewed, the study can be periodised as follows:

- a) Ancient Greece
- b) Classical Rome
- c) Middle Ages
- d) Renaissance and Reformation
- e) Justice in the modern age.

It is known that the Greek concept of justice was closely related to ethics. Plato believed in the natural inequality of men and he divided people into four categories on the ruling class, the military class, the producing class and other craftsmen. He allotted specific functions and expected that

each segment of the class society would remain confined within his own space. In order to broaden the foundation of justice, he divided the concept into two: individual justice and legal justice.

Aristotle, on the other hand, held: "Justice is a social virtue which is concerned with relationships between persons...justice alone is the good of others, because it does what is for the advantage of another. To which, justice should take two forms: distributive justice and corrective justice of these two, the scope and coverage of distributive justice is wide as it seeks to cover larger areas of society. On the contrary, corrective justice, as the name signifies, is aimed at some connective actions for a man who has been the victim of injustice meted to him by the action of the state or the society.

The Roman concept of justice was very much influenced by the philosophy of the ancient Greek thinkers. The Roman law believed in the absolute power system. The Roman thinkers laid emphasis on the notion of the eternal character of justice to be delivered to all men for the advancement of

their benefit. The Roman thought advocated that the main function of the State is to give effect to the principle of justice.

The entire medieval period is marked by a conflict between the church and the state over the issue of supremacy. The church was looked upon as the guardian of the eternal law of God. Justice, to them, consists in the right relationship between men and God. Justice was divided into two kinds: distributive justice and communicative justice. Distributive justice believed in the equal distribution of justice while communicative justice was concerned with some kind of social stratification.

The Renaissance and the Reformation period sought to provide a new meaning to the concept of justice. Justice was considered to be the source of the social and democratic principles like liberty, equality and fraternity. The primary function of the state was to bring about common good and to create a social – political condition in which all people can enjoy their liberty to the fullest extent possible. The idea of justice sought to provide a base for social order.

The concept of justice has taken a new form in the hands of Karl Marx and others. The whole issue has been viewed against a class divided society where the state plays the role of an exploiter. The idea of justice is very much conditioned by socio-economic relations in a class divided society.

In contemporary discourse on justice, John Rawls has started with two notions of 'original position' and the 'veil of ignorance'. People has been considered as negotiators with general wisdom. But they fail to distinguish their interests with the interests of others. The idea of justice aims at the achievement of "primary social goods", comprising "this theory of the good", i.e. maximization of the minimum. These social goods include basic liberties, opportunities, power and a minimum of wealth. Social and economic equalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with just savings principle and (b) attached to offices and positions open to all under conditions of their fair equality of opportunity".<sup>12</sup> He also holds: "Each generation must not only preserve the gains of

culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation.<sup>13</sup> The primary end of the concept of justice as advocated by Rawls is to establish “a just basic structure of an egalitarian society” – a society where the autonomy of the individual would be ensured.

### III

Thus understood, the concept of justice can never be a static one and from that perspective justice may be classified as –

- a) Natural justice.
- b) Economic justice.
- c) Political justice
- d) Social justice
- e) Legal justice

#### **Natural Justice:**

It is considered to be the basic foundation of the idea of just social order. It refers to individual behavior to his fellow beings within the ambit of the law of nature. It can also be

known as "common sense justice."<sup>14</sup> One may refer to what Justice Sarkaria has stated in this connection:

"The phrase is not capable of a static and precise definition. It cannot be imprisoned in the straight jacket of cast iron formulae. Historically, natural justice has been used in a way which implies the existence of moral principles of self-evident and unarguable truth. In course of time, judges nurtured in the traditions of British jurisprudence often invoked with a reference to "equity and good conscience."<sup>15</sup>

Thus considered, justice is essentially based on certain human values, free from narrow and restricted nature of law and equality. In the words of justice Sarkaria:

"Rules of natural justice are principles into the conscience of man. Justice being based substantially on natural ideals and human values the administration of justice is hereby freed from the narrow and restricted considerations which are usually associated with a formulated law involving linguistic technicalities and grammatical niceties. Rules of natural justice are not

embodied rules. Being a means to an end and not an end of themselves, it is not possible to make an exhaustive catalogue of such rules.”<sup>16</sup>

### **Economic Justice:**

The idea of economic justice forms the central point of any discourse on justice as a whole. It is very wide in its scope as the entire notion of men state rational relationship is based on this aspect. It not only refers to economic equality but economic values which prohibits any kind of economic discrimination between individuals.

A look into the entire scheme of the Constitution of India will establish the fact that the founding father were very much concerned with the notion of economic justice at the time of making the Constitution for India. It is important to note the observation made by Nehru in the Constituent Assembly when he held:

“I trust this Constitution itself will lead us to the real freedom that we have clamored for and real freedom, in turn, will bring food to our starving people, clothing for them,

housing for them and all manners of opportunity of progress.”<sup>17</sup>

The idea of ensuring economic justice found concrete expressions in the provisions incorporated in the Directive Principles as well as in the Preamble to the Constitution.

### **Political Justice**

The concept of political justice demands equal treatment of all individuals in the hands of the state. It is the duty of the state to create conditions in which all citizens, without any discrimination, can take part in the political process, directly or indirectly. This is to be fortified through universal adult suffrage, rule of law, equality before the law and equal protection of the law and other mechanisms. In fact, the state is to act impartially in all matters that affect the life of a common man. It necessary, the state should have the power to provide special treatment to the people belonging to the weaker section of the community.

### **Social Justice:**

Social justice is generally considered to be the basic foundation of the society. It is taken a tool for social

transformation and social reconstruction. It is used as a mechanism for checking discrimination on the grounds of caste, colour, religion, sex etc. The idea of social justice proceeds on the assumption that liberty should prevail in the society before ensuring social justice. Philosophically viewed, social justice seeks to establish harmony and cooperation among all sections of the people.

**Legal Justice:**

Legal justice denotes that justice should have the support of law. It justifies the fact that no one is above law and everyone should be treated equal in the eye of law. That is why, it is held that justice and law are closely interrelated. This was, in fact, the central theme of the political discourse of the west and Bentham held the view that immediate purpose of law is the attainment and protection of justice. The role of the institutions for law enforcement and law interpretation becomes.

## IV

With this short sketch on the concept of justice, one can proceed to understand the nature and scope of the Directive Principles. This discussion should well begin with the observation of Dr. Ambedkar when he held that the Directive Principles “constitute a very comprehensive political, social and economic programme for a modern democratic state.”<sup>18</sup> It has been rightly observed: “If a chapter of Fundamental Rights is a must for a state of the modern democratic type with a written Constitution, a chapter on the Directive Principles of State Policy is a must for a welfare state with a written Constitution”.<sup>19</sup> To Sir Ivor Jennings, Directive Principles should be seen as “little more than a manifests of aims and aspirations.”<sup>20</sup>

The non-justificiable character of the Directive Principles became the central theme of critical discussion in the Constituent Assembly. To many of the members of the Constituent Assembly, this was the ‘weakest’ point in the entire scheme. That is why, these Principles were characterised as “superfluous’ ‘pious wishes’ or ‘high-

sounding principles” and the like Prof. K.T. Shah even went to say that those Principles could be compared with “a cheque payable by a bank as per its convenience”.<sup>21</sup> It was also held that these principles lacked the constitutional force behind them as they are purely non-justiciable in character.

But one should not ignore the force of public opinion as the enforcing agent behind these Directive Principles. This has been categorically highlighted by Justice P.B. Gajendragadkar:

“Whatever may be the political affiliation of the party which would come into power in future either in the states or at the centre, it is bound to recognize the fact that the principles laid down in Part IV are intended to be its guide, philosopher and friend in the matters of its legislative and executive activities.”<sup>22</sup>

It may be recalled that in the famous Gopalan case, then Chief Justice of the Supreme Court of India, H.L. Kania observed that Directive Principles are parts of Indian Constitution and those “represent not the temporary will of a majority but the deliberate wisdom of the nation expressed

through them to be fundamental in the governance of the country.”<sup>23</sup> Similar importance was attached to the Directive principles in some leading cases like *F.N. Balsura vs. The State of Bombay* 1951 and *Kamaleshwar vs. The State of Bihar* (1952).

Thus the Fundamental Rights in Part III and the Directive Principles in Part IV constitute ‘an organic unit’. One can cite the opinion of Sir Ivov Jennings in this connection:

“Essentially the Indian Constitution is an individualistic document. Its prophets are Burke, Mill and Dicey; yet some at least of the members of the Constituent Assembly thought in collective terms. The result is a curious dichotomy. On the one hand, the individualism of the nineteenth century has sought to limit the powers of government in the interests of liberty; on the other hand, the Collectivism of the twentieth century has sought to expand the powers of the Government in order that the State may regulate economic life and incidentally restrict liberty. In such conditions, compromise and complexity were inevitable.”<sup>24</sup>

With regard to the nature and philosophy of the Directive Principles, he further observed:

“It may be, therefore, that the ideas expressed in Part IV of the Constitution will survive for a generation. Some of them may even survive for a longer period just as ideas of the French Revolution and the right wing liberalism have survived in Part III of the Constitution. On the other hand, the question may be raised whether it is worthwhile to insert in a Constitution a collection of political principles which obviously derive from English experience in the nineteenth century and are deemed to be suitable for India in the middle of the twentieth century.”<sup>25</sup>

He further observed:

“The question whether they are suitable for the twenty-first century, when the Constitution may still be in operation, cannot be assured; but it is quite probable that they will be entirely outmoded. Experiments in the use of atomic energy have reached an advanced stage and if they succeed, they will revolutionise the economic problem.....time mores and circumstances change rapidly.”<sup>26</sup>

One may hold the view that this is a view taken from the British perspective. But one point is worth-noticing: these principles will go a long way to revolutionize the economic ideas. Again, the dichotomy between the Fundamental Rights and the Directive Principles arises from a narrow reading of the mutual relationship between the Fundamental Rights and the Directive Principles. It appears to be a correct statement when it is held:

“The conflict (between Fundamental Rights and the Directive Principles) is more apparent than real. Under Part III, generally speaking, the State is asked not to do certain things. Under Part IV, it is asked to do certain things.”<sup>27</sup>

Hedge’s observation is correct:

“..... Articles 14 to 18 of the Constitution guarantee to the citizens of this country equality before the law and equal protection of the laws. Art.38 and Art.39 direct the State to create conditions under which they can be equal or nearly equal in fact.”<sup>28</sup>

It may be noted that Art.45 stipulates that the State shall endeavour to provide, within a period of 10 years from

the commencement of the Constitution for free and compulsory education of all children until they attain the age of 14 years.

To quote Hegde:

“It became necessary for the Constituent Assembly to prescribe certain goals to be immediately reached because of the backwardness in which the country was during the foreign rule. The programme envisaged in Part IV does not in any manner obstruct or impede the future development of the nation.”<sup>29</sup>

The Constitution-makers decided to create a social order in which justice, social, economic and political shall inform all the institutions of national life. By and large, the Directives found in Part IV are ‘transcendental in character’. Art.37 makes these Directive Principle unenforceable in the court of law but they are “fundamental” in the governance of the country and a duty is imposed on the state to apply these principles in making laws.

At this point, one can recall what Dr. Ambedkar said about the nature of the Directive Principles:

“It is the intention of the Assembly that in future both the legislative and the executive should not merely pay lip service to these principles but they should be made the basis of the legislation and executive actions that may be taken hereafter in the matter of governance of the country.”<sup>30</sup>

Dr. Ambedkar compared that Directive Principles to the Instrument of Instructions issued to the Governor General of India under the Government of India Act, 1935. Regarding the non-enforcement nature as laid down in Art.37, the Planning Commission held:

“The non-justiciability clause only provides that the infant state shall not be immediately called upon to account for not fulfilling the new obligations laid upon it. A state just awakened from freedom with its many preoccupations might be crushed under the burden unless it was free to decide the order, the time, the place and the mode of fulfilling them.”<sup>31</sup>

In the same vein, the second Five Year Plan held:

“Essentially this means that the basic criterion for determining the lines of advance must not be private profit but social gain, and that the pattern of development and the

structure of socio-economic relations should be so planned that they result not only in appreciable increases in national income and employment but also in greater equality in incomes and wealth.”<sup>32</sup>

That all the agencies in the state system should be oriented to social development and advancement was also emphasized by the Planning Commission:

“Major decisions regarding production, distribution, consumption and investment – and in fact, all significant socio-economic relationships must be made by agencies informed by social purpose. The benefits of economic development must accrue more and more to the relatively less privileged classes of society, and there should be progressive reduction of the concentration of incomes, wealth and economic power.”<sup>33</sup>

Both the purpose and the problems associated with this process were highlighted by the Planning Commission:

“The problem is to create a milieu in which the small man who has so far had little opportunity of perceiving and participating in the immense possibilities of growth through

organized effort is enabled to put in his best in the interests of a higher standard of life for himself and increased prosperity for the country.”<sup>34</sup>

According to Justice Hegde, Art.38 is “the Keystone of the Directive Principles”.<sup>35</sup> The Article is a directive to the State” to effectuate the hopes expressed in the Preamble to our Constitution by securing a social order for the promotion of the welfare of the people. It is the star by which we are expected to chart our course.”<sup>36</sup> From our experiences, we can arrive at a conclusion that democracy can survive only in a society based on equality and social justice.

Art.38 directs the State to provide work for all, improve the living conditions of the common man, provide sufficient food and clothing to all, provide relief to the sick and pension for the old and infirm and educate all children. There are “minimum requirements of civilized existence.”<sup>37</sup> Philosophically viewed, Art.38 does not “contemplate extreme poverty, misery and squalor side by side with richness, ostentatiousness and luxury.”<sup>38</sup>

Since independence, the State in India has been able to make some perceptible progress in the fields of agriculture and industry. It has fixed minimum wages for the workers, modernized the labour laws and improved the conditions of labour. It has increased considerably the number of educational institutions in the country. Significant achievements have been made in the abolition of Zamindaries and the introduction of land reforms providing for distribution of land to the landless. Steps have been taken to place restrictions on monopolistic practices in trade and industry. Special provisions have been made for socially and educationally backward classes of citizens and for the Scheduled Castes and Scheduled Tribes in matters of education and unemployment.

All these actions taken by the State indicate its commitment to the ideas and goals set out in the Preamble, the Fundamental Rights and the Directive Principles of State Policy of the Constitution. But still then the question remains: has the State been able to reach the target set in the Constitution itself? The answer is bound to be a mixed

one. Although much has been done, still much more needs to be done. Justice Hegde has rightly pointed out:

“In our country, there are innumerable obstacles – mostly man-made-stated in the way of initiating and implementing socio-economic reforms....This will, if allowed to continue, corrode the vitals of our body politic”.<sup>39</sup>

At this point, a reference to the observation of Guner Myrdal seems to be very much relevant:

“under the British rule, the European sections of Indian critics – called in India the “Civil Lines” had also housed a few Indians, either senior officials or simply men of wealth. Not surprisingly the arrival of independence saw an influx of Indian office-holders into these privileged enclaves of the British Raj....Although trivial in themselves, these manifestations tended to widen the gulf between the rulers and the ruled and to divert official attention from the urgent need for fundamental reforms in Indian society. At the same time such resplendence emphasized the new Government’s role as the successor to the British Raj; it also encouraged

the view that the political independence had done little more than displace a foreign with a native privileged group.”<sup>40</sup>

This should be taken a note of caution from a scholar who made in-depth study of this kind of situation. Whatever may be the view, it is true that the Constitution has given the primary responsibility of building a just social order to the authority of the State. It is very correct to hold that “the implementation of the Directives in Articles 39 to 51 cannot depend on the convenience of those who are charged with the responsibility of implementing this directives.”<sup>41</sup>

In this connection, the observation of E.K. Allen appears to be have relevance:

“We hear much to-day of ‘social justice’. I am not sure that those who use the term most glibly know very clearly what they mean by it. Some mean distribution or redistribution of wealth; some interpret it as equality of opportunity – a misleading term, since opportunity can never be equal among human beings who have unequal capacities to grasp it; many, I suspect, mean simply that it is unjust that anybody should be more fortunate than themselves; and

the more intelligent mean that it is just – I would rather say benevolent – that every effort should be made at least to mitigate the asperities of natural human inequality and that no obstacle should be offered, but rather help afforded to practicable opportunities of self-improvement.”<sup>42</sup>

Art.39 states that the citizens, men and women equally have the right to an adequate means of livelihood; that the ownership and control of material resources of the community should be so distributed as best to subserve the common good; that the operation of the economic system should be such as not to result in the concentration of wealth and means of production to the common detriment; that there should be equal pay for equal work for both men and women.

Art.40 directs the state to organize village panchayats and endow them with such power and authority as may be necessary to enable them to function as units of self-government. Panchayats are considered to be the instruments of democratic decentralization.

Art.44 directs that the state shall endeavour to secure for the citizens a uniform civil code throughout the country. Various steps have been taken for the promotion of the educational and economic interests of the backward classes, Scheduled Castes and Scheduled Tribes. A great deal remains to be done to integrate these classes with the rest of the Nation.

Art.47 upholds the basic Gandhian philosophy to bring about prohibition of intoxicating beverages and drugs which are injurious to health. Art.50 deals with the issue of separating judiciary from the executive.

## V

From this presentation, it becomes clear that the makers of the Constitution sought to give effect to the concept of social revolution through the Directive Principles. In the words of Justice Hegde:

“I emphasize again that no part of the Constitution is more important than Part IV; that part together with Part III embodies the philosophy of our Constitution. Part IV contains the ideals to be achieved and prescribes the manner

in which those ideals are to be realized. To ignore Part IV is to ignore the sustenance provided for in the Constitution, the hopes held out to the Nation and the very ideals on which our Constitution is built up.”<sup>43</sup>

That there might be gap between the declaration of ideals and their achievement in actual practice has been categorically stated by Myrdal:

In our country there is “a dichotomy between ideals and reality and even between enacted legislation and implementation .... Social legislation (intended for our country) pointed the direction in which society should travel, but left the pace indeterminate. Many of these laws were intentionally permissive ....”<sup>44</sup>

He further observed:

“The principal weakness of their position of India’s .... has been that in the meantime the shifting power base of Indian politics has strengthened not merely conservative but often reactionary forces, thereby making the realization of the modernization ideals even more difficult. Resistance has been given a chance to build up against many reforms that might

have been pushed through in the first flush of independence.”<sup>45</sup>

He was warned against the delay in the implementation of these programmes as set out in the Constitution. To him,

“The postponement of the promised social and economic revolution which was to follow India’s political revolution is things in danger of becoming permanent. Even the political revolution became less of a reality than the ideological leaders expected. Behind its impressive parliamentary façade, India is still far from being controlled by the majority of its people, or even from having its policies devised so as to be in the interest of the masses.”<sup>46</sup>

With regard to the mutual relationship between the Fundamental Rights in Part III and the Directive Principles in Part IV, the position of the judiciary in the early phase have been strictly formal and restrictive in nature. The observation of Justice S.R. Das in Champakam case may be cited in this respect:

“The Directive Principles of State Policy which by Art.37 are expressly made un-enforceable by a Court cannot

override the provisions found in Part III which, notwithstanding other provisions, are expressly made enforceable by appropriate Writs, orders or Directions under Art.32. The chapter of Fundamental Rights is sacrosanct and not liable to be abridged by any legislative or Executive Act or order, except to the extent provided in the appropriate article in Part III. The Directive Principles of State Policy have to conform to and run subsidiary to the Chapter of Fundamental Rights. In our opinion, that is the correct way in which the provisions found in Parts III and IV have to be understood. However, so long as there is no infringement of any Fundamental Right, to the extent conferred by the provisions in Part III, there can be no objection to the State acting in accordance with the directive principles set out in Part IV, but subject again to the Legislative and executive powers and limitations conferred on the State under different provisions of the Constitution.”<sup>47</sup>

That the judiciary had taken a broader view of the relationship between the Fundamental Rights and the Directive Principles becomes evident in Kameshwar Singh

case. In this case, the Supreme Court considered the validity of the Bihar Land Reforms Act, 1950. Justice Mahajan relied on Art.39 of the Constitution which provides that the State shall, in particular, direct its policy towards securing that ownership and control of the material resources of the community are to be distributed as to sub-serve the common good and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.<sup>48</sup>

Almost the same view was expressed by Justice Mukherjee in *Bijay Cotton Mills Ltd.*:

“It can scarcely be disputed that securing of living wages to labourers which ensure not only bare physical subsistence but also the maintenance of health and decency, is conducive to the general interest of the public. This is one of the Directive Principles of State Policy embodied in Art.43 of our Constitution.<sup>49</sup>

A broader view was taken by the court in *Chandra Bhavan and Lodging Bangalore* case wherein the court held:

“..... It is a fallacy to think that under our Constitution, there are only rights and no duties. While rights conferred under Part III are fundamental, the directives given under Part IV are fundamental in the governance of the country. We see no conflict on the whole between the provisions contained in Part III and Part IV. They are complementary and supplementary to each other. The provisions of Part IV enable the legislature and the Government to impose various duties on the citizens. The provisions therein are deliberately made elastic because the duties to be imposed on the citizens depend on the extent to which the directive principles are implemented. The mandate of the Constitution is to build a welfare society in which justice, social, economic and political, shall inform all institutions of our national life. The hopes and aspiration around by the Constitution will be believed if the minimum needs of the lowest of our citizens are not met.”<sup>50</sup>

It has echoed by Justice Hegde when he says:

“I do not envisage any conflict between the provisions of Part III and Part IV. For finding out the scope of the seven

freedoms guaranteed by Article 19(1), we are undoubtedly have to take into consideration the restrictions imposed on those freedoms by sub-clauses (2) to (6) of that Article. To ascertain the ambit of those restrictions, one has to place reliance on the Directive Principles in Part IV ..... The nature and content of those limitations depend on the progress of our society and the direction in which the society moves.”<sup>51</sup>

Again, in his opinion, “the concept of ‘reasonable restrictions’ is not a static concept. It may vary from time to time and from circumstance to circumstance. For ascertaining the test to judge the resemblances of a restriction we have to turn to Part IV of the Constitution.”<sup>52</sup>

The kind of over-all assessment made by Justice Hegde upholds the nature and importance of the Directive Principles in our Constitution. His assertions are not emphatic but also conform to the high ideals set in the Directive Principles:

“I do not think there is any substance in the complaint often heard that several of the Directives contained in Part IV are not capable of being implemented because of the

difficulties created by the Fundamental Rights in Part III. I am inclined to think that this complaint is in the nature of an alibi. There is again no truth in the allegation that the courts are standing in the way of implementing the Directive Principles.”<sup>53</sup>

He is of the opinion that the goals of the Constitution are well set in different provisions of the Constitution. “Our Constitution proceeds on the basis that just ends must be secured by just means .....A just social order cannot be built up by any society if it is corrupt..... Our Constitution has tremendous creative potential. It lays out a plan for peace, progress and prosperity of this nation. It visualizes the building of a welfare society, a just social order. Our Constitution has not failed us. What is necessary is that we should measure up to its expectations.

The makers of the Constitution had in their view the necessity of change and they believed in constitutional dynamism. It was pointed out that a Constitution which failed to respond to outward changes could not survive the

test of time. They gave power to Parliament to legislate in order to make adjustments both in Part III and Part IV.

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