

CHAPTER-IV

DIRECTIVE PRINCIPLES OF STATE POLICY AND THE PHILOSOPHY OF CONSTITUTION – AN EXAMINATION

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PHILOSOPHY OF CONSTITUTION – AN EXAMINATION****I**

There had been a serious debate regarding the nature of the Directive Principles of State Policy and their relationship with the Fundamental Rights in the Constituent Assembly at the time of framing the Constitution. It was argued, in a general way, that Part III dealing with the Fundamental Rights and Part IV dealing with the Directive Principles are not to be treated separately and they constitute “an organic whole”. In other words, it was suggested that while Part III deals with political rights of the individuals, Part IV is concerned with social and economic rights.

So far as these attitudes of the framers are concerned, there appears to be perfect harmony in this scheme of constitutional arrangement. This is a broader view of the constitutional position of both these two parts. But from a strict and formal perspective, both these parts do not enjoy equal constitutional status. While Part III is declared ‘enforceable in the court of law’, Part IV is not ‘enforceable’.

from a strict and literal meaning of Art. 13 and Art.37 respectively, one can draw a conclusion that Part III dealing with Fundamental Rights occupies a superior and sacrosanct position vis-à-vis Part IV dealing with the Directive Principles of State Policy.

As the constitutional design of the Directive Principles suggests, the underlying political ideals as contained in the Directive Principles are mainly three in nature: Socialistic ideals, liberal-democratic ideals and the Gandhian ideals. Again, this is an example of, what Austin has said, "Accommodation and Compromise".

At this point, the observation in the "Statement of objects and Reasons" of the Constitution (Forty Second Amendment Act, 1976 seems to be quite relevant for the present discussion. It read:

"The democratic institutions provided in the Constitution are basically sound....but this institutions have been subjected to considerable stresses and strains and that vested interests have been trying to promote their selfish ends to the great detriment of public good".¹

The 42nd Amendment Act, therefore, sought to “amend the Constitution, to spell out expressly the high ideals of socialism, secularism and the integrity of the nation, to make the Directive Principles more comprehensive and give them precedence over those Fundamental Rights which have been allowed to be relied upon to frustrate socio-economic reforms for implementing the directive principles.”²

An analysis of this statement highlights the major objectives of this Act. It sought to :

- a) achieve high ideals of Socialism, secularism and the integrity of the nation;
- b) make Directive Principles more comprehensive.
- c) give the directive principles precedence over fundamental rights; and
- d) provide more space for socio-economic reforms.

It becomes clear that the state, through this Act wanted to place heavy reliance on the Directive Principles in consideration of their wider coverage, deep-rooted socio-economic philosophy and far-reaching purposive goals.

With this end in view, the Act amended Arts.39,43 and 48. In Art.39 for clause (f), the following clause has been inserted:

(f) That children are given opportunities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral and material abandonment.”³

A new Art.39A was inserted which aims at giving all citizens opportunity in connection with legal aid.⁴ The article provides:

“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 any other way, to ensure that opportunities for securing justice are denied to any citizen by reason of economic or other disabilities.”⁵

For better industrial environment, provision has been made for the participation of the workers in industrial management and a new Art. 43A has been inserted which reads:

“The State shall take steps, by suitable legislation or any other way, to secure the participation of workers in the management of undertakings, establishments or other organization engaged in any industry.”⁶

Another new Article 48A was inserted which declared:

“The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.”⁷

It may be recalled here that Part IV of the Indian Constitution, dealing with the Directive Principles is designed to bring about “social and economic revolution”, the imperative of which was felt immediately after the attainment of independence. The gravity and magnitude of the problems relating to the total upliftment of those people who had been suffering from social evils for the last two centuries was pointed out by Prime Minister Nehru when he observed: “If one cannot solve this problem soon, all over paper constitution will become useless and purposeless.”⁸

II

The nature and significance of the Directive Principles can best be understood with reference to some important judicial decisions: One may notice the nature of conflicting attitudes shown by the judiciary. It may be noted that in the initial phase, the judiciary took a very formal and strict position in explaining the scope of the Directive Principles but subsequently realizing the importance of the Directives in the broader perspective of constitutional setting, attached due importance to them.

In the case of the State of Madras Vs. Champakam Dorairajan, the Supreme Court held:

“The Directive Principles of State Policy which by Art.37 are expressly made unenforceable by a Court can not override the provisions found in Part III which, notwithstanding other provisions, are expressly made enforceable by appropriate units, 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

articles in Part III. The Directive Principles of State policy have to conform to and run subsidiary to the chapter on Fundamental Rights.⁹

The Court further observed:

“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 Rights, 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.”¹⁰

This stand had its impact on a number of subsequent cases at the High Court level.

(*Jagwant Kaur vs. The State of Bombay*, AIR, 1952, Bomb.461; *Ajaib Singh vs. The State of Punjab*, AIR, 1952, Punj. 309; *Biswambhar vs. The State of Orissa*, AIR, 1957, Orissa 247). It may be pointed out in this connection that “this rigid interpretation of the Supreme Court paved the way

for passing the First and the Fourth Amendments to the Constitution in 1951 and 1955 respectively”.¹¹

In the case of H.M. Quareshi vs. The State of Bihar, the Court laid stress on harmonious interpretation between Parts III and IV so that “the State should certainly implement the Directive Principles but must do in such a way that its laws do not take away or abridge the Fundamental Rights, for otherwise the protecting provisions of Chapter III will be mere rope of sand.”¹²

The same attitude was expressed by the Supreme Court in the Kerala Education Bill, 1957. It was held:

“Although certain legislation may have undertaken by a State in discharge of the obligations imposed on it by the Directive Principles enshrined in Part IV of the Constitution, it must, nevertheless, sub-serve and not override the Fundamental Rights conferred by the provisions of the Articles contained in Part III of the Constitution.”¹³

Further it noted:

“The Directive Principles have to conform to and run subsidiary to the Chapter on Fundamental Rights.

Nevertheless, in determining the scope and ambit of the Fundamental Rights relied on by or on behalf of any person or body the court may not entirely ignore these Directive Principles of State Policy laid down in Part IV of the Constitution but should attempt to give effect to both as much as possible.”¹⁴

The importance of the Directive Principles was highlighted by the Court in the Case of the State of West Bengal vs. Subodh Gopal Bose.¹⁵ Justice S.R. Das and Justice Jagannadh Das held that the Court cannot ignore the importance of the Directive Principles in any way as having no bearing on the interpretation of constitutional problems. Justice Jagannadh Das held:

“I am of the view that the Courts may not ignore the directive principles, as having no bearing on the interpretation of constitutional problems since Art.37 categorically states that it shall be the duty of the State (including the legislature by virtue of the definition of ‘State’ in Part III made applicable by Art.36) to apply to these principles in making laws....”¹⁶

Besides these cases, in some other cases the judiciary explained the real nature of the Directive Principles and their relationship with Fundamental Rights.¹⁷

It may be cited that even in the case of *Golaknath vs. The State of Punjab*, while upholding the transcendental character of the Fundamental Rights, the Supreme Court referred to the Directive Principles of State Policy. According to Subba Rao, C.J., Parts III and IV constitute an integrated scheme forming a self-contained code and the scheme, being an elastic one, the Directive Principles can be implemented without coming into conflict with any of the Fundamental Rights contained in Part III of the Constitution.¹⁸

The Supreme Court in the *Keshavananda Bharati vs. The Union of India*, popularly known as the Fundamental Rights case, 1972, while declaring the second part of Art.31(0) which was inserted by the Section 3 of the 25th Constitution Amendment Act void, recognized the importance of the Directive Principles.¹⁹

In the opinion of the Court, the Directive Principles laid down the ends to be achieved while the Fundamental Rights

should be taken to mean the means through which the goals are to be realized. It was also pointed out that the Indian Constitution does not subscribe to the theory that the end justifies the mean adopted.²⁰

III

The nature and importance of the Directive Principles found significant places in the opinion of the Executive and the legislative because, in a parliamentary system, these two organs are entrusted with the task of policy-making and policy implementation.

That the government attaches importance to these Directives can be best understood from the fact that the Constitution had to be amended twice (First and Fourth Amendment) for implementing the Directive Principles.²¹

Introducing the motion for consideration of the Fourth Amendment to the Constitution in the Lok Sabha on March 14, the Prime Minister said:

“I would like to draw the attention of the House to something that is not adequately stressed either in Parliament or in the country. We stress greatly and argue in

the Courts of law about the Fundamental Rights. Rightly so, but there is such a thing as also the Directive Principles of the Constitution. Even at the cost of repeating them, I wish to read them out These are, as the Constitution says, the fundamentals in the governance of the country. Now I shall like the House to consider how you can give effect to these principles if the argument which is often used even, if I may so with all respect, by the Supreme Court's interpretation of the Constitution. They are wiser than we are in interpreting things. But I say, then if that is correct, there is an inherent contradiction in the Constitution between the Fundamental Rights and the Directive Principles of State Policy. Therefore, again it is upto the Parliament to remove the contradiction and make the Fundamental Rights subserve the Directive Principles of State Policy."²²

In the same way, the Government defined the scope of the Planing Commission, established on 15th March, 1950. The Resolution declared:

The Constitution of India has guaranteed certain Fundamental Rights to the citizens of India and enunciated

certain Directive Principles of State Policy, in particular, that 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 national life, and shall direct its policy towards securing, among other things:

- a) that the citizens, men and women equally, have the right to an adequate 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.”²³

The Draft First Five Year Plan, highlighting the importance of the Directive Principles, observed interalia:

“The economic and social pattern to be attained through planning is indicated in the Directive Principles of State Policy enunciated in Arts.36 to 51 of the Constitution. In terms of these Directive Principles, the state is to regard the

raising of the level of nutrition and the standard of living of the people as its primary duties. The economic policy of the state must be governed by the obligation placed upon it to secure that the citizens, men and women equally have the right to adequate means of livelihood.”²⁴

It further declared:

“The State has to endeavour, within the limits of economic capacity and the stage of development reached, to make effective provision for securing the right to work, the right to education and the right to public assistance in cases of unemployment, old age, sickness, disablement and in the cases of undeserved want.”²⁵

Commenting on the role of the Directive Principles, it further stated:

“For attaining these ends, the Directive Principles enjoins that the ownership and control of the material resources of the country should be so distributed as best to subserve the common good and the operation of the economic system should not result in the concentration of

wealth and the means of production in a manner detrimental to the common good.²⁶

That the need for general well-being is the ultimate goal has been highlighted in these words:

“Special stress is laid on the need to secure to all the workers – agricultural, industrial and others, work, a living wage, conditions of work ensuring a decent standard of life and full employment of leisure and social and cultural opportunities. In furtherance of these aims, the state is to endeavour to organize agriculture and animal husbandry on modern and scientific lines and to promote cottage industries on individual or co-operative lines.”²⁷

It goes on further to say:

“Briefly, the Directive Principles visualize an economic and social order based on equality of opportunity, social justice, the right to work, the right to adequate wage and a measure of social security for all citizens. They do not prescribe any rigid economic or social framework, but provide the guidelines of social policy. Planning in India has to follow

these guidelines to initiate action which will, in due course, produce the desired economic and social reform.”²⁸

Directive Principles of State Policy found a logical support from the adoption of the principle of “Socialist Pattern of Society” in December 1954 which was declared in the following words:

“Essentially this (Socialist pattern of society) means that the basic criterion for determining 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 increase in national income and employment but also in greater equality in income and wealth. 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 enumeration of incomes, wealth and economic power.”²⁹

Regarding the nature of the concept of Socialist pattern of society, it observed:

“The socialist pattern of society is not to be regarded as some fixed or rigid pattern. It is not rooted in any doctrine or dogma. Each country has to develop according to its own genius and traditions. Economic and social policy has to be shaped from time to time in the light of historical circumstances. It is neither necessary nor desirable that the country should become a monolithic type of organization offering little play for experimentation either as to forms or as to modes of functioning.”³⁰

It was further stated:

“The account of the socialist pattern of society is on the attainment of positive goals, the raising of living standards, the enlargement of opportunities for all, the promotion of enterprise among the disadvantaged classes and the creation of a sense of partnership among all sections of the community. The Directive Principles of State Policy in the Constitution have indicated the approach in broad terms; the socialist pattern of society is a more concretised expression of

this approach. Economic policy and institutional changes have to be planned in a manner that would ensure economic absence along democratic and egalitarian lines. Democracy, it has been said, is a way of life rather than a particular set of institutional arrangements. The same could be of the socialist pattern.”³¹

The Congress Party in December, 1945 declared:

“The most vital and urgent of India’s problems is how to remove the curse of poverty and raise the standard of the masses For this purpose, it will be necessary to plan and coordinate social advance in all its many fields, to prevent the concentration of wealth and power in the hands of individuals and groups, to prevent vested interests inimical to society from growing, and to have social control of the mineral resources, means of transport and the principal method of production.”³²

Since 1950, the Planning Commission has drawn up plans of economic development in which importance was attached to Art.39(b) and (c), (f), Arts.41, 42, 43 – all related

to the economic and social welfare of all kinds of labour – agriculture, industrial or otherwise.

It has been estimated that between 1951 and 1961, the total production of industry and agriculture increased by 42% in spite of the fact that the living condition of farm workers deteriorated during the period of the First Five Year Plan. Side by side with this aspect, it is to be mentioned that India's net national income increased by about 69% between 1951 and 1966, covering the period of first three five-year plans."³³

It may be said at this point that the 42nd Constitution Amendment Act which contained recommendations of the Swaran Singh Committee in so far as it related to the Directive Principles expected to bringing about the desired egalitarian society visualized by the framers of the Constitution in the Chapter of Directive Principles of State Policy. There can not and should not be a conflict between the Fundamental Rights and the Directive Principles. This is the underlying concept of the Constitution and the Fundamental Rights have, therefore been defined not in

absolute terms but subject to limitations in the interests of the community.

IV

It has already been established that the Directive Principles of State Policy as set in Part IV contain a set of goals to be achieved through the instrument – the Constitution. A comprehensive discussion of this nature calls for a proper understanding of the goals set in the Preamble and to identify the nature of inter connectivity with other operative parts of the Constitution – here in relation to the Directive Principles. The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a proper yardstick with which one can measure the worth of the Constitution.”³⁴

The nature and importance of the Preamble to a Constitution can best be explained by referring to the observation from “Maxwell on the Interpretation of the Statutes.”

It has been observed that the preamble of a statute “has been said to be good means of finding out its meaning a

key to the understanding of it It usually states or professes to state, the general object and intention of the legislature in passing the enactment, it may legitimately be consulted to solve any ambiguity or to fix the meaning of the words”³⁵

Looking from this perspective, the underlying principles as well as the philosophy of the Constitution can be understood. The Preamble stands for :

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity; and to promote among them all

Fraternity assuring the dignity of the individual and the unity of the nation.

The Preamble, to a great extent, is based on the “Objectives Resolution” adopted on January 22, 1947 which declared:

“(1) this Constituent Assembly declares its firm and solemn resolve to proclaim India as an independent

Sovereign Republic and to draw up for her future governance a Constitution;

(2) wherein the territories that now comprise British India, the territories that now form the Indian States and such other parts of India as are outside British India and the states, as well as such other territories as are willing to be constituted into the independent Sovereign India, shall be a Union of these all, and

(3) wherein the said territories, whether with their personal boundaries or with such other as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as inherent or implied in the Union or resulting therefrom; and

(4) wherein all powers and authority of the Sovereign Independent India, its constituent parts and organs of government, are deprived from the people; and

(5) wherein shall be guaranteed the secured to all the people of India justice, social, economic and political, equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to the law and public morality; and

(6) wherein adequate safeguards, shall be provided for minorities, backward and tribal areas and depressed and other backward classes; and

(7) Whereby shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilized nations; and

(8) This ancient land attain its rightful and honoured place in the world and makes its full and willing contribution to the promotion of world peace and the welfare of mankind.”

It has been rightly observed:

“On a careful reading of the preamble to the Constitution of India in its original form and the objectives Resolution, it becomes clear to any observer that the entire scheme of the Constitution is based on the basic ideals of liberty, equality, social justice and fraternity – in one sense, complete independence from any kind of tutelage – the ideas for which the leaders of national freedom movement laid down their lives”.³⁶

It may be admitted that the Preamble contains the basic philosophy of the Constitution which have been detailed in different parts of the Constitution including the chapters on Fundamental Rights and the Directive Principles of State Policy. But it is equally true to say that mere declaration of goals and statement of ideals will be of no relevance unless these are supported by adequate mechanism for their implementation. In other words, it demands a thorough and detailed discussion of the functional aspect of the constitutional practices. A comprehensive analysis of the preamble as the fountain head of the ideals should be made in relation to other aspects of the Constitution and in this

present study with specific reference to the Directive Principles of State Policy.

From a strict formal and legal point of view, a question is asked: can the Preamble control other parts of the Constitution including the amending power which provides dynamism to the Constitution? Theoretically speaking, the Preamble is not supposed to control the amending article because constitutional theory does not regard the Preamble to be a part of the Constitution. It is correct to observe that "every Constitution has its own peculiarities and the Preamble may be viewed as a device for synthesizing of these peculiarities in a narrow compass."³⁷

Since it has been declared that "a Constitution is what the Judges it is." Naturally, a brief reference to some leading cases in the Indian context would be of significant help.

In a landmark judgement in the case of *A.K. Gopalan v. The State of Madras*, Patanjali Sastri, J. observed:

"There can be no doubt that the people of India have, in exercise of their sovereign will as expressed in the Preamble, adopted the democratic ideals which assures to the citizens,

the dignity of the individual and other cherished human values as a means to the full evolution and expression of his personality, and in delegating to the legislature, the executive and the judiciary, their respective powers in the Constitution reserved to themselves, certain fundamental rights ... as in the American model This has been translated into positive law in Part III of the Indian Constitution, and I agree that in construing these provisions, the high purpose and spirit of the Preamble as well as the Constitutional significance of a Declaration of Fundamental Rights should be borne in mind. This, however, is not to say that the language of the provisions should be stretched to square with this or that constitutional theory in disregard of the cardinal rule of interpretation of any enactment, constitutional or other, that its spirit, no less than its intendment, should be collected primarily from the natural meaning of the words used.”³⁸

In the case of *The State of West Bengal vs. Anwar Ali Sarkar*, Justice Mukherjee held:

“I agree with the learned Chief Justice of the Calcutta High Court that the express provision of an enactment, if it is

clear and unambiguous cannot be curtailed or extended with the aid of the Preamble to the Act. It is only when the object or meaning of the enactment is not clear that recourse can be had to the Preamble to explain it.”³⁹

In the same case, Justice Chandrasekhar Aiyar observed:

“If the scope of the meaning of the (impugned) Act is doubtful, the Preamble can be referred to for ascertaining its extent and purpose. But where the operative parts of the Act are clear, and there no ambiguity, the Preamble cannot be allowed to control the express provisions.”⁴⁰

Again in the “In re Berubari Union and the Exchange of Enclaves, the Court, referring to the Preamble, said:

“There is no doubt that the declaration made by the people in exercise of their sovereign will in the Preamble to the Constitution is, in the words of Justice Story, ‘a key to open the mind of the makers’ which may show the general purposes for which they made the several provisions of the Constitution; but nevertheless, the Preamble is not a part of the Constitution and so Willoughby has observed about the

Preamble to the American Constitution, it has never been regarded as a source of any substantive power conferred on the Government of the United States or any of its departments. Such powers embrace only those expressly granted to the body of the Constitution and such as may be implied from those granted".⁴¹

The observation made by Justice Mudholkar in the case of Sajjan Singh v. The State of Rajasthan is wrote noting in this connection:

"While considering this question, it would be of relevance to bear in mind that the Preamble is not of the common rule such as to be found in an Act of a Legislature. It has the stamp of deep deliberation and is marked by precision. Would this not suggest that the Framers of the Constitution attached special significance to it."⁴²

That the declarations made in the Preamble are of the nature of public policy was highlighted by chief Justice Mahajan in the case of Beharam Kursheed Pesikaka v. The State of Bombay:

“We think that the rights described as Fundamental Rights are a necessary consequence of the declaration in the Preamble that the people of India have solemnly resolved to constitute India into a Sovereign Democratic Republic, and to secure to all its citizens justice, social, economic and political, liberty of thought and expression, belief, faith and worship, equality of status and of opportunity. They have been put there as a matter of public policy....”.⁴³

A similar line of thinking was expressed by Das, C.J. in “In re The Kerala Education Bill” when he pointed to need of construing the Preamble in order to appreciate the entire scheme of the Constitution.

From this survey, it is clear that the Judiciary in India, while accepting the Constitutional/legal position of the Preamble, did not fail to recognize the importance of the Preamble as it upholds the basic foundation on which the Constitution is based. In the case of the Indian situation, it becomes all the more relevant as the ‘basic philosophy’ of the Constitution as outlined in the preamble has found elaborate expression in other parts of the Constitution, the central part

being the Chapters on Fundamental Rights and the Directive Principles of State Policy.

V

Thus viewed, it may be held that the scheme of the Indian Constitution suggests that the Directive Principles of State Policy are in many cases of wider import than the Fundamental Rights. While the Fundamental Rights are, in effect, “negative injunctions” to the State not to undertake certain things, the Directive Principles are “positive commands to the State to promote social welfare through “corrective” or “constructive” measures. The Directive Principles are “declaratory” and have expressly been excluded from the purview of the courts. The relationship between the Fundamental Rights and the Directive Principles had been explained, as seen earlier, in the case of *State of Madras v. Champakam Dorairajan*.

The Directive Principles of State Policy are in the nature of “Instrument of Instructions”. This view was echoed by Dr. Ambedkar in the Constituent Assembly:

“The Directive Principles are like the Instrument of Instructions which were issued to the Governor-General and to the Governors of the Colonies and to those of India by the British Government under the 1935 Act. What is called ‘Directive Principles’ is merely another name for Instrument of Instructions. The only difference is that they are instructions to the legislature and the Executive. Such a thing to my mind should be welcomed. Wherever there is a grant of power in general terms for peace, order and good government, it is necessary that it should be accompanied by instructions regulating its exercise.”⁴⁴ Directive Principles have been regarded as ‘moral precepts’ for the State.

But even in the Constituent Assembly, these Directive Principles were severely initiated by many members. Prof. K.T. Shah compared it with a cheque on a bank payable at the convenience of the bank. Prof. K.C. Wheare described them as “a little more than a manifesto of aims and aspirations.” Jennings has even questioned the national behind insertion of a set of goals which do not have the sanction of the Constitution. Replying this criticism, Nehru

asserted: "The concept of socialism is changing even in Western countries. Therefore, we in India have to be more wide awake and the conditions ultimately are governed by the State of people, state of their minds. In India, we are a very conservative people. In a sense, the Planning Commission does not discuss socialism, but it has to keep the socialistic objective before it."⁴⁵

The aim of the Constitution into establish a state which shall be a democracy not only in the political field but also to promote a welfare state where social and economic democracy, as Dr. Ambedkar emphasized, prevailed. Art.38 lays down that "the State shall strive to promote the welfare of the people...." Dr. Ambedkar stated in the Constituent Assembly that the word "strive" had been deliberately used because their "intention was that however adverse the circumstances that stand in the way for the Government in giving effect to these principles and however impropriations the time might be, they should always strive for the fulfillment of the principles. Otherwise it should be open to the Government to say that circumstances were not good and

the finances were so bad that they could not implement them.”⁴⁶

Dr. Ambedkar further observed:

“We have deliberately introduced in the language that we have used in the Directive Principles, something which is not fixed or rigid. We have left enough room for the people of different ways of thinking with regard to the reaching of the ideal of economic democracy, to strive in their own way, to persuade the electorate that it is the best way of reaching economic democracy; the fullest opportunity to act in the way in which they want to act.”⁴⁷

The Directive Principles, though not directly enforceable, are bound to give effect to the decisions of the Courts on constitutional matters. Being a part of the constitutional scheme, the Directive Principles do not, in the words of late Chief Justice Kasin, “represent a temporary will of a majority, but the deliberate wisdom of the nation expressed through the Constituent Assembly entrusted with the duty of setting the paramount and permanent law of the country.”⁴⁸ That is why, it is said that the Directive

Principles are intended to impart continuity to the national policies and it is for the courts to see that this continuity does not become the play thing of party politics and retarded at any stage. It is expected that the Courts while interpreting the scope and extent of Fundamental Rights should take cognizance of the Directive Principles as the Constitution declares them to be "fundamental in the governance of the country".

This point has been emphatically observed by the Court in *Suraya Pal Singh vs. The State of Uttar Pradesh*:

"The distinction between public purpose and public policy may be well founded if by public policy is meant no more than the policy of the political party which then holds office. But the distinction ceases if by public policy is meant State policy or the policy solemnly laid down in the Constitution, the principles of which are declared to be fundamental in the governance of the country. A law made for the purpose of securing an aim declared in the Constitution to be a matter of state policy would be a public purpose. If, therefore, the acquisition of property sought to be

effected by the U.P. Zamindari abolition and Land Reforms Act I of 1951 is for the purpose of implementing one or more of the Directive Principles of State policy, it will be for the public purpose within the meaning of the Constitution and it will not be necessary for the courts to consider whether for other purposes it comes within the meaning which the law has given to that expression. In seeking to answer this question, the court is not concerned with the wisdom of the means embodied in the Act to carry into effect the purpose of the Legislature; that it will neither approve nor condemn. The acquisition of the property effected by the U.P. Act has for its object the implementation of one or more of the Directive Principles of State Policy and is, therefore, for a public purpose.”

This position taken by the Court clearly suggests that the mere fact that a principle is not enforceable in a court of law does not deprive it of the constitutional sanctity. From the moral point of view, its violation is much unconstitutional as a violation of a principle or provision which can be enforced in a court of law. Prof. Alan Gledhill

has rightly observed: "If the Indian Constitution becomes vested with the cope of sanctity essential to its durability, it will be difficult for any public figure to propose any important legislative measures without making any appeal to the Fundamental Rights or the Directive Principles. Measures will be attacked by the opposition as "unconstitutional" in so far as they conflict with the Directive Principles."⁴⁹

Without going into any further legal-formal dispute, there appears to be an agreement that the real sanction behind the Directive Principles is a strong and vigilant public opinion. This view was raised in the Constituent Assembly when it was held:

"There is no use being carried away by sentiments. We must be practical. We cannot go on introducing various provisions here which any government, if it is indifferent to public opinion, can ignore. It is not a court that can enforce these provisions or rights. It is the public opinion that is behind a demand that can enforce these provisions. Once in four (five) years elections will take place and then it is open to the electorate not to send the very same persons who are

indifferent to public opinion. That is the real sanction and not the sanction of any court of law.”⁵⁰ To note Gledhill once: “The lives of countless individuals have been shaped and re-directed by moral precepts directing the course of history of nations.”⁵¹

In the opinion of noted scholar, D.D. Basu, “The Supreme Court has indeed aided the implementation of the Directives in a substantive manner, even, in cases where the relevant legislation has been challenged as an inroad on fundamental rights. In the working of our Constitution, thus the Directive Principles have gathered more weight than a mere moral homily.”⁵² Thus, it is upto the people of India to make the best of their Constitution and avail themselves of the opportunities that it provides, no matter whether they are justiciable or not. It is rightly held that if they become oblivious of their duties as citizens of the state, and the party in power does not properly enforce the Directive Principles, the fault will not be that of the Constitution.

As has already been pointed out that the Chapter on Directive Principles of State Policy contains a set of principles for the governance of the country which can broadly be classified as –

- a) those that aim to shape India into a welfare state;
- b) those that aim to shape India into a Gandhian state;
- c) those that aim to promote international peace.

Art.38 provides that the state shall 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. Thus, promotion of the welfare of the people is the objective which the Constitution sets forth and aims to secure a social order where justice, social, economic and political shall prevail with this end in view, the state shall direct its policy in securing:

- (a) adequate means of livelihood for all citizens, men and women equally;
- (b) distribution of wealth as so to subserve the common good;

- (c) the operation of the economic system which does not result in the concentration of wealth and means of production to the common detriment;
- (d) equal pay for equal work for both men and women;
- (e) protection of adult and child labour;
- (f) protection of child and youth against exploitation against moral and material abandonment;
- (g) provision for work and education for all people, relief in case of unemployment old age, sickness and disablement and in other cases of undeserved want;
- (h) just and human conditions of work and maternity relief;
- (i) a living wage and decent conditions of work so as to ensure to the workers sufficient leisure and enjoyment of social and cultural opportunities;
- (j) free and compulsory education for all children until they reach the age of fourteen years.
- (k) raising the level of nutrition and the standard of living and the improvement of public health.

Again the following two principles are in conformity with the Gandhian ideals. The Directive Principles enjoin that –

- (a) the state shall take steps 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;
- (b) the state shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas in the words of Prof. S.N. Agarwal, these provisions aim at Sarvodaya – decentralized economy and composite democracy.⁵² (Socialism and Sarvadaya, The Hindustan Times, Delhi, January 1, 1955).

C.D. Deshmukh, the former Finance Minister observed that whereas the development of major industries must continue in national interest, it was necessary to the development of small-scale and village industries with great opportunities for employment and more and more chances of improving the resources of the population. Nehru also called for the establishment of a classless and casteless society through the peaceful and cooperative method.

The Gandhian principles in the Directive Principles further aim –

- (a) to promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the Scheduled Castes and Scheduled Tribes in order to protect them from social injustice and all forms of exploitation;
- (b) to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health;
- (c) to organize agriculture and animal husbandry on modern and scientific lines;
- (d) to take steps for preserving and improving the breeds, and prohibiting of slaughter of cows and calves and other milch and draught cattle;
- (e) to protect, preserve and maintain places of national and historical importance; and
- (f) to take steps to separate judiciary from the executive and to secure for citizens a uniform civil code throughout the country.

In the international field, India shall strive:

- (a) to promote international peace and security;

- (b) to maintain just and honourable relations between nations;
- (c) to foster respect for international law and treaty obligations; and
- (d) to encourage settlement of international disputes by arbitration.

The present discussion can be concluded by stating that the basic purpose of the Directive Principles of State policy is to create an egalitarian society based on social equality and economic welfare. The spirit of the Directive Principles suggests that economic democracy must precede political democracy. Directive Principles in the Indian Constitution should be considered as a set of policy prescriptions for the future governments of the country. It will be worthwhile to mention what Professor Laski observed in his celebrated work *A Grammar of Politics*:

“A government which embarks on policy must offer the means of judging that policy. The opinion it has elicited by organized inquiry is fundamental to that end. The evidence it has collected, the facts at the disposal, can never be refused

to its subjects if it is to build its opinion in the reasoned judgement of its citizens.” The policy declarations in the Directive Principles can help the Indian state to achieve its goal – socio-economic welfarism and the establishment of a society based on justice – social, economic and political.

Notes and References:

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7. Ibid.
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12. AIR 1958, S.C. 731.
13. AIR 1958, S.C. 956.
14. Ibid.
15. AIR 1954 S.C. 92.
16. Ibid.
17. Crown Aluminum Works vs. their Workmen, AIR 1958, S.C. 80; Express Newspapers Ltd. Vs. The Union of

India, AIR 1958, S.C. 578; Gulamchand vs. The State of Bombay AIR 1962, Bom.97; Loknath Misra vs. The State of Orissa, AIR, 1952, Orissa 42.

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26. *Ibid.*

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