

# DPSP

## Basics about DPSPs

- 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.
- The Directive Principles along with the Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution.
- Dr B R Ambedkar described these principles as 'novel features' of the Indian Constitution.

## Features of DPSPs

- DPSPs denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters.
- The Directive Principles resemble the 'Instrument of Instructions' enumerated in the Government of India Act of 1935.

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- The Directive Principles constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realising the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution.
- The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them.
- The Directive Principles, though non-justiciable in nature, help the courts in examining and determining the constitutional validity of a law.

## Article 38

- 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.

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- The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst diverse groups of people.

## Article 39

- The State shall, in particular, direct its policy towards securing
  - that the citizens, men and women equally, have the right to an adequate means of livelihood
  - that the ownership and control of the material resources of the community are so distributed as best to subserve the common good
  - that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment
  - that there is equal pay for equal work for both men and women
  - that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength

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- that children are given **opportunities and facilities** to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

## Article 39A

- The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide **free legal aid**, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

## Article 40

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

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## Article 41

- The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

## Article 42

- The State shall make provision for securing just and humane conditions of work and for maternity relief.

## Article 43

- The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

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## Article 43A

- The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry

## Article 43B

- The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies

## Article 44

- The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

## Article 45

- The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

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## Article 46

- The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

## Article 47

- The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

## Article 48

- The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

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## Article 48A

- The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country

## Article 49

- It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament, to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

## Article 50

- The State shall take steps to separate the judiciary from the executive in the public services of the State.



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## Article 51

- The State shall endeavour to—
  - promote international peace and security
  - maintain just and honourable relations between nations
  - foster respect for international law and treaty obligations in the dealings of organised peoples with one another
  - encourage settlement of international disputes by arbitration

## Conflict between Fundamental Rights and DPSPs

- The justiciability of Fundamental Rights and non-justiciability of Directive Principles on the one hand and the moral obligation of State to implement Directive Principles (Article 37) on the other hand have led to a conflict between the two since the commencement of the Constitution.
- **Champakam Dorairajan Case:** Supreme Court ruled that in case of conflict between Fundamental Rights and DPSPs, former would prevail.

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- **Golaknath Case:** Supreme Court ruled that the Parliament cannot take away or abridge any of the Fundamental Rights, which are 'sacrosanct' in nature. In other words, the Court held that the Fundamental Rights cannot be amended for the implementation of the Directive Principles.
- **24th Amendment Act (1971):** Parliament has the power to abridge or take away any of the Fundamental Rights by enacting Constitutional Amendment Acts and inserted Article 31C in the constitution.
- **Article 31C**
  - 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, 19 or 31
  - 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.

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- **Keshavananda Bharati Case:** 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**
- **42nd Amendment Act (1976):** It extended the scope of the above first provision of Article 31C by including within its protection any law to implement any of the Directive Principles and not merely those specified in Article 39(b) and (c)
- **Minerva Mills Case (1980):** This amendment was declared **invalid and unconstitutional** by Supreme Court. It means that the **Directive Principles were once again made subordinate** to the Fundamental Rights. Supreme Court also held that 'the Indian Constitution is founded on the **bedrock of the balance between the Fundamental Rights and the Directive Principles.**

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