

## DIRECTIVE PRINCIPLES OF STATE POLICY - AN INSTRUMENT OF SOCIO-ECONOMIC JUSTICE'

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**Abstract :** The preambular promise of Socio-Economic Justice has been translated by the founding fathers in various provisions of Part III and Part IV of the Constitution which represents fundamental rights and directive principles respectively with the hope & expectation that "one day the tree of true liberty would bloom in India."

The present paper deals with Directive Principles fundamental in the governance of the country through the three organs of the State, i.e., Executive, legislature and Judiciary, their historical development, justifiability, the inter-relationship between the directive principles and the fundamental rights, Judicial approach towards the directive principles in giving them the status of fundamental rights and implementation of the directives by the Govt. in the era of welfare state have been taken into consideration in this paper along with the concluding remarks

**Keywords:** E-banking, Efficiency, Effective Payment and Accounting System.

### INTRODUCTION

The Directive principles of State Policy contained in Chapter IV of the Indian Constitution can be described as the active obligations of the State. The objective of the Directive Principles are to establish India a 'Social Welfare State.' Most of these Directives aim at the establishment of economic and social democracy which is pledged in the Preamble. The socialistic approach has been further emphasized by 42nd Amendment Act, which has inserted the word 'Socialist' in the Preamble, the meaning thereof was explained by the Constitutional Bench in D.S. Nakara v/s U.O.I.[1983 SCC,305CB] as follows:

' The principal aim of Socialist State is to eliminate inequality in income and status and standard of life. The basic framework of Socialism is to provide a decent standard of life to the working people and especially provide security from cradle to grave. This amongst other an economic side envisaged economic equality and equal distribution of income.'

The main idea behind the Directive Principles is to achieve the ideal of the economic democracy. The founding fathers were very well aware of the drawbacks present in our country and knew that, Infant country like India who got its Independence recently, had many challenges to deal with by eradicating evils present.

Certain principles to be followed by the State are enumerated under Article 39 of the Indian Constitution require that "the state shall in particular, direct its policies towards securing:

A method of banking in which the customer conducts transactions electronically via the Internet.  
"It's hard to beat e-banking for the 24-hour convenience it offers Internet-literate customers"

- a) that the citizens, men and women equally, have the right to an adequate means of 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 economic system does not result in concentration of wealth and means of production to the common detriment;
- d) that there is equal pay for equal work for both men and women;
- e) that the health and strength of workers, men and women and the tender age of children are not abused and

that citizen are not forced by the economic necessity to enter associations unsuited to their age or strength;  
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 against moral and material abandonment.”

This paper attempts to analyse the myths and realities in the enforcement of Directive Principles through fundamental Rights [Part IV - Indian Constitution] in the case of Right to livelihood; [Articles 39(a), 41 & 43]

Right to life [Article 21] includes right to livelihood, came up for discussion first in Re Sant Ram's case [AIR 1960 SC 932], in which case, Court rejected the argument that the word 'life' in Article 21 includes livelihood.

Then it came up for discussion significantly in Olga Tellis Case.[Olga Tellis v/s Bombay Municipal Corporn., AIR 1986 SC,180]. In this case, petitioners were pavement and slum dwellers of Bombay, sought to be evicted by the B.M.C.. They claimed that their eviction would result in the deprivation of their means of livelihood. The Court set aside it's earlier decisions in Re Sant Ram's case by stating that right to livelihood is part of Constitutional right to live. However, the Court could not give relief to the slum dwellers for the reason that the procedure prescribed to evict was just, fair and reasonable.

In Arunaave Ghosh v/s Bar Council W.B, [AIR 1996 Cal.331] the Court observed that the order of the Bar Council in case of a practicing advocate, compelling him to cease his work for a few days would be sufficient to attract right available under Article 21 as it would offend right to livelihood.

The said right was further nourished and enriched in Air India Statutory Corporn. v/s United Labour Union [AIR 1997 SC 645], by stating that through right to work is not declared as a fundamental right due to economic constraints, right to work of poor workmen is a means to earn their livelihood and as such cannot be deprived except according to just, fair and reasonable procedure prescribed by law.

However, in A.K. Bindal v/s Union of India, [AIR 2003 SC 2189], the petitioner contended that non-revision of pay scales of employees of public sector enterprise amounted to violation of fundamental right to livelihood. The Court rejected this argument and held that non-revision of pay scales does not ipso facto amount to violation of fundamental right to livelihood, particularly when there is no material to show that salary paid currently is wholly inadequate to lead life with human dignity.

The Ground Realities: Above mentioned cases suggest that the right to livelihood is available in negative terms i.e., it cannot be deprived except according to just, fair and reasonable procedure established by law. Under the Constitution every person has got a right to practice any business or profession but he has no right to claim against the state to provide employment.

Till date large chunk of people live below poverty line unable to earn their livelihood, they are forced by their circumstances, to migrate to cities to earn their livelihood, living on pavements, slums etc. The position in villages is also very grim. There are reports of starvation deaths in villages in Orissa and Andhra Pradesh in a country where billion tonnes of grains of food grains rots in open and a lot of rotten food grains are dumped in sea to make space for the next crop.[The Tribune, January 31, 2004] Not to speak of farmers' Suicide in Maharashtra & other parts of India.

Therefore, situation calls for immediate action and as such Directive Principles contained in Articles 39(a), 41 and 43 should be made enforceable per se making it obligatory for the State to perform it's welfare functions in the light of Directive Principles and therefore, it should launch welfare schemes so as to provide means of livelihood to avoid starvation deaths.

State should resort to planned economic development in villages, providing means of livelihood to reduce the influx of people to urban areas. The wish of the Constitution forefathers should be given legal teeth. If a country like Brazil can launch programmes like 'Zero Hunger', why can't India?

Free Legal AID: The poor persons, whose rights have been curtailed or deprived, bowed under the weight of poverty, cannot be expected to stand up to their constitutional rights unless free legal aid was provided to them. 42nd Amendment to the Constitution added Article 39-A: " The State shall secure that the operation of the legal system promotes justice, on the basis of equal opportunity and shall in particular provide for 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.

Once the right to legal aid was granted a constitutional status, right was well nourished to make it bloom in the years to come. In Khatri v/s State of Bihar,[AIR 1981 SC 528] Supreme Court added three new dimensions to this right namely:

i] That the right is available not only during trial but rather it began at the investigation level when the accused is first produced before the magistrate because at that stage he had the first opportunity to resist his remand or apply for bail and a procedure which does not provide for legal aid at that stage cannot be regarded as just, fair and reasonable procedure.

ii] That to effectively implement the said right and to make it available to the down-trodden, the magistrate

or Sessions Judge must be under an obligation to inform the accused that if he was unable to engage a lawyer at his own cost, he has right to be represented at the cost of the State. Since the poverty and illiteracy ridden accused may not be having knowledge of such a right and as such, the right may remain a paper promise unless he has been effectively informed.

iii] That Government cannot take shelter of insufficient budget to discharge it's constitutional duty of providing free legal aid to poor and needy.

Supreme Court somewhat narrowed down the sweep of free legal aid to exclude economic offences, offences against law prohibiting prostitution or child abuses and the like.

To effectively implement the scheme of free legal aid the co-operation of lawyers is utmost because the lawyers are the necessary link between distributor of justice, the court and the consumers of justice, the people. No legal aid programme can succeed without the active co-operation of the bar which is really a supporting pillar of the rule of law. At present Legal Aid committee have been formed in the districts. This committee prepares list of advocates who volunteer themselves for the cause. The Chief Judicial Magistrate marks the advocates out of this list for an accused and then that advocate represents the accused during trial. On final decision the case is reported back to the District Attorney Legal aid for record purposes. However, generally senior lawyers do not volunteer themselves for this cause and the poor accused is denied the advantages of their expertise. The provision of free legal aid, thus means the services of inexperienced lawyers who, generally, are not able to match up with the expertise of the opposite counsel and hence, the provision loses much of its significance.

Though some of the Directive Principles of State Policy, such as, Right to Clean Environment, Right to Health And Access To Medical Treatment have received judicial attention and have been enforced to an extent through Part III of the Constitution yet some of the cherished dreams of the Constitution forefathers remain to receive judicial attention. One among such is the provision of public assistance in old age and sickness. In India, the concept of Joint family is fast withering away. As such the provision of social security to elderly people need to be viewed with concern in relation to their right to life. As a matter of fact, in our country, old age benefits, retirement benefits are available only to a few category of people and as such a large number of people are left at the mercy of their children when they reach old age. The old aged sick people, sometimes, when left alone or evicted from their housed have generally little means of livelihood. Though Directive Principle contained in Article 41 envisage public assistance to old aged, infirm and sick persons, problem is still eluding solution. It is submitted that right to social security in old age should be properly considered as part of right to life. Though there are old age homes but these are over populated and they lack funds and thus amenities needed for providing decent life to these people.

Similarly, in a welfare State like ours, public assistance in case of natural calamities as envisaged in Article 41 as a matter of right as part of right to life, need to be properly evaluated. In case of natural calamities, though aid is provided both by the Govt. and NGO's but it should be made available as a matter of right. In case of calamities, the Govt. must be made duty bound to provide basic amenities and the failures should be dealt with as violation of right to life. It is a matter of shame for the society that the people die of starvation and inadequate health facilities during natural calamities.

Summing up, I submit financial constraints should not be permitted to come in the way of translating them to reality. Today, we cannot talk about globalization, liberalization in the real sense, unless and until, the basic needs of the citizen are not met.