

FUNDAMENTAL RIGHT AND DIRECTIVE PRINCIPLE OF STATE POLICY : RELATION AND DIFFERENCE

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ABSTRACT

This research paper explores the relationship and differences between Fundamental Rights and Directive Principles of State Policy (DPSP) in the Indian Constitution.¹ It analyses the constitutional provisions, their aims, scope, and their significance in shaping India's socio-political landscape. The paper emphasizes the complementarity and potential conflicts between these two essential components of the Indian Constitution. The coexistence of Fundamental Rights and Directive Principles of State Policy in the Indian Constitution reflects a unique blend of individual liberties and societal objectives. This comprehensive article delves into the intricate connection between these two essential elements of the Indian Constitution, exploring landmark case laws that have shaped their interpretation and application. We will examine how the harmonious interplay of fundamental rights and directive principles seeks to strike a balance between individual freedoms and the collective well-being of the nation. While Fundamental Rights provide citizens with essential protections against the state, DPSPs outline the government's duty to promote social, economic, and political well-being. Fundamental rights form the bedrock of the Indian Constitution, guaranteeing every citizen certain inalienable rights and protecting them from any infringement by the state. These rights are justiciable, meaning citizens can approach the courts for their enforcement and protection. Directive principles of state policy, on the other hand, are guidelines for the government to establish an ideal society based on justice, social, economic, and political. Unlike fundamental rights, directive principles are not enforceable in courts.

KEYWORDS:

Fundamental Rights, Directive Principle Of State Policy, Relationship Between Fundamental Rights And Directive Principle Of State Policy, Difference Between Fundamental Rights And Directive Principle Of State Policy, Constitution Of India

INTRODUCTION:

The Indian Constitution, adopted on January 26, 1950, is a remarkable document that lays down the framework for the functioning of the Indian state. It incorporates both Fundamental Rights (Part III) and Directive Principles of State Policy (Part IV). While the former provides citizens with certain individual liberties, the latter outlines the socio-economic objectives the state should strive to achieve. This paper aims to explore the relationship and differences between these two fundamental elements of the Indian Constitution.

FUNDAMENTAL RIGHTS:

Fundamental Rights are enshrined in Articles 12 to 35 of the Indian Constitution.² They guarantee individual liberties and protections, including the right to equality, freedom of speech and expression, right to life and personal liberty, and protection against discrimination. These rights are justiciable, meaning citizens can seek legal remedies in case of their violation.

Fundamental rights ensure that individuals have the freedom to:

1. **Right to Equality:** This includes equality before the law, prohibition of discrimination based on religion, race, caste, sex, or place of birth, and equality of opportunity in public employment.
2. **Right to Freedom:** Citizens have the right to freedom of speech and expression, assembly, association, movement, and residence. They also enjoy protection against unlawful detention and forced labour.
3. **Right against Exploitation:** This prohibits all forms of forced labour, child labour, and human trafficking.
4. **Right to Freedom of Religion:** Every individual has the right to practice, profess, and propagate their religion of choice.
5. **Cultural and Educational Rights:** These empower minorities to preserve their distinct languages, scripts, and cultures, and provide rights to establish and administer educational institutions.
6. **Right to Constitutional Remedies:** This enables citizens to approach the Supreme Court or High Courts for the enforcement of their fundamental rights.

Directive Principles of State Policy (DPSP):

¹ <https://www.legalservicesindia.com/article/1058/Relation-Between-Part-III-And-Part-IV-Of-Constitution-Of-India-Changing-Trends.html> (last visited on Aug 16, 2023)

² <https://unacademy.com/content/karnataka-psc/study-material/polity/fundamental-rights-and-duties-in-the-indian-constitution> (last visited on Aug 20, 2023)

DPSP, contained in Articles 36 to 51 of the Constitution, are a set of guidelines and principles that the state is expected to follow while formulating policies and making laws. These principles include provisions for securing a just and equitable society, promoting education, safeguarding the environment, and ensuring the welfare of weaker sections of society. Unlike Fundamental Rights, DPSPs are not legally enforceable, and they serve as moral and political directives to the government.

The directive principles aim to achieve the following objectives:

1. **Social Welfare:** The state shall strive to promote the welfare of the people, secure social justice, and minimize inequalities of income, status, and opportunities.
2. **Agrarian Reforms:** The state should work towards preventing the concentration of wealth and resources and ensuring equal distribution of land among farmers.
3. **Equal Pay for Equal Work:** The principle advocates for securing equal pay for men and women for the same work.
4. **Protection of Children:** The state should endeavour to provide opportunities and facilities for children to develop in a healthy manner and protect them from exploitation.
5. **Right to Work and Education:** It emphasizes the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disability.
6. **Environmental Protection:** The directive principles also highlight the importance of protecting and improving the environment and safeguarding forests and wildlife.

RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DPSP:

While Fundamental Rights and DPSPs appear to be distinct, they share a complementary relationship. The Supreme Court of India has held that DPSPs are a means to achieving the larger goals set out in the Preamble and Fundamental Rights. The court has interpreted certain DPSPs in conjunction with Fundamental Rights to ensure a harmonious interpretation of the Constitution.

For example, the right to education as a Fundamental Right (Article 21A) can be seen in line with the DPSPs that encourage the state to provide free and compulsory education to children (Article 45). Similarly, the Fundamental Right to life and personal liberty (Article 21) complements the DPSPs aimed at ensuring social and economic justice (Articles 38 and 39).

CONFLICTS BETWEEN FUNDAMENTAL RIGHTS AND DPSP:

In some cases, there may be conflicts between Fundamental Rights and DPSPs. For instance, if the state implements a policy that restricts the right to property (Fundamental Right under Article 300A) for achieving land reforms (DPSP under Article 39(b)), there might be a clash between individual rights and state objectives. To address such conflicts, the Indian judiciary adopts the principle of reasonable restrictions. It ensures that the state's policies align with the overall constitutional framework and do not unduly infringe upon the essential liberties of citizens.¹

SUPREME COURT PRONOUNCEMENTS:

The Supreme Court has made several pronouncements over the years in various cases that shed light on this topic. Here are some key principles and observations made by the Supreme Court regarding the interplay of Fundamental Rights and DPSPs:²

1. **Golaknath v. State of Punjab (1967):**

In this landmark case, the Supreme Court ruled that Parliament cannot amend fundamental rights as they form the basic structure of the Constitution. This decision affirmed the supremacy of fundamental rights over the directive principles.

2. **Kesavananda Bharati v. State of Kerala (1973):**

While this case primarily dealt with the amending power of the Indian Parliament, it established the doctrine of "Basic Structure" of the Constitution. The Supreme Court held that while Parliament can amend the Constitution, it cannot alter its basic structure or essential features, which include Fundamental Rights. The judgment recognized that Fundamental Rights form the core of the Constitution and act as a check on the amending power.

3. **Minerva Mills Ltd. v. Union of India (1980):**

In this case, the Supreme Court clarified the relationship between Fundamental Rights and DPSPs. It emphasized that Fundamental Rights are supreme and part of the basic structure of the Constitution. DPSPs are not above Fundamental Rights and cannot be used to dilute or abrogate them. The court reiterated that harmonious construction between the two is essential, and DPSPs should be implemented in a manner that does not violate Fundamental Rights.

4. **Maneka Gandhi v. Union of India (1978):**

While this case primarily dealt with the right to travel and personal liberty, it emphasized the concept of "due process" under Article 21 of the Constitution. The court interpreted Article 21 expansively to include both Fundamental Rights and Directive Principles. It held that DPSPs are crucial for providing socio-economic rights, which are essential for meaningful enjoyment of Fundamental Rights.

¹ [https://www.drishitias.com/mains-practice-question/question-1362#:~:text=Fundamental%20rights%20\(FR\)%20promote%20the,they%20are%20societarian%20and%20socialistic.](https://www.drishitias.com/mains-practice-question/question-1362#:~:text=Fundamental%20rights%20(FR)%20promote%20the,they%20are%20societarian%20and%20socialistic.) (last visited on Aug 20, 2023)

² Aaditya ojha's <https://www.legalserviceindia.com/legal/article-9043-relationship-between-fundamental-rights-and-directive-principles-of-state-policy.html> (last visited on Aug 20, 2023)

5. **Olga Tellis v. Bombay Municipal Corporation (1985):**

In this case, the court addressed the issue of the right to livelihood and housing under Article 21. It held that Fundamental Rights and DPSPs are supplementary, and the state must strike a balance between the right to life and the need to implement welfare policies. This case dealt with the validity of land reform laws in Kerala. The court upheld the constitutionality of these laws by stating that they were in line with the Directive Principles aimed at securing social and economic justice. The court acknowledged that the state has the power to implement DPSPs, but any restriction on Fundamental Rights must be reasonable and in the public interest.

These are just a few notable judicial pronouncements that have contributed to shaping the understanding of the relationship and differences between Fundamental Rights and DPSPs in India. The Supreme Court's consistent approach has emphasized the need to harmoniously interpret these provisions, ensuring that individual liberties are protected while advancing the broader socio-economic objectives of the state.

DIFFERENCES BETWEEN FUNDAMENTAL RIGHTS AND DPSP:

The primary differences between Fundamental Rights and DPSP lie in their nature¹, enforceability, and scope.

a) Nature: Fundamental Rights are individual-centric, while DPSPs are community and state-centric. Fundamental Rights focus on preserving individual liberties, ensuring equality, and protecting citizens from the excesses of the state. On the other hand, DPSPs focus on promoting the welfare of society as a whole and guiding the state in formulating socio-economic policies.

b) Enforceability: Fundamental Rights are legally enforceable, and citizens can approach the judiciary to seek remedies in case of their violation. In contrast, DPSPs are not directly enforceable in courts. However, the courts have held that they can be used as aids in interpreting laws and determining the constitutional validity of legislation.

c) Scope: Fundamental Rights are absolute and apply uniformly to all citizens, regardless of social and economic differences. DPSPs, on the other hand, are subject to limitations based on available resources and societal conditions. The state must balance competing DPSPs and prioritize them based on feasibility and urgency.

IMPLEMENTATION CHALLENGES AND EVOLUTION:

Over the years, the implementation of both Fundamental Rights and DPSPs has faced challenges. While Fundamental Rights have enjoyed better enforcement due to their justiciable nature, DPSPs have encountered difficulties owing to the absence of legal remedies for their violation.

One of the primary challenges in implementing DPSPs is the financial burden on the government. Many of the principles outlined in Part IV require significant resources, and the state may struggle to allocate funds appropriately to fulfil these socio-economic objectives. As a result, the fulfilment of DPSPs often depends on the government's financial capacity and prioritization of policies.

However, it is essential to note that the judiciary has played a crucial role in bridging the gap between Fundamental Rights and DPSPs. Through various landmark judgments, the courts have interpreted DPSPs in light of Fundamental Rights and held that the state has an obligation to implement them to the best of its ability.

THE ROLE OF JUDICIARY IN SAFEGUARDING RIGHTS:

The judiciary plays a important role in safeguarding both Fundamental Rights and DPSPs. It acts as the custodian of the Constitution and ensures that government actions align with the constitutional ethos. The courts' power of judicial review allows them to scrutinize laws and policies to ensure they comply with the principles enshrined in the Constitution.

Through landmark judgments, the judiciary has clarified the relationship between Fundamental Rights and DPSPs and established the supremacy of the former while acknowledging the importance of the latter. This judicial intervention serves as a check on potential government overreach and ensures the protection of citizens' rights.

THE DOCTRINE OF HARMONIOUS CONSTRUCTION:

The judiciary has consistently applied the doctrine of harmonious construction to reconcile conflicts between Fundamental Rights and DPSPs.² This doctrine emphasizes that both Fundamental Rights and DPSPs are integral parts of the Constitution and should be interpreted in a manner that gives effect to both, whenever possible.

In cases where there is a potential clash between the two, the courts strive to find a balance that does not excessively infringe on individual rights while promoting the larger societal goals envisaged in the DPSPs. This approach ensures that neither set of provisions is undermined and that the Constitution's spirit is upheld.

THE ROLE OF CITIZENS IN UPHOLDING FUNDAMENTAL RIGHTS AND DPSPS:

While the Indian Constitution guarantees Fundamental Rights and lays down Directive Principles for the state to follow, the responsibility of upholding these principles also lies with the citizens. Active citizen participation is essential in holding the government accountable for fulfilling its obligations under both sets of provisions.

¹ <https://byjus.com/free-ias-prep/difference-between-fundamental-rights-and-directive-principles-of-state-policy> (last visited on Aug 20, 2023)

² <https://lawbhoomi.com/relation-between-dpsps-and-fundamental-rights/> (last visited on Aug 20, 2023)

Citizens can play a proactive role by engaging in democratic processes, expressing their concerns, and demanding transparency in governance. By being aware of their rights and responsibilities, citizens can advocate for policies that align with the spirit of DPSPs and contribute to the nation's overall development.

CONSTITUTIONAL AMENDMENTS AND BALANCING:

Over the years, certain amendments to the Indian Constitution have aimed to address the relationship between Fundamental Rights and DPSPs. For example, the 42nd Amendment Act of 1976 introduced the concept of the "Directive Principles to Overcome the Obstacles to Laws" (Article 31C). It intended to accord precedence to certain DPSPs over Fundamental Rights when implementing agrarian reforms.

However, the Supreme Court, in the landmark case of *Minerva Mills v. Union of India* (1980), struck down this provision, reaffirming the supremacy of Fundamental Rights and asserting that the Constitution's basic structure could not be altered.

EVOLVING SOCIAL AND ECONOMIC REALITIES:

India's socio-economic landscape has evolved significantly since the adoption of the Constitution. The government has initiated various policies and programs to address poverty, education, healthcare, and social inequalities. These endeavours, though not directly enforceable as DPSPs, are aimed at fulfilling the constitutional vision of a welfare state. As society progresses, the relationship between Fundamental Rights and DPSPs continues to evolve. While Fundamental Rights remain central to individual dignity and liberty, the government's commitment to realizing DPSPs is essential for ensuring social and economic justice for all citizens.

STRIKING A BALANCE: CHALLENGES AND SOLUTIONS:

One of the persistent challenges faced in the relationship between Fundamental Rights and DPSPs is striking an appropriate balance between individual liberties and the welfare of the community. In certain situations, the state may adopt policies that limit certain Fundamental Rights to achieve broader socio-economic objectives. To address this issue, it is crucial for the government to adopt a consultative approach and ensure that any restrictions on individual rights are reasonable, proportionate, and temporary. Additionally, effective safeguards and checks should be in place to prevent any misuse of state power.

THE WAY FORWARD:

As India continues its journey of progress and development, the harmonious implementation of Fundamental Rights and DPSPs remains crucial. Recognizing the interdependence of these two constitutional pillars is essential for creating a just and equitable society. The government must be committed to fulfilling its responsibilities as outlined in the Directive Principles. ¹While the non-justiciable nature of DPSPs might limit their enforceability in courts, they should not be treated as mere aspirations. Instead, they should guide policy-making and be integrated into the nation's development agenda. Public participation and civil society engagement are equally vital in shaping policies and programs that align with both individual liberties and collective welfare. Citizens must actively participate in the democratic process, holding elected representatives accountable for implementing policies that promote the well-being of all sections of society. Furthermore, constitutional education and awareness campaigns can empower citizens to understand their rights and responsibilities. This knowledge can contribute to informed discussions and foster a greater appreciation for the delicate balance required between individual rights and societal objectives.

CONCLUSION:

The Indian Constitution's inclusion of Fundamental Rights and Directive Principles of State Policy reflects a visionary approach to nation-building. By guaranteeing individual liberties and outlining socio-economic objectives, the Constitution aspires to create a society that upholds justice, equality, and fraternity.

The relationship between Fundamental Rights and DPSPs is one of synergy and balance, with each complementing the other in achieving the overarching constitutional goals. The harmonious interpretation of these provisions by the judiciary further strengthens this interplay and ensures that India's constitutional democracy continues to flourish.

- **Harmonious Construction:**

The Supreme Court has consistently emphasized the principle of harmonious construction between Fundamental Rights and DPSPs. It recognizes that both sets of provisions are integral to the Indian Constitution and should be interpreted in a manner that promotes their collective objectives without diluting the significance of either.

- **Primacy of Fundamental Rights:**

While both Fundamental Rights and DPSPs are crucial components of the Constitution, the Supreme Court has held that Fundamental Rights take precedence in case of any inconsistency or conflict between the two. Fundamental Rights are justiciable, enforceable, and are meant to be fundamental safeguards for individual liberties and dignity.

- **Non-Justiciability of DPSPs:**

¹ <https://blog.ipleaders.in/dpsp-and-fundamental-rights/> (last visited on Aug 20, 2023)

The Directive Principles, on the other hand, are not enforceable through the courts. They are non-justiciable, which means that individuals cannot approach the courts seeking remedies for violations of DPSPs. DPSPs provide moral and political guidance to the government in formulating policies for social and economic welfare.

- **Balancing Individual Rights and Common Good:**

The court has repeatedly stressed that the Constitution seeks to strike a balance between individual rights and the collective good of society. The DPSPs act as guidelines for the government to work towards establishing a welfare state, ensuring social and economic justice, and reducing inequalities.

- **Avoiding Conflict:**

The judiciary tries to avoid direct conflict between Fundamental Rights and DPSPs and often attempts to reconcile them. It does not interpret DPSPs in a manner that would negate or unduly restrict Fundamental Rights.

- **Gradual Implementation of DPSPs:**

The Supreme Court has recognized that the implementation of DPSPs may require time and resources. The court acknowledges that the government may need to prioritize and gradually work towards realizing the socio-economic objectives outlined in DPSPs.

The Indian Constitution's incorporation of both Fundamental Rights and Directive Principles of State Policy reflects the nation's commitment to building a just, equitable, and welfare-oriented society. While Fundamental Rights safeguard individual liberties, DPSPs guide the state in its efforts to uplift society and promote social justice. Despite their differences, their harmonious interpretation and implementation are crucial for realizing the constitutional vision of a vibrant and inclusive India.

Though the enforceability of DPSPs is limited, they play a vital role in guiding policy decisions and shaping the nation's development trajectory. The judiciary's commitment to harmoniously construing these provisions ensures that both individual rights and collective welfare are safeguarded.

As India continues to grow and face new challenges, the interplay between Fundamental Rights and DPSPs will remain a cornerstone in achieving the constitutional vision of justice, liberty, equality, and fraternity for all citizens. Balancing these principles is crucial to fostering a just and inclusive society that upholds the ideals set forth in the Preamble of the Indian Constitution. In this collective endeavour, citizens, government, and the judiciary each have a vital role to play. By fulfilling their respective responsibilities, India can progress towards becoming a more inclusive, equitable, and compassionate society, firmly grounded in the principles enshrined in its Constitution.