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Topic:

DPSP & Fundamental Duties



Salient Features of DPSP

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- DPSP, are non-justiciable, means that they are not legally enforceable by courts.
- The concept is borrowed from the Irish Constitution.
- Their objective is to help establish social and economic democracy.
- DPSPs reflect the vision of a Welfare State as outlined in the Constitution.
- They serve as a measure to assess laws based on their alignment with constitutional ideals.
- Novel Features/Resemble the Instrument of Instructions as contained in GoI Act 1935: B. R. Ambedkar
- DPSP have Moral and Political sanctions.

Comments on DPSP:

B. N. Rau
Moral Percepts for the authorities of state

Granville Austin
Conscience of Constitution

K. T. Shah
Cheque payable by the bank at its own convenience

K. C. Wheare
Manifesto of aims and aspirations

Article 36

Definition of State.

- Defines the term "State" as it is used in Part III.
- The meaning of "State" here is the same as in Article 12 under Fundamental Rights.

Article 37

Application of the Principles contained in this part.

- They are non- justiciable in nature.
- It is the duty of the state to apply these principles when making laws and policies

Article 38

State to secure a social order for the promotion of welfare of the people

(a) The State must promote people's welfare by ensuring justice -social, economic, and political.
(b) It should also reduce inequalities in income, status, facilities, and opportunities. (44th Amendment, 1978)

Article 39

Certain principles of policy to be followed by the State

The State should work to ensure:

(a) Livelihood for all citizens
(b) Fair distribution of resources for the common good.
(c) Avoiding concentration of wealth and production.
(d) Equal pay for equal work for men and women.
(e) Protection of worker's Health and children from exploitation.
(f) Proper development opportunities for Children (42nd Amendment, 1976).

Article 39A
Equal Justice and Free Legal Aid to the poor & weaker section (42nd Amendment, 1976)

Article 40
Organisation of Village Panchayats

Article 41
Right to Work, Education, and Public Assistance in certain cases

Article 42
Just and Humane Working Conditions & Maternity Relief

Article 43
Living Wages and Decent Working Conditions

Article 43A
Workers' Participation in Management of Industries.
- The State shall ensure workers' participation in industry management (42nd Amendment, 1976).

Article 43B
Promotion of Cooperative Societies.
- The State shall promote the formation and democratic management of cooperative societies (97th Amendment, 2011).

Article 44
- Uniform Civil Code
- The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Article 45
Provision for Early Childhood Care and Education.
- 86th Amendment Act, 2002 changed the subject matter of this article and shifted focus to early childhood care and education for children below the age of six years.

Article 46
Promotion of Educational and Economic Interests of SCs, STs, and Weaker Sections

Article 47
- Duty to Raise Nutrition, Living Standards, and Public Health
- Prevent the consumption of Intoxicants

Article 48
Organisation of Agriculture and Animal Husbandry → prohibit slaughter of cows, calves, and useful cattle.

Article 48-A
Protection of Environment, Forests, and Wildlife → The State shall protect and improve the environment and safeguard forests and wildlife (42nd Amendment, 1976).

Article 49
Protection of Monuments and National Heritage.

Article 50

Separation of Judiciary from Executive

Article 51

Promotion of International Peace and Security.
Just & Honourable condition with our neighbours.

Classification of DPSPs

Socio-Economic Principles

- Aim for social and economic welfare, focusing on equality and a welfare state.
- Articles : 38,39,41,42,43,43 A,47

Gandhian Principles

- Gandhian Principles emphasize on decentralized governance, self-sufficiency, and equitable resource distribution.
- Articles: 40,43,46,47,48

Liberal-Intellectual Principles:

Liberal-Intellectual Principles:

- prioritize individual freedoms and rights, along with promoting a strong, rational state.
- Articles: 44,45,48A,49,50,51



Note kar lo....

- This classification of DPSP into Socialist, Gandhian and Liberal is not mentioned in the constitution.

DPSPs added through Amendment

42th CAA,1976

39(f)	Childrens' healthy development
39 A	Poor (equal justice & free legal aid)
43 A	Participatation of workers in management of industries
48 A	To protect environment, safeguard wildlife

44th CA (1978)

Article 38; To reduce inequality

86th CA (2002)

Article 45; Early childhood care

97th CA (2011)

Article 43B; Cooperative Societies

Cases related to DPSPs vs Fundamental Rights (FRs)

Champakam Dorairajan Case (1951)

- FRs would prevail over DPSP.
- FRs are amendable.

Golaknath Case (1967):

- Parliament cannot revoke/ amend FRs.

Aftermath of The Golaknath case:

- In response to the Golaknath case, the Parliament enacted 4th amendment which empowered Parliament to amend FRs.
- 25th Amendment: Inserted Article 31(c)

  (i) Laws implementing DPSP under Articles 39(b) and 39(c) cannot be declared null and void on the grounds of contravention of Article 14 & 19.

  (ii) No such law can be questioned in the court.

Keshavananda Bharti Case (1973)

A 13 judges bench ruled that-

- Parliament can amend FRs but cannot disturb the Basic Structure of the Constitution.
- The 2nd provision of the 25th amendment which restricted judicial reviews of laws was declared unconstitutional.

Minerva Mill Case (1980)

- Indian Constitution is found on the bedrock of balance between FRs and DPSP.

Difference between Fundamental Rights and DPSPs

Fundamental Rights	DPSPs
Negative obligations	Positive obligations
Justiciable rights	Non-justiciable
Focused on political democracy	Promotes social / economic welfare
Protected by legal sanctions	Backed by moral / political sanctions
Oriented towards individual welfare.	Focused on societal welfare
Automatically enforceable and Court can invalidate laws violating FRs	Require legislative enactment and Courts cannot invalidate laws violating DPSP.

PART IVA-FUNDAMENTAL DUTIES

- FDs are borrowed from the USSR.
- Statutory and non-enforceable.
- Not originally part of the Constitution.
- Applicable only to Indian citizens, not foreigners.
- Introduced through the 42nd Constitutional Amendment Act (1976)
- Intially 10 Fundamental Duties were added to the Constitution.
- Currently, there are 11 Fundamental Duties.
- The last Fundamental Duty [Article 51A(k)] was added later via 86th Constitutional Amendment Act, 2002.

On the recommendation of Sardar Swarn Singh Committee, 11 Fundamental Duties were added in Indian Constitution

Article 51(A)

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) to cherish and follow the noble ideals that inspired the national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service when called upon to do so

(e) to promote harmony and the spirit of common brotherhood among all the people of India, transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women

(f) to value and preserve the rich heritage of our composite culture.

(g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(k) duty of a parent or guardian: to provide opportunities for education to his child or ward between the age of six and fourteen years. (Added through 86th CA, 2002)

Justice Verma Committee:

It identified the existence of legal provisions for implementation of Fundamental Duties and teaching school kids about their duties.

Laws Reflecting and Enforcing Fundamental Duties

The Unlawful Activities (Prevention) Act (1967)
Prevents activities that threaten the sovereignty and integrity of India-Duty (c)

Prevention of Insults to National Honour Act (1971)
Prohibits disrespect to the Constitution, National Flag, and National Anthem. - Duty (a)

Wildlife Protection Act (1972)
Provides legal protection to wild animals and birds. - Duty (g)

Representation of the People Act (1951)
Regulates elections and upholds democratic processes.- Duty(a)

Indian Penal Code (IPC)
Defines crimes and prescribes punishments, protecting public order and morality. - Duties (i) and (e) (to renounce derogatory practices against women)

Protection of Civil Rights Act (1955)
Eliminates untouchability and promotes equality - Duty (e)

TRICK TO LEARN ALL FDs:

a- Anthem aur flag ki respect

b- Bhagat Singh/ Bapu ke ideals ko follow

c- Means 3. (Sovereignty, unity, integrity)

d- Defend the country

e-Means 5 & E for equality, brotherhood, No derogatory practices to women's dignity

f- Fort matlab heritage ki value & care karna

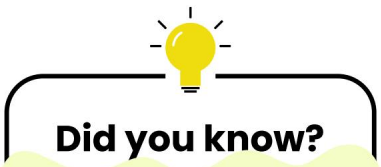
g- Greenery-environment ka protection

h-Humanism

i - Eye (eye for an eye makes whole world blind), matlab Violence Nahi karna chahiye.

j- Jadeja ki tarah excellent performer in all spheres bano aur achievements karo.

k-(School education)



Did you know?

Fundamental duties are provided for Indian citizens only and not for Foreigners.

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