CHAPTER V
DIRECTIVE PRINCIPLES OF STATE POLICY

Its Necessity: - The Objectives Resolution of Pandit Jawaharlal Nehru had guaranteed and insured to all the people of India equality of status, of opportunity, and before the Law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to Law and public morality. Therefore the makers of the Indian Constitution provided for civil and political liberties in the Chapter called Fundamental Rights. But the Objectives Resolution had also promised social and economic justice to the people. And that is rightly so because all provisions for civil and political liberties are meaningless in the context of social and economic inequality. These political liberties are ineffective to those who are hungry, naked and illiterate. The mover of this Resolution was quite conscious of the situation and had observed “many of our politicians, learned in the Law, think and talk of Constitution and the like, forgetting the human beings for whom Constitution and Laws are made. Politics for the dwellers of our millions of mud huts and town slums means food for the hungry and clothing and shelter.” But there is great difficulty in enunciating these rights in precise legal terms and make them enforceable in a court of Law. Therefore the Fundamental Rights sub-committee recommended that “the list of fundamental rights should be prepared in two parts, the first part consisting of rights enforceable by appropriate legal process and the second consisting of directive principles of social policy which, though not enforceable in courts, are nevertheless to be regarded as fundamental in the governance of the country.”

Its Utility: - But members of the Constituent Assembly questioned the utility of the recommendation of the sub-committee on Fundamental Rights. Sri B. Das regretted that these pious recommendations should find no place in the Statute. In the opinion of Dr. F. S. Deshmukh these directives were exceptionally perfunctory. Sardar

1. West Bengal Legislative Assembly: September 1948; Quoted by S. K. Banerjee, p. 16
2. C.A.D. VOL III p. 422
3. C.A.D. VOL V p. 367
Vallabhbhai Patel, the Chairman of the sub-committee, cut short the debate and said, "This Report lays down certain administrative objectives. We have already passed the main Resolution defining the objectives and therefore whether you have this prolonged debate or not is more or less an academic thing."¹

In the Report of the Sub-Committee the heading was "Fundamental Principles of Governance." But the Drafting Committee changed it to "Directive Principles of State Policy" at the instance of the Draft Constitution prepared by the Constitutional Advisor.² There was much discussion in the Constituent Assembly on this change of title. Maulana Syed Karimuddin³ said, "Directive Principles mean that they will not be binding on the State; in any case, they would not be enforceable in a court of law. Therefore they are meaningless." He further pointed out that even Dr. Ambedkar had recommended in his book that these principles should be embodied in the Constitution as Fundamental Rights and that a scheme embodying these principles should be brought into operation within ten years. Sri H. V. Kamath also recommended that the heading be rechristened as 'Fundamental Principles of State Policy.'⁴ Explaining the position Sri M. Ananthasayanam Ayyangar said "Mr. Karimuddin wants that these also should be justiciable rights. I do not know if Mr. Karimuddin is a lawyer. But let him consider one or two suggestions. In Article 26 it is said that the State should within a period of ten years introduce free compulsory education. Take this as an instance. Let us assume that the State does not do so, then can any court of law enforce it? Against whom? In case a decree is granted by a Court of Law, who will carry it out?....In the nature of things, these are only directives and cannot be justiciable rights at all. So there is no purpose in removing the word directive. These are principles which the Government must keep in mind, whatever government may be in power; and they must be carried out. We have incorporated them in the Constitution itself because we attach importance to them....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

¹ C.A.D. Vol V p. 378
² Draft Constitution of India, 22nd September 1947, p. 9
³ C.A.D. Vol VII p. 473
⁴ Ibid., p. 476
four 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." Dr. B. R. Ambedkar also pleaded "Mr. Kamath's amendment is really incorporated in the physiology as it now stands; the word 'Fundamental' occurs, as Mr. Kamath will find, in the very first Article of this part... With regard to the word 'Directive' I think it is necessary and important that the word should be retained because it is to be understood that in enacting this part of the Constitution, the Constituent Assembly, as I said, is giving certain directions to the future Legislature and the future executive to show in what manner they are to exercise the Legislative and the executive power which they will have. If the word 'Directive' is omitted I am afraid the intention of the Constituent Assembly in enacting this part will fail in its purpose... it is not the intention to introduce in this part these principles as mere pious declarations. It is the intention of this Assembly that in future both the Legislature and the executive should not merely pay lip service to these principles enshrined in this part but they should be made the basis of all executive and legislative actions..." 

Thus "Directive Principles of State Policy" was accepted by the House to be the appropriate heading of the chapter.

'The State': a Grammatical Error? - The Drafting Committee recommended that - "In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III of this Constitution." It was not provided in the Report of the sub-committee. Mr. Haziruddin Ahmed pointed out that the words 'unless the context otherwise requires' be omitted and the word 'State' be substituted for the word 'the State' as that was grammatically more sound. Dr. Ambedkar however, explained that "the words 'the State' in Article 26 have been used deliberately. In this Constitution, the word 'State' has been used in two different senses. It is used as the collective entity, either representing the Centre or the Province, both of which in certain parts of the Constitution are spoken of as 'State.' But
the word used there is in a collective sense. Here the words 'the State' are used both in a collective sense as well as in the distributive sense. If my friend were to refer to part III, which begins with article 7 of the Constitution, he will see in what sense the word 'State' is used. In this part, unless the context otherwise required, 'the State' includes the Government and the Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India. So that, so far as the Directive Principles are concerned, even a village panchayat or a district or local board would be a State also. In order to distinguish the sense in which we have used the word we have thought it desirable to speak of 'State' and also 'the State'. Honourable Members will find this distinction also made in Article 12 of the Constitution. There we say:

"No title shall be conferred by the State; No citizen of India shall accept any title from any foreign State."

"There we do not use the words 'the State'; but in the first part we use the words 'the State.' We do not want any of the authorities, either of the Centre or of the provinces, to confer any title upon any individual. That being the distinction, the House will realize that the retention of the words 'the State' in Article 28 is in consonance with the practice we have adopted in drafting this Constitution."¹

Though Not Enforceable in any Court, yet Fundamental in the Governance of the Country:
The sub-committee had recommended that "the principles of policy set forth in this part are intended for the guidance of the State. While these principles are not cognizable by any court, they are nevertheless fundamental in the governance of the country and their application in the making of laws shall be the duty of the State."²

It resembled the Irish Constitution Article 45(1). The Drafting Committee redrafted it as, "29. The provisions contained in this part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws." Prof. K. T. Shah was not satisfied with these pious

¹ C.A.D. Vol VII pp. 477-478
² C.A.D. Vol VII pp. 468
wishes. He characterized these directives as "a cheque on a bank payable when
able."¹ There was nothing mandatory in these provisions. He therefore lamented
that "in the absence of any such mandatory direction to those who may have the
governance of the country hereafter, it is quite possible that all these things for
which we have been hoping and striving all these years may never come to pass, at
any rate within our lifetime."² He, therefore, suggested that these directives
should be "enforceable in such manner and by such authority as may be deemed
appropriate in or under the respective Law relating to each such obligation."³

Prof. Shiban Lal Saksena had also suggested that "after a period of ten years,
these directive principles of State Policy shall become the Fundamental Rights of
the People and shall be enforceable by any court."⁴ But after a careful consider-
ation of the various provisions in this chapter he was convinced that it would not
be proper to lay down such a tall order. He was satisfied that the Drafting Commit-
tee itself had laid down a period of ten years for compulsory education up to fourteen
years of age and three years for separation of executive from judiciary. He, therefore,
assured Prof. K. T. Shah "that the very fact that this chapter forms part of the
Constitution, gives such a guarantee and it will surely be open to every legislature
to point out when an Act is brought before the Assembly that it is in conflict
with the principles laid down in this Chapter. So, the mere fact that they are
being included in the Constitution shows that every Legislature will be bound to
respect these directive principles in the Constitution and therefore, any act which
offends the directive principles shall be ultra vires. Although every citizen will
not be able to go to a Court of Law for enforcement of these principles, yet the
President of every Assembly will be within his rights to rule out any Bill and say
that this Bill cannot be moved, because it is against the fundamental directive
principles of the Constitution itself. I, therefore, think that this Chapter is
not merely a Chapter of pious wishes, but a Chapter containing great principles."⁵

Thus the arguments of Prof. Saksena was so convincing that it was not required to
have any reply from Dr. B. R. Ambedkar and draft article 29 was adopted.⁶

¹ C.A.D Vol. VII p. 479
² Ibid. p. 478
³ Ibid. p. 482
⁴ Ibid. p. 483
⁵ Ibid. p. 482
⁶ Ibid. p. 483
Justice, Social, Economic and Political: The sub-committee had recommended that "the State shall strive to promote the welfare of the whole 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." It was in accordance with the Irish Constitution Article 45(1). It appeared as article 30 of the Draft Constitution. Sri Damodar Swarup Seth, however, expressed that the Article was vague and indefinite and did not contain any clear indication as to the economic nature of the social order to be established. He therefore pleaded for the specific provision for the transfer to public ownership the "important means of production, communication, credit and exchange, mineral resources and the resources of natural power and such other large economic enterprise as are matured for socialisation; to bring about municipalisation of public utilities," and "the encouragement of the organization of agriculture, credit and industries on cooperative basis." He argued that these were promised by the India National Congress in its election manifesto. The Economic Committee's Report of the Congress also accepted them.

But Mahboob Ali Baig Sahib Bahadur opposed these suggestions on the ground that in a Constitution no principles of any school of political thought should be incorporated. These principles would bind and tie down the political parties in the country to a certain programme. Therefore, these suggestions were out of place and contrary to the principles of parliamentary democracy. Dr. B. R. Ambedkar replied, "While we have established political democracy, it is also the desire that we should lay down as our ideal economic democracy....There are various ways in which people believe that economic democracy can be brought about; there are those who believe in individualism as the best form of economic democracy; there are those who believe in having a socialistic state as the best form of economic democracy; there are

2. C.A.D. Vol VII pp 486-487
3. Ibid. pp 488-489
those who believe in the communistic idea as the most perfect form of economic democracy.

"Now having regard to the fact that there are various ways by which economic democracy may be brought about, 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 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 electorates that it is the best way of reaching economic democracy, the fullest opportunity to act in the way in which they want to act." 1

Earlier Sri Mahboob Ali Daig Sahib Bahadur had posed the point that such principles should find no place in a parliamentary democracy because "there would be parties in the country which seek election to parliament and these political parties have different and distinctive ideas, ideals and ideologies, programmes and principles." 2

Mr. Hussain Durrani also pointed out the futility of these provisions. He said, "not even the President of the Union has been authorized to put his foot down when he sees a State Government going against the directive principles......The directive principles, as they have been laid down, are singularly inoperative. I do not think there is any need for having any ineffective directives at all." 3 Sri Mahavir Tyagi complained that the clause, from the language point of view, was not strong. It was very halting. He objected the words"-wrote to" and "as it may." 4 Dr. B. R. Ambedkar, however, asserted, "In my judgment, the directive principles have a great value, for they lay down that our ideal is economic democracy. Because we did not want merely a parliamentary form of Government to be instituted through the various mechanisms provided in the Constitution, without any direction as to what our economic ideal, as to what our social order ought to be, we deliberately included the Directive Principles in our Constitution. I think, if the friends who are agitated over this question bear in mind what I have said just now that our object in framing this

1. C.A.D. VII p. 494
2. Ibid. p. 488
3. Ibid. p. 491
4. Ibid. pp. 492 and 493
Constitution is really two-fold: (1) to lay down the form of political democracy, and (2) to lay down that our ideal is economic democracy and also to prescribe that every government whatever it is in power, shall strive to bring about economic democracy, much of the misunderstanding under which most members are labouring will disappear....The word 'strive'...is very important. We have used it because our intention is that even when there are circumstances which prevent the Government, or which stand in the way of the government giving effect to these Directive Principles, they shall, even under hard and unpropitious circumstances, always strive in the fulfillment of these Directives."¹ The House therefore adopted article 30 which appeared as article 38 in the new Constitution.

Right to Livelihood, etc.: - On the recommendation of the sub-committee on Fundamental Rights² the Drafting Committee recommended that -

"31. The State shall, in particular, direct its policy towards securing --

(i) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(iv) that there is equal pay for equal work for both men and women;

(v) that the strength and health 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 a vocation unsuited to their age or strength;

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment."

This was in accordance with Articles 15(2) and 15(4)² of the Irish Constitution.

But Prof. K. T. Shah³ was not satisfied with sub-clause (ii) and suggested

1. C.A.D. VII pp 495-496
2. C.A.D. V p. 406, clause 3
3. C.A.D. VII pp. 505-508
that it should be redrafted and thereby ownership, control and management of the
natural resources should be vested in the community collectively, and should be
exploited, developed and worked by the community as represented by the Central
or Provincial or Local Governments or by any statutory corporations that might
be created for the purpose. Sub-clause (iii) was also unclear and ambiguous.
He therefore suggested that the following sub-clause be substituted for it:
"that there shall be no private monopolies in any form of production of material
wealth, social service, or public utilities nor shall there be any concentration
of means of production and distribution in private hands and the State shall adopt
every means to prevent such concentration or accumulation." Prof. Shiban Lal
Saksena¹ supported the amendment of Prof. K. T. Shah. It was essential to lay
down that the key industries of the country should be owned by the State. This
had been an important programme of the Congress since 1921. Therefore, this
assembly, which had the majority from one party that had already committed itself
to these principles, should lay down these principles in the Constitution itself.
Sri Jadubans Sahay² also argued "we congressmen have given promises from many
platforms to the teeming millions that so far as the means of production and the
natural resources of the State are concerned, they will not be put into the hands
of a favoured few. How can we go back on our word?....are we not going to suggest
that ultimately we have to nationalize them, are we not going to suggest that is
the aim of the nation, is the target of the nation? We stated in the August
Resolution that land belongs to the tillers of the soil. You have here magnifi-
cent and sparkling words but they appear very far away from the toiling millions.
Why not state here, not today, not tomorrow but in the distant future that the
community will own what belongs to the community by the gift of nature and by the
gift of God." Dr. B. R. Ambedkar, however, maintained that the draft clause was
wide enough to include the propositions moved by Prof. Shah.³ It was so general
that any system of economy could be based upon it. Therefore the amendments of

¹ C.A.D. VII pp 515-516
² Ibid. pp 516-517
³ Ibid. p. 518
Prof. Shah were negatived.1

Sri S. V. Krishnamoorthy Rao suggested that for the words "that the strength and health" the words "that the health and strength" be substituted in clause (v). He argued that strength follows health and the phraseology sounds better.2 The Constitutional Adviser had, however, earlier opined that clause (v) followed the wording used in article 15(4)2 of the Irish Constitution. Moreover heavy work affected strength first and health afterwards; hence the order of the words. The amendment was therefore unnecessary.3 But Dr. B. R. Ambedkar accepted the amendment4 and the House also adopted it.5

Village Panchayats: - It was a significant omission in the Draft Constitution of India that village panchayats had not been included. Neither the Union Constitution Committee nor the Provincial Constitution Committee made any provision for the same. Even in the Draft Constitution prepared by the Constitutional Adviser on 22nd September 1947 no reference was made to it. Therefore, after the publication of the Draft Constitution, Dr. Rajendra Prasad wrote a letter to Sir B. N. Rau that "I like the idea of making the Constitution begin with the village and go up to the Centre. The Government of India Act Started with the Centre and then went down to the Provinces leaving the still lower bases to be dealt with by the Provinces. We have followed the same model. The idea is to reverse the process and start with the village which has been and will ever continue to be our unit in this country. As far as I can judge, it will involve redrafting of some articles and their rearrangement. But if we leave the Provinces and the Centre more or less as they are, the changes will not be so very fundamental and will put the whole thing in the right perspective. There is also the idea of utilizing the adult franchise only for the Village Panchayat and making the Village Panchayats the electoral college for electing representatives to the Provinces and the Centre.

1. C.A.D. VII p. 519
2. Ibid. p. 513
3. Papers in the President's Secretariat: Notes on Amendments to the Draft Constitution of India: List I No. 81
4. C.A.D. VII p. 518
5. Ibid. p. 519
I strongly advocate this. But the Constitutional Adviser pointed out administrative and Constitutional difficulties in working out the Village Panchayat scheme in the Constitution. Dr. B. R. Ambedkar was also firmly against this scheme and he regarded it to be the ruination of India. To him, the village was a sink of localism, a den of ignorance, narrow-mindedness and communalism. But a large number of Members of the Constituent Assembly were critical of this view of Dr. Ambedkar and Sri H. V. Karath said that Dr. Ambedkar's attitude "was typical of the urban highbrow; and if that is going to be our attitude towards the village folk, I can only say, 'God save us.'" It was in this background that Sri K. Santhana moved that after article 31 the following new article be added:

"31-A. 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." Dr. B. R. Ambedkar accepted it. Supporting the amendment Sri T. Prakasan said "Sir, a very serious situation was created by not making the village republic or the village unit as the real basis of the Constitution. It must be acknowledged on all hands that this is a construction which is begun at the top and which is going down to the bottom. What is suggested in this direction by Dr. Rajendra Prasad himself was that the structure must begin from the foundations and it must go up. That, Sir, is the Constitution which the departed Mahatma Gandhi indicated and tried to work up for nearly thirty years. The House accepted it and it appeared as Article 40 of the new Constitution.

Right to work, to Education, etc.: - The sub-committee on Fundamental Rights recommended that "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 case of unemployment, old age, sickness, disablement,

1. Papers in the President's Secretariat: Letter from Dr. Rajendra Prasad to Sir B. N. Rau, dated 10th May 1948.
2. Ibid: Reply from Sir B. N. Rau to Dr. Rajendra Prasad, dated 31.5.48.
3. C.A.D. VII p. 39
4. Ibid. p. 219
5. Ibid. p. 520
6. Ibid. p. 520
7. Ibid. p. 521
and other cases of undeserved want."\(^1\) It was also adopted by the Drafting Committee as article 32. There was no controversy in the House and it was accepted\(^2\) which appeared as article 41 of the new Constitution.

**Conditions of Work and Maternity Relief:** The Sub-Committee recommended that "the State shall make provision for securing just and humane conditions of work and for maternity relief for workers."\(^3\) The Drafting Committee accepted it as article 33 and it was also accepted by the House without controversy.\(^4\)

**Living Wage, Etc., for Workers:** On the recommendation of the sub-committee on Fundamental Rights\(^5\) the Drafting Committee recommended:

"34. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, 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." It appeared as article 35 of the Draft Constitution prepared by the Constitutional Adviser on 22nd September 1947. Sri Mahavir Tyagi recommended that the State should also "encourage the use of Swadeshi articles and promote cottage industries, especially in the rural areas with a view to making as far as possible those areas self-sufficient."\(^6\) He pleaded, "Our Party, the Congress Party, has been propagating Swadeshi and cottage industries since its very inception, but now that the time has come for making our Constitution, if we ignore the villagers, that will be disappointing to the village people."\(^7\) Sri T. A. Rama Lingam Chettiar also recommended: "and in particular, the State shall endeavour to promote cottage industries on cooperative lines in rural areas."\(^8\) Sri S. Nagappa suggested that specific provision should be made for 'agricultural' workers as well.\(^9\) Dr. B. R. Ambedkar accepted the amendment of Sir Nagappa and suggested improvement in that

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1. C.A.D. V p. 406
2. C.A.D. VII p. 550
4. C.A.D. VII p. 530
5. C.A.D. V p. 406
6. C.A.D. VII p. 530
7. Ibid. p. 531
8. Ibid. p. 532
9. Ibid. p. 555
of Sri Chettiar as "to promote cottage industries on individual or cooperative basis in rural areas."\(^1\) The House accepted the recommendations of Dr. B. R. Ambedkar and it appeared as article 43 in the new Constitution.

**Uniform Civil Code:** On the recommendation of the Sub-Committee\(^2\) the Drafting Committee recommended "35. The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." But Mr. Mohammed Ismail Sahib asserted that "the right of a group or a community of people to follow and adhere to its own personal law is among the fundamental rights." He therefore moved that article 35 be subject to the proviso "that any group, section or community of people shall not be obliged to give up its own personal law in case it has such a law."\(^3\) Mr. Naziruddin Ahmed pointed out that it infringed the Fundamental Right mentioned in article 19.\(^4\) Others maintained that it was tyrannous to the minority.\(^5\) Sri K. M. Munshi replied "as regards article 19 the House accepted it and made it quite clear that.... if a religious practice followed so far covers a secular activity or falls within the field of social reform or social welfare, it would be open to Parliament to make Laws about it without infringing this Fundamental Right of a minority. ...... A further argument has been advanced that the enactment of a Civil Code would be tyrannical to minorities. Is it tyrannical? Nowhere in advanced Muslim countries the personal law of each minority has been recognized as so sacrosanct as to prevent the enactment of a Civil Code. Take, for instance, Turkey or Egypt. No minority in these countries is permitted to have such rights. But I go further. When the Shariat Act was passed or when certain Laws were passed in the Central Legislature in the old regime, the Khojas and Cutchi Memons were highly dissatisfied.

"They then followed certain Hindu customs: for generations since they became converts they had done so. They did not want to conform to the Shariat; and yet by

1. C.A.D. VII p. 555
2. C.A.D. V p. 407, clause 7
3. C.A.D.VII p. 540
4. Ibid. p. 544
5. Ibid pp. 543 and 544: Mahboob Ali and Fockes Sahib
a legislation of the Central Legislature certain Muslim members said that
Shariat law should be enforced upon the whole community except their point.
The Khajus and Cutchi Memons most unwillingly had to submit to it. There are
the rights of minority then?... The point however, is this, whether we are going
to consolidate and unify our personal law in such a way that the laws of life of
the whole country may in course of time be unified and secular. We want to divorce
religion from personal law, from that may be called social relations or from the
rights of parties as regards inheritance or succession;... We are in a stage where
we must unify and consolidate the nation by every means without interfering with
religious practices. If, however, the religious practices in the past have been
so construed as to cover the whole field of life, we have reached a point when
we must put our foot down and say that these matters are not religion, they are
purely matters for secular legislation.  
 1. Sir Alladi Krishnaswami Ayyar also
pleaded "A Civil Code... runs into every department of civil relations, to the
law of contracts, to the law of property, to the law of succession, to the law
of marriage and similar matters. How can there be any objection to the general
statement here that the States shall endeavour to secure a uniform civil code
throughout the territory of India?

"The second objection was that religion was in danger, that communities cannot
live in unity if there is to be a uniform civil code. The article actually aims
at unity. It does not destroy unity. The idea is that differential systems of
inheritance and other matters are some of the factors which contribute to the differ-
ences among the different peoples of India. What it aims at is to try to arrive at
a common measure of agreement in regard to these matters."  
 2. Dr. B. R. Ambedkar also
said: "My friend, Mr. Hussain Imam, in rising to support the amendments, asked
whether it was possible and desirable to have a uniform code of laws for a country
so vast as this is. How I must confess that I was very much surprised at that
statement, for the simple reason that we have in this country a uniform code of

1. C.A.D. VII p. 547
2. Ibid. p. 549
laws covering almost every aspect of human relationship. We have a uniform and complete criminal code operating throughout the country, which is contained in the Penal Code and the Criminal Procedure Code. We have the Law of Transfer of Property, which deals with property relations and which is operative throughout the country. Then there are the Negotiable Instruments Acts: and I can cite innumerable enactments which could prove that this country has practically a Civil Code, uniform in its content and applicable to the whole of the country. The only province the Civil Law has not been able to invade so far is Marriage and Succession.\footnote{1} Opposing the statement that the Muslim personal Law was immutable and uniform through the whole of India he said that "up to 1935 the North West Frontier Province was not subject to the Shariat Law. It followed the Hindu Law in the matter of succession and in other matters, so much so that it was in 1939 that the Central Legislature had to come into the field and to abrogate the application of the Hindu Law to the Muslims of the North-West Frontier Province and to apply the Shariat Law to them.... apart from the North-West Frontier Provinces, up till 1937 in the rest of India, in various parts, such as the United Provinces, the Central Provinces and Bombay, the Muslims to a large extent were governed by the Hindu Law in the matter of succession. In order to bring them on the plane of uniformity with regard to the other Muslims who observed the Shariat Law, the Legislature had to intervene in 1937 and to pass an enactment applying the Shariat Law to the rest of India.... Therefore if it was found necessary that for the purpose of evolving a single Civil Code applicable to all citizens irrespective of their religion, certain portions of the Hindu Law not because they were contained in Hindu Law but because they were found to be the most suitable, were incorporated into the new Civil Code projected by article 35, I am quite certain that it would not be open to any Muslim to say that the framers of the Civil Code had done great violence to the sentiments of the Muslim community."\footnote{2} However, giving assurance to the minority communities he said that article 35 "merely proposes that the State shall endeavour to secure a Civil Code for the citizens of the country. It
does not say that after the Code is framed the State shall enforce it upon all citizens merely because they are citizens. It is perfectly possible that the future parliament may make a provision by way of making a beginning that the Code shall apply only to those who make a declaration that they are prepared to be bound by it, so that in the initial stage the application of the Code may be purely voluntary. Thus the House accepted article 35.

Free Education: - On the recommendation of the sub-committee on Fundamental Rights, the Drafting Committee recommended, "36. Every citizen is entitled to free primary education and the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years." Pandit Lalkhu Kendu Maitra moved that the words "Every citizen is entitled to free primary education and" be deleted so that this article would come into line with the other articles. If these words were not deleted, this directive principle would assume the character of a fundamental right. Moreover, till the age of 14 years the child would get not only primary but secondary education as well. Dr. B. R. Ambedkar therefore accepted the amendment and the House adopted article 36 as amended.

Special Care for Scheduled Castes, Etc.: - The sub-committee on Fundamental Rights recommended "9. 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 aboriginal tribes, and shall protect them from social injustice and all forms of exploitation." The Constitutional Adviser substituted the words "scheduled tribes" for the words 'aboriginal tribes' in the Draft Constitution prepared on 22nd September 1947. That was, of course, a better term and the Drafting Committee accordingly adopted the redraft as article 37. The House also accepted it.

6. Article 38  7. C.A.D. VII p. 553
The Drafting Committee had included a provision in article 38 of the Draft Constitution which provided for prohibition in this clause. Prof. Shibban Lal Saksen also moved that at the end of article 38, the following be added: "and shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medical purposes." This amendment was a definite improvement on that of Sri Tegi as it provided for an exception on medical grounds. Sri B. B. Bhadadkar opposed it. He pointed out that the framers also provided for prohibition in their legislation, but ultimately, in the light of experience, they had to give it up completely. He further argued that "think of the millions of rural hands working very hard all day. In the evening they like to have a glass or two of toddy which is really nothing but fermented rice and if along with the vittu they get a little mirth or joy why should you deprive him of that?" Sri Jai pal Singh also warned that as far as the Adibasi were concerned no religious function would be performed without the use of rice-beer. Dr. N. R. Anbedkar, however, accepted the amendment of Sri Mahovir Tegi as amended by Prof. Shibban Lal Saksen with the addition of the words 'in particular' after the word 'and' and before the words 'shall endeavour'. He said that there should be no anxiety in Mr. Bhadadkar as there was no compulsion on the State to act on this principle. Whether to act on this principle and when to do so were left to the State and to public opinion. Sri Jai pal Singh should also have no apprehension because ample provision was made for safeguarding the position of the tribal people with regard to the question of prohibition in paragraph 12 of the Sixth Schedule. Thus the article as amended was adopted by the House.

1. C.A.D. VII p. 596
2. C.A.D. VII p. 554
3. Ibid. p. 552
4. Ibid. pp. 556-559
5. Ibid. p. 559
6. Ibid. p. 560
7. Ibid. p. 567
Prohibition of Cow Slaughter: - Pandit Thakurdas Bhargava moved "38-A. The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall in particular take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cow and other useful cattle, specially milk and draught cattle and their young stock."\(^1\) He remarked, "while moving this amendment, I have no hesitation in stating that for people like me and those that do not agree with the point of view of Dr. Ambedkar and others, this entails, in a way, a sort of sacrifice... to my mind it would have been much better if this could have been incorporated in the Fundamental Rights, but some of my Assembly friends differed and it is the desire of Dr. Ambedkar that this matter, instead of being included in Fundamental Rights should be incorporated in the Direct Principles... But I would like to tell you that even during the Muslim rule, Babur, Humayun, Akbar, Jahangir and even in the reign of Aurangzeb, cow-slaughter was not practised in India; not because Muslims regarded it to be bad but because from the economic point of view, it was unprofitable. Similarly in every country, in China, cow-slaughter is a crime. It is banned in Afghanistan as well. A year ago, similar law was passed in Burma."\(^2\) Seth Govind Das\(^2\) and Sri Ram Sahai,\(^3\) however, advocated total prohibition of cow-slaughter. But the House accepted the amendment of Pandit Bhargava which appeared as article 43 of the new Constitution.

Protection of Monuments: - The Sub-Committee on Fundamental Rights recommended "11. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by the Law of the Union to be of national importance, from spoil, destruction, removal, disposal or export, as the case may be, and to preserve and maintain according to the Law of the Union all such monuments or places or objects." The Drafting Committee adopted it as article 39 with minor verbal modification. Prof. Shibban Lal Saksena\(^5\) moved

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1. C.A.D. VII p. 568
2. Ibid. p. 571
3. Ibid. p. 573
4. C.A.D. V. p. 407
5. C.A.D. VII p. 551
that after the word 'spoliation' the word 'disfigurement' be added. He further pointed out that this article was a directive principle and therefore it should not mention about Laws of Parliament and so we must omit the words 'and to preserve and maintain according to the Law made by Parliament all such monuments or places or objects.' The House accepted the amendments and the article as amended was adopted.¹

Separation of the Judiciary from the Executive: - Dr. B. R. Ambedkar² moved that after article 39 the following new article be inserted: "39-A. The State shall take steps to secure that, within a period of three years from the commencement of this Constitution, there is a separation of the Judiciary from the Executive in the public services of the State." Explaining he said, "It has been the desire of this country from long past that there should be separation of the judiciary from the executive and the demand has been continual right from the time when the Congress was founded...... We think that the time has come when this reform should be carried out...... We deliberately did not make it a matter of fundamental principle, because if we had made it a matter of fundamental principle it would have become absolutely obligatory instantaneously on the passing of the Constitution to bring about the separation of the judiciary and the executive. We have therefore deliberately put this matter in the chapter dealing with directive principles and there too we have provided that this reform shall be carried out within three years, so that there is no room left for what might be called procrastination in a matter of this kind." Originally the Drafting Committee had used the expression 'complete separation of the judiciary, etc.' But the Special Committee considered that the word 'complete' was unnecessary and that was accordingly omitted in the amendment moved by Dr. B. R. Ambedkar.³ Sri T. T. Krishnamachari pointed out that the clause was not mandatory and therefore there was no point in putting a three year limit. Moreover it might take a longer time.⁴ On the other hand Sri B. Das⁵ suggested to postpone consideration of this amendment as the Congress was to meet very shortly at guipur. When

1. C.A.D. VII p. 592
2. Ibid. p. 592
5. Malta.
the people were harassed by the former British Government, we thought we had no justice from the British Government and we wanted separation of the judiciary from the executive. In the changed circumstances we ought to reconsider whether separation was still desirable. But Dr. B. R. Ambedkar accepted the suggestion of Sri T. T. Krishnamachair and re-drafted the article as "The State shall take steps to separate the judiciary from the executive in the public services of the State."\(^1\) The House accepted this re-draft\(^2\) and it appeared as article 50 of the new Constitution.

**Promotion of International Peace:** The sub-committee on Fundamental Rights had recommended that "12. The State shall promote international peace and security by the prescription of open, just and honourable relations between nations by the firm establishment of the understandings of international Law as the actual rule of conduct among governments and by the maintenance of justice and the scrupulous respect for treaty obligations in the dealings of organized people with one another."\(^3\)

The Drafting Committee adopted it as article 40 with the omission of the word scrupulous.\(^4\) But Dr. B. R. Ambedkar re-drafted it as:

"The State shall --

(a) promote international peace and security;

(b) seek to maintain just and honourable relations between nations; and

(c) endeavour to sustain respect for international law and treaty obligations in the dealings of organized people with one another." It resembled the Declaration of Havana made in 1939 by the representatives of the Government employers, and workers of the American continent. Sri Damodar Swarup Seth\(^5\) pointed out that nothing was said about political and economic emancipation of the oppressed and backward people, nor was anything said about the ensuring of minimum of social rights to the entire working class of the world through international regulation of their local status. Sri M. Ananthasayanam Ayyanger\(^6\) also said "I would like very much that we should have some such clause that it shall be the duty and the constant endeavour of the

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1. C.A.D. VII p. 595  
2. Ibid. p. 594  
3. C.A.D. V p. 407  
4. C.A.D. VII p. 595  
5. Ibid. pp. 599-600  
6. Ibid. pp. 603-604
Government in India to see that all people in the world are released from the domination of other people, ..., situated as we are, we cannot do it. For this purpose, arbitration is the sole means of settling international disputes." He therefore moved that the following be added at the end: "and (3) to encourage the settlement of international disputes by arbitration." It was adopted.\footnote{1} Sri H. V. Karanth\footnote{2} and Dr. P. Subbarayan\footnote{3} moved verbal amendments to improve the language of the draft. They were adopted.\footnote{4}

**Conclusion:** Thus considering the entire picture we find the Directive Principles to be instructive indeed. D. R. Gadgil, however, has not done justice to them when he says, "They are neither properly classified nor put in a logical order, and they do not present, as a whole, either a comprehensive or a significant programme of action."\footnote{5} Dr. M. P. Sharma has rightly grouped these principles under three classes which we may call socialistic, Gandhian and Liberal intellectualistic.\footnote{6} "The first of these groups directs the State to aim at adequate means of livelihood for all citizens; distribution of material resources of the nation in the common good; avoidance of the concentration of wealth and means of production to the common detriment; equal pay for equal work to both men and women; protection of workers especially children; right to work, education and public assistance in certain cases; provision for just and humane conditions of work; maternity relief; and living wage, decent standard of life, and leisure for all workers.\footnote{7} These are the well-known objectives of a socialist policy, and are obviously meant to reassure those who demanded the establishment of a socialist state.

"The second set of principles recommends to the State many of the items of the Gandhian programme of reconstruction to which the Congress had been wedded for so many past years. These include organization of village panchayats as effective units of self-government, promotion of cottage industries in the rural areas; protection and uplift of the scheduled castes and tribes; prohibition and protection from slaughter of cows, calves and other milk and draught cattle.\footnote{8}

\begin{itemize}
\item 1. C.A.D. VII p. 595
\item 2. Ibid. p. 596
\item 3. Ibid. p. 603
\item 4. Ibid. p. 646
\item 5. Some observations on the Draft Constitution. p. 41
\item 6. The Government of the India Republic pp. 61-63
\item 7. Articles 39, 41, 42 and 43
\item 8. Articles 40, 45, 46, 47 and 48.
\end{itemize}
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¹ C.A.D. VII p. 595
² Ibid. p. 596
³ Ibid. p. 605
⁴ Ibid. p. 606
⁵ Some Observations on the Draft Constitution. p. 41
⁶ The Government of the India Republic pp. 61-63
⁷ Articles 39, 41, 42 and 43
⁸ Articles 40, 45, 46, 47 and 48.
"The third and final set of directive principles is of a miscellaneous sort. It includes some of those things on which the liberal intellectuals have been insisting for a long time, e.g., free and compulsory education within a period of 10 years for children up to 14 years of age; uniform civil code for the whole country; separation of executive and judiciary; protection of historical, artistic or other monuments; organization of agriculture and animal husbandry on modern scientific lines; promotion of public health; and the promotion of international peace, security and justice."¹

Thus Sir Ivor Jennings, with a scanty knowledge of Indian environment, may say that "the ghosts of Sidney and Beatrice Webb stalk through the pages of the text." He has raised a question "whether it is worthwhile to insert in a Constitution a collection of political principles which obviously derive from English experience in the nineteenth century and are deemed to be suitable for India in the middle of the twentieth century" specially when "experiments in the use of atomic energy have reached an advanced stage and, if they succeed, they will revolutionize the economic problem."² But actually India is still in the nineteenth century and a British national has no right to laugh at it as it is due to the so called 'white man's burden' in India.

D. R. Gadgil finds reasons to lament that "instead of laying down the principles or programme explicitly and definitely, the various articles haltingly recount what the State might, within limitations, endeavour. This grave defect is entirely inexcusable in view of Article 29 which makes all the provision contained in Part IV not enforceable by any court."³ Had these principles been mere election manifesto⁴ we might have made luxurious promises in more definite and explicit terms than those of the Italian Constitution, which Dr. Gadgil has proudly mentioned. The Constituent Assembly definitely meant serious business and did not allow the Congress principles to find any place merely because the Congress was wedded to them. The debates on the Directive Principles bear ample testimony to it.

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1. Arts. 44, 45, 47, 48, 49, 50 and 51.
2. Ivor Jennings: op cit. pp 31 and 33
4. C.A.R. 777 p. 277: P. was stated by Dr. P. C. Deshmukh.
Had there been no intention to implement these principles and if they were of a purely directive character without any binding force, "the Ten Commandments of the Bible and the other commandments from various religious and from practical life" would have been introduced.\(^1\) Though Article 29 does not make these provisions enforceable by any court, they are "nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making Laws." Prof. Shibban Lal Saksena had wisely pointed out the inclusion of this chapter in the Constitution itself was enough guarantee of its utility and a President might withhold assent to a Bill if it was against these Directive Principles.\(^2\) D. D. Basu also expressed the view that "if any Bill is brought in the Legislature which is in direct contravention of any of these directives, the President or the Governor may refuse his assent to such Bill on that ground, though the Courts may not declare the Act void, if it is passed."\(^3\) Dr. Ambedkar called it a "dangerous doctrine" and said that "our Constitution does not warrant it."\(^4\) But he did not express similar view when Prof. Saksena was expressing the same point in the Assembly. And while presenting the First Amendment Bill Dr. Ambedkar himself laid emphasis on the Directive Principles which should not have been lost sight of.

Thus Sri Kamath had rightly hoped that "if the provisions in these articles are going to be seriously implemented and Government will really and in earnest take action in accordance with the provisions of these articles, I have no doubt that they will provide a new charter, the charter of a new life for the exploited, the dispossessed and the under-privileged, and they will provide the basis for the blueprint of economic and social democracy in our country."\(^5\) The preservation of our ancient monuments are symbolic of the preservation of our national heritage. And this national consciousness is wide enough to promote international peace and security without which the preservation of social and economic

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1. C.A.D. VII p. 225; Statement by Masiruddin Ahmad.
2. Ibid. p. 436
4. Ibid. Foreward p. vii
5. C.A.D. VII p. 533
democracy would have been an idle dream. Dr. Rajendra Prasad attaching greater importance to it proudly said, "We have not provided for the good of our people only, but have laid down in our directive principles that our State shall endeavour to promote material peace and security, maintain just and honourable relations between nations, foster respect for international law and treaty obligations and encourage settlement of international disputes by arbitration. In a world torn with conflicts, in a world which even after the devastation of two world wars is still depending on armaments to establish peace and good will, we are destined to play a great part, if we prove true to the Teachings of the Father of the Nation and give effect to this directive principle in our Constitution. Would to God that He would give us the wisdom and the strength to pursue this path in spite of the difficulties which beset us and the atmosphere which may choke us. Let us have faith in ourselves and in the teachings of the Master...and we shall fulfill the hopes and prove true to the best interests of not only our country but of the world at large."

Had Prof. Shah been alive he would have been happy to find its implementation through the five year Plans and the various economic and social legislation throughout the country. He would have been happier to find its importance in the Supreme Court decisions and in the 3 amendments to the Constitution. Indeed it has become a rich subject for students to do research on.

Thus the Makers of the Indian Constitution did not merely dream to bring Heaven on Earth by framing the superb-prose-poem in its Preamble. They strove hard to bring it to reality for the teeming mud-dwellers of the country and thus they acted truly like

"the wise who soar but never roam,

Turn to the kindred points of heaven and home."

L.C.A.D. x pp. 992 and 993.