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## Welfare State As An Essential Elements of Basic Structure of Constitution: Analyzing Welfare State In Detail

### ABSTRACT

*“Power has only one duty –  
To secure the social welfare of the People.”<sup>1</sup>*

*Benjamin Disraeli*

*Social protection in India is fragmented, with numerous programs employing different targeting methods for design and implementation. These programs offer various benefits and cover different segments of the population. This fragmented strategy has policy consequences not just for India but also for other developing countries following a similar path. To achieve comprehensive coverage throughout an individual's life while enhancing equity and efficiency, there is a need to adopt a systematic approach to social protection. In this article, an approach has been made to introduce India's welfare state, conduct a comparative analysis of different types of government, discuss the challenges associated with the approach, and propose some reforms to adopt a systematic approach. Emphasis has been made for the potential benefits of integrating and consolidating programs in the same domain, utilizing digital technology and unique identification numbers, and establishing a single comprehensive database to expedite the implementation of progressive universalism.<sup>2</sup> According to Article 38 of the Constitution : "The state shall make every effort to advance the well-being of the population by diligently ensuring a social order in which justice – encompassing social, economic, and political dimensions – is infused throughout all*

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<sup>1</sup> Shukla, U. (2020, August 29). India as a Welfare State | Into Legal World. Into Legal World : Connecting Legal Fraternity. <https://www.intolegalworld.com/article?title=india-as-a-welfare-state>

<sup>2</sup> Duggirala, A., & Kumar, R. (2021, November 28). The Welfare State in India: From Segmented Approach to Systems Approach in Social Protection. Sage Journals. <https://journals.sagepub.com/doi/10.1177/09737030211062091?icid=int.sj-full-text.similar-articles.3>

*" This provision sets a comprehensive foundation for the creation of a welfare state.<sup>1</sup>This article aims to analyze the concept of welfare state as an essential element of the Basic Structure of Constitution, Analyzing the welfare state in detail. Analysis of the research includes answers to the following questions in detail :- What is the concept of a welfare state, and how does it differ from other forms of government? How has the idea of a welfare state evolved throughout history, and what are the key milestones in this evolution? What is the role of a constitution in defining a country as a welfare state, and what are the constitutional elements that support this concept? How does the idea of a welfare state relate to concepts of social justice, equality, and human rights within a constitutional framework? What are the fundamental rights and directives in the constitution that contribute to the realization of a welfare state? How have these rights evolved over time?*

*The aim of this research is to analyze the topic and provide a structured approach on the welfare state as an essential element of the basic structure of the constitution.*

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<sup>1</sup> Social Democratic Party of India. Social Democratic Party of India – SDPI. <https://sdpi.in/issues/pro-people-policy/#:~:text=Also%20Article%2038%20of%20the,provides%20a%20broad%20framework%20for>

## INTRODUCTION

A welfare state is a system of governance in which the government assumes a central role in safeguarding and enhancing the economic and social welfare of its population.<sup>2</sup> The major focus of a welfare state is based on the principles of providing equal opportunities and fair wealth distribution. Its significant emphasis is on the government's duty to look after those individuals who cannot access the basic necessities for a decent life.<sup>3</sup> In such a framework, the state bears the responsibility for the well-being of its citizens. Before attaining independence, India was not a welfare state.<sup>4</sup> However after gaining independence, India has included the concept of welfare state in part IV of the Constitution in the form of Directive Principles of State Policy.

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<sup>2</sup> [Solved] Which part of the Indian Constitution provides for establish. Testbook.  
<https://testbook.com/question-answer/which-part-of-the-indian-constitution-provides-for--603f30633690fee81f0b5a2b#:~:text=What%20is%20a%20welfare%20state.and%20equitable%20distribution%20of%20wealth.>

<sup>3</sup> Team, Y. E. (2022). General Studies Vol.1 (India Polity & Constitution): Vol. 1. 1. Youth Competition Times. (Original work published 2022)

<sup>4</sup> Kenton, W. (2011, January 15). Understanding the Welfare State and Its History. Investopedia.  
<https://www.investopedia.com/terms/w/welfare-state.asp>

The Indian Constitution includes comprehensive measures to secure the social and economic wellbeing of the Indian population. It has incorporated two distinct provisions: one is encapsulated within the Fundamental Rights, and the other is represented by the Directive Principles of State Policy. The Fundamental Rights, outlined in Part III of the Indian Constitution, serve as an

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assurance that all citizens of India are entitled to and will have access to their civil liberties and fundamental rights.<sup>5</sup>

## RESEARCH QUESTIONS

1. What is the concept of a welfare state, and how does it differ from other forms of government?
2. How has the idea of a welfare state evolved, and what are the key milestones in this evolution.
3. What is the role of a constitution in defining a country as a welfare state, and what are the constitutional elements that support this concept?
4. How does the idea of a welfare state relate to concepts of social justice, equality, and human rights within a constitutional framework?
5. What are the fundamental rights and directives in the constitution that contribute to the realization of a welfare state? How have these rights evolved over time?

[1]

## **WHAT IS THE CONCEPT OF A WELFARE STATE, AND HOW DOES IT DIFFER FROM OTHER FORMS OF GOVERNMENT?**

A welfare state is a type of government where the state plays a key role in advancing and protecting the economic and social welfare of its citizens, setting it apart from other types of governments. The concept of 'welfare state' originated in the United Kingdom during World War II.<sup>8</sup> The Indian Constitution aims to create a welfare state due to the challenges inherited at the time of

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<sup>5</sup> *What Is Welfare State?* (2022, February 22). JatinVerma.org. <https://www.jatinverma.org/what-is-welfare-state>

independence, including a population grappling with poverty, lack of education, and unemployment.<sup>9</sup>In order to protect the interests of weaker sections, it was important to make India a welfare state.

Therefore, "technically", observes N. R. Sarkar, the determining factor of a Welfare State lies in the avowed assumption of certain basic responsibilities by the State in regard to providing education, sanitation, medical relief, and means of livelihood to the people and correlation thereof with the means of production of national wealth.<sup>10</sup> Both are to be viewed in a dynamic ratio. Some of these functions are so fundamental that they have come to be the characteristic feature of any

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modern state, whether it calls itself a welfare state or not. There are, however, some special responsibilities as of unemployment insurance, social insurance, old age pension, etc., having a cradle to grave sweep, which transcend the traditional concept of the state functions and focus the special features of a welfare state as such. In the Indian Constitution,

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<sup>6</sup> Weir, M. (2002, November 2). Welfare State. sciencedirect.com. <https://www.sciencedirect.com/topics/econometrics-and-finance/welfare-state>

<sup>7</sup> *The Constitution of India seeks to establish India as a welfare state. Why is there a need to make India a welfare state? How has the government tried to establish a welfare state?* BYJU'S Online learning Programs For K3, K10, K12, NEET, JEE, UPSC & Bank Exams. <https://byjus.com/question-answer/the-constitution-of-india-seeks-to-establish-india-as-a-welfare-state-why-is-there/>

<sup>8</sup> Gupta, B. G. (1956, September 26). The Concept of the Welfare State and India. The Concept of the Welfare State and India, Kolkata, India. <https://indianculture.gov.in/ebooks/concept-welfare-state-and-india>

Articles 36 to 51<sup>8</sup> encompass the DPSP, which provides the blueprint for establishing a socialist welfare state.<sup>9</sup> The Directive Principles cannot be legally enforced; instead, they represent the enduring objectives of a welfare state, guiding the country's development path. It is the responsibility of the State to incorporate them when creating laws. <sup>10</sup> Article 38 of the Indian Constitution<sup>11</sup>reads: "The state shall strive to promote the welfare of the people by securing and

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<sup>6</sup> The Constitution of India, 1950, Art.36 - Art 51

<sup>7</sup> Shukla, U. (2020, August 29). India as a Welfare State | Into Legal World. Into Legal World : Connecting Legal Fraternity. <https://www.intolegalworld.com/article?title=india-as-a-welfare-state>

<sup>8</sup> Rao, P. SECULAR, SOCIALIST & RELIGION IN INDIA - THE MISCONCEPTIONS. Google Books. <https://books.google.com/books?id=aWEsEAAAQBAJ> <sup>11</sup> The Constitution of India, 1950, Art.38.

protecting as effectively as it may, a social order in which justice-social economic and political shall pervade all institutions of national life.” Article 39A<sup>9</sup> states, “The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”As per Article 46<sup>10</sup> “The State shall promote, with special care, the education and economic interests of the weaker sections of the people.”India's welfare state places a significant

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emphasis on social welfare, equitable wealth distribution, and government involvement in promoting well-being. Other forms of government in the Indian context may differ in their approach to welfare, economic structure, and the balance between individual rights and collective welfare. In some other forms of government, similar as authoritarian or totalitarian administrations, the government's part in weal may be limited, and there may be a lesser emphasis on state control, security, or repression of individual rights. India's profitable approach combines rudiments of capitalism and illiberalism in a mixed frugality, whereas other forms of government may borrow different profitable systems. The extent of wealth redivision and social safety nets varies in other forms of government, and they may not prioritize reducing profitable inequality to the same degree. In a socialist state, the government may ply lesser control over colorful sectors of the frugality, while India's mixed frugality allows for a substantial private sector.

[2]

## **HOW HAS THE IDEA OF A WELFARE STATE EVOLVED, AND WHAT ARE THE KEY MILESTONES IN THIS EVOLUTION.**

The journey of India's endeavors in constructing a welfare state, with the aim of granting freedom, opportunities, and fairness to every citizen, is simultaneously inspiring and thought-provoking. It's inspiring as the mere existence of the welfare state is a victory for democracy.<sup>11</sup> The Supreme Court

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<sup>9</sup> The Constitution of India, 1950, Art. 39A

<sup>10</sup> The Constitution of India, 1959, Art 46

<sup>11</sup> Aiyer, Y. (2022, December 26). Welfare initiatives | For the people. India Today.

in its judgment in the case of *Lala Ram v/s Union of India & Anr. (2013)*<sup>12</sup> has explained the concept of a welfare state. It envisions a system where disadvantaged groups in society receive not only economic, political, and social rights but also "specific protective measures" to enhance their well-being and advancement.<sup>13</sup> A welfare state is founded on the ideas of providing equal

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opportunities and fair sharing of resources. It places importance on the government's duty to assist those who can't access basic necessities for a decent life. In this framework, the state takes on the role of ensuring the well-being of its citizens and sees itself as a service provider for society rather than a tool of authority.<sup>14</sup> A welfare state is a governance model in which the government assumes a central role in safeguarding and enhancing the economic and social welfare of its citizens.<sup>15</sup><sup>16</sup> This model is built upon the principles of providing equal opportunities and fair distribution of wealth. Additionally, it places significant importance on the government's duty to support individuals who cannot access the basic requirements for a decent life.<sup>22</sup> Without the concept of a welfare state and the development of compassion for the weaker sections, the goal of governance cannot be achieved. A welfare state is a concept of government in which the state plays a key role in the protection and promotion of economic and social well-being of its citizens.

It is based on the principles of equality of opportunity and equitable distribution of wealth. When India attained independence, it had innumerable problems and challenges. Social disparities existed, and marginalized groups like women, dalits, and children lacked access to essential

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<https://www.indiatoday.in/magazine/cover-story/story/20230102-welfare-initiatives-for-the-people-2313587-2022-1-2-26>

<sup>12</sup> Lala Ram V Union of India and Ans, Supreme Court of India, January 24, 2013, 243 - 247 (India).  
<https://main.sci.gov.in>

<sup>13</sup> Parikshith, N. (2022, June 22). PILs are necessary for securing a welfare state – The Leaflet. The Leaflet – An independent platform for cutting-edge, progressive, legal, and political opinion.  
<https://theleaflet.in/why-pils-are-necessary-for-securing-a-welfare-state/>

<sup>14</sup> Welfare State. Social Democratic Party of India – SDPI. <https://sdpi.in/issues/pro-people-policy/>

<sup>15</sup> Concept of Welfare State - Optimize IAS. (2021, August 3). Optimize IAS.  
<https://optimizeias.com/concept-of-welfare-state/>

<sup>16</sup> Years - UPSC Previous Year Papers - Subjectwise Solved General Studies Papers GS CSAT Paper 1 Prelims for UPSC IAS Civil Services Exam. Mock Time Publishers. <https://books.google.com/books?id=FkDYDwAAQBAJ><sup>20</sup>  
Questions on India - A Welfare State - Study Page. Home - Study Page.  
<https://www.studypage.in/political-science/questions-on-india-a-welfare-state>

resources for living. The framers of the Constitution were well-informed about these issues. Which is why they decided that India would be a welfare state.<sup>20</sup>

In 1958, the Indian Parliament established and ratified the Scientific Policy Resolution. This resolution was inspired by Jawaharlal Nehru's vision of India as a welfare state where social progress could only be achieved through investments in science and technology.<sup>17</sup> The Indian government has allocated substantial funds for the welfare of the impecunious. However, it has grappled with the challenge of accurately identifying the rightful recipients. A significant portion of these funds, intended for the poor, would often be misappropriated at various levels due to a corruption-laden bureaucracy. When the initial trials of Direct Benefit Transfers (DBT) were introduced for central government programs during the later years of the Manmohan Singh-led UPA government, there was skepticism that these efforts would ultimately lead to a transformation

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reshaping the Indian state's interaction with the impoverished. While numerous challenges persist, and no system is flawless, it is indisputable that a substantial shift in approach has occurred.<sup>18</sup>

[3]

## **WHAT IS THE ROLE OF A CONSTITUTION IN DEFINING A COUNTRY AS A WELFARE STATE, AND WHAT ARE THE CONSTITUTIONAL ELEMENTS THAT SUPPORT THIS CONCEPT?**

The idea underlying the Directive Principles of State Policy (DPSP) is to establish a 'Welfare State.' In simpler terms, the goal of incorporating DPSP is not solely to establish political democracy; rather, it aims to establish social and economic democracy within the state.<sup>19</sup> These principles serve as fundamental guidelines for the government when creating and implementing laws and policies in the country. According to Dr. B. R. Ambedkar, these principles represent unique aspects of the Constitution. DPSP offers a framework for the state and should be considered when devising new

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<sup>17</sup> Ramachandran, R. (2024, February 2) .India at 75 |Timeline:Science. Frontline. <https://www.google.com/amp/s/frontline.thehindu.com/science-and-technology/india-at-75-timeline-science-and-technology-75-years-of-independence/article65731123.ece/amp/>

<sup>18</sup> Mehta, N. (2024 February 3 ) . Creating an Indian welfare state 2.0 | ORF. ORF. <https://www.google.com/amp/s/www.orfonline.org/expert-speak/creating-an-indian-welfare-state-2-0/>

<sup>19</sup> Directive Principles of State Policy (DPSP) | Unacademy. <https://unacademy.com/content/clat/study-material/legal-reasoning/directive-principles-of-state-policy-dpsp/>



policies or laws.<sup>20</sup> However, it's important to note that no one can compel the State to adhere to every aspect mentioned in DPSP, as DPSP is not legally enforceable.<sup>21</sup> The principles laid out in the Constitution of India have been significantly influenced by the Directive Principles of State Policy (DPSP)<sup>22</sup>. The Indian freedom fighters, who were striving for independence from British rule, drew inspiration from the Irish independence movements. These movements influenced the development of the Indian Constitution. The DPSP served as a source of motivation for the newly

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independent Indian government in addressing a wide range of social, economic, and other challenges in a diverse nation like India.<sup>23</sup>

The origins of DPSP and fundamental rights are intertwined. The Nehru Report of 1928 introduced the Swaraj Constitution of India, which included some fundamental rights and other rights like the right to education, although they were not legally enforceable at the time. The Sapru Report of 1945 has defined fundamental rights into justifiable rights, which were legally enforceable and included in Part III of the Constitution, and non-justifiable rights, which were listed as directive principles in Part IV.<sup>24</sup> These directive principles were intended to guide the state in its pursuit of transforming India into a welfare state.

The Constituent Assembly, led by Dr. Rajendra Prasad and composed of elected representatives, had the responsibility of crafting the Indian Constitution. The Drafting Committee, headed by Dr.

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<sup>20</sup> Davaar. (2021). Interpretation of Directive Principles of State Policy. Studocu.com. <https://www.studocu.com/in/document/osmania-university/semester-4-landlaw-agmt-2-sucl/interpretation-of-directive-principles-of-state-policy/13487663>

<sup>21</sup> Singh, R. (2019, August 9). Directive Principles of State Policy: An Explanation of Part IV of Constitution. iPleaders. <https://blog.ipleaders.in/directive-principles-state-policy/#:~:text=Directive%20Principles%20of%20State%20Policy:%20Meaning,-The%20Directive%20Principles>

<sup>22</sup> Directive Principles of State Policy (DPSP). Drishti IAS Coaching in Delhi, Best UPSC Website For IAS Test Series & Study Material. [https://www.drishtiiias.com/to-the-points/Paper2/directive-principles-of-state-policy-dpsp/print\\_manually](https://www.drishtiiias.com/to-the-points/Paper2/directive-principles-of-state-policy-dpsp/print_manually)

<sup>23</sup> Rao, P. SECULAR, SOCIALIST & RELIGION IN INDIA - THE MISCONCEPTIONS. Google Books. <https://books.google.com/books?id=aWEsEAAAQBAJ>

<sup>24</sup> Singh, R. (2019, August 9). Directive Principles of State Policy: An Explanation of Part IV of Constitution. iPleaders. <https://blog.ipleaders.in/directive-principles-state-policy/#:~:text=Directive%20Principles%20of%20State%20Policy:%20Meaning,-The%20Directive%20Principles>

B.R. Ambedkar, included Fundamental Rights and Directive Principles of State Policy (DPSP) in all versions of the constitution drafts, found in various sections like Part I, II, and III.

The idea of a Welfare State is expressed in the Directive Principles of State Policy (DPSP) within the Indian Constitution.<sup>25</sup> These principles serve as a set of guiding ideals to direct the government in formulating and implementing policies that promote the welfare of the citizens, ultimately striving for a fair society. They are detailed in Part IV of the Constitution, spanning from Articles 36 to 51. Unlike Fundamental Rights, the DPSPs cannot be legally enforced by the courts, but they play a fundamental role in the nation's governance and government operations. They encompass social, economic, and political aspects, with the objective of promoting social justice, equality, and the overall well-being of the populace.<sup>26</sup> Some key DPSPs linked to the idea of a Welfare State include:

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1. Promotion of Social Welfare:- Article 38 requires the State to establish a social order that fosters the welfare of the people, emphasizing on the reduction of inequalities in income, status, and living standards.

2. Equal Justice and Equal Opportunity: According to Article 39 of the Constitution :-It is the duty of the state to ensure that all citizens have fair access to resources and opportunities, thereby preventing the accumulation of wealth and control over means of production to the detriment of the public welfare.

3. Right to Work and Livelihood: Article 41 elaborates that the State, must provide effective measures to secure the right to employment, education, and public support in cases of unemployment, old age, sickness, and disability.

4. Living Wage and Improved Working Conditions: Article 43 obliges the State to establish through suitable legislation or economic organization, a living wage, enhanced working conditions, and social security for workers.

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<sup>25</sup> Which part of the Constitution of India declares the Ideal of Welfare State? a) Directive Principles of State Policy b) Fundamental Rights c) Preamble d) Seventh Schedule Correct answer is option 'A'. Can you explain this answer? - EduRev UPSC Question. EDUREV.IN. <https://edurev.in/question/2624050/Which-part-of-the-Constitution-of-India-declares-the-Ideal-of-Welfare-State-a-Directive-Principles-o>

<sup>26</sup> Shakya, S. (2024, February 3). Empowering Governance: The Role of Directive Principles in Guiding Policy Making in India - BareLaw. BareLaw.in. <https://www.barelaw.in/empowering-governance-the-directive-principles/>

5. Protection of Health and Childhood: Article 47 emphasizes the State's duty to elevate nutrition levels, improve living standards, and enhance public health, particularly for vulnerable segments of society, such as children.

Essentially, the Directive Principles of State Policy enshrined in the Indian Constitution emphasize the government's dedication to the well-being of its citizens and the vision of a Welfare State. These principles act as a guiding framework for the government to formulate and implement policies that promote social justice, equality, and the general welfare of the people.<sup>31</sup> The idea of a

Welfare State can only be achieved, if the state implements them with a high sense of moral duty

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<sup>31</sup> Which part of the Constitution of India declares the Ideal of Welfare State? a) Directive Principles of State Policy b) Fundamental Rights c) Preamble d) Seventh Schedule Correct answer is option 'A'. Can you explain this answer? - EduRev UPSC Question. EDUREV.IN. <https://edurev.in/question/2624050/Which-part-of-the-Constitution-of-India-declares-the-Ideal-of-Welfare-State-a-Directive-Principles-o>

<sup>32</sup> Pandey, J. (2021). Directive Principles of State Policy. In Constitutional Law of India (58th ed., p. 1). Central Law Agency.

## **HOW DOES THE IDEA OF A WELFARE STATE RELATE TO CONCEPTS OF SOCIAL JUSTICE, EQUALITY, AND HUMAN RIGHTS WITHIN A CONSTITUTIONAL FRAMEWORK?**

In a Welfare State, the state or a robust system of social institutions assumes a central role in safeguarding and advancing the economic and social welfare of its citizens. It is built upon the principles of ensuring equal opportunities, equitable wealth distribution, and governmental responsibility for those unable to meet their basic needs. This broad concept can include different economic and social models.<sup>27</sup>

## **WHAT DOES SOCIAL JUSTICE ACTUALLY MEAN ?**

In order to provide social justice to the citizens of India, terms like Socialist, Secular, Democratic, and Republic were included in the Preamble. Social justice signifies the fair treatment of all

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<sup>27</sup> The Editors of Encyclopaedia Britannica. (1998, July 20). *Welfare state | Benefits, History & Impact*. Encyclopaedia Britannica. <https://www.britannica.com/money/topic/welfare-state>

individuals without any social distinctions. It ensures that privilege is not limited to any particular section of society, and it strengthens the conditions of underprivileged classes, which includes Scheduled Castes, Scheduled Tribes, Other Backward Classes, and women. This entails the reduction of significant disparities in wealth, income, and property. "Distributive justice" refers to a combination of social and economic fairness. The Preamble guarantees that all Indians have equal opportunities and status.<sup>28</sup> Social justice holds importance in governance and public policies due to its social, political, economic, and moral significance. It is a crucial factor that the government should consider when formulating and implementing public policies, rules, regulations, and laws.<sup>29</sup>

## **MEANING OF EQUALITY AS PER THE INDIAN CONSTITUTION FOR THE CREATION OF A WELFARE STATE:-**

It is an economic and social system superior to other forms of social organization which ensures economic equality.<sup>30</sup> In the case of *E.P. Royappa v. State of Tamil Nadu*<sup>40</sup> Justice Bhagwati observed that Equality is a multifaceted and evolving concept that can't be confined to conventional boundaries. Equality and arbitrariness are fundamentally at odds; one aligns with the Rule of Law in a republic, while the other is linked to the whims and arbitrary decisions of an absolute monarch.<sup>31</sup>

## **THE PROTECTION OF HUMAN RIGHTS IN INDIAN CONSTITUTION:-**

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<sup>28</sup> Social Justice. (n.d.). ClearIAS. <https://www.clearias.com/social-justice/#:~:text=Social%20justice%20in%20India,-The%20problem%20of&text=This%20ensures%20that%20the%20absence,wealth,%20pay,%20and%20property.>

<sup>29</sup> Rai Sharma, D. (2022, June 27). What is social justice - iPleaders. iPleaders. <https://blog.iplayers.in/what-is-socialjustice/>

<sup>30</sup> Lancker, W. V., & Heede, A. V. D. (2020, October 20). Economic Equality and the Welfare State. Research Gate. [https://www.researchgate.net/publication/346307530\\_Economic\\_Equality\\_and\\_the\\_Welfare\\_State](https://www.researchgate.net/publication/346307530_Economic_Equality_and_the_Welfare_State) <sup>40</sup> AIR 1974 SC 555;

<sup>31</sup> Pandey, J. (2021). Right to Equality. In Constitutional Law of India (58th ed., p. 1). Central Law Agency.

On January 24, 1947, the Constituent Assembly resolved to create an advisory committee for Fundamental Rights, with Sardar Patel as its leader. The initial set of rights was crafted by Dr. B. R. Ambedkar, B. N. Rau, K. T. Shah, Harman Singh, K. M. Munshi, and the expert committee of the Congress. While there were a few proposed amendments, there was almost unanimous agreement on the principles included. The Indian Constitution effectively encompassed the rights outlined in the Universal Declaration of Human Rights, either within the Fundamental Rights or the Directive Principles of State Policy.<sup>32</sup> The Motilal Nehru Committee Report from 1928 initially covered nineteen fundamental rights, ten of which were incorporated into the Fundamental Rights, while three became Fundamental Duties.<sup>33</sup> Law cannot be self-applied. It needs to be accepted by society with the resolve for bringing about a change for the better.<sup>34</sup> The framers of the Constitution have made an effort to fulfill the needs of a Welfare State by providing the people of the country with social justice, equality and human rights in all possible ways by creating a country which aims to provide equality, justice:- social , economic and political and also by changing the Constitution by way of amendments when necessary.

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## WHAT ARE THE FUNDAMENTAL RIGHTS AND DIRECTIVES IN THE CONSTITUTION THAT CONTRIBUTE TO THE REALIZATION OF A WELFARE STATE? HOW HAVE THESE RIGHTS EVOLVED OVER TIME?

Fundamental Rights have been dealt with under Chapter III of the Indian Constitution. This chapter has been described as the *Magna Carta of India*.<sup>35</sup> Magna Carta is the first written document relating to the fundamental rights of citizens. In the case of *A.K. Gopalan V. State of Madras*<sup>36</sup>, it

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<sup>32</sup> Shekhar, P. (2020, October 4). Human Rights and Constitution of India - iPleaders. iPleaders. <https://blog.ipleaders.in/human-rights-constitution-india/>

<sup>33</sup> Pawar, V. S. (n.d.). Advocating Human Rights: Legal Approaches In India. Legal Service India - Law, Lawyers and Legal Resources. <https://www.legalserviceindia.com/legal/article-13544-advocating-human-rights-legal-approaches-in-india.html#:~:text=Human%20Rights%20In%20India>

<sup>34</sup> <https://nhrc.nic.in/press-release/'society-should-back-social-justice'>

<sup>35</sup> V.G.Ramachandran - Fundamental Rights and Constitutional Remedies, Vol.1 (1964), p.1

<sup>36</sup> A.K. Gopalan V State of Madras, AIR 1950 SC 27

was held that the aim of having a chapter on fundamental rights is that certain elementary rights such as the right to life, right to liberty, right to freedom of speech, right to freedom of religion and many more should be regarded as inviolable under all conditions and the government should not have a free hand in interference with these fundamental rights.<sup>37</sup>The Indian Constitution includes comprehensive measures to guarantee the social and economic welfare of its citizens through Fundamental Rights and Directive Principles of State Policy. These principles seek to foster circumstances in which every citizen can enjoy a quality life, ultimately aiming to institute social and economic democracy.<sup>38</sup> A welfare state is one in which the state plays a key role in the protection and promotion of the economic and social well-being of its citizens<sup>39</sup>. A welfare state is founded on principles such as ensuring equal opportunities, fair sharing of wealth, and governmental accountability for those who cannot access the basic necessities for a decent life..<sup>40</sup> They have been included in the Constitution of India for the socio-economic development of the people. They are non-justiciable and cannot be enforced by any court of law. These principles are regarded as foundational in the governance of the nation, and it becomes the responsibility of both

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central and state governments to incorporate them into legislation in order to establish a fair and just society within the country.<sup>41</sup>The Directive Principles of State Policy can be categorized as:-

- (a) Principles promoting socio-economic equality;
- (b) Principles related to Gandhian thought;

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<sup>37</sup> Pandey, J. (2021). Right to Equality. In Constitutional Law of India (58th ed., p. 1). Central Law Agency.

<sup>38</sup> My UPSC Syllabus. (2023, April 6). Fundamental Rights and Duties, Welfare State. My UPSC Syllabus | Union Public Service Commission - My UPSC Syllabus. <https://myupscsyllabus.in/review-concepts/fundamental-rights-and-duties-welfare-state>

<sup>39</sup> India - A Welfare State. Home: The National Institute of Open Schooling (NIOS). <https://nios.ac.in/media/documents/secsocscicour/english/lesson-17.pdf>

<sup>40</sup> Kenton, W. (2011, January 15). Understanding the Welfare State and Its History. Investopedia. <https://www.investopedia.com/terms/w/welfare-state.asp>

<sup>41</sup> Directive Principles - Wikipedia. (2006, July 5). Wikipedia, the free encyclopedia. [https://en.m.wikipedia.org/wiki/Directive\\_Principles](https://en.m.wikipedia.org/wiki/Directive_Principles)

(c) Principles related to International Peace and Security; and (d) Miscellaneous Principles.

The Central and State governments have implemented these directive principles, but a lot more needs to be done to realize the goals of a welfare state. Over the years, the Supreme Court of India has played a critical role in shaping and evolving these rights through various landmark judgments<sup>42</sup>. The Supreme Court, in the case of *Indra Sawhney v. Union of India (1992)*<sup>43</sup> helps to ensure that every individual is treated equally and fairly under the law. The fundamental rights in India are essential for the development and protection of every individual's personality. The Supreme Court of India has played a vital role in shaping and evolving these rights through various landmark judgments. The development of these rights has played a vital role in guaranteeing that every person is subject to equal and just treatment by the legal system. It has also ensured that everyone, regardless of their gender, caste, religion, or socio-economic standing, enjoys fundamental human rights and freedoms. The constitutional acknowledgment of fundamental rights signifies a preference for prioritizing individual liberty. It reflects a societal agreement and a commitment that the government will function to safeguard the freedom of its citizens. Fundamental rights are enshrined in the constitution to counterbalance the inclination toward majority rule and a dominant state.<sup>44</sup> Unfortunately, the value and significance of freedom are not universally accepted, particularly when it involves the liberties of others, especially those who are different (such as intellectuals, sexual or ethnic minorities, or individuals practicing a different religion). Advocating for the freedoms of these "others" is not an instinctive response. Freedoms are susceptible to limitations, particularly when the resulting behavior deviates from traditional norms and is unappealing to conventional sensibilities. Liberty is not determined by its popularity,

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modesty, or conformity. There are substantial moral justifications for respecting freedom and recognizing the capacity of individuals to choose the life that aligns with their own notion of the good life.

Some other significant directive principles are as follows:-

- Ensuring opportunities and resources for the healthy development of children.
- Implementing free and mandatory education for all children up to the age of 14.

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<sup>42</sup> Pandey, S. (2023, March 29). Fundamental Rights in India and the Evolution of Rights. LinkedIn. <https://www.linkedin.com/pulse/fundamental-rights-india-evolution-shashank-pandey>

<sup>43</sup> *Indra Sawhney v. Union of India*, AIR 1992

<sup>44</sup> Choudhary, P., & Kalra, K. (2020). Judicial Review and Fundamental Rights: Key Features Of Constitutionalism. *International Journal of Law and Social Sciences (IJLS)*, 6(1), 14.

- Advancing the education and economic welfare of scheduled castes, scheduled tribes, and other disadvantaged sections of society.
- Establishing village panchayats or local self-governing bodies.
- Separation of judiciary from legislature and executive organs of the government.
- Enacting a uniform civil code that applies to the entire country.
- Safeguarding national monuments.
- Fostering justice based on equal opportunities.
- Offering free legal assistance.
- Preserving and enhancing the environment and protecting the nation's forests and wildlife.
- Advocating for international peace and security.
- Cultivating just and honorable relations between nations.
- Respecting international law, treaty obligations, and the resolution of international conflicts through arbitration.<sup>45</sup>

A Constitution should serve as a guarantee of the rights of people and a barrier against attempts to introduce authoritarian rule. The constitution ensures the political and social stability of the State.<sup>46</sup> In a democracy, these responsibilities act as crucial prompts for individuals to remember their duties to the country, even as they make use of their rights. The descriptor 'fundamental' associated with these duties underscores their importance, notwithstanding that some duties may be legally enforceable on their own. Upholding the Constitution is not solely the government's responsibility; citizens must also recognize their societal responsibilities.<sup>47</sup> Establishing a robust national character, centered on human dignity and the notion of building a harmonious community, is of utmost importance. By transcending differences and the labels of caste, color, religion, and creed, and by prioritizing our duty-based principles, we can elevate our society and bridge the existing

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and growing divides.<sup>48</sup>The Constitution does not contain a specific mechanism for enforcing these duties, and there are minimal legal consequences for breaching them. These duties are obligatory

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<sup>45</sup> Directive Principle of State Policy. Know India. <https://knowindia.india.gov.in/profile/directive-principles-of-state-policy.php>

<sup>46</sup> UN Human Rights Office. OHCHR. <http://www.ohchr.org>

<sup>47</sup> Fundamental Duties - List of 11 Fundamental Duties of India. Vajiram & Ravi: Best IAS Coaching in Delhi | Best UPSC coaching Institute in Delhi. <https://vajiramandravi.com/quest-upsc-notes/fundamental-duties/>

<sup>48</sup> Fundamental Duties of Indian Citizen. Legodesk. <https://legodesk.com/legopedia/fundamental-duties-of-indian-constitution/>



in their essence.<sup>49</sup>

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<sup>49</sup> Verma, S. (2019, July 31). *Fundamental duties* - iPleaders. <https://blog.iplayers.in/fundamental-duties-2/>

## CONCLUSION

The creation of a welfare state :- which means giving paramount importance to the needs and welfare of the citizens of the country is one of the basic elements of our country. This has also been included successfully in the Indian Constitution by inserting the provisions of fundamental duties in Part IV of the Constitution. Along with the Fundamental Duties provisions which includes Directive Principles of State Policy (DPSP) have also been included in Part IV-A of the Constitution.

These provisions act as a guideline to the citizens and makes them realize that they have certain duties which they need to fulfill along with the fundamental rights. In the same way, the state also has certain duties which they have to follow. They are known as the Directive Principles of State Policy (DPSP).

The term 'fundamental' connected to these duties underscores their utmost significance, emphasizing that they should be adhered to by all. Some duties have been established as separate laws, enforceable by legal means, but this doesn't diminish the importance of other duties outlined in Article 51A.<sup>50</sup>

The Directive Principles of State Policy (DPSP) place an obligation on the state to not only safeguard and recognize the individual's Fundamental Rights but also to pursue social and economic objectives. These principles are outlined in Part IV of the Indian Constitution and provide a set of recommendations for state authorities to follow in the interest of societal protection. Their primary emphasis is on enhancing the overall welfare and progress of society.<sup>51</sup> The Indian Constitution achieves a fine equilibrium between protecting individual freedoms and advancing the common well-being of the society. Both the citizens and the state need to maintain a balance between fundamental rights and Directive Principles of State Policy for the creation of a welfare state.

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<sup>50</sup> Verma,S. (2019b, July 31). Fundamental duties - iPleaders. iPleaders. <https://blog.iPLEaders.in/fundamental-duties-2/>

<sup>51</sup> Singh, R. (2021, June 6). Directive principles of state policy. Times of India Blog. <https://timesofindia.indiatimes.com/readersblog/evileditor/directive-principles-of-state-policy-33165/>

This intricate equilibrium is evident in the connection between Fundamental Rights and Directive Principles of State Policy (DPSP), both of which play pivotal roles in steering the governance and advancement of the country.<sup>52</sup>

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<sup>52</sup> Bhoomi, L. (2024, February 3) Nation Between DPSPs and Fundamental Rights. LawBhoomi. <https://lawbhoomi.com/relation-between-dpsps-and-fundamental-rights/>