

Directive Principles of State Policy and Fundamental Duties: Constitutional Imperatives

Dr. Uday Shankar

Rajiv Gandhi School of Intellectual Property Law

Indian Institute of Technology Kharagpur

Lecture 16: DPSPs, Pluralism and Inclusivity

Greetings to all of you. We are in Module 3, where we are discussing salient features of the Directive Principles of State Policy under the Indian Constitution. We have started discussing the differentiation between Part III and Part IV. And how the reading of Part IV in relation to Part III advocates for judicial minimalism. And then, later on, the judiciary began looking at the directive principles as an important instrument for giving a meaningful interpretation to the constitutional ideals. In continuation of the same, in today's session, we shall be looking at the directive principles from a different perspective altogether. We try to understand how the directive principle promotes the idea of plurality. How it embraces the very notion of inclusivity. So, these are the concepts which we plan to cover in this session, where we will try to look at the role of the Constitution in divided societies.

As we read and understand, that the Constitution plays a very significant role in bringing the divergent, diversified, and fragmented society is united in a pursuit of a larger goal of welfare for everyone. We will also discuss how the Constitution is. Generally perceived from people's perspective, borrowing the expression of Professor Bakshi, who explains people in the language of demos. And then, how do we really look at the directive principles as an important instrument for promoting or preserving plurality? Then we will try to understand what the interdependence of directive principles, pluralism, and inclusivity is. When I look at the role of the Constitution in a divided society, I recall the scholarly work of Arend Lijphart, where a very important distinction has been drawn in the very structuring of the society and the connected role of the Constitution. We look at the political community from two perspectives, one where we identify homogeneity among the political communities, and homogeneity could be on the account of cultural values where society shares a common culture, language, religion, or ethnicity. So, there is a culturally homogeneous political community, which is one structure

of a political community. Another one is about the diversity, be it cultural diversity, diversity based on language, diversity based on religious belief, or diversity based on ethnicity, which we look at as a plural society, is a plural society. So, these two kinds of political community we see can very well be knit in a constitutional framework based on these two important concepts where the Constitution in a divided society plays a significant role in two different approaches.

First is a regulatory conception, and the other is a constitutive conception. When I look at the regulatory concept, where I find that the role of the Constitution is to enable or disable political decision-making. It is the Constitution that authorizes the institutions for deciding in a particular way, it is the Constitution that allocates power among the institutions; the Constitution prescribes rules that enable the institutions to make decisions; and it is the Constitution that also gives a design for interactions among the institutions. If the Constitution under this regulatory conception also, disable the decision-making process whereby certain procedural elements are they incorporated for blocking the decision-making process. For example, supermajority rules or, for example if you draw a parallel or analogy with the constitutional amendment process requires a special majority, and in addition, ratification by more than half of the states is necessary.

The Constitution also disables the decision-making by clearly spelling out the substantive limitations on the government's power. And one well-known mechanism for restricting substantive power is by incorporating rights into the Constitution. Rights are not only seen as acknowledging the libertarian value for an individual's autonomy. Rights are also seen as an important set of guidelines and provisions which clearly define the boundaries for the state to operate. So, in a divided society, the Constitution is suggested to fulfil this regulatory role. In a divided society, the Constitution also plays a role in identifying political identity. It also gives a very distinct identity to a political community. So, for that matter, the Constitution is also seen as a foundational document for the political community, where you may define the identity of the nation, and it is also the identity of the individual that we shall be seen to embody. So, the Constitution can very well nurture the idea of a common political identity by creating a structured institutional format for decision-making among the members of different ethno-cultural groups. Where something has been agreed upon by the divergent group, and that agreement is probably or possibly in the name of that common identity. So, through this process, the political community gets its identity, and through this process, the Constitution is

prescribes said values for the society and through that it symbolizes the fundamental character and collective unity of the nation. So this is what you find is the role that the constitution plays in a divided society.

Let us now try to look at the very reading of the Constitution from a people's perspective. The Constitution constitutes a demo by shaping the identity and sense of belonging within a political community. Where the Constitution confers rights equally on everyone, whereby every belief, every perception, every status of differentiated identity gets addressed. And through this, an obligation is placed upon the state to commit to the welfare of everyone. This idea of shared political identity was developed by the well-known jurist, Ernest Renan. And on this premise, we also look at the very process of getting the sanctity of constitutional order, based on legitimacy and stability, constant, which we have already discussed in earlier sessions. Now, when you look at the directive principles, you would agree that directive principles are about the aspirations for the welfare goals, and these aspirations or welfare goals are indicating a complex perspective. On the one hand, it highlights the essential attribute of an individual, in terms of public health, work, education. On the other hand, it also talks about the responsibility of the state to enact a law on Uniform Civil Code. So, the directive principles represent a very holistic vision of socioeconomic justice, where you find an element of a transformative vision accommodating both the idea of pluralism as well as inclusivity. When you analyse it closely, different provisions of the directive principles, you will find that is through the constitutional scheme. These very ideas are getting a due place, and these two ideas are enriching each other in order to establish a larger goal of fulfilling the socio-economic needs of everyone, larger need for identifying or establishing national identity. As I said, when I look at the provisions related to education, health, environmental protection, or equitable distribution of wealth, all this to me reflects a very clear understanding about the role of the state as a guardian of public welfare. Now let us try to look at how the Constitution addresses the issue of pluralism and inclusivity, and how that directive principles anchors on this idea. Pluralism generally needs to be seen as not about accepting others. It is also about valuing others, and that is why one argues that pluralism is about going beyond mere tolerance. It is about respective diversity in culture, language, and socio-economic status. That is why it is not only about acknowledging others; it is about valuing them. And that is why we say that constitutional views celebrate pluralism as an active celebration of differences and a means for inclusive social integration.

The moment you look at it as valuing others, it is about also accepting the fact that everyone contributes to the growth of society. And thus, it is suggested that diversity is not a challenge but a strength because everyone is contributing. In constitutional democracy, including ours, pluralism serves as a foundation for protecting and safeguarding individual freedoms. Pluralism serves as a means for preserving minority rights and it strengthens cultural heterogeneity. It maintains the diversity. Inclusivity, when you look at it, is an important constitutional value. When you look at it, one of the important tasks of constitutions is that they must be inclusive. Inclusivity goes beyond the very understanding of pluralism. It guarantees that it is not only about accepting the vulnerability of marginalized sections, but also creating all necessary support systems and ecosystems for active participation of such marginalized communities.

And that's why it is not only about acknowledging vulnerability. It is not about acknowledging that yes, certain sections of people are living on the periphery. It is about dismantling the very basis on which vulnerability is thriving. It is about addressing that historical injustice. And through that, we create a necessary social infrastructure for effective participation for everyone. And that's how you justify affirmative action as an important norm under the Constitution. You justify distributive justice as an important norm under the Constitution. You justify special majors for vulnerable groups under the Constitution. That is how we try to look at inclusivity. So, look at the directive principles and connect them with these two important ideas of pluralism and inclusivity. You would find that the directive principles of pluralism and inclusivity are interdependent. Because society, which is committed to pluralism, must ensure inclusivity; and this is guaranteed only when the state plays a proactive role, as envisioned in the directive principles and as the goal clearly spelled out in Part IV of the Constitution.

So, if you take this together, you find that if the idea is to establish a fair and just society, then the goals enshrined and the strategy given in Part IV, if they are not taken with their own earnestness and sincerity, will not be able to be achieved. And that's why it should be seen as interdependent. The directive principles is an instrument of pluralistic inclusivity, where there is an obligation on the state to, as I said, protect pluralism and embrace inclusivity. If you read this, analyze the provisions of Part IV, Article 38, which talks about social order, reducing inequality in income and eliminating inequality of status. Article 39, which talks about an adequate standard of living, distribution of material resources within the community to serve the common good. Article 40, which talks about the panchayat system, is about realizing

grassroots-level democracy. Article 46, which promotes inclusivity by addressing social injustice by categorically providing roles and responsibilities for the state in relation to the weaker sections of society. These provisions truly make DPSP an instrument of holistic inclusivity.

Now, when you try to read it with fundamental rights, you can also get a flavor from such combined reading. For example, reading Articles 17 and 46 together, where Article 17 is a provision for the nature of direction to the state on the abolition of untouchability, whereas Article 46 talks about the responsibility of the state to protect weaker sections of society from all kinds of social injustices and exploitation. Reading Articles 17 and 46, as I said, guarantee inclusivity for the weaker sections, particularly those that have suffered historical injustices. So, the framers are very well aware that the abolition of untouchability, which is a constitutional imperative, is there to establish an equal social order and that is the reason why you find Article 17 not only in the Chapter on fundamental rights, but it is also one of the provisions in the sub-chapter on equality. Because, without addressing the issue of untouchability, equality would remain a rhetoric. That's what the court has highlighted in two of its prominent judgments and significant pronouncements.

For example, in the *Sukanya Shantha v. Union of India* (2024), the court says that the Constitution has a mandate to establish an inclusive society where every citizen has an opportunity to thrive. It envisages that the values embedded in its provisions are not just aspirations but lived realities. And in another important case regarding *Navtej Singh Johar* (2018), where the court has said that *“the magnitude and sweep of constitutional morality are not confined to the provisions and literal text which a Constitution contains, rather than embracing within itself virtues of a wide magnitude, such as those of ushering a pluralistic and inclusive society.”* Now, if you read these two judgments, you find that these two judgments are creating a sort of or clarifying the significance of the directive principle, along with fundamental rights, and reading the Constitution as a document that has knit the divided society with very defined welfare goals. So, the Constitution serves as the cornerstone of a polity of equal-right-bearing citizens, where it forges a shared political identity.

transcends societal divisions that travel through different, fragmented structures. Directive principles truly represent a transformative framework where they value both pluralism and inclusivity, and these two values play a significant role in guiding the state in achieving socio-

economic justice. At the same time, it also suggests that the state promote diversity and address historical inequities.

These are the references for today's session.

Thank you very much.