A PRESENTATION ON DIRECTIVE PRINCIPLE OF STATE POLICY

BY:
SYNDICATE GROUP NO. 7
WHAT ARE DIRECTIVE PRINCIPLES OF STATE POLICY

These are guidelines/principles given to the central and state governments of India, to be kept in mind while framing laws and policies.

These principles were deemed fundamental in the governance of the country since it epitomized the hopes and aspirations of the Indian people.
• TO SECURE FOR ALL THE CITIZENS THE GRAND IDEALS MENTIONED IN PREAMBLE.

• THE BASIC AIM OF THE DIRECTIVE PRINCIPLES IS TO ESTABLISH A WELFARE STATE WHERE ECONOMIC AND SOCIAL DEMOCRACY MIGHT FLOURISH.
• IT IS AN ENDEAVOUR TO TAKE INDIA OUT OF THE VIGOROUS CLUTCHES OF SOCIO-ECONOMIC EVILS INFlicting PAIN ON IT FOR LAST MANY CENTURIES.

• IT IS A CONCERTED EFFORT TO FOSTER AROUND DEVELOPMENT SO AS TO ESTABLISH SOCIO-ECONOMIC JUSTICE AND DEMOCRATIC SOCIALISM IN THE COUNTRY.
• PHILOSOPHY OF DPSP IS INFLUENCED BY CONGLOMERATION OF GANDHIAN, SOCIALIST, SCIENTIFIC AND INTERNATIONALIST PHILOSOPHY.

• PHILOSOPHY OF DPSP IS TO ESTABLISH THE UTOPIAN SOCIETY IN THE COUNTRY.
HISTORICAL BACKGROUND

• THE IDEA OF SUCH POLICIES "CAN BE TRACED TO THE DECLARATION OF THE RIGHTS OF MAN PROCLAIMED BY REVOLUTIONARY FRANCE AND THE DECLARATION OF INDEPENDENCE BY THE AMERICAN COLONIES."
• THE INDIAN CONSTITUTION WAS ALSO INFLUENCED BY THE UNITED NATIONS UNIVERSAL DECLARATION OF HUMAN RIGHTS.
• THE DIRECTIVE PRINCIPLES OF THE INDIAN CONSTITUTION HAVE BEEN GREATLY INFLUENCED BY THE IRISH DIRECTIVE PRINCIPLES OF STATE POLICY
WHERE GIVEN!!!!!!

- IN PART IV OF CONSTITUTION FROM ARTICLE 36 TO 41.
Directive Principles of State Policy are not enforceable in the courts and no one can go near the court for its proper implementation.

Directive Principles of State Policy are some instructions to the State for achieving socio-economic development.

Directive Principles of State Policy are positive in nature. These principles increase power and functions of the State.
Directive Principles of State Policy aims at establishment of a welfare state by securing social and economic justice.

These principles have great moral value also. It constitutes the conscience of our Constitution.

Directive Principles of State Policy constitute the mirror of public opinion. These principles always reflect the will of the people. These are embodied in the Constitution to meet the aspirations of the people. It is also a yardstick for measuring Govt. Performance.

These are fundamental in the governance of the country. The State should follow these principles for progress of the country.
IDEOLOGICAL OR IN-PRINCIPLE CLASSIFICATION OF DPSPs

• Socialist Principles
• Liberal Principles
• Gandhian Principles
• International principles
SOCIALIST PRINCIPLES

- Article 38 of the Constitution of India shall strive to formulate such social system which will secure social, economic and political justice to all in all the spheres of life.

- Article 39(a) the state shall try to formulate its policy in such a manner so as to secure adequate means of livelihood for all its citizens.

- Article 39(b) the ownership of material resources would be controlled in such a manner so as to subserve the common good.
• Article 39(c) the economy of the state will be administered in such a manner so that wealth may not yet be concentrated in a few hands and the means of production may not be used against the public interest.

• Article 41 of the Indian Constitution of the State will work within the limits of its economic viability and progress, provide to the citizens the right to work, the right to education and general assistance in the event of unemployment, old age, disease and other disabilities.
• Article 42 of the Indian Constitution the state will make provisions for the creation of just and humane conditions of work. It will also ensure maternity relief.

• Article 43 of the Indian Constitution the state will ensure adequate wages, good life and rest to the labourers. The state will also endeavour to make available to the labourers various socio-cultural facilities.
LIBERAL PRINCIPLES

• Article 44 of the Indian Constitution? The State shall endeavour to formulate and implement a Uniform civil code for all the people living throughout the territory of India.

• Article 45 of the Indian Constitution the State shall endeavour to provide early childhood care and education for all the children until they complete the age of six years.

• Article 47 of the Indian Constitution the State shall strive to raise the level of nutrition and the standard of living. Thus, it will endeavour to improve upon the health of the people.
Article 48 of the Indian Constitution, the State shall strive to organise agriculture and husbandry on modern and scientific lines. It will also try to maintain and improve upon the breed of the animals.

Article 50 of the Indian Constitution the state will try to separate the judiciary from the executive in the case of public service.
GANDHIAN PRINCIPLES

- Article 40, State will strive to organise Panchayats in villages and will endow them with such powers which enable them to act as units of self government.
- Article 43, the state shall strive to develop the cottage industry in the rural areas both, on individual or co-operative basis.
- Article 47, the state will strive to ban the consumption of wine, other intoxicating drinks and all such commodities which are considered injurious to health.
- Article 48 reveals that State will ban slaughtering of cows, calves and other milch cattle.
INTERNATIONAL PRINCIPLES

• Article 51(a) - The State will strive to promote international peace and security.
• Article 51(b) - The State will strive to maintain just and honourable relations among various states in the world.
• Article 51(c) - The State will endeavour to promote respect for International treaties, agreements, and law.
• Article 51(f) - The State will strive to settle international disputes by arbitration.
Responsibility & Accountability of state in implementing DPSPs
ACCOUNTABILITY

• DOES NON-ENFORCEABILITY LEAD TO NON-IMPLEMENTATION?

• THE SANCTION BEHIND THEM IS POLITICAL
  – ACCOUNTABLE TO THE ELECTORATE
  – OBSERVATION OF DR AMBEDKAR

“IF ANY GOVERNMENT IGNORES THEM, THEY WILL CERTAINLY HAVE TO ANSWER FOR THEM BEFORE THE ELECTORATE AT THE ELECTION TIME”
ROLE OF THE COURTS IN ESTABLISHING ACCOUNTABILITY OF STATE

- Hon’ble SC has been issuing directions in many landmark cases like keshvananda bharti case, minerva mills case etc. and thereby instructing state to implement DPSPs in right spirit.
DOES NON ENFORCEABILITY OF DPSPs MEAN NON – EXISTENCE OF DPSP?
DR B.R AMBEDKAR FATHER OF NATION SAID THAT THEY ARE THE INSTRUMENTS OF INSTRUCTIONS AND ITS CONCEPT WILL CHANGE DEPENDANT ON TIME AND CIRCUMSTANCE.

THE IMPLEMENTATION OF THE DPSP REQUIRES RESOURCE WHICH THE CONSTITUTIONAL FRAMERS PUT IT IN ARTICLE (37) WHICH STATES THAT ITS NON ENFORCEABLE BUT FUNDAMENTAL IN THE GOVERNANCE
ENFORCEMENT OF DPSPs

• ACTS – MINIMUM WAGES ACT, MATERNITY BENEFIT ACT, EQUAL RENUMERATION ACT, RTE ETC.

• BOARDS – HANDLOOM BOARD, SILKBOARD, HANDICRAFT BOARD UNDER ARTICLE 43 ETC.

• PROGRAMMES - IRDP, MGNREGA, PDS, NEGP, SWACHH BHARAT, SUKANYA SAMRIDHI, ATAL PENSION SCHEME, NRHM ETC.

• ARTICLE 21, PUBLIC INTEREST LITIGATION ETC.
DPSP WHICH ARE NOT IMPLEMENTED

• UNIFORM CIVIL CODE (ARTICLE 44)

• ORGANISATION OF AGRICULTURE AND ANIMAL HUSBANDRY (ARTICLE 48) EX. DEBATE ON COW SLAUGHTER
CONCLUSION

• DPSPs ARE IMPLEMENTED IN VARIOUS DEGREE, IT IS DYNAMIC NOT STATIC BUT ONE UMBRELLA APPROACH CANNOT BE APPLIED.

• BODY TO BE SET UP AS STATED BY NATIONAL COMMISSION ON THE WORKING OF CONSTITUTION (NCRWC) – TO IMPLEMENT IN REAL SPIRIT AND NOT A MERE LETTER OF THE LAW.
SHOULD PIETY OF POLITICS REASON THE PIETY OF PRINCIPLES?

YES/NO
SPIRIT OF THE CONSTITUTION

DR. AMBEDKAR SAID "THE CONSTITUTION IS A MERE MECHANISM AND NO POLITICAL PRINCIPLES OR POLICIES NEED OR SHOULD BE INCORPORATED IN IT." HE FURTHER SAID THAT "POLITICAL PRINCIPLES OR POLICIES SHOULD BE DICTATED BY THE PEOPLE THEMSELVES THROUGH THEIR VOTES AND POSTERITY SHOULD NEVER BE FETTERED BY AN ANNOUNCEMENT OF POLICY OR PRINCIPLE." DR. AMBEDKAR FURTHER SAID THAT TO INTRODUCE PIOUS EXPRESSIONS WOULD BE "TAKING AWAY FROM THE PEOPLE THEIR RIGHT TO VOTE" AND THESE THINGS WOULD BE "SUPERFLUOUS".
SPIRIT OF THE CONSTITUTION

• WHEREVER THERE IS A GRANT OF POWER IN GENERAL TERMS FOR PEACE, ORDER AND GOOD GOVERNMENT, IT IS NECESSARY THAT IT SHOULD BE ACCOMPANIED BY INSTRUCTIONS REGULATING ITS EXERCISE.
Spirit of the Constitution

• The Honourable Dr. B. R. Ambedkar (Bombay: General): ......... whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instruments of instructions which are called Directive Principles. He cannot ignore them. He may not have to answer for their breach in a Court of Law. But he will certainly have to answer for them before the electorate at election time.
SPIRIT OF THE CONSTITUTION

THE FEATURES OF THE CONSTITUTION TERMED AS "BASIC" ARE LISTED BELOW:

• THE CONCEPT OF SOCIAL AND ECONOMIC JUSTICE — TO BUILD A WELFARE STATE: PART IV IN TOTO.
PRACTICAL ASPECTS

PIETY OF POLITICS REASON THE PIETY OF PRINCIPLES

ART. 40 VILLAGE PANCHAYAT
ART. 47 INTOXICATING DRINK
ART. 48 PROHIBITING THE SLAUGHTER
IN GENERAL IMPACT ON GROSS ROOT LEVEL IS NOT SATISFACTORY.
EXECUTIVE EMPATHY FOR DPSPs

➢ The executive has made many efforts to implement the directive principles within the limits of its economic capacity and social fabric and level of development. Since independence, while framing policies or enacting legislation, successive governments have taken into consideration the underlying philosophy of dpsp's, examples are
The programme of universalisation of elementary education

➢ Sarva shiksha abhiyan.
➢ Article 21-a
➢ 86\textsuperscript{th} constitutional amendment
SOCIAL ORDER

➢ Reservation policy for weaker sections of society. Various educational initiatives.
➢ Prevention of atrocities act, tribal welfare, provisions for minorities, women empowerment, etc.
ORGANISATION OF VILLAGE PANCHAYATS.

➢ 73rd and 74th amendments
➢ Three tier panchayati raj institution.
➢ Reservation for women.
➢ Wildlife protection act,
➢ Environment protection act.
- Land Reforms Acts, green revolution, white revolution, prog related to animal husbandry.
- Land distribution among poor and weaker section of society, community development programme.
- Abolition of zamindari system.
- Provide for equal pay for equal work for both men and women.
- Various employment schemes for rural poor.
- The minimum wages act of 1948.
- Trade unions Acts.
In 21st Century

➢ Citizen centric governance.
➢ Swachya Bharat Abhiyan.
➢ E-governance programmes, financial inclusion, Jan dhan yojna, different types of insurances, different types of subsidies etc.
➢ RTI Act, information inclusion.
➢ Nirbhaya Act 2013 - Criminal Law amendment Act-2013, need of the hour.
➢ National rural health mission NRHM.
➢ J.L Urban renewal mission.

The role of executive is still very important in present time, because the challenges which were present at the time of independence e.g. socio-economic disparities, regional imbalances, etc are still there. In this context Executive empathy towards DPSP'S is important.
ROLE OF ADMINISTRATORS

➢ Policies and programmes are in place.
➢ Welfare policies are not adequately monitored and implemented. Need of the hour better targetting, time bound approach, community based implementation, technology driven etc. Required more socio-economic engineering.
JUDICIAL PRONOUNCEMENTS ON DPSP: IMPORTANT CASE LAWS

- KESHAVANANDA BHARATHI vs. STATE OF KERALA (AIR 1973 SC 1461)
- MINERVA MILLS LTD. vs. UNION OF INDIA (AIR 1980 SC 1789)
- LINGAPPA POCHANNA vs. STATE OF MAHARASHTRA (AIR 1985 SC 389)
- DELHI DEVELOPMENT HORTICULTURE EMPLOYEES UNION vs. DELHI ADMINISTRATION (AIR 1992 SC 789)
- MOHINI JAIN vs. STATE OF KARNATAKA (AIR 1992 SC 1858)
- Re: The Kerala Education Bill
• “If any distinction between the Fundamental Rights and the Directive Principles on the basis of a difference between ends or means were really to be attempted, it would be more proper, in my opinion to view Fundamental Rights as the ends of the endeavours of the Indian people for which the Directive Principles provided the guidelines”.

“Perhaps, the best way of describing the relationship between the Fundamental Rights of individual citizens, which imposed corresponding obligations upon the State and the Directive Principles would be to look upon the Directive Principles as laying down the path of the Country’s progress towards the allied objectives and aims stated in the Preamble, with Fundamental Rights as the limits of that path, like the banks of a flowing river, which could be mended or amended by displacements, replacements or curtailments or enlargements of any part according to the path. In other words, the requirements of the path itself were more important”.
“The Indian Constitution is founded on the bed-rock of the balance between Parts III & IV. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This harmony and balance between Fundamental Rights and Directive Principles is an essential feature of the basic structure of the Constitution. The goals set out in Part IV have to be achieved without the abrogation of the means provided for by Part III. It is in this sense that Parts III & IV together constitute the core of our Constitution and combine to form its conscience. Anything that destroys the balance between the two parts will ipso facto destroy an essential element of the basis structure of our Constitution".
Referring to Article 41 of the Constitution which deals with right to work, to education and to public assistance, the Supreme Court gave reasons why this important right has been placed in Part IV and not in Part III of the Constitution. The Court observed thus:

“The country has so far not found it feasible to incorporate the right to livelihood as a Fundamental Right in the Constitution. This is because the country has so far not attained the capacity to guarantee it, and not because it considers it any the less fundamental to life. Advisedly, therefore, it has been placed in the Chapter of Directive Principles. Article 41 which enjoins upon the State to make effective provision for securing the same ‘within the limits of its economic capacity and development’.
While dealing with Maharashtra Restoration of Lands to Scheduled Tribes Act, the Court held that the said Act is an illustration of distributive Justice and observed that the Courts should as far as possible uphold the Legislation enacted by the State to ensure “distributive Justice” i.e., laws which seek to remove inequalities and also attempt to achieve a fair division of wealth amongst members of the society.
In this case, the Supreme Court was called upon to deal with the question of right to education under Article 41 and once again the Court emphasized the importance of Directive Principles by holding that the right to education is concomitant to the Fundamental Rights and made the following observation:

“The directive principles which are fundamental in the governance of the country cannot be isolated from the Fundamental Rights guaranteed under Part III. These principles have to be sent into the Fundamental Rights. Both are supplementary to each other. The State is under a constitutional mandate to each other. The State is under a constitutional mandate to create conditions in which the Fundamental Rights guaranteed to the individuals under Part III could be enjoyed by all. Without making “Right to education” under Article 41 of the Constitution a reality, the Fundamental Rights under Chapter III shall remain beyond the reach of large majority which is illiterate. The Fundamental Rights guaranteed under Part III of the Constitution of India including the right to freedom of speech and expression and other rights under Article 19 cannot be appreciated and fully enjoyed unless a citizen is education and is conscious of his individualistic dignity”.
Bihar’s cow slaughter ban was justified by arguing that it was designed to give effect to Article 48. Rejecting this contention, the Court noted: “... a harmonious interpretation has to be placed upon the Constitution and so interpreted it means that the State should certainly implement the directive principles but it must do so in such a way that its laws do not take away or abridge the fundamental rights.”

In other words, while the State ought to make laws implementing the directive principles, Part III rights, standing alone and interpreted autonomously, would place a check upon such endeavours. The Directive Principles ought to have some role to play at the time of enacting legislation, but none afterwards. This was evident in the manner in which the Court decided Qureshi. Its exhaustive economic analysis informing the application of Article 19(1)(g) and 19(6) saw little reference to the DPSPs.
“The directive principles of State policy have to conform to and run as subsidiary to the Chapter on Fundamental Rights... nevertheless, in determining the scope and ambit of the fundamental rights relied on by or on behalf of any person or body the court may not entirely ignore these directive principles of State policy laid down in Part IV of the Constitution but should adopt the principle of harmonious construction and should attempt to give effect to both as much as possible.”
DUTY OF THE STATE IN ACHIEVING EQUITABLE AND EGALITARIAN SOCIETY

Is the state duty bound?

- Important to understand mindset of the constitution makers
  1. Advisory committee on human rights
     - Two schools of thoughts on justiciability of rights
     - Outcome: two sets of rights. FR and DPSP
  2. Constitution not merely a document describing mechanism to come in power
     - Moral obligation of the state
     - Ideals placed before the state to achieve
     - Yardstick to measure government’s performance
     - National manifesto irrespective of the political party
  3. Inclusion of the word fundamental
     - Fundamental principles of governance DPSP
4. Not cognizable → Not enforceable
   - B. N. Rau’s draft
   - Cognizable is a broader term as compared to enforceable
   - Leaves a scope for judicial scrutiny

5. Retention of the word ‘strive’
   - DPSP reads as “The state shall strive....”
   - Amendment moved shri Mahavir Tyagi to replace the word strive- which was not accepted
   - This goes on to show the minds of the constitution makers w.r.t. the importance of the DPSP

6. Right of the Speaker of the house when bill is against the spirit of DPSP- professor Shibhan lal Saxena – DPSP cast duty on the legislature too
Observations of the honorable Supreme Court:

- DPSP read with the preamble – Basic structure of the constitution.
- Act of the state against the spirit of DPSP liable to judicial scrutiny.
- Not enforceable but courts can issue declaratory judgements which the govt. can not ignore.
- Keshavanand bharati case- Harmonious construction between FR and DPSP-complimentary in nature.
- Randhir singh vs State of UP
  - Different pay scale for drivers working in different dept. violated FR
  - Court invoked article 39(d) to understand the meaning and scope of equality.

Equitable and Egalitarian society:

- Ideal of economic democracy and not just political democracy.
- Welfare state model
- DPSP cast positive duty on the state to achieve equitable and egalitarian society.
State Introspection on DPSP-Part-IV(Art-36 to 51)
Meaning- “State Introspection”

• Meaning of State
  – Centre ( through Parliament )
  – State – (Through respective State legislatures except J & K))

• Meaning of Introspection
  – Examination of one's own conscious thoughts and feelings.

• State Introspection.. ???
Progress on Implementation

- **Article 31C** added by 25th constitutional amendment, 1971 and supremacy of directives or DPSP under Article 39 (b) and (c) over fundamental rights described under article 14 and 19.
- Article 21A in the constitution, the state seeks to provide free and compulsory education to all children between 6-14 years.
- Panchayati Raj & Self Governance (73rd and 74th amendment act, 1992)
- Social, labour and economic legislations besides industrial, agricultural and taxation policies
- MGNREGA, Mid-day meal scheme, ICDS, SABLA etc.
- All India Handloom Board, The Small –Scale Industries Board, The Silk Board, The Coir Board etc. for promotion of cottage industries; National Small Industries Corporation, KVIC
CHALLENGES & NEED FOR INTROSPECTION

• Ambiguous & special position of DPSP(Part-IV) w.r.t F.Rs (Part-III)
• Numerous Litigations in matters of land reforms, property rights etc.
• Multi cultural, ethno-centric, plural society like India.
• Large scale resource-mobilisation for implementation.
• Socio-cultural changes are slow & incremental in nature
• Maturity, tolerance & acceptability of the society/community/classes.
INTROSPECTION OF DPSP...?

WHY...

- Not implemented at all...

- Partially Implemented (some states) ??

- Implemented but with ineffective results/outcomes..??
POINTS OF INTROSPECTION

– STATE SHALL ENDEAVOUR TO SECURE FOR THE CITIZENS A UNIFORM CIVIL CODE THROUGHOUT THE TERRITORY OF INDIA (ARTICLE 44).

– TO IMPROVE PUBLIC HEALTH & PROHIBIT USE OF INTOXICANTS SUCH AS LIQUORS, DRUGS, OPIUM ETC (ARTICLE 47).

– TO ORGANISE AGRICULTURE, ANIMAL HUSBANDRY ON MODERN LINES AND PROHIBIT SLAUGHTER OF COWS, CALVES AND IMPROVE THEIR BREEDS (ARTICLE 48).
UNIFORM CIVIL CODE-(ART-44)

- TO REPLACE THE PERSONAL LAWS BASED ON THE SCRIPTURES AND CUSTOMS OF EACH MAJOR RELIGIOUS COMMUNITY IN THE COUNTRY
- COVERS MARRIAGE, DIVORCE, INHERITANCE, ADOPTION, MAINTENANCE, PROPERTY & SUCCESSION RIGHTS ETC.
- SHAH BANO CASE IN 1985 ..??
- GOA- COMMON FAMILY LAW
In 1955-56, the Hindu Marriage Act, Succession Act, Minority and Guardianship Act and Adoptions and Maintenance Act.

- Shariat Act of 1937, Indian Christian Marriage Act, 1872
- The Special Marriage Act, 1954, (outside the realm of any specific religious personal law)
- The Muslim Women's (Protection of Rights on Divorce) was passed in 1986, which made Section 125 of the Criminal Procedure Code inapplicable to Muslim women.
- At present, Hindus, Sikhs, Jains and Buddhists come under Hindu law, whereas Muslims and Christians have their own laws.
BAN ON SLAUGHTERING OF COWS, CALVES, OTHER MILCH & DRAUGHT CATTLE

STATES CAN BE CLASSIFIED INTO FIVE CATEGORIES —

• NORTH-EASTERN STATES WITH NO RESTRICTIONS ON CATTLE SLAUGHTER;
• KERALA WITH NO LAW BUT A CAVEAT;
• TAMIL NADU, WEST BENGAL AND ASSAM WHICH ALLOW THE SLAUGHTER OF CATTLE WITH A CERTIFICATE;
• ANDHRA PRADESH, TELANGANA, BIHAR, GOA AND ODISHA WHICH BAN COW SLAUGHTER, BUT ALLOW THE SLAUGHTER OF OTHER CATTLE WITH A CERTIFICATE;
• AND THE REST OF INDIA WHICH BANS THE SLAUGHTER OF ALL CATTLE.
WHERE STATES STAND ON COW SLAUGHTER
STATUS OF LEGISLATION ON KILLING OF COWS & OTHER TYPES OF CATTLE ACROSS THE COUNTRY

Compiled by Ritwika Sharma & Alok Prasanna Kumar, Vidhi Centre for Legal Policy
LIVESTOCK SLAUGHTER
WHAT THE LAW SAYS

Maharashtra

WHAT IS BANNED
➤ Sale/purchase of cows, bulls and bullocks for slaughter
➤ Possession of meat of cows, bulls and bullocks
➤ Transport, import and export of these meats

PUNISHMENT
➤ Offence cognizable and non-bailable. 5-year prison term or fine up to ₹10,000

LEGAL HISTORY OF THE BAN
➤ Maharashtra bans slaughter of cows and calves in 1976
➤ Maharashtra assembly passes amendment in 1995
➤ Maharashtra Animal Preservation (Amendment) Act 1995 sent to President for assent in 1996
➤ New Bill passed in assembly in December 2014 amidst dharna by BJP MLAs

Karnataka

➤ Slaughter of bulls, bullocks and buffaloes above 12 years of age allowed or if they are no longer fit for breeding
➤ Congress govt withdrew Bill banning cow slaughter was introduced by BJP
➤ Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964, that governs slaughter of cattle in the state, restored
➤ The 1964 Act restricts slaughter of cows, calf and she-buffaloes, but allows slaughter of bulls, bullocks and buffaloes with conditions

Andhra Pradesh

Slaughter of cow prohibited. Slaughter of bull, bullock allowed on ‘fit for slaughter’ cert, to be given only if the animal is not ‘economical’; penalty for breaking law: 6 months in prison

Gujarat

Slaughter of cow, calf, bull or bullock prohibited. Buffaloes permitted under specific conditions. Penal provision: 6 months’ jail or fine up to ₹1,000 or both

J&K

Voluntary slaughter of any bovine punishable with imprisonment. Possession of flesh of killed animals also an offence punishable with imprisonment up to 1 year and fine up to ₹500

Delhi

DELHI AGRICULTURAL CATTLE PRESERVATION ACT, 1994
➤ Slaughter of cows, calves (all ages) bulls and bullocks banned
➤ Possession of flesh also cognizable offence
➤ Transport or export of agricultural cattle prohibited
➤ Export allowed only on declaration that cattle will not be slaughtered
➤ Export not allowed in states where slaughter is not banned by law
➤ Violation leads to fine of up to ₹10,000 or imprisonment up to five years
➤ Minimum fine ₹1,000, minimum imprisonment six months
➤ Burden of proof is on the accused

WHAT DO RESTAURANTS SERVE
➤ Only buffalo meat
➤ Notice sent in 2011 not to serve even imported beef
➤ Imported Angus, Wagyu and Kobe meats taken off the menu after the order
➤ Places that serve buff meat use words like ‘tenderloin’ or ‘fillet mignon’, never the word beef
The present Union Government is now thinking about introducing a Model Act or Bill to ban illegal cow-slaughter and beef trade throughout the country. The Act is in force more stringently in States of Maharashtra and Gujarat and the Prime Minister’s office has sought advice from Law Department on implementation of this Act, all over the country. (Model Cow Slaughter Prohibition Bill, 2014)
BAN ON LIQUOR, CIGARETTE, INTOXICANTS & DRUGS

- LIQUOR PROHIBITION - BAN IN NAGALAND, PARTS OF MANIPUR (IN 2002 PARTLY LIFTED), LAKSHADWEEP, GUJARAT (BOMBAY PROHIBITION ACT SINCE 1949)
  ANDHRA PRADESH, HARYANA, MIZORAM AND TAMIL NADU HAVE PREVIOUSLY ENFORCED, BUT LATER REPEALED PROHIBITION.

- CIGARETTE - CURB TOBACCO CONSUMPTION BY INCREASED TAXES, PICTORIAL HEALTH WARNINGS,, RESTRICTING SALE TO MINORS, DISCLAIMER ON MOVIE SCENES, MOVE TO BAN LOOSE CIGARETTES ETC.
  —SUPREME COURT OF INDIA, MURLI S. DEORA VS UNION OF INDIA AND ORS ON 2 NOVEMBER 2001
  IN THE ABSENCE OF STATUTORY PROVISIONS AT THAT TIME, PROHIBITED SMOKING IN PUBLIC PLACES.
- **Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003**

- COTPA – extends whole of India, including J&K, and is applicable to cigarettes, cigars, bidis, gutka, pan masala (containing tobacco), Mavva, Khaini, snuff and all products containing tobacco in any form.

- E-Cigarette (ENDS)- ??? From Smoking to vaping/e-puffing --Maharashtra & Punjab.
- **Drugs/Intoxicants etc.-** Narcotic Drugs and Psychotropic Substances Act, 1985.
- Table showing small quantity and a commercial quantity for some popular drugs & Punishment under NDPS Act.

<table>
<thead>
<tr>
<th>Drug</th>
<th>Small quantity</th>
<th>Commercial quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amphetamine</td>
<td>2 grams (0.071 oz)</td>
<td>50 grams (1.8 oz)</td>
</tr>
<tr>
<td>Charas</td>
<td>100 grams (3.5 oz)</td>
<td>1 kilogram (2.2 lb)</td>
</tr>
<tr>
<td>Cocaine</td>
<td>2 grams (0.071 oz)</td>
<td>100 grams (3.5 oz)</td>
</tr>
<tr>
<td>Ganja</td>
<td>1 kilogram (2.2 lb)</td>
<td>20 kilograms (44 lb)</td>
</tr>
<tr>
<td>Heroin</td>
<td>5 grams (0.18 oz)</td>
<td>250 grams (8.8 oz)</td>
</tr>
<tr>
<td>LSD</td>
<td>2 milligrams (0.031 gr)</td>
<td>100 milligrams (1.5 gr)</td>
</tr>
<tr>
<td>Methadone</td>
<td>2 grams (0.071 oz)</td>
<td>50 grams (1.8 oz)</td>
</tr>
<tr>
<td>Morphine</td>
<td>5 grams (0.18 oz)</td>
<td>250 grams (8.8 oz)</td>
</tr>
<tr>
<td>Opium</td>
<td>25 grams (0.88 oz)</td>
<td>2.5 kilograms (5.5 lb)</td>
</tr>
</tbody>
</table>
Ban on Gambling, Betting, Lotteries etc

Union govt can by law regulate the conduct of lotteries, while the State Governments have been given the responsibility of authorising/conducting the lotteries and making laws on betting and gambling.

• The Public Gambling Act, 1867: (fine Rs 200 or 3 months)
  – “nothing in this Act shall apply to games of mere skill wherever played”
  – In 1996, SC defined-- The competitions where success depends on substantial degree of skill are not “gambling” and despite there being an element of chance if a game is preponderantly a game of skill it would nevertheless be a game of “mere skill”

  – Horse race Betting (1957), Rummy (1968) are skill games and allowed.
  – Grey Area–Teen Patti (Flush) & Cricket betting not allowed.
• The Lotteries (Regulation) Act, 1998: lays down guidelines & restrictions in conducting lotteries. (this was restricted to a maximum of one draw per week).

• In the Seventh Schedule Entry 34 List II that states could legalize gambling should they choose to do so.

• 294-A IPC 1860: punishment for keeping a lottery office without the authorisation of the State govt.

• Most states have only made laws against gambling, while 13 states have legalized lottery, and 2 states (Goa and Sikkim) have legalized many other forms of gambling.
• Goa(at five star hotels or offshore vessels), Daman & Sikkim allow Casinos.

• Online Gambling….?? Sikkim Online Gaming (Regulation) Act, 2008 invited applications for licences to set-up online gaming websites (for gambling and also betting on games like cricket, football, tennis etc.) with the servers based in Sikkim.
• **NOT IMPLEMENTED AT ALL** --- REQUIRES DEBATE & DRAFTING OF MODEL BILL & IMPLEMENTATION IN PHASED MANNER AFTER DISCUSSION.

• **PARTIALLY IMPLEMENTED & INEFFECTIVE** – BOTTLENECKS TO BE ADDRESSED & THE STATE WISE INSTITUTIONAL AGENCY FOR PROHIBITION/REGULATION/IMPLEMENTATION HAS TO BE MADE MORE ACCOUNTABLE & EFFECTIVE. LAWS ON BETTING/GAMBLING TO BE MORE CLEAR TO PLUG LOOPHOLES.

• **SOCIO-ECONOMIC MEASURES** TO BE MORE EFFECTIVE TO INTEGRATE THE WEAKER & MARGINALISED CLASSES/TRIBALS, ADDRESS THE PROBLEMS OF NAXALISM /EXTREMISM & AGRARIAN CRISIS, RESTORE AND REFORM PUBLIC HEALTH & EDUCATION, MINIMISE INEQUALITIES OF SOCIAL & SPATIAL NATURE.
RURAL DEVELOPMENT & RESTORING SELF SUSTAINABLE ECONOMY INCLUDING AGRO-ALLIED ACTIVITIES & COTTAGE INDUSTRY OF VILLAGES IS THE KEY TO ELIMINATE POVERTY & DEVELOP EGALITARIAN SOCIETY.

KNOWLEDGE & TECHNOLOGY DRIVEN INITIATIVES (E-GOVERNANCE) LIKE DIGITAL INDIA, SKILL INDIA, SWACCH BHARAT, MAKE IN INDIA, KNOWLEDGE ECONOMY ETC ARE TO ACT AS CATALYSTS SPEEDING TO ACHIEVE THE ASPIRATIONS OF PREAMBLE & DPSPS.

DPSPS TO EVOLVE AS YARDSTICK FOR MEASURING GOVT. PERFORMANCE AS THESE ARE COLLECTIVE RIGHTS OF THE SOCIETY/CLASSES. DPSPS ARE NOT SECONDARY TO FRS BUT COMPLEMENTARY TO THE FRS OF INDIVIDUALS AND TOGETHER FORM THE TWO SIDES OF WHEELS OF A CHARIOT CALLED DEVELOPMENT.