

Directive Principles of the Constitutions of India and State of Jammu and Kashmir: Similarities and Variations

Dr. Upasana Sharma

Introduction: The 'Directive Principles of State Policy' constitute the ideals of a 'welfare State'. These are in the nature of *economic, social and cultural rights* for the common people and *policy guidelines* for their representatives who form Governments to drive the country. Nomenclatures may vary but the essence of the content remains the same i.e. to prescribe the limits so that the successive Governments do not turn bizarre. Usually, every country has one set of principles, India is unique in the sense that it has two sets of Directive Principles of State Policy, one applicable to the whole of India and other applicable only to the State of Jammu and Kashmir. This peculiarity exists because of the special position that the State of Jammu and Kashmir holds in the Dominion of India. This special position of the State is maintained by Article 370 of the Constitution of India and the Instrument of Accession that was executed by the ruler of Jammu and Kashmir State while acceding to the Union of India in 1947.¹

The Directive Principles as enshrined in the Constitution of Jammu and Kashmir owe their origin to '*Naya Kashmir Charter*'- the party manifesto of the National Conference, the main political party that strove to change the State of Jammu and Kashmir from autocracy to democracy; the said principles were also developed on the basis of Directive Principles of State Policy as described in the Constitution of India.²

Are the Directive Principles enshrined in the Constitution of India applicable to the State of Jammu and Kashmir?

Perusal of the Directive Principles of State Policy as enshrined in both the Constitutions as well as of the Constituent Assembly Debates of India and State of Jammu and Kashmir reveals that the Directive Principles enshrined in the Constitution of India are applicable to the State of Jammu and Kashmir also. The fact of extension of all the Central socio- economic schemes to the State of Jammu and Kashmir and the debates held in the Constituent Assembly of Jammu and Kashmir bear testimony to the fact that the Directive Principles of State Policy enshrined in the Constitution of India are applicable to the State of Jammu and Kashmir also. To quote in the words of the Constituent Assembly itself,

¹ S. K. Sharma, *The Constitution of Jammu and Kashmir*, New Delhi, Universal Law Publishing Co. (2011).

² Ram Krishen Koul Bhatt, *Political and Constitutional Development of the Jammu and Kashmir State*, Delhi, Seema Publications (1984).

“Since our economic structure is planned by the Centre. It is again the Centre that controls the imports and the export, unless the economic position of India reaches such a level as to be able to guarantee a livelihood for all it would be impossible for us to do so. When the Centre provides such a guarantee, Kashmir will also do it because the Directive Principles of the Indian Constitution are applicable to the whole of our country.”³

Categorisation of the Directive Principles

Analysis of Part IV of both the Constitution brings to fore the fact that the Directive Principles as enshrined in the two Constitutions can be divided and clubbed into four categories, viz.,

1. Directive Principles special to the Constitution of India
2. Directive Principles special to the Constitution of Jammu and Kashmir
3. Overtly Similar but Covertly Different Directive Principles
4. Directive Principles-Verbatim et literatim

❖ Directive Principles special to the Constitution of India:

There are a number of Directive Principles in the Constitution of India which do not find mention in the Constitution of Jammu and Kashmir. The Directive Principles that are specific to the Constitution of India are:

	Directive Principles	Articles under which Enumerated
1.	The State shall strive to minimise inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, amongst- <ul style="list-style-type: none"> • individuals residing in different areas or engaged in different avocations. • group of people residing in different areas or engaged in different avocations. 	Art.38 (2)
2.	The State shall direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood.	Art.39(a)
3.	The State shall direct its policy towards securing that there is equal	Art.39(d)

³ *Jammu and Kashmir Constituent Assembly Debates*, (Official Report), Part II, 1126(1956).

	pay for equal work for both men and women.	
4.	The State shall take steps to secure participation of workers in the management of undertakings.	Art.43-A
5.	The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.	Art.44
6.	The State shall regard the following matters as among its primary duties- <ul style="list-style-type: none"> • raising the level of nutrition of its people • raising the standard of living of its people 	Art. 47
7.	The State shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health.	Art.47
8	The State shall endeavour to take steps for prohibiting the slaughter of cows and calves and other milch and draught cattle.	Art.48
9.	The State shall endeavour to: <ul style="list-style-type: none"> • protect and improve the environment • safeguard the forest and wildlife of the country 	Art.48-A
10.	It shall be the obligation of the State to protect, from spoilation, disfigurement, destruction, removal, disposal or export, every monument or place or object of artistic or historic interest, declared by Parliament to be of national importance.	Art.49
11.	The State shall endeavour to- <ul style="list-style-type: none"> • promote international 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. 	Art.51

❖ Directive Principles special to the Constitution of Jammu and Kashmir:

The Directive Principles of the Constitution of Jammu and Kashmir which are not expressly mentioned in the Constitution of India are:

	Directive Principle	Section under which Enumerated
1.	The State shall develop in a planned manner the productive forces of the country with a view to enriching the material and cultural life of the people.	Sec.14
2.	The State shall take steps to rehabilitate, guide and	Sec.17

	<p>promote the renowned crafts of the State so that:</p> <ul style="list-style-type: none"> • unnecessary drudgery and toil of the workers is eliminated • artistic value of the products is enhanced • fullest scope is provided for the development of individual talent and initiative. 	
3.	The State shall take steps to secure a judicial system which is humane, certain, objective and impartial.	Sec.18
4.	The State shall take steps to ensure efficiency, impartiality and incorruptibility of its various organs of justice, administration and public utility.	Sec.18
5.	The State shall make effective provisions for payment for labour in accordance with its quantity and quality subject to...maximum wages established by law.	Sec.19(a)
6.	The State shall secure to all permanent residents the right to free education upto the University standard.	Sec.20(a)
7.	The State shall ensure to all workers and employees adequate facilities for adult education and part-time technical, professional and vocational courses.	Sec.20(c)
8.	The State shall secure to all women the right to reasonable maintenance, extending to cases of married women who have been divorced or abandoned.	Sec.22(c)
9.	The State shall secure to all women special protection against discourtesy, defamation, hooliganism and other forms of misconduct	Sec.22(e)
10.	The State shall combat ignorance, superstition, fanaticism, communalism and racialism.	Sec.25
11.	The State shall seek to foster brotherhood and equality among all communities under the aegis of a secular State.	Sec.25

❖ Overtly Similar but Covertly Different Directive Principles:

On plain reading of Part IV of the Constitution of Jammu and Kashmir and the Indian Constitution, respectively, one comes across a number of Directive Principles that seem to be identical. List of such Directive Principles along with the respective Article and Section number under which each such Directive Principle is mentioned is given below:-

S.No	Directive Principle of State Policy	Section of the	Article of the
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		Constitution of Jammu and Kashmir	Constitution of India
1.	Promotion of the welfare of people	Section 13	Article 38(1)
2.	Checking the concentration of wealth and means of production	Section 14(c)	Article 39(c)
3.	Organisation of agriculture and animal husbandry	Section 15	Article 48
4.	Raising the standard of living	Section 15	Article 47
5.	Organisation of Village Panchayats	Section 16	Article 40
6.	Separation of judiciary from executive	Section 18	Article 50
7.	Protection, from abuse, of health and strength of workers, men and women and tender age of children	Section 19(b)	Article 39(e)
8.	Effective provisions to meet situations of sickness, disablement, unemployment, old age and other cases of undeserved want	Section 19(d)	Article 41
9.	Provision for free and compulsory education for all children till fourteen years of age	Section 20(b)	Article 45 (before amendment)
10.	Care of children	Section 21(a)	Article 45
11.	Protection of childhood and youth against exploitation and against moral and material abandonment	Section 21(b)	Article 39(f)
12.	Promotion of the interests of some specified sections of the society	Section 23	Article 46
13.	Improvement of public health	Section 24	Article 47

A close scrutiny of these ostensibly identical directives reveals that all of them are not actually identical; a considerable number of these directives are only overtly identical. On the basis of the nature of differences, the covertly different directives may be classified into four groups.

Classification of Identical Directive Principles

(1) Identical directives but achieved differently- In this category fall the following directives:

- (i) Organisation of village panchayats (Section 16 of the Jammu and Kashmir Constitution and Article 40 of the Constitution of India)

- (ii) Provision for free and compulsory education for all children till fourteen years of age (Section 20(b) of the Jammu and Kashmir Constitution and Article 45 of the Constitution of India *before amendment*)

(2) Identical directives having different objectives- In this category, falls the following directive:

- (i) Organisation of agriculture and animal husbandry (Section 15 of the Jammu and Kashmir Constitution and Article 48 of the Constitution of India)

(3) Identical directives having different scopes- In this category fall two directives which are:

- (i) Promotion of interests (Section 23 of the Constitution of Jammu and Kashmir and Article 46 of the Constitution of India)
- (ii) Raising of the standard of living (Section 15 of the Constitution of Jammu and Kashmir and Article 47 of the Constitution of India)

(4) Identical directives having identical objectives but different modes to achieve- In this category can be put the following directive:

- (i) Promotion of the welfare of people (Section 13 of the Jammu and Kashmir Constitution and Article 38(1) of the Constitution of India)

❖ Directive Principles-Verbatim et literatim

Directive Principles of the two Constitutions which are exactly similar and are infact word for word copy of each other along with the respective Article and Section number under which they are enumerated are:

1. **Checking of the concentration of wealth and means of production by the State:** Enumerated under Section 14(c) of the Constitution of Jammu and Kashmir and Article 39(c) of the Constitution of India.
2. **Separation of judiciary from executive:** Enumerated under Section 18 of the Constitution of Jammu and Kashmir and Article 50 of the Constitution of India.
3. **Protection, from abuse, of health and strength of workers, men and women and tender age of children:** Enumerated under Section 19(b) of the Constitution of Jammu and Kashmir and Article 39(e) of the Constitution of India.

4. **Effective provisions to meet situations of sickness, disablement, unemployment old age and other cases of undeserved want:** Enumerated under Section 19(d) of the Constitution of Jammu and Kashmir and Article 41 of the Constitution of India.
5. **Care of children;** enumerated under Section 19(d) of the Constitution of Jammu and Kashmir and Article 45 of the Constitution of India.
6. **Protection of the childhood and youth against exploitation and against moral and material abandonment:** Enumerated under Section 21(b) of the Constitution of Jammu and Kashmir and Article 39(f) of the Constitution of India.
7. **Maternity Benefits:** Mentioned under Section 22(b) of the Constitution of Jammu and Kashmir and Article 42 of the Constitution of India.
8. **Improvement of public health:** Enumerated under Section 24 of the Constitution of Jammu and Kashmir and Article 47 of the Constitution of India.

Conclusion

No doubt the Directive Principles of State Policy of the Constitution of Jammu and Kashmir are based on the Directive Principles of State Policy of the Indian Constitution however, barring a few exceptions, these are not copies of it. A considerable number of Directive Principles are specific to either of the two Constitutions and also more often than not the framers of Constitution of Jammu and Kashmir have moulded the objectives and policy statements laid down in the Directive Principles enshrined in the Constitution of India to bring them in consonance with and also reflect and fulfill the ideologies, aspirations and goals as enshrined in the '*Naya Kashmir Charter*'.

The author is

Lecturer, The Law School, University of Jammu.

(Feedback at: harsh_vph@yahoo.co.in)