BLOGS

Learn About Directive Principles under The Constitution of India

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The Directive Principles are an amalgam of diverse subjects embracing the life of the nation. Part IV of the Constitution contains certain principles called directive principles which are fundamental in the governance of the country and the State is under the duty to apply these principles in making law, although they are not enforceable by the court. The framers of the Constitution borrowed this idea from the Ireland Constitution of 1937, which had copied it from the Spanish Constitution.

The Directive Principles are indeed the precursor to the Economic, Social and Cultural Rights specified in the International Covenant on Economic, Social and Cultural Rights 1966.

The Directive Principles are the ideals which the Union and State Governments must keep in mind while they formulate the law. They lay down certain social, economic and political principles, suitable to peculiar conditions prevailing in India.



Directive Principles can be classified into the following categories:

- Social and Economic

ARTICLE 38 states that the State shall strive to minimize inequalities in income, status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in a different area or engaged in different vocations. It aims at equality in all spheres of life. It would enable the State to have a national policy in wages and eliminate inequalities in various spheres of life.

ARTICLE 39: Article 39 directs the State to secure:

1. Equal right of men and women to adequate means of livelihood
2. Distribution of ownership and control of the material resources of the community to the common good
3. Equal pay for equal work for both men and women

4. To ensure that the economic system should not result in a concentration of wealth and means of production to the common detriment
5. To protect the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength
6. That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment

In **Minerva Mills vs. Union of India 1980,** the question before the court was whether the directive principles of State policy enshrined in Part IV can have primacy over the fundamental rights conferred by Part III of the Constitution. The court held that the doctrine of harmonious construction should be applied because neither of the two has precedence to each other. Both are complementary therefore they are needed to be balanced.

- Social Security

ARTICLE 39 A: To promote equal justice and to provide free legal aid to the poor

ARTICLE 41: To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.

ARTICLE 42: The State shall make provision for securing just and humane conditions of work and for maternity relief.

ARTICLE 43: To secure a living wage, a decent standard of life and social and cultural opportunities for all workers

ARTICLE 43 A: To take steps to secure the participation of workers in the management of industries

ARTICLE 45: To provide early childhood care and education for all children until they complete the age of six years.

ARTICLE 46: The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the SC and ST, and shall protect them from social injustice and all forms of exploitation.

ARTICLE 47: To prohibit the consumption of intoxicating drinks and drugs which are injurious to health.

In **Hussainara Khatoon v. State of Bihar** the Supreme Court held that right to free legal service is an essential ingredient of reasonable fair and just procedure and implicit in the guarantee of the right to life of enshrined in Article 21. This is the constitutional right of every accused person who is unable to engage lawyer due to poverty. The state is under an obligation to provide a lawyer to an accused person if the circumstance of the case and needs of justice so require.

- Community Welfare

ARTICLE 44: it requires the State to secure for the citizens a uniform civil code throughout the territory of India.

ARTICLE 48: To prohibit the slaughter of cows, calves and other milch and drought cattle and to improve their breeds.

ARTICLE 48 A: The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

ARTICLE 49: To protect monuments, places and objects of artistic or historic interest which are declared to be of national importance.

ARTICLE 50: The State shall take steps to separate the judiciary from the executive in the public services of the State.

ARTICLE 51: To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration

ARTICLE 40: The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

Journey so Far

In **Champakam Dorairajan Case** Supreme Court stated that in case of conflict between Fundamental Rights and Directive Principles, Fundamental Rights would always prevail. It also

said that Directive principles have to work as a supplement with Fundamental rights & Parliament can't amend Fundamental Rights.

In the **24th Amendment Act, 1971** it was declared that Parliament has the right to amend the Fundamental Right by use of Constitutional Amendment

Then in the **42nd Amendment Act, 1976** the position of Directive Principles was made superior to Fundamental Rights

In the case of **Minerva Mills Case 1980,** the Supreme Court held that Directive Principles are subordinate to Fundamental Rights. But the position of Fundamental Rights under Article 14 & Article 19 was made subordinate to Directive Principles. SC also said that the Constitution demands to maintain the balance between the Fundamental Rights & Directive principles. To give absolute primacy to one over the other is to disturb the harmony of the Constitution.

Currently, Fundamental Rights enjoy supremacy over Directive Principles (except Article 14 & Article 19). Parliament is entitled to amend Fundamental Right to give effect to the Directive Principles as long as it does not affect the basic structure of the constitution.

In the case of **Unni Krishna v. State of A.P** Supreme Court held that the fundamental rights and directive principles are supplementary and complementary to each other and the provisions in part III should be interpreted having regard to the Preamble and Directive Principles.

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