



RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE

PRINCIPLES OF STATE POLICY

**Isha Gupta, Research Scholar,
Panjab University, Chandigarh
E-mail: guptai1912@gmail.com**

Abstract

The Constitution of India provides for fundamental rights and the directive principles of state policy in order to construct a welfare state, carry out the values and objectives stated in the Preamble. The framers of the Constitution usually discussed the coherence between directive principles and Fundamental Rights rather than making specific distinctions. Also, judges have held in a number of judgments that the Directive Principles should be taken into consideration while interpreting the Fundamental Rights.

Key Words: Directive Principles, Fundamental Rights, Constitution of India, Justiciable, Non-justiciable.

Introduction

At its core, the Indian Constitution is a social instrument. Most of its provisions either directly advance the objectives of the social revolution or make an effort to support it by creating the conditions required for its success. The crux of the commitment to the social revolution, however, is found in parts III and IV, which deal with fundamental rights and the directive principles of state policies, even though the national renaissance permeates the whole constitution. These are the constitution's conscience. The fight for independence served as the foundation for the Fundamental Rights and Directive Principles. Additionally, they were incorporated into the Constitution with the intention of bringing actual liberty to India in the future. Thus, the rights as well as principles link India's past, present, and future, making their presence in the Constitution all the more significant and strengthening the roadmap for the country's social revolution.¹

¹ Granville Austin "The Indian Constitution Cornerstone of a nation", (London: Oxford University Press, Ely House, 1966) p.50.



The Constitution of India provides for fundamental rights and the directive principles of state policy in order to construct a welfare state, carry out the values and objectives stated in the Preamble. To accomplish these aims Articles 12 to 35 of Part III address fundamental rights, whereas Articles 36 to 51 of Part IV address the guiding principles of public policy.

Meaning

It is crucial to briefly explain the two before looking at how fundamental rights and directive principles relate to one another. In 1945, the Sapru Committee proposed two types of individual rights. There are two types of rights: justiciable and non-justiciable. As is well known, the Fundamental Rights are the justiciable rights, while the Directive Principles of State Policy (directive principles) are the non-justiciable rights. All citizens of India are given fundamental rights, which are the basic rights of humans contained in the Constitution. They are implemented without taking into account gender, color, religion, or any other factor. Importantly, the courts have the authority to enforce fundamental rights under specific regulations.

There are two reasons these rights are referred to be fundamental rights:

- The Constitution guarantees them.
- They are justiciable, meaning that courts can enforce them. A person can go to a court of law if there has been a breach.

Six fundamental rights are listed in the Indian Constitution, which are:

- Right to equality
- Right to fundamental freedom
- Right to fundamental freedom of religion
- Right against exploitation
- Cultural and educational rights
- Rights to constitutional remedies



The Directive Principles of State Policy are covered in Part IV of the Indian Constitution. They are taken fundamental rights from the Irish Constitution, which was a copy of the Spanish Constitution. When the state creates policies and passes legislation, it is supposed to keep the directive principles ideals in mind. These are the values that pave the way for the welfare state and seek to provide social and economic fairness.

Difference between Fundamental Rights and Directive Principles of State Policy

- Directive principles are in the form of instruments that instruct the government at present to accomplish something positive. They are incapable of being enforced or justiciable in court. However, under Articles 32 and 226 of the Constitution, the fundamental rights are enforceable in the courts i.e. justiciable in nature.
- The operation of the fundamental rights (except fundamental rights under Articles 20 and 21) may be suspended during an emergency declaration; however, no such measures pertaining to the Directive Principle of State Policy must be made.
- Directive principles are instructions given to the state by the Constitution, while fundamental rights are facilities provided to the people by the State.
- Directive principles seek to establish socio-economic underpinnings for Indian democracy, while fundamental rights seek to establish political democracy in India.
- While directive principles faces political and moral penalties, fundamental rights faces legal ones.
- The welfare of the individual is promoted by fundamental rights. As a result, they are individualized and personal, whereas directive principles work to advance community welfare. They are socialistic and solitarian as a result.
- Legislation is not necessary for the implementation of fundamental rights. Whereas directive principles need legislation to be implemented, they are enforced automatically. They are not imposed automatically.



Relationship between Fundamental Rights and Directive Principles of State Policy

The framers of the Constitution usually discussed the coherence between directive principles and Fundamental Rights rather than making specific distinctions. Dr B.R. Ambedkar said that *“It is the intention of the Assembly that in future both the Legislature and the Executive should not merely pay lip service to these principles enacted in this part but they should be made the basis of the Legislation and Executive action that may be taken hereafter in the matter of governance of the Country”*. *“State of Madras v. Champakam Dorairajan”*² was the first Supreme Court case addressing the relationship between Directive Principles and Fundamental Rights. The petitioner in this case argued that the Madras Communal Government decision, which controlled college admissions based on an ordinary ratio, violated Articles 15 (1) and 29 (2). Despite being motivated by Article 46, the Supreme Court declared the decision that allowed for community seat reservations for admission to a State educational institution to be unlawful. The court argues that the Directive Principles are not justifiable or enforceable since Fundamental Rights are. Fundamental Rights could not be taken away by laws intended to implement Directive Principles. In accordance with the Fundamental Rights, the Directive Principles ought to function as subsidiaries. The court observed in this regard, *“The Directive Principles of the state policy, which by Art. 37 are expressly made unenforceable by a court cannot override the provisions found in part III (fundamental rights) which, notwithstanding other provisions, are expressly made enforceable by appropriate writs, orders or directions under Article 32. The chapter on fundamental rights is sacrosanct and not liable to be abridged by any legislative or executive act or order, except to the extent provided in the appropriate article in part III. The Directive Principles of state policy have to conform to and run as subsidiary to the chapter on Fundamental rights”*. As time went on, the Court came to believe that the Directive Principles should not be entirely disregarded when defining the extent and reach of Fundamental Rights. Instead, the

² AIR 1951 SC 226.



Courts should embrace the principles of Harmonious Construction³ and make every effort to give both principles as much weight as possible. For instance, Das, C.J., limited his affirmation of the fundamental rights' superiority over the directive principles in 1958's "In Re Kerala Education Bill"⁴ by urging a harmonious comprehending of the two. He observed "*nevertheless, in determining the scope and ambit of the Fundamental rights relied upon 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*". Therefore, the courts started to apply the ideals that underlie the directive principles as much as they could without making them justiciable as such. According to the Supreme Court, there is "*no conflict on the whole*" between the directive principles and fundamental rights. "*They are supplementary and complementary to one another.*"⁵ In "*Kesavananda Bharti v. State of Kerala*"⁶, Hegde and Mukherji, JJ., observed that "*the fundamental rights and directive principles constitute the "conscience of the constitution" there is no antithesis between the fundamental rights and directive principles and one supplements the other*". A highly groundbreaking ruling regarding the relationship between Part III and Part I V of the Constitution of India may be found in *Minerva Mill's case*⁷. A five-judge Constitution Bench heard the matter. The Fundamental Rights "are not an end in themselves, but are means to an end," according to Chandrachud, C.J. The Directive Principles specify the end. Furthermore, it was said that the Directive Principles and the Fundamental Rights together form the Constitution's conscience and the fundamental commitment to social transformation. The foundation of the Indian Constitution is the principle of balance between the two. The court determined that granting one over the other would disrupt the Constitution's harmony, which is a fundamental aspect and basic structure of the Constitution of India itself.

³ Harmonious construction can be defined as provision of Fundamental rights and DPSP should be read harmoniously or hand in hand. If any conflict occurs then court can refer to any particular law or interpret any law so as to give effect to both as far as possible.

⁴ In re Kerala Education Bill, AIR 1958 SC 956.

⁵ Chandra Bhavan Boarding and Lodging, Bangalore v. State of Mysore, AIR 1970 SC 2042.

⁶ AIR 1973 SC 1461 at 1641.

⁷ Minerva Mills v. Union of India, AIR 1980 SC 1789.



The fundamental nature of the Constitution will be destroyed if the assurances provided by Part III are destroyed in order to accomplish the objectives of Part IV. Therefore, the majority ruled that section 4 of the 42nd Amendment, which placed Directive principles above Fundamental Rights under Articles 14, 19, and 31, was invalid. In “*Unni Krishnan v. State of Andhra Pradesh*”⁸ Jeevan Reddy, J. said that “*the Fundamental Rights and Directive Principles are supplementary and complementary to each other, and not exclusionary of each other and that the Fundamental Rights are but a means to achieve the goals indicated in Directive Principles*”.

Therefore, the courts abandoned the idea that Directive Principles should take precedence and returned to stating that the Directives and the Fundamental Rights are complementary to one another.

Conclusion

Since then, judges have held in a number of judgments that the Directive Principles should be taken into consideration while interpreting the Fundamental Rights. The field has now adopted the integrated approach, which holds that Part III and Part IV should be read together. The practice of reading the Directive Principles and the Fundamental Rights together in order to identify the parameters of the former has evolved into a judicial tactic. The Directive Principles have mostly been used to suggest additional rights for persons beyond those that are explicitly mentioned in the Fundamental Rights, as well as to deepen and expand upon some of the rights that are already there.

⁸ (1993) 4 SCC 111.