CHAPTER – IV

RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

“No man is above the law and no man is below it; nor do we ask any man’s permission when we ask him to obey it.” …

• THEODORE ROOSEVELT
CHAPTER – IV

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The Constitution of India is not the free gift of the British Parliament, the representative body of colonial rulers. It is the end product of the research and deliberation by a body of eminent devoted representatives of the people. They prepared it after ransacking all the known Constitutions of the world and selecting the best out of them keeping in view the aims and aspirations of freedom fighters¹.

Throughout the freedom struggle, the demand for Fundamental Rights was in forefront. The country was unanimous that we should include all human, political, civil, economic, cultural and social rights. The Fundamental Rights envisaged by the Indian National Congress were ultimately divided into two; (i) Political and Civil Rights; and (ii) Social and Economic Rights. The former are termed Fundamental Rights and the latter are called Directive Principles of State Policy. This division was adopted from Irish Constitution. The Universal Declaration of Human Rights and parts III and IV of the Constitution of India have much in common. The

Universal Declaration was adopted on December 10, 1948. Within a year, the Constitution of India was adopted by the Constituent Assembly on November 26, 1949. Some Human Rights figure in Part III as Fundamental Rights and some others in Part IV as Directive Principles of State Policy. While Part III commands the State not to violate the Fundamental Rights, Part IV mandates the State to apply the Directive Principles in making laws. Article 32 and 226 provide for the enforcement of Fundamental Rights by Courts. However, Article 37 says that the provisions contained in Part IV shall not be enforceable by any court but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws².

It is interesting to note that although Fundamental Rights and Directive Principles appear in the Constitution as distinct entities, there was no such demarcation made between them during the period prior to the framing of the Constitution. If we may quote the words of Granville Austin in his book; “both types of rights had developed as a common demand, products of the national and social revolutions, of their almost inseparable intertwining, and of the character of Indian Politics itself”. They were both placed on the same pedestal and

treated as falling within the same category compendiously described as “Fundamental Rights”\(^3\).

“The Directive Principle and the Fundamental Rights mainly proceed on the basis of human rights”. Together, they are intended to carry out the objective set out in the Preamble of the Constitution and to establish an egalitarian social order informed with political, social and economic justice and ensuring dignity of the individual not only to a few privileged persons but to the entire people of the country including the have-nots and the handicapped, the lowliest and the lost.

In the words of Justice Bhagwati, “It is not possible to fit Fundamental Rights and Directive Principles in two distinct and strictly defined categories, but it may be stated broadly that Fundamental Rights represent civil and political rights while Directive Principles embody social and economic rights. Both are clearly part of the board spectrum of human rights”\(^4\).

Fundamental Rights are of great importance for individual freedom, but these Fundamental Rights are a very minimal set of rights and therefore, human rights, which are derived from the inherent dignity of the human person and cover every aspect of life and no just a small number of preferred freedoms against the State, have

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\(^3\) Minerva Mills v. Union of India Supra chapt.III p.2.
\(^4\) Id
tremendous significance. For the large number of people in a developing country like India, who are poor, downtrodden and economically backward, the only solution for making Fundamental Rights meaningful would be to restructure the social and economic, social, and cultural rights. The International Human Rights Conference called by the United Nations General Assembly in 1968 declared that 'Since human rights and fundamental freedom are indivisible, the full realisation of Civil and Political rights without the enjoyment of economic, social and cultural rights is impossible.'

Part III and Part IV taken together can be safely described as containing the philosophy of the Constitution. This philosophy can be described as the philosophy of the social service state. Both the preamble and the Directive Principles of State Policy give evidence of the unmistakable anxiety of the framers of the Constitution as a mighty instrument for the economic improvement of the people and for the betterment of their conditions. Equally noticeable throughout the relevant provisions is their determination to achieve this result in a democratic way by the rule of law. In other words, the provisions of Part III and Part IV considered in the light of the preamble emphasize the need to improve the social and economic conditions of the people
and to attempt that task with the maximum permissible individual freedom guaranteed in the citizens.\(^5\)

The theme of Fundamental Rights and Directive Principles is to create socio-economic conditions where there will be distributive justice for all. The fundamental rights protect individual liberty, socio-economic structure of the society. Directive Principles are the embodiment of the ideas and aspirations of the people of India and constitute the goals towards which the people expect the state to march for their attainment.\(^6\)

The relative importance of political rights on the one hand and the economic rights on the other hand gave rise to serious debate in the international arena in the context of human rights. The democratic countries endowed with economics of surplus emphasized the former, which socialist countries espoused the later.

The Constitution of India proclaims in its preamble, amongst other things there most important Constitutional goals of the nation which are Justice-Social, economic and political Liberty of thought, expression belief, faith and worship; Equality of status and of opportunity. The same Constitution and not elucidates and explains these goals in Part III and Part IV but also adopts a twofold strategy for their realisation. Thus Part III embodies and sanctifies the goals of

Liberty and Equality by enumerating and guaranteeing certain individual freedom. These freedoms are made justiciable and thus enforceable against state encroachments. Part IV which lay down the Constitutional Ideal of Justice enjoins the state to translate the ideal into reality by necessary legislation. However, this obligation is made expressly unenforceable.\(^7\) Part III of the Constitution lays down the path to achieve the goal laid down in Part IV of the Constitution.

The concept of Human rights as envisaged in the Indian Constitution essentially has Political, social and economic connotation. It is founded on the bedrock of equality of all men freedom and liberty of all men and basic to them all social economic and political justice for all men.

Guarantees of political and civil rights minus social and economic rights are incomplete and insufficient to satisfy the spirit of man. The social and economic rights are primary while the civil and political rights are higher. If the former constitute the foundation of the building the latter provides the elevation.

The Directive Principles of the State Policy set out the goal of the new Social and Economic order which the Constitution expects us to reconstruct. The judiciary has drawn guidance and inspiration from the Directive Principles in interpreting and enforcing

Fundamental Rights. The Supreme Court has expanded the ambit and reach of Directive Principles and thus made the largest contribution to the development of Human Rights jurisprudence through judicial activism.

4.1 FUNDAMENTAL RIGHTS V. DIRECTIVE PRINCIPLES:

Part III and IV of the Constitution have been together described as “Conscience of the Constitution”\(^8\). But the fundamental question in the context of the Constitutional relationship between Fundamental Rights and Directive Principles of the State Policy is; which of these parts would have primacy in the case of conflict between them? This question has all along been the central point of controversy between parliament and Supreme Court resulting not only in the enactment of some of the significant Constitutional amendments but also in the pronouncement of some of the locus classicus judicial decisions.

The Constitution of India has issued two broad mandates to the parliament, the Legislature of the states and to all the institutions of the Government:

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\(^8\) Austin Granville; The Indian Constitution, Cornerstone of a Nation, p.50
1) Not to take away or abridges certain rights described as Fundamental Rights and

2) To apply certain principles described as Directive Principles of the State Policy.

The Fundamental Rights are mostly of individual characters and are primarily meant to protect individuals against arbitrary state action. They are intended to foster the ideal of a political democracy and are meant to prevent the establishment of authoritarian rule. Several of these Fundamental Rights are ordinarily capable of enjoyment only by persons who are already free from want and necessity. They are little practicable value and have no meaning to the hungry and the homeless. The Constitution maker realised that mere adherence to the abstract democratic ideal was not enough and that if the Constitution was to survive it was necessary to secure to the people economic and social freedom in addition to political freedom. So the Directive Principles has to be enunciated in the Indian Constitution⁹.

The relationship between Directive Principles of state policy and the Fundamental Rights has been the subject matter of controversy since commencement of the Constitution. Soon after the commencement of the Constitution, the Indian Supreme Court was

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⁹ Shailaja Chander; Justice V.R. Krishna Iyer on Fundamental Rights and Directive Principles p.52
called upon to pronounce its view on the Constitutional relationship between the Fundamental Rights and Directive Principles.

The relation between Fundamental Rights and Directive Principles came into the lime light because the former was made expressly justiciable and the later was made expressly non-justiciable. The Supreme Court of India initially misunderstood the relation between Fundamental Rights and Directive Principles as they interpreted the law by words and not by its spirit.

The resentment was accorded to Fundamental Rights as being enforceable over the Directive which is not enforceable stood in the way of implementing the latter. In judicial decisions and academic writings, Directive Principles appeared to be an unattached soul, standing aloof and preaching detachment in the traditional Indian fashion. Though they are fundamental in governance of the country and though it is enjoined on the State to apply these principles in adopting legislative measures, the legislature could with impunity ignore them, and the legislative immunity would be upheld by the courts as the principles were regarded as non-justiciable.

An undue emphasis was laid on the un-enforceability of Directive Principles without taking into consideration their Fundamentalness and the Constitutional duty imposed upon the State to implement them. It gave rise to the belief that the Directive
Principles were merely pious aspirations of little legal force and had to conform to and run subsidiary to Fundamental Rights.

The Fundamental Rights were made enforceable whereas the Directive Principles were made non justiciable by the court of law. This difference in the nature of Fundamental Rights and Directive Principles resulted into conflict between them. The questions which arose due to this were:

1) Are Directive Principles inferior to Fundamental Rights?
2) Are Directives fundamental parts of Indian Constitution?
3) Are Directive Principles of equal importance of Fundamental Rights?

4.2 VIEWS OF CONSTITUTIONAL MAKERS – JAWAHARLAL NEHRU AND B.N. RAU:

Nehru’s understanding of the relationship between Fundamental Rights and Directive Principles was mainly inspired by his sense of commitment of the goal of Constitutional realisation of a new Socio-economic order in the country under which all people would have their basic needs fulfilled and all would enjoy their fundamental
human freedom. This finds ample reflection in the following observation\textsuperscript{10}:

At present, the greatest and the most important question in India is how to solve the problem of the poor and the starving. Wherever we turn, we are confronted with this problem. If we cannot solve this problem soon, all our paper Constitution will become useless and purposeless.

However, interestingly enough, although Mr. Pandit Jawaharlal Nehru, for that matter, most of the Constitution-makers, was aware of the Constitutional obligation of the State to legislatively implement Directive Principles, he did not seem to visualise possible conflict between Part III rights and Part IV precepts. It was only Sir B.N. Rau who entertained doubts as to the efficacy of the unenforceable imperfect positive obligations in the face of the justiciable Fundamental Rights, particularly the right to property. In order to remedy the situation he suggested the addition of a new provision which reads as under:

“\textit{No law which may be made by the State in discharge of its duty under the first paragraph of this section and law which may have been made by the State in pursuance of the principles of Policy now set forth in Chapter III of this part shall be void merely on the

\textsuperscript{10} Errabbi B; The Constitutional Harmony and Balance between Fundamental Rights and Directive Principles p.52
ground that it contravenes the provisions of section or inconsistent with the provisions of Chapter II of this Part".\footnote{11}

Elucidating the main object of the inclusion of this new provision, Sir B.N. Rau stated:

The object of these amendments is to make it clear that in a conflict between the rights conferred by Chapter II which are for the most part rights of the individual, and the principles of policy set forth in chapter III, which are intended for the welfare of the State as a whole, the general welfare should prevail over the individual rights. Otherwise it would be meaningless to say, as clause 19 does say, that these principles of policy are fundamental, that is the duty of the State to give effect to them in its law\footnote{12}.

Unfortunately, since the drafting Committee ignored Sir B.N. Rau’s suggestions, the new provision suggested by him did not find a place in the draft Constitution prepared by the Drafting Committee.

Introducing the Draft Constitution in the Constituent Assembly, Dr. Ambedkar stated that although the Directive Principles had no legal force behind them, he was not prepared either to agree that they had no binding force or to accept that they were useless simply because they were unenforceable. Dr. Ambedkar did not

\footnote{11}{II C.A.D. 99}
\footnote{12}{See Shivrao, Selected Documents Vol. III p.222}
express any opinion on the issue of a possible conflict between Fundamental Rights and Directive Principles; therefore, the only clue available was the fact of non-adoption and of implicit rejection by the Drafting Committee of the new provision suggested by Shri B.N. Rau which sought to give primacy to the Directive Principles over Fundamental Rights.

It is possible, form this, to surmise that the Drafting Committee did not favour the idea of according supremacy to Directive Principles over Fundamental Rights and that it intended by implication that the legislative implementations of the Directive Principles was to be achieved within the framework of the Fundamental Rights. This issue was not adverted to even in the Constituent Assembly, although its members believed that inspite of their unenforceable nature, Directive Principles would have to be legislatively implemented as their implementation was mandatory\textsuperscript{13}.

While on the one hand the above narrative would constitutionally convince us that the judicial perception of the relationship between Fundamental Rights and Directive Principles is not out of tune with the Constitutional intent of their relationship, on the other hand, such a view would compel us to conclude that the Constitution makers were guilty of creating deliberately an inherent contradiction in the Constitution. My submission is that certainly we

\textsuperscript{13} VII C.A.D. 41
cannot attribute to the Constitution-makers their inherent contradiction in the Constitution. This is evident from the parliamentary debated relating to the I\textsuperscript{ST} and IV\textsuperscript{th} Constitution Amendment Bills. Adverting his attention to this aspect of inherent contradiction. Mr. Pandit Jawaharlal Nehru, while speaking on the Constitution (first amendment) Bill, 1951, stated:

The Directive Principles of State Policy represent a dynamic move towards certain objective. The Fundamental Rights represent something static, to preserve certain rights which exist. Both are right. But somehow and sometimes it might so happen that the dynamic movement and that static standstill do not quit fit into each other... There is certain conflict in the two approaches, not inherently, because that was not meant. I am quite sure\textsuperscript{14}.

The basic issue in the controversy over the relationship of Fundamental Rights with Directive Principles ultimately boils down to the choice between human freedom and unfettered socio-economic development (as envisage and implemented by the executive). The founding fathers have wisely answered the question as not being that of a choice and confrontation, but of accommodation, between the two. It has also been reiterated in the plan documents. Viz. ‘planning within a democratic frame-work’, that freedom and equal protection of the laws are essential for the effective functioning, nay the survival, of

\textsuperscript{14} Parliamentary Debates Vol. XII-XIII pt.II at 8820-22 (May 16, 1961)
democracy. That accommodation is exemplified by the restrictions to which all Fundamental Rights are subjected. Any resurrection of this controversy, it is submitted, is going back to square one and could hardly be sustained either on rational or practical considerations or on the three-decade long experiences of the nation. It is not surprising, therefore, that pleas made in support of the supremacy of one over the other sound rhetorical and fail to carry conviction\textsuperscript{15}.

4.3 ROLE OF JUDICIARY:

In the early fifties when Parliament was keen to push the Directive Principles through radical socio-economic reforms, the judiciary put speed-breakers in the way. In the late seventies and early eighties when the court was in a mood to give a fill-up to the Directive Principles, the legislators, in order to have political advantage, gave complete importance to the Directive Principles through forty second amendment. Once again the court was compelled to apply speed breakers in the way so as to maintain harmony between Fundamental Rights and Directive Principles which are the bed rock of the Constitution.

Thus the relation between Fundamental Rights and Directive Principles changed from time to time in the light of judicial interpretation which can be categorised in the following ways:

1) Fundamental Rights are superior to Directive Principles

2) The nature and scope of Fundamental Rights can be determined by Directive Principles as reasonable restrictions.

3) Directive Principles are superior to Fundamental Rights.

4) Principles of Harmonious construction.

4.3.1 FUNDAMENTAL RIGHTS ARE SUPERIOR TO DIRECTIVES:

Soon after the commencement of the Constitution the judiciary started laying down an undue emphasis on the unenforceability of Directive Principles without taking in consideration their Fundamentalness and the Constitutional duty imposed upon the state to implement them. It gave rise to a belief that the Directive Principles were merely pious aspirations of little legal force and had to conform to and run subsidiary to the chapters on Fundamental Rights.
The first important case after the commencement of the Constitution of India on this issue was that of State of Madras v. Champakam Dorrairajan\textsuperscript{16}.

In this case, Champakam Dorrairajan, a Brahmin made an application to the High court at Madras under article 226 of the Constitution for protection of her Fundamental Rights under article 15(1) & 29(2). When she was denied a seat in medical college on the ground that 2 seats reserved for Brahmins were already filled by 2 meritorious Brahmin students, the seats were reserved on the basis of caste. She filed a petition for issue of writ of mandamus. The High court by its judgement allowed the supplication of Champakam. The State of Madras appealed to the Supreme Court.

The learned Advocate General appearing for the State contended that the provisions of Article 29(2) have to be read along with other article in the Constitution. He argued that Article 46 charges the state to promote with special care the educational and economic interests of weaker sections of the people particularly of the scheduled caste and scheduled tribes, and to protect them from social injustice and all forms of exploitation. He said, although this article finds place in part IV of the Constitution and though the provisions contained in that part are unenforceable by the court, the principles laid down therein are however fundamental in the governance of the country.

\textsuperscript{16} A.I.R. 1951 S.C.226
Article 37 makes its obligatory on the part of the state to apply those principles in making laws. So according to this argument in regard to article 46 state is entitled to maintain communal Government order fixing proportionate seats for different communities and if because of that order the petitioners are unable to get admissions into the educational institutions there is no infringement of their Fundamental Rights.

The Supreme Court held that the Chapter of 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 Article provided in Part III. The Directive Principles of State Policy cannot override the provisions found in part III but have to conform to and run as subsidiary to the chapter of Fundamental Rights. The Fundamental Rights would be reduced to a mere rope of sand if they were to be overridden by the Directive Principles.

Constitutional Bench of the Supreme Court solemnly declared the law as follows:

“The Directive Principles of the State policy, which by article 37, are expressly made unenforceable by a court, cannot override the provisions are expressly made enforceable by appropriate writs orders or directions under article 32. The chapter of Fundamental Right is sacrosanct and not liable to be abridged by any legislation or Executive act or order except to the extent provided in
the appropriate article in part III. The Directive Principles of State policies have to conform to and run subsidiary to the chapter of Fundamental Rights. In our opinion that is the correct way in which the provisions found in Part III and IV have to be understood.

However so long as there is no infringement of any Fundamental Rights to the extent conferred by the provisions in part III, there can be no objection to the state acting in accordance with the Directive Principles set out in part IV, but subject to the Legislative and Executive powers and limitations conferred on the state under different provisions of the Constitution."

Prof. P.K. Tripathi in his article on the Directive Principles of State Policy characterised the lawyers approach to the Directive Principles as parochial, injurious and unconstitutional. The approach dominated the judicial approach was the most damaging opinion expressed on the value and effectiveness of the Directive Principles.

The proper approach according to him was to interpret the Fundamental Rights in the light of Directive Principles, to observe the limits set by the Directive Principles on the scope of Fundamental Rights and if at all one of the two sets of principles is to conform to other, it is the fundamental rights that should be made to conform to

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17 Ibid 228
and seek their synthesis in the Directive Principles of the state policy, not the other way round\textsuperscript{18}.

The Law declared by the Supreme Court in Champakam’s case has caused irreparable damage to the country and the Constitution. It gave a set back to the implementation of Directive Principles. The judicial decisions made it clear that:

1) Directive Principles are non-justiciable and these cannot override Fundamental rights.

2) Directive Principles have to conform and run subsidiary to the Fundamental Rights.

3) Fundamental Rights envisaged in Part III of the Constitution is sacrosanct and cannot be abridged by the legislature or executive except to the extent provided in the appropriate articles in part III.

4) Any action of the state under Directive Principles is subject to the legislative and executive powers.

Thus, the court held that if there is any conflict between Fundamental Rights and directive Principles it is the Directive Principles which would be subordinate to the Fundamental Rights.

The hang-over of this observation was that it stood in the way of many socio-economic reforms.

\textsuperscript{18} Tripathi P.K.; Directive Principles of State Policy (1972) p. 291
4.3.2 SCOPE AND AMBIT OF FUNDAMENTAL RIGHTS TO BE DETERMINED WITH THE HELP OF DIRECTIVE PRINCIPLES (HARMONIOUS CONSTRUCTION):

In its second phase of interpretation, the Supreme Court placed reliance on the Directive Principles for validating a number of legislations that were found not violative of Fundamental Rights. The directive Principles were regarded as a dependable index of;

1) Public Purpose, and
2) Reasonableness of restrictions on Fundamental Rights.

In *Bombay V. Balsara*\(^\text{19}\) the Government of Bombay banned the consumption of liquor except for medicinal preparation the court held that it amounted as reasonable restriction under Article 19(6).

In *State of Bihar V. Kameshwar Singh*\(^\text{20}\), the Supreme Court relying upon the Directive Principles incorporated in Article 39(b) held that certain zamindari abolition laws had been passed for a public purpose within the meaning of Article 31(2). It was held that the State ownership or control over land was a necessary preliminary step towards the implementation of Directive Principles and it could not but be a public purpose. It was further held that the Directive Principles

\(^{19}\) A.I.R. 1951 S.C. 318  
\(^{20}\) A.I.R. 1951 S.C. 252
were not merely the policy of any particular party but were intended to be principles fixed by the Constitution for directing the State Policy whatever party might come into power.

The Supreme Court took a little uncertain and complicated view in *Mohammed Hanif Qureshi v. State of Bihar*\(^{21}\). In this case, the validity of U.P., M.P. and Bihar legislation which banned slaughter of certain animals including cows was challenged. It was contended that this ban prevented the petitioners from carrying on their butcher’s trade and its subsidiary undertaking and, therefore, infringed their Fundamental Rights, inter alia, guaranteed under Article 19(1)(g). The States maintained;

1) that the legislations were enacted in pursuance of the Directive Principles contained in Article 48 which provided inter alia prohibition of slaughter of cows, calves and other milk and draught cattle;

2) that the laws having been made in discharge of the fundamental obligation imposed on the States, the Fundamental Rights conferred on the citizens and other by Part III must be regarded as subordinate to those laws; and

3) that the Directive Principles were equally, if not more, fundamental and must prevail.

\(^{21}\) A.I.R. 1958 S.C. 731
The Supreme Court, in this case, could not agree with the contention of the State. S.R. Das, CJ said:

“We are unable to accept this argument as sound. Article 13(2) expressly says that State shall not make any law which takes away or abridges the rights conferred by Chapter III which enshrines Fundamental Rights. The Directive Principles cannot override this categorical restriction imposed on the legislative power of the state. 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. For otherwise, the protecting provision of Chapter III will be mere rope of sand.\(^\text{22}\)

S.R. Das, CJ, in accordance with this view held:

1) that the total ban on slaughter of cows of all ages, cows, calves and of she-buffaloes, male and female is quite reasonable and valid and is in consonance with the Directive Principles laid down under Article 48;

2) that a total ban on slaughter of the buffaloes or breeding of bulls or working bullocks as long as these are a milk or draught cattle is also reasonable and valid; and

3) that a total ban on the slaughter of she-buffaloes, bulls and bullocks after they cease to be capable of yielding milk of

\(^{22}\) (1959) S.C.R. 629 at 648
breeding or working as draught animals cannot be supported as reasonable.\(^{23}\)

This decision is also on the lines of the judgement given in Champakam’s case that the Directive Principles cannot override the categorical restrictions imposed by Article 13(2) on the state. Thus, if the Directive Principles cannot override this categorical restriction, a logical conclusion would be that they must then remain subservient to Fundamental Rights as envisaged by the Supreme Court Champakam Dorrirajan’s case.

The court however, for the first time, in this case introduced the doctrine of harmonious construction as a new technique of Interpretation in this field. But this new technique, according to S.R. Das, CJ has to be applied in such a way as not to take away or abridge Fundamental Rights. This new technique seems to lead nowhere. A kind of uncertainty and complication has been created. A legislation which does not take away or abridge Fundamental Rights will be valid whether or not it is in consonance with a directive principle, but the problem will arise when legislation, with a view to implement the directive principle, came in conflict with Fundamental Rights. This new technique of harmonious construction will be of no help, in such situation, in solving the problem.

\(^{23}\) Id at 688
This judgement creates a further problem in the Constitutional interpretation. The earlier part of the judgement which upheld the legality of the acts as in consonance with Article 48 in fact violated the other part of the Directive Principles enshrined in Article 41, 45 and 47. Article 41 speaks of the state making effective provision for securing right to work. The prohibition would destroy the right to butchering. Article 45 deals with free and compulsory education. It was observed in this case that Rs.19 per head was needed to preserve useless cattle whereas the expenditure on national education was Rs.5 per capita.

Thus, upholding the legislation in accordance with Article 48, violated Article 45 because money which can be spent on providing free education was illogically and extravagantly spent on maintaining useless cattle. Article 67 speaks of raising the level of nutrition and living standards of people. Beef and buffalo meet, because of its cheapness, were the principal source of much needed protein consumed by the poorer people of certain communities who would be deprived of essential protein by such prohibition. Thus, the implementation of Article 45 violated Article 41, 45 and 47 of the same part, i.e. Part IV. This aspect of the Directive Principles did not attach much attention but is not less important for that reason.
The same view was reiterated in re Kerala Education Bill\textsuperscript{24} with a significant modification. Quoting his own ruling in the Champakam Case, S.R. Das, CJ observed:

“Nevertheless in determining the scope and ambit of the Fundamental Rights relied on by or on behalf of any person or body of the court may not entirely ignore these Directive Principles of state policy laid down in Part IV of the Constitution but should adopt the principles of harmonious construction and should attempt to give effect to both as much as possible.

The spirit of this approach has been followed by the Supreme Court in several cases in its attempt to harmonise the conflicting claims of the Fundamental Rights and Directive Principles of the State Policy by importing the latter into consideration of the former.

In course of time the courts started giving a good deal of value to the Directive Principles from legal point of view. The courts came to adopt the view that although Directive Principles were non-enforceable, nevertheless, while interpreting the statute the court could look for light to the lode star of the Directive Principles.

In Golaknath v. State of Punjab\textsuperscript{25} the court appeared to take the view that the Fundamental Rights have a fixed content and the laws enacted for giving effect to the Directive Principles could

\textsuperscript{24} A.I.R. 1958 S.C. 956  
\textsuperscript{25} A.I.R. 1967 S.C. 1643
conceivable take away or abridge the Fundamental Rights. K. Subba Rao, CJ., speaking for him and 4 other judges, expressed the view that “parts III and IV constitute an integrated scheme forming a self-contained code. The scheme is made so elastic that all the Directive Principles of the State Policy can reasonably be enforced without taking away or abridging the Fundamental Rights.

Hidaytullah J. observed as follows:

It is wrong to invoke the Directive Principles as if there is antimony between them and the Fundamental Rights. The Directive Principles lay down the routes of state action but such action must avoid the restrictions stated in the Fundamental Rights.\(^{(26)}\)

Bachawat J. was of the opinion that the Constitution makers could not have intended that the rights conferred by Part III could not be altered for giving effect to the policy of Part IV.

In *Chandra Bahvan Boarding v. The State of Mysore*\(^{(27)}\), the question before the Supreme Court was whether different rates of minimum wages could be fixed for different industries and different localities.

The court upheld the Minimum Wages Law by declaring that the Directive in Article 43 aims at securing living wages to the workers must be read into fundamental right to carry on any trade or

\(^{(26)}\) Ibid
\(^{(27)}\) A.I.R. 1970 S.C. 2042
business guaranteed by Article 19(1)(g) even if the rates prescribed under the law would affect any industry and observed that “if they do so” then the industry has no right to exist.

However to justify the approach, Hegde J. said:

“While rights conferred under Part III are fundamental, the directives given under Part IV are fundamental in the governance of the country. We see no conflict on the whole between the provisions contained in Part III and Part IV. They are complementary and supplementary to each other. The provisions of Part IV enable the legislature and the government to impose various duties on the citizens. The provisions therein are deliberately made elastic because the duties to be imposed on the citizen depend to the extent to which the Directive Principles are implemented. The mandate of the Constitution is to build a welfare society in which justice socio-economic and political shall inform all institutions of our national life, the hopes and aspirations aroused by the Constitution will be belied if the minimum needs of the lowest of our citizens are not met.

The learned judges further observed that “it is a fallacy to think that under our Constitution, there are only rights and no duties. There is no anti thesis between the Fundamental Rights and the Directive Principles as they are meant to supplement one another. It can well be said that the Directive Principles prescribed the goal to be
attained and the Fundamental Rights lay down the means by which that goal is to be achieved\textsuperscript{28}.

In \textit{Mumbai Kamgar Sabha v. Abdulbhai}\textsuperscript{29}, the Supreme Court held that “where two judicial choices are available, the construction in conformity with the social philosophy of the Directive Principles has preference.

The courts, therefore, could interpret a statute so as to implement Directive Principles instead of reducing them to mere theoretical ideas.

Justice Chinappa Reddy in \textit{A.B.S.K. Sangh (Rly) v. Union of India}\textsuperscript{30} articulated that:

“It follows that it becomes the duty of the court to apply the Directive Principles in interpreting the Constitution and the laws. The Directive Principles should serve as the courts as a code of interpretation. Fundamental Rights should thus be interpreted in the light of Directive Principles and the latter should, whenever and wherever possible, be read into the former. Every law attached on the ground of infringement of a Fundamental Right should among other

\begin{itemize}
\item \textsuperscript{28} Ibid at 2050
\item \textsuperscript{29} A.I.R. 1974 S.C. 2098
\item \textsuperscript{30} A.I.R. 1981 S.C. 298
\end{itemize}
consideration, be examined to find out if it does not advance one or other of the directive principle\textsuperscript{31}.

Without therefore making the Directive Principles justiciable as such, the courts began to implement the values underlying there principles to the maximum extent possible.

Mr. Justice Chinappa Reddy succinctly adverted to the relations between the Fundamental Rights and the Directive Principles. He observed;

"Because Fundamental Rights are justiciable and Directive Principles are not it was assumed in the beginning that Fundamental Rights held a Superior position under the Constitution than the Directive Principles and that the latter were only of secondary importance as compared with the Fundamental Rights. That way of thinking is of the past and has become obsolete. It is now universally recognised that the difference between the Fundamental Rights and Directive Principles lies in this that Fundamental Rights are primarily aimed at assuring political freedom to the citizens by protecting them against excessive state action. The Fundamental Rights are intended to foster the ideal of political democracy and to prevent the authoritarian rule but they are of no value unless they can be enforced by resort to courts. So they are made justiciable. But it is also evident that notwithstanding their great importance the Directive Principles

\footnote{Ibid at 335}
cannot in the very nature of things been forced in a court of law. It is unimaginable that any court can compel parliament to make laws then parliamentary democracy would soon be reduced to an oligarchy of judges. It is in that sense the Constitution says that Directive principles shall not be enforceable by courts\(^{32}\).

It does not mean that Directive Principles are less important than Fundamental Rights or that they are not binding on the various organs of the state. The Directive Principles should serve that court as a code of interpretation.

Directive Principles are mandatory injunctions issued by the founding fathers to successive governments in this country you achieve certain ends conceived to be good. Political freedom is unreal without social justice.

4.3.3 SUPREMACY OF DIRECTIVE PRINCIPLES:

Realising not only to the importance of the Directive Principles in the context of the appalling socio-economic conditions of the Indian society but also the inadequacy of the existing Constitutional framework for the effective implementation of the legislative measures of socio economic reform parliament sought to give primacy to Part IV over Part III of the Constitution. The first

\(^{32}\) Id
attempt in this direction was made with the enactment of the Constitution 25th Amendment Act 1971 introducing a new provision under Article 31C into the Constitution.

The object of the amendment has stated in the object clauses of the bill was that this was enacted to get over the difficulties placed in the way of giving effect to the Directive Principles of the State Policy. The first part of Article 31C provides that:

“No law which is intended to give effect to the Directive Principles contained in the Article 39(b) & 39(c) shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by Article 14 or 19”.

The Second part of Article 31C provided that “ no law containing a declaration that it is for giving effect to such policy can be called in question on the ground that it does not in Act give effect to such policy”.

The validity of the first part of Article 31C was upheld in the Fundamental Right Case33 but the second part of this article which barred the judicial scrutiny of such laws was struck down as unconstitutional.

Before 25th amendment from a legalistic point of view the Directive Principles has not made any profound impact on judicial

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pronouncement in interpreting the Constitution they were not completely meaningless or inert also.

However, after 1972 the value of the Directive Principles underwent a metamorphosis. Article 31C gave primacy to Article 39(b) & (C) over Article 14, 19 & 31C.

The court emphasized that there is no disharmony between the Directive principles and the Fundamental Rights as they supplement each other in aiming at the same goal of bringing about a social revolution and the establishment of a welfare state, which is envisaged in the preamble.

The courts, therefore, have a responsibility in so interpreting the Constitution as to ensure implementation of the Directive Principles and to harmonize the social objectives underlaying them with individual rights.

Justice Mathew went farthest in attributing to directive principles a significant place in the Constitutional scheme. According to him:

“In building up a just social order, it is sometimes imperative that the Fundamental Rights should be subordinate to Directive Principles. Economic goals have an incontestable claim for priority over ideological ones on the ground that excellence comes
only after existence. It is only if men exist that there can be Fundamental Rights\textsuperscript{34}. 

He thus came to the conclusion as regards Article 31C that “if parliament, in its capacity as amending body, decide to amend the Constitution in such a way as to take away abridge a fundamental right to give priority value to the moral claims embodied in Part IV of the Constitution, the court cannot a judge the Constitutional amendment as bad for the reason that what was intended to be subsidiary by the Constitution makers has been made dominant.

The importance of the view upholding the substantive part of Article 31C, but invalidating that part which precluded balance between legislature and judiciary which is a Fundamental feature of our Constitution:

1) The legislatures in India by upholding the first part of Article 31C were provided with creative power to implement the socio-economic programmes.

2) Invalidation of second part of the Article 31C avoided the possibility of the state to immunize all kinds of laws from judicial scrutiny. This means that legislatures were prevented to enact review proof legislations in the name of Article 39(b) & (c) so as to avoid socio-economic chaos in the country.

\textsuperscript{34} Ibid at 1466
Chandrachud J. empathetically stated “Laws passed under Article 31C can be upheld only if there is a direct and reasonable nexus between the law and the Directive Principles of the state expressed in Article 39(b) & (c)\textsuperscript{35}.

But with Article 13 still standing in the way of implementation of the other Directive Principles the parliament enacted 42nd amendment to secure the cherished ideals of distributive justice as contained in the Directive Principles, where by Supremacy was given to all Directive Principles over Fundamental Rights.

The object and reason appended with the said amendment read as under:

A Constitution to be living must be growing. If the impediments to the growth of the Constitution are not removed the Constitution will suffer a virtual atrophy. The question of amending the Constitution for removing the difficulties which have arisen in achieving the objectives of socio-economic revolution, which would end poverty and ignorance disease and inequality of opportunity, has been engaging the active intention of the government and the public or some years now. The democratic institutions, provided in the Constitution are basically sound and the path for progress does not lie in denigrating any of these institutions. However, there could be no denial that these institutions have been subjected to considerable

\textsuperscript{35} Id
stresses and strains and that vested interests have been trying to promote their selfish ends to the grant detriment of public good. It is therefore, proposed to amend the Constitution to spell out expressly the high ideals of socialism, secularism and the integrity, of the nation, to make the Directive Principles more comprehensive and give them precedence over those Fundamental Rights which have been allowed to be relied upon to frustrate socioeconomic reforms for implementing the Directive Principles.\(^{36}\)

Article 31C as amended as by section 4 of 42\(^{nd}\) Amendment reads:

\begin{quote}
31C Savings of Laws giving effect to certain directives:
Notwithstanding anything contained in Article 13 no law giving effect to the policy of the state towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with or takes away or a bridges any of the rights conferred by Article 14 or Article 19 and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy.
\end{quote}

Thus 42\(^{nd}\) Amendment sought to erase out Article 13 in respect of all laws implementing any of the Directive Principles by amending and expanding Article 31C. This gave precedence to all

\(^{36}\) See objects & reasons attached with Constitution 42\(^{nd}\) Amendment Act, 1976. See Paras Diwan, Indian Constitutional Amendments 219 (1980)
the Directive Principles over the Fundamental Rights contained in Article 14 and 19.

### 4.3.4 PRINCIPLE OF HARMONIOUS CONSTRUCTION

In *Minerva v. Union of India*[^37], the Supreme Court by 4:1 majority struck down Article 31C as amended by 42[^37]nd amendment as unconstitutional on the ground that it destroys the basic feature of the Constitution. The court held that Article 31C was beyond the amending power of the parliament and was void since it destroys the basic features of the Constitution by a total exclusion of challenge to any law on the ground that it was inconsistent with or took away abridged any of the rights conferred by Article 14 or 19 of the Constitution. The majority observed that the Constitution is founded on the bedrock of the balance between Part III and IV. To give absolute primacy to one over the other is to disturb the harmony of the Constitution which is the essential features of the basic structure.

The goals set out in Part IV have to be achieved without the abrogation of the means provided for by Part III. To destroy the guarantee given by Part III in order to achieve the goal of Part IV is plainly to subvert the Constitution.

[^37]: Supra Chapter I n.2
The Court held that the unamended Article 31C is valid as it does not destroy any of the basic features of the Constitution. The unamended Article 31C gives protection to a defined and limited categories of laws i.e. specified in Article 31(b) & (c). They are vital for the welfare of the people and do not violate Article 14 and 19. In fact, far from destroying the basic structure, such laws if passed bonafide for giving effect to the directives in Article 39(b) & (c) will fortify the structure.

Chief Justice Chandrachud in his judgement in this case said:

“The significance the perception that Part III & Part IV together constitutes the core commitment to social revolution and they together are the conscience of the Constitution is to be traced to a deep understanding of the scheme of the Indian Constitution. Granville Austin’s observations bring out the true position that Part III and Part IV are like two wheels of a chariot, one no less important than the other. You snap one and the other will lose its efficacy. They are like a twin formula for achieving the social revolution which is the ideal which the visionary founders of the Constitution set before themselves. In other words, the Indian Constitution is founded on the bedrock of the balance between Part
III and IV. To give absolute primacy to one over the other is an essential feature of the basic structure of the Constitution\textsuperscript{38}.

He says further: Article 14 & 19 do not confer any fallacious rights. They confer rights which are elementary for the proper and effective functioning of a democracy. They are universally as regarded as evident from the Universal Declaration of Human Rights\textsuperscript{39}.

Justice Bhagwati, in dissenting judgement, said:

“The Fundamental Rights are no doubt important and valuable in a democracy, but there can be no real democracy without social and economic justice to the common man and to create socio-economic conditions in which there can be social and economic justice to very one, is the theme of the Directive Principles. It is the Directive Principle which nourishes the roots of our democracy, provides strength and vigour to it and attempt to make it a real participatory democracy which does not remain merely political democracy but also becomes social and economic democracy with Fundamental Rights available to all irrespective of their power, position or wealth\textsuperscript{40}.”

The dynamic provisions of the Directive Principles fertilise the static provisions of Fundamental Rights. The object of the

\begin{itemize}
\item \textsuperscript{38} Ibid p.1806
\item \textsuperscript{39} Id
\item \textsuperscript{40} Ibid p.1847
\end{itemize}
Fundamental Rights is to protect individual liberty but can individual liberty to be considered in isolation from the socio-economic structure in which it is to operate. There is a real connection between individual liberty and the shape and form of the social and economic structure of the society. Can there be any individual liberty and the shape and form of the social and economic structure of the society? Can there be any individual liberty at all for the large masses of people who are suffering from want and privation and who are cheated out of their individual liberty by the exploitation economic system. Would their individual liberty not come in conflict with the liberty of the socially and economically more powerful class and in the process get mutilated or destroyed?

It is axiomatic that the real controversies in the present day society are not between power and freedom but between one from of the liberty and another. Under the present socio-economic system it is the liberty of the few which is in conflict with the liberty of many. The Directive Principles, therefore, imposes an obligation on the state to take positive action for creating socio-economic condition in which there will be an egalitarian social order with social economic justice to all, so that the individual liberty will become a cherished value and the dignity of the individual a living reality, not only for a few privileged persons but for the entire people of the country.
It will thus be seen that the Directive Principles enjoy a very high place in the Constitutional scheme and it is only in the frame work if the socio-economic structure envisaged in the directive principle that the Fundamental Rights are intended to operate for it is only then they can become meaningful and significant for the millions of our poor and deprived would not have even the bare necessities of life and who are living below the poverty level.\[41\]

Though the majority in Minerva Mills case could not agree to a virtual overthrow of Article 13 in respect of all the Directive principles, the Supreme Court nevertheless continued to remain above to the great importance of the directives and though it could not subordinate the Fundamental rights to the other directives because of Article 14, it has again in *A.B.S.K. Sangh (Rly) v. Union of India*\[42\] stressed the need to place reliance upon Directive Principles while interpreting laws.

Chinappa Reddy observed:

It becomes the duty of the court to apply the Directive Principles in interpreting the Constitution and the laws. The Directive Principles should serve the court as the code of interpretation. Fundamental Rights should be thus be interpreted in the light of

\[41\] Id
\[42\] Supra n.28
Directive Principles and the latter should whenever and wherever possible, be read into the former. Right should, among other consideration, be examined to find principles or if it is not in discharge of some of the undoubted obligations of the state constitutional or otherwise towards citizens flowing out of the preamble, the Directive Principles and other provisions of the Constitution.\footnote{Ibid p.335}

The same view was given by Supreme Court in \textit{Waman Rao v. Union of India} and held that Article 39(b) & (c) contain Directive Principles which are vital to the well-being of the country and the welfare of its people. So it is impossible to conceive that any law passed for such a purpose can at all violate Article 14 & 19.

Krishna Iyer J. said that Part III and IV of the Constitution are the warp and woof of the fabric of our National charter and project the radical ideology of a system of activist equalism human dignity and fundamental freedoms in setting of a dynamic participative democracy with an egalitarian social milieu, in which the full and free development of every individual is basic. Broad socio-economic eradicating poverty, anathematizing concentration of wealth and natural resources ensuring fair living conditions for everyone and exploitive and

\footnote{A.I.R. 1981 S.C. 271}
authoritarian manipulation of the state and society – these are our Fabien yet militant ambitions⁴⁵.

The decision of the court is in accordance with the spirit of the Constitution. There is no conflict between Directive Principles and the Fundamental Rights. They are complimentary to each other. It is not necessary to sacrifice one for sake of the other.

But in Sanjeev Coke Mfg. Co. v. Bharat, Coking Coal Ltd.,⁴⁶ the Supreme Court speaking through Justice Chinnappa Reddy expressed doubt on the validity of its decision in Minerva Mills Case. A five judges bench held that the question regarding the validity of section IV of the 42nd amendment was not directly at issue and therefore determination of that question was uncalled for and obiter and since the validity of Article 31C as originally introduced in the Constitution is upheld in Keshvanand Bharti Case, it should lead to the conclusion that Article 31C as amended by 42nd amendment is also valid. The extension of Constitutional immunity to the other Directive Principles does not destroy the basic structure of the Constitution. The court held that whenever Article 39(b) & (c) comes 14 goes out.

The confusion created by the above judgement has been removed by the decision of the Supreme Court in State of Tamil Nadu

⁴⁶ A.I.R. 1983 S.C. 239
v. L. Abu Kavur Bai\textsuperscript{47}. A five judges bench of the court has held that although the Directive Principles are not enforceable yet the court should make a real attempt at harmonising and reconciling the Directive Principles and the Fundamental Rights and any collision between the two should be avoided as far as possible.

In \textit{Unnikrishnan v. State of A.P.}\textsuperscript{48} Justice B.P. Jeevan Reddy stated the law that:

“It is thus well established by the decisions of this court that the provisions of Part III and IV are supplementary are but a means to achieve the goal indicated in Part IV. It is also held that the Fundamental Rights must be construed in the light of Directive Principles\textsuperscript{49}.”

A balance sheet of Fundamental Rights and Social Justice (or in other words, Directive Principles) could give the misleading impression that the two are antithetical. These are both Fundamental Rights and Directive Principles together which Granville Austin has rightly termed as ‘the conscience of the Constitution’ and as ‘the core of the commitment to the social revolution. So long as the Supreme Court equivocated on the ambit and scope of the right to property and the question of compensation, despite repeated Constitutional amendments, and the right to property continued as a Fundamental

\textsuperscript{47} A.I.R. 1984 S.C. 326
\textsuperscript{48} A.I.R. 1984 S.C. 847
\textsuperscript{49} Id.
Right, perhaps a talk of balance sheet might have had some relevance, but not now. It bears mention emphasis that up to Golak Nath none of the amendments had a bearing on Fundamental Rights other those relating to properly (barring some not so significant exceptions).

This finding is recorded by Hidayatullah J., as he then was, in his opinion in that case and , more significantly he therein expressed his conviction that right to property ought not to have been promoted as a Fundamental Right at all by the Constitution.

The vocalists for the supremacy of Directive Principles (i.e. Social Justice) at the cost of Fundamental Rights, whatever might have been/are their motivations, may it be said to their credit, have achieved at least two things, viz. (a) the Fundamental Right to property, gradually but surely, lost its supporters, if not inside the court then certainly outside it, and ultimately it had to meet its demise in 1978 through the 44th Amendment; (b) even the courts changed their attitude in the application of Directive Principles, and from harmonious construction with Fundamental Rights, they have adopted a more radical posture of reading Directive Principles in the Fundamental Rights themselves.

Had the deletion of property right as a Fundamental Right come earlier, even the 25th Amendment, 1971 would have lost much of its significance because Articles 39(b) & (c) aim at certain economic
objectives only, the realisation of which could possibly have come in conflict with the right to property only.

The basic issue in the controversy over the relationship of Fundamental Rights with Directive Principles ultimately boils down to the choice between human freedom and unfettered socio-economic development (as envisage and implemented by the executive). The founding father has wisely answered the question as not being that of a choice and confrontation, but of accommodation, between the two. It has also been reiterated in the Plan documents, viz. 'Planning within a democratic framework’, that freedoms and equal protection of the laws are essential for the effective functioning, nay the very survival, of democracy. That accommodation is exemplified by the restrictions to which all Fundamental Rights are subjected. Any resurrection of this controversy, it is submitted, is going back to square one and could hardly be sustained either on rational or practical considerations or on the three-decade long experiences of the nation. It is not surprising, therefore, that pleas made in support of the supremacy of one over the other sound rhetorical and fail to carry conviction.

Once this basic premise is accepted, the subsidiary politico-legal questions can find their solutions, viz. Supremacy of the Constitution vis-à-vis parliamentary sovereignty, nature and extent of amending and constituent power, emergency and Fundamental Rights, Fundamental Rights vis-à-vis basic structure doctrine, the role
and place of judiciary in our Constitutional setup, and the like. It has to be appreciated that accommodation between freedom (in other words restraints on governmental powers) and socio-economic development naturally comprehends and implies accommodation between the various institutions of the State as well the values embedded in our Constitution. The dialogue on these issues has to be a continuing one. No ultimate, final and razor-sharp solutions to these issues can possibly be provided, nor ought they to be attempted.

The researcher understands the scheme of Part III and Part IV as follows:

1) Part III & IV contains the philosophy of the Constitution of social service state.

2) The rights which were mostly of political nature were designated as Fundamental Rights whereas those of Social and economic nature have been included in the Directive Principles of state policy.

3) Constitution makers were impressed by Irish Constitution and adopted the Irish plan of classifying the human rights into two categories. Part A dealing with fundamental principles of the state policy and part B dealing with the Fundamental Rights strictly so called.

4) Part III and IV together constitute a code of Human Rights out of them such of the rights which are judicially
enforceable are set out in part III and others which need implementation by positive state action are placed in part IV.

5) Directive Principles are the goals and the Fundamental Rights are the means to achieve the goals.

6) There is no conflict between the provision of Fundamental Rights and Directive Principles as they are the part of the same Constitution.

7) Fundamental Rights imposes negative duty on the state whereas the Directive Principles imposes positive duty which depends upon the availability of material resources and time factor.

8) The Fundamental Rights have no fixed content; their dimensions vary depending on the extent of implementation of the Directive Principles.

9) Rights under Part III of the Constitution are fundamental the directives gives under Part IV are fundamental in the governance of the country.

10) Indian Constitution is a social document and the provision relating to Fundamental Rights and Directive Principles are the conscience of the Indian Constitution they embody the concept of social revolution in it.
11) The Fundamental Rights and Directive Principles are supplementary and complementary to each other and provision in part III should be interpreted having regard to preamble and Directive Principles of the State Policy.

12) The Constitution is founded on the bedrock of the balance between Part III and Part IV. To give absolute supremacy to one over the other is to disturb the harmony of the Constitution which is the basic feature of the Indian Constitution.

13) Part III and IV constituted an integrated scheme forming a self-contained code. Part IV must be used as a code of principles for interpretation of the Constitution particularly the Fundamental Rights.

14) The judiciary is ‘State’ within the meaning of Article 12 and 37. Therefore, no court can take away or abridge a Fundamental Rights or fail to apply the Directive Principles in declaring the law in the discharge of its judicial functions.

15) It is possible to take the view that while a petition for the positive enforcement of any of the provisions of part IV is not maintainable courts are not powerless to declare any state action which runs counter to the Directive Principles of State Policy as arbitrary and unconstitutional.
16) If the state commits a breach of its duty laid down in Part IV of the Constitution by acting contrary to the Directive Principles the court can prevent it from doing so.