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Mains Practice Questions

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Q. The Directive principles which are fundamental in the governance of the country cannot be isolated from the fundamental rights guaranteed. Examine. (250 words)

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Approach

- Give a short description of Fundamental rights and Directive principles.
- Write in brief about the difference between the two.
- Examine how both are inter-related to each other and one cannot be isolated from the other.

Introduction

- **Fundamental Rights (Part-III):-** Fundamental rights are rights without which a human being cannot survive in dignified manner in a civilized society. Fundamental rights are known as “basic rights”. They are also called as individual rights or negative rights” and impose negative obligations on the state not to encroach on individual liberty.
- **Directive Principles (Part-IV):-** Part-IV of the constitution deals with “directive principles of state policy”. They are positive rights and impose positive obligations on the state

Body

Difference between fundamental rights and directive principles of state policy –

- Directive principles are in the nature of instruments of instructions to the government of the day to do something positive. They are not justiciable or enforceable in courts. On the other hand, the fundamental rights are enforceable in the courts under Articles 32 and 226 of the constitution and hence are justiciable.
- During the proclamation of emergency the operation of the Fundamental rights (except Arts. 20 and 21) can be suspended, but no such provisions is required to be made with regard to the Directive Principle of State Policy.
- Fundamental rights are facilities given by the state to the people, whereas directive principles are directions given by the constitution to the state.
- Fundamental rights aim at establishing political democracy in India, while directive principles attempt to provide socio-economic foundations to Indian democracy

Directive principles and fundamental rights cannot be isolated because there is interrelation between the two –

- The **Fundamental right represents the civil and political rights** and the **directive principles embody social and economic rights**. Merely because the directive principles are non-justiciable by the judicial process does not mean that they are of subordinate importance.

- **Complementary and supplementary to each other:**
 - As early as 1958, in **Kerala Education Bill**, the SC while affirming the primacy of fundamental rights over the directive principles, qualified complementary nature by pleading for a harmonious interpretation of the two. The Supreme Court began to assert that there is “no conflict on the whole” between the fundamental rights and the directive principles.
 - **Kesavananda Bharti v. State of Kerala:** 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.
- **Integrated scheme:** Supreme Court in **Golak Nath** emphasized that the fundamental rights and directive principles formed an “integrated scheme” which was elastic enough to respond to the changing needs of the society
- **Harmonious relation:** The Supreme Court said in State of **Kerala v. N.M Thomas**, that the Directive Principles and Fundamental rights should be construed in harmony with each other and every attempt should be made by the court to resolve any apparent inconsistency between them.
- **To achieve broader socio-economic goals:** In **Pathumma v. State of Kerala**, the Supreme Court has emphasized that the purpose of the directive principles is to fix certain socio-economic goals for immediate attainment by bringing about a non-violent social revolution.
- **SC in Minerva Mills** said that the fundamental rights “are not an end in themselves but are the means to an end.” The end is specified in the directive principles.
- **A middle path:** In **R. Coelho v. state of T.N.** SC said that it is the responsibility of the government to adopt a middle path between individual liberty (Fundamental Rights) and public good (Directive Principles).
 - Right to education
 - Right to education is an example where both are taken as complementary and supplementary to each other.

Conclusion:

It may be concluded by saying that, one should try to establish harmony between fundamental rights and Directive Principles, since maintenance of harmony between them is a basic feature to the constitution.