INDIAN POLITY

Civil Services Examination
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Directive Principles of State Policy

“We do not want merely to lay down a mechanism to enable people to come and capture power. The Constitution also wishes to lay down an ideal before those who would be forming the government. That ideal is of economic democracy”
—B.R. Ambedkar

9.1 Introduction

Part IV of the constitution deals with the Directive Principles of State Policy. Together the Fundamental right and Directive Principles of State Policy is called as the “Conscience of the Constitution” by Granville Austin.

Directive Principles of State Policy are in the form of instructions/guidelines to the governments at the center as well as states. Though these principles are non-justiciable, they are fundamental in the governance of the country. The Directive Principles of State Policy along with the ideals enshrined in the preamble represents India as a democratic welfare state. A welfare state is one in which the design and implementation of policies seeks to bring about the social and economic revolution and thereby establishing an egalitarian (equality for all people) society. In other words, a welfare state promotes and protects all aspects of life like social, economic, environmental and cultural aspect of its citizen. It seeks to promote social and economic justice as envisaged in Preamble.

The Directive Principles of State Policy of Indian Constitution is borrowed from Irish Constitution of 1937, which itself had borrowed it from the Spanish Constitution. The Directive Principles of State Policy resemble the ‘Instrument of Instruction’ of the Government of India Act 1935 with a difference that the instrument of instructions was issued to the executive organ of the government but Directive Principles of State Policy or instruction to both the legislature and the executive.

<table>
<thead>
<tr>
<th>Dimensions</th>
<th>Fundamental Rights</th>
<th>Directive Principles of State Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justiciability</td>
<td>They are justiciable, that is, enforceable by courts in case of violations.</td>
<td>They are Non justiciable, that is, they are not legally enforceable by courts for their violation</td>
</tr>
<tr>
<td>Objective</td>
<td>Aim at establishing political democracy</td>
<td>Aim at establishing social and economic democracy</td>
</tr>
<tr>
<td>Sanctions</td>
<td>They have legal sanctions</td>
<td>They have moral and political sanction</td>
</tr>
<tr>
<td>Legislation requirement</td>
<td>They do not require any legislation for their implementation. They are automatically enforced.</td>
<td>They require legislation for their implementation. They are not automatically enforced.</td>
</tr>
<tr>
<td>Validity of law</td>
<td>If a law violates fundamental rights they are declared invalid and unconstitutional</td>
<td>A law will not be invalid and unconstitutional even if any of the directive principle is violated by the law.</td>
</tr>
<tr>
<td>Character</td>
<td>They are mostly negative as they prohibit the state from doing certain things</td>
<td>They are mostly Positive as it directs state to frame policy that leads to social and economic upliftment of its citizen</td>
</tr>
</tbody>
</table>
9.2 Fundamental Rights and DPSP: Relationship

There is no dichotomy between the directive principles of state policy and the fundamental rights. Instead they complement and supplement each other. But it has been debatable since the commencement of the constitution that which would prevail in case of conflict between fundamental rights and Directive Principles of State Policy. Various rulings were given in various cases to resolve the issue.

- In state of Madras vs. ChampakamDorairajan case 1951, the Supreme Court held that in case of any conflict between the fundamental rights and the Directive Principles, the former would prevail. It also ruled that the fundamental rights could be amended for implementing directive principles.

- But in Golaknath vs. State of Punjab 1967 case the Supreme Court ruled that the fundamental right cannot be amended for the implementation of the directive principle. However, the parliament reacted to this and enacted the 24th constitutional amendment act declaring that the Parliament has the power to amend the fundamental right by enacting the constitutional amendment act for the implementation of directive principle.

(a) Consequently, a new Article 31(c) was inserted by the 25th constitutional amendment act which stated that no law which seeks to implement the directive principle under Article 39(b) [Equitable distribution of material resources of the community for the common good] and 39(c) [prevention of concentration of wealth and means of production] shall be void on the ground of contravention of the fundamental rights conferred by Article 14, Article 19 or Article 31.

(b) Later, the 42nd amendment act gave the supremacy to directive principle over fundamental rights by extending the scope of protection to any law to implement any of the directive principle which was earlier given to law implementing directive under Article 39(b) and 39(c).

- The Kesavananda Bharti case of 1973, which gave the doctrine of basic structure, upheld the above mentioned Article 31(C) and invalidated the provision which declared that “No law containing a declaration for giving effect to such policy Shall be questioned in any court on the ground that it does not give effect to such a policy.”

- However, in Minerva Mills vs. Union of India 1980 case, the supreme court invalidated the above mentioned clause of 42nd amendment act and restricted the scope of giving supremacy of directive principles of only Article 39(b) and 39(c) over Article 14, 19 and 31. It stated that giving absolute primacy of one over the other would disturb the principle of harmony and balance between the two essential features of the basic structure of Indian Constitution. It is also called doctrine of harmonious reconstruction.

Thus, the present situation is that question of supremacy of fundamental right and DPSP shall be resolved by taking into consideration the harmony principle envisaged in Minerva Mills case. Although the fundamental rights are enforceable in nature but it does not mean that fundamental rights would always prevail over directive principles. In other words, the fundamental rights can be amended for the implementation of the Directive principles provided the amendment does not disturb the basic feature of the of the Indian Constitution.

9.3 Directive Principles of State Policy

<table>
<thead>
<tr>
<th>Article 36 – Definition of State</th>
<th>Same as Definition of State under Article 12 in Part III.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 37 – Application of the principles contained in this part</td>
<td>The directive principles are non-justiciable.</td>
</tr>
</tbody>
</table>

These are fundamental in the Governance of the country.

Duty of the state to apply them in making laws.

Classification of DPSP

On the basis of content and directions the Directive Principles of State Policies, Part IV can be classified under the three broad categories namely – Socialist, Gandhian and Liberal intellectual. However, the Constitution does not contain any classification of Directive principles. This classification is for the convenience for study.
### Overlapping Principles

It should be noted that Article 47 is partly socialist as well as partly Gandhian.

<table>
<thead>
<tr>
<th>Article 47</th>
<th>The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties</th>
<th>Socialist</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health</td>
<td>Gandhian</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Related Actions and Schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>• National Nutrition Policy</td>
</tr>
<tr>
<td>• National Health Policy</td>
</tr>
<tr>
<td>• Insurance Schemes – Atal Pension yojana, PM Suraksha BimaYojana</td>
</tr>
<tr>
<td>• Bihar Liquor Ban (Bihar Prohibition and Excise Act (2016))</td>
</tr>
</tbody>
</table>

Similarly, Article 48 is Gandhian as well as Liberal intellectual in ideological perspective.

<table>
<thead>
<tr>
<th>Article 48</th>
<th>The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and</th>
<th>Liberal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The state shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milk and draught cattle.</td>
<td>Gandhian</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Related Actions and Schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>• e-National Agriculture Market (e-NAM)</td>
</tr>
<tr>
<td>• Soil health card</td>
</tr>
<tr>
<td>• RashtriyaGokul mission</td>
</tr>
<tr>
<td>• Pashudhansanjivani</td>
</tr>
<tr>
<td>• e-pashudhanhaat portal,</td>
</tr>
<tr>
<td>• Kisan Call Centre</td>
</tr>
<tr>
<td>• Cattle slaughter ban (2017) – later suspended by Supreme Cour</td>
</tr>
</tbody>
</table>

### Socialist Principles

<table>
<thead>
<tr>
<th>Article</th>
<th>Remarks</th>
<th>Related Actions and Schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>State to secure a social order for the promotion of welfare of the people</td>
<td></td>
</tr>
<tr>
<td></td>
<td>38(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>38(2) The state to strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pradhan Mantri Awaas Yojana</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public Distribution System</td>
<td></td>
</tr>
<tr>
<td></td>
<td>MNREGA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>National Commission of Schedule Tribe (NCSTs)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>National Commission of Schedule Caste (NCSCs)</td>
<td></td>
</tr>
</tbody>
</table>

**Note:**

- Inequality of income is minimized.
- Inequality of status, facilities and opportunities are eliminated.

<table>
<thead>
<tr>
<th>Article</th>
<th>Certain principles of policy to be followed by the State</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State shall, in particular, direct its policy towards securing:</td>
</tr>
<tr>
<td></td>
<td>(a) Adequate means of livelihood for all citizens-men and women equally;</td>
</tr>
<tr>
<td></td>
<td>(b) Community ownership and control of the material resources so distributed as best to sub serve the common good;</td>
</tr>
<tr>
<td></td>
<td>(c) Prevent the concentration of wealth and means of production to the common detriment;</td>
</tr>
<tr>
<td></td>
<td>(d) That there is equal pay for equal work for both men and women;</td>
</tr>
<tr>
<td></td>
<td>Land reforms – Tenancy Reforms, Land Ceiling &amp; Abolition of Zamindari</td>
</tr>
<tr>
<td></td>
<td>Maternity Benefit Law</td>
</tr>
<tr>
<td></td>
<td>Integrated Child Development Scheme</td>
</tr>
<tr>
<td></td>
<td>Equal remuneration act 1976</td>
</tr>
<tr>
<td></td>
<td>Minimum Wages act 1948</td>
</tr>
<tr>
<td></td>
<td>Supreme Court’s ruling that temporary employees are entitled to regular pay scale (2016)</td>
</tr>
<tr>
<td>Article</td>
<td>Remarks</td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
</tr>
</tbody>
</table>
| 39A | **Equal justice and free Legal Aid**  
The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. |
| 41 | Right to work, to education, and to public assistance in certain cases.  
The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. |
| 42 | Provision for just and humane conditions of work and Maternity relief.  
The State shall make provision for securing just and humane conditions of work and for maternity relief. |
| 43A | Participation of workers in the management of industries.  
The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. |

**Related Actions and Schemes**

- National Legal Services Authority (NALSA)
- Supreme Court’s Middle Income Group Scheme (2017)
- Pro bono legal service
- Nyaya Mitra Scheme [Added by 42nd Constitutional Amendment act 1976]
- National Social Assistance Programme which include – IGNOAPS, Annapurna
- Persons with Disabilities Act 1995
- Maintenance And Welfare Of Parents And Senior Citizen Act 2007
- Maternity Benefit Act 2017 – extending benefits to 26 weeks, leave provision to surrogate mother and commissioning mother.
- PM Matriya Vandana Yojana – conditional cash transfer scheme for pregnant and lactating women of 19 years of age or above.
- Labour Laws such as Factories act 1948, Industrial Dispute Act 1947, Contract labour act 1970 etc.
- Apprenticeship Act, 1961
- Trade Unions Act 1926 [Added by 42nd Constitutional Amendment act of 1976]

**Gandhian Principles**

<table>
<thead>
<tr>
<th>Article</th>
<th>Remarks</th>
</tr>
</thead>
</table>
| 40 | **Organisation of village panchayats.**  
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. |

**Related Actions and Schemes**

- Panchayats (Extension to Scheduled Areas) Act 1996.

**Important Fact – Successful PRI Models**

- Rajiv Gandhi Panchayat Sashaktikaran Abhiyan (12th Five Year Plan).
- Sakala Initiative (Karnataka).
- Sangram Initiative (Maharashtra).
- PanchPrameshwar (Madhya Pradesh)
<table>
<thead>
<tr>
<th>Article</th>
<th>Remarks</th>
<th>Related Actions and Schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>43</td>
<td>Living wage etc. for workers. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas.</td>
<td>• Minimum wages Act 1948. • Payment of wages act 1936 – amended recently in 2017 to provide for payment of wages in cheque or direct transfer to bank accounts. • The Payment of Bonus (Amendment) Ordinance, 2007. • Khadi and village handloom boards.</td>
</tr>
<tr>
<td>46</td>
<td>Promotion of educational and economic interests of scheduled caste Scheduled Tribes and other weaker sections. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.</td>
<td>• Complementary to Fundamental Rights under Article 15(3), 15(4) and 15(5). • Scheduled caste and scheduled tribes (prevention of atrocities) Act 1989. • Post Metric Scholarship for students – SC/ST. • National overseas scholarship scheme for ST students. • Eklavya schools in recent Budget.</td>
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<tr>
<td>45</td>
<td>Provision for early childhood care and education to children below the age of 6 years. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.</td>
<td>• Integrated Child Protection Scheme • Central Adoption Resource Agency (CARA) • BetiBachaoBetiPadhao • BaiikaSamridhiYojana [Substituted by 86th Constitutional Amendment act of 2002]</td>
</tr>
<tr>
<td>48A</td>
<td>Protection and improvement of environment and safeguarding of forests and wildlife. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.</td>
<td>• Indian Forest act 1927 • Wildlife protection act 1972 (Amendment in 2003 &amp; 2006) • Environment (protection) Act 1986 • Biological Diversity Act 2002 • National Green Tribunal Act, 2010 • Namami Gange programme • National Afforestation programme</td>
</tr>
<tr>
<td>49</td>
<td>Protection of monuments and places and objects of national importance. State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.</td>
<td>• National Historic Preservation Act of 1966 • The Ancient Monuments and Archaeological Sites and Remains Act, 1958 • Antiquities and Art Treasure Act, 1972.</td>
</tr>
<tr>
<td>50</td>
<td>Separation of Judiciary from executive. The State shall take steps to separate the judiciary from the executive in the public services of the State.</td>
<td>• Doctrine of Separation of powers as part of basic structure of Constitution [KesavanandaBharati v. State of Kerala Case (1973)]. • Independence of judiciary also part of basic structure of the constitution [S.K. Gupta v. President of India (1981) case].</td>
</tr>
</tbody>
</table>
9.4 Directives Outside Part IV of the Constitution

Some directives are contained in the other part of the constitution which are also non justiciable in nature. This include:

1. Claims of SCs and STs: In making appointments to service and post in connection with the affairs of the union or the state. However, it shall not be at the cost of lowering the efficiency (Article 335 in part XVI).

2. Instruction in mother tongue: Every state and local authority shall provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups (Article 350-A in part XVII).

3. Development of Hindi language: The union shall promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India. (Article 351 in part XVII).

9.5 DPSP: A Critical Analysis

There seems to be no coherent principle that undergirds and explains the place of the DPSPs in the constitutional scheme. The enforceability of the Directive principles has from the beginning a debatable issue. The members of constituent assembly were divided over variety of issues for the parts containing the Directive Principles, and finally reached to a consensus by either agreeing to keep the provision either in directive principle or in Fundamental Rights.

However, DPSPs are frequently referred in many cases for every socially-oriented constitutional or statutory judgement. Quite often, this invocation is mere window-dressing, and doesn’t actually turn the case one way or another. Equally, there are times when it is clear that the DPSPs are playing an important role in the outcome of a case. The somewhat cavalier manner with which the Courts treat the DPSPs bears obvious similarities with Article 21.

**Criticism**

- Ilogical arrangement: Many criticisms have been levelled against the directive principles like the directives are not arranged in a logical manner based on a consistent philosophy. The directives mixed of relativity an important issue with the most vital economic and social questions.

- Incoherent with the social system: According to Sir Ivor Jennings, the directives are based on the political philosophy of the 19th Century England and therefore part IV of the Constitution expresses Fabian socialism without the socialism.

- Source of conflict: It is also pointed that the directives lead to a constitutional conflict between the centre and the states, between the President and Prime Minister and between the Governor and Chief Minister. For example, the centre can give directions to the states with regard to the implementation of these principles and in case of non-compliance, can bring emergency under Article 365. Similarly, when the Prime Minister gets a Bill passed by the parliament which violates the directive principles the President may reject the bill on the grounds that these principles are fundamental to the governance of the country and hence the ministry has no right to ignore them.

- Non-justiciable nature: DPSP is non justiciable in nature, so it lacks a legal force for its
implementation. Thereby critiques have questioned the efficiency and effectiveness of the DPSPs.

**Utility**

Despite the criticism of the DPSP, it has following utility:

- It helps Apex court in interpretation of the constitution and laws.
- These principles are fundamental guidelines in the governance of the country.
- The directive principles supplement the fundamental rights, contrary to the opinion that the directives are in conflict with the fundamental rights.
- The implementation of the directive principles creates a favourable atmosphere for the full and proper enjoyment of the fundamental rights guaranteed by the constitution of India.

Dr. B. R. Ambedkar has pointed out that the directives have great value because they lay down that the goal of Indian Polity is economic democracy as distinguished from political democracy. The directives even serve as a crucial test for the performance of the Government and many political manifestos are prepared keeping in mind the objectives of the directive principles. The directives help opposition to control the government and for the government the directives act as Instrument of Instructions and guide the legislative and executive actions.

**Enforceability**

The DPSPs are merely guidelines for the establishment of a social order guided by social and economic justice, freedom, and liberty. Article 37 specifically mentions that DPSPs, though not enforceable through any court of law are “fundamental” to the governance of the country.

During the drafting, Prof. K. T. Shah felt that by not making the Directive Principles justiciable, they were making merely pious wishes. Main reasons cited for making DPSP non justiciable include:

- India did not possess the adequate resources to enforce all the DPSPs at the time of making of constitution.
- It was left to the future Governments to follow them voluntarily through constitutional amendment acts.
- Even if DPSPs were to be justiciable, who would it be enforced against? It cannot be against any individual, or even the State.
- Dr. B. R. Ambedkar referred DPSPs as policies and principles to achieve economic democracy, which is a dynamic concept and is dependent on the times and circumstances, so it would be erroneous to lay down a fixed concept of achieving it.
- The State in parliamentary democracy is answerable to the people, and thus these Directive Principles would not be mere pious declarations.

Whenever the issues of the DPSPs have come up before the courts, the courts have stressed upon the importance of them time and again. They have repeatedly read the DPSPs with the Fundamental Rights. Thus, Article 45 (DPSP) is complementary to Article 21A (Fundamental Right). In a few cases, the Courts have even issued directives to the government to implement the DPSPs.

This leads to the question that regarding the original intention of the Constitutional framers regarding enforceability of DPSP. If the DPSPs are being enforced by the Courts through Directives, they cannot be said to be voluntary.

The implementation of the DPSPs imposes a financial burden on the government in present context also. For example, in many states the Right to Education was imposed mandatorily, even though the state lacked the resources leading to the result that the initiative did not succeed completely.

Further, it has been 70 years since the adoption of the Constitution, and the relevance of the implementation of the DPSPs has been increasing tremendously. Thus, the ideals of the welfare state cannot be an unfulfilled principle. A review of the DPSPs might be used to organize, and to segregate them. Priority should be accorded to which Directive Principle is of greater importance. Moreover, the decision of prioritizing these principles should explicitly be decided by the Union and State governments.
In 2002, it was recommended by the National Commission on the Working of the Constitution to reword Part IV to “Directive Principles of State Policy and Action”, to ensure that the DPSPs are implemented, and not remain a mere letter of the law.

Thus, making the DPSPs justiciable would result in complete restriction of the government’s freedom to legislate, also it would lead to a scenario of ‘one size fits all’ which is not desired.

So the driving force behind the DPSPs should be public opinion and the necessity of the measure. Further, welfare schemes are introduced voluntarily by the government, but a body should be set up to monitor the successful implementation of these schemes (as recommended by NCRCW), which ensures greater social and economic justice.

9.6 Current Issues Related to DPSP

Uniform Civil Code
The writ petition filed in the Supreme Court by Shayara Bano questioning the constitutional validity of the “Triple talaq” has brought into the public domain once again the debate on the question of a uniform civil code (UCC) for all in India.

Necessity of Uniform Civil Code
Family laws in India are governed by personal status laws, which are based on religious affiliations based on customary practices or religious precepts. As these diverse laws are confusing and contradictory so, when India adopted its Constitution in 1950, a provision regarding the enactment of a uniform civil code to govern family relationships or non-religious aspects were included in the Directive Principles of State Policy.

The Uniform Civil Code in India seeks to achieve three goals,
- National consolidation
- Equality of laws
- Gender justice.

Its aim is to strengthen the constitutional democracy and secularism which is one of the primary goals as enshrined in the preamble of the constitution of India.

The uniform civil code does not only mean to have a uniform law for all religion, it also means there should be intra-religion uniformity i.e. there is a need for uniformity within a particular religion. For example, the Hindu code, which sought to create a uniform law governing all Hindus, is not uniform in some of the most fundamental aspects of family law. The validity of a marriage is linked to the customs and ceremonies of the particular community. The inheritance rights of the members of the family are different for communities in Kerala and Tamil Nadu. Who is capable of being adopted also depends on the custom and usage.

The Hindu Minority and Guardianship Act, 1956 does not automatically apply to members of Scheduled Tribes.

Arguments Against UCC
There exist an optional UCC in the form of Special marriage act 1954, and the Indian succession act 1925. Any person in India can get his/her marriage registered under the Special Marriage Act and section 21 of the Act prescribes that, upon such registration, the parties will be governed by the Indian Succession Act and not their personal laws.

One argument is that instead of bringing a uniform civil code, the reforms should be from within the religion and that the institutions governing personal law shall be at forefront in bringing the necessary reforms.

Problems in Formulating UCC
- No draft has been prepared yet because the issue is devoid of the content, that is, there is lack of clarity on what issues are to be covered in the Uniform civil code. The Supreme court have each time stated that there is a need of Uniform civil code but the matter of concern in each case were different.
- Lack of consensus between the government and various religious bodies like AIMPLB, RSS etc.
- Ideological differences of political parties and the political motives of different parties creates hindrance in developing a consensus for formulating the Uniform Civil code.

Way Forward
- Proactive involvement of various political parties to develop a consensus between themselves.
Developing a consensus with various religious institution and groups like AIMPLB.

Setting up of a committee with a mandate to develop a draft on which things shall be included in the Uniform Civil Code and what will be its structure.

Uniform civil code shall be brought through debate and discussion. It needs to have a multi-stakeholders approach with the aim to protect the essence of diversity in the nation.

**Ancient Monuments Conservation**

The Central government is trying to introduce an amendment to the Ancient Monuments and Archaeological Sites and Remains Act, 1958, which would remove the security net that exists around our nationally protected monuments.

**Relation with Directive Principles of State Policy**

The provision under Article 49 directs the state to protect monuments, places and objects of artistic or historic interest which are declared to be of National Importance.

**Actions by Government and Judiciary**

- First step was taken by the first Prime Minister of India, Jawaharlal Nehru. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 was passed, which noted a prohibited and a regulated zone around protected sites and monuments.
- Because of these rules, the High Court of Delhi in 2009 struck down all permissions that had been illegally granted by the ASI. As a consequence of this judgement, in 2010, some amendments were passed by the parliament which brought the prohibited and regulated zones around monuments within the ambit of the Act itself.
- As a consequence of this statute, the National Monuments Authority was set up.

**Proposed Amendment**

- The proposal tries to remove the protected area status around the monuments which was provided in the act to preserve the area of 100 m around the monuments from any kind of encroachment near the monuments.

- The proposed amendment aims to allow the Central government to construct within that area all kinds of structures.

**Issues in Preserving the Ancient Monuments and Heritage Buildings**

- Though the national Monuments Authority was set up under the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act 2010, it has been ineffective in implementing its mandate.
- Lack of laws for nationally protected monuments.
- There are encroachments by government agencies and individual in the so-called protected areas.
- Lack of manpower in the archeological department.
- Protection by politician to those who have illegally occupied the area of prohibited zone around the monuments.
- Lack of political will to protect the heritage buildings.
- The Cabinet note shows that the Ministry of Culture, instead of protecting monuments, is now acting a clearinghouse for the Ministry of Road Transport and Highways.

**Way Forward**

- Legislating a comprehensive law with efficient enforcement and strict punishment for violation of the law.
- Increasing the manpower in the archeological department.
- Setting up of an independent regulatory and quasi-judicial body to fasten the disposal of litigation and providing protection to the monuments.

**Child Labour (Prohibition and Regulation) Act**

Recently the parliament has passed child labour (Prohibition and Regulation) Act 1986 adding a new category of persons called “adolescent” and enhancing the punishment and penalty for employing a child labour.

**Relation with Directive Principles of State Policy**

The provision under Article 39(e) which states that state shall secure to preservation of health and strength of workers and children against forcible abuse.
Amendments Made

- The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 was introduced in the Rajya Sabha.
- The Bill seeks to amend the Child Labour (Prohibition and Regulation) Act, 1986, which prohibits the engagement of children in certain types of occupations and regulates the condition of work of children in other occupations.
- The Act prohibits employment of children below 14 years in certain occupations such as automobile workshops, bidi-making, carpet weaving, handloom and power loom industry, mines and domestic work.
- Parliament has allowed children up to the age of 14 to be employed in family enterprises. However, they can work only after school hours or during vacation.
- The Act adds a new category of persons called “adolescent”. An adolescent means a person between 14 and 18 years of age. The Bill prohibits employment of adolescents in hazardous occupations as specified (mines, inflammable substance and hazardous processes).
- The Act enhances the punishment for employing any child in an occupation. It also includes penalty for employing an adolescent in a hazardous occupation.
- Penalty for employing a child was increased to imprisonment between 6 months and two years (from 3 months-one year) or a fine of ‘20,000 to 50,000’ (from ‘10,000-20,000’) or both.
- Penalty for employing an adolescent in hazardous occupation is imprisonment between 6 months and two years or a fine of ‘20,000 to 50,000’ or both.
- The government may confer powers on a District Magistrate to ensure that the provisions of the law are properly carried out.
- The Act empowers the government to make periodic inspection of places at which employment of children and adolescents are prohibited.

Issues with the Amendments

- Working outside school hours and earning valuable income for the family may have a harmful effect on the children’s health as well as their aptitude for learning.
- Regulation is going to be a big challenge, as it will be difficult to determine whether a particular family is running an enterprise, or whether some faceless owner has employed a single family to circumvent the law.
- The fallout will be a higher dropout rate. They may go to school for some years, concurrently work with their families, and graduate to being full-time adolescent workers, without completing elementary education.
- It has slashed the list of hazardous occupations for children from 83 to include just mining, explosives, and occupations mentioned in the Factory Act. This means that work in chemical mixing units, cotton farms, battery recycling units, and brick kilns, among others, have been dropped.
- Even the ones listed as hazardous can be removed, according to Section 4 – not by Parliament but by government authorities at their own discretion.
- The clause is also dangerous as it does not define the hours of work.

Contradictions of the Amendments with Other Laws

- The original act of 1986 can be said to be more progressive than that after the amendments because the list of hazardous work included 83 works which have been downsized in the amendment and that the implementation of national policy on child labour focused on rehabilitation and strict enforcement of law.
- It also contradicts the juvenile justice act of 2000 that makes it punishable for anyone to procure or employ a child in a hazardous occupation.
- They also contravene the International Labour Organisation’s (ILO) Minimum Age Convention and UNICEF’s Convention on the Rights of the Child, to which India is a signatory.

Way Forward

- If the amendments intended to preserve Indian art and craft by enabling parents with traditional skills to pass them on to their children, this
should be done through reform and investment in education.

- Slashed budgets should be restored; mid-day meals should re-instituted.
- Secure housing should be provided through the Sarva Shiksha Abhiyan boarding schools to homeless children.
- Artisans should be hired as teachers to pass on traditional knowledge and skills to the next generation.

**Liquor Ban**

Two developments have taken place in recent past regarding the Liquor ban. Chief Minister of Bihar Nitish Kumar has banned the sale of alcohol in Bihar and Supreme Court has banned selling of liquor within 500 metres of highways across the country.

Liquor ban is related with Directive Principles of State Policy as: The provision of Article 47 requires the state to prohibit the consumption of intoxicating drinks and drugs which are injurious to health. Moreover, Alcohol is a state subject.

**Complete ban on Liquor: Issues**

- Affects the Individual’s Right to choose which include freedom to drink alcohol.
- Leads to the creation of black market as it is always observed that a ban on a high demanded product leads to smuggling and thereby increase in black money generation.
- Rise in consumption of spurious liquor, leading to hooch tragedies.
- Sharp decline in excise revenues also ruins state finance and affects welfare programme.
- Negatively affects tourism industry.

**Positive Gains of Liquor Ban**

- As observed by Supreme Court, one of the major reason for road accident is drinking and driving. Hence it is hopeful that banning of sale within 500 meters of highways may reduce the accidents in future.

Taking alcohol has harmful social effects. But it is less harmful if somebody consumes it within limits and keeps consuming limited to oneself. So, right to choice is valid only till it is limited to oneself. Thus, one of the solution may be to increase the tax on alcohol and make it harder to access which might also help the government to generate more income which may be used for other welfare programme. It also increases spending on Campaigning and setting up of institutions in the more rural part to educate people on the harms of consuming the Liquor.

In India, consumption of alcohol is prohibited in the states of Bihar, Gujarat and Nagaland as well as the union territory of Lakshadweep. There is a partial ban on alcohol in some districts of Manipur.

Kerala Case study: -The toddy will be allowed to be served at the bars of three-star and higher hotels. The drinking age in Kerala has been increased from 21 to 23. These hotels are also regulated with respect to timing.

**Cow Slaughter**

The Government of India in July 2017 issued a notification, restricting the sale of cows and buffaloes for slaughter at animal markets and are therefore perceived as imposing an indirect beef ban.

**Relation with Directive Principles of State Policy**

The objective of Article 48(b) of the constitution of India directs the state to prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds.

**Conflict with Constitutional Provisions**

It can be said to be a classic example of doctrine of colorable legislation. It is because the central government has issued notification on a subject which is under the state list of the seventh schedule of the constitution of India. that is, by virtue of Entries 14 and 15 of List 2. States alone have the authority to make and to enforce laws on issues concerning agriculture and the “preservation, protection and improvement of stock.” The constitution under Article 48 directs the states to prohibit the slaughter of cows, calves and other milch and draught cattle but the power to legislate on this subject is exclusively with the federal units.

It is to overcome this barrier that the Union government has now relied on a subject that falls within the concurrent list over which both the
government at the centre and the governments in the states have the power to make, and enforce, laws: animal cruelty. The Animal Market Rules made under the Prevention of Cruelty to Animals Act, 1960, however, is an endeavour to do indirectly what the Union is expressly proscribed from doing directly. The Prevention of Cruelty to Animals Act, as a bare reading of its contents would make clear, concerns itself with practices that inflict unnecessary pain or suffering to animals. Its mandate isn’t – and indeed cannot be – to regulate the preservation, protection and improvement of livestock, something which is decidedly for the states to do.

Problems in Issuing such Notification

- A prohibition on slaughtering of cattle violates the right to trade and business enshrined in the fundamental rights under Article 19.
- By prohibiting the sale of cattle for slaughter at animal markets, the notification contravenes the Prevention of Cruelty to Animals Act by specifically forbidding what that Act permits.
- No rational basis for limiting the reach of an anti-cruelty regulation to only some animals, that is, why the notification is limited to only a few animals.

Impact of the Notification

- It will impact the industries like leather, soap, toothpaste, paint brushes and surgical stitches as around 70% of the total cattle slaughtering is used in these industries and only 30% is used for the consumption.
- It will also hit the meat industries drastically as the meat industry relies on animal markets for 90% of its supply.
- It will also impact the exports of India because beef meat account for almost 1% of the total exports of the country.
- The biggest impact of the government notification will be on India’s largely non-mechanized rural economy, in which the life cycle of bulls and bullocks provides farmers with a sustainable economic model. According to a study the farmer has 70% of the income from agriculture and the rest 30% comes from the livestock farming. Therefore, restricting the sale of animals that are no more productive will become a burden on the farmer and thereby impacting him economically.

Way Ahead

- A committee must be set up to give a comprehensive report on the impact of such notification after consultation with various stakeholders. And a prudent decision must be taken so that it does not harm the interest of minority for the benefit of majority.