Child rights constitute a major part of human rights, and there is no doubt about the fact that child labour is a serious violation of the rights which any child must avail.

Children constitute the most important asset of any nation. Investment in child development is thus an investment in the country’s future and in improving the nation’s quality of life. Pandit Jawaharlal Nehru once said, “The Nation walks on the tiny feet of its children.” Children are the future of the nation. They are flowers of our national garden.

A child must feel that this world is my world. I must act and organize, not wait and expect. A child thus trained will be a good fellow-worker, a friend to all men and a true partner in love and marriage. The boy or girl who has been rightly educated will ask himself, “What can I contribute to my fellows? How can I fit in as a part of the whole?”

“Does it really can happen?” Unfortunately if we begin from our houses itself we will find that our houses are being converted into hotels and store houses of domestic workers who are small children themselves. Child labour is both an economic and social problem. The term child labour brings before the eyes, picture of exploitation of little, weak, tender and underdeveloped bodies, illiteracy, physical abuse in the term of beating by employers and accidents often fatal at work sites. Child labour has been an important area of social concern both nationally and internationally. Millions of children worldwide start working at a very young age and these children are exposed to various forms of exploitation and abuse. Children continue to work in large numbers in various sectors of the economy. Numerous children are engaged in occupations and processes, which are plainly dangerous and hazardous.

There was no statutory provision for regulating the employment of the children in industry till 1881, the year in which the first Indian law defining child was passed. After that, a plethora of legislations have been passed to give effect to the Constitutional mandates and International Covenants and Recommendations, the latest being Child Labour (Prohibition and Regulation) Act, 1986. There are 13 major enactments which provide legal or statutory protection to the children in various occupations. The Employment of Children Act was passed in 1938 and was amended as many as five times during the years 1939, 1948, 1949, 1951 and 1978 only to ameliorate better working conditions of such children. Several other Acts such as The Factories Act, 1948; State Shops and Commercial Establishment Acts; Plantation Labour Act, 1951; Merchant Shipping Act, 1958; Children (Pledging of Labour) Act, 1933 etc. regulates the conditions of work that affect children.

**PROTECTION GUARANTEED UNDER DIRECTIVE PRINCIPLES OF STATE POLICY**

There are certain other provisions in Part-IV of the Constitution, dealing with the “Directive Principles of State Policy” which, although do not lay emphasis on the child welfare directly, but children are bound to be beneficiaries, if these provisions are implemented Articles 38, 39(e), and (f), 41, 42, 43, 45, 46 and 47 contain such provisions, which inter alia provides strategy for indirectly promoting the welfare of the children. India strive to be a welfare state, this is reflected in the
directive principles of state policy. It is stated by the Supreme Court that these Directive Principles of State Policy being conducive to the general interest of the public and therefore, to the healthy progress of the nation as a whole, merely lays down the foundation for appropriate social structure in which the labour will find its place of dignity, legitimately due to it in lieu of its contribution to the progress of national economic prosperity.

K.S. Hegde further describes the Directive Principles of State Policy for Child Welfare:

“To fix certain social and economic goal for immediate attainment by bringing about a non-violent social revolution.”

To achieve the goals relating to child labour, the Constitution has some provisions in Part-IV which have been designed with an earnest zeal to strive to promote the welfare of 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 national life. Naturally, an effective implementation of this principle results, in promoting the welfare of the people through social, economic and political justice and in this turn is expected to promote proportionately, the child welfare also.

**Article 39 (e) and (f)** direct the state to evolve a policy eliminating the abuse of tender age to free children from the circumstances forcing them to enter into avocations unsuited to their age or strength. The State is also directed to create social and economical conditions and infrastructure for the healthy development of children and to provide facilities and climate for exercise of freedoms and maintenance of dignity. The State is further directed to protect the children against exploitation and moral and material abandonment.

The idea to include clause(f) in Article 39 seems to be inspired by the provision contained in Article 41 of the Convention of International Labour Organization of June 1919 that the abolition of child labour and imposition of such limitation on the labour of young person shall permit the Constitution of their education and assure their proper physical development. The Supreme Court in *Sheela Bose v. Union of India* held that Article 39(1) of the Constitution provides that state shall direct the policy towards securing the goal that children are given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and the childhood and youth are protected against exploitation and against moral and material abandonment. The Supreme Court further stated that though various States have enacted Children Act for the fulfilment of constitutional obligation for welfare of children under Article 39(f), yet it is not enforced in some States and the Court directed that such beneficial statutes should be brought into force and administered without delay. Similarly, the provisions of **Article 41** requires that the

State shall within the limits of its economic capacity and development; make effective provision for securing, *inter alia*, the right to education and public assistance in cases of unemployment and other cases of undeserved want. The implementation of this provision is also expected to promote the welfare of the children proportionately and to ensure distributive justice to them.

**Article 42**, obligates the State to make provisions for securing just and humane conditions of work and for maternity relief. The measures for maternity relief have been designed for benefiting the expectant mothers during the period of pregnancy and after the child birth. These measures meant for providing proper health care and other facilities to the mothers before and after the child birth are expected to promote the health of children and to provide healthy environment for their bringing up.

**Article 43** lays down it is the duty of the state to secure by suitable legislation for economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and in particular, the state promote cottage industries on an individual or co-operatives basis in rural areas. This provision includes child labourers in its widest interpretation.

Under **Article 45** a duty is imposed upon the state to provide free and compulsory education within a period of ten years of the commencement of the Constitution for all the children until they complete the age of 14 years. This Directive signifies that it is not only confined to primary education, but extends to free education whatever it may be upon the age of 14 years. Article 45 is thus supplementary to Article 24 on the ground that when the child is not to be employed before the age of 14 years, he is to be kept occupied in some educational institutions. The Supreme Court in the case of *M.C. Mehta v. State of Tamil Nadu* has allowed children to work in a prohibited occupation. The Court observed:

“The provision of Article 45 in the Directive Principles of State Policy has still remained a far cry and though according to this provision all children up to the age of 14 years are supposed
to be in school, economic necessity forces grown up children to seek employment.”

The Court further emphasized that special facilities for providing the quality of life to children should be provided. This would require facility for education, scope for recreation as also providing opportunity for socialisation. Facility for general education as also job oriented education should be available in the school time should be so adjusted that employment is not affected. Children can, therefore, be employed in the process of packing but packing should be done in an area away from the place of manufacture to avoid exposure to accident. Furthermore, the Supreme Court in a momentous decision declared that citizens have a fundamental right to education at all levels. Justice Kuldeep Singh has gone one step further while declaring the unequivocal words that right to education is concomitant to fundamental rights enshrined under Part-III of the Constitution. Similarly, in P. Unnikrishnan v. State of Andhra Pradesh the apex Court has recognised primary education as an, aspect of personal liberty and thus elevated it to the level of each child’s constitutional right. The Court observed that a child (citizen) has a fundamental right to free education up to the age of 14 years. Therefore, the right to education is subject to the limits of economic capacity and development of the State for the reasons that higher education call heavily on national economic resources and social circumstances. What is thus transpired from the decision of Unnikrishnan’s case is that the Supreme Court has for the first time in the judicial history declared that right to education up to 14 years as fundamental right with the result that it will necessarily enable the poor children to have access to education which will enable them in achieving social, economic and political justice.

Article 46 of the Constitution, similarly lays down that the state shall promote with special care the educational and economic interest of the scheduled castes and scheduled tribes and other weaker sections of the society. The children belonging to such category are the worst affected and need to be constitutionally protected. Similarly, Article 47 of the Indian Constitution imposes a primary duty upon the State to raise the level of nutrition and the standard of living of its people and improvement of public health. Thus, it is the responsibility of the State to provide nutritious food to the children as the word ‘people’ includes not only adults but children as well as perhaps this provision becomes more relevant in case of children as the malnutrition can cause irreparable danger to the personality of the children though mental retardation and blindness.

Though these directions are not enforceable by the Court, yet these have been declared to be fundamental in the governance of the country. It is the obligation of the State to comply with the demands of these principles while making laws. If the government ignores them it will certainly have to answer for them before the electorate at the time of election. Thus, it will not be correct to say that there is no sanction of enforceability behind these directions.

SUM UP

As per the census of India, there were 10.75 million child labourers in the age group 5-14 years in 1971, 13.64 million in 1981, 11.28 million in 1991, 12.6 million in 2001 and 4.3 million in 2011. The above figures which show a declining status in the incidence of child labour is definitely a symbol showing the effort put in by the government in the form of various safeguards of which directive principles of state policy play a very important role. They pave a path by which children might enjoy their rights, be happy and turn out to be a socially healthy and happy citizen of India who would act as a responsible human being. Although lot has been achieved but a lot has still been left, what is required is continuous effort both from the government and society for breaking the shackles and rescuing the children from being labourers so that they can live happily ever after.

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