CHAPTER - IX

CHILD LABOUR : JUDICIAL ANALYSIS

We, in India have given to ourselves a written constitution guaranteeing Justice, liberty and equality. We attempted to achieve administrative and political unity and an economic and social revolution under a democratic constitution; we aimed at a 'synthesis' which could give justice with economic safeguards.¹ For achieving these objectives, we have three organs of government, the legislature, the executive and the judiciary. Each of these is supreme within the sphere allotted to it. To interpret the constitution, keep the three organs of government within their allotted spheres and enforce the rule of law, an independent authority is absolutely essential and this is furnished by the Court of justice. The Supreme Court of India, at the apex, has been assigned a very important role, and constituted as a guardian of the constitution which is the yardstick of grand norms for other legislation.²

Our constitution accords a dignified and crucial position to the judiciary. It is the greatest unifying and integrating force of our country. The Supreme Court is at the apex of the well-ordered and well-regulated judicial structure of the country. It expounds and defines the true meaning of law.³ It is the ultimate interpreter of the constitution and this puts a second brake on the legislature and the executive the first being the political check of the people themselves.⁴ The constitution puts on obligation on every organ of the state, including the judiciary to ashar in a new social order in which justice - social. Economic and political and equality of status and opportunity, prevail.⁵ The final burden of
interpreting these elastic provisions is upon the Courts. Courts are to contribute to law's growth without overstepping the boundaries of the system; in other words, how to reconcile tradition and convenience or the claims of stability and those of change. "It is the duty of the judiciary to recognize the development of the nation and to apply established principles of the position which the nation in its progress from time to time assumes. The judicial organ would otherwise separate itself from the progressive life of community an act as a clog upon the legislative and executive departments rather than as an interpreter." Indian judiciary is charged with the duty of holding the parlance even between a state or states and the union and between the state and the citizen, and sometimes between the state and the individual. It has to hold the scales even in the legal combat between the rich and the poor, the mighty and the weak without fear or favour. The role of judiciary in India has been quite significant in promoting the child welfare. Mr. Justice Suba Rao, the former Chief Justice of India, rightly remarked.

"Social Justice must begin with child unless tender plant in properly nourished. It has little chance of growing into strong and useful tree. So, first priority in the scale of social justice should be given to the welfare of children. The concern for 'social justice' influenced the society a great extent. Social justice is a cardinal principle of our constitutional system, categorically, incorporated in the preamble of the constitution. Though, the constitution has tried its best to achieve the socio-economic justice through a host of constitutional provisions, yet it remains a distant possibility on account of a variety of reasons. Therefore, the socio-economic justice has been the great
concern for all. This aspect has been emphasized by the constitutional jurists and the politician in this country."  

It is in this spirit that the apex court has laid emphasis on the fact that the important task of social justice is to take care of child, for them lies the hope of nation's future.

In this chapter an attempt has been made to assess the judicial response to the child labour welfare as an effective instrument to improve the status of children in accordance with the spirit of the constitution. The objective of the researcher is to examine that to what extent the judicial process has aided or impeded social changes in relation to the status of children in India in the form of interpretation of legislations.

The constitution is a document of social revolution which imposes an obligation on every instrumentality including the judicatory to transform the status quo ante into a new human order in which there will be equality of status and opportunity for all including children. The judiciary has, therefore, a socio-economic destination and a creative function. The judicial mandate on child labour welfare has been discussed under the following heads.

9.1 Child Labour and Right to Education

The abolition of the child labour is preceded by the introduction of compulsory education: compulsory education and child labour laws are interlinked. Article 24 of the constitution bars employment of child below the age of 14 years. Article 45 is supplementary to Article 24 for if the child is not to be employed below the age of 14 years he must be kept occupied in some educational institution.
The Court in a series of cases has unequivocally declared that right to receive education by the child workers is an integral part of right of personal liberty embodied in Article 21 of the constitution. These judicial mandates clearly demonstrate that right to education is necessary for the proper flowering of man, his mind and personality. Hence the right to education is one of the facts of right to personal liberty. Further, Delhi High Court in a famous case of Anand Vardhan Chandel v. University of Delhi has held that education is a fundamental right under our constitution. The court observed that:

"The law is, therefore, now settled that the expression of life and personal liberty in Article 21 of the constitution includes a variety of rights though they are not enumerated in Part - III of the constitution, provided that they are necessary for the full development of the personality of the individual and be included in the various aspects of the liberty of the individual. The right to education is therefore, included in Article 21 of the constitution".

This right can be denied only by means of procedure established by the law as contemplated in Article 21 of the constitution, the procedure to the fair, just and reasonable must pass a test under Articles 14, 19 and 21 of the constitution.

Similarly, the Andhra Pradesh High Court in its momentous decision in Murali Krishna Public School Case pronounced that:

"Right to education to Dalits is a fundamental right and it is the mandatory duty of the state of provide adequate opportunities to advance educational interests by establishing schools".
The decision of the Andhra Pradesh High Court in the instance case has paved the way for better educational opportunities for Dalits children. The dalits, hitherto neglected specimens of humanity, who are dragging their earthly existence under a grinding poverty have the fundamental right to education and they can compel the state to take positive action to provide education facilities to their children. Any failure on the part of the state to provide better and adequate educational facilities, economic support and proper atmosphere to the children belonging to the lower strata of the society is violative of not only Article 45 but also Article 21 the constitution.

Article 15 (4) empower the state to make special provisions for the advancement of Socially and Educationally backward classes. The object of clause (4) of Article 15(4) is only an enabling provision and does not confer any right on the weaker Section to seek better Educational facilities. However, the activist Supreme Court in Thoms v State of Kerala where dealing with Article 16(4) held that Art. 16(4) is not an exception to Article 16(1) but it is another facet of equality principle outlined in Article 16(1). This interpretation of the court in Thoms is equally applicable to Article 15(4). Art. 15(4) which is hitherto considered as the exception to Article 15(1) is aimed at to extend the equality principle in matters of providing equality of opportunities to Weaker Sections in the field of Education. Thus Article 15(4) confers a Fundamental Right to the Socially the Educationally Backward Class to seek better educational opportunities from the State.

A new trial has been blazed in labour jurisprudence by the Supreme Court in Mohini Jain case. Where the Supreme Court has gone step further
while declaring in unequivocal words darigly that the right to education is
concomitant to fundamental rights enshrined under part III of the constitution.
Justice Kuldip Singh had relied on Francis Cullin\textsuperscript{17} and Bandhua Mukti
Morcha\textsuperscript{18} cases, and observed:

"Right to life is the compendious expression for all those rights which
the courts must enforce because they are basic to the dignified enjoyment of
life. It extends to the full range of conduct which the individual is free to
pursue. The right to education flows directly from right to life. The right to life
under Article 21 and the dignity of an individual can not be assured unless it is
accompanied by the right to education. The State Government is under an
obligation to make beautifier to provide education facilities at all level to its
citizens".

The apex court very rightly held that Article 19 of the constitution can
be appreciated and fully enjoined unless a citizen is educated and conscious of
his individualistic dignity. Gajendra Cadkar J., in University of Delhi v Ram
Nath rightly said that Education is the one that leads dignity to a man. He
observed Education seeks to bind up the personality of the pupil by assisting
his physical, intellectual, moral, and emotional development.

Despite the constitutional directives and the national Policy on
Education, we have the largest number of the world's illiterates and children
without education. The UN Convention on the Rights of child, to which we are
a party says\textsuperscript{19}:1
Article 28, state parties recognise the right of the child to education, and with a view to achieve this right progressively and on the basis of equal opportunity, they should, in particular:

(a) make available primary education compulsory and free\(^{20}\)......

A very positive development in this direction is the supreme Court decisions in Unni Krishnan J.P.V. State of A.P.\(^{21}\) holding:

The right to free education up to the age of 14 years as a fundamental right within the meaning and scope of Article 21 of the Indian constitution.

Thereafter the right to education subject to the limits of economic capacity and development of the state. The right to life and personal liberty under Article 21 means the right to live with human dignity, and according to the court, and individual cannot be assured of human dignity unless his personality is developed and the only way to do that is to educate him”.

For the first time in the judicial history in Unni Krishnan's case the Supreme Court has declared that right to education upto 14 years as a 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. It is thus quite clear that the courts in India have shown positive and progressive response in promoting education amongst the poor children.\(^{22}\) It is hoped that these divisions will promote healthy trend in promoting compulsory education amongst the working children and ultimately make them realise their rights contained for them in the labour welfare legislations.
The intention of the framers of the constitution were crystal clear that education should to be the tool in the growth of any nation. Their purpose to include this right in the Directive Principles of state policy, considering the limitations of the state at the time of the promulgation of constitution were also very clear to make it a total responsibility of the state in years to come. Now that 47 years have already passed. But the State's efforts have failed to implement the moral and legal commitments of free and compulsory education up to the age of 14 years. In this regard, the Apex Court further observed that:

The supreme Court in Mohini Jain and Unni Krishnan cases make it imperative that education is brought into the ambit of the rights rather urgently. The logic of the Unni Krishnan case is that the priorities in terms of allocation of available funds have so far been inverted, or in another words the funds have been deployed for attainment of universal elementary education to the extent of the desirability, they also leave ample scope for the state to devise various delivery mechanism such as schools, non - formal education centers, alternative schooling system, open school or any other mechanism to achieve the goal. It is very clear that judges are thinking of the alternative mode of delivery and their intention was to achieve the standard as determined by the State. But unfortunately the judgement has not indicated any time limit to enable the state to make arrangements for providing such facilities as may be required under the law. Inspite of it, the states can legitimately implement the apex court judgment in Unni Krishnan case, within a reasonable period of time.
In M.C. Mehta V State of Tamil Nadu the Supreme Court observed that: in an attempt to break the shackles for an estimated 44 to 100 million children forced to labour in hazardous industries, the court has banned the ‘all India evil’ and directed the government to ensure compulsory education of the child.

The court further observed that the education of child labourers would be assured in suitable institution with a view to make them better citizen.

In Ajay Hasia the Supreme Court while following the Airport Authority and Somprakash Lekhi rulings held that the R.E.C., Srinagar which is being controlled by the Central Government is subject to the provisions of part III of the constitution. This liberal interpretation of the expression “other authorities” as used in Article 12 of the constitution prompted the Andhra Pradesh High Court to declare in C.N. Prasad V Sanglie College that an educational institution receiving substantial financial assistance in amenable to part III of the constitution. This new trend in making the educational institutions answerable to part III of the constitution will prevent the educational institution from denying the right of under privileged to pursue liberal education. Moreover, in case of arbitrary denial of right to education to the weaker sections by these institutions, the new trend secures them the right to question the action by invoking part III of the constitution.

The decision of the Karnataka High Court is another milestone in concretising right to education as a fundamental right. The Karnataka High Court in Bapuji Educational Association case has held that:
Among various types of personal liberties which can be regarded in the expression ‘person liberty’ used in Article 21 of the constitution, education is certainly the foremost. Therefore, Article 21 necessarily includes the right to establish and administer educational institutions of the choice of the citizen or groups of citizens. This is also implicit in Article 30 of the constitution. Certainly, even without Article 30 of the constitution, the minorities would have had the same right under Article 21 and 19(1)(g)."  

One, however, wonders how the judgement would go in achieving the desired results. Illiteracy and child labour form a vacuous circle. This can be broken by prohibition of child labour and mandatory primary education. People must be made aware that investment in child's education would pay much better dividends than his meagre earning.

Thus, the judicial response to the right to education is positive and progressive to secure in particular, to the children of the weaker sections of the society, the proclaimed socio-economic justice.  

Child labour can not be abolished unless and until the education is made compulsory. So the relation of child labour is closely related to the child education. In 1986 and 1987 the government of India adopted a new set of policies toward working children, which for the first time reflected the privately held views of officials in the ministries of Labour and Education.  

Frankly speaking, the Court has played a parental role while directing the central government to persuade the workmen to send their children to nearby schools and arrange not only for the school but also provide free of charge, books and other facilities such as transportation, etc. The court also put
forth the suggestion that whenever the central government undertakes time, the central government should provide that the children of the construction workers who are living at or near the project site should be given facilities for schooling and this may be done either by the central government itself or if the central government entrusts the project work any part thereof to a contractor, necessary provisions to this effect may be made in the contract with the contractor.34

The Court took a realistic view of the position of children and was in agreement with the prevailing conditions of Indian society. The court agreed that so long as there was poverty and destitutions in this country, it was difficult to eradicate child labour. The court, however, pleaded for the positive role to be played by the government and desired that attempt must be made to reduce. If not eliminate the incidence of child labour, because it was, absolutely essential that child should be able to receive proper education with a view to equipping itself to became a useful member of the society and to play a constructive role in the socio-economic development of the country.35

In recently decided case the Supreme Court in M.C. Mehta v. State of Tamil Nadu36 has held that the children are means under Article 45 of the constitution to be subjected to free and compulsory education until they completed the age of 14 years. The Court has, however, observed that the Directive Principles of State Policy has still remained a far cry and though according to this provision all children upto the age of 14 years are supposed to be in school, economic necessity forces grown up children to seek employment.
9.2 Child Labour Welfare Schemes

The liberalisation of the concept of *locus standi* to make excess to be court easy, in an example of changing attitude of the courts. It is generally seen that all the working children come from the families which are below the poverty line and there are no means to ventilate their grievance that their fundamental rights are being breached with impurity. Keeping in view the pitiable conditions of the child workers, the apex court has shown its generosity by relaxing the concept of *locus standi*. The court shown its wisdom by ensuring the philosophy of public interest litigation. The judiciary is intended to vindicate and promote public interest by rendering help to those people of the society who are unable to approach the court because of their poor economic conditions.

This issue of locus standi has arisen in number of cases before the Supreme Court. The Supreme Court has very daringly held:

"Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provisions or without authority of law, or any such legal wrong or legal injury or illegal burdens is threatened, and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for an appropriate direction or writ or order".

---

37. Referring to a Supreme Court judgment.
38. Referring to a Supreme Court judgment.
Similarly, Krishna Iyer, J. in Fertilizer Corporation Kamgar Union v. Union of India, also stated: "In simple term locus standi must be liberalized to meet the challenge of time".  

This liberalized rule of locus standi has further been reflected in various Supreme court's decisions including Ratlam Municipality Case, K.R. Shenoy v. Udipi Municipality, Ram Kumar Mishra v. State of Bihar and Bandhua Mukri Morcha v. Union of India.

One important case in which the Supreme Court entertained a letter, sent by post as public interest litigation in Peoples' Union of Democratic rights v. Union of India, commonly known as Asiad case. This case is an epoch-making judgement of the Supreme Court of India, which has not only made significant contribution of labour laws, but also has displayed a creative attitude of judges to protect the interests of the child workers. The court has given a new dimension to several areas, such as locus standi public interest litigation, enforcement of labour laws, minimum wages and employment of children. The facts of the case were that the Peoples' Union of Democratic Rights addressed a letter to the Supreme Court annexing the report of social activists regarding the conditions under which the workmen engaged in various Asiad projects were working. Pointed reference was made in that report that there was violation of Article 24 of the Constitution and of the provisions of Employment of Children Act, 1938, viz. children below the age of 14 years were employed in construction work of various projects. With regard to allegation of the provisions of Employment of Children Act, 1938, the Delhi Administration and Delhi Development Authority took the stand that no
complaint in regard to the violation of the provisions of that Act was at any stage received by them. They also took the stand that, the Act was not applicable in case of construction work, since construction industry was covered in the schedule to the Act. The Supreme Court took cognizance of the child workers' interest and observed.⁴⁵

Large number of men, women, and children who constitute the bulk of our population are today living a sub-human existence in conditions of object poverty, utter grinding poverty has broken their back and sapped with moral fibre. They have no faith in the existing social and economic system.

The Hon'ble Court endeavoured to fight for the cause of these poor creatures and held⁴⁶:

"... This is a sad and deplorable omission which, we think, must be immediately set right by every state government by amending the schedule so as to include construction industry in exercise of the power conferred under Section 3(A) of the employment of Children Act, 1938. We hope and trust that every state government will take necessary steps in this behalf without any undue delay, because construction work is clearly a hazardous occupation and it is absolutely essential that the employment of children under the age of 14 years must be prohibited in every type of construction work. That would be in consonance with convention No. 59 adopted by the international labour organisation and ratified by India. But apart altogether from the requirement of convention NO. 59, we have Article 24 of the constitution which provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. This is a constitutional
prohibition which, even if not followed up by appropriate legislation must operate proprio vigor and construction work being plainly and indubitably a hazardous employment, it is clear that by reason of this constitutional prohibition, no child below the age of 14 years can be allowed to be engaged in construction work. There can, therefore, be no doubt that notwithstanding the absence of specification of construction industry in the schedule to the employment of Children Act, 1938, no child below the age of 11 years can be employed in construction work and the Union of India is as also every state government must ensure that this constitutional mandate is not violated in any part of the country.

A high water mark in the application of article 24 of the constitution has been reached in the decision of the court in labourers working on Salal Hydro Project v. Jammu & Kashmir wherein the court reiterated the above stand. The court maintained that the child labour is an economic problem. Poor parents seek to augment their meagre income through employment of children. So, a total prohibition of child labour in any form may not be socially feasible in the prevailing socio-economic environment. Article 24 therefore, puts only a practical restriction on child labour. The court further observed that so long as there is poverty and destitution in this country it will be difficult to eradicate child labour.

Recently, in M.C. Mehta v. State of Tamil Nadu the petition under Art. 32 of the constitution has been brought by way of public interest litigation before the Supreme Court and is connected with the problem of employment of children in match factories of Sivakasi, in Kamaraj District of Tamil Nadu
state. In this case Ranganath Misra, C.J. & M.H. Kania, Justice, rightly observed:

"We are of the view that employment of children within the match factories directly connected with the manufacturing process upto final production of match sticks or fireworks should not at all be permitted. Art. 39(f) of the constitution provides that the state should direct its policy towards securing that children are given opportunities and facilities to develop in healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment".

The Court further observed:

"The spirit of the constitution perhaps is that children should not be employed in factories as childhood is the formative period".

In Sheela Barse v. Secretary, Children Aid Society & Others, the Supreme Court held: "If there be no proper growth of children of today, the future of the country will be dark. It is the obligation of every generation bring up children who will be citizens of tomorrow in a proper way. Today's children will be leaders tomorrow who will hold the country's banner high and maintain the prestige of the Nation".

Recently, in M.C. Mehta v. State of Tamil Nadu, the Supreme Court has identified nine major industries as hazardous in which child labour is banned. These are (i) Match making at Sivakasi in Tamil Nadu, (2) Diamond Polishing in Surat, (3) Precious stone polishing in Jaipur, (4) Ferozabad glass industry, (5) Brassware industry in Moradabad (U.P.), (6) Handmade carpet
industry in U.P.'s Mirzapur and Bhadohi, (7) Aligarh Locks making industry (U.P.), (8) Slate Industry at Marakpur in (A.P.), (9) Slate Industry at Mandsaure in M.P.

The observation of the court are giving true affect and spirit to the neglected constitutional dictates which have been mentioned in Art. 24 of the Indian constitution. The Supreme Court has always, regarded it as its duty to come to the rescue of those deprived or vulnerable sections of Indian community in order to help them realize their economic oppression and exploitation in hazardous industries.

The judiciary has even directed the State government to enforce the statutory requirements of the Factories Act for providing recreation facilities and medical aid to the workers of match facilities and medical aid to the workers of match factories at Sivakasi. There is a plethora of statutes to prevent the misuse of children in hazardous employment and to protect the general rights of children. The judiciary has consistently expressed grave concern regarding the flouting of the spirit of those legislations by the employers of the child workers. It has to a great extent made significant contribution to the welfare of child labour. The court has daringly endeavoured to uphold the spirit of these legislations. Protection of their fundamental rights, sexual exploitation of children in flesh trade, and employment of children in hazardous occupation clearly reflect the judicial wisdom and its love to the welfare of the child labour. The effect of those decisions is that the child workers have been safeguarded against the exploitation tendencies of their employer and has paved a strong path to regularizes their working hours, fixing their wages, laying down rules about their health and education.
(A) Right to Work:

Article 6 of the International covenant on Economic and Social Rights recognises the right to work. This was recognised by Art. 23 of United Declaration of Human Rights. Art. 41 the state promises to make effective provision for securing the right to work. However, there is claim for such right to be included into the fundamental rights of an Indian citizen, it has not yet materialised. The courts in India have necessarily had to accept a restricted role in it realization.

Thus, in Bandhua Mokti Morcha v. Union of India, the Supreme Court held that there public interest litigation that certain workers were living in bondage and under inhuman condition was initiated, it was not expected of the Government that it should raise a preliminary objection that no fundamental rights of the petitioners or the workmen on whose behalf the petition has been filed, had been infringed. The court speaking through justice Bhagwati further added:

"...The right to live with human dignity shined in Article 21 derives its life breath from the directive principles of state policy and particularly clause (e) and (f) of Article 39 and Article 41 and 42 and atleast therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, education facilities, just and human conditions of work and maternity relief. These are the minimum requirements which must exist in order enable a person to live with human dignity and no state either Central Government nor
any State Government has the right to take any action which deprive a person of the enjoyment of these basic essentials. Since the directive principles of state policy contained in clause (a) and (f) of Article 39, 41 and 42 are not enforceable in court of law, it may not be possible to compete the state through judicial process to make provisions by statutory enactment or executive fiat for ensuring these basic essential which go to make up a life of human dignity.

.... But where legislation is already enacted by the state providing those basic requirements to the workmen and thus investing there right to live with basic human dignity with concrete reality and content, the State can certainly be obligated to ensure observance of such legislation for inaction on the part of the State in securing implementation of such legislation would amount to denial of the right to live with human dignity enshrined in Article 21.57

In People's Union for Democratic Rights v. Union of India58 and Sanjit Roy v. State of Rajasthan59 the Supreme Court has invoked Articles 14, 19, 21 and 23 to ensure that the Asiad Worker and Famine Relief Workers respectively be paid at the rates set out in the Minimum Wage Act. They thus achieved a resulting relief which could have been more naturally achieved by a direct invocation of Articles 41 and 43 if that had been possible under the scheme of the Constitution of India.

An even more creative use of the Directive principles was made in Constitution Bench decision, Olga Tellis v. Bombay Municipal Corporation60, the Supreme Court invoked Article 41 to incldue the right to a livelihood in the ambit of the right to life. In the case the pavement dwellers sought to be uprooted from the unauthorised huts they had put up close to their place of work.
Chief Justice Chandrachud speaking for the Court held that "An equally important facet of the right is the right to livelihood because, on person can live without the means of living, that is the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content of meaningfulness but it would make life impossible to live".

The American Supreme Court speaking through Justice Douglas said in 1954; "The right to work... was the most precious liberty that man possess. Man has, indeed as much right to work as he has to live... To work means to eat and it also means to live".

Following this logic it is said that to live one has to eat... To eat the poor need a right to food. Thus, man has indeed as much right to work as he has to live, to be free and own property. The court's answer is very explicit:

"... that, which alone makes it possible to live, leave aside what makes life liable, must be deemed to be an integral component of the right to life.... so unimpeachable is the evidence of nexus between the life and means of livelihood. They have to eat to live... That they can do, namely, eat, only if they have the means of livelihood. The court has conceded, virtually the right to food".

On several occasions the Supreme Court has given practical relief on the basis of these rights without going too deeply into the source of its authority to do so. In Neerja Chaudhari v. State of M.P. the court said that the released
bonded labour must be rehabilited. The court assumed that livelihood was part of life and insisted on provisions of livelihood to the released bonded labour. However, there is Article 24 of the constitution which prohibits employment of children below the age of 14 years in a factory, mines or for hazardous work. There is also child labour (Regulation and Prohibition) Act 1986 which regulates the employment of children. The Supreme Court advised that children below 14 years of age should not be employed in construction work in accordance with convention 59 of the International Labour Organization which has been ratified by India. Article 10(3) of the covenant prohibits employment of children in harmful work. In M.C. Mehta v. State of Tamil Nadu the Supreme Court has banned the employment of children below the age of 14 years in hazardous work. Right to work for the children is prohibited by the fundamental right of the constitution.

The Directive principles and the fundamental rights and any collision between two should be avoided as far as possible. The reasons why the founding father of constitution did not advisedly make these principles enforceable was, the court said, perhaps due to the vital consideration of giving the Government sufficient latitude to implement these principles from time to time according to capacity, situation and circumstances that may arise.

Above all the rights of a child have not been well protected. Rights of child requires that the child be protected to all forms of neglect, cruelty and exploitation. The fact that children are working and suffering because of the it, Article 39(a) says that tender age of children are not abused and citizens are not forced by economic necessity to enter jobs not suited to their age or strength.
Art. 39(f) guarantees protection to children against moral and material acondonmen and Art. 45 provides for compulsory primary education up to 14 years of age. Effective implementation of this last Article itself could have taken care of a major chunk of the problem beside providing clue to many more. Importance should be given to the right to education for the children rather than right to work for the child.

(B) Discrimination of Wage Structure:

In pursuant to Art. 39(d) Parliament has enacted the Equal Remuneration Act, 1976. This directive contained in Art. 39(d) and the Act passed thereto can be judicially enforceable by the court. In Randhir Singh v. Union of India, the Supreme Court has held that the principle of "Equal pay for equal work, though not a fundamental right" is certainly a constitutional goal. Thus in Maneka Gandhi case and Francis Coralie case gave a new dimension to Art. 21 of the constitution. Following these two cases the Supreme Court People Union for Democratic Rights v. Union of India held that non-payment of minimum wages workers employed in various asaid projects in Delhi was a denial to them of their right to life with human dignity and violative of Art. 21 of constitution. The Supreme Court in Salai Power Project v. State of Jammu & Kashmir case directed that "minimum wage is paid to all the workers. In Mukesh Advani v. State of M.P. the court directed that no employer can pay less than minimum wages.

Following the above logic Apex Court move towards the right direction into two cases:
M.C. Mehta v. State of Tamil Nadu the Supreme Court held that minimum wages for child labour should be fixed. We take note of the fact that the tender hands of the young workers are more suited to sorting out the manufacturing products and process it for the purpose of packing. In consideration of their special adaptability at least 60% of the prescribed minimum wage for an adult employee in the factories doing the same job should be given to them. The minimum wage does not stand in the way of the prescription of a higher rate if the state is satisfied that a higher rate is viable.

"As regards the wage component the Minimum wages Act provides for fixation of minimum wage for various occupations. In most state the children paid 50 to 60% of their adult counterparts salary though they do the same work. The Supreme Court in M.C. Mehta v. State of Tamil Nadu held that the child labourers must be given at least 60% of the wage of adults.

These decisions have heralded a new legal revolution. It has clothed millions of child workers in factories, fields, mines and projects sites with human dignity. They had fundamental right to minimum wages in the respective occupations covered by the various welfare legislations. No discrimination can make in wage on the ground of child labour and adult worker.

9.3 Violation of Human Rights Vs Article 21 of the Constitutions:

Let us widespread the cosmic canvas wide and study the fate of human Right in our world and our country. The rights to life is, of course, the foremost human right. But what is life, and human life at that? 'Life' is more
than animal existence and the inhibition against the deprivation or truncation of life extends to all those limits and faculties by which life is enjoyed.\(^\text{75}\)

Article 21 of the constitution dealing with the rights to life and sisters article relating to fundamental freedoms fell for consideration the landmark ruling in Maneka Gandhi.\(^\text{76}\)

“Article 21 occurs in the part III of the constitution which confers certain fundamental rights. These fundamental rights represent the basic value cherished by the people of this country since the vedic times and they are calculated to protect the dignity of Individual and create conditions in which every human being can develop his personality to the fullest extent. They weave a ‘pattern to guarantees on the basic structure of human rights’ and impose negative obligations on the state not to encroach on individual liberty in its various dimensions. These rights are wide ranging and comprehensive. One of them is rights against exploitation and right to constitutional remedies”.

Life is worth living only when a person has access to the basic necessities of life. This has been upheld by the Supreme Court in the case of Francis Mullin.\(^\text{77}\) where it was said that right to life would “include the right basic necessities as constitute the bare minimum expression of human-self”.

Life does not mean mere physical or animal existence. Right to life under Article 21 has been interpreted to mean the right to life with human dignity. In Francis Mullin's\(^\text{78}\) case court further observe that “fundamental right to life which is the most precious human rights and which forms the core of all other rights must therefore be interpreted in a broad and expensive spirit so as
to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person”.

Following Maneka Gandhi and Francis Mullin cases the Supreme Court in People Union for Democratic Rights V Union of India held that non-payment of wages to the workers employed in various Asiad Projects in Delhi was a denial to them of their right to life with basic human dignity and violative of Art. 21 of the constitution. Deprivation of this right to the worker is the violation of the human rights.

Supreme Court in Bandhua Mokti Morcha case, Neeraja Chaudhri case, labourers working on Salal Hydroproject V. State of Hammu & Kashmir, Mukesh Advani case, P. Sivaswami V. State of Andhra Pradesh and M.C. Mehta V. State of Tamil Nadu case. In these cases a letter written by a social action group or a public spirited person has been treated as a writ petition to ensure human rights to the deprived and vulnerable sections of the community.

Human rights are never safe in the country unless an activist judiciary with pragmatic humanism becomes the sentinal on the gui. Homicide of human rights anywhere is a matter of concern for everyone everywhere. How long can we hide the truth of the lie—the great lie that life human dignity and liberty are safe and viable because of the constitution the and judiciary.

9.4 Child Labour V. Bonded Labour

The 1997 UNICEF report on the “State of the World’s Children” highlights the fact that child labour is one of the most pressing moral issue of the times and requires urgent action for its elimination India report says, has
dubious distinction of having the largest child labourers in the world around 20
million in hazardous industries and 15 million children who are bonded, most
worst form of child exploitation. The right not to be exploited is the right
guaranteed under Art. 23 of the constitution:

Article 23 the constitution prohibits traffic in human beings and beggar
and other similar forms of forced labour. The court has specifically pointed out
that Article 23 has been intended to protect the individual not only against the
State but also against private citizens. Elaborating this point, justice Bhagwati
said:

This Article strikes at forced labour in whatever form it may manifest
itself, because it is violative of human dignity and is contrary to basic human
values. The practice of forced labour is condemned in almost every
international instrument dealing with human rights.

In the instance case, it was held that the deduction of rupee one per
worker per day by jamadars from the wage payable to workers employed by
contractor for Asiad Projects in Delhi as result of which the workers did not get
the minimum wages of Rs. 9.25 per day was violative of Article 23 of the
constitution. The Court directed the government to take necessary steps for
punishing the violation of fundamental rights of citizens guaranteed under
Article 23 by Private individuals. Further, in Lakshmi Kant Pandey v. Union
of India, the Supreme Court took active steps to abolish bonded domestic
service and slavery of poor which had been in practice under the guise of
foreign parents. The court has shown vigorous courage to point out that both
state and Central Governments have badly failed to execute the spirit of labour
welfare legislations with the result there is a large scale violation of the provisions and thereby the employers have miserably exploited the innocent child workers. The Supreme Court has issued directions on many occasions to enforce the provisions of Minimum Wages Act, 1948, the Equal Remuneration Act, 1976, the Employment Children Act, 1938; and the Inter-State Migrant Workmen (Regulation of Employment and conditions of service) Act, 1979, with a view to safeguard the interest of large number of child workers who have always been exploited by their employers for selfish ends. In Vishaljeet v. Union of India	extsuperscript{90}, the Supreme Court while referring to Article 23 of the constitution which prohibits traffic in human beings and clause (c) of Art. 39, which inter alia, provides that the tender age of the children is not abused and they are not denied social economic justice as held that it is the duty of the State to see that these provisions are strictly adhered to and every step is ensured to safeguard the interest of the child worker and save them against all forms of exploitation.

In Sanjit Roy v. State of Rajasthan	extsuperscript{91} - It has been held that the payment of wages lower than the minimum wages to the persons employed on Famine Relief work is violative of Art. 23.

In Deena v. Union of India	extsuperscript{92}, it was held that labour taken from prisoners without paying any proper remuneration was “forced labour” and violative of Art. 23 of the constitution.

Neeraj Chaudhri	extsuperscript{93} case illustrates the apathy of the Government and sympathy of the court for the bonded labourers. The court observed that Art. 21 and 23 of the constitution requires that bonded labourers must to rehabilitated
after their release. Mukesh Advani\textsuperscript{94} case is an illustration of debt bondage where bonded labours were lured by the contractors and were subjected to work under inhuman conditions. The court issued the direction to release the bonded labourers to the government. The court further observed that no employer can pay less than minimum wages. We conclude with the hope that such a machinery would be set up by the Union of India and the State of M.P.

Labourer working on Salal Hydro Power Project v. State of Jammu & Kashmir\textsuperscript{95}, P. Sivaswamy v. State of Andhra Pradesh\textsuperscript{96} and in M.C. Mehta v. State of Tamil Nadu\textsuperscript{97}, in these cases the benefits of various labour laws were denied, to ensure the human welfare to the deprived and vulnerable sections of society, who are known as bonded labourers. The court issued directions to government that Art. 21 and 23 of the constitution requires the bonded labourers must be rehabilitated after their release, to compulsory weekly off with wage to every workmen. The court further observed that "It is necessary that special facilities for providing the quality of children should be provided. This would require facility for education, scope for recreation as also providing opportunity for socialisation".

Thus if a person is subjected to slavery, immoral traffic or forced labour or is paid less than minimum wages for a labour services and is not provided adequate facilities of work as mentioned in various labour laws, he termed as bonded labourer and can obtain help Art. 23.\textsuperscript{98}

Every earnest efforts have been put up by the Indian judiciary to uphold the welfare of the child labourers. The courts have always interpreted and applied the law so as to promote the cause of justice and to meet the hope and
inspiration of the children as per the mandate of the constitution. The constitution is a document of social resolution which imposes an obligation on every instrumentality including the judiciary to transform the status, quo ante into a new human order in which there will be equality of status and opportunity for all. The judiciary has, therefore, a socio-economic destination and creative functions. As regard to the welfare of child labour the court opined that compulsory insurance scheme should be provided for both adult and children employees taking into consideration the hazardous nature of employment. The state of Tamil Nadu shall ensure that every employee working in these match factories is insured for a sum of Rs. 50,000 and the Insurance Corporation. If contacted should come forward with a viable group insurance scheme to cover the employees in the match factories of Sivakasi area.

9.5 Prohibition of Traffic in Human Beings and Forced Labour

As regards the true scope and meaning of traffic in human beings and other forms of forced labour, the court has specifically pointed out that Article 23 of the constitution has been intended to protect the individual not only against the state but also against other private citizens. It prohibits traffic in human beings and beggar and other similar forms of forced labour practised by anyone else. Elaborating the point Bhagwati. J. observed:

“Article 23 strikes at forced labour in whatever form it may manifest itself. because it is violative of human dignity and is contrary to basic human values”.
The Supreme Court has rightly reminded us of the task undertaken by our wise founding fathers of the constitutions under Art. 23 of our National charter. The Court observed. ⁴⁰⁰

"..... The constitution-makers when they set out to frame the constitution found that they had the enormous task before them of changing the socio-economic structure of the country and bringing about socio-economic regeneration with a view to reaching social and economic justice to common man. Large masses of people, bled white by well-nigh two centuries of foreign rule were living in adject poverty and destitution. weigh ignorance and illiteracy accentuating their helplessness and despair. the hierarchical society with little respect of dignity of the individual who was in the lower sungs of the social ladder or in an economically impoverished condition. the political revolution was completed and it has succeeded in bringing freedom to the country but freedom was not on an end in itself. It was only a means to an end, the end being the raising of the people to higher level of achievement and bringing about their total advancement and welfare. Political freedom had no meaning, unless it was accompanied by social and economic freedom and it was, therefore, necessary to carry forward the social and economic revolution with a view to creating socio-economic conditions in which every one would be able to enjoy basic human rights and participate in the fruits of freedom and liberty in an egalitarian social and economic framework. It was with this wind in view that the constitution-makers enacted the Directive Principles of State Policy in Part-IV of a new socio-economic order, Now there was one feature of our national life which was ugly and shameful and which cried for urgent attend on and that was the existence of bonded or forced labour in large part of
the country. This evil was the relief of a feudal exploitative society and it was totally incompatible with the new egalitarian socio-economic order, which "we the people of India" were determined to build and constitute a gross and most revolting, dental of basic human dignity. It was, therefore, necessary to eradicate the pernicious practice and wipe it out altogether from the national scene and this had to be done immediately because which the advent of freedom such practice could not be allowed to blight the national life any longer. Obviously. It would not have been enough merely to include abolition of forced labour in the Directive Principles of the State Policy because then the outlawing of this practice would not have been legally enforceable and it would have continued to plague our national life in violation of the basic constitutional norms and value until some appropriate legislation could be brought by the legislature forbidding such practice. The constitutions makers, therefore, decided to give teeth to their resolve to obliterate and wipe out this evil practice by enacting constitutional prohibition against it in the chapter on Fundamental Rights, so that the abolition of some practice may become enforceable and effective in Article 23 was included in the chapter of fundamental rights. The prohibition against "traffic in human beings and beggar and other similar forms of forced labour", is clearly intended to be a general prohibition, total in its effect and all pervasive in its range and it is enforceable not only against state but also against any other person including in any such practice”.

Similarly, in Lakshmi Kant v. Union of India, the Court took active steps to abolish bonded domestic service and slavery of poor children which had been in practice under the guise of foreign abolition. But violation of
various protective provisions have been pertinently pointed out by the highest judicial tribunal in the country. Such violation related to the provisions of the Minimum Wages Act, 1948 and the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The Supreme Court has issued direction to safeguard the interests of large number of child workers in Salal Hydro Project v. Jammu & Kashmir.

Despite judicial activism, there still many cases where the acute poverty has compelled the parents to sell their children hopping that the children would be engaged only in household duties. But there are persons who purchase female children for the purpose of forcing them to brothel keepers. Once these unfortunate children are sold to brothel keepers, they are brutally treated, until they succumb to the desire of the brothel keepers and enter into the unethical and squalid business of prostitution. Some such cases were brought to the notice of the Supreme Court in Vishal Jeet v. Union of India. The Supreme Court referred to Article 23 of the constitution which prohibits traffic in human beings and clause (e) of Article 39, which inter alia, provides that the tenter age of children is not abused and the citizens are not forced by economic necessity to enter into work unsuited to their age or strength. The Supreme Court also referred to Clause (f) of Article 39, which inter alia, provides that childhood and youth are protected against exploitation and against moral and mental abandonment. These provisions show that the framers of the constitution were anxious to protect and safeguard the welfare of children.

It may therefore be summed up here that judiciary has always worked hard to discourage the practice of traffic in human beings and forced labour.
The courts in India are always quite sensitive to the problems of child workers who are oftenly made victim by their mighty employers. The judiciary has always fought for the cause of child-workers with a zeal to raise them to higher level of achievement and bring about their total advancement and welfare so that they are converted into good citizens of the country.

9.6 Child Labour Welfare and Judicial Activism

The judiciary has almost brought a revolution in the life of child workers in India. It has always endeavoured to expand and develop the law so as to respond to the hope and aspirations of people who are looking to the judiciary to give life and content to law. The judicial institutions in India have played a significant role not only for resolving inter-disputes but also to act as a balancing mechanism between the conflicting pulls and pressure in the society. It has virtually played a vital role in the task of providing political, social and economic justice to the poor child workers in this country. No efforts seem to have been spared by the India judiciary to uphold the cause to the poor workers. The courts have always interpreted and applied the law so as to promote the cause of justice and to meet the hope and aspiration of the children as per the mandates of the constitution. The concern of the courts for the under-privileged poor section of the society is aptly reflected in Bihar legal support Society v. The Chief Justice of Indian and other105 the court said; “......that the weaker section of Indian humanity have been deprived of justice for long, long years; they have had no access to justice on account of their poverty, ignorance and illiteracy. They are not aware of the rights and benefits conferred upon them by the constitution and the law. On account of their socially and
economically disadvantaged position they lack the capacity to assess their rights and they do not have the material resources with which to enforce their social and economic entitlements and combat exploitation and injustice. The majority of the people of our country are subjected to this denial of access to justice and overtaken by despair and helplessness, they continue to remain victims of an exploitative society where economic power is concentrated in the hands of a few and it is used for perpetuation of domination over large masses of human beings. this court has always, therefore, regarded it as its duty to come to the rescue of those deprived or vulnerable sections of Indian humanity in order to help them realize their economic and social entitlements and to bring to an end their oppression and exploitation. The strategy of public interest litigation has been evolved by this court with a view to bringing justice within the easy reach of the poor and disadvantaged sections of the community. This court has always shown the greatest concern and anxiety for the welfare of the larger masses of people in the country who are living a life of want and destitution, musery and suffering and has become a symbol of the hopes and aspirations of millions of people in the country.

Similarly, new contents are being provided to the exploitation of children women and labour. Executive is being made more and more to realize its responsibilities. The apex court in Sheela Barse v. Union of India has even gone to the extent of holding that child is a national asset, it is the duty of the state to look after the child with a view to assuming full development of its personality. the court has very daringly held that incarnation in jail has the effect of dwarfing the development of child, exposing him to baneful influences, coursing his conscience and alienating him from the society.
Justice Bhagwati made a suggestion to formulate and implement a national policy for the welfare of children. He observed:

"Children's programme should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizen, physically fit, mentally alert and morally healthy, endowed with the skill and motivations needed by society. Equal opportunities for development of all children during the period of growth should be our aim, for this would serve our large purpose of reducing inequality and ensuring social justice".

The Supreme Court has even directed the state Governments to enforce the statutory requirements of the Factories Act for providing recreation facilities and medical aid to the workers of match factories at Shivakasi. It has also been suggested that every employee working in these factories should be brought under a group insurance scheme.

There is a plethora of statutes to prevent the misuse of children in hazardous employment and to protect the general rights of the children. But sociological studies have revealed either the ineffective nature of these laws or their blatant violation in 1986, the Child Labour (Prohibition and Regulation) Act was passed but this also is not attempting a comprehensive ban of child labour. Still later the National Policy on child Labour (1987) has been evolved but it is not yet made statutory.

There are numerous cases where the judiciary has made significant contribution to the cause of child workers. The court has given a new dimension to several areas such as Locus standi, minimum wages, and
employment of children, the glaring decisions which deal with the payment of minimum wages to children and protection of their fundamental rights, sexual exploitation of children in flesh trade, employment of children in hazardous occupation reflect the judicial creatively in the field of the welfare of the children including the child workers. The court has held that at least 60 per cent of the prescribed minimum wage for adult employers doing some job shall be given to the child workers. The court has also felt the necessity that special facilities for improving the quality of life of child-workers should be provided by their employers. According to the apex court these special facilities include facilities of education, scope for recreation as also providing opportunity for socialization. The court held that facilities for general education and also job-oriented education should be available to child workers and their school time should be so adjusted that their employment is not effected, the court also expressed its hope that the state governments would direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Recently the Supreme Court of India, in its judgement dated 10th December, 1996 in Writ Petition (Civil) Number 465/1986, has given certain directions regarding the manner in which children working in the hazardous occupations are to be withdrawn from work and rehabilitated, and the manner in which the working conditions of children working in non-hazardous occupations are to be regulated and improved. The judgement of the Supreme Court envisages:
(a) Simultaneous action in all districts of the country;

(b) Survey for identification of working children (to be completed by June 10, 1997).

(c) Withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions;

(d) Contribution of Rs. 20,000 per child to be paid by the offending employers of children to a welfare fund to be established for this purpose.

(e) Employment to one adult member of the family of the child so withdrawn to be paid out of the interest earnings on the corpus of Rs. 20,000/25,000.00 deposited in the welfare fund as long as the child is actually sent to the schools.

(f) Employment to one adult member of the family of the child so withdrawn from work, and if that is not possible a contribution of Rs. 5000 to the welfare fund to be made by the State Government;

(g) Regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer;

(h) Planning and preparedness on the part of Central and State Governments in terms of strengthening of the existing administrative/regulatory/enforcement framework (covering cost of additional manpower,
training, mobility, computerization etc.) implying additional requirement of funds.¹¹⁸

Follow up Action on the Directions of the Supreme Court

As a follow up of the directions of the supreme Court, all the State Governments were sent detailed guidelines on December 26, 1996 indicating the manner in which the directions of the Supreme Court were to be implemented. A meeting of the NAECL was convened on 31st December 1996 to discuss the directions of the Supreme Court on child labour. It was decided in the meeting that the Ministry of Labour should immediately release funds to the State Governments so as to enable them to conduct surveys of working children before June 10, 1997. A conference of the Labour ministers of State/Union Territories was convened on January 22, 1997 to finalize an action plan for the implementation of the directions of the Supreme Court on withdrawal and rehabilitation of working children. In the conference, all the participating States and Union Territories welcomed the judgement and demonstrated their political will to eliminate child labour. However, all the States pleaded for additional and liberal financial assistance from the Central Government for implementing the judgement of the Supreme Court. The following significant recommendations were made in the Conference.¹¹⁹

While primarily it is the responsibility of the State Governments to provide necessary funds for taking up activities in compliance of the directions of the Supreme Court, funds for conducting the survey will be released by the Central Government to the agencies at the district level immediately. If the funds released for the first phase of survey fall short of the actual requirement
in any district, the State Governments will provide the additional funds for this purpose. Since this first phase of the survey is concentrated on industrial establishments, the requirement of funds would be worked out by the Central Government and the same would be released immediately.\textsuperscript{120}

Immediate action will be initiated by the State Governments for strengthening the enforcement machinery at various levels and for creation of a separate cell at the State level to monitor and coordinate the activities to be taken up in compliance of the directions of the Supreme Court. They will also send their requirements of funds in this regard, if any, to the Planning Commission at the earliest.\textsuperscript{121}

If the State Governments are not in a position to complete the survey by 10\textsuperscript{th} June, they will apprise the Hon'ble Supreme Court about the reasons for delay and seek extension of time from the Hon'ble Supreme Court well in advance.\textsuperscript{122}

If for some reason, the State Governments find it difficult to give effect to any one or more directions of the Supreme Court, they will seek necessary clarification/directions from the Hon'ble supreme Court well in time.
References

2. Ibid.
3. Ibid.
5. The Preamble of the Constitution of India.
12. See, AIR 1978, Delhi, p. 308.
18. AIR 1963, SC 1873.
20. Ibid.
28. Airport Authority v. Union of India, AIR, 1979, SC 1628.
29. Somprakash Lakhi v. Union of India, AIR 1979, SC 1628.
30. ALT 1984 at 40.
36. AIR 1991, SC 147.
37. see, AIR 1981, SC 344.
38. see, AIR 1980, SC 1622.
39. see, AIR 1974, SC 2177.
40. see, AIR 1980, SC 1622.
41. see, AIR 1974, SC 2177.
42. see, AIR 1984, SC 537.
43. see, AIR 1984, SC 802.
44. see, AIR 1982, SC 1473, Also see Bandhua Mukti Morcha Case, AIR 1984, SC 802.
45. Ibid.
46. Ibid.
47. see, AIR 1987, SC 177 and see also Laxmi Kant v. Union of India.
48. see, AIR 1991, SC 419.
49. Sheela Borse
51. There are more than 3000 central and state legislations devoted to the cause of the child labour welfare in India.
54. M.C. Mehta v. State.T.N.
56. AIR 1984 SC 802.
57. Art. 21 of the cash.
58. AIR 1982 SC 1473.
59. AIR 1983, SC 130.
60. AIR 1986 SC 180.
61. Ibid.
63. AIR 1986 SC 190.
64. AIR 1984 SC 1099.
65. M.C. Mehta vs. State of T.N.
67. (i) AIR 1982 SC 879.
   (ii) D.S. Nakara v. Union of India AIR 1983 SC 130.
69. AIR 1981 SC 746.
70. AIR 1982 SC 1943.
71. AIR 1984, SC 177.
72. (1985)3 SCC 162.
73. M.S. Mehta v. State of T.N.
74. Ibid.
76. AIR 1978, SC 597 at 619-120.
77. AIR 1981 SC 746.
78. Ibid.
79. AIR 1982 SC 1473.
80. AIR 1983 SC 328.
81. AIR 1984 SC 1099.
83. (1985)3 SCC 162.
84. AIR 1988 SC 1863.
85. AIR 1991 SC 417.
87. Badhudhua Mukti Morch v. Union of India.
89. (1987)1 SCC 66.
90. AIR 1990 SC 1412.
91. AIR 1982 SC 328.
92. AIR 1983 SC 1155.
93. Neeraj Chaudhary case.
94. Mukesh Advani case,
95. Salal hydro Project case.
96. P. Sivaswamy v. State of A.P.
97. M.C. Mehta v. State of T.N.
100. Ibid. Also see Bandhua Mukti Morcha Case, AIR 1984, SC 802.
101. See, AIR 1954, SC 469.
103. Salal Hydro Project.
104. See, AIR 1990, SC 1412.
105. See AIR 1987, SC 38.
106. See AIR 1966, SC 1773.
107. Ibid.
108. Ibid.
110. 2941 of them are reported to be children.
111. For e.g. the J&K Children Act, 1970; the Rajasthan Children Act, 1970; the Assam Children Act 1971; the Kerala Children Act, 1973; the Haryana Children Aclt 1974; the Bal Adhiniyam, 1974; etc.
112. See Asiad case, M.C. Mehta etc.
113. See, M.C. Mehta, AIR 1991, SC 417, also see Lakshmi Kant v. Union of India, AIR 1984, SC 469.


116. Ibid. at 418.


118. Ibid.

119. Ibid.

120. Ibid.

121. Ibid.

122. Ibid.