

Transition of the doctrine of Laissez faire to welfare state with special reference to India

The concept of welfare state came up in the British historical setting from the ideas of liberalism, socialism and conservatism. The formative period of the concept involved an interesting application of empiricism and ideology to the problem of poverty. The welfare state, conceived within the liberal framework, involved a social consensus on a wide spectrum of socio economic policies. Two sociological factors largely contributed to the growth of the concept: first, increasing prosperity that produced a revolution of rising expectations; and second, the hope and the fear generated by the newly acquired manhood franchise. The faith in piecemeal social engineering, bereft of dogma, set the precedent for expanding municipal activity and government's interest in social reform. This, indeed, was an ominous beginning.³

State help and self- help, in this context, became the two focal points of the 'principled' discussion on the subject of the welfare state. Herbert Spencer's liberalism, an apotheosis of self- help, as a deductive system, had deeper implications for welfare state activity. The notion that Spencer was opposed to welfare state is a false one. His doctrine of non-intervention and positivistic connotation, prima facie inconsistent with laissez- faire, but consistent with the view of state help as complimentary to self- help.⁴

The concept of Laissez - Faire describes an environment where transactions between private parties are free from state intervention, including restrictive regulations, taxes, tariffs and enforced monopolies.⁵ The literal translation of this French phrase is “let it be”. The British Political system, while bringing into force, the concept of a welfare state, has acquired a remarkable capacity of preserving a liberal identity against the ideas of the French and the German socialism. British resistance to utopian ideals and adaptation to new challenges and

³ M.M. SANKHDHER, *The Welfare State*, (Delhi: Deep and Deep Publications) 17.

⁴ Ibid.

⁵ Ibid.

responsibility was phenomenal. Political leaders of all hues and complexions were falling prey to democratic compulsions and were redefining their ideals. In relation to matters affecting the labor and the poor, they were abandoning their pitched positions in response to pragmatism. Transport, banking, agriculture, industry, trade; in a word, a large segment of economy, were subject to regulation.⁶

In India, there are various judgements that have explained the concept of Laissez faire. In *Vishnu Agencies versus Tax Officer*⁷, the court said: “The maxim Laissez faire is derived from the 18th century in France. It expresses the desire on the part of the mercantile community for non-interference by the state.” In *Bombay Telephone Canteen Employees’ Association versus Union of India*⁸, it was held that the principle of Laissez faire has been dealt a lethal blow by article 14 of the Constitution which assures to every person, just, fair, and reasonable procedure before terminating the services of an employee.

In *Government Branch Press versus D.B. Belliawpa*⁹, “The doctrine of Laissez faire has been eroded by the judicial decision and the legislation particularly in its application to persons in public employment to whom the constitutional protection of Article 14 and Article 311 is available.”

The rise of a welfare state proceeds from the political philosophy that the

greatest economic and social good is the greatest number requires greater intervention of the government. *In Modern Dental college and research center versus State of Madhya Pradesh*¹⁰, The Supreme Court held that the economic policy of this country has travelled from Laissez faire to a welfare state and then to a liberalized economy. The Indian economy experienced major policy changes due to the following reasons:

6 M.M. SANKHDHER, *Yogakshema: The Indian Model of Welfare State*, (Delhi: Deep and Deep Publications Pvt. Ltd.) 3.

⁷ (1978) 1 SCC 520.

⁸ (1997) 6 SCC 723.

⁹ (1979) 1 SCC 477.

¹⁰ (2016) 7 SCC 353.

1. Liberalization;
2. Privatization; and
3. Globalization.

The phrase “*Salus populi est suprema lex*” means that the happiness of the people is the supreme law. A welfare state has to serve the larger public interest. It denotes a concept of government in which the state plays a key role in the protection and promotion of the economic and social well-being of its citizens.

The doctrine of *parens patriae* refers to the power of the state to act as a guardian for those who are unable to take care of themselves¹¹. In *Charanlal Sahu versus Union of India*¹², it was held: “It has to be borne in mind that conceptually and jurisprudentially, the doctrine of *parens patriae* is not limited to representation of some of the victims outside the territories of the country. It is true that the doctrine has been so utilized in America so far. In our opinion, learned Attorney General was right in contending that where citizens of a country are victims of a tragedy because of the negligence of any multinational, a peculiar situation arises which calls for suitable effective machinery to articulate and effectuate the grievances and demands of the victims, for which the conventional adversary system would be totally inadequate. The State in discharge of

its sovereign obligation must come forward. The Indian state because of its constitutional commitment is obliged to take upon itself the claims of the victims and to protect them in their hour of need.”

The interaction of empiricism and ideology- conservative, liberal and socialist- predicated the concept of the welfare state, embodying a consensus on a wide spectrum of socio- economic policies. The development had been distinctive in several ways. It occurred in a free society where men projected their interests and ideas into the arena of conflict and where governments tended to take decisions by discussions and empirical investigation of problems. The welfare

¹¹ Nolo’s Plain-English Law Dictionary.

¹² 1988 SCC (3) 255.

state evolved in response to the peculiar conditions of a maturing economy, laissez- faire attitude and traditions of enlightened self-interest.¹³

The framers of our Constitution strived to achieve a welfare state by adding the Directive Principles of state policy. But these directives principles are not properly implemented as they are not classified as justiciable like the Fundamental rights. It is important for the law makers in the country to keep in mind, the directive principles while making or amending the laws. These directive principles are included in Part IV of the Constitution of India. These principles are said to be of social, welfare, and economic character. It is by enacting “directive principles of state policy” in part IV of the constitution that we endeavored to create a welfare state.¹⁴

India has made quite a number of efforts to implement the Directive Principles. The five year plans aimed at providing free basic education to every child up to 14 years. Article 21A was introduced in the 86th Amendment seeking to provide compulsory education to all children between 6 to 14 years. Many welfare schemes are implemented for the growth and welfare of the weaker sections of the society. The Prevention of Atrocities Act, 1995 was enacted by the government of India for the protection of the scheduled castes and scheduled tribes. Several land

reform acts were enacted for the ownership rights of poor farmers. Similarly, there are many other acts which came into existence with the object of improvising the society.

Is rule of law institutionalized in the welfare states?

The rule of law connotes basic notions of executive accountability – fidelity to constitutional and legislative authority, consistency in administrative decision-making, and transparency – from which no one would exempt the welfare system. Moreover, the presumptive mode of

enforcement of rule-of-law values in the administrative state – judicial review of administrative action – is well established in modern democracies.¹⁵ On the other hand, the rule of law continues to act as a judicial protection, from the interference of the state, of the private rights of

¹³ M.M. SANKHDHER, *Yogakshema The Indian Model of Welfare State*, (Delhi:Deep and Deep Publications Pvt. Ltd.) 5

¹⁴ PARAS DIWAN, *Administrative Law*, (Faridabad: Allahabad Law Agency) 2004 p 124.

¹⁵ NOONAN, K.G., SABEL, C.F. AND SIMON, W.H., The rule of law in the experimentalist welfare state: lessons from child welfare reform. *Law & Social Inquiry*, 34, pp.523-89.

the individual. Strong versions of the “right/privilege” distinction that deny welfare rights more than minimal legal protection have been repudiated. Yet, many continue to doubt that the principles of executive accountability historically developed in connection with private rights can be coherently elaborated in the context of welfare programs. Moreover, there is no consensus among those committed to rule-of-law values in the welfare state as to how those values should be institutionalized there.¹⁶

The paradoxes in these concerns include¹⁷:

1. Rules versus Standards:

To promote consistent decision making, lawyers are drawn to rules for restraining the administrative discretion. But application of a rule can sometimes be arbitrary with respect to the relevant goals. As a result, lawyers tend to follow standards for the promotion of individualized consideration of how goals can be vindicated in the context of the particular claimant. The modern American welfare state developed in the early 20th century under the influence of a view that advocated discretion to individualize programmatic responses to the circumstances of the beneficiary. In juvenile courts, education, child protection, and public assistance, the ideal was decision by extensively trained professionals under standards. In the 1960s and 1970s, there was a reaction against this

view. Critiques on the right and the left converged in harsh judgments on the performance of the street-level bureaucrats and therapeutic professionals who staffed welfare agencies. They were deemed intrusive, oppressive, and arbitrary.¹⁸ This return to standards, discretion, and individuation arises from a sense of the inadequacy of rule-based governance to respond to the fluidity and diversity of the circumstances of beneficiaries. On one view, this dissatisfaction is a transient episode in an endless oscillation between categorical and contextual norms.¹⁹

Another view, however, sees the trend as more fundamental and secular.

Surveying developments in Europe, the Irish National Economic and Social Development Office sees

¹⁶ See *Supra*.

¹⁷ See *Supra* at 14.

¹⁸ ANTHONY PLATT, *The Child Savers* (2d ed. 1977).

¹⁹ MICHAEL LIPSKY AND STEVEN RATHGEB SMITH, "Nonprofit Organization, Government, and the Welfare State," 104 *Political Science Quarterly* 625 (1989).

individuation, or what it calls "tailored universalism" as a key theme of an emerging "developmental welfare state." Its analysis emphasizes that recent social and economic change has upset traditional premises of European and American welfare systems.²⁰ Increased geographical mobility and immigration has made the populations served by welfare programs more diverse. Core beneficiaries of traditional welfare programs -- women and the elderly -- have been increasingly pushed and pulled into the labor market, requiring that the programs intended for them be re-designed to better accommodate the mixing of public support and employment. Economic development has increased the vulnerability of the less skilled segments of the workforce, calling for transitional public support that combines income transfers and training.²¹

2. Discrete v. Systemic Judicial Intervention :

Lon L. Fuller raised doubts about the role of courts in the welfare system by suggesting that "polycentric" claims were relatively ill suited for judicial intervention. Polycentric problems arise in complexly integrated systems where a judicial mandate with respect to one part would ramify in ways that might be unpredictable or uncontrollable to other parts.²²

In *Goldberg versus Kelly*²³, Justice Black expressed his dissenting opinion – "If courts require welfare programs to afford pre-termination hearings, the programs are likely to respond by making it more difficult to establish

eligibility in the first place.” Verification requirements were increased making the process even more burdensome. When a court ordered New York’s special education program to improve its processing of eligibility determinations, it shifted staff away from providing services to existing beneficiaries, and service to them declined.²⁴ Polycentricity calls for systemic intervention, but systemic intervention involves a different problem. The courts despair of deriving and enforcing determinate norms for the conduct of an entire system.²⁵ The more narrow and specific the legal mandate, the more the court’s

²⁰ *Id* at 14.

²¹ NATIONAL ECONOMIC AND SOCIAL DEVELOPMENT OFFICE, *The Developmental Welfare State* 203 (2005) pp. 197-231.

²² LON L. FULLER, “The Forms and Limits of Adjudication,” *Harvard Law Review*.

²³ 397 U.S. at 278-80.

²⁴ ROSS SANDLER AND DAVID SCHOENBROD, *Democracy by Decree*.

²⁵ See *Supra* at 14.

enforcement of it threatens to have unforeseeable or undesirable collateral effects. But comprehensive intervention is hard to ground determinately in legal authority.²⁶

3. Negative v. Positive Rights

The canonical statement of the priority of negative rights in American constitutional law -- DeShaney v. Winnebago Department of Social Services -- arose in the child abuse-and-neglect area. The plaintiff was a child who suffered severe brain-injuries through repeated beatings by his father. Despite awareness over a long period of extensive evidence of the danger to the child, the state social services agency had intervened only ineffectually and failed to remove him from the home. The complaint alleged that this failure constituted a state deprivation of "life, liberty, and property" under the 14th amendment (and hence actionable under section 1983). The court rejected the claim, holding in an opinion by Justice Rehnquist that "the Due Process Clauses generally confer no affirmative right to governmental aid [against lawless private action], even where such aid may be necessary to secure life, liberty, or property interests of which the government itself may not deprive the individual."²⁷

To those who think that the constitutional doctrine must be a grounded principle, the above opinion shall be unsatisfying as it only mentions the history and convention. The negative/positive distinction does not

strongly track any plausible measure of the relative importance of a citizen's interests.²⁸

However, in its final paragraph, DeShaney does refer briefly to a relevant concern: "In defense of [the defendants] it must also be said that had they moved too soon to take custody of the son away from the father, they would likely have been met with charges of improperly intruding into the parent-child relationship, charges based on the same Due Process Clause that forms the basis for the present charge of failure to provide adequate protection."²⁹ Here Rehnquist echoes the long-standing claim that principles of positive right are indeterminate. Theorists contend that government programs are not underpinned by a body of evolving but

²⁶ See *Supra*.

²⁷ 489 U.S. 189, 196 (1989).

²⁸ See *Supra at 14*.

²⁹ 489 U.S. 189, 196 (1989).

specifiable social norms comparable to those that give coherence to judicial decision-making about private rights. Welfare systems lack the self-adjusting properties of private markets; they have to be steered by bureaucracies under political supervision. Thus, judicial intervention along traditional rule-of-law lines disrupts political accountability and threatens rigidity or arbitrariness or both.

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To the extent that the indeterminacy claim is true, it implies a terrible trade-off. Either we must exempt from the strongest rule-of-law protection some of the most basic and important interests of a broad fraction of the population, or we must empower or burden the courts with the task of defining and enforcing standards that are not susceptible to coherent judicial elaboration.³¹

³⁰ GUNTHER TEUBNER, “After Legal Instrumentalism?: Strategic Models of Post-Regulatory Law,” in *Dilemmas of Law in the Welfare State* 299, 305-13.

³¹ See *Supra* at 14.

Directive Principles towards Welfare of state

The makers of the Constitution had realized that in a country like India, political democracy would be useless without economic democracy. Accordingly, they incorporated a few provisions in constitution with a view to achieve amelioration of the socio-economic condition of the masses [8]. These principles have played a crucial role in legislative and administrative policy-making in the country, as they seek to build a social justice society. Constant efforts are being made to improve the position of backward and economically weaker sections of society. Even though there have been deficiencies in the implementation of the policies. Originally, the Directive Principles “shall not be enforceable by any court, but the principles there in laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws” [9]. Directive principles were akin to moral, rather than to legal, Precepts as they did not have much value from a legal point of view. Thus the accountability to enforce these principles was left to the political parties. This principles were described as the “bank cheque issued on bank payable as per bank’s convenience” by the critics [10].

The directive principles, though fundamental in the governance of the country, are not enforceable by any court in terms of the express provisions of Article 37 of the Constitution, while Fundamental Rights are enforceable by the Supreme Court and the High Court in terms of the express provisions of Article 32 and 226 of the Constitution. This does not, however, mean or imply any dichotomy between the two. Its social aspect can, however, be amended only by legislation to carry out the objectives of the Directive Principles of State Policy.

Directive principles are implemented through:

- Land reforms Act,
- Nationalization of Bank and industries,
- Welfare schemes for the weaker sections,
- Panchayati Raj system,
- Equal remuneration act,
- Environmental safeguards,
- Compulsory education for children and etc.

The Constitution has been amended, successively (e.g., first, fourth, seventeenth, twenty fifth, twenty- fourth 42nd and 44th Amendments), to modify those fundamental rights by reason of whose existence the state was experiencing difficulty in effecting agrarian, economic and social reforms which are envisaged by the directive principles. The unspectacular implementation of the directive principles is mainly on account of the resource crunch and lack of political will or

foresight. Poverty eradication, education, betterment of the backward classes' condition are a few areas where the directives have practically failed to show results [11].

Though implementation has been far from satisfactory, the state is showing genuine will to implement the Directive Principles. In electoral politics, no government may, with impunity, ignore welfare-oriented policies with regard the public health, education, economic equality, position of women, children and backward classes. In totality the directive principles operate well in the planning process, but still have not been fully translated into

action. It cannot be denied that various governments have put in some efforts in this direction [12].

All these laws were made in order to implement the Directive Principles of State Policy contained in Articles 38, 39 and 46 of the Constitution by strengthening agrarian economy. The directive in Article 39 (b) has influenced legislation to fix land ceilings, remove intermediaries such as Zarnindar, abolish hereditary proprietors, etc, and made the tiller of the soil real owners of the land were the socialistic goals of the Constitution of the Directive principles of State policy. The enactment of the Hindu Marriage Act (1955) and the Hindu Succession Act (1950) have been important steps to implement the directives of Uniform Civil Code [13].

In Part-IV of the Constitution, [14] Article 40 provides that the State shall take steps to organise village Panchayat and endow them with such power and authority as may be necessary to enable them to function as units of self-Government. For organising Village Panchayats the 73rd Amendment was brought into force on 24.4.93 to give effect to one of the Directive Principles of State Policy, namely, Article 40 of the Constitution, That the 73rd Amendment to the Constitution added Part-IX. By Part-IX Parliament had sought to provide a self-contained code for the Constitution, reservation of seats, powers, authority, responsibilities and elections to the Panchayat [15].

“A historic step forward in ensuring that the Directive Principles of the Constitution; decisions of the Supreme Court; and the recommendations of the Law Commission are given effect to Article 48A of the Constitution of India, which is part of the Directive Principles, says that: “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.” [16] Forest and Environment which fell within the Directive Principles of State Policy finding place in Part-IV of the Constitution of India [17].

In the case of *Randhir Singh V. Union of India*, [18] the Supreme Court held that though the principle of 'equal pay for equal work' is not expressly declared by our constitution as a fundamental right, but it is the goal of constitution by Art.14, 16 and 39(c). But it certainly is a constitutional goal. Article 39(d) of the Constitution proclaims 'equal pay for equal work for both men and women' as a Directive Principle of State Policy. 'Equal pay for equal work for both men and women' means equal pay for equal work for everyone and as between the sexes. Directive Principles, as has been pointed out in some of the judgments of the Court have to be read into the Fundamental Rights as a matter of interpretation [19]. Article 39(d) contained in Part IV of the Constitution ordains in the chapter on Directive Principles of State Policy, but it is

fundamental in nature. The purpose of the Article is to fix certain social and economic goals for avoiding any discrimination amongst the people doing similar work in matters relating to pay. The doctrine of equal pay for equal work has been implemented current decade to emphasise upon the feature that equal pay for equal work and providing security for service by regularising casual employment within a reasonable period have been unanimously accepted by this Court as a constitutional goal to our socialistic polity. Parliament has stepped in as early as 1976 by enacting the Equal Remuneration Act (25 of 1976), that Act is a legislation providing equality to pay for equal work between men and women which certainly is a part of the principle which we are considering.

The Directive Principle contained in Article 45 has made a provision for free and compulsory education for all children upto the age of 14 years

within 10 years of promulgation of the Constitution of India but the nation could not achieve this goal even after 50 years of adoption of the provision. The task of providing education to all children in this age group gained momentum after National Policy of Education (NPE) was announced in 1986. It was felt that though the Government of India in partnership with State Governments had made strenuous efforts to fulfill the mandate and though significant improvements were seen in various educational indicators, the ultimate goal of providing universal and quality education still remained unfulfilled. In order to fulfill that goal, it was felt that an explicit provision should be made in the Part of the Constitution relating to Fundamental Rights. Right to Education is now a guaranteed fundamental right under Article 21A. It commands that the State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, by law, determine. The State as at present is under the constitutional obligation to provide education to all children of the age of 6 to 14 years

[20].

It is remarkable that India was the first country in the world to enshrine environmental protection as a state goal in its Constitution. Article 21 reads as “Protection of life and

personal liberty. No person shall be deprived of his life or personal liberty except according to procedure established by law.” In the impugned judgment; the Court also gave reference to the Directive Principles of the State Policy. In articles 48A and 51-A(g) of the Constitution, a strong foundation has been laid down pertaining to environment, preservation of forests, wild life, rivers and lakes. The Constitutional philosophy enshrined in these Constitutional Provisions must be implemented. An ARTICLE 48A reads as under: "48A. Protection and improvement of environment and

safeguarding of forests Carta of our environment". First time at the international level importance of environment has been articulated.

The Preamble to the Constitution read with Directive Principles in Art.38,42,43,46 and 48A promotes the concept of social justice. The aim of social justice is to attain a substantial degree of social, economic and political equality. Social justice is a device to mitigate the suffering of poor, weak, tribals and the deprived sections of the society and to elevate them so that they can live with dignity [21].

Innovative Interpretations of Directive principles and Jurisprudence

a. **Conflict between Directive Principles & Fundamental Right**

While enforcing the Directive Principles conflict arised between the Constitutional goals and rights. In several early cases, the Supreme Court took the literal interpretive approach to Article 37 and ruled that Directive Principles could not override a Fundamental Right, and in case of a conflict between the two, the Fundamental Right would prevail over the Directive Principles. It has been held that the Fundamental Rights and Directive Principles are the two Wheels of the chariot as an aid to make social and economic democracy a truism [22]. The Fundemental Rights are known to be static, while the directive principles as dynamic. The judiciary interpretation was different in different phases of journey of judgements shown in below table.1

Table 1

S.No. Supreme Court Case FR@ v. DPs □

1. State of Madras v. Champakam Dorairajan AIR 1951 SCR 525
FRs Prevail over DPs
2. Venkataramana v. State of Madras AIR 1951 SC 229 DPs
subsidiary to FRs
3. M.H. Qureshi v. State of Bihar, AIR 1958 SC 731. doctrine of
harmonious construction
4. Sajjan Singh v. State of Rajasthan, [1965] 1 SCR 933
Bijoya Lakshmi Cotton Mills Ltd. v. State of West Bengal, AIR 1967 SC
1145. Co-Equal
5. I.C. Golak Nath v. State of Punjab [1967] 2 S.C.R. 762. 'Integrated
Scheme'
6. Kesavananda Bharti v. State of Kerala, Subordinated FRs to DPs
7. C. B. Boarding and Lodging v. State of Mysore Complementary
and supplementary to Each Other

b. **Doctrine of Harmonious Construction**

The Directive Principles constitute an operative part of the Constitution and an important part at that, through them the Constitution seeks to achieve the ideal of a democratic welfare state set out in the Preamble and to bring about the social and economic revolution of which the founding fathers of our republic dreamt [23]. Though the judiciary continued to hold that the Directives were subordinate to the Fundamental Rights, an attempt was made to achieve the ideals mentioned

Directive Principles. The doctrine of harmonious construction as a new technique of interpretation was introduced in *Hanif Quareshi Mohd. v. State of Bihar*, [24] where the court invalidated a ban on the slaughter of all cattle, on the ground that it constituted an unreasonable restriction on the right to carry on a butcher's business, as guaranteed by Article 19(1)(g), notwithstanding the Directive under Article 41. However it was stated that the Constitution has to be interpreted harmoniously, and the Directive principles must be

implemented, but it must not be done in such a way that its laws takes away or abridge the fundamental rights. Otherwise the protecting provisions of Chapter III will be "a mere rope of sand". However, Das C.J., was said that the courts must not entirely ignore the Directive Principles and the principle of harmonious construction should be adopted to give effect to both Fundamental Rights and Directive Principles as much as possible.

c. **Jurisprudence**

During the first sixteen years of the operation of the Constitution, the Directive Principles were considered subordinate to the Fundamental Rights; the courts truck down a number of laws enacted to implement Directive Principles on the ground that they violated the Fundamental Rights. The conflict has its root in the fact that Fundamental Rights are enforceable by the courts, while the Directive Principles are not so. However, the government tried to overcome the problem by amending the

Constitution. When the Supreme Court laid down in the Golaknath Case [25] that the Fundamental Rights cannot be abridged to implement the Directive Principles, the Government tried to overcome the limitation in 1971, through the 24th Amendment which gave Parliament the right to amend Fundamental Rights. In the same year, the 25th Amendment Act inserted Article 31C ensuring that certain laws meant to implement Directives in clauses 39

(b) and 39 (c) will prevail even if these laws violate the rights granted in Article 14 and 19. An attempt to enhance the scope of Article 31C was made by the 42nd Amendment Act which gave primacy to any or all the Directive Principles and deprived the courts of the right to look into such cases. This attempt was foiled by the Supreme Court majority judgement in *Minerva Mills Case* [26] which asserted that such total exclusion of judicial review would offend the basic structure of the Constitution.

One can know that since the *State of Madras v. Champakam Dorairajan* case [27] the State facing challenges to establish Welfare and Social development. However, the *Minerva Mills Case* (1980) [28] foiled the attempt to accord primacy to the directives over fundamental rights. It declared the expansion of 31C as ultra vires as it tried to change the basic structure of the Constitution. The scope of Article 31C was pushed back to the pre-1976 position. The Court added the 'reasonableness' clause to enable any Act under 31C to implement Directive Principles 39 (b)-(c), (c f. *State of Tamil Nadu Vs Abu Kavur* (1981), Sec, 515). Directive principle contained in Article 45 has made a provision for free and compulsory education for all children upto the age of 14 years, Right to Education is now a guaranteed fundamental right under Article 21A. Supreme Court commented in *Naveen Jindal & Anr* judgement that “We cannot shut our eyes to the statements made in Article 48-A of the Constitution of India which enjoins upon the State to protect and improve the environment and to safeguard the forests and wild life of the country. What is destructive of

environment, forest and wild life, thus, being contrary to the Directive Principles of the State Policy which is fundamental in the governance of the country must be given its full effect.” [29]

On the whole, however, the conflict between these two features of the Constitution is meaningless as they are, in

reality complementary to each other. The courts have increasingly based their judgment on a harmonious reading of Part III and IV of the Constitution.

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18. AIR 1982 SCC 879, 1982 SCR (3) 298
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30. Indian Economic Survey 2011-12, pp.302,303.
31. Min. Of finance,CSO.
32. Indian Economic Survey 2011-12, pp.11,(para 1.34)
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