

2 RMLNLUJ (2010) 69

Human Rights Jurisprudence in the Context of Child Labour

by
Prof Kumkum Kishore¹

Introduction

Human Rights Jurisprudence has a universal appeal. The ever expanding sphere of human rights now includes the right to international peace, the right to clean environment and the rights of minorities in the countries of overwhelming majority of a particular ethnic, religious or linguistic group. The evolution of human rights sojourns a long journey to reach the present destination. Therefore, it will be appropriate to have a look at the concept, meaning and ever growing advancement of human rights.

Concept of Human Right

The popular notion of human rights requires positive social, political and judicial action to support the claims said to be rooted in humanity and dignity of the individual. The language of human rights has acquired such a momentum through a long line of judicial decisions, that the age gap/trench between civil and political rights and social and economic rights is completely being bridged and all claims of rights are asserted under rubric "human rights". Even the Protection of Human Rights Act, 1993 defines human rights as right "relating life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the Courts in India". In India every one is talking of human rights and through which an ordinary man is changed into a rights bearing entity. In this sense the language of human rights has become a resource for populism and politics. V.N. Narayanan an editor of a leading newspaper has recently remarked that mere populism without action can hardly bear any fruit in satisfying basic human needs. On the contrary populism results in the loss of credibility and the legitimacy of the State. Upendra Buxi views the problem of human rights as the problem of development, a "process of planned social change through continuing exercise of public power."¹



"Human Rights" term itself makes it clear that these are rights which should be given to a human because of being human. Human Rights can be generally defined as those rights which are inherent in our nature and without which we cannot live as human beings. Human rights or fundamental freedoms allows us to fully develop and use our human qualities, our intelligence, our talents and our conscience and to satisfy our regular spiritual and other needs. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. "Human rights are sometimes called fundamental rights or basic rights or natural rights. As fundamental or basic rights they are those rights which must not be taken away by any legislature or any act of Government and which are often set out in a Constitution. As natural rights they are seen as belonging to men and women by their very nature. Another way to describe them would be to call them "common rights" for they are rights which all men or women in the world should

share, just as the common law in England, for example, was the body of rules and customs which, unlike local customs, governed the whole country.² Human rights are not created by any legislation; they assume the position of natural rights. Any civilised country or body like the United Nations must recognise them. They cannot be subjected to the process of amendment even. The legal duty to protect human rights includes the legal duty to respect them.³

Jenkins holds that the origin of human rights is quite similar to that of natural rights: each is born of desperation and dedicated to action. But there are also important differences that will have important consequences. The doctrine of human rights appeals chiefly to the feelings of men, while that of natural rights spoke more seriously to their minds.⁴ He believes that the **doctrine of human rights "marks a return to that of natural rights but without the metaphysical foundation of the latter"**⁵ meaning thereby that the "concept of human right" is quite similar to natural rights leaving their origin, natural rights are deemed to be of divine origin where as human rights are creation of ever existing humanitarian approach of society. However it may be said that human rights are incarnation of natural rights for its practical application.

Concept of Human Rights also possess in spiritual frame work. Shrimad Bhagvad says, the first Avatar of the Lord was as Virat Purush and that comprises the entire living beings in the universe. Sri Satya Sai Baba says,



Manava Seva is Madhava Seva and Jan Seva is Janardhan Seva. Shri Aurobindo stresses on the theory of evolution. According to him, what is involved can alone evolve and evolution is a continuing process. Therefore, the human race is still in a process of evolution and that process continues until all human become super human.

The general belief is that the concept of human rights is western and that the origin of the concept of human rights in the world history found its first expression in Magna-Carta of 1215 and after this the Petition of Rights of 1626, the Bill of Rights, 1688, the French Declaration of the Right of Man of 1789 and the American Bill of Rights of 1791 become the milestones along the road in which the individual acquired protection against the capricious acts of the kings.⁶ The Indian thinkers are, however, of the view that it is not justified to limit the origin of the concept of human rights to only western civilisation. They opine that the philosophy of human rights had already occupied a place of prime importance in ancient Indian Brahmanical society. They even claim that what the west has discovered today in the field of human rights has been an accepted principle of India's rich legacy of historical tradition and culture since time immemorial⁷ they argue that India has a tradition of respect for human right, which finds a mention in ancient scriptures and epics.⁸ What is manifest from the readings of Indian civilisation is that human rights philosophy enjoyed a significant place in ancient Hindu civilisations.⁹ It was a highly developed Hindu civilisation of the time and the right of man was embedded in it¹⁰.

The Indian constitutional format in respect of human rights is remarkably a significant and unique attempt designed with a hope that one day the tree of true liberty would bloom in India. They have been indelibly written in the sub-conscious memory of the race which fought for well-nigh three hundred years of securing freedom from British rule and they found expression in the form of fundamental rights when the Constitution was enacted. It is an embodiment of complete catalogue of human rights enacted around the time¹¹ when the international scene was witnessing the framing of the Universal



Page: 72

declaration of Human rights these Fundamental rights represent the basic values cherished by the people of this country since 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 of guarantee on the basic structure of human rights and impose negative obligations on the state not to encroach on individual liberty in its various dimensions.

To be true no society is free no state democratic unless human rights are actualised by every citizen. It is with this purpose that the protection of Human Rights Act 1993 has been enacted for the better protection of human rights. The Act provides for the constitution of a National Human Rights commission (NHRC) and a commission for each State. There is a new emerging world legal order. The brooding presence of human rights culture affecting the thought ways of nations and of community of lawyers and judges. The Indian experiment in enacting the Protection of Human Rights Act, 1993 is a hopeful start. Beginning towards the sake approach. The human rights jurisprudence is gaining judicial reverence in India especially where life and liberty are violated by the state violence.

The Indian Judiciary is of the view that international conventional law must go through the process of transformation into the Municipal laws and National rule is to be interpreted in accordance with the State's international obligation. The Supreme Court has rightly observed that while discussing the relevant statutory provisions and constitutional requirements the courts and counsels must not forget the Article 5 of the Universal Declaration of Human Rights. The Court has further directed that the state shall take step to keep up to the standard minimum rules for treatment of prisoners, recommended by the United Nations.

Historical Development

The term "human right" is comparatively recent origin but the idea of human right is as old as the history of human civilisation. The Indian history is warranted by the fact that human rights jurisprudence has always occupied a place of prime importance in India's rich legacy of historical tradition and culture.

As Indian history has witnessed various cultural social regimes and in each period human right has its development in different prospective which is evident in the prevalence of different cultures traditions faiths in India Historical development of Human Right in Indian may be brief by examine under looking different heads.



Page: 73

Human Rights in Ancient India

The Indian history of human right is too old. About 5000 Years ago ancient Indian philosophers and thinkers expounded a theory of higher moral law over and above positive law embodying certain values of universal validity and Moksha (salvation) with a view to establish a harmonious social order by striking a balance between inner and outer spiritual and material aspect of life.

The ancient Indian legal philosophers were Universalists humanist's rationalists and above all moralists who evolved a system of legal theory which was based on higher

values and ideals i.e. on their conception of Dharma. Which governed in an integrative manner all civil, religious and other action of men in the society be it king or his subject, every aspect of life was regulated by Dharma the supreme law in ancient India. Law of Dharma in ancient India made a bold attempt of building an organised social life wherein each individual realised his goals within the parameters of social norms of morality. It is the supreme law which sustained individuals together in society that is **धारणात् धर्मार्थं व्याहृ धर्मो धरति प्रजां**

The natural law so revealed in Vedas, Puranas, Mahabharata, Bhagwad Gita etc. was extolled by the mystics, Saints poets and philosophers during the Vedic age. The philosophy expounded by the saints of Vedic time is nothing but a reinstatement of natural law with religious favour to enthuse people towards the path of Dharma enlightenment and unity. It is the higher law of morality justice and righteousness which has been continuously guiding and directing Hindu thought spirit and action from times immemorial and would continue to mould for the realisation of Dharma in a timeless fashion. What is apparent is that the ancient Indian was not indifferent or unaware of human rights jurisprudence. The basis of ancient human rights jurisprudence was Dharma the ideal of ancient Indian legal theory was the establishment of socio-legal order free from traces of conflicts exploitations and miseries. Indeed law of Dharma was a model for the universal legal order.

The philosophers of Vedic age endeavour to define human rights as those rights which were inherent in our nature and without which we could not live as human beings They considered human rights as based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection.¹² They had a strong conviction that human rights are universal and apply to all persons without discrimination. They felt that respect for individual rights needs to be upheld at all times irrespective of circumstances or political systems. Protection of



the rights and the individual was the main purpose for which the state existed. The philosophy of Vedic age enlightens us of the fact that the human rights enveloped within its fold the "constant perpetual desire of giving every man what is due to him".¹³ It is establishment beyond doubt that Vedic India had a strong tradition of respect for human rights. We find many references in ancient scriptures and epics to the effect that, **सर्वे भवन्तु सुखिनः सर्वे सन्तु निरामयाः** (Let every one be happy, let every one be free from ills).

Kautilya, the author of the celebrated political treaties, *Arthashastra* not only affirmed and elaborated the civil and legal rights first formulated by Manu but also added a number of Economic Rights.¹⁴ He categorically ordained that "the king shall provide the orphan, the aged, the infirm, the afflicted and helpless with maintenance he shall also provide subsistence to helpless expectant mother and also to the children they gave birth to."¹⁵ It is revealed that the society in Vedic India was well structured and highly organised.

In ancient India though there were no Act of Parliament guaranteeing services to the people, the public opinion, the views of the eminent writers and the practice of the best kings created an atmosphere in which it was thought that it was imperative for the king representing the state to encourage learning, to give employment to those who were unemployed.

In the post-Vedic period, the rise of Buddhism and Jainism were certainly a reaction

against the deterioration of the moral order as against the rights of privileged class. A close scrutiny of Buddhist period reveals that people were equal in all fields of their life. Life was more human and liberal and repudiated caste distinctions. After Buddha, Ashoka protected and secured the most precious of human rights particularly right to equality, fraternity, liberty and happiness. He successfully established a welfare State and made provision for securing freedom from hunger. Health care, educational facilities and certain other social amenities in Ashoka's empire were perhaps initial efforts in the direction of the realisation of social, economic and cultural rights.

Human Rights in Muslim period

The advent of Muslim rule led to system and ideals totally different from Hindu view of society and life. Muslim conquerors-especially Mohamed Ghana and others made frontal attacks on ancient way of life and religion. The destruction of temples, idols and large scale conversion to Islam alienated



Page: 75

the masses. It was however; at a later stage that Muslim State in India became considerably modified in its form. In the period especially at the time of Akbar a new era began in Mughal history of India in the field of Human rights, with his policy of universal reconciliations and tolerance.¹⁶ He was earnestly concerned with the welfare of his subjects. European travellers who visited Akbar's empire highly appreciated his zealous regard for rights and justice. His justice-loving tradition was followed by his son Jahangir also. There was a popular legend that Jahangir arranged a chain with bells to be hung outside the palace in order to enable petitioners to approach him for the redressal of their grievances. Besides freedom of trade, freedom of religion, at least in a limited sense, was a fascinating aspect of the Mughal period.

The trend initiated by Akbar came to be reversed by Aurangzeb though the Marathas and the Sikhs opposed and fought against the fanaticism of Aurangzeb and his successors. The sheer indifference to Human rights ultimately gave raise to Bhakti movement in India, It revived and regenerated the old Indian value of truth, righteousness, justice and morality. Great Saints like Shankaracharya, Ramanuja, Madhava, Tulsidas, Kabir, Guru Nanak and others reinterpreted the Vedic Dharma to re-establish the supremacy of Indian Vedic values over alien ideals and philosophy. The philosophy of these social reformers and leaders was nothing but a reinstatement of natural law with religious favour to enthuse people towards the path of "Dharma", enlightenment and unity at a time when Hindu society was dominated and divided by the foreigners. The cult of Avatar as expanded by Lord Krishna in Bhagwat Gita was revived by these saints and seers (devotees) who saw God in the form of Rama and Krishna to protect the righteous persons (paritranaya sadhunam) and to punish the evil order (vinashaya cha duskritam).¹⁷

Human Rights in British India

In British India resistance to foreign rule was manifested in the form of demand for fundamental freedoms and civil and political rights for the people.¹⁸ There was no fundamental law guaranteeing the subject rights and liberties and they were humiliated and discriminated against in many ways, in their own country.

Under the British rule, human rights and democracy was suspects and socialism was anathema for the processes of administrative and judicial



Page: 76

justice.¹⁹ So British period in India was rightly depicted as dark period in Indian history. It was the British rule that created ripples in the political and legal spheres leading to imposition of British political and legal culture on India. The entire system of the country was oriented to the needs of British imperialism and domination over India. Lord Macaulay rejected the ancient Indian legal and political system as “dotages of Brahmanical superstition” and condemned ancient Indian legal heritage and its inner core as “an immense apparatus of cruel absurdities”.²⁰

The British Indian rulers discriminated against Indians in matters of their political and civil liberties and rights.²¹ The legislature, executive and judiciary were oriented to protect and promote the interest of the British. The Courts administered justice according to law pretending to be impartial and neutral a veneer of justice between unequal interests the landlord and peasants, rich and poor, master and servant. The impression gained in the Indian minds was that their sacred inalienable human rights and vital interests had been ignored, denied and trampled for the sake of England and English rulers.

Gandhiji condemned British rule over India as “satanic” “*Adharmik*” (unjust) and coercively violent (himsa). Therefore, he expounded the theory of peaceful resistance (satyagraha) to fight British laws, for they deprived Indians a meaningful life, liberty and national independence.²² The right to life, liberty and pursuit of happiness as inalienable rights aroused the spirit of self-respect, nationalism and patriotisms in the hearts of Indians. The people of India under the leadership of Mahatma Gandhi launched non-violence struggle to achieve self-Government and fundamental rights for themselves. Though some militants took to violence also. Lokmanya Tilak advocated that freedom was the birth right of Indians for which they will have to fight.²³

The avowed objective of several national movements and organisations was only to secure some civil liberties and human rights of non-discrimination on grounds of race, colour, etc. in the matter of access to public places, offices and services.²⁴ It was because of stiff opposition from Indian people that the Government of India Act, 1833 was passed to allow the Indian to



enjoy some political rights²⁵. The Act made some definite and liberal steps towards the fulfilment of the rights of the natural born subjects of His Majesty as well as the natives of the said Territories. It was the first Act by which no discrimination was shown to any person by reason of his religion place of birth, descent, and colour. Following the provision of the Act, some of the rights were guaranteed to the people by the Acts concerning the Government of India.²⁶

The concrete demand for fundamental rights came, logically, in the wake of the Nationalist Movement which coincided with the birth of the Indian National Congress in 1885.²⁷ The first explicit demand of the people of the Indian sub-continent for fundamental rights found place in the Constitution of India Bill, 1895²⁸. The Constitution of India Bill, 1895 prepared by Indian National Congress, also known as the “Home Rule Document”, talked about a Constitution guaranteeing every one of the citizens basic human rights like freedom of expression, inviolability of one's own home, right to property, equality before law, etc. Though the demands contained in the Constitution of India.²⁹

The Government of India Act, 1915, in pursuance of the demands for fundamental rights, guaranteed equality of opportunity in the public services regardless of race or

religion. Only this guarantee did not satisfy the people of the country; so a series of resolutions adopted by the National Congress between 1917 and 1919 repeated "the demand for civil rights and equality of status with English".³⁰

In 1930, Congress Working Committee gave a call for the attainment of "Purana Swaraj". The British Government adopted more repressive measures. Karachi session of Congress in 1931 adopted a detailed programme of Fundamental Rights' and Duties and economic and social change. At the time, when Government of India Act, 1935, was on the anvil, it was proposed that Fundamental Rights were to be enumerated into the Constitution. But the Report of the Statutory Commission was not in favour of it, one of the reasons given being that the princely States in India were against the formulation of such rights. It is amply clear that more repressive measures were adopted to crush the liberties of the people during the Second World



Page: 78

War.³¹ Thus, the Government of India Act, 1935 was passed without any bill of rights much to the disappointment of the Indian leaders.³² It was subsequently that Sapru Committee in 1945 stressed on the need for written code of Fundamental Rights³³ and Constituent Assembly³⁴ raised a forceful demand for the inclusion of human rights in the Constitution. With the commencement to the new Constitution on 26-1-1950, the Natural law rights have been incorporated in the Preamble, in Chapters III and IV concerning Fundamental Rights and Directive Principles of State Policy. Under Part III are included the Fundamental Rights.

- (i) right to equality;
- (ii) right to six freedoms;
 - (a) freedom of speech and expression;
 - (b) freedom of assemble peacefully without arms;
 - (c) freedom to form associations or unions;
 - (d) freedom to move freely throughout the territory of India;
 - (e) freedom to reside and settle in any part of the territory of India; and
 - (f) freedom to practice any profession or carry on any occupation, trade/business.
- (iii) right to life and personal liberty;
- (iv) right to freedom of religion;
- (v) cultural and educational rights;
- (vi) right to property;
- (vii) right against exploitation, and
- (viii) right to constitutional remedies.

Under Part IV are included the³⁵

- (a) right to adequate means of livelihood right against exploitation, right to both sexes to equal pay for equal work;
- (b) right to work, to education and public assistance in cases of unemployment, old age, sickness;



Page: 79

- (c) right to equal justice and free legal aid;
- (d) right to living wage; and
- (e) right to worker's participation in management of Industries, etc.

So the promulgation of the Constitution by the people of India in January, 1950 is a milestone in the history of India. The Preamble, Fundamental Rights and the Directive Principles of State Policy together provide the basic Human Rights for the people of India. Democratic socialism spelt out in the Preamble and the Directive Principles is meant to provide rich contents in which the fulfilment of human rights are hoped to be achieved.

Thus, we see that the concept of Human Right is not a new one; it was always with us in the form of natural rights. It has travelled a long distance for having its name as human rights. In ancient Indian period as well as in Vedic period it has great importance, it was controlling the activities of human beings by preaching them not to hurt the feelings of others in any way and live brotherly.

Perspective

The children are the future custodians of sovereignty, rule of law, justice, liberty, fraternity and international peace and security. They are the potential embodiment of our ideals, aspirations, ambitions and future hopes. In fact they are the only messengers of our ideologies, philosophies, knowledge and cultural heritage. They are the "future soldiers in the form of great philosophers, rulers, scientists, teachers, judges, technologists, industrialists, engineers, workers, planners on which the country would rest". Undoubtedly, the child by the reason of his tender age, physique and mental faculty needs special care and adequate legal protection. With this realisation and high expectations from the tiny apostles of over and peace we as a society are under an obligation to develop, train and equip them with power, strength, abilities, insight, understanding and other important traits lest they fall in and run away from discharging their responsibilities which are sure to come on them in due course of time. It is therefore necessary that the basic needs of every child be met in order to ensure a standard of living which must be adequate for his development-physical, mental, moral, spiritual and social. In this context gradual and systematic development of respect for human rights and basic freedoms becomes essential. If a child is deprived of his or her basic needs for want of proper attention, training and guidance; it will indeed be fault of the society and of government of the day. Every society must, therefore, devote full attention to ensure that children are properly cared for and brought-up in a proper atmosphere where they would receive adequate training, education, and guidance in order that they may be able to have their



rightful place in society when they grow up³⁶

The children need special protection because of their tender age, fragile physique and mental immaturity. They are supremely important asset and the future well being of every nation depends as to how children grow and develop. They need special law to protect them from exploitation, to save them from certain liabilities and to develop their personality in view of their weak position³⁷ The importance of child welfare services lies in the idea that the personality of man is built up in the formative years, and physical and mental health of the nations is determined largely by the manner in which it is shaped in the early stages.³⁸

It may not be an exaggeration to say that children are the blooming flowers of the garden of society and so, it is our duty to protect these flowers from damaging effects

of excessive exposure to heat, cold and rain.³⁹ It is quite imperative to give vent to the thought of Humble Justice Subba Rao who observed: "Social justice must begin with children. Unless tender plant is properly tended and nourished, it has little chance to growing into a strong and useful tree. So first priority in the scale of social justice shall be given to the welfare of children⁴⁰ Gabriel, Mistral of Chile, Nobel Prize winning poet, has rightly highlighted:

"We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the fountain of life. Many of the things we need can wait. The child can not. Right now is the time his bones are being formed; his blood is being made and his sense being developed. To him, we can not answer, "Tomorrow". His name is today"

Children are the hope of society and future of the nation and thus be given adequate opportunities and facilities for developing themselves. The growth of the child into a mature and happy person with fully developed personality largely depends upon the support and attention he receives from the society. If a child does not get proper education, diet and other facilities, his very development into a self-sustaining human being is dwarfed. The child because of is physical weakness and mental immaturity needs special safeguards; it becomes, therefore, the duty of State to protect children's right by legislative and other means.



Importance of Child

It now realised that children are the most important asset of a nation. The Supreme Court in *Lakshmi Kant Pandey v. Union of India*⁴¹ has rightly remarked:

"....the welfare of the entire community, its growth and development, depend on the health and well being of the children.... Constitution of India clause (3) of Article 15 enables the State to make special provision inter alia for children and Article 24 provides that no child below the age of 14 years shall be employed to work in any factor or mine or engaged in any other hazardous employment. Clauses (e) and (f) of Article 39 provide that the State shall direct its policy towards securing inter alia that the tender age of children is not abuses, that children are to forced by economic necessity to enter avocations unsuited to their age and strength and that children are given facility to develop in a healthy manner and in condition of freedom and dignity and that childhood and youth are protected against moral and material abandonment. These constitutional provisions reflect the great anxiety of the constitution makers to protect and safeguard the interest and welfare of children in country."

As distinguished from adults; children are peculiarly susceptible to certain harms. They can not raise their voice against those who injure them of their rights. The peculiar disability and position of dependence recognises the need for the special provisions in many matters and the law should take care of all this in the interest and general welfare of child. The protective arm of the law has; therefore, to be long and strong enough if distributive justice to the adults of tomorrow is to be secured.⁴²

Child labour is one of the most burgeoning problems of the day due to utter poverty and acute lack of opportunity of employment. Along with child labour some areas where child's rights are affect: parents violence, their separate living, strained relationship of the, non-availability and nutrient diet, laxity in child's health care, trafficking in child and flesh trade, in security of abandonment neglected and

delinquent juveniles. The polluted environment due to slum and ghetto living lacks means of entertainment and fresh air. We proposed to study the relevancy of legal provision providing protection to them.

Child labour is not a new phenomenon. The new is its perception as a social problem world over. There has been a distinct change in recent past



Page: 82

in the values and attitudes of the legitimising groups of society vis-à-vis child labour because of some new developments. In the pre-industrial agricultural society of India, children worked as helpers and learners in hereditarily determined family occupations under the benign supervision of adult family members. The work place was an extension of the home and work was characterised by personal informal relationships. The tasks and technology that the work involved were simple and non-hazardous which the child could learn smoothly, almost unconsciously, over the years through association and limitation.⁴³

The social scenario, however, changed radically with the advent of industrialisation and urbanisation under the impact of the newly generated centrifugal and centripetal forces. There was an unbroken stream of the rural poor migrating to urban centers in search of livelihood. The child had to work as an individual person either under an employer or independently his work-environment endangered his physical health and mental growth and led to his exploitation. The protection and welfare of these children therefore become an issue of paramount social significance. The sociological factor bearing on the problem of child labour was the emergence of welfare consciousness on a world scale. The industrial revolution in the west generated such vast demands for man over the even children had to be pressed into service. Contemporary writing reveals under what atrocious conditions these children had to work in coal mines and textile mills. However once the west had built up its affluence and the baneful effects of child labour become outrageously manifest and then the State took appropriate measures to meet this evil. The welfare measures enunciated universal appeal to human conscience. In the more recent past they have been thoughtfully embodied in various resolutions of International Labour Organisation. (ILO) and other organs of the United Nations. Countries of the less developed world after the emancipation from colonial domination also accepted a number of resolutions even though their social and economic infrastructure was still inadequate for fulfilling all the commitments. Free India has similarly embodied in its constitution many provisions establishing thereby the normative superiority of welfare considerations over the economic one and has endeavoured to weed out the antagonism between child labour and child development.

— — —

* Department of Public Administration, University of Lucknow, Lucknow

¹ Upendra Buxi, "From Human Rights to the Right to be Human" in U. Buxi (e.) *The right to be Human* 185-199 (1987) at 187.

² J.E.S. Fawcett, *The Law of Nation*, (London, 1968), p. 151.

³ Iredell Jenkins, *Social Order and the Limit of the Law: A Theoretical Essay* (1988) 251

⁴ Iredell Jenkins, *Social Order and the Limit of the Law: A Theoretical Essay* (1988) 251.

⁵ Iredell Jenkins, *Social Order and the Limit of the Law: A Theoretical Essay* (1988) 251.

⁶ See A.B.M., Mafizul Islam Patwaris, *Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh* (1991) p. 34.

- ⁷ Dr. F. Ahmed, "Human Rights and Developing Nations: Provisions Problems and Perspective" in Prof. Z.A. Nizami and Dr. Devika Pual (ed) Human Rights in the third world countries (1994) p. 31.
- ⁸ S.N. Dhyani, Fundamentals of Jurisprudence — The Indian approach (1992) p. 41.
- ⁹ See Yogesh K. Tyagi, "Third world response to Human Rights". Indian Journal of International Law. Vol. 21, No. 1, January-March, 1981, p. 120
- ¹⁰ S.N. Dhyani, Fundamentals of Jurisprudence — The Indian approach (1992) p. 108
- ¹¹ See Constitution of India, the Preamble, Part III and Part IV.
- ¹² See Attar Chand, "Politics of Human Rights and Civil Liberties"—A Global Survey (1985) p. 2.
- ¹³ Paramjit S. Jaswall and Dr. Nishtha Jaswall, Human Rights and the Law (1982) p. 52.
- ¹⁴ See Dr. S. Subramniam, Human Rights: International Challenge (1997) Vol. 1, p. 57.
- ¹⁵ See Dr. S. Subramniam, Human Rights: International Challenge (1997) Vol. 1, p. 57.
- ¹⁶ S.N. Dhyani, Fundamentals of Jurisprudence—The Indian Approach (1992) p. 183.
- ¹⁷ S.N. Dhyani, Fundamentals of Jurisprudence—The Indian Approach (1992) p. 84.
- ¹⁸ S. Subramanian, Human Rights: International Challenge, (1997), Vol. 1, p. 122.
- ¹⁹ S. Subramanian, Human Rights: International Challenge, (1997), Vol. 1, p. 143.
- ²⁰ S. Subramanian, Human Rights: International Challenge, (1997), Vol. 1, p. 143.
- ²¹ S. Subramanian, Human Rights: International Challenge, (1997), Vol. 1, p. 87.
- ²² S. Subramanian, Human Rights: International Challenge, (1997), Vol. 1, p. 243.
- ²³ Sunil Deshta and Kiran Deshta, "Philosophy of Rights to Life: A movement from rigidity to flexibility", "Civil and Military Law Journal, vol. 31, No. 3 (1132), July-September 1995, p. 87.
- ²⁴ Subhash C. Kashyap, "Human Right and Parliament", (1972) p. 21.
- ²⁵ A.B.M. Mafizul Islam Patwari, Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh, 1991, p. 70.
- ²⁶ A.B.M. Mafizul Islam Patwari, Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh, 1991, p. 70.
- ²⁷ A.B.M. Mafizul Islam Patwari, Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh, 1991, p. 70.
- ²⁸ A.B.M. Mafizul Islam Patwari, Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh, 1991, p. 70. p. 72.
- ²⁹ Sunil Deshta and Kiran Deshta, "Philosophy of Rights to Life: A movement from rigidity to flexibility", "Civil and Military Law Journal, vol. 31, No. 3 (1132), July-September 1995, p. 56
- ³⁰ Sunil Deshta and Kiran Deshta, "Philosophy of Rights to Life: A movement from rigidity to flexibility", "Civil and Military Law Journal, vol. 31, No. 3 (1132), July-September 1995, p. 72.
- ³¹ Sunil Deshta and Kiran Deshta, "Philosophy of Rights to Life: A movement from rigidity to flexibility", "Civil and Military Law Journal, vol. 31, No. 3 (1132), July-September 1995, 102
- ³² Sunil Deshta and Kiran Deshta, "Philosophy of Rights to Life: A movement from rigidity to flexibility", "Civil and Military Law Journal, vol. 31, No. 3 (1132), July-September 1995, p. 105
- ³³ Sunil Deshta and Kiran Deshta, "Philosophy of Rights to Life: A movement from rigidity to flexibility", "Civil and Military Law Journal, vol. 31, No. 3 (1132), July-September 1995, p. 58
- ³⁴ S. Subramanian, Human Rights: International Challenge, (1997), Vol. 1, p. 101
- ³⁵ See Constitution of India, Part IV.
- ³⁶ *Sheela Barse v. Children's Aid Society*, (1987) 3 SCC 50 : (1987) SCJ 585

³⁷ S.N. Jain—Child and the Law (1979) p. 3.

³⁸ Samir Das Gupta, "Child Labour: A National Problem", Yojna Nov. 1, 1979, Vol. XXIII/20 p. 25

³⁹ Vijay Verma, "Child Labour: Need for Special Awareness", Yojna Nov. 1, 1979, Vol. XXIII/20 p.13

⁴⁰ Quoted by V.R. Krishna Iyers in *Law and Life* (1979) p. 8.

⁴¹ (1984) 2 SCC 244.

⁴² Sudesh Kumar Sharma, "Child and the Constitution: An Appraisal in Distributive Justice Perspective—, Supreme Court Journal, (1997) May, 1989 Vol. 2 pp. 9-10.

⁴³ *Encyclopaedia of Social Work in India* (1907) Vol. 1 pp. 78, 79.

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.