

“Protection of Human Rights –Role of Judiciary”*

*Justice Dr. A. S. Anand,
Former Chief Justice of India*

I feel greatly honoured to be invited to deliver Sri J. K. Mathur Memorial Lecture arranged by Rural Litigation & Entitlement Kendra, alongwith Late Justice Mathur’s family, friends and admirers, who are present in this august gathering. The presence of so many distinguished judges, lawyers and prominent citizens shows the reverence in which Shri J. K. Mathur was held. In must thank the organizers of the Kendra for giving me this privileges to pay my tribute to a great personality. It is, appropriate that the lecture to perpetuate his memory has been scheduled on “Protection of Human Rights – Role of Judiciary”.

“Human Rights” are those rights, which inhere in every human being by virtue of being a human being. These are the modern names of what had been traditionally known as “natural rights” i.e. rights bestowed upon human beings by nature. “Human rights are based on mankind’s increasing demand for a decent civilized life in which the inherent dignity of each human being is well respected and protected. Human rights are fundamental to our very existence without which we cannot live as human beings. The basic human rights constitute, what might be called “sacrosanct rights” from which no derogation can be permitted in a civilized society. Fundamental human rights and freedom find expression in constitutions and legal systems throughout the world and in the international human rights institutions. Human rights are universal and cut across all national boundaries and political frontiers.

International Human Rights norms received an impetus 50 years ago following the harrowing experience of the two World Wars and holocaust.

*Extract of the speech delivered by Hon’ble Mr. Justice A. S. Anand, the then Chief Justice of India, on September 22, 2001 during the second “Late Justice J. K. Mathur Memorial Lecture”.

The world community was appalled by man's capacity to destroy him. For the first time the concept of human Rights asserted itself formally and prominently in an official international document, the U. N. Charter. The Universal Declaration of Human Rights, which followed on the 10th December, 1948, was a standard setting declaration of value judgments; but had no legal sanction of its own. It was not a self-executing document. Thereafter, came the two Covenants of 1966: One on Civil and Political Rights and the other on Economic, Social and Political Rights.

The UN Charter hoped to save succeeding generations from self-destruction by proclaiming and establishing equal and inalienable rights of all members of human family – great or small, virtuous or vicious, rich or poor, wise or foolish and their inherent dignity, regardless of birth, status, race, colour, sex, language, religion or political or other opinion. Article 55 of the Charter of the United Nations required the United Nations to promote: “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” Article 56 enjoins that: “All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.”

In India, the Universal Declaration has greatly influenced the constitution making particularly the concept of fundamental rights. The Indian Constitution was adopted shortly after the Universal Declaration. It provided Chapter II dealing with Fundamental Rights.

No society is free and no State is truly democratic, unless human rights are actualized by every citizen. In emerging world legal order, the brooding presence of human rights culture, affecting the thought ways of nations and of community of lawyers and judges is always present. The dialectics of current political realities, however, point to violations of the democratic order in many countries even after the normative prescriptions in the great charter, the Universal Declaration, the International Covenants and a host of other instruments which have since come into being. Every violation of human rights, wherever it occurs, is a threat to the welfare of entire human family. The protection of human rights is, therefore, a worldwide responsibility.

