

CHAPTER-II

THE HUMAN RIGHTS

The concept and precept of human rights in ancient India is not only in complete harmony with the United Nations' Universal Declaration of Human Rights but also the harbinger of modern thought in the area. The Rig Veda says, "No one is superior or inferior. All are brothers. All should strive for the interest of all and should progress collectively."¹ "Let there be oneness in your resolutions, hearts and minds. Let the strength to live with mutual cooperation be form in you all."² It is in the *Atharva Veda* that all have equal rights in articles of food and water. The yoke of the chariot of life is placed equally on the shoulders of all. All should live together with harmony supporting one another like the spokes of a wheel of the chariot connecting its rim and the hub (*Atharva Veda- samjnanai sukta*).³ The preamble of the U.N.O also says, "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all the members of the human family is the foundation of freedom, justice and peace in the world," "Whereas the peoples of the united nations have in the charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in large freedom."

The Indian philosophy of *Vasudeva Kutumbakam* perceives the individual, the society and the universe as an organic whole. Everyone is a child of God and all fellow beings are related to one another and belong to a universal family.

Human rights are the norms that help to protect all people everywhere from severe political, legal and social abuses. There are some basic rights, for example judicial rights, right to equality, right to freedom, rights of women, slaves, right against exploitation, marriage rights, rights of the criminals/convicted/prisoners, rights to property, educational rights etc. They are based upon the belief that all persons are born free and with equal dignity. Being the birth rights, these are inherent in all the individuals irrespective of their caste, creed, religion, sex and nationality.⁴ Human rights and fundamental freedom allow us to develop fully and use our human qualities, intelligence, talent and conscience to satisfy our spiritual and other needs. They are the sum total of the opportunities which ensure adequate development and expression of individual personality. Without such opportunities man cannot lead a decent life.

Jawaharlal Nehru writes that there is “an unbroken continuity between the most modern and the most ancient phases of Hindu thought extending over three thousand years.”⁵ The rights of man have been the concern of all civilizations from time immemorial. The concept of the rights of man and other fundamental rights were not unknown to the people of earlier periods.⁶ The modern version of human rights jurisprudence may be said to have taken birth in India at the time of the British rule.

After a comparative study of the human rights proclaimed by the General Assembly of the United Nation Organization and the ancient Indian sources we can say that the concepts of today’s human rights were enshrined in the Ancient Indian sources, like the *Vedas*, the *Arthaśāstra*, *Dharmasūtras*, *Dharmaśāstras*, the *Mahābhārata*, the *Rāmāyaṇa* and also in the epigraphic sources etc. Equality is found incorporated in the *Rig Veda* and in the *Atharva Veda*. Various religions expressed their views for humanity like to develop a moral imperative or universal sense of obligation toward humankind, responsibility to common humanity, developing concepts of duties, these religious traditions provided an inherent. The Article.1 declares that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.. Article.15 declares that everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality and Article.16 declares that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. In ancient India also the individual existed as a citizen of the State and in that capacity he had both rights and obligations. These rights and duties have largely been expressed in terms of duties (*Dharma*) - duties to oneself, to one's family, to other fellowmen, to the society and the world at large and the ideal of ancient Indian legal theory was the establishment of socio-legal order free from traces of conflicts, exploitations and miseries.⁷ The Vedas proclaim liberty of body (*Tan*), dwelling house (*Skridhi*), and life (*Jibase*). Human rights have always occupied a place of paramount importance in India’s rich legacy because India believed in the principle, “*Vashudhaiva-kutumbakam*”⁸ i.e. welfare of all. In the *Bhagavad Gita* righteousness has been described as the essence of dharma and there is a description of *Swadharmā*, *Swadharmā* is Values based on individual beliefs. It is far better to discharge one's prescribed duties, even though they may be faultily, than another's duties. Destruction

in the course of performing one's own duty is better than engaging in another's duties (*Srimad Bhagavad Gita, Chapter 3, Karma-yoga, Verse 35*).⁹ According to the *Bhagavad Gita*, he who has no ill will to any being, who is friendly and compassionate, who is free from egoism and self sense and who is even-minded in pain and pleasure and patient is dear to God. It also says that divinity in humans is represented by the virtues of non-violence, truth, freedom from anger, renunciation and aversion to fault-finding, compassion to living being, freedom from covetousness, gentleness, modesty and steadiness -the qualities that a good human being ought to have.¹⁰

Whether it is the *Mahābhārata* or *Arthasāstra* or *Dharmaśāstras*, there is great emphasis on the institution of kingship or *Rajadharma* in order to escape from political disorder, social chaos and injustice. Kings were required to take a pledge never to be arbitrary and always to act according to whatever is dictated by ethics and not opposed to politics. According to *Rajadharma*, the King was given the power only to enforce the law. *Dharmaśāstras* did not confer on or recognize any legislative power in the King. The laws were those laid down by the *Dharmaśāstras* themselves and they did not authorize the King to lay down new laws or amend provisions of the *Dharmaśāstras*.¹¹ *Dharmaśāstras*, *Arthasāstra* and other legal treatises of the past have defined the duties of Kings, judges, subjects and judicial as well as legal procedures. The Dharma played an important role in the ancient India. The *Upanishads* speaks of dharma as the foundation of the whole universe; through it one drives away evils. In the Vedic era, king and the monarch were not above law and on violation; he could be punished like any other citizen. Dharma binds kings and citizens, men and women. Human rights gain meaning only when there is an independent judiciary to enforce rights.¹² Article 7 describes that all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. According to Article 6, everyone has the right to recognition everywhere as a person before the law. The independence of the judiciary was one of the outstanding features of the ancient Hindu judicial system and the administration of justice always remained separate from the executive. The case of Ananthapindika V. Jeta reported in the *vinaya-pitaka*,¹³ is a shining illustration of this principle. According to it, a Prince and a

private citizen submitted their cases before the law court and the court decided against the Prince. The Prince accepted the decision as a matter of course and as binding on him. The evolution of the principle of separation of the judiciary from the executive was largely the result of the ancient Hindu conception of law as binding on the sovereign and it was above the sovereign. Similarly, *Śāntiparva* prescribes that a king may be punished if he does not follow the path of the *dharma*.¹⁴ It was the *dharma* which was regarded as above all human authority, even the King was subject to the law, as any other citizen.¹⁵ The word *dharma* used in the *Manu Smṛti* refers to the fundamental rules of *dharma* which are unchangeable. In the nature of things, the fundamental rules of *dharma* such as non-violence, truthfulness, not to acquire illegitimate wealth etc, cannot be changed. They are of eternal value. Humanity has to follow the said fundamental rules of *dharma* if humanity wants peace and happiness and harmony between individuals and society. But *Manu Smṛti* refers and directs that some rules of *dharma* should be rejected. For example, if methods like nude worship, sati, animal/human sacrifice, or untouchability, which undoubtedly are immoral, inhuman and lead to unhappiness and also public resentment, they have to be scrapped notwithstanding the fact they were being followed for considerable time. *Manu Smṛti* has laid down the doctrine of equality and a direction to the state to treat everyone equally, the verse reads: the king should support all his subjects without any discrimination, in the same manner as the earth supports all living beings. *Manu* declares that this is a forceful declaration. Just as mother earth gives equal protection to all irrespective of religion or caste of individuals, it is obligatory for the state to give equal protection to all.¹⁶ Punishment was signified as *daṇḍa* in ancient India and *daṇḍa* is the important aspect of law. *Manu* observed that the whole world is rectified by *daṇḍa* and even the gods and demi-gods are subject to its authority. *Manu* identifies *daṇḍa* with *dharma* and it is through the sanction of *dharma* that all men enjoy the world. *daṇḍa* is the authority which represents the state-will and as such it has got not only a legal pre-eminence but also a moral pre-eminence. It is the fountain of social peace. According the Kaṭilya, only the rule of law can guarantee security of life and the welfare of the people.¹⁷ The maintenance of law and order by the use of punishment is the science of government (*daṇḍaniti*).¹⁸ It is the power of punishment alone which, when exercised impartially in proportion to guilt and irrespective of whether the person punished is the king's son or the enemy, that protects this world and the next.¹⁹ A severe king (meting out unjust punishment) is hated by the people he

terrorizes, while one who is too lenient is held in contempt by his own people who ever imposed just and deserved punishment is respected and honour.²⁰ The life of man is traced religiously from boyhood to burial in the *Griha Sūtras*. Every important phase of man's existence is accompanied with its appropriate rite and incidentally, what to do and what not to do, injunctions, prohibitions, taboos are taught as general rules of conduct. The greater events, birth, marriage, death, are described in their religious setting even with minute detail, so that not only the sacred texts cited which should be repeated on every occasion, but the physical acts to which the texts are ancillary are described. According to *Yājñavalkya* there existed two kinds of persons in the sense of private law i.e. natural persons and juristic persons. A man who possessed the power of action in his own capacity in the sense of private law was considered to be a natural person. According to the *Yājñavalkya* every man did possess this capacity for acting independently. This capacity depended on the caste of the man, on his sex, age, conditions of dependence and other conditions.²¹

Arthaśāstra argued for a benevolent autocratic king with obligations to rule his subjects fairly, to manage a transparent judiciary and penal system and to regulate an efficient and solid economy.²² The concepts of rights were firstly found in Kauṭilya's *Arthaśāstra*, where justice was assured as a fair trial and the right to produce witnesses. Citizens had a right to trade and commerce, right to inheritance and to get standard wages. Women's right to *strīdhana* were recognized as was the right to widow remarriage and, in some cases, even the right to divorce the husband. People were guaranteed the right to protection by casting a corresponding duty on the Rulers. They had to perform their duties in accordance with the tenets of *rajadharma*, the equivalent of constitutional law in ancient India. These principles applied to all rulers ruling in any part of the country.

Kauṭilya mentioned the civil and legal rights and also added a number of economic rights. Kauṭilya described that in the happiness and benefit of the subjects lie's the happiness and benefit of the king. In the case of affairs concerning about the temple, Brahmins, ascetics, women, minors, aged persons, sick persons, orphans and poor, expectant mothers and children, the judges of the rank of *dharmasthas* were appointed to provide free legal aid. It was the duty of the judge to go to the house of such people and import justice there.²³ The necessity for the judges to decide the case impartially, but in case of corrupt practices even the judges were taken to the task by

the king.²⁴ To keep a watch on the administration of justice in the empire the services of the spies were taken.²⁵ If the case decided by a lower court proceeds to a higher court and if the parties were dissatisfied, appeal could be made against the decision of the lower court to the higher court. The final authority lay with the king. It shows that the king always tried to give fair and equal justice to all the people with the help of the ministers. Kauṭilya defined broadly the maintenance of social orders as well as order in the sense of preventing and punishing criminal activity. He lay down certain rules and regulations for the functioning of the state, his work dealt with the welfare and happiness of the people.²⁶ Farmers were freed of tax and crop collection burdens from the regional kings, there was a strict and fair system of taxation as advised by the principles in the *Arthaśāstra*. He also mentioned that the judges were given handsome salary so that they could perform their duties with full integrity and dignity and the chief judge received the same salary as that of a minister.²⁷ The main aim of the state was the all round development and welfare of the people i.e. *dharma, artha and kama*.

In the *Arthaśāstra*, rights were also described for the women who carrying or who had not passed a month after delivery were not tortured. Torture of women was half of the prescribed standard. Widow Remarriage was also allowed by the court.²⁸ They permitted remarriage of a woman, whose husband was dead, had become an ascetic, or has gone abroad, after a period of waiting which varies according to circumstances and as regarding divorce or repudiation, Kauṭilya refers that in case if a husband was of bad character, was gone abroad, had fallen from his caste and in some other cases women were allowed to get divorce. Kauṭilya on the whole, placed the husband and wife on an equal footing of respect.²⁹ That who belongs to Brahman caste and learned in Vedas as well as ascetics was only subjected to espionage. In the cases of physical injury the offender was to undergo similar punishment. For example, if someone cut off a limb of parents or certain other relatives the offender had to lose the very same limb by himself.

Rights of the prisoners were also described in the *Arthaśāstra*; in the prison house separate wards were constructed for the males and females, with halls and sanitary arrangements. Provision for fire and worship for the prisoners were there which can be considered as right to religious faith. They were not deprived of food and drink. Kauṭilya duly gave importance to the postmortem as it comes under right to

life. In the case of death, when murdered or suicide was suspected, a post-mortem examination held. We have a description of the condition and appearance of the body in the case of the death resulting from various different causes. If murder was definitely indicated, investigation was made to trace the murderer by questioning all those with whom the deceased was last seen and those who had been dealing with him just before the death. If on the other hand it was proved a suicide case, investigation was made to find out what led the person to commit it. At the same time it was clear that suicide was regarded as a sin.³⁰ No one was punished on mere suspicion and that the king had pass the sentence only after full investigation by means of witnesses or by ordeals. According to Kauṭilya, after death cremations were to be done on assigned places. Any encroachment on the path of cremation ground was punishment with 200 paṇas. This shows even after death the human body should be respected as any disrespectful act will result in violation of right to dignified life. The social responsibility of the king was fixed to perform a supreme duty of protecting his subjects from disorder and anarchy. Hence it is abundantly clear that *Arthaśāstra* jurisprudence stood for enlarging and encouraging human rights for all.

The development and respect for human rights in ancient India is also seen in the directions given in the texts for treatment of prisoners of war and vanquished kings. Kauṭilya's *Arthaśāstra* prescribed fines for officers who obstructed or caused to obstruct prisoners in their daily routine of sleeping, sitting, eating etc. The *Arthaśāstra* also prescribes death sentence on anyone for the offence of rape committed against a woman arrested by an officer of the State. Hindu texts are fairly clear on the rules of warfare and these are codes that have been strictly adhered to since time immemorial. These texts also elaborately prescribe the treatment of soldiers, prisoners and vanquished kings. *Manu Smṛti* directs the king to place a relative of the vanquished king on the throne imposing necessary obligations after having ascertained the wishes of the conquered people. It further directs the victorious king to declare lawful the customs of the inhabitants and to honor the newly appointed king and his personal attendants with precious gifts."³¹ Kauṭilya, showing a deep understanding of the criminal justice system, attaches great importance to human rights on how the invaded ruler and his ministers should be treated. He recommends that they should be treated with humanity and justice and show mercy towards the people defeated in war. He advocates that the defeated king should be made an ally

and the key people advising the defeated king should be eliminated through silent war. Kauṭilya believed that law should be in the hands of the king and punishments need to be awarded to those who are guilty so that the king can protect himself from social unrest and unhappiness. He believed that punishments were a means to an end and that end was prevention of commission of a crime. He was essentially a reformist and he believed that punishments could reform a person and hence the society.³²

According to the Kauṭilya an innocent man who does not deserve to be penalized shall not be punished, for the sin of inflicting unjust punishment is visited on the king. He shall be free of the sin only if he offers thirty times the unjust fine to *varuṇa* (the god who chastises unjust behavior of the king) and then distributes it to Brahmins.³³ In all the cases, the punishment prescribed shall be imposing fine for the 1st offence; it shall be double for the second and tripled for the third. If the offense is repeated a fourth time, any punishment, as the king pleases, may be awarded. Leniency shall be shown in imposing punishments on the following: a pilgrim, an ascetic, anyone suffering from illness, hunger, thirst, poverty, fatigue from a journey, suffering from an earlier punishment, foreigner or one from the countryside.³⁴ Brahmins who have learned in the *Vedas*, if they fined; they may instead perform rituals and penances for the benefit of the king, for as many days as the amount of the fine (in *panas*). Likewise, heretics without many shall observe a fast for the number of days equivalent to the fine. This rule does not apply to (serious crimes such as) defamation, theft, assault and abduction; in such cases, the prescribed punishment shall be implemented.³⁵

It is mentioned that king needed to enforce the right to property in a spirit of harmony and common good. Indeed, the *Arthaśāstra* asserts that no one will occupy the property of another except with good reason and that if property has been wrongfully appropriated during war, the king shall restitute it to its owners. In these and other instances, the universal spirit of the common good, animated by the dharma, might be superseded by “greed and desire for each other’s property.” Yet different forms of punishment shown these laws securing property were often written to benefit the higher caste. In the *Arthaśāstra*, it is described that an employer had the right to require an employee to work for pay, an employee was not obliged to work against his will if he was sick. “An employee shall have the right, if he is ill, in distress, incapable of doing his work or if the work is vile to have his contract annulled or to

have it done by someone else.” Further, “an employee shall not be obliged to work against his will, to continue working for his previous employer if he had completed the task allotted to him.” With the employee’s consent any additional work beyond the contractual agreement would receive adequate compensation.³⁶ *Arthaśāstra* mentions the role of the state regarding the trade and its duties to prevent crimes against the consumption of goods and service. According to Kaṭilya trade guilds were prohibited from recourse to black marketing or unfair trade marketing. Severe punishments were prescribed to different types of cheating.

Kaṭilya also gave provisions regarding the role of physicians, who were undertaken medical treatment without intimating (to the government) the dangerous nature of the disease if the patient was died, he punished with the first amercement. If the patient died due to carelessness by the physician in the treatment he was fined by the middlemost amercement. Growth of disease due to negligence or indifference of the physician was regarded as an assault or violence.³⁷

Buddhism played a very important role in improving the status of women. Buddhism has been believed as a movement of abomination towards the insolent appropriation of social status and privileges merely on the basis of caste. Buddhist ethics had a remarkable social-political as well as moral impact in the work of persisting social inequalities and discriminations. Initially there was no place for women in Buddhist order, but later on they were accepted in its fold and the membership of the order was opened to all women. Even the birth of a girl did not become a source of despair and women also earned the stage of spiritual emancipation in the Buddhist history. There was a very positive impact on the status of women due to denunciation of practices like child marriage and widow remarriage by the Buddhists. Buddhism advocated the values of human freedom and equality and condemned various social practices which violate of human rights norms. But the individuality of women was still not fully acknowledged and women were considered secondary to men. In Buddhism status of women monks was lower to that of their male counter parts. Non-violence was depicted in the Buddhism. The injunction nor to kill or injure any human, animal or insect reflects the pacifist Buddhism attitude. Warfare is depicted as self-defeating. According to Buddha, “victory breeds more hatred, the defeated live in pain, the peaceful person lives happily, giving up victory and defeat....the slayer gets a slayer in return. The conqueror gets one who conquers

him.” War might still be fought, though only in self-defense. All alternatives including diplomatic efforts, compromise, compensation, threats, or demonstrations, needed first to be considered.³⁸

The early part of the Asoka’s reign was filled with bloody battles. Asoka renounced violence and converted to Buddhism. From that point onwards, Asoka based his kingdom on the dharma principles of non-violence, tolerance for all religious sects and different opinions, obedience to parents, magnanimity towards friends, humane treatment of servants and generosity towards all.³⁹ With the influence by the teachings of the Buddha, Aśoka worked extensively for the protection of the human rights. Torture and inhumane treatment of prisoners were prohibited under Aśoka’s administration. Aśoka had been successful in the establishment of a welfare state and basic freedoms were available to people. Aśoka, allowed even the forest folk in his domain to enjoy security of life, peace of mind and enjoy their life on par with other people in the society. Asoka, believing that there was no “greater task than to strive for universal welfare, he promoted toleration of religious ideas. “All sects receive honour from me, and I deem the essential point is fidelity to their doctrines and their practices”. Aśoka in his edicts expressed the relation between king and his subjects in a noble language. “All men are my children, he said, just as I desire for my children that they may enjoy every kind of prosperity and happiness, in both this world and the next, so I desire the same for all men”. Again he wrote in the same strain, “Just as a man, having made over his child to a skillful nurse is zealous to take care of my child’s happiness”. Even so my officials have been created for the welfare and happiness of the country.⁴⁰

He appointed the officers called *dharamasthas* and *dharmahāmātra* and they had the authority to treat with mercy a *tirthakra*, and ascetic (*tapasvin*), a diseased person, one who was wearied due to hunger and thrust or invalid due to old age, one who came from other country, one who had already suffer much from punishment, one who was penniless or very poor but that again only in the capacity of the judge. In his rock edict it is mentioned, King *priyadarśī* wishes members of all faiths to live everywhere in his kingdom. For they all seek mastery of the senses and purify of mind. Men are different in their inclinations and passions. However, they may perform the whole of their duties or only part. Even if one is not able to make lavish gifts, mastery of the senses, purity of mind, gratitude and steadfast devotion are

commendable and essential (*rock edict XII*). King *priyadarśī* honors men of all faiths, members of religious orders and laymen like, with gifts and various marks of esteem. Yet he does not value either gifts or honours as much as growth in the qualities essential to religion in men of all faiths. The growth may take many forms, but its root is in guarding one's speech to avoid extolling one's own faith and disparaging the faith of others improperly or, when the occasion is appropriate immoderately, the faiths of others all deserve to be honoured for one reason or another. By honoring them, one exalts one's own faith and at the same time performs a service to the faiths of others. By acting otherwise, one injures one's own faith and also does disservice to that of others. For if a man extols his own faith and disparages another because of devotion to his own and because he wants to glorify it, he seriously injures his own faith. Therefore concord alone is commendable, for through concord men may learn and respect the conception of dharma accepted by others. King *priyadarśī* desires men of all faiths to know each other's doctrines and to acquire sound doctrines. Many officials are assigned to tasks bearing on this purpose the officers in charge of spreading dharma.⁴¹ In the Nasik cave inscription 15, 17, also mentioned about the medical treatment of the monks of every origin who shall reside in the *vihāras* of the Triraśmi hill.⁴²

Kauṭilya also mentions that the capital punishment being awarded for various offences. For murdering other man in a quarrel the offender was torture to death. Hanging was the penalty for various crimes. After mentioning these and other forms of capital punishments and mutilation Kauṭilya observes: "Such painful punishment as the above have been laid down in the *Śāstras* of great sages, but it has been declared as just simply to put to death those offenders who have not been guilty of cruelty". It shows that death penalty was ignored as much as possible.

In the case of someone abusing other person related to the body, habits, learning, occupation or nationalities that of calling a deformation man by his right name, such as the blind, the lame etc., were punished with a fine of 6 *paṇas*. Likewise when a person was taunted for leprosy, lunacy, impotency and the like, abusive expression in general, no matter whether true, false or reverse with reference to the abused, was punished with fines ranging above 12 *paṇas* in the case of person of equal rank. If persons abused happen to the superior rank the amount of the fine was

halved. For calumniated the wives of others, the amount of fine was doubled. If abuse was due to carelessness, intoxication or loss of sense etc. the fine was halved.⁴³

Kauṭilya also mentioned some other rules about blocking the roads, those obstructing the roads for inferior beasts or men were punished with a fine of a 12 *paṇas*, to roads for superior beasts 24 *paṇas*, obstructing the roads for elephants or to those leading to the fields 54 *paṇas*, to those leading to any building or forest 600 *paṇas*, to those for burial grounds or village 200 *paṇas*, those for *droṇamukha*, a fortress 500 *paṇas* and leading to *sthānīya*, country parts or pasture land 1,000 *paṇas*.⁴⁴

Hence it is abundantly clear that jurisprudence stood for enlarging and encouraging human freedom, dignity, religion, speech, liberty and equality for all people in the ancient India. It has developed common ideals based on human unity and harmony which transcends diversities of race, colour, language and religion etc. The study of *Arthaśāstra*, Manu, Aśoka etc. makes it very clear that at every step the rights of human being were well taken care off. Large number of people sought the interference of the king as they were not satisfied with the decision of the lower court. Progressive punishments were also there in ancient times.

The perception of the rights of every individual as a consumer was very clear to Kautilya. Every individual as a consumer has a right to get the desired standard of purity, quality and quantity of goods paid for by him. He is very blunt in establishing the criminality of the use and manipulation of faulty weights and measures, adulteration, false representation of quality and potency, pricing and deficiency in services. In order to protect these rights, he creates effective state machinery. Superintendents or heads of department are appointed to regulate, control and keep watch on the multifarious economic activities carried out in the country. Megasthenese,⁴⁵ the Greek ambassador in the court of Chandragupta Maurya, records that the administration of Patliputra was looked after by a committee of thirty members having six sub-committee of five members each for the performance of different activities. One such sub- committee looked after everything relating to the industrial arts and another was in charge of the weights and measures under the superintendent of trade and commerce. Still another sub-committee supervised manufactured articles, which they sold by public notice. What was new was sold separately from what was old, and there was fine for mixing the two together. It is

inferred that such committees also existed in the other big cities during the Mauryan period.

To check the menace of use of faulty weights and measures by the traders, Kauṭilya envisages an effective and inclusive system of regulation and control under the supervision of the superintendent of weights and measures.⁴⁶ He was responsible for the manufacturing of standardized weights and measure in factories of the state.⁴⁷ It mandatory for all the traders and revenue officers to use only the weights and measure manufactured and stamped by the state official every four months if failed a fine of 27 and a quarter *panas* was imposed on the offender.⁴⁸

To ensure the compliance of the norms set by the state the Superintendent of Market was required to inspect the weights and measures and check any potential fraud in the weights and measures.⁴⁹ One four hundredth (1/400) part deviation was permitted in weights and measures to allow an unintentional error on the part of the vender. One *karsa* less or more in case of a *tula* is no offence. For two *karsa* less or more the fine was six *panas* and the quantum of punishment increases with each successive *karsa*.⁵⁰

Thus law was not capricious but deterrent in nature. Kautilya believed that the happiness and welfare of the masses was the most important duty of the king, he enjoin upon the king to prevent thieves who are not known as thieves such as traders, artisans, actors, mendicants, jugglers and others from oppressing the country.⁵¹ The artisans, actors, jugglers and others come under the category of service providers. All such persons who were duping the masses are termed as criminals and liable to be punished by the king. Fine, compensation and redressal of the complaints of the consumer was settled by the court of three magistrates of the rank of ministers appointed by the king.⁵²

This attempt of Kauṭilya is undoubtedly a pioneer work in the field of criminality and criminology, a practical approach to safeguard the interests of the consumers. What he perceived more than two thousand year ago is conceptualized in the form of various acts of consumer protection in modern times

REFERENCES

-
- ¹ RV, 5. 60. 5.
 - ² *Ibid.*, 10. 191. 4.
 - ³ T.S.N, Sastry, *India and Human Rights: Reflections op.cit.*, (ed.) (M.Ramajois, in *judicial colloquium in Bangalore, 24-25 fed, 1998*), New Delhi, pp.45, 47.
 - ⁴ T. S. N. Sastry, *op.cit.*, p. 35.
 - ⁵ Jawaharlar Nehru, *The Discovery of India*, (6th ed), New Delhi, 1994, p. 517.
 - ⁶ Attar Chand, *Politics of Human Rights and Civil Liberties- A Global Survey*, Delhi, 1985, p. 45.
 - ⁷ S.N. Dhyani, *Fundamentals of Jurisprudence: The Indian Approach*, Allahabad, 1992, p. 79.
 - ⁸ Z.A. Nizami arid Devika Paul, *Human Rights in the Third World Countries*, (ed.), New Delhi,1994, p.107.
 - ⁹ Website, <http://www.bhagavad-gita.org/Gita/verse-03-35.html>.
 - ¹⁰ S. Radhakrishnan, (trans.), *The Bhagavadgita*, , London, 1958, p.276.
 - ¹¹ Mandagadde Rama Jois, *Legal and constitutional History of India*, (part I), New Delhi, rep. 2010, p.13
 - ¹² V.R. Krishna Iyer, *The Dialectics and Dynamics of Human Rights in India: Yesterday Today and Tomorrow, Tagore Law Lectures*, New Delhi, 1999, p.115.
 - ¹³ P.B. Mukherji, *The Hindu Judicial System-The Cultural Heritage of India*, (Vol.II), 434-435. Cited by V.R. Krishna Iyer, *op.cit.*, p.115.
 - ¹⁴ S. Subramanian, *Human rights; International Challenge*, (Vol.1), New Delhi, 1997, p. 57.
 - ¹⁵ P.B. Gajendra Gadkar, *The Historical Background and Theoretic Basis of Hindu Law - The Cultural Heritage of India*, (vol.II), Bombay, 1965, p. 421.
 - ¹⁶ *Manu*, IX. 311; Mandagadde Rama Jois, *op.cit.*, (part.II), p. 607.
 - ¹⁷ *Arth*, I.5. 2.
 - ¹⁸ *Ibid.*, 1.4.3
 - ¹⁹ *Ibid.*, 3.1. 43.
 - ²⁰ *Ibid.*, 1.4. 8-10.
 - ²¹ L. Sternbach, *Judicial Studies in Ancient Indian Law*, (part.I), Delhi,1965, pp. 452,453.

-
- ²² Micheline R. Ishay, *The Human Rights Reader: Major Political Essays, Speeches and Documents from Ancient Times to the Present*, (2nd ed.), New York, 2007, p.22.
- ²³ Arth, 3. 20. 22.
- ²⁴ *Ibid.*, 3. 20. 24.
- ²⁵ *Ibid.*, 1.13. 1.
- ²⁶ *Ibid.*, 1. 19. and 3. 1. 1.
- ²⁷ Shraddhakar Supara, *Law of Procedure and Justice in Ancient India*, New Delhi,1986, p.130.
- ²⁸ *Artha*, 3. 4. 35.
- ²⁹ R.C. Majumdar, *The Age of Imperial Unity*, Bombay, 1951, p. 565; *Artha*, 3.3.12-20; 3.4.30-37.
- ³⁰ *Arth*, 4. 7. 1- 20.
- ³¹ *Manu*, VII. 202- 21.
- ³² http://www.nujslawreview.org/pdf/articles/2010_2/justice-b-n-srikrishna.pdf.
- ³³ *Arth.*, 4. 13. 42, 43.
- ³⁴ *Ibid.*, 3. 20. 21.
- ³⁵ *Ibid.*, 3.16. 38-41.
- ³⁶ *Ibid.*, pp. 37-38.
- ³⁷ *Ibid.*, 4. 1. 30-34.
- ³⁸ Micheline R. Ishay, *The History of Human Rights from Ancient Times to the Globalization Era*, London, 1997, p. 42.
- ³⁹ *Ibid.*, pp.22,23.
- ⁴⁰ R.C. Majumdar, *op.cit*, p. 117.
- ⁴¹ Micheline R. Ishay, *op.cit.*,1997, p.29.
- ⁴² E.I, Vol. VIII, no.16, pp. 88, 89.
- ⁴³ *Arth*, 3. 19. 7, 8.
- ⁴⁴ *Ibid.*, 3. 10. 4, 5.
- ⁴⁵ J. W. McCrindle, *Ancient India as described by Megasthenes and Arrian*, New Delhi, rep. 2000, *Fragm. XXVII*, p.69.
- ⁴⁶ *Arth*, 2. 19. 37, 40.
- ⁴⁷ *Ibid.*, 2.1.19.
- ⁴⁸ *Ibid.*, 2.19.40.

⁴⁹ *Ibid.*, 4.1.

⁵⁰ *Ibid.*, 4. 2. 2-12

⁵¹ *Ibid.*, 4.1.65

⁵² *Ibid.*, 4.2.3-12