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RESEARCH ARTICLE

SUPREME COURT CASE ANALYSIS ON HUMAN RIGHTS STANDARDS.

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Abstract

The Supreme Court of India, considered as the epitome of Justice in India, upholds the Human Rights through Fundamental Rights and Directive Principles of State Policy. The expression 'fundamental' indicates that all human beings are endowed with certain rights that are essential for human existence and for flourishing of the human persona and mind. Hence, these rights tend to protect the dignity of the individuals and create conditions in which the human beings can develop their personality to the fullest extent. In *A.D.M., Jabalpur v. S. Shukla*, Beg, J., observed that the object of making certain general aspects of rights fundamental is to guarantee them against illegal invasion of these rights by executive, legislative or judicial organ of the State. The Supreme Court of India has recognised these fundamental rights as 'natural rights' or 'human rights'. **Chief Justice Patanjali Shastri** has referred to fundamental rights as 'those great and basic rights which are recognised and guaranteed as the natural rights inherent in the status of a citizen of a free country'. Similarly, the Chief Justice **Subba Rao in I.C. Golakanath v. State of Punjab**¹ has very rightly observed that 'fundamental rights are the modern name for what have been traditionally known as natural rights.'² They are moral rights which every human being everywhere at all times ought to have simply because of the fact that in contradiction with other beings, he is rational or moral. It hardly matters that by what name they are known³. This paper will deal with various cases of Supreme Court in upholding Human Rights Standards. Human Rights, Law, Supreme Court.

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¹ I.C. Golakhnath v. State of Punjab, AIR 1967 SC 1643.

² Ibid.

³ West Bengal v. Subudh Gupal Bore, AIR 1954 SC 92 at ¶ 95-96

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Introduction:-

A festive understanding of the Indian Constitution as a healthy text or unit that has worked and survived for sixty plus years proposes the world-historic importance of the Indian Constitution as the present world's first postcolonial constitution which has wedged on many other forms that arose later. It also commends the fact that the Constitution has found general reception with the political classes, though often resenting the interpretive supremacy of the Supreme Court of Indian (SCI) and, as equated with constitutional experiences in South Asia and over-all South generally, the Indian armed forces have never interrogated the constitutional idea of India.⁴

There are certainly many good reasons for describing the Indian Constitution as an initial postcolonial form. First, even as it reproduces many aspects of the Government of India Act, 1935⁵, the Indian Constitution creatively adapts the idea of constitutionalism by uniting four key ideas.⁶ The Constitution is about supremacy of law but it is also about social development and further, about the chase of rights and justice. These four ideas persist in dynamic tension, at times even in incongruity, with each other. Governance is stranded in the right of the people to adult suffrage (to fight and to vote at elections); demonstration is the key to the idea of just governance. The idea of anthropological and social development stands enunciated in the initiating values of the Preamble, the Part IV Directive Principles of State Policy, and now Part IV-A enshrining fundamental duties of all citizens: the Indian Constitution simply insists on the understanding of growth as those plans, processes and plans that disproportionately help the worst-off Indian citizen-peoples.⁷

Second, the Indian Constitution describes Part III fundamental rights as rights to freedom – a right to state and law-free areas. Yet Parliament may by law rationally regulate or curtail these rights and this may not be complete without the reasoned support of the Supreme Court. Constitutional thought often differs crucially from political intention influencing the decision to curtail basic human rights. A liberty culture thus instituted is always crisis-ridden, leaving Parliament often in disagreement to the SCI and the public of India in opposition, at times, against the executive/judicial together.⁸ The question here does not unease merely the distribution of the law-saying clout of legislatures and courts but necessitates the contestation about the justness of rights especially when the constitutional-haves claim all the rights and have-nots not even a tattle of basic human rights and freedoms.⁹

Third, the Indian Constitution innovates the distinction between rights here and now enforceable and those left to the 'tender' care of elected public officials.¹⁰ In the debate over parceling rights into Part III and Part IV (the social and economic rights named as Directive Principles), the confounding fathers (since there were few founding mothers!) battled endlessly to enact a wish list for Part IV rights, leading T.T. Krishnamachari to warn the Constituent Assembly not to convert the Indian 'social revolution into a dustbin.'¹¹ This divide between two kinds of human rights anticipates the development of the International Bill of Human Rights via the regimes of the Covenant on Civil and Political Rights and the Covenant on Economic, Social, Cultural rights.

⁴ S. P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits*, (Oxford University Press, Delhi, 2002) at ¶456.

⁵ Government of India Act, 1935.

⁶ Granville Austin, *Working a Democratic Constitution*, (Oxford University Press, Delhi, 1999) at ¶234.

⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, (Oxford University Press, Delhi, 1996) at ¶275.

⁸ Granville Austin, *supra* note 9 at ¶345.

⁹ Granville Austin, *supra* note 10 at ¶223.

¹⁰ Upendra Baxi, "The Little Done, and The Vast Undone": Reflections on Reading Granville Austin's *The Indian Constitution*, *Journal of the Indian Law Institute* 9 at ¶323-430.

¹¹ Sudhir Krishnaswamy, *Democracy and Constitutionalism*, (Oxford University Press, Delhi, 2009) at ¶289.

Judicial Activism: Tools Invented:-

When we speak about a Constitution, it is paramount to keep in mind that the Constitution, though by itself a significant document, is after all cold print on a piece of paper. What is vital to remember is the arrangement the Constitution seeks to introduce and the way that system works. The Constitution no matter how well designed it is, will not be able to set free the goods unless the system which it introduces works effectively to realise the dreams of the founding fathers of the Constitution. When we talk of the Constitution as living law it is usually understood to refer to the doctrines and understandings that the courts have invented, developed, spread and applied to make the Constitution work in every situation. Unless life can be pumped into the cold print of the Constitution to keep it vibrant at all times it shall cease to be a living law. Generally speaking, this role of pumping life is assigned to the higher courts, more particularly under a Constitution which has separation of powers as its core.¹² The Constitution of a State essentially reflects the aims and aspirations of the people who gave to themselves the Constitution. It is well accepted that while a Bill of Rights (like the Chapter on Fundamental Rights in the Constitution of India) is the conscience of the Constitution - an independent judiciary is its conscience-keeper.¹³

The Constitutional law starts and gets into motion only when though a constitutional right is ascertained but the authorities refuse to recognise it. It is at that stage that the cause enters the portals of the courts. The Constitution being the *suprema lex*, every institution created under the Constitution is expected to respect its command and no organ or instrumentality of the Government, not President, not the Prime Minister not Parliament, not the policeman in uniform, not even the Judge, can ignore it. Its words are law which every State instrumentality must respect and enforce.¹⁴ The courts are in the scheme of the Constitution, they are the guardians of the Constitution, though not the only guardians, and upon them rest the responsibility to check unconstitutional behaviour and enforce the constitutional mandate. Every instrumentality under the Constitution is charged with similar duties and obligations, courts are just the last resort. Under the Constitution, judicial institutions have a role to play not only for resolving inter se disputes but also to act as a balancing mechanism between the conflicting pulls and pressures operating in a society. Courts of law are the products of the Constitution and the instrumentalities for fulfilling the ideals of the State enshrined therein according to the language of the law. Evolving new juristic principles for the development and growth of law is an accepted role of the judiciary in almost all the countries.¹⁵

The function of the higher courts in this country has not been limited to exploring what the Constitution-makers meant when they wrote those words but also to develop and adapt the law so as to meet the challenges of contemporary problems of the society and respond to the needs of the society. The Constitution cannot be a living and dynamic instrument if it lives in the past only and does not address the present and the future. This exercise of jurisdiction by the courts in India has been criticised by some as "judicial activism" indulged by non-elected Judges who upset the decisions of the elected representatives of the people.¹⁶ They would like the courts to confine themselves to what the Constitution-makers actually or literally meant when the Constitution was drafted. But is it possible to say that the word or expression must mean the same thing at all times regardless of changing times and situations?

Judicial Review:-

In post-independence India, the inclusion of explicit provisions for 'judicial review' were necessary in order to give effect to the individual and group rights guaranteed in the text of the Constitution. Dr. B.R. Ambedkar, who chaired the drafting committee of our Constituent Assembly, had described the provision related to the same as the '*heart of the Constitution*'.¹⁷ Article 13(2)¹⁸ of the Constitution of India prescribes that the Union or the States shall not make any law that takes away or abridges any of the fundamental rights, and any law made in contravention of the aforementioned mandate shall, to the extent of the contravention, be void.

¹² Upendra Baxi, *The Indian Supreme Court and Politics*, (The Eastern Book Co., Lucknow, 1989).

¹³ Dr K.N Katju Memorial Lecture on 'Separation of Powers and Judicial Activism in India', New Delhi, 26 April 2007.

¹⁴ Sudhir Krishnaswamy, *supra* note 14.

¹⁵ *Ibid.*

¹⁶ Sudhir Krishnaswamy (2009), *Democracy and Constitutionalism*. Oxford University Press, Delhi at ¶322.

¹⁷ *Common Cause Society v. Union of India*, AIR 1982 SC 415.

¹⁸ Article 13(2), Constitution of India.

While judicial review over administrative action has evolved on the lines of common law doctrines such as 'proportionality', 'legitimate expectation', 'reasonableness' and principles of natural justice, the Supreme Court of India and the various High Courts were given the power to rule on the constitutionality of legislative as well as administrative actions to protect and enforce the fundamental rights guaranteed in Part III of the Constitution. The higher courts are also approached to rule on questions of legislative competence, mostly in the context of Centre-State relations since Article 246¹⁹ of the Constitution read with the 7th schedule, contemplates a clear demarcation as well as a zone of intersection between the law-making powers of the Union Parliament and the various State Legislatures.

Hence the scope of judicial review before Indian courts has evolved in three dimensions – *firstly*, to ensure fairness in administrative action, *secondly* to protect the constitutionally guaranteed fundamental rights of citizens and *thirdly* to rule on questions of legislative competence between the centre and the states. The power of the Supreme Court of India to enforce these fundamental rights is derived from Article 32²⁰ of the Constitution. It gives citizens the right to directly approach the Supreme Court for seeking remedies against the violation of these fundamental rights.

This entitlement to constitutional remedies is itself a fundamental right and can be enforced in the form of writs evolved in common law – such as *habeas corpus* (to direct the release of a person detained unlawfully), *mandamus* (to direct a public authority to do its duty), *quo warranto* (to direct a person to vacate an office assumed wrongfully), *prohibition* (to prohibit a lower court from proceeding on a case) and *certiorari* (power of the higher court to remove a proceeding from a lower court and bring it before itself). With the advent of Public Interest Litigation (PIL) and dilution of concept of *locus standi* in recent decades, Article 32²¹ has been creatively interpreted to shape innovative remedies such as a 'continuing mandamus' for ensuring that executive agencies comply with judicial directions.

Article 21: Expansion of fundamental rights:-

The emergency period and the infamous Habeas corpus constituted defining moment in history of judicial review in India. The strong criticism of the judgment gave solid base to judicial review and was followed by expansion of fundamental rights. The narrow interpretation of Article 21²² in the early years of the Supreme Court in A.K. Gopalan's²³ case was changed in Maneka Gandhi's²⁴ case. In that decision, it was held that governmental restraints on 'personal liberty' should be collectively tested against the guarantees of fairness, non-arbitrariness and reasonableness that were prescribed under Articles 14, 19 and 21 of the Constitution. The Court developed a theory of 'inter-relationship of rights' to hold that governmental action which curtailed either of these rights should meet the designated threshold for restraints on all of them. In this manner, the Courts incorporated the guarantee of 'substantive due process' of U.S.A into the language of Article 21²⁵.

Notably, over the decades, the Supreme Court has affirmed that both the Fundamental Rights and Directive Principles must be interpreted harmoniously. It was observed in the *Keshavananda Bharati case*,²⁶ that the directive principles and the fundamental rights supplement each other and aim at the same goal of bringing about a social revolution and the establishment of a welfare State, the objectives which are also enumerated in the Preamble to the Constitution. This approach of harmonizing the fundamental rights and directive principles has been successful to a considerable extent. The Supreme Court has interpreted the 'protection of life and personal liberty' as one which contemplates socio-economic entitlements especially in public interest cases.

¹⁹ Article 246, Constitution of India.

²⁰ Article 32, Constitution of India.

²¹ Ibid.

²² Article 21, Constitution of India.

²³ A.K.Gopalan v. Union of India, AIR 1953 SC 27.

²⁴ Maneka Gandhi v. Union of India, AIR 1978 SC 284.

²⁵ Sudhir Krishnaswamy, Supra note 19.

²⁶ Keshvananda Bharti v. State of Kerela, AIR 1973 SC 1461.

Milestones of Public Interest Litigation in India:-

One of the earliest cases of public interest litigation was reported as *Hussainara Khatoon (I) v. State of Bihar*.²⁷ This case was concerned with a series of articles published in a prominent newspaper - the Indian Express which exposed the plight of undertrial prisoners in the state of Bihar. A writ petition was filed by an advocate drawing the Court's attention to the deplorable plight of these prisoners. Many of them had been in jail for longer periods than the maximum permissible sentences for the offences they had been charged with. The Supreme Court accepted the dilution of locus standi and allowed an advocate to maintain the writ petition. Thereafter, a series of cases followed in which the Court gave directions through which the 'right to speedy trial' was deemed to be an integral and an essential part of the protection of life and personal liberty. Soon thereafter, two noted professors of law filed writ petitions in the Supreme Court highlighting various abuses of the law, which, they asserted, were a violation of Article 21 of the Constitution. These included inhuman conditions prevailing in protective homes, long pendency of trials in court, trafficking of women, importation of children for homosexual purposes, and the non-payment of wages to bonded labourers among others. The Supreme Court accepted their locus standi to represent the suffering masses and passed guidelines and orders that greatly ameliorated the conditions of these people.²⁸

Public interest litigation acquired a new dimension – namely that of 'epistolary jurisdiction' with the decision in the case of *Sunil Batra v. Delhi Administration*.²⁹ It was initiated by a letter that was written by a prisoner lodged in jail to a Judge of the Supreme Court. The prisoner complained of a brutal assault committed by a Head Warden on another prisoner. The Court treated that letter as a writ petition, and, while issuing various directions, opined that:

"...technicalities and legal niceties are no impediment to the court entertaining even an informal communication as a proceeding for habeas corpus if the basic facts are found".

In *Municipal Council, Ratlam v. Vardichand*,³⁰ the Court recognized the locus standi of a group of citizens who sought directions against the local Municipal Council for removal of open drains that caused stench as well as diseases. The Court, recognizing the right of the group of citizens, asserted that if the:

*"...centre of gravity of justice is to shift as indeed the Preamble to the Constitution mandates, from the traditional individualism of locus standi to the community orientation of public interest litigation, the court must consider the issues as there is need to focus on the ordinary men."*³¹

The unique model of public interest litigation that has evolved in India not only looks at issues like consumer protection, gender justice, prevention of environmental pollution and ecological destruction, it is also directed towards finding social and political space for the disadvantaged and other vulnerable groups in society. The Courts have given decisions in cases pertaining to different kinds of entitlements and protections such as the availability of food, access to clean air, safe working conditions, political representation, affirmative action, anti-discrimination measures and the regulation of prison conditions among others.

Public cause litigation:-

However, over the years, the social action dimension of PIL has been diluted and eclipsed by another type of "public cause litigation" in courts. In this type of litigation, the court's intervention is not sought for enforcing the rights of the disadvantaged or poor sections of the society but simply for correcting the actions or omissions of the executive or public officials or departments of government or public bodies. Examples of this type of intervention by the Court are innumerable. A recent example of this approach was the decision in *People's Union for Civil Liberties v. Union of India*,³² where the Court sought to ensure compliance with the policy of supplying mid-day meals in government-run primary schools. There had been widespread reports of problems in the implementation of this scheme such as the pilferage of food grains. As a response to the same, the Supreme Court issued orders to the concerned governmental authorities in all States and Union Territories, while giving elaborate directions about the proper

²⁷ *Hussainara Khatoon v. State of Bihar*, AIR 1980 SC 81.

²⁸ Upendra Baxi, "The Little Done, The Vast Undone": Reflections on Reading Granville Austin's *The Indian Constitution*, (Penguin Publications, Journal of the Indian Law Institute, New Delhi, 9) at ¶ 323.

²⁹ *Sunil Batra v. Delhi Administration*, AIR 1989 SC 453.

³⁰ *Municipal Council, Ratlam v. Vardichand*, AIR 1993 SC 234 at ¶252.

³¹ *Municipal Council*, supra note 32.

³² *Civil Liberties v. Union of India*, AIR 1989 SC 452.

publicity and implementation of the said scheme. The apex court has also championed the cause of pavement dwellers in *Olga Tellis v. Bombay Municipal Corporation*.³³

In the realm of environmental protection, many of the leading decisions have been given in actions brought by renowned environmentalist M.C. Mehta viz., strict liability for the leak of Oleum gas from a factory in New Delhi, directions to check pollution in and around the Ganges river, the relocation of hazardous industries from the municipal limits of Delhi, directions to state agencies to check pollution in the vicinity of the Taj Mahal and several afforestation measures.³⁴ A prominent decision was made in a petition that raised the problem of extensive vehicular air pollution in Delhi. The Court was faced with considerable statistical evidence of increasing levels of hazardous emissions on account of the use of diesel as a fuel by commercial vehicles. The Supreme Court decided to make a decisive intervention in this matter and ordered government-run buses to shift to the use of Compressed Natural Gas (CNG), an environment-friendly fuel. This was followed some time later by another order that required privately-run 'auto-rickshaws' (three-wheeler vehicles which meet local transformational needs) to shift to the use of CNG. At the time, this decision was criticized as an unwarranted intrusion into the functions of the pollution control authorities, but it has now come to be widely acknowledged that it is only because of this judicial intervention that air pollution in Delhi has been checked to a substantial extent.³⁵

The PIL has proved to be a strong and patent weapon in the hand of the court enabling it to unearth many scams and corruption cases in public life and to punish the guilty involved in those scams. Hawala scam, urea scam, fodder scam in Bihar, St. kit's scam, Ayurvedic Medicines scam and illegal Allotment of government Houses and petrol pumps and the recent prosecution of the Telecom Minister and officials in the 2G Telecom scam case by the Supreme Court have come to light through the public interest litigation, certain social organisation and public spirited individuals filed a writ petitions in the Supreme Court and High Courts by way of public litigation requesting court to inquire and punish those who are found guilty of by passing laws of the country and misusing their official positions in public life.³⁶ In the 2G Licenses case, the Court held that all public resources and assets are a matter of public trust and they can only be disposed of in a transparent manner by a public auction to the highest bidder. This has led to the President making a Reference to the Court for the Court's legal advice under Article 143³⁷ of the Constitution. In the same case, the Court set aside the expert opinion of the Telecom Regulatory Authority of India (TRAI) to sell 2G spectrum without auction to create greater tele density in India. The Court is made the monitor of the conduct of investigating and prosecution agencies who are perceived to have failed or neglected to investigate and prosecute ministers and officials of government.³⁸

Fundamental Rights vis-à-vis Human Rights:-

It is apparent from a simple reading of the Constitution of India that it had embodied various rights that were available to all the citizens of the country much before India ratified the Covenant on Civil and Political Rights.³⁹ While these rights are available to citizens only, some of them are available to all persons. The term person includes the citizens of the country and non-citizens i.e., aliens both. For instance, Article 15⁴⁰ speaks only of citizens of the country and it is specifically provided therein that there shall be no discrimination against any citizen on the ground only on religion, race, caste, sex, place of birth or any of them.⁴¹ The Fundamental right guaranteed under Article 15 is, therefore, restricted to citizens only. Similarly, Article 16⁴² which guarantees equality of opportunity in matters of public employment is applicable only to citizens.⁴³ Fundamental rights contained in Article 19⁴⁴ which contains the right to 'basic freedoms' are available to citizens of the country. The word 'citizen' in the above Article has not been used in a sense different from that in which it has been used in

³³ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1985 SC 80.

³⁴ *M.C.Mehta v. Union of India*, AIR 1988 SC 471 at ¶482.

³⁵ *Ibid.*

³⁶ *Shriram Food and Fertilizer Case*, AIR 1986 SC 176.

³⁷ Article 143, Constitution of India.

³⁸ *Subhramaniam Swamy v. A.Raja*, AIR 2012 SC 434.

³⁹ *Dr. J.N.Pandey, Constitutional Law Of India*, (52nd ed., Lexis Nexis Publications, 2014), 28

⁴⁰ Article 15, Constitution of India

⁴¹ *Ibid.*

⁴² Article 16, Constitution of India

⁴³ *Sudhir Krishnaswamy*, supra note 14.

⁴⁴ Article 19, Constitution of India

Part II of the Constitution dealing with Citizenship. In *Hans Muller of Nuremberg v. Superintendent Presidency Jail, Calcutta*,⁴⁵ it was laid down that Article 19 applies only to citizens. In *Anwar v. State of Jammu & Kashmir*,⁴⁶ it was held that non-citizens could not claim fundamental rights provided under Article 19.⁴⁷ Similarly, in *Naziranbai v. State' and Lakshmi Prasad & others v. Shiv Pal and others*,⁴⁸ it was held that Article 19 does not apply to a foreigner. Similarly, rights stipulated under Articles 29 and 30⁴⁹ to protect the interest of minorities are available to citizens only. In *Isaac Isanga Musumbe v. State of Maharashtra*⁵⁰ the Supreme Court in the year 2013 held that right to life and personal liberty guaranteed under the constitution is available not only to the people of India but also to foreign nationals at any point of time.

Other Human Rights Standards:-

A number of other rights which are stated in the Covenant are not laid down in Part III of the Constitution⁵¹. The Privy Council Judgment in *A.G. for Canada vs. A.G. for Ontario*⁵² had made it clear that the performance of the treaty obligations, if they entail alterations of existing domestic law, requires legislative action. Unlike some other countries, the stipulation of a treaty, by virtue of the treaty alone, does not have the force of law. This view prevailed even after independence.

However, a number of rights which, though are not specified in Part III of the Constitution under the heading of Fundamental Rights have been considered as fundamental by the Supreme Court by enlarging the meaning and scope of the named fundamental rights.⁵³ Thus, many rights enshrined in the Covenant have been regarded as already covered under some or other specified fundamental rights. On many occasions, by accepting the rule of judicial construction, the Supreme Court of India has held that regard must be paid to international conventions and that the rights which are not specifically mentioned in the Constitution of India should be regarded as fundamental rights if they are an integral part of a named fundamental right or partake of the same basic nature and character as fundamental rights. In *Maneka Gandhi v. Union of India*⁵⁴ it was held by Bilagwat J., that what is necessary to be seen is, and what is the test which must be applied whether the right claimed by the petitioner is an integral part of a named right or partakes of the same basic nature and character as the named fundamental right such that the exercise of such right is in reality and substance nothing but an instance of the exercise of the named fundamental right.⁵⁵ The expression 'personal liberty' occurring in Article 21 was given a broad and liberal interpretation in the case, and it was held that the expression 'personal liberty' used in that Article is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of a man and it also includes rights which have been raised to the status of distinct fundamental rights and given additional protection under Article 19. In the following paragraphs we have discussed the rights which are contained in the Covenant on Civil and Political Rights and are available to the citizens of India despite their not being specifically mentioned in the Constitution.

Road Ahead:-

Yes, it is true that Judiciary has done a tremendous job in the past by actively involving in safeguarding the human rights in process of delivering justice. But the future is far more challenging with the new social innovations like Surrogacy, Cyber Terrorism, etc.; which does not have a concrete law as on date and the scope of violation of human rights are far more severe than anticipated; therefore it is only with due conviction and determination by the subordinate judicial officers these challenges can be overcome in an orderly manner.

⁴⁵ Hans Muller of Nuremberg v. Superintendent Presidency Jail, Calcutta, AIR 1955 SC 367.

⁴⁶ Anwar v. State of Jammu & Kashmir, (1971) 3 SCC 104.

⁴⁷ Article 19, supra note 46.

⁴⁸ Naziranbai v. State' and Lakshmi Prasad & others v. Shiv Pal and others, AIR 1957 SC 1.

⁴⁹ Article 19, 30, Constitution of India.

⁵⁰ Isaac Isanga Musumbe v. State of Maharashtra Isaac Isanga Musumbe v. State of Maharashtra, Supreme Court of India, Writ Petition (Crl) Nos. 80 of 2013.

⁵¹ D.D. Basu, Commentary on the Constitution of India, (Eastern Book Company, New Delhi, 1956) at ¶ 404.

⁵² A.G. for Canada v. A.G. for Ontario, 1937 AC 326.

⁵³ Dr. J.N.Pandey, Constitutional law of India, (Lexis Nexis Publication, New Delhi, 2014) at ¶403.

⁵⁴ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

⁵⁵ Maneka Gandhi, supra note 56.

Conclusion:-

A review of the decisions of the Indian Judiciary regarding the protection of Human Rights indicates that the judiciary has been playing a role of savior in situations where the executive and legislature have failed to address the problems of the people. The Supreme Court has come forward to take corrective measures and provide necessary directions to the executive and legislature. However while taking note of the contributions of judiciary one must not forget that the judicial pronouncements cannot be a protective umbrella for inefficiency and laxity of executive and legislature. It is the foremost duty of the society and all its organs to provide justice and correct institutional and human errors affecting basic needs, dignity and liberty of human beings. Fortunately India has pro-active judiciary. It can thus be aspired that in the times ahead, people's right to live, as a true human beings will further be strengthened.

From the perusal of the above contribution it is evident that the Indian Judiciary has been very sensitive and alive to the protection of the Human Rights of the people. It has, through judicial activism forged new tools and devised new remedies for the purpose of vindicating the most precious of the precious Human Right to Life and Personal Liberty.

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