



HUMAN AND ANIMAL RIGHTS, AND HUMAN DUTY (1997). By Bhaya, Jagat Narain Institute of law, Rights and Duty, Northern Ireland, U.K. Pp v + 958.

IN THIS century particularly in the democratic world Human Rights and self-determination by the people have gained very significant prominence. However, very few human beings have bothered to take care, preserve and talk about the rights of the animals in this world. Generally it is seen that only some organisations and persons concerned with environmental issues in this world have done efforts to preserve the animals and write about them with a view to save them from extinction and for the purposes of maintaining the ecological balance on this Earth. But few have talked so sincerely about the right of the animals coupled with the human duties towards them in the legal sense. It is for the first time that the author of the book under review has been seriously concerned with not only human rights but also the rights of animals arguing positively about the human duties towards the animals.

In the words of the author: This book seeks to answer certain fundamental questions affecting rights - human and animal - and human duty, which have puzzled legal, social, moral and political philosophers for a long time."¹ The present book is really a treatise, which advances the view that human rights are pre-state, absolute and universal and tries to defend this position in many critical areas. The author has, in a scientific methodology, argued that in a state where inter-subjective rationality can be attained through a universal language, the rights of all living beings including animals would be respected spontaneously as a matter of human duty.²

The author calls himself as a Gandhian and believes in the non-violent principle practised and propagated by the *mahatama* and also advocates vegetarianism.³ He states "in the entire history of the humankind there has been substantially more violence among meat-eaters than among vegetarians." He also is of the opinion that the ethical foundations of vegetarianism have the capacity to make a feel, empathetically, the actual pain of suffering inflicted on others whether on human beings or animals wherever they might happen to live in the universe.⁴

He suggests that the revolutionary thesis of vegetarianism needs to be explored in depth by reference to other supposedly real causes of violence, whether they be psychological, environmental, or even philosophical which include lack of individual's freedom, equality, self determination and violation of human rights.⁵ It is basis of fundamental premise of non-violence against human beings or animals that he has build up is treatise about the human rights and rights of animals

1. Bhaya, Jagat Narain, *Human and Animal Rights, and Human Duty* ii (1997).

2. *Ibid.*

3. *Id.* at 2.

4. *Ibid.*

5. *Ibid.*



culminating into duties of human beings towards animals.

The present book is voluminous treatise contains seventeen chapters and appendices. After having read this treatise this reviewer has come to the firm conclusion that the author has suffered quite a lot at the Faculty of Law, Queen's University of Belfast, Northern Ireland.⁶ His sufferings are reflected in the book at numerous places. It appears such circumstances have helped him to develop a thesis of non-violence and the importance of vegetarianism with reference to human rights, animal rights and human duties towards animals. The main arguments and materials which run through this whole treatise are based on the synthesis of the philosophies of the East and the West with reference to the right coupled with duties. His book shows that he has extensive knowledge of jurisprudence and public law.

In Introduction to the book the author has made very deep analysis of the freedom and common law and the legal system. He believes that the "starting point for all of us may therefore be to work out how the rational principles of human need, fairness, freedom and democracy ("these are the only values I can presently think as constitutive of a genuinely liberal society") can be incorporated into the legal rules relating to matters within whatever area we as academics are individually engaged in research and teaching.⁷ He further adds that the English common law tradition has the limitations, narrowness insularity and the authoritarian character.⁸ He quotes Lord Bridge in the famous *Spycatcher* case⁹ where he believes that his faith in the ability of common law to safeguard human rights has been seriously undermined by the majority judgements in the case. He believes that common law silently encourages lawyers (including academic lawyers) and judges to be authoritarian and oppressive even in their personal relations.¹⁰ One would like to disagree with him but perhaps at the psychological level common law lawyers it appears to be true.

On the question whether rights are absolute? The author rigorously analysis this issue jurisprudentially and agrees with the Kantian thesis of 'practical reasonableness' with the moral basis of rights and believes in fixing priorities for the same. He also agrees with Rawls that each person, as a moral being, is entitled to equal respect and concern in the design of political institutions. Thus he believes that each person deserves full respect not merely equal respect in relation to the value of equality. In this respect he says that the right to freedom from arbitrary arrest, detention or imprisonment *i.e.*, the right to freedom of movement should be treated as an absolute right.¹¹

His jurisprudential thesis in the chapter on 'dignity and equality' has rightly pointed out that human dignity and equality are pre-state and they are not something provided or given by the state. Hence they are back rights and have to be preserved given any kind of condition in society. He has taken this clue from Rawls and states

6. See Appendix II at 695-935.

7. *Id.* at 31.

8. *Ibid.*

9. (1987) 1 W.L.R. 1248.

10. *Supra* note 1 at 31.

11. *Id.* at 49.



that equality is an absolute right and takes priority over all other values in human society. According to the author rights need a self-determination perspective which is missing in the western thought. He advocates, thus, the philosophy of Sarvidaya, which consists in the concepts of trusteeship, decentralisation, co-operation, non-violence and maintenance of nature as basic to the Gandhian vision of an ideal society.

In the above discussion about the book under review this reviewer has tried to highlight the qualitative treatment of the subject by the author. The review has not focussed on comprehensive nature of the contents of the subject because it is not possible in reviewing a book of this size and the nature of the subject. On the whole this reviewer is of the opinion that it is very standard work on the subject of human and animal rights. This treatise is very useful for the students and scholars of Jurisprudence and Human Rights. It is recommended for all law and social science libraries.

*Harish Chander**

* B.A. (Hons.), M.A., LL.B. (Delhi), Academic Postgraduate Diploma in Law (London), LL.M. (London), Ph.D. (Delhi), Professor of Law, Law Centre II, Faculty of Law, University of Delhi.