

Right and Respect in the Back Ground of Covid-19

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ABSTRACT

Respect for right is an indispensable condition for the existence of any social order. From the time immemorial the term right has been given much importance in the national and international level. Several national and international documents have been framed by humanists and other authorities to guard and protect the inborn rights of people of the world. Rights such as right to life, right to freedom, right to move etc are inborn rights because such rights are inseparable from man and in the absence of respecting such right man's existence is not even possible in this hemisphere. Though betrayal continues the clarion call for protection of human right create global reverberations. Protest for the protection of human right when they are denied gets its energy from legally sanctified documents and decisions held by apex courts. As the term human right is a multi dimensional concept problem of human right violations arises in all fields where man and human activities are present and possible. Among such innumerable fields one field is work place. The place which demands humanlabour can be referred as work place. Every accepted national and international documents relating to labour contain many labour friendly declarations and they strictly demand a sound and healthy atmosphere comfortable to workers so as to ensure their rights and consequent respect. Even after years of such declarations in several national, regional and international documents the conditions prevalent in most majority of the work places are not in tune with the standard prescribed by the relevant documents. If the conditions prevalent in work places are not in accordance with the legally accepted norms the aggrieved class or other socially interested persons can approach competent courts for reliefs and remedies. But courts themselves are work places where many persons including judicial officers other legal professionals and court officials are working. The conditions of such a work place should be subjected to a close scrutiny first and subsequent rectifications are to be made. The rectifications must also be made in the light of damage caused by corona virus. Conditions suitable for spreading corona should be eliminated and cheep, effective and speedy treatment should be made available to the entire people. In the light of the fact that denial of treatment is a human right violation government should initiate speedy steps to rectify the existing human right violations in the work places and to make the entire system capable of facing new challenges to

humanity. Thus it is so urgent to replace subtopia by shrine, systole by spacious and dark by diaphanous. Through judicial activism the doyens of the Supreme Court, the mighty bastion of human right raised mans hope to the most magnificent potentialities where he could understand his status. Now is the time to make available the fruits of it by implementing activism, the desideratum of the day, to save the society from bathos. Let it resonance first be heard from court halls, the golden pagodas of justice.

Respect to right is what redolence is to rose; the discard of which is extremely excruciation. A social set up without respecting human right is dismal and colourless. The development of human resources largely depends upon the extent to which rights are guaranteed and how far they are materialized. It is particularly crucial in the grim days of corona.

Though the term 'human right' is relatively new it does not mean it did not exist in the past. The roots of it could very well be traced from the great "clay writings" during the reign of Cyrus. But Magna Carta, the first and foremost document of human rights made many epoch making contributions for generations. Bill of rights (1688) American Declaration of Independence (1766) and French Declaration of rights (1789) augmented substantially the significance of the concept of human right and its preservations.

The virulent violations of the human rights of Jews by the nasty Nazis during the Second World War benumbed the world leaders which led them to think of a world free from betrayal of human rights. Their ceaseless efforts culminated in shaping a document, popularly known as UN charter which became the powerful pedestal upon which United Nations Organization was cut and carved. Since its formation it has been the pivot around which the whole human rights activities rotate. The prowess provisions of the United Nations Charter are fertile enough to give birth to many sentient documents and organizations for preserving human rights. Thus in 1948 the world is blessed with the Universal Declaration of Human Right which really universalized the concept of human rights by its thought provoking content and approach. But it was only a declaration having no binding force. Consequently to make it binding, in 1968 two International Covenants namely, an International Covenant

on Civil and Political Right and an International Covenant on Economic, Social and Cultural Rights were shaped and subsequently accepted and acclaimed by the world with thunder of applause. The annexure of optional protocol 1966 to the International Covenant on Civil and Political Right really revolutionized the concept by opening hilarious vistas for their implementation. The second optional protocol to the covenant aiming at the abolition of Death penalty (1989) tolled the death knell of lynch laws. Thus International Bill of Human Rights is composed of the Universal Declaration of Human Right, two covenants and optional protocol to the covenant on civil and political rights.

In addition to the Universal Declaration and two covenants, many Covenants on Regional Protection of Human Rights are also on the go. European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) is a veracious expression of the International Bill of Human Rights and a clarion call for the Preservation of Human Rights. European Social Charter (1961) virtually prolixed the hope and scope of the concept and it stands for the protection of economic and social rights. American Convention on Human Rights 1969 gave new vigour and vitality to the existing human right operations. African Charter on Human and Peoples Rights 1980 for the first time lays down duties of individuals which highlighted the reciprocity between right and duties. Arab Convention on Human Rights opened a flamboyant horizon of rosy aspirations and bright hopes.

Our national arena is also replenished by the concept of human rights. The third part of the Indian Constitution contains Civil and Political Rights under the heading Fundamental Right Part and the fourth part contains Economical, Social and Cultural Rights under the heading Directive Principles of State policy. Apart from the glittering constitutional provisions, there are decisions of unending arrows in the armory of the Supreme Court of India, the champion of fundamental rights. Human Rights and fundamental freedom, the sweetest concepts of the era are being energized and re-energized by prodigious process of outshining interpretations and reinterpretation by the apex court.' 'Today Human Rights jurisprudence in India has constitutional status' to quote Krishna Iyer. J.

A3 of the Universal Declaration of Human Rights is radiating dynamism by stating "everyone has the right to life, liberty and security of person". Even though it is put in euphemistically, the reverberation of which, has been reached over the peaks of era. A 23 Para-1 of the Universal Declaration of Human Rights guarantees to work, free choice of employment, just and favourable conditions of work and protection against unemployment. The International Convention on Economic, Social and Cultural Rights provides for right to work freely chosen (A6) and right to employment of just and favourable conditions of work (A7). Thus the basic international documents raised man's life to the position of recherche by guaranteeing right to work, that too, in just and favourable conditions.

A19(1) of the Indian Constitution, the mother law of the land of more than 100 crores of people which constitute 15% of world population guarantees that all citizens shall have right to practice any profession or to carry on any occupation trade or business. A 42 of the constitution of India directs the

state to make provisions for securing just and human conditions for work. Thus the national document also contains the provisions having sufficient human touch. A21 of Indian constitution which occupies as a cynosure sparkles with flashes, make it clear that "no person shall be deprived of his life and personal liberty except according to the procedure established by law". The Supreme Court of India in its elate efforts in preserving human right and fundamental freedom made umpteen path breaking decisions by interpreting A 21. In Maneka Gandhi V Union of India (AIR 1978 SC 597) the Supreme Court has held that Right to live is not merely confined to physical existence but the right to live with human dignity. When Francis Corlie V Union of India (AIR 1981 SC 746) came for adjudication the Supreme Court has categorically stated that Man's life is not an animal existence. In Olga Tellis V Bombay Municipal Corporation (AIR 1986 SC 180), popularly known as pavement dwellers case, the Supreme Court has ruled that the word 'life' in Article 21 includes the rights to livelihood. In Consumer Education and Research Centre V Union of India (1995) 3 SC (42) the Supreme Court has held that right to health and Medical care is fundamental right under Article 21 of the constitution 'Right to live' under Article 21 includes protection of health and strength of the worker. The expression 'life' in Article 21 does not connote mere animal existence. It has a much wider meaning which includes right to livelihood, better standard of life, hygienic conditions in work place and leisure. The state, be it union or state government or an industry, public or private is enjoined to take all such actions which will promote health, strength and vigor of workmen during the period of employment and leisure and health even after retirement as basic essentials to life with health and happiness.

In the halos of the sentient provisions contained in the national and international document and the dynamic decisions of the apex court it is high time to exemplify the condition prevailing in and outside of the work place. The question of human right violation arises in all places which demands presence and service of man. All such places are the work place of those who present and sell their labour. In this sense work place is a very broad concept having limitless significance and dimensions. People of all kinds either directly or indirectly are being related with their respective work places. But the people who own and manage the work places are having the intention of making the entire activities related with the work place and other related activities in their favour ensuring maximum profit for their investment. Its materialization is always at the cost of the welfare of the working class.

Employers are always guided by their own vested interest. Their interest is detrimental to the social interest. These two interests are conflict with each other. The vested interest of employers and the social interest of the employees will never go together. Facilities and benefits of employees are always at the mercy of the employers and so they are always at risk. They are being subjected to frequent curtailment. In order to save them from the hands of such unscrupulous employers many conventions have been made in the international level and multifarious Acts, rules, regulations, and such other numerous norms have also been framed in the national level. Provisions contained in all such statutes have been made alive by the apex court through the dynamic process of interpretations. Consequently the toiling masses

have been blessed with omnibus orders touching each and every aspects of human life. Thus the pedestal upon which the mechanism has been established for addressing human right issues in the work places is powerful. But it almost remains only as a theoretical mechanism. This is so because in the ground reality issues related with human right in the field of work places remains almost unaddressed. One such field is our justice delivery system.

In our justice delivery system as everybody knows most majority of them are functioning in an unhealthy atmosphere caring a fig for what have been declared in many national and international documents relating to human right norms and standards. The conditions prevailing in many courts campus and other related centers are not satisfactory. Many of them, especially, subordinate justice delivery mechanisms are functioning in age old buildings with narrow space having insufficient arrangements for air and light. They are too narrow to the extent that emergency lamp or even candles are to be used at times of power cut which is a never ending curse to our states. Court halls are not equipped with sufficient fans lights and furniture. Let alone seats, during times of roll call many lawyers and their clerks find it difficult to get a place even to stand. The corridors and verandah which seems to be meant for the parties to the cases, witnesses and others are also redound by crowded. The lawyers inside the court are often wet with sweat and struggling with uneasiness created by the topsy-turvy conditions. There are instances when case is being called the lawyers, parties and witnesses cannot make proper representations and prompt presence because they are all jammed in the crowded. Roll call may continue even afternoon due to heavy posting. Court sitting continues even beyond the usual hours. All these augment mental strain and bodily decadence to both bench and bar. As everybody knows the surroundings of courts are not hygienic. It is not an exaggeration to say that court sittings are being carried on even in polluted atmosphere, especially sounds. Dilapidated roof, unclean walls, out dated and ill-furnished furniture etc. attenuate the status and seriousness of courts. Drawbacks of similar character affecting human rights exist in all other work places though there are differences in their scales and magnitude.

The existing human rights issues are being aggravated by the spread of corona in addition to the crisis already existing, created by its own neglect. The most important crisis in this regard is the issue related the livelihood of the people. The crisis creates problems in existing job opportunities. It may largely affect the entire working class, particularly professionals of the country. Moreover all these professionals will have to follow their own professional laws since there exist various professional laws for various professionals in our country. It is these professional laws which regulate the professionals dealing with the profession. Many stringent provisions are contained in each of the professional laws. By taking all these into account related provisions of such professional laws are to be relaxed permitting the concerned professionals to accept and do related work by maintaining the decency of the profession so as to ensure an income at times of crisis too.

In the present turbulent social arena courts have venerate vision and a magnificent mission. The materialization of the

mission depends upon the brilliancy of the bench and the bar which in turn depends upon the healthy court atmosphere. Since the prevailing court atmosphere is not up to the mark steps are to be taken urgently in tune with the tendentious provisions contained in the national and international documents and the brilliant orders of the apex court to make the court system up to the point. Restructuring and reorganizing the present systems of court in accordance with size of population and volume of crimes is the need of the hour. So the scars of anachronism in the crown of the royal legal profession should urgently be stamped out. What drawbacks exist in the system of justice delivery are also existing in other areas of work place in deferent forms, scales and intensities. In the matter of human right issues place is irrelevant. Violation is violation even if it is in the justice delivery system. Equal importance is to be given in preserving human rights in other areas of human activities.

From the illustrations so far made the following deserve much consideration.

1. Amendment of relevant provisions of concerned labour laws

In the light of the extra ordinary developments in various fields including public health of the country relevant provisions of various labour laws particularly laws related with professionals such as Advocate Act of 1961 etc are to be relaxed with a view to permitting the concerned employees and professionals to engage other but work relating to their professions to earn an income at times of emergencies without losing the dignity of the profession.

2. Redefinition and redetermination of the terms, conditions etc

In the light of the new developments in the social, economical, cultural, political and such other fields including health the terms, conditions, concepts, customs, conventions, and usages either used or pertains in the statutes, bylaws, rules, regulations etc related with work and work places are to be redefined and re-determined liberally enabling the workers, more particularly the professionals to accept jobs in the related but maintaining the standard, in related fields of their respective professions.

3. Increase in public expenditure

Government should spend more money to rectify drawbacks in the work places both in the pre and post corona periods with a view to making it more labour friendly. While spending government should also keep in mind the ongoing development in the entire world as a result of spread of corona virus. So the government should aim to convert the existing work places comfortable to workers which will increase the efficiency of workers.

4. Social awareness

In the present day health crisis, awareness regarding precaution against pandemic deceases is a need of the hour. In the place of minimizing social distance today we are all preaching and struggling for maximizing social distance and also for hygienic, both personal and social. So far, issues related with hygienic and the like have been left with medical field. But today it is a social concern and it should be the part of our cultural life.

5. Formation of specially trained organization of young persons

A readily available team of young persons selected from all fields should be formed in each and every locality with a view to carrying out different programmes, especially at times of emergencies. A specially framed term of reference is to be assigned to them in accordance with the specialties of the circumstances in which they are to be employed.

6. Cultural development

Through incessant awareness regarding respecting humanity and human right a culture of respecting humanity and human right is to be developed in our people, especially younger generations of our society. Awareness in respect of humanity must be imparted to the people of the country through formal and informal means of education.

The order in which the right and respect we attained and sustained, though not sufficient and satisfactory, may be hit by the deadly effects of spread of corona. Though the existing system failed to honour the rights of individuals in work places fully and finally, it could attain an order in respect of human rights in such places. The ongoing effects of corona demands more additions than one to the existing mechanisms of order and honour of human rights. Along with the loss of employment, income and other related facilities spread of corona creates mental stress and strains to the people, especially, working class. Through multiplier effects increase in the spreading of corona creates heavy, heavier and the heaviest damage to the social and economic fabrics of the society. Its repercussions will also appear in

the entire edifices up on which the nations of the world are built up. The entire period of history is going to be registered as pre and post corona period. The rights and respect structured in the pre corona period needs to be restructured in the back ground of corona devastations. The responsibility of government is doubling more than the rate at which corona's spread doubles. Government has to rectify the existing drawbacks in the respect for human right in work places and to give new form and formalities to honour and respect human rights in the light of corona too.

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