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Human Rights Diminished with Delayed Justice

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ABSTRACT

The concept of human rights are not the new one, every era defines and addresses these rights in different ways and by different names. But, after the Universal Declaration of Human rights, every country collective accepted the value of human rights. That's why they recognized various rules and laws for the protection of human rights at the national and international levels. Human rights help human beings to live a dignified life. The word 'dignify' 'make the scope of human rights limitless. To get fast justice without delay also comes under the ambit of a dignified life. But the pendency of cases in the courts makes it hard for people to get justice at the proper time. It further weakens the faith of people in justice which results in the failure of law and order in society. Because for maintaining law and order it is important to impart punishment to the accused at fast as possible which helps to cure the wounds of the victim and society. But another impact of pendency and delay on the accused who is innocent and spent the whole of his life in imprisonment without any fault has no way of compensation. The accused who was falsely charged with a crime and then acquitted after several years, without holding anybody accountable for spoiling his life is a big joke. He has no way to get a dignified life because stains of stigma never fade. So for protecting the human rights of the accused it is very important to decide his case as soon as possible and fast without any delay because nobody can return one's lost respect and dignity. So making laws and setting up courts are not apt for maintaining law and order in society. More important is to provide justice without any delay because justice delayed is justice denied.

Keywords: *Dignity, Liberty, Human Rights, Pendency, Delay*

I. INTRODUCTION

Human beings are the most intelligent creatures created by god among all living beings. All human beings are born equal and free in all respect. He is born with some basic inherent rights which are necessary to live a life with dignity, which means there are certain rights without which the life of a man is not possible and these basic rights are known as human rights. But these rights were not known and recognized in the past so they were frequently and brutally violated without any fear by dictators and oppressive governments or classes. People were not aware of the fact that there are certain rights which are not conferred by anybody but born with

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them to enjoy without any restriction. But, as time passed and people faces slavery, physical bondage, forced labour, human trafficking, prostitution, starvation etc. voices against all these inhuman and barbaric practices were raised. Serious efforts were made against these systems after world war II when people around the whole world were screaming from starvation and without shelter. Humanity was in a disreputable condition, at that it was felt that these vulnerable and minority classes must be protected from tyranny. The value of a person's life and rights were realised because the development of society depends upon the single unit that is the people of that society. The progress of any society or country depends upon the progress of the people of that society. If people live a miserable life then we cannot expect a welfare society. So it is very important that every person live life with dignity and that is possible only when their basic inalienable, indivisible, universal and unconditional rights are protected which we called human rights. The concept of human rights has a long history behind them, they are not evolved in a single day. But there are several different instances which play a vital role in the recognition of human rights. Some of them are listed below:

1. Magna Carta: It is also known as the "Great Charter" which influences leaders all around the world because this is a landmark document that talks about human rights for the first time. In the year 1215 ruler King John was supposed to be one of the worst kings. His policies of levying heavy taxes and punishing people were greatly criticized. Moreover, if people refuse to pay taxes their properties were ceased all these practices were opposed by barons in England. Barons as a result captured London and forced the king to negotiate. All the terms and conditions of the negotiation were written by both sides in a document called Magna Carta. After that Magna Carta has become a powerful symbol of rights and liberties which sow the seeds of human rights all over the world.

2. Petition of Rights, 1628: This petition of rights was sent by English Parliament to king Charles I complaining of a series of breaches of the law. The petition sought recognition of four key principles these are no taxation without the consent of parliament, no imprisonment without cause, no quartering of soldiers on subjects and no martial law in peacetime. This is a major constitutional document of England setting out specific individual protection against the state.

3. The Bill of Rights, 1689: The Bill of Rights was marked into law in 1689 by William III and Mary II, who became co-ruler in England after the overturn of king James II. The bill sketched out certain constitutional and civil rights. And ultimately gave parliament power over the monarchy. The Bill was brought up to give the people their natural rights, right to freedom of speech, freedom to petition against the monarchy and many others. It also secure the religious freedom of the protestants who were subdued by James II.

4. The Virginia Declaration, 1776: This declaration was drafted to affirm the inherent rights of men to reform or abolish inadequate government. It announces that all men are by nature equally free and have certain inherent rights of which they cannot deprive themselves. This was adopted by the Virginia Constitutional Convention on June 12, 1776.

5. The French Declaration, 1789: The basic principle of the Declaration was that all men are born and remain free and equal in rights. The Declaration was passed by France 's National Constituent Assembly in August 1789. It is a foundational document of the French Revolution that concede civil rights such as liberty, property, security and resistance to oppression.

6. Universal Declaration of Human Rights, 1948: This is an international document adopted by the United Nations General Assembly in 1948. It establishes the rights and freedoms of all members of the human race. It declares that human rights are universal to be enjoyed no matter who they are or where they live. This Declaration put the soul to human rights and binds all the countries to protect human rights all over the world. There are a total of thirty articles which cover freedom of opinion, expression, thought and religion.

According to section 2(d) of the Protection of Human Rights Act,1993

“Human rights means the rights relating to life liberty, equality and dignity of individual guaranteed by the constitution or embodied in international covenants and enforceable by courts in India.”

Dr Purohit says, “ Human rights are basic the basic values which underlie that human beings, born in any part of the world are equal in dignity and rights”.

Also according to Susan Holler Okin, “Human rights as a claim to something of crucial importance for a human being”.

The Universal Declaration of Human Rights, 1948 defines human rights as “ Rights derived from the inherent dignity of a human person “.

Dr Durga Das Basu defines “Human rights are those minimal rights, which every individual have against the state or public authority by his being, a member of human family irrespective of any consideration”.

From all these definitions we can say that human rights must bear the followings characteristics which are as follows:

1. Universal: Human rights are possessed by every individual without any distinction whether who they are and from where they are. They are enjoyed throughout the whole universe from one end to another in the same respect. They are universally followed everywhere without any

discrimination regarding sex, religion, colour, creed, race etc.

2. Inherent: Human rights are not conferred by any law or any authority. Their existence starts with the birth of any human being until death. This means that where there is an individual there are human rights. These rights are inherent in all individuals because they are human beings and without these rights, life cannot be possible.

3. Inalienable: Human rights cannot be taken away from any individual nor they can be forfeited. It is the inability of something to be taken from or given away by the possessor. But, in the interest of a national emergency, these rights can be restricted temporarily or if any individual is found guilty by law his liberty may be restricted.

4. Indivisible: The realization of human rights depends on the protection and fulfilment of all of the rights. No rights has more important than others, they should be promoted as a whole because they are complementary. For example, the right to participate in political life depends on respect for the freedom of expression.

5. Interdependent and Inter related: human rights cannot be enjoyed in isolation. Each one contributes realization of a person's human dignity through the satisfaction of his development physical, psychological and spiritual needs. The fulfilment of one right often depends wholly or partially upon the fulfilment of others. For example, fulfilment of the right to health may depend in certain circumstances on the fulfilment of the right to development of education or information.

6. Accountable: State and other duty bearers are answerable for the observance of human rights. It is the liability and prime duty of a state to protect the human rights of the individual through any law or legal norms. If any violation of these rights is caused by anyone proper, they must be properly enforced through law. They are observed and followed properly and must be looked after by the state.

II. STATUS OF JUDICIARY IN PROTECTING HUMAN RIGHTS IN INDIA

Judiciary is the most effective source for the protection of human rights and other rights. We have already discussed that violations of human rights are not permitted at any cost. Every country at the national and international level is accountable for the observance and protection of the human rights of every individual. For this purpose, the Constitution of our country guarantees essential human rights in form of fundamental rights and also made the Directive Principle of state policy fundamental in the governance of the country. As we know that human rights are enforceable by law in the same way as fundamental rights. Moreover, constitutional

remedies are also available in form of writs. No doubt that making provisions and acting upon them are two different things. This means if human rights are violated and we approach the court for its enforcement and the matter remains pending in court for many years due to a backlog of cases causes excess delay and spoils the interest of parties because we know that “Justice delayed is Justice denied.” The concern is that providing human rights is not sufficient but disposing and deciding the cases relating to violation of these rights at the proper time without delay is more important. The timely decision, in any case, is very important because delay means no justice. The value of time in the trial of a case was even observed in the Magna Carta. One of the four surviving copies of the 1215 Magna Carta containing the famous clause contains these words for speedy justice ‘to no one will we sell to no one deny or delay right or justice.’ India is facing a huge backlog of pending cases due to which access to justice becomes difficult. Recent data shows that Indian courts have a record of 4.7 crore cases pending. In such a situation how do we expect speedy justice? On the other hand, this pendency and delay are continuously legally violating human rights without holding anybody accountable.

III. EFFECT OF PENDENCY OF CASES ON HUMAN RIGHTS

Courts are constituted for the protection of individual rights but ironically they are violating these rights because due to pendency delay in justice arises which ultimately results in a miscarriage of justice. People have to struggle for years to get justice. There are several cases where innocent spend their whole life in jail and are later acquitted. Recently, Allahabad high court decide a criminal appeal filed four decades ago acquitted the accused Rajkumar of all the charges. The crime had occurred in 1982 and the judgment of the session court convicting the accused was passed in 1982 and the criminal appeal was disposed of now in 2022. Three others accused died during the pendency of 40 years. In another case, six men were held not guilty by the Rajasthan high court in the 1996 Samletti blast case, after they spent 23 years in jail without bail or parole. In the same way in march 2022, Dipak Jaishi a Nepali citizen was ordered to be released by the Calcutta high court after spending 40 years in judicial custody as a trial prisoner. One more case was there in which Prem Chand was tried for food adulteration in 1995 but Supreme Court acquitted him in 2020, he spent 38 years of his life in court. All these cases are a few of those cases where courts violated human rights and the innocent are bound to live in imprisonment without any fault, Here protector turns into a destroyer. When basic human rights are snatched from anyone how it is possible to live with dignity, which is the prime requirement of human rights?

Conclusion: From the above discussion, we can conclude that human rights are the basic rights

of an individual without which life with dignity is not possible. In the same way, their protection is also equally important and that can be done by the judiciary. And our Indian courts are facing the problem of pendency of cases which restricts the courts to decide the case at the proper time without delay. This restriction and delay are due to various reasons but this delay is continuously diminishing human rights. Universal declaration of human rights in its many articles makes clear that nobody will be bound to slavery and servitude but pendency and delay bound innocents to lead a life of slave by sacrificing their human rights without holding anybody accountable for it.

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