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RIGHT TO LIFE: A PHILOSOPHICAL PERSPECTIVE OF THE CONCEPT

ABSTRACT

The right to life is entailed to be acknowledged in its wider perspective with the aid of the philosophy of 'life' and 'right' as primarily 'Right to Life' is termed as not to be killed which is conceptually erroneous by referring only as any vegetative or living existence from birth to death by ignoring the indispensable and crucial perspectives of the enjoyment of all amenities, facilities, necessities and all factors of human existence within law of a state. This Article will explore the real philosophy of right to life and its application in wider perspectives.

Introduction

Right to life is the golden fundamental right dully recognized internationally under Article-3 in the universal declaration of human right (UDHR), 1848, Article-6 of ICCPR and section-18 of the Bill of Rights Acts (Sam Halford 2012). Right to life encompasses a variety of rights which are solely dependent on the life existence, so, the right to life is the nucleus of other rights. This right not only imposes a negative duty on the state to impose restrictions as not to deprive any person from life, but there is also the positive duty upon the state to take care of the lives of the people by creating all those essentials which are necessary to live a dignified life. It will be the breach of the right to life, if the government does not utilize the wealth to provide the facilities for the common good of the people. The Inter-American court in a very famous case of street children declared that “the right to life is the basic fundamental right while all other humans rights are respected to be exercised subject to the respect of this “right to life”, otherwise, the exercise of other rights is meaningless. The right to life, does not mean that the person be not deprived only of his life, but, he should not be deprived from all those amenities and facilities which help him to live a dignified life, and it is the responsibility of the state to create such conditions which are required to live a dignified life. State must ensure all those statutory and legal measures to restrict the danger to the lives of the people by creating an effective mechanism of the administration of justice to punish those who are there to prevent the people from access to those conditions which are necessary to a decent and dignified life” (Amos O. Enabulel 2014). In the present time, right to life is interpreted as the right not to be killed which is erroneous. To kill

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any person in self-defense is justified, so, the right to life is not absolutely protected. Right to life is also means not to be killed unjustly meaning thereby, killing in self-defense is just and killing arbitrarily is unjust (Famakin Wa 2011).

The concept and origin of Human Rights:

- i. The concept of human rights dates back to creation of mankind, which are internationally acclaimed and central to other rights, in the absence of which other rights have no significance. Human right is a matter of right but not a special privilege which is needed to be respected by states beyond territorial boundaries. The advent of second world war created a serious desire in the people to have their rights protected from discrimination, oppression and unjust socio-economic condition, consequently, universal declaration of human right was passed by the general assembly in 1948 (Nawaz Abbasi 2006)
- ii. The first ever legal instrument appeared in world history to protect the human rights is the “Magna Carta Libertum” in 1215 and this document has an advantage over all others documents of this field, as it gave all rights to human by creating equality among humans, afterwards some documents surfaced in 17th -19th centuries, as such, in England, there came ‘The petition of rights in 1628, Habeas Corpus Act, 1679 and Bill of Rights in 1689 by which England became purely a democratic state. In USA state of Virginia adopted “Declaration of Rights” which states that the people are born equal, independent and free, they can’t be deprived from inherited right and the Philadelphia declaration was also adopted in 1776 by declaring all governments to be established by the people to guarantee their appointed right and finally, a day is celebrated worldwide as International Day of Human Rights on 10th December, on the day when Universal Declaration of Human Rights was passed by the UN Assembly in 1948 (Ciobota Eugen TaruMures). The concept of human rights is also embedded in the religious thoughts of the people. Socrates, Plato, Rousseau also has have the concept of harmony, fraternity and equality, as the great Buddha gave the concept of self-determination, likewise, Muni, Manu Marada also contributed in human right education, the holy Christ also fought for free speech which became the basis of human rights. In Islam, human rights are in large number as compared to other western philosophies. The Holy prophet (PBUH) was the great harbinger of human rights, so, all religions of the world recognize such rights (Nawaz Abbasi 2006).
- iii. The concept of human right has evolved as a result of philosophical, legal, political and social evolution with the passage of time, for which this concept has passed through a stiff way, it gained wide popularity when there came the problem of existence of human beings on earth in respect of cooperation, ideas and general values, however, this idea was glorified by great jurists of their time, for example Aristotle, Grotius, Cicero and Montesquieu and finally the idea got a universal character in shape of UDHR. In social phenomenon, human rights have their origin in antiquity, but in a legal phenomenon, human rights evolved through natural doctrine of law, as this idea started from the concept that the humans have their right in their own nature, anywhere and at any time which are assigned by the society and accepted by natural law and Aristotle was the first to forward such like idea in his renowned book “Politics” according to which a human is to be free or slave only by law, not by human nature, likewise, Plato (427-447 . C.) had a great contribution in the development of concept of rules for human beings, by creating a distinction between

ideas and traditions or culture, by finally establishing the idea of human rights and liberties. In 17th Century, the harbinger of natural law like Hugo Grotius, which is regarded as the father of natural law said that “Man is social by nature to live peacefully and is able to determine what is useful or harmful for a society. In the 18th century, the idea of human rights was also contemplated by the jurists of that time like Rosseau and Montesque, for which Montesque formulated the definition of law. Laws are in a sense, the reports derived through nature of things by making the sense that all works have on laws, while Montesque had of the view that there is the relationship between liberty and laws, by further stating that the humans have surrendered their liberty before the civil laws. So, the laws were instituted to reign the people, even those who were the creators and all people were declared equal before law. Finally, at the end of 18th century, the idea of human rights law entered in to a new phase of development in international document (Ciobota Eugen TaruMures). The basic component of the modern welfare state is the provision of social justice, which means every citizen is equal before law, which is the way to restrain the power of government. The violation of social right is as severe as the violation of political and civil rights (UNESCO Vol.4 Van Bueren). Human rights are termed to be inalienable entitlements to make ground rules for human development, as such, the frame work of human development projects the interdependence of cultural, social and economic right on the one hand, and political and civil right on the other hand (UNDP 2003).

- iv. The most important achievement of international human rights law is the realization that there are some inalienable rights universally acclaimed conferred on humans. Universal Declaration of Human Rights has conferred a responsibility and its citizens to observe all envisaged human rights being the member of UNO. General Assembly of the UNO asserted in 1998 that it is the primary duty of each state to implement all rights and freedoms eventually creating great expectations in the people of the world (Rebecca santaclara J. Int'l L. 31 2015). Human rights are to be considered as means to enhance the standard of living of humans of national and on international spectrum., but the question arises, are the fulfillment of these rights means the improvement in the provision of basic necessities of life, minimizing their miseries and provision of basic facilities of education and health, food and employment so, there are much worsened issues of political and ideological nature in relationship of human rights and poverty alleviation (Stephen P. Marks 2017).

Philosophy of Right:

The word ‘Right’ here means the entitlement of someone through virtue of being a human, to enable him to live with dignity. Rights are termed to be entitlements, meaning thereby to have a control over things, as such the person has a right on a property if the property has been acquired legitimately. This idea of right and entitlement is no satisfactory philosophy because the entitlement and control of authority is not same in some respect. In certain cases the person having controlling authority has not a right to have a control on others, such as robber who has a control on others through his weapon, actually he doesn’t have the legitimate authority to exercise control (J. O. FamakinWa 2011). The idea of right is the basis of philosophical science of right, meaning thereby, the concept and actualization of right. The concept and its existence

have two aspects of the same thing, but separate and united likewise body and soul, as the body is the life and of soul, so, the soul without body is nothing and vice versa. Thus the concept of right is termed as the body which obeys soul, in the same parlance, the buds in itself have trees and the strength of trees but they are not trees, so, the image of buds correspond to the tree, as such, when the body doesn't commensurate to the soul, then indeed it is a wretched thing, for which, the unification of body and soul is the idea, it is not a harmonious co-existence, it is complete interpenetration. The idea of right is also termed as freedom. The personality of a person generally has the capacity for right which constitutes its concept which becomes the basis of formal right for which there is the command of right to a person and have respect others as person. Human being in its existence is the natural entity, and through the development of his own body and spirit and now has become his own property (G.W.F. Hegel 1991).

Philosophy of Right to life:

Right to life is to be treated as parasitic life of a parasite who depends on the life of other animals, or plants, likewise, the right to life also depends on other various rights, as, that of parasitic life of human is not an unusual phenomenon, human being are treated to be dependent beings, as such, children are dependent to their parents, students on their teachers, body system on a balance diet, clothing and shelter. It is deception to the right to life, if the life sustaining facilities are denied, as it is said that death is the end of life but the hunger kills, it means granting right to life but without life. Non-provision of goods is the mockery of right to life. It is the fact that Human life is in danger in so many ways, such as, material needs are the big threat to the human life as the link between right to life and certain necessary goods is so strong to undermine it. If this concept is accepted then the person has no right to life. If life sustaining goods are not provided to him, environmental pollution is big and serious threat to human life, so, the individuals who do not have excess to clean air such people have no right to life, likewise, the people who are infected with life threatening diseases and have no facility to be treated, such people have no right to life (J. O. FamakinWa 2011). Death here means the termination of life, where the right to life also ends, death is to be classified natural and unnatural for which an accident and murder is unnatural death while a death due to disease is natural. One can't accept that right to life is being complied where state miserably failed to promote, preserve and protect life (Kgorohlo Micro Moabelo). Article-9 of the constitution of Pakistan depicts that no person can be deprived of life and liberty subject to law. The word "life" is very important as it encompasses all factors of human existence, as the word life is not to be defined in the constitution, but it doesn't mean that it only refers to any vegetation or animal existence or to live from birth to death but "life" is the enjoyment of all amenities, facilities and necessities within law and constitution by a state (PLD 1994 SC 693). It is simple that unless you are alive, to claim any other right, if you are not alive then then you can't speak, protest or file any suit, so the right to life is the pre-requisite and foundation of any other right (William L. Saunders).

Relationship of Life and law:

The word "life" may not be understood in a limited manner, it encompasses to all amenities, facilities and dignity within constitution, as such, the word "life" should be given a wide meaning, not only to the sustenance of life but its enjoyment, it is the state to be bound constitutionally to protect the lives and properties of its citizens from homicides, extra-judicial killings, and atrocities (PLD 2005 SC 193). Life is a unique quality and phenomenon which segregates organic or inorganic material which is impossible to measure it in any unit. Naturally

human behavior needs some regulations to avoid any diversity in the society, as the human life in various mechanisms of social fabric to live together in an acceptable fashion. To maintain this mechanism, there is a dire need of a legal system with impartial judiciary where a judge can adjudicate the matter without any prejudice, fear or favor. The interaction between law and justice commences when any person is arrested pledged to be committing a crime and this interaction continues till the trial is completed, as a result he is acquitted or sentenced, so, this relationship of law and justice is an interdependent relation resulting in to the application of just laws culminating in to justice as injustice is the result of failure of law, likewise unjust laws never produce justice (Kgorohlo Micro Moabelo).

WIDER PERSPECTIVE OF RIGHT TO LIFE

Right to healthcare:

Right to health care encompasses all those things which are threat to the health of a person, which covers, healthy environment, water and medical care. In case of Paschim Bemagk hetsamity vs state of Bengal, the court held that the right to get emergency medical treatment is the right to life under article-21. The right to life also includes the right to livelihood, the Indian supreme court in a case of Mohinjain-in which the fee of a medical college was questioned- held that “right to life also includes to live with dignity-means thereby-necessities of life such as, the clothing, adequate nutrition, shelter and also facilities of reading and writing and also to express oneself to be provided to a person”. The same principle was also derived in an American case of indigenous community of xlaye axe where the court held that “The prevention to the petitioner of livelihood is the violation of right to life guaranteed under article-4 of the inter-American convention of human right (Amos O. Enabulel 2014).

Right to Education:

In a case of Umi Krishnan case, the Indian Supreme Court held that the right to education is the fundamental right to life, as per article-21 of the Indian constitution 1950 state has to provide the educational facilities to the citizen according to his capacity and financial condition. The basic connection between right to life and right to education is to be viewed with the fact that an uneducated person lacks the eligibility to be employed to earn his livelihood, to lose his self-esteem, having no social status, for which it is to ensure his right to life, right to acquire property, right to interaction with society etc. So, right to education is not only limited to acquire degrees, but to improve the economic good (Amos O. Enabulel 2014).

Right to clean environment:

Courts have also held in various judgments that right to clean environment is also integrated in right to life. Indian supreme court in case M.C. Mehta case held that right to life means right to live in clean and harmless environment, in the way, the supreme court of Pakistan held in Shela Zia case that the right to life means to live in a clean environment. So, both above cases have signified the importance of clean environment without which those conditions are not attained which are necessary for human existence (Amos O. Enabulel 2014). The earth is expected to become warm at least two degree up to 2050. The effect of climate change is very where and on everything. During the past few years, scientists have witnessed the rise in the temperature and ice melts resulting in to devastation in USA, Australia, China, Korea, so, these disasters now hanging over every corner of the world. It is very difficult to assess that climate change has

created any specific catastrophe but to create such condition that each of it seems more likely and more severe, these disasters are the creation of another phenomenon as geophysical forces are thereby to dominate the earth. One of the most essential driver of ecosystem is the climate change. Global warming through environmental pollution creates resiliency for which both erode ecosystem resulting in to the creation of implication in human rights on a wide range. Suffering of the environment is directly proportional to the sufferings of the people. Change of weather pattern, rising of sea level, melting of ice in climate change has affected the life of the billions of people of the world, likewise the change in the climate is accelerating day by day, so these climate changes are interfering in the human rights such as right to health, right to life, right to food, right to culture and right to acquire property and its development if this trend continues the poor and weak will suffer first but this crisis will ultimately reach to all of us. Healthy environment is directly proportional to the enjoyment of human rights, as, it is generally believed that the degradation of environment has so many negative effects on climate that the realization of human rights becomes difficult. As per Klaus Toepfer, former executive Director of UNO environmental programme said that in polluted and degraded environment human rights are not to be secured. The vision “Human Right pre-requisite for environment traced back to declaration of Stockholm, resulting in to an international recognition through a link between human rights and environmental protection (Rebecca J. Int’l L. 31 2015).

Right to Housing:

The right to housing is the universally recognized right and more than one hundred constitutions of various states have recognized it, however, in spite of that large number of people are homeless, evicted or having inadequate housing on the planet. Today, ten million people are homeless and billion are inadequately housed, and as per estimate up to 2050 three billion people will be inadequately housed (Christopher golay, UNO).

CONCLUSION

From the above discussion, it can safely be surmised that ‘Right to Life’ is not confined only to the strict sense of not being killed or harmed by any person, but its application in the wider perspectives is stretched to the right of a person to all the amenities, necessities and facilities of life to be ensured by all states legally and constitutionally to live a dignified life by enjoying all facilities and necessities dully acknowledged beyond boundaries.

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