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Human Rights- a duty based approach

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Abstract: 'Duty' and 'right' are conceptually inalienable. 'Duty' of one is the 'right' of another and vice versa. Concept of 'right' assumes significance only against the actual and possible infringement or violation of them. In a family, community or state, if everyone becomes duty bound the rights of others shall be taken care of. Catalogue of rights draw their meaning from the notion of 'right' which connotes the idea of basic entitlement. Theories of 'right' accord importance to some specific rights over others. Therefore, they are limited in their purview. 'Duty' is that which one ought to do in relation to others whereas 'right' is that which one is entitled to have by virtue of being a human-being or one's station in life. The occidental approach accords priority to protection of right through enactment of laws. The approach is predominantly 'right-centered'. In oriental, socio-cultural, religious milieu 'duty' is considered as central and paramount. One acquires 'right' in course of doing one's 'duty'. One cannot have 'right' without corresponding 'duty'. Therefore, there need not be independent bargain in favour of 'right'. This introduces the uniqueness of the oriental perspective with regard to rights and duties.

Key words -Human rights; Duty; Rights; Duty centred

Rights and duties are conceptually inalienable. 'Right' of one is the 'duty' of another. In existential plane 'Right' presupposes one's duty. That is why thinkers like Plato, Kant, and Bradley have accorded priority to 'duties' over rights'. In Indian tradition, rights and duties are construed as two sides of the same coin. In the West, the idea of 'right' evolved out of the concept of 'natural law'.

The idea of 'rights' developed because of non-performance of the duties of the people and rulers. Therefore, the duties assumed greater significance in the political, ethical and religious domains. The rights are like the shield or powers conferred on the citizens to defend their self-interest rather than offending others or attacking the state machinery. Influenced by the materialistic culture, people become growingly self-centered and accord more importance to 'rights' rather than to 'duties'.

There have been attempts to classify rights into different categories such as natural right, legal right, political right, religious right etc. But mere categorization of rights and enactment of laws will not address the cause of safeguarding 'rights'. It is to be remembered that different rights are integral to the notion of 'right'. The theories of rights are nothing but different viewpoints that underline the necessity of addressing different aspects and needs of human personality so that the holistic development of the individual and society can be ensured. Different theories of rights accord importance to some specific rights over others. Rights are often used as a leverage to appropriate their entitlements in relation to others. This eventually results in egocentric mindset and behavior. The catalogue of rights, normally plead in favour of civil, political, economic, religious and moral entitlements of able citizens. Palpably, there is hardly any advocacy in favour of the rights of animals, plants and natural resources such as; air, water, earth etc. It is to be remembered that 'right to live' is most paramount of all other rights. To safeguard this basic right there have to be efforts to ensure a favourable environment so that man continues to live to enjoy other rights. Besides respect for Nature for which

there is the need of able advocacy there have to be effective bargain to secure the interest of children, old people, handicapped and destitute who also have a right to live with dignity.

Duties and rights are relational concepts. Duty of one is the right of another. 'Duty' is nothing but what one ought to do in relation to another whereas 'right' is something which one entitled to have in relation to others. When one discharges one's duty, the right of another is taken care of. But it is not possible to make people duty conscious through mere enactment or enforcement of laws. The respect for the 'Law of land' which is born out of the respect for the laws of nature cannot be infused in the people through mere enactments and enforcement of laws. Respect for the 'Law of land' has to come from within. The ends of law cannot be addressed if it is imposed from without. The deontological ethics becomes functional only when 'reason' rules. But very often, 'reason' is taken for a ride by the non-rational factors; thereby the 'rational will' ceases to be 'goodwill' as it was thought by Kant. Niskama Karma which underlines the performance of duty for the sake of duty, remains a mere theoretical construct unless people have respect for the moral laws. Human-beings, by and large, are prone to expect immediate gains and value 'expediency'. varnashrama dharma of the Gita which has its parallel in Bradleian concept of 'my station and my duties' becomes operative only when people relegate their personal likes and dislikes in favour of ethical role-playing.

In the discourse on 'right' there is always the divide between the right holders in relation to others who are to perform their duties. The concept of 'right' becomes meaningful only against the background of their actual or possible encroachment or violation. Besides, the notion of 'rights' assumes that human-beings irrespective of caste, colour, creed and gender are equal to one another in so far as they are human-beings. This discloses the humanistic undertone of the notion of 'right'. In the Oriental literature, of course, the notion of 'right' is extended to nonhumans.

Right is rendered intelligible in course of doing one's duty for others. The concept of dharma in Indian culture captures the import of 'duty' and 'right' in their entirety. The Gita underlines that one has to do one's duty according to one's disposition (guna) and ability (karma). When everyone discharges one's bounden duty the social good can be maximized. Such a framework doesn't envisage any dichotomy between 'right' and 'duties'. The concept of dharma and karma derive their significance from the concept of 'Rta'. 'Rta' refers to the order which is embedded in the very nature of things. When one thinks and speaks according to 'Rta' it is termed as truth (satya) and when one thinks and acts according to 'Rta' it is termed as dharma. 'Rta' is the unifying principle of the physical, mental and cosmic phenomena. All things and beings are bound to one another by this cosmic principle. It is the impersonal law which regulates everything and ensures harmony. Hence, every action be it social, political, economic, religious has to be directed at preservation and promotion of the cosmic order. One who protects dharma is in turn protected by dharma.

The irony is that despite having such sound ethico-legal concepts in our ancient culture we have not been able to evolve a legal system in consonance with it.. The present legal system is inadequate, myopic and internally incoherent whereas the ancient legal concepts were grounded on the basics of human nature and societal reality. There are manifold forms of life. So law should give opportunities to all individuals for their optimal and holistic development.

Astonishingly in the Hindu system of law there was no concept of 'right'. Laws laid down only duties for all classes of men, is called "'dharma". All including the rulers were bound by 'dharma'. The duties of the king towards his subjects included a number of functions or acts which may be termed as rights of men. The 'Gita', says that it is the right of individuals to perform action or duty. The consequence or fruit of action will naturally follow. 'Duty' has to be performed for its own sake.

Discrimination and exploitation are the root causes of human right violation. The hegemony of discrimination and exploitation down the centuries can be traced to man's failure to have the perception of unity in diversity. Duties and right are the foundational moral concepts. It is worth emphasizing that ethical considerations are other-centric. A moral individual is one who transcends one's self-centric considerations in favour of the recognition of the interests of others. The rightist approach is self-centric in so far as it assumes the divide between right holders in relation to others who pose actual or possible threat on the way of realization of one's right. The rightist approach leads to polarization between the right holders in relation to those who have failed in their bounden duty. Thus, the social and political activism directed at protection of right, are self-centric. On the other hand, the notion

of duty is other-centric because one is conscious of one's obligation to others who are the real right holders. Hence, the right-based approach is to be replaced by the duty-based approach. It helps one to transcend the push and pull of self centric considerations or interests. It is worth noting that the notion of 'duty' is other-centric. Different theories of 'rights' disclose contingencies of circumstances or situations in which they are formulated. So, the rules pertaining to 'right' in one context ceases to have its relevance with changes in time and clime.

'Liberty', 'equality' and 'fraternity' are the three pillars of human rights. Interestingly, these three are also vouchsafed by religions. Religions, by and large, advocate equality of beings. This lends rationale for 'global fraternity'. Since man is rational at the core the demand for 'liberty' is natural for everyone. Because of flaws in social, political, economic and religious systems freedom of man becomes casualty. As a result, there is a natural resentment which crystallizes in form of protests and revolts against authorities. Needless to say that violation of human rights takes place because of the sense of difference and alienation. When dharma (righteousness) becomes the underlying motivation of human thinking and action, there remains no room for violation of human rights because everyone becomes other-centric. Consequently, each one is prompted to do what one should do in relation to others. What by thousands of enactments, conventions, conferences and ratification could not be achieved down the centuries, shall become a living reality when the right awareness is infused in the Collective psyche through right education, conducive socio-economic-political religious environment, righteous use of print and electronic media and creation of value-centric Art, Music, and Literature.

The sense of duty cannot be imposed from without but has to grow from within. Such modalities presuppose right ontology or world view (metaphysics). The concept of 'dharma' in the Upanishadic metaphysics captures the nuances of 'duty' in its entirety. In the Upanishadic texts, 'Rta' is construed as the cosmic order which is immanent in everything animate and inanimate, mobile and immobile and in the natural order as well as the moral order. Human-beings, on account of possessing developed 'mind' have the sense of right and wrong, desirable and undesirable in respect of 'ends' and 'means'. It is the primordial entity which has become many. The so-called diversities which constitute the world of phenomena are nothing but varied expressions of one primal substance which is of the nature of truth (*satya*), consciousness (*chit*), bliss (*ananda*). This helps one to look at everyone and everything as one's kindred and more so, one's fellowmen who constitute the domain of moral agents. It doesn't envisage incompatibility between individual and society. The individual interest is best taken care of, in course of addressing collective interest. Hence, it is imperative that members of civil society are enabled to cultivate right vision and awareness so as to perceive the truth that "we all are members of cosmic fraternity bound by the bond of love". This only can make room for establishment of a socio-economic political order, tempered by the ideology of 'live and let live'.

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