

● RAMIFICATION OF PANDEMIC ON HUMAN RIGHTS



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Abstract

Inherent dignity and inalienable rights of the human beings are foundation of freedom, justice and peace. All the human rights are for the promotion and protection of human beings. During the COVID 19 Pandemic human rights education, protection and promotion are for universal standing for the safety of life. Principles of equality access to health care are required to be guided by medical science. Life as a core centric of human rights is suffering the tragic loss physically, spiritually, and mentally. Thus, the duty of everyone to prevent the effect of pandemic virus. Coordination, responses, exchange of the good practice and help to each other in the quest for the quicker recovery is the need of the hour.

Key words-

COVID 19, Pandemic, Human Rights and Ramification.

1. INTRODUCTION

Roseanm Rife, rightly observed about human rights during COVID 19 that "certain human rights, such as the fundamental requirements of fair trial and right to be free from the torture, cannot be restricted, even in the time of emergency."¹ COVID 19 Pandemic is global emergency on epidemic health protection issues. At present physical and mental health as, human rights is under challenge to prevent the pandemic, epidemic, occupational disease and its treatment. Assure by the state all medical services and medical attention in the event of health emergency.² In a global family during the pandemic period attention to treatment to the health of vulnerable communities including disabled, migrated labor, women, children, transgender, and senior citizens. Beside this issue, it is also the quest related to protection of rights of refugee and displaced persons.

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¹East Asia Research Director, Amnesty, International. It is a nongovernmental organization established on May 28, 1961 by Mr Peter Benenson in London. Its function is to raise the voice against the violation of human rights. It is a well established reputed human rights protecting agency in global society.

²International Covenant on Economic, social and Cultural Rights 1966 Art 12 (2) ©, General Assembly of United Nations opened for signature to the member states with the object that principles proclaimed in the charter of the United States, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, peace in the world.

The way to the effective of management of the pandemic was the application of doctrine of non-discrimination, participation, empowerment, and accountabilities to all policies for human society. Any kind of coercive measures which violates the human rights is not permissible in any time. The effect of COVID 19 is a global crisis thus; it is a need in the co-operative society the cooperation and help to each other for developing of vaccine and proper treatment.

Dainius Puras special Rapporteur of Human Rights Council said, "Advances in biomedical sciences were very important to realize to right to health during this pandemic, but equally important were protection of human rights. The principles of non-discrimination, participations, empowerment and accountability are needed to be taken into consideration.³ During the pandemic Crisis right to privacy, while using technology is needed to be protected. Rights of health workers and Corona preventive volunteers are also needed to be protected. The persons are living in poverty, their rights are needed to be protected, promoted and safeguard. All persons have human dignity and have the right to pursue happiness. State is under obligation to confirm, guarantee and safeguard all kinds of rights of individual during pandemic period by adopting the principle of maximum satisfaction and minimum fractions.

2. QUEST OF HUMAN RIGHTS UNDER WHO DURING CORONA VIRUS

Balancing aspect of human rights is that "everyone has the right to protect his health and development of his personality in so far as he does not violate the rights of others or offend against the Constitutional order or the moral Code".⁴ Concept of the maximum satisfaction of the people during COVID 19 accepted by World Health Organization and Director General of WHO Dr Tedros Adhanom Ghebreyesus said "all countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights."⁵ Human rights frame work provides a crucial structure that can strengthen the effectiveness of global efforts to address the pandemic.⁶ COVID 19 has effected to all human beings without considering any kind of discrimination of religion, caste, sex, color, race, language, religion, political, or other opinion, national or social origin, property, birth or other status. It means it is a secular virus, if it is a secular virus its prevention should be globally regardless of any kind of factors and influences. Henceforth, this virus globally recognized by the WHO as a pandemic.

The COVID 19 Pandemic has serious effect on rights of human beings generally economics, livelihood, education, culture, politics and society and particularly the health of every individual. Every kind of human rights of human being has influence by the COVID 19. Thus, on March 11, 2020 the World Health Organization (WHO) declared that an outbreak of the viral disease COVID 19 first identified in December 2019 in

³Human Rights Council discussed human rights applications of the COVID 19 Crisis with its Special procedure mandate holds as originally published on 30 April 2020.

⁴Basic Law of Federal Republic of Germany: 1949 Article 2 (1)

⁵WHO Director General Media Briefing March 11, 2020

⁶Ibid



Wuham, China, had reached the level of a global pandemic. Citing concerns with "the alarming level of spread and severity". The WHO called the government to take urgent and aggressive action to stop the spread of virus⁷.

The global and national COVID 19 responses have presented unique and rapidly shifting challenges and human rights of the people around the world. As countries identify ways to address COVID 19 integrating human rights protection and guarantees into our shared responses is not only a moral imperative, it is essential to successfully addressing public health concern.⁸ United Nations Gender Equality Measures on COVID 19 report, rebels that 70% women and girls are affecting by pandemic, they are sick at home.⁹ They are at increased risk of infection and loss of livelihood, existing trends point to less access to sexual and reproductive health and rise in domestic violence during crisis. It is in categorically in violation of human rights of women worldwide. Women who have under the reproductive cycle are suffering the health protection and economic crisis. They have serious problem of their livelihood. COVID 19 Pandemic is violating the human rights especially of women. In the same way people who are homeless, refugee, migrants, and prisoners also the victim of COVID 19 pandemic.¹⁰

World Health Organization has very important role to protect health of deserve class who has no resources during the COVID 19 Pandemic. A comprehensive, ethical guidance and expertise contribution of the World Health Organization is required to be perform by the all-human beings of the global society.

3. CONTRIBUTION OF GENERAL ASSEMBLY

In modern society and latest concept of human rights is originated by the Charter of United Nations.¹¹ Preamble of the Charter asserts that "we the people of the United Nations determined "to affirm faith in fundamental rights, in the dignity and worth of the human person, in the equal rights of the women and men". Article 3(b) of the Charter imposed the responsibilities on the General Assembly of the United Nations that "General Assembly shall initiate studies and make recommendations for the purpose of promoting international co-operation in the economic, social cultural, educational and health fields and assisting in the realization of human rights and fundamental freedoms for all without distinction as the race, sex, language or religion". It is also the duty and responsibility of Economic and Social Council that to set up commission in economic and social fields and for the promotion of human rights and such other Commissions as may be required for the performance of its function.¹² Due to the efforts of the Social Council Universal Declaration of Human Rights has framed and General Assembly have

⁷Human Rights Dimensions COVID 19-Response.

⁸Supra Note 5.

⁹UN Gender Equality Measures in COVID 19 Response available at <https://www.unwomen.org/en/news/infocus/in-focus-genderequality-in-covid-19-response> on 20th August 2020.

¹⁰UNHRC/OM, OHCHR and WHO joint statement on right to health of refugee, migrant and stateless persons must be protected in COVID 19 response available at <https://www.ochr.org/EN/news-events/pages/displynews.aspx>

¹¹Charter of the United Nations was signed on 26th June 1945, in San Francisco and it came into force on 24th October 1945. The statute of the International Court of Justice is an integral part of Charter.

¹²Charter of United Nations 1945; Article 68

adopted and proclaimed it by resolution No. 217 A (III) on 10 December 1948¹³. Remedial forum for the enforcement was Human Rights Commission at International level, but now it has been changed by the United Nations General Assembly on 15th March 2006 by resolution No. 60/251 created Human Rights Council.¹⁴

The efforts of the United Nations for the protection and promotion of the human rights are from its inception and during COVID 19 Pandemic, it has played very effective role and laid down some norm for the same. In these norms in this centric point is that no discrimination should be made by any member state. Maximum availability of resources at national and international to ensure availability, accessibility and quality of health care as a human right to all without discrimination including other than COVID 19.

Six norms and ways as laid down by United Nations for the protection and safeguards of human rights are essential for the guidelines of member states.¹⁵ These areas-

- a) In new report the United Nation wants of "aggressive cyber-policing and increased online surveillance during lockdown".
- b) In the beginning most of the nations closed their borders, making no exceptions for people seeking asylum; there are also increased reports of domestic abuse the globe.
- c) United Nations calls for richer countries to help proper ones overcome the disease to lessen the need for punitive lockdown.
- d) Threats due the virus to people of global society.
- e) No country can beat Novel COVID 19 Pandemic alone; therefore, global cooperation as a family is essential.
- f) When we the people of world community will recover, we must be better as we were before. Secretary General Mr. Guterres observed about the progress and protection of human rights after recovery from COVID 19.

Our shared human condition and values must be source of unity, not division. We must give people hope and vision of what the future can hold. The human rights system helps us to meet the challenges, opportunities and needs of 21st century, to reconstruct relation between people and leaders; and to achieve the global stability, solidarity, pluralism, and inclusion on which we all depend. It points to the ways in which we can transform hope into concrete action with real impact on people's lives. It must never be a pretext for power or politics. It is above both¹⁶. Global solidarity during pandemic is for rapid recovery and eradicating to diseases is in the interest of human society. World community as whole should treat it as challenge for the betterment and economic development.

¹³Universal Declaration of Human Rights 1948 adopted in Paris, before its adoption there was a conference in 1947.

¹⁴The first session at the time of passing the resolution took place from 19 to 30 June 2006. The Human Rights Council also works with the UN special procedures established by the former Commission on Human Rights and now assumed by the Council. It meets for at least 10 weeks per year of the United Nations Office in Geneva, Switzerland usually taken place in March.

¹⁵<https://www.humanrightscovidapril2020.pdf> visited on August 24, 2020.

¹⁶Ibid.



4. HUMAN RIGHTS OF PRIVILEGED CLASS

The most suffers by Novel COVID 19 Pandemic are physically challenge persons, pregnant women, children, aged persons, migrated labors, refugees, stateless persons, street vendors and domestic workers. Livelihood of human beings during COVID 19 is one of the main issues especially in those areas where there are contentment, micro contentment and lockdown zones. Main area of affected human beings and United Nations efforts can be discussed in summary manner in the following ways-

4.1. Human Rights of the Persons with Disabilities

United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on 13th day of December 2006.¹⁷ Human diversity and humanity is the top priority of the Convention. Development the physical and mental capacity is the goal and object of the Convention. During the COVID 19 at international level the following measures are taken to be consider by the member states for protection of human rights of persons with disability-

- a) The people with disabilities are not only facing greater risks from COVID 19 but they also are disproportionately affected by response measures, including lockdowns. To address this double risk, United Nations High Commissioner for Human Rights needs to be engaged persons with disabilities in the COVID 19 response, adapting plans to address their needs.¹⁸
- b) People with disabilities are in danger in their own homes, where access to facilities are limited due to lock down, and some may suffer greatly from being isolated and confined. It requires taking specific steps for preventing further harm.
- c) Persons with disabilities facing even greater threats in institution, as care facilities have recovered high fatality rates from COVID 19 and horrific reports have emerged of neglect during the pandemic. Now time is to support community-based arrangements wherever possible.
- d) Access on line education by persons with disabilities is also concern to promote human rights of those persons by providing suitable technical support.
- e) Medical decisions need to be based on individualized critical assessments and medical need and not on age or other characteristics such as disability.¹⁹

The above-mentioned norms for the protection of human rights of the persons with disabilities as laid down by the United Nations High Commissioner are targeted measures for implementation by the member states during the COVID 19 Pandemic.

¹⁷Object of Rights of Persons with Disabilities Convention 2006 is to provide equal opportunities, respect for inherent dignity, individual autonomy, non-discrimination, accessibilities, equality between men and women, respect to children, full realization of human rights and fundamental freedoms etc to the persons who are physically challenges. Beside the convention there is One Optional Protocol. Fifty articles are in Convention and eighteen articles are in Optional Protocol.

¹⁸United Nations High Commissioner for Human Rights Reports 30 April 2020: Michelle Bachelet said about the protection of persons with disabilities during COVID 19.

¹⁹UN High Commissioners on 30th April 2020 as Geneva Guidance for the human rights of persons with disabilities. Major concern and set out key action in the context of pandemic. rcolville@ohchr.org/jroerence@ohchr.org

4.2. Human Rights of Pregnant Women

During the corona period most, affected persons are pregnant women, because a fetus who is in the womb of the mother may be affected and life of both are required to be protected. Though for the protection of the women various international and national human rights legal instruments are in force²⁰. However during this pandemic period no right and facilities as it was providing before the pandemic, not possible and practical.

The health of pregnant women requires to be protected either during pandemic or otherwise. COVID 19 pandemic is not affecting only the health of pregnant women but it is affecting all the human rights of women. It is a ramification on livelihood, social relation, political activities, religious functions, and cultural aspect of women. The impact on women of COVID 19 is in frontline and home, result of which is discrimination in distribution of limited resources. Beside this, gender-based violence, including domestic violence is increasing, and economic inequality is also the matter.²¹

United Nations women forum is monitoring and undertaking rapid assessment of violence against women and girls. COVID 19 in money countries including Bosnia, Herzegovina, Egypt, Fiji, Jordan, Lebanon, Libya, Malawi, Morocco, Palestine, South Africa, Tonga, and Vanuatu is affecting the rights of women. The safe and fair programme in Asia Pacific reports increased risk of sexual exploitation and violence by police and armed guards at border controls, and heightened risk of psychological violence to women migrant workers who lost their jobs and are no longer to support their families.²² The health of pregnant is more sensitive required to be alert on pregnancy related warning signs. It is essential that take care of pregnant women and their babies. The remedy is stay home, avoid meetings outside the home. Always pregnancy delivery should be conducted in hospital by medical expert for safety and taking precaution of mother and child.

A survey of United State of America reveals that among 91412 women of reproductive age with Corona virus infections, 50% out of 8207 who were pregnant, more likely to end up in intensive care units (ICUs) than their non pregnant peers. Pregnant women were also 70% more likely to need ventilators, although they were no likely to die.²³ The figure of 50% infection by Corona is too much and affected women are in intensive care units is also very serious concern for the purpose of the violation of human rights of pregnant women.

Another survey of Sweden during 4 weeks in March and April, calculated infected pregnant women's rate is also a subject matter of serious concern. Admission compared

²⁰The preamble of the United Nations Charter states that "to reaffirm faith in fundamental human rights, in dignity and worth of human person, in the equal rights of men and women". Convention on the Elimination of All Forms of Discrimination against Women, in Indian Constitution Article 15 (3) provides that "Nothing in this Article shall prevent the state from making any special provision for women and children". Article 42 of the Indian Constitution also provides that for maternity benefits shall made by the state, competent legislature has already implemented this mandated by legislate the Maternity Benefit Act 1961, Article 47 also provides that "duty of the state to raise the level of nutrition and the standard of living and to improve public health" etc.

²¹Source is unwomen.org

²²Ibid.

²³Source- centers for Disease Control and prevention (CDC) late June.



with that of infected, non-pregnant women of reproductive age. The study is confined only on 13 corona virus infected pregnant women and 40 non pregnant infected women were admitted to Swedish ICU which is caused by a virus.²⁴ Pregnant women accounted for 5% US deaths, although they constitute about 1% of population. One study found pregnant women with severe acute respiratory syndrome (SARS) which is caused by a virus that is a close cousin of SARS-COV-2 were significantly more likely to be admitted to the ICU and to die than non-pregnant peers²⁵. The safety of pregnant women is more important rather than the safety of normal person, thus, the human rights of those women should be protected and promoted with very cautiously.

4.3. Human Rights of Migrated Labors

Universal Declaration of Human Rights provides the provisions that everyone, as the member of the society, has the right to social security and entitle to realization, through national efforts and international co-operation and in accordance with organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.²⁶ The same declaration also gives the security to worker and work, it prescribes that "everyone, has the right to work, to free choice of employment to just and favorable conditions of work and to protection against the unemployment"²⁷. Everyone, without any discrimination, has the right to equal pay for equal work.²⁸

Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.²⁹ Everyone has the right to form and join trade unions for the protection of his interests.³⁰ Everyone has the right to rest and leisure, including reasonable limitation of the working hours and periodic holidays with pay.³¹ Everyone has the right to standard of living adequate for the health.³² Part III of the International Covenant on Economic, Social, and Culture Rights 1966 also provides about the human rights of worker which includes migrated labor that right to work, living work and safeguard of work, right to get technical, and vocational training, just and favorable condition of work and safety of health in work place.³³ These rights are for the workers but these human rights are also applicable on migrant labors.

International laws are in protection of the human rights of migrated labors and at present in pandemic crisis these laws should be followed by every member state of United Nations. These laws are not only in UDHR and CESCRC but these are in the

²⁴Research paper on Sweden situation; known as "Acts Obstetricians et Gynecological Scandinavian".

²⁵Ibid.

²⁶Universal Declaration of Human Rights 1948, Article 22.

²⁷Ibid Article 23 (1)

²⁸Ibid Article 23(2)

²⁹Ibid Article 23(3)

³⁰Ibid Article 23(4)

³¹Ibid Article 24

³²Ibid Article 25 (1)

³³International Covenant on Economic, Social and Cultural Rights 1966, Article 6 & 7.

International Convention on the Protection of the Rights of the All Migrant Workers and Members of Their Family 1990³⁴. In the Convention all the rights including nondiscrimination,³⁵ right to leave state³⁶ free from torture³⁷ freedom from slavery³⁸ right to thought and expression³⁹ right to equality⁴⁰ freedom from the expulsion⁴¹ name and registration⁴² same treatment as equal to national⁴³ medical care and treatment⁴⁴ and trade union rights of the migrant labors and their families has also been protected.

On the same line other International legal Instruments are also in protection of labors, workers including migrated labors Convention on All form of Elimination of Discrimination against Women 1979 Article 11, Convention on the Elimination of Racial Discrimination 1965 Article 5, Convention on the Rights of Child 1989, Article 7,9,10,15,29,28,27&30, ILO force Labor Convention 1930 Article 9, ILO Freedom of Association and Protection of Rights of Organized Convention 1948 Article 2, ILO Discrimination (Employment and Occupation) Convention 1958, Article 2, ILO Minimum Age Convention 1973, Articles 1,2,&3, Vienna Declaration 1993, Paragraphs 24,33,&34, CariaProgrammed of Action 1994 Paragraph 10.10, 10.12, Copenhagen Declaration 2018, Paragraph 3&4, Copenhagen Programme of Action 1946, Paragraph 63, and Beijing Platform for Action 1995 Paragraph 58 (k), and 58 (l) and 125 (b) and (c) etc.

All persons regardless of their nationality, race, legal or other status are entitled to fundamental human rights and freedoms. This is applicable to all the labors and workers. Migrant labors and their families are also entitled to get these benefits of protection.

5. CONCLUSION AND SUGGESTIONS

Universal Declarations of Human Rights, International Covenant on Economic, Social and Cultural Rights, International Labour Organization Declaration and Conventions provides universal, indivisible, interconnected and inter dependent human rights of all human beings during COVID 19 Pandemic. Object and purpose of human rights is to protect everyone regardless of race, national or ethical origin, sex, religion, or any other status. Present situation of global society in crisis, human health and rights are required to be protected by cooperative efforts of all human beings. In a society where everyone is

³⁴General Assembly Resolution 45/158 of 18 December 1990

³⁵International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990, Article 7

³⁶Ibid, Article 8.

³⁷Id Article 10

³⁸Id Article 11

³⁹Id Article 12

⁴⁰Id Article 18

⁴¹Id Article 24

⁴²Id Article 29

⁴³Id Article 27

⁴⁴Id Article 28



a member of family must cooperate to each other. At present for getting and enjoyment of full freedom it is essential to live safe, self-assessment, spiritual pleasure, educational enjoyment, and maintain social distance. It is the duty of everyone to observe and follow the guidelines of World Health Organization.

Every human being has the moral and legal duty to observe the guidelines of WHO for protecting and promoting the rights of labor, farmer, women, physically challenged persons, transgender, senior citizens, and children. Economic discrimination is requires to be removed, much help from Government and NGO is also requires to be provided in the interest of general public. Indian ancient culture should be followed. Advice of the medical officer should also be followed. Continuous exercise should be done by every human being on the basis of own choice as new dimension of human rights. The persons who are suffering by any kind of diseases like hypertension, diabetic, heart problem, kidney problem, liver problem and brocades etc.require more precautions. Sanitization and handwash should be done continuously. Migrated labors real and practical human rights should be protected with full spirit of social welfare, pregnant women, children and senior citizens human rights during pandemic period should also be protected with letter and spirit. Rights of human beings are not only bundle of enjoyment but a bundle of duty. Human rights are for cooperation and help to each other's, perform social duties and follow the concept of self-determination. All the human rights are for the faith in fundamental freedom, dignity and worth of human beings.