

Introduction to Political Theory
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Lecture – 9
Right I: Introduction & Forms of Rights

Hello and welcome friends. Today, we are going to start a new concept called rights. We are going to have three lectures on rights. We are going to focus basically, on what is right and how it is related to obligations or claims. How certain rights are considered as universal and necessary for the proper and full growth of individuals and his or her personality? Whereas, there are some other kind of rights which emphasis that individuals should have rights, because he or she is a part of a particular community. For instance, group rights or community rights, or rights which are the basis of individuals belonging to a particular community.

There are discrepancies between those rights which are considered as universal, such as human rights and those rights should be made available to individuals because of his or her being as individuals or members of humanity. There should not be any discrimination on the basis of his social, cultural, or religious backgrounds. Whereas on the other hand, many scholars particularly, multi-culturists or communitarians have argued, individual is not just a self-defining individual, but also, a member of a particular society or community. Therefore, certain rights must be given to those individuals, especially, who belongs to a marginal or minority community.

There is a kind of discrepancy between these rights which we are going to discuss. Finally, we will briefly, discuss the justifications of rights, its basic features and different kinds of rights. In the next lecture, we will be discussing these forms of rights or kinds of rights in some details. Moreover, we will discuss about human rights and its relationship with duties.

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Intro

Rights are those conditions of social life without which no man can seek in general, to be himself at his best.
- Harold J Laski

- Discourses on rights are fundamental aspect of modern political philosophy. Rights are understood as claims which are essential for the proper and full realizations of individual's potentials. However, not all claims are necessarily rights. In order for claims to be regarded as rights society or state must recognize them. In other words rights are recognized claims.
- Rights protect the individuals from the arbitrary exercise of power by the state or the society. Thus, it is claims or entitlements of individuals against the society or the state. There are gradual evolutions of the rights from civil and political rights, to socio-economic rights to cultural and environmental rights. Now increasingly focus is shifting towards human rights, right to clean air or safe drinking water, sustainable development, rights of children and unborn foetuses or animals right and so on.
- Thus, rights are of various types and with the progress of technology as society faces new threats there are new additions to rights. So, the definition as well as the scope of rights are subject to change depending upon the development and requirements of a particular society. Although, there is discourse on 'universal' human rights which argue that certain minimum basic rights must be provided to everyone. However, there are also many scholars and theorists who argue about the rights of the cultural minorities and group differentiated rights. Thus, there are contestations about the meaning and the scope of rights. It is meant both for the individuals as well as for groups and communities.

To start with the idea of rights, we can begin with Harold J Laski's statement about rights. Here, rights are those conditions of social life without which no man can seek in general, to be himself at his best. For men, to be him, to own his own personality, to develop his own character requires certain rights which must be recognized by the society or state.

Those recognition and protection of rights are essential for the individual to develop himself fully or to develop his own personality or character. So, there are certain rights, and spheres of life, where individuals must be left free and this idea of certain spheres of life must be free and it is something, which we have discussed while discussing about freedom, liberty and inequality. The rights are something, more than just the conditions of freedom or the understanding of individuals being equal to the rest. Rights are certain entitlements and claims which are of individual interests or in case of group rights interests which may be against the society or state.

Thus, rights are those claims which must be recognized by the society or state and the recognition of those rights and protection of rights are considered as essential for the individuals to develop fully, to be at himself or to be the best version of himself. This discourse on rights is fundamental aspect of modern political philosophy. If we remember, the 17th and 18th century political philosophers have argued about natural

rights, and certain other rights which individuals had not enjoyed because of his membership of a particular social or political community, but because of natural law.

This understanding of natural law or rights on the basis of a natural law has certain obligations for the society and state to recognize certain rights which are inalienable from individuals. And the individual is considered as the self-defining, rational, and autonomous individual who knows what is good for him or her. And therefore, society and state must recognize these certain rights for that individual to develop himself and herself in the ways, which he or she deems fit for themselves to become.

This course on rights is very fundamental aspects of modern political philosophy and it is understood as claims which are essential for the proper and full realization of individual potential. First, rights, and discourses on rights, we often, heard from many quarters including, many individuals and groups. So, in modern times or in contemporary times, we extend discourse on rights from individuals or humans to non-human, such as animals and to natural phenomenon like rivers or mountains. In some nation-states, there is recognition of the rights of rivers or these natural phenomena which do exist alongside the rights for human.

There is a kind of extension of rights, beginning from the individuals or human-beings to the non-humans to the end, such as animals or natural phenomenon, like rivers or mountains. So, the ecological and other things are about this idea about sustainability and right to sustainable growth. We will see a range of rights under the discourse on rights and there is always, a new addition depending upon the development and growth of the society which we will discuss as we proceed.

The idea is the very formation of modern state which is based on certain assumptions and one of the assumptions for the formation of the state is that it recognizes the individual as a right bearing citizen or a member. Therefore, state has certain obligations to recognize certain rights of individuals and also, it must protect those rights.

So, the very premise of modern state or political philosophy is based on this conception of rights which is regarded as claims and which are essential for the proper and full realization of individual potentials. Now, all the claims, however, is not necessarily, rights. The claims that an individual may have is not necessary, that all these claims

which individuals makes are against the society or state can be automatically, or necessarily, be regarded as rights.

In order for claims to be regarded as rights, there is the difference between claims and entitlements and rights. The claims and entitlements enables the individuals to make certain choice, to do something or to get something done or to not to do something. So, the rights has some elements of choice, some elements of voluntarily action on the part of the individuals, it enables and gives the individual his or her due in the society or being a member of that society.

However, all the claims or entitlements that individual may seek from the society or the state may not be necessarily, regarded as rights. For the claims and entitlements to be regarded as rights, the society or state must recognize them. So, the recognition of one's claim or entitlements is essential for making a claim or entitlement as a right. For example, in contemporary India, there is a debate about right to information. Now, this demand is made from below or from the community, or from the grass root workers or voluntary ordinaries.

They demanded that they have the right to know, role of officials or about the progress of certain projects or how much money is spent on projects? etc. So, this right to information is for a very long time, demanded by the grass root workers, activists or organization, volunteer sectors of organization.

Unless and until, the state enacted legislation or passed a law, thereby, recognizing their demands that demand is not regarded as right. Now, after enacting that legislation, Right to Information Act came into existence, and the right to information has become a right. Similarly, there is a demand for employment. This is merely, a demand which individuals or group of individuals may claim against the society or for the state. But such demands or claims can be a right only, when the state and society recognizes those claims.

For example, in contemporary India, the right to employment or right to food is something, which we are going to have as a right not merely, as a demand or claim from the society or state. In other words, rights are recognized as claims and those claims are recognized by the society and state which is very important to understand that rights are basically, claims or entitlements of individuals. But not all claims or entitlements are

rights for claims or entitlements to be regarded as rights. The society or state must recognize them. In other words, rights are recognized as claims. Now, rights protect individuals from arbitrary exercise of power by the state or society.

For the growth or full development of individuals and his or her personality, it is required the individuals as self-defining ones. So, the understanding of individual, here, is an autonomous individual or a self-defining rational subject. Now, this self-defining, rational and autonomous subject must have certain rights which prevent the society and state to interfere in certain domains of his or her life which is absolutely, necessary for him or her to develop his or her personality, or to develop his or her own characters.

What those areas are? What are those rights? Those rights are considered as essential for the individual growth and personality, which is something not unanimously, agreed upon and with the growth of society, there is addition of new kind of rights.

Yet whatever be the understanding of those areas or rights, it protects the society or state from interfering into those spheres or domains of individual rights. Thus, it protects the individual from arbitrary exercise of power by the state or society. It is the claims or entitlements of individuals against the society or state. Gradually, it leads to the evolution of rights as I have been saying, so what once regarded as fundamental, basic or natural rights of individual, we may add more rights to them and we see a kind of continuous extension of rights like civil rights and political rights.

Thus, civil right is something regarded as absolutely, necessary for the growth of individuals. Suppose, when discourse on natural rights were happening, only the male member or the white members were regarded as entitled to those rights and these could be extended to women. But political right, for a very long time was the domain for white male members in the society and not the women as such. For them, to get this right to vote, that is, political right, they have to fight a long struggle. So, it led to constant extension or addition of new rights. We have seen thus, development of rights, like- from civil to political rights, social, economic rights and cultural or environmental rights.

However, no longer, the civil and political rights are regarded as enough or sufficient for individual growth, particularly, for those who do not have their basic needs, such as right to food, shelter, and health care. So, without these rights, civil and political rights make very little sense for them. Again, there is gradual progression of rights, where social and

economic rights are regarded as important as civil and political rights, and perhaps, more important, because it may make enable the individual to exercise his or her political and civil rights.

We increasingly, now discuss about what the environmental right is. They are rights, such as right to clean air, right to safe drinking water, sustainable development. So, these are some of the extension of rights. Now, increasingly, focus is shifting towards human rights and no longer, merely, the justification of rights comes from natural rights theory.

The human rights theory, argues, there are certain minimum rights which should be made available to everyone without any discrimination, on the basis of his or her social national, ethnic, or religious backgrounds. So, human rights, like right to clean air, safe drinking water, sustainable development, right of children or unborn fetuses or animal rights, etc

There is a constant growth from one set of rights to another and also, more other kinds of right. So, the rights are of various types. With the progress of technology as society faces, new threads or challenges appeared and there took place new addition to rights as well. The definition and scope of rights is subject to change, depending upon the development and requirements of a particular society.

The society in the 17th and 18 century had particular kinds of requirement. So, the rights deemed necessary for the growth of individuals were different in nature. The 21 century society faces different kinds of challenges and in that kind of society, individual requires different sets of rights and therefore, the scope of rights constantly, change. Although, there is a discourse on universal human rights which argue that certain, minimum basic rights must be provided to everyone without any discrimination.

However, there are many scholars or theorists, who argued about the rights of cultural minorities or what they call as group differentiated rights. So, not one set of rights which should be made universal and applicable to everyone. We must also, be sensitive to the cultural or social backgrounds of individuals, when we discuss about certain rights which must be recognized and protected by the state or society.

There are also, the contestation about the meaning and scope of rights which we will see, as we move from this introductory lecture to understand different kinds of rights,

different forms of rights and what are the inner tensions within those rights. Rights are then, meant both for the individuals as well as the groups or communities. So, certain rights which individual may have are because of him or her being regarded as human. So, human rights or universal declaration of human rights are such approaches which argue that certain rights should be made available to everyone without any discrimination.

The other kinds of rights, for instance, are the rights of cultural minorities or ethnic minorities or immigrant groups or those from the disadvantageous groups. Now, the individual belonging to these communities require some differential treatment or differential kinds of rights. So, there are many theorists and scholars, who knew about this group differentiated rights. Rights in that sense, simultaneously, belong to individuals and also, to the communities and groups.

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➤ Another crucial aspect of rights is its connection with obligation or duties. Rights are meaningless if it do not invoke obligation or duties on the part of other. So, one person's rights or claims or entitlements is necessarily another person's obligations. And to maintain a balance between the two is not always an easy task. Some scholars prioritize rights over duties and obligations however there are others like Gandhi who give primacy to duties.

➤ Simply speaking, right is about getting 'one's due' i.e. to get what is due to someone as a human being, as an individual or as a member of a group or community. To have a right, then, is to be entitled to do something or to have something done; for example: to vote, to speak and so on. It is different from obligation/duty as Hobbes pointed out. Obligation is required for the rights to be enjoyed but it is not equal to rights.

➤ Rights are those claims that individuals make against the state or society which need to be secured by law or the constitutions. So there are broadly speaking two kinds of rights - legal and moral. The basis of these two rights are different where the former is legally enforceable the latter is not. Rights are regarded necessary for the individuals to lead a good life with respect and dignity; to help individuals to develop talents and skills; to ensure the well being of not only individuals but also the society.

The other crucial aspects of rights are its connection with obligations and duties. So, rights are meaningless, if it does not invoke obligations or duties on the part of others. Person's rights or claims or entitlements, necessarily, require other individuals or groups, society or the state to have certain obligations towards those individuals and similarly, same individual must also, recognize the rights of others. Therefore, other rights become one's own obligation, to recognize or extend those rights to other individuals also. So,

one person's rights or claims or entitlements are necessarily, another person's obligations, and to maintain a balance between the two is not always, an easy task.

Some scholars prioritized rights over obligations. So, they consider rights are something, uncompressible and it must have priorities over, like obligation, where as some other scholars like Gandhi gave primacy to duties. Gandhi, used to argue, if the individual is willing to do his or her duty, then he will get automatically, his or her due in the form of rights. So, what should be of prime importance for an individual is his duty and not really, the right. However, many scholars, societies, groups and individuals are more concerned, and in favor of, demanding certain rights and getting those rights recognized by the society and also, the protection of those rights as well.

There is also, this tussle between obligations or rights or duties and rights, simply speaking, right is about getting one's due to get what is due to someone, as a human-being or as an individual or as a member of a group or community and this can be starting from the cultural, religious community to the national community as well. The right is about getting one's due because he or she is a human-being or an individual or as a member of a particular community. Therefore, being member of a particular community, he or she is entitled as individuals, to demand certain claims from that community, society or groups.

So, to have a right, then, is to be entitled to do something, or have something, done is about choice, it is about voluntary action which is different from obligations. For example, right to vote or to speak is something, which can be regarded as rights. It is different from obligations. Obligation or duty is something, which you do for others and there the choice or the claim of doing or not doing something, is simply absent. Let us discuss about Hobbes idea of political obligation, as why we should obey the state. Because, we ourselves have created that state or sovereign by the very nature of its creation than sovereign's certain demand or obligation and we are duty bound to oblige or obey the sovereign.

The obligation and duty are pointed out by Hobbes as different from the rights. So, obligation is required for the rights to be enjoyed, but it is not equal to rights. It is necessary. So, rights and duty must go hand in hand, but it is not equal to each other. The obligation is what you are obliged to do for others, for the society, state, and other

members in society. But rights are your due, your own entitlements or claims against other members or society or the state. So, rights are those claims which individuals make against, the state or society which needs to be secured by the law or constitution. Thus, there are broadly, speaking two kinds of rights. They are- legal and moral rights that we will discuss later on.

Basically, there are different kinds of rights, like the legal rights or moral rights or human rights. However, many theorists have argued, only, the legal rights has the force of law, to recognize and also, to protect, which can be truly regarded as rights. For moral rights or human rights, it cannot be enforceable in the court of law. However, it has certain authority in the sense of, the consensus, in the sense of every member in the society or groups in society recognizes those rights.

However, it cannot be enforceable, as legal rights can be. So, if we have certain fundamental or legal rights, and if those rights are violated, we can request to the court of law. But if our moral rights or human rights are violated, there is very less chance of or less scope of protecting those rights. Ofcourse, there are international agencies, such as UN bodies which tries to protect human rights.

But it is not as enforceable as the legal rights or what we call fundamental rights in different constitutions. So, the basis of these two rights, that is, moral and legal rights are different, where former is legally enforceable, and the latter is not. So, rights are regarded as necessary, for the individuals to lead a good life with respect and dignity, to help individuals, to develop talents and skills, and to ensure the well-being of not only, individuals but also, the society. Thus, the rights are necessary, for these purposes.

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Some basic features or characteristics of rights are as following -

- Rights are claims of the individuals and exist only in a society. These are the products of social living.
- Rights are recognized by the society as common claims of all the members of that society. Rights are rational and reasonable moral claims that individuals seek to get recognized by the state or other members of the society.
- Rights are equally available to every member of the community unless the difference in the treatments are duly justified.
- The contents of rights keep changing with the passage of time and new rights are included i.e. Right to education as fundamental rights in India or MNREGA, or RTI and so on.
- Rights are not absolute. There are always some reasonable restrictions on rights that are deemed essential for maintaining public health, security, order and morality.
- Rights are inseparably related to duties. There is a close relationship between the two. 'If I have rights it is my duty to respect the rights of others in society'.
- Rights need enforcement and only then these can be regarded as rights. These are protected and enforced by the laws of the state. It is the duty of a state to protect the rights of the individuals.

Some of the basic features of rights are- rights are claims of individuals and it exists only, in a society, when others exist to recognize those rights and these are the products of social living. Second, rights are recognized by the society as common claims of all the members of that society. So, rights are rational and reasonable moral claims which individuals seek to get recognized by the state and other members of the society.

Third, rights are equally, available to every member of the community and not to a particular member or a group of individuals or privilege members in the society. Rights if, understood as claims, recognized by the society, then those rights are available to every member of society and not to a selected few. However, if there are some differences or some kinds of preferential treatment given to certain groups or individuals from certain groups, then those differences or differential treatment must be duly, justified.

The contexts of rights keep changing as we have discussed from social to the political, to social and economic, to the environmental rights. So, the scope or set of rights constantly, keeps expanding and changing with the passage of time and new rights are included, such as in India, we have a set of fundamental rights and how, the right to education which was earlier not part of our fundamental rights is now, added to it and regarded as the fundamental right. So, every child from 6 to 14 years of age must be

given right to education and this is no longer the entitlement or merely, the claim of the child.

It is his or her fundamental right to demand from the state. State has the obligation or responsibility, to provide free and fair education to a child from 6 to 14 years of age. So this right to education is very well regarded as the fundamental right. We see how such entitlements changes into rights and how increasingly, the new rights are added. For example, right to life. So, what does it mean to lead a life or a good and moral dignified life? In response, the Supreme Court through its judgment keeps on expanding the scope of right to life that is, Indian kind of constitution under the Article 21. Similarly, MNREGA and RTI, that is, Mahatma Gandhi National Rural Employment Guarantee Act and Right to Information Act as I have discussed before each examples of the extension or addition of rights.

Now, rights are not absolute. There are always, some reasonable restrictions on the right which are deemed essential for maintaining public health, security order and morality. Rights are inseparably, related to duties or obligations, and there is a close relationship between the two. If, I have rights, it is my duty to respect the rights of others in the society, without the simultaneous claim or entitlements on the one hand, and obligation on the other. One cannot really, realize true potential by merely, claiming the rights.

So, the claim that one makes necessary, requires the obligation of other and similarly, claims of other requires individual obligation towards other personal rights. There is a kind of intimate connection between rights and obligation, although, both are not same.

Rights need enforcement and only, then these can be regarded as rights. Many people argued that legal rights are rights. Rest of the rights, like moral rights or human rights are based on discretion. The term discretion thus, means a society may not enforce those rights.

But legal rights must be protected and if it is violated, then, the victims can take recourse to a court of law, whereas, some rights like moral rights which has the sanctity of the society and its moral consensus, nonetheless, it cannot be enforced in the court of law. Therefore, those rights are merely, claims not as effective as legal rights are, and many scholars and theorists, argued that rights are those rights which has the backing of the

law or legal rights. So, these are protected and enforced by the laws of the state and it is the duty of the state to protect the rights of individuals.

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Origin and Justifications of Rights

- In the seventeenth and eighteenth century it was argued that individual carry certain rights which are inalienable and derived from the natural law. Individuals are regarded as born with a set of rights. In other words such rights are granted to the individuals not by the state or society and therefore those cannot be taken away. In fact, they argued that society and state must protect those rights and their very legitimacy is based on their capacity to protect those rights of the individual. Some of the rights thus recognized are right to life, liberty and property. - Locke -
- However, in contemporary times rights are regarded necessary not on the basis of natural law, but on the basis of commonly agreed principle that individuals needs certain basic rights because they are human beings and in order to lead a worthy dignified life.
- In recent years there are many theorists who argue about not only individuals rights but also group and communities rights. In other words, they argue about cultural rights which recognizes individual not merely as a self defining autonomous subject but also as an embedded self or as a member of certain communities or groups which give meaning to his/her lives and shape his/her worldviews. And, therefore, while recognizing certain rights of the individuals we must also be sensitive to his socio-cultural and economic backgrounds.

Now, if we talk about the origin and justification of rights in the 17th and 18th century, it was argued that individual carried certain rights which were inalienable and derived from the natural law. So, the natural law or natural justice is a principle for adjudicating any contestation or conflict or conflict of interests, and these are still being practiced, especially, in the 17th or 18th century. The idea of natural law was the basis for adjudicating certain rights, that is, considered as inalienable for the individual. An individual has those rights not because it is recognized by the state or society, but because it is given to him naturally, through the natural law. These rights are therefore, inalienable.

Individuals are regarded as born with a set of rights. In other words, such rights are granted to individuals not by the state or society and therefore, those cannot be taken up by the state or society. Because these rights are inherited by individuals from the 'state of nature', natural law, state, and society. Therefore, it has the obligation or responsibility to recognize and protect those rights of the individuals. So, they argued those who believed in the natural theory of rights that society and state must protect those rights and their very legitimacy is based on their capacity to protect those rights of the individuals.

Some of the rights, thus, recognized are right to life, liberty and property, basically, in Locke. We will discuss it again, in the next slide. However, in contemporary times, rights are regarded as necessary, not only on the basis of natural law, but on the basis of commonly, agreed principles which individuals need as certain basic rights. Because, they are human-beings and in order, to lead a worthy, dignified life, certain rights must be protected. So, these are the contemporary discourses on rights which are more about human rights, legitimacy and origin of rights are not the basis of natural rights or natural laws, but on the basis of individuals regarded as members of humanity or him or her being a human.


So, this being human, entitles the individual to claim certain rights, certain dues or entitlements from the society and state. In recent years, there are many theorists who argued about not only individual rights, but also, about group rights or community rights especially, the multi-culturalists or the communitarians. In other words, they argued about cultural rights which recognize individuals not merely, as a self-defining autonomous subject.

In this discourse and partly, in the human rights discourse, an individual is regarded as an autonomous or a self-defining individual. Now, these theorists, whether communitarian or multiculturalists argued about the embedded self, that is, a self is part of or embedded in his or her social and cultural communities, and this belonging to certain community which is social and cultural gives that individual meaning of his or her life or shapes his or her worldviews. So, when we discuss about his rights, we must be also, sensitive to his social, cultural and economic backgrounds.

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Negative and Positive rights

- Negative rights are those right that are held against the state. It require very little public or collective action besides an established legal order that can guarantee the protection of individual rights. It suggests those spheres where the state is not permitted to enter or interfere. That is some spheres of individuals lives which, in the normal operation of law, should not be encroached upon by the state. For example right to property, right to privacy, freedom for arbitrary arrest, and so on.
- Positive rights, on the other hand are those rights which give responsibility to the state to play a proactive roles in securing the rights of individuals or enabling him/her to exercise his/her rights more effectively. The state must take positive measures to protect the rights of weaker and vulnerable sections in the society or those who are caught in vulnerable situations. For example, right to medical care, right to education, right to work, right to legal aid and so on can be regarded as positive rights.
- Although, there exist analytical differences between the negative and positive rights, however, it should be treated as parts of a continuum and not as two separate and distinct entities.



Again, broadly speaking, one can distinguish between two kinds of rights. One is negative rights and other is positive rights. Negative rights are something, which prevents the state from doing something and positive rights are those rights which require the state to play a proactive role. For example, the right to privacy or right to certain fundamental rights like freedom of speech and expression, these rights prevent the state from restricting, or interfering from doing something, which violates these rights of individuals.

It is a kind of prevention or a restriction on the state. The positive rights, on the other hand, require the state to play some proactive rules, say right to education. So, state must construct a school, recruit teachers to ensure that every child should have free and fair education and opportunity for freedom. So, those are regarded as positive rights. So, negative rights are those rights that are held against the state and it requires very little public or collective action, besides, an established legal order that can guarantee the protection of individual rights, besides, that negative rights are actually, something which prevent the state from doing something.

So, it suggests, those spheres where the state is not permitted to enter or interfere, that is, some spheres of individuals lives which a normal operation of law should not be encroached upon by the state. For example, right to property, right to privacy, freedom from arbitrary arrests.

In the exceptional or extraordinary circumstances, these rights can be violated by following the procedure as established by law. But in normal operation of law, a state must not approach or interfere with these rights of the individuals and these are considered, therefore, as the negative rights. Now, positive rights, on the other hand are those rights which give responsibility to the state, to play a proactive role in securing the rights of individuals or enabling him or her, to exercise his rights more effectively.

For example, the political and civil rights cannot be exercised effectively, by those who are illiterate or poor or sick. So, the state has a role to provide medicine or free medicine or education to ensure that individuals acquire the capability, to exercise his civil and political rights more, effectively. So, the state must take positive measures to protect the rights of weaker or vulnerable sections in the society or those who are caught in vulnerable situations.

For them, the state has a proactive role to play. For example, right to medical care, education, work, or right to legal aid are regarded as the positive rights. So, one can make this difference between negative and positive rights. However, it should be treated as parts of a continuum, where both these rights are in some sense interconnected, also, for the proper or adequate development of individuals.

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Forms of rights

Natural rights

- Natural rights are propounded by social contract theorists. Theory of natural rights is most eloquently articulated by John Locke. The proponents of natural rights theorists hold that people inherit certain rights from the natural law. And before they came to live in society or state, they used to live in the state of nature. In this state of nature, they enjoyed certain natural rights like the right to life, liberty and property. Therefore, they argue that society and state must recognize and protect these rights.
- Before Locke, Hobbes also propounded the theory of natural rights which can be traced to his conception of state of nature where in the absence of any authority people had absolute rights which made the state of nature a state of perpetual war of each against all. A necessary pre-condition to end this anarchy for Hobbes was to surrender those rights except right to life to Leviathan i.e. the sovereign. Locke, however, postulates that man surrendered only some of his natural rights on the condition that his fundamental rights, that is right to 'life, liberty and property' shall be protected by the state. If the state fails to maintain these rights, man had the right to overthrow that government. Thus, it was Locke who tried to demonstrate how natural rights—that is the rights derived from natural laws – could form the basis of the principles of governance.
- However, several other scholars regard the concept of natural rights as imaginary, excessively individualistic and ahistorical. Rights require its recognition by society as claims for development of the individuals, and therefore state has the responsibility to protect those rights.

We will discuss briefly, some forms of rights which we will discuss again, in the next lecture. The first is the natural rights. The natural rights are propounded by the social

contract theorists, basically, who considered formation of the state on the basis of social contract among the free and autonomous individuals. Now, these theorists are, Locke, Hobbes and Rousseau. In the 20th century, this idea was used by John Rawls in his theory of justice.

The natural right is propounded by social contract theorists and theory of natural rights as most eloquently, are articulated by John Locke. The proponents of these rights hold that people inherit certain rights from the natural law and before they come to live in the society, whether the civil or political society or state, they used to live in the 'state of nature'. In this 'state of nature', they enjoyed certain natural rights in the words of Locke, like right to life, right to liberty and property. Therefore, they argued that society and state must recognize these rights which are not something, that is, recognized by the society and state. But it is something, which individuals enjoyed in his 'state of nature'.

So, the state and society must recognize and protect these rights, and they cannot take away those rights from the individual. Before Locke, Hobbes also, propounded the theory of natural rights which can be traced to his conception of a 'state of nature', where in the absence of any authority, people had absolute rights which made the 'state of nature' a kind of perpetual war of each against all because everyone's life were in danger. At the same time, the protection of life was the utmost concern for the individual. Thus, in protecting those rights, everyone has this absolute right to protect his or her life.

Now, with the absence of authority, the life was always and constantly, at risk or in danger, because there is a constant conflict and war of each against all. So, the necessary precondition to end this anarchy or violence, for Hobbes, was to surrender those rights, except the right to life. So, the very creation of Leviathan and sovereignty is that sovereign to protect the right of life which is the very fundamental or absolute right of the individual. They surrender those rights to create a Leviathan or the sovereign must protect those rights. Therefore, the individual has the obligation to obey the sovereign, to obey the dictates of the Leviathan which we will discuss at some other point of time, but Hobbes also, argued about this natural right as well.

Locke however, postulated that man surrendered only, some of his natural rights on the condition that his fundamental rights, that is, right to life, liberty and property shall be

protected by the state. So, if the state according to law, fails to maintain or to protect these rights, then man had the right to overthrow that government or states. Thus, Lockean conception of state is of minimal state which must protect or recognize individual rights and its only, task is to protect those rights and such rights are right to life, property and liberty.

If the state fails to protect those rights, then the individual has the right to revolt against that state also. Thus, it was Locke who tried to demonstrate how, natural rights, that is rights derived from natural law could form the basis of the principles of governance. However, many scholars and theorists, have criticized this natural right as being imaginary or excessively, individualistic. Because, it focuses on the individual as a self-defining autonomous subject and 'a historical'. There is no historical evidence to prove that there was a 'state of nature'.

It is the hypothetical imagination that there existed a 'state of nature' and in that 'state of nature' human-beings as an individual had certain rights, and the civil and political society or the state must recognize those rights. So, many theorists and scholars, argued natural rights, as imaginary, or excessively, individualistic and 'a historical'. So, rights require its recognition by the society as claims for development of individuals and therefore, state has the responsibility to protect those rights.

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Moral rights

➤ Moral rights are those claims which are based on morality and ethics. They are backed by moral authority of the individual and society. These are based on their sense of fairness and justice. These are not backed by the force of law. That means, if a person violates any moral right, no legal action can be taken against him. Moral rights include commonly agreed rules or principles of good moral conduct, courtesy and behavior. Unlike legal rights it is applicable to all men irrespective of his nation, community or social economic background.

Legal rights

➤ Legal rights are those rights which are recognized and can be enforced by the state. Any violation of legal rights is punishable by the procedure established by law. Law courts of the state enforce these legal rights. These rights can be enforced against individuals and also against the government. In this way, legal rights are different from moral rights. Legal rights are equally available to all the citizens without any discrimination. They can go to the courts for getting their legal rights enforced.

Now, moral rights as we have discussed are those claims which are based on morality and ethics. They are backed by the moral authority of individuals and society. These are based on the sense of fairness and justice, and not backed by the force of law. That means, if a person violates any moral rights, there is no legal force to ensure its implementation. So, it includes commonly, agreed rules or principle of good conduct, courtesy and behavior which is commonly recognized in society. Unlike legal rights, it is applicable to all men, irrespective of his nation, community and social, economic background. Legal rights, inherently, is in that sense, limited to those members who are part of a particular community that may be the state or a nation.

The legal rights are those rights which are recognized and can be enforced by the state. So, any violation of legal rights is punishable by the procedure established by the law and law courts of the state which enforces these legal rights. These rights can be enforced against individuals and also, against the government. If the government or the state encroaches or interferes with the individual rights, the court can prevent the state from interfering or encroaching on these rights of the individuals as well.

In this way, legal rights are different from the moral rights and legal rights which are equally, available to all citizens without any discrimination. So, within the nation-state or within a state, all the citizens and members of a state or a nation-state can enjoy equal rights to have those rights, whether legal and fundamental rights or they can go to the courts, if those rights are violated.

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Civil rights

➤ These fulfill basic needs of human life in society. Right to life, liberty and equality are civil rights. Civil rights are protected by the state.

Political rights

➤ Political rights are those rights by virtue of which citizens get an opportunity to participate in the political process. These rights include right to vote, right to get elected, right to hold public office and right to criticize and oppose the government.

Socio-Economic rights

➤ Economic rights are those rights which provide economic security to the people. These enable all citizens to make proper use of their civil and political rights. The basic needs of every person are food, clothing, shelter, medical treatment etc. Without the fulfillment of these basic rights, civil and political rights are of very less significance.

The civil rights are those rights, which fulfill the basic needs of human life in societies. So, the right to life, liberty and equality can be regarded as civil rights which is protected by the state. We will discuss it in some details and some of these rights in the next lecture. Political rights, on the other hand are those rights, by virtue of which citizens get an opportunity to participate in the political process of his or her community. For example, the right to vote, right to get elected or right to hold public office is regarded as the political right and also, the right to criticize and oppose the government is regarded as the political right.

The civil rights may be made available to everyone, including the alien, but political right is something, which is given only to the citizen of a particular country. Because it enable the citizens as individuals to participate in the political process of that country and to determine the nature and character of that political process. The socio-economic rights are on the other hand, are those rights which provide economic and social security to the people and this enables all citizens to make proper use of their civil and political rights. The basic needs of every person are food, clothing, shelter or medical treatments.

Without the fulfillment of these basic rights like civil and political rights are of very less significance. For those, who are poor, sick or those whose basic needs such as, food, clothing or shelter are not met, they are less likely, to take their civil rights or political rights in the community, more seriously. So, many scholars have argued that unless

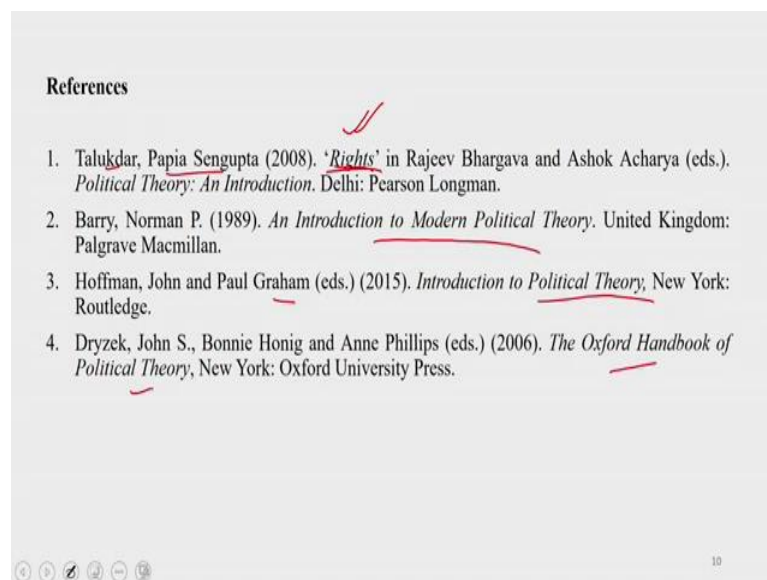
social and economic rights are recognized and protected, civil and political rights, alone has of very little significance. In a democracy, we find large number of population are below the poverty line or very poor. There are more chances of corruption in determining the election or outcomes of election in that societies are.

But if, these citizens are enlightened or literate, they recognize the value of these civil and political rights. Therefore, the democracy in that country is in the society becomes more effective, dynamic rather than being controlled by money, muscle or any other kind of practices. So, the rights recognized not only, the civil and political rights, but also, the social and economic rights which we will discuss in the next class as well.

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3. Hoffman, John and Paul Graham (eds.) (2015). *Introduction to Political Theory*, New York: Routledge.
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In this lecture, today, you can refer to some of these books like Papia Sengupta Talukdar's chapter on rights from Rajeev Bhargava Ashok Acharya's book, *Political Theory: An Introduction*. From Norman Barry, you can also, read a chapter on human rights and Hoffman and Graham's *Introduction to Political Theory*, you can also, refer to on rights. And Phillip or Dryzek's, *The Oxford Handbook of Political Theory*, you can also, refer to the chapter on rights. So, these are some of the references for the issues regarding rights that we have discussed today. That is all for today's lecture.

Thank you all. Thanks for listening.