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Lecture - 08 Normative Ethical Theories: Rights and Justice

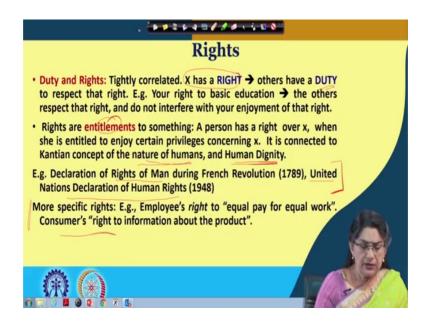
Hello, welcome back. We are in second week and lecture 8. Our topic today is going to be a two important set of theories; our Rights and Justice.

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So, I have said you know non consequentialist theories we are still looking at and among these are important theories namely; first one is in the rights framework. So, and then we will talk about justice., particularly we will be spending time on distributive justice and then finally, we will as usual will talk about what could be some of the limitations and then what are the implications for ethical corporation. So, this is the general pattern of this lecture.

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First, let us try with rights. The earlier lecture on duty, we have completed, we were using cons deontological ethics, let us put that in this context that duty, the concept of duty is tightly correlated with what we call the concept of rights. They are tightly correlated in the sense that sorry, that you know you cannot even speak about or I will try to understand about saying that somebody has a right without referring that others have a duty to respect that right.

So, this is the correlation, this is the relationship that they have for example, if you say that I have a right over this property that right stays in place provided the others in the society around you, respects that right otherwise, if they do not respect that right, you will really your property or right is subtly at stake.

What are rights? So, for that I would say that try to understand the rights as entitlements to something. So, if you say I have a right over x, it means that you are entitled to enjoy certain privileges with respect to x and why do you talk about this entitlements? The origin of this concept you will, if you trace it back you will find it in the again the Kantian notion about the nature of the humans and what we have already talked about namely human dignity. So, and you will see the reflection of these privileges that we say we have as rights in some reflections would be in this historical documents.

For example; during French revolution there was a declaration of rights of man notice, rights of man as human. So, this is the first declaration of what can be the privileges or

entitlements of being a person not a king not an important person, but any person can have. A similar thought came in with United Nations declaration of human rights 1948 and regardless of caste, creed, religion, sex, ethnicity, human rights are supposedly in alienable entitlements, I am sure you know about that.

Now, if we become more, if we look more specifically into rights then I can give you examples of say you know labour rights or you know employees' rights; for example, equal pay for equal work that is a right, it is an entitlement. Similarly, consumer rights there are so many consumer rights. So, this is the rights framework and we are trying to understand this as a concept in ethics.

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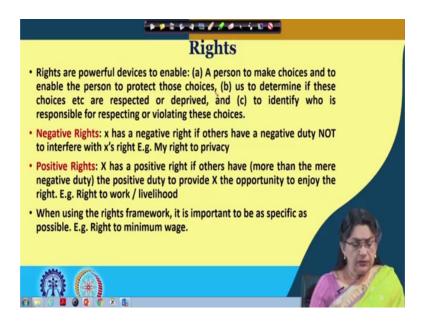


There are two kinds of rights you know, when the rights are backed up by say law or the legal system you have what we call the legal rights or legal entitlements. For example; right to education for example, right to information or intellectual property rights. These are legal rights in our country, because our legal system, ours constitution supports them and enforces them. Now, notice that the legal rights are always dependent on the laws of the land; it depends on which country you are in, because they are protected by a particular country's legal system.

So, in a sense they are limited in scope, because one country's legal rights may not necessarily be followed in another country, because the two legal systems are different. Now, compare that with the nature of moral rights here, rights are not derived from any

one particular legal system, but they are derived from a system of ethical standards, independently of any legal system and this is the very nature of the moral rights. They are they draw their power or strength from ethical values and thus, they are not limited to any one particular country or any particular legal system, they are therefore, they are much wider in scope. I think human rights would be a great example of the moral rights. So, keep this distinction clear in your mind.

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Now, speaking about the rights, let us try to see what the framework allows us to do; it allows us to do certain important things. For example; it allows us as individuals to make certain choices and to get a protection from these rights to have these choices, you know if your right is to privacy is violated, you can say, but that is my choice, I want to be left alone. For example, and I have a protection over this in terms of this right or if you say my right to education is not being violated, is not being respected then you are almost saying that I need some protection from this. So, that is what rights do.

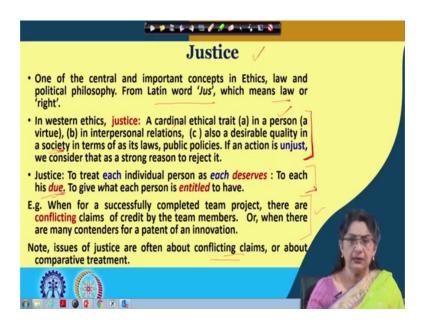
Second, it also helps us when we are analysing a situation ethically, then we can also look into whether the rights are respected or have been violated. It gives us an entry to the case through this ethical concept of rights and when we can think about whether the rights are respected or violated you can also talk about; whose duty it was to respect it or who has violated it. So, you can identify the agents also.

So, these are helpful ways to analyse an ethical a situation in ethical terms. Scholars have made a distinction among rights in this way that there are negative rights and positive rights. Negative rights are those rights where others in the society have a negative duty. The negative duty here means; not to interfere with the enjoyment of that right.

For example, your right to privacy is a negative right. Why? Because others have a negative duty not to interfere here in that enjoyment of that right; positive rights on the other hand that X has positive right, if others have a positive duty to allow the enjoyment, if you have a right to work others have to provide you that opportunity to work and so on.

So, in when you are using the rights framework to analyse an ethical situation, organizational situation, corporate situation, you it is important that you learn to be as specific as possible. What we are talking about is here is that you need to know, which right you are talking about. So, it is not enough to wave your hand and say that this there is some labour right violation, you need to specifically say, which labour right has been violated or which labour right needs to be protected, respected.

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Let us now come and talk about another important concept called justice. So, justice before I go into justice, let me put a conclusion into the previous discussion. So, what we get from the rights framework is that you know, among the ethically correct actions, it is that if certain people have certain rights, the ethically correct action must respect those

rights, this is one. When you have conflicting rights that your right versus other persons right ethics which show us which one overrides, which one and why ok. What would be ethically wrong to do is do disrespect other peoples right or to violate those rights. So, a corporate decision for example, otherwise just fine, but if it violates others rights, some fundamental rights or important rights, then it cannot be ethically correct.

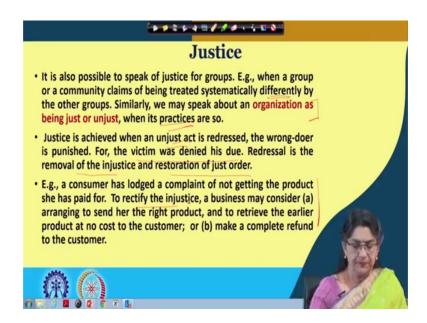
Let us come to this other concept equally important as I said that of justice. Now, justice in western ethics holds a very fundamental and central position from, it came from the Latin word "jus", which means law or right. Typically, you must have heard justice in in legal context and you think justice necessarily mean legality or what the law says; it partly is right, but there is more to this concept then let us see what is that extra.

Now, in western ethics it has been justice has been always considered as I said as a cardinal virtue. Either, you can talk about a person being just or that you are just in your dealings with others you know interpersonal or you can even think about a society being a just society in terms of its policies, in terms of its choices and so on. In fact, we consider it so important that if anybody points out that this action is unjust, we think that that is a very strong reason to reject that action.

What does then justice mean? Now, from Roman times onwards the understanding that we have of justice is to treat each person as each person deserves to give one his or her due ok, what one deserves. So, here also you might find there is an entitlement question here, that we are talking about what the person deserves. Now, when you are you understand the justice concept better when there are conflicting claims, conflicting claims over the same thing.

So, for example, in any name let us take an example. So, when a project is finished, you know successfully completed and there is time to take the credit for the completed project and you have many members in that team who are making conflicting claims that I am the most important contributor to this project or that I have done so much work and I have done it this much and so on and two or three people are saying the same. So, how to decide what each person deserves? This is a scenario typically there, where you can start thinking about justice.

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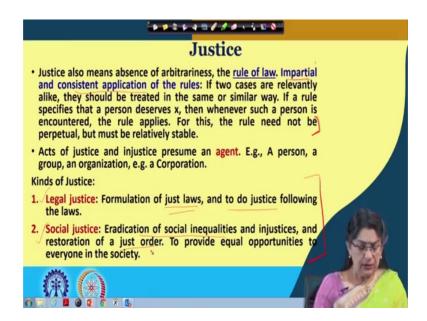


It is also to speak or we can certainly talk about justice for groups for example, in societal terms, we can think about a some section of the society claiming that they have been systematically somehow treated differently by the other sections of the society, this is the scenario of a societal discrimination for example.

Also in organizational terms we can certainly think about a corporation being just or unjust looking at its practices or policies. In general people also understand when we said about what each person deserves, you can also take it in in in a way to understand justice that it corrects injustice. When a in unjust act is corrected, you achieve justice.

Why? Because suppose, there is something wrong has been done to a person and the victim; therefore, was denied his or her due. So, when you correct that it means that the injustice has been removed and a just order has been restored, I took the example of for example, you know you these are online purchase time. So, suppose a consumer has paid already, but the product that the person got was not what the person paid for. So, there is a very unjust kind of a dealing here in order to rectify this, the corporation may act in more than one ways, but it needs to address the injustice down to the consumer.

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Justice also means rule of law that is absence of arbitrariness. Arbitrariness means randomly you are deciding what should be the, actionable case here. What justice says is that, first of all there should be impartial application of the rule and a consistent application of the rule.

If two cases are relevantly similar, then it should be treated in the same or the similar way. I mean the law should not change for the person and the rule does not mean that rules cannot change, but rules need to be relatively stable. As for different types of justice, we can first of all talk about legal justice you know this is nothing, but as we see in the court first of all just laws. Laws can be unfair to, but you can rectify that making to just laws and then to deliver justice following those laws, this is what legal justice mean.

Social justice on the other hand is about the just social order. So, if there are you know a lot of unjust inequalities in the society, whether it is gender based, caste based or religious based, then eradication of this social inequalities and injustices and restoration some way of the just order is what we would call social justice.

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Then there is political justice, which means that to give all the citizens the right or the opportunity to participate in the political process. You know in election and that whoever is eligible to vote should be given an opportunity to cast the vote. Economic justice is about the economic opportunities and adequate and equal opportunities given to every citizen for example, to have a livelihood, to have employment, or to have wealth making opportunities, to have economic support when a person is disabled or old and so on.

This is what economic justice does. These are kinds of justice, but in general how the issues the problems with delivering justice comes in three broad categories, first one is distributive justice; we are going to spend time on this topic. So, I am going to save it later, but let us talk about retributive justice, which is about the just punishment. You know just, because an action is wrong. First of all society can impose a penalty or a punishment, but punishment should be proportionate to the crime or the offense committed.

It should not be cruel, it should not be unusual nor should it be too harsh. So, how do you decide that is why; how do you decide the amount and the kind of punishment, alright. The punishment should be as the offense or an defender deserves. So, this is what retributive justice this is about. Compensatory justice is related to paying just commit compensation to people for what they have lost; think about natural calamities, think about man made calamities and people who have lost something, how do you make sure

that the compensation is proportionate to their loss this is compensatory justice. Now, as I said that we will be talking about distributive justice in length.

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So, distributive justice; distributive justice means that when you are distributing something. Now, in a familial setup suppose you know you have brought a pizza or a cake to your family then, then the question is how do you distribute this cake or the pizza who gets what and what would be a fair share that is the basic question of distributive justice.

Typically in distributive justice discourse is talked often in terms of social society and social policies, because there are conflicting claims from societal members that we deserve this, we deserve this. So, how do you fairly allocate the portions? Remember, that it typically distributive justice typically arise when you have resource poor set up meaning, that you are you have finite resources and the resources are not going to make everybody happy, that is a typical distributive justice scenario. If you have infinite resources remember, there would be no conflicting claims, because you can make everybody happy then.

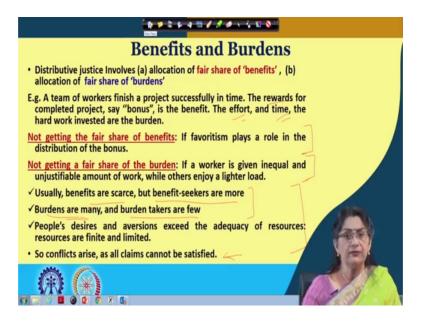
So, the typical scenario is that you are trying to do a good job of distribution, which is just and fair, among different members of a group alright then there will be typically benefits and burdens. Now, in terms of society what are the social benefits for example, jobs, housing, food, education, privileges and benefits that you get by staying in the

society, but there are not just only benefits, there are also burdens in, for staying in the society for example, taxes somebody has to pay taxes, so that you can enjoy the societal infrastructure.

Somebody has to do the unpleasant jobs, so that the society runs somebody has to also will have to take their share of the burden in terms of the housing in in, this is another thing that we need to remember that distributive justice will include, allocation of not just good things, but also burdens in your family, example if the pizza or the share of pizza the cake is the good then somebody has to go and get it somebody has to shell out the money to pay for it and so on.

So, that is the burden. So, it does not come only with benefit there are also burdens to be shared. In a corporate setup you can easily think about that you know, we can see distributive justice when for example, dividends are to be distributed among the investors, the shareholders, what is the fair share and then when in the compensation structure whether it is fair; company executives and employees are they getting paid as they deserve you know these are the questions. Our benefits and burdens therefore, we are talking about.

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So, if you take this example that you know in a corporate setup for example, this once more let us take the project, where there are more than one member. What is the benefit there? The benefit is the financial and the non-financial rewards, that you may get for finishing the project on time and what would be the burden; that you have to put in a lot of effort, that there you have to invest a lot of time and the hard work, that is required for successfully completing the project.

Now, when can there be these complaints? When somebody for example; says that there is bias in how the benefits are distributed. So, I have done a lot, but I have not gotten the reward, at least not a proportionate share of the reward. Similarly, one may say that there may be claims about injustice being done, when you say that I have not received a fair share of the burden, the burden is not equally distributed, somebody is overloaded and somebody is going very light load and it seems to be biased, etcetera. The typically with the problem of distributive justice comes as I have already mentioned that, because resources are finite.

Benefits are typically scarce, but a lot of benefit seekers are there. Burdens usually are many, but burden takers are always fewer and the capacity of the resources to meet all these kind of demands is always inadequate. So, this is why conflicts arise and everybody cannot be made happy unless, you have a fair policy to fall back upon.

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How would you distribute? What would be a fair share? Now, in this we have certain theories. So, I am going to mention one the first one is known as egalitarianism. Egalita is the French word for equality. So, justice according to egalitarianism means purely

equality. Whatever you are doing in distribution benefits and burdens are to be distributed equally, because inequality is injustice.

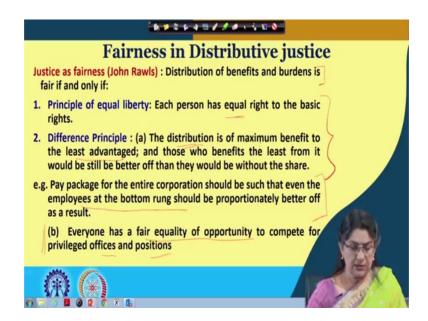
So, go back to your family example. So, if you have brought this pizza or cake, how do you distribute it? Everybody gets equal share and it seems to make everybody happy provided you have that much pizza or cake for every member of your family. Now, do we use this in in societal context? Yes, for example; in front of law how do you want people to be treated and the answer would be equally. Everybody should be same in the eyes of the law.

Similarly, how do you want opportunity to get a job distributed and you will say everybody should get at least the chance to compete for a job, for the interview. For example, selection is different, but at least to appear for the interview. Now, where does this theory meet objections that one that to treat everybody equally is not always just, not always fair. For example; if you say that in your team you have one person who is you know 25 year old and you have a small child alright, small child as in you know only 1 year old child.

Now, if you have that cake and pizza distributed and you want to say that the twenty five year old and the one year old gets the exactly the same share of the pizza or the cake you are not being really very wise or just in your distributive justice. Why, because people differ, people differ in their needs, people differ in their talent and also in their effort. If you treat everybody in the same way, there is also the further question then why would anybody try to excel? Why would I try to put any extra effort when I know, that I will be treated as the person same as the person, who has not put any effort into the say this project.

So, egalitarianism has some problems here, this is the other side, non egalitarian, egalitarianism which speaks about equity not equality, but equity, where equity means that it is a fair share, it may not be equal share. Think about going for a treat and where you are supposed to carry your backpack. Now, amongst you have a 99 year old or 8 year old person and you have a child who is 6 year old. So, you cannot say that everybody should carry the same weight on their back, but you need to then distribute the load accordingly fairly. Not equal, but a fair distribution.

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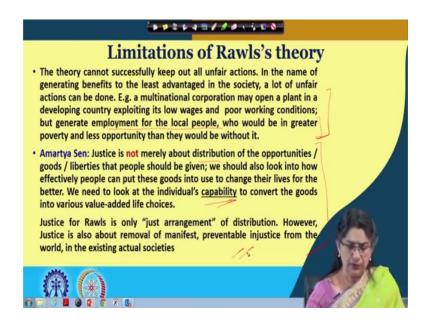


The big theory in distributive justice is by John Rawls. So, we need to talk about this a little that Rawls said that the distribution is fair provided we follow these two principles; one is principle of equal liberty, the other one is called difference principle. Equal liberty says that first of all the very basic things should be distributed equally. So, in a corporate setup first of all see to it that the basic fundamental rights. For example, everybody has equally ok, this is one then if there are differences then the distribution should look into this is what difference.

Principle says that maximum benefit should go to the least advantaged maximum benefit goes the neediest, neediest gets the maximum benefit from the distribution and then it should be such that everybody in the system should get a proportionate share of the benefit. So, if you are thinking about the compensation structure in an organization for example, then you should not think only about the topmost corporate executives only to pay them extraordinarily high.

But, rather in the heavier composition structure in such a way that even the employees at the bottom rank should be proportionately better off from that compensation policies. Difference principle also says that as for the remaining privileges everybody should have a fair equality of opportunity to compete for the offices and positions which give these privileges. So, this is his way of looking at distributive justice.

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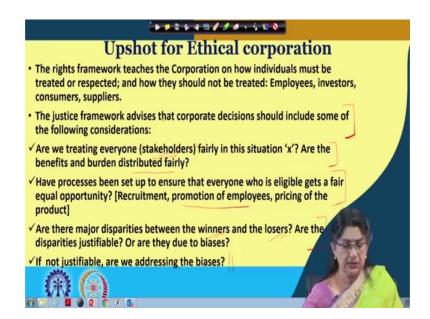


Now, in general Rawlses theory is very famous in in terms of distributive justice, but there are some flaws, which I will I will cursorily mention. One is that people say that it does cannot keep out all unjust actions, because you know sometimes when you say that I have to distributed in such a way that the least advantage gets the maximum benefit, in the name of giving maximum benefit to the least advantage say a corporation can do many unjust things.

For example, it can go to a developing country, where the wage laws are practically non-existent and the working conditions are very-very unfair and un in fact poor. In that case you know to say that we know still we are employing local people and there by giving them the maximum benefit, because without the job they will not survive and they will be in greater poverty. So, we are doing a lot of good here just it is not correct.

Amartya Sen has criticized Rawlses theory in two ways; first of all he has said that just if it justice is not just distribution. Rather we should see that after the goods are distributed what people are doing to convert it into something meaningful to improve their life. He talks as you know, his approach is known as capability approach. He talks about the individuals capability to convert the distributed good into meaningful change or making life better for themselves and Sen also said that there is in removal of injustice is also what we understand justice as.

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Now, what do we learn from this? From the rights framework as I have told you we learn to respect the rights of the concerned individuals. So, this is something very important. Justice on the other hand, makes us aware about the need to be fair in our considerations in our policies, in our projected plans.

For example, here are some considerations that only do not just look at the result or the motive or the manner, but also see whether everybody who should be included, whether they are included. For example, the stakeholders are we treating them fairly in this situation, meaning the one who is very salient stakeholder are we giving the chance for them to voice their opinion? Are there benefits and burdens are those distributed fairly?

Have we tried to give a fair equal opportunity for example, in recruitment time have you advertised it publicly. So, that people come to know in terms of promotion of employees are we giving the fair equal opportunity to all and typically, if there are distributions going on in the corporate setup the winners class and the losers class is there a great disparity or is that disparity somehow linked to unknown prejudices, biases, we are talking about discrimination here. So, how do you address that in corporate policies in corporate decisions alright.

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So, this is where I would conclude the discussion. It is a very-very important two concepts and unfortunately, we have only limited time to discuss this.

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I have given some references for you to follow through and overall we have tried to look into both of these as ways to bring in ethics, into organizational decision, corporate decisions, for an ethical corporation. So, this is where I would end this module.

Thank you.