

Semester – II
Core Course – Paper – III

Natural Rights

Introduction :- That individuals have rights and the fact that rights mark important limits on what may be done to them by the State, or in the name of other conceptions, is now a familiar position in modern political philosophy. When the founders of the United States stated in the Declaration of Independence (1776) that certain rights were inalienable, they were at the forefront of a moral movement that continues to exert a profound impact on society even today. At the same time, the French were also developing their own equivalent, the Declaration of the Rights of Man and of the Citizen (1789). Thus, the two most influential political documents of the modern age take the notion of rights as the central concept upon which their political organizations are built.

The Concept of Rights:- The idea of rights provides for an essential tool of analysis of the relations between individual and the state. Simply stated, a right is a claim of an individual recognized by the community and the state. An individual wants to develop his capabilities to the fullest extent so that he can realize himself and be happy. This calls for the existence of certain conditions in society. These conditions are called by the name of rights. To quote Laski “Rights are those conditions of social life without which no man can seek, in general, to be himself at his best.” Dr. Beni Prasad observes “ Rights are nothing more nothing less than those social conditions which are necessary or favourable to the development of personality. Rights are in their essence, aspects of social life.” The view of Holland is that right is man’s capacity of influencing the acts of another by means of the opinion and force of society. In fact, rights can exist only in a democratic state where liberty and equality exist. Without liberty people cannot aspire for these rights. Without equality also, discrimination persists. In this case, rights lose significance. Thus the degree of enjoyment of rights rests on the degree of democratic perfection of the state.

The concept of Natural Rights :- As regards Natural Rights, it is not possible to define them as different meanings have been given to them by different writers at different times. In ancient times, they implied the fundamental rights based on rationalism and universal divine law. The Jus Gentium of the Romans was based on natural rights. By natural rights we mean those rights which were enjoyed by the people even before the origin of the state. These rights were enjoyed by the people in the state of nature. Many political thinkers regard the natural rights as the rights given to man by God. According to writers like Hobbes and Locke, natural rights were those which were enjoyed by the individuals in the state of nature. However, these writers differed on the question of the contents of those rights. Natural rights are not given to man either by the society or the state, these are natural and essential parts of human nature and natural reason. According to Rousseau, natural rights were the ideal rights and they existed before the state came into existence.

The old view with regard to natural rights is not accepted today. The only sense in which the theory of natural rights is accepted that these are considered to be natural and essential for the individuals whether they are actually recognized or not. There are certain rights which must be recognized and guaranteed to every individual. No state can be considered to be civilized unless it guarantees these rights. Green says, “ In these days, the doctrine of natural rights can be accepted only in one way. Rights are natural in the sense that they are necessary for the moral development of man in the present stage of society. They represent an attainable ideal which the state seeks to achieve.” However, the concept of natural rights is ambiguous. Natural rights are upheld but no one can really define these. Rights are the products of society and not of the nature. These can be used only in a society. Rights have

the sanction and validity of society and that is why the state protects the rights of people.

Theory of Natural Rights:- Theory of natural rights represents an early expression of the liberal perspective on rights. It was very popular in 17th and 18th century political thought. It treats the rights of man as a corollary of natural law. In other words, these rights are not granted by the state, but they come from the very nature of man, his own intrinsic being. This theory was broadly developed on two important bases – the contractual basis and the teleological basis.

Contractual Basis :- In the first place, the theory of natural rights is based on liberal theory of the origin of the state from the ‘social contract’. According to this theory, certain rights were enjoyed by man in the ‘state of nature’, that is before the formation of civil society itself. These comprise the natural rights of man, which must be respected and protected by the state.

Among the exponents of the social contract theory, John Locke (1632 – 1704) is the most ardent champion of natural rights. Locke gave a new turn to the social contract theory which was introduced by Thomas Hobbes (1588 – 1679). Hobbes draws a gloomy picture of the state of nature and deprecates natural rights as the freedom of the stronger to oppress the weaker. He, therefore, postulates an unconditional surrender of natural rights when civil society is formed. Rousseau (1712 – 1778), another exponent of the social contract theory, depicted natural rights in a different light. Rousseau draws a fascinating picture of the state of nature and glorifies natural rights. He postulates that these rights become irrelevant in civil society. Both Hobbes and Rousseau do not think that natural rights would be maintained by the state.

Locke, however, postulates that man surrendered only some of his natural rights, particularly the right to be the judge of his own acts, on the condition that his fundamental natural rights, viz. the rights to ‘life, liberty and property’ shall be protected by the state. If the state failed to maintain these rights, man had the right to overthrow government and a new government in its place.

According to sociological school, natural rights are those freedoms of man which are conducive to the most effective functioning of society. Prof. Giddings, natural rights “are socially necessary forms of right, enforced by natural selection in the sphere of social relations and in the long run there can be neither legal nor moral rights that are not grounded in natural rights as thus defined.”

The theory of natural rights has played a very important role in political theory. It exercised a great influence on the American and French revolutions. The Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in 1948 invokes the spirit of this theory, when it says “All human beings are born free and equal in dignity and rights.”

Teleological Basis :- Teleology signifies the doctrine of the final causes. The teleological view relates the rights of man with the purpose of human life. These rights do not emanate from any institutional arrangements but ensure from the very nature of man and serve the purpose of his life. Hence, they are termed as Natural Rights.

Paine’s view :- Paine, in his “Rights of Man” enunciated the theory of natural rights on teleological basis. Paine did not accept the doctrine of social contract which was eternally binding and an impediment in the way of progress. He stated that every generation should be free to think and act for itself.

Green's view :- Green invokes the teleological basis of rights. His view was that the rights of man do not emanate from a transcendental law but came from the moral character of man himself. Rights depend on recognition which depends upon the moral consciousness of the community and not the state. Green was concerned not with legal rights but with ideal rights.

It may therefore be concluded that natural rights concept is dynamic concept. As such, there cannot be fixed natural rights. Their interpretation can be discussed from the nature and degree of prevailing consciousness.

Criticism :- In spite of the historical significance of the theory of natural rights, there is a lot of criticism. Critics point out that it is very difficult, if not impossible, to define the term natural. D.G. Ritchie in "Natural Rights" describes the variety of sense in which the term has been used. There is no commonly agreed list of natural rights. Some thinkers justified slavery as being natural, others condemned it. Some writers regard private property a natural right, others deny it. Some insist that men and women are equal by nature but others do not agree to it.

Another criticism is that natural rights conflict with one another. Liberty, Equality and Property are considered to be the natural rights. But when we begin to apply them, we are faced with endless difficulty. In no political system can men be given absolute liberty and equality because absolute liberty may lead to inequality. To ensure equality for all, restraints will have to be imposed on liberty. So the theory of natural rights fails to suggest a sure way of reconciling liberty to property. The same hold true of the right to property. The supporters of the theory of natural rights have not clearly defined this right and its limit.

The supporters of this theory are hostile to the state and maintain that rights are pre-political. The legal theory of rights shows that without the protection of laws, enforcement by courts and guarantee by the constitution, rights are futile. Rights cannot be enjoyed in a vacuum. There must be some authority to protect and enforce them.

There can be no permanent and unchanging catalogue of rights. Rights are essentially dynamic and they keep on changing with the changing social needs. Most of the advocates of natural rights do not accept the logical relationship between rights and duties. The fact is that without duties, there cannot be any rights.

In spite of its shortcomings, the theory of natural rights played an important role against the absolutism represented by kings, the papacy and feudalism. It was a dynamic battle – cry of the rising middle class against the static socio – economic and political order of the 17th and 18th centuries. This theory gave rise to many valuable democratic principles like the doctrine of consent, power as trust, limited government and the right of resistance against the government. Although the theory of natural rights has been rejected in our times, its spirit still exerts considerable influence.
