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RESEARCH ARTICLE

HUMAN RIGHTS AS NATURAL RIGHTS

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Abstract

The concept of human rights has always been a burning and one of the most significant concepts in the field of Social Sciences and Humanities. Human rights are the basic and birth rights of every individual. These individualistic rights are important in order to lead a dignified life in society. These rights guarantee to all round developments of an individual. The article "Human Rights as Natural Rights", written by the American political theorist Jack Donnelly, is a depiction of the meaning and nature of human rights. In the article Donnelly tries to draw our attention to the theoretical premises of human rights. He basically discusses the concept of human rights from three premises- human rights as natural rights, natural rights and human rights and a social justice theory of human rights whereas the author emphasizes on the questions of what human rights are and how human rights work according to the existing theories of human rights and; what the basic differences exist between these different kinds of theories.

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Introduction:-

The article "Human Rights as Natural Rights", written by Jack Donnelly, is a depiction of the meaning and nature of human rights. Jack Donnelly is an American political theorist. He is basically a specialist in the field of International Relations. He has done so many significant works in the multidisciplinary fields of human rights. In the article "Human Rights as Natural Rights" Donnelly tries to draw our attention to the theoretical premise of human rights. The reviewed article is divided into three parts- 'Rights and Natural Rights', 'Natural Rights and Human Rights', 'A Social Justice theory of Human Rights' whereas the author emphasizes on the questions of what human rights are and how human rights work according to the existing theories of human rights and; what the basic differences exist between these different kinds of theories. According to Donnelly, the theories of human rights can be divided into two-

1. Natural rights theory of human rights and
2. Social justice theory of human rights.

The author starts his article by stressing on the point that it is a common assumption that a natural rights theory of human rights underlies contemporary doctrines. According to the natural rights theory, the term human rights can be traced back to the tradition of thought of Locke, Paine and Jefferson who defined rights as some kind of entitlements which are held simply by virtue of being a person. Such rights are natural because it is grounded on human nature. They are universal and equal to all in character. Therefore, the main argument of natural rights model is that all the persons as human beings are entitled to be treated in a certain ways and these entitlements are expressed in the form of human rights. On the contrary to natural rights model there is social justice theory of

human rights. The social justice model is advocated by the thinker Charles R. Beitz. Beitz in his work “ Human Rights and U.S. Foreign Policy” published in 1979 severely criticized the natural rights model by arguing that “ it is misleading to view human rights on the model of natural rights” and advanced an alternative theory of human rights, which he calls the social justice model. According to the social justice theory, human rights are some kind of entitlements which are needed to the satisfaction of various human interest and these entitlements would be guaranteed to all the members of a society on the basis of social justice principle. Beitz basically talked about Rawls’ principle of justice in order to make human rights of all the people of a society morally justifiable or acceptable i. e. the worst sufferer of a society should be given priority to satisfy their interest and enjoy the human rights through the working of morally legitimate social institutions. Thus, instead of human nature, Beitz said that the social justice should be the source of human rights.

The three different aspects of Human Rights according to Donnelly, discussed in his article, can be summarized as below-

Rights and natural rights:

Beitz argues natural rights theory viewed rights as some important moral claims, may be on individual or state, which demand ‘immediate satisfaction’. So, the rights which are not capable of ‘immediate satisfaction’ those can not be termed as human rights. This definition fails to confine itself several internationally recognized human rights. By saying this, Beitz specifically. talks about numerous economic and social rights. For instance; right to work, right to social security, right to freedom from poverty, right to equal pay for equal work etc. As such rights are not always possible to immediately realized or satisfied hence these rights can not be listed as human rights according to natural rights theory. Therefore, Beitz has severely criticized the natural rights theory on this ground. However, later on criticizing Beitz Donnelly has viewed in the article that Beitz misinterpreted the claim for ‘immediate satisfaction’. Beitz has mistakenly assumed that inability to immediately realize claims did not imply one did not have any right.

Natural rights theory has never interpreted the term ‘immediate satisfaction’ as Beitz viewed. One’s claim can not be satisfied does not imply that he did not have a right. Due to various reasons one’s claim can not be possible to immediately satisfied. In this regard, Donnelly talks about three kinds of interventions between claims and its realization which may hamper in the enjoyment of rights. The first is political impossibility in which a state may not immediately fulfill the claims of people as at threatens to disturb the existing distribution of power and resources. The second one is moral impossibility which means on moral ground one’s claim may not be fulfilled in order to protect the higher moral value of others. For instance, the terrorist activities have to be stopped around the world and doing so many terrorists are being brutally killed , but that is done for a larger good so thus the commons can live in peace in the world. So, in this case we can see that sometimes one’s claim may be sacrificed for higher rights and values but it necessarily does not mean that he has not any right. And, the third intervention is physical impossibility in which a state may not be able to fulfill the claims of people due to administrative incapacity or lack of resources. The developing countries have been suffering for physical impossibility. They do not have enough resources to fulfill all the claims of all people though these claims are even listed in International Bill of Rights or UDHR. Many economic and social rights can be conceived in such terms within a natural rights theory. Donnelly terms such rights as ‘contractual rights’. We can make claims or demand rights but are not be able to immediately realized it because of these three kinds of incapacity or impossibility.

Natural rights theorists adopt a positivist theory of rights – by being humans individuals have equal and universal rights., they can make claim on state or others and that claim need immediately satisfied. So, Beitz views according to natural rights theory human rights as being natural rights are absolute. But, Donnelly, argues natural rights theorists never held human rights as absolute rather it viewed human rights as ‘relatively absolute’. Among natural rights human rights are the strongest moral claims. It can not be absolute. If it is absolute then there will be only one natural human right. Sometimes one’s rights have to be violated or overridden by considerations of higher values or even utility. Imposition of curfews is one of the best example in this regard. Recently, during against CAA agitation, curfews were imposed in various regions of India which over rided the basic natural right to liberty on the basis of the requirements of public order or social need. So, the human rights according to natural rights model are relatively absolute.

Natural rights and human rights :

In regards to the scope of rights Beitz has criticized the universal character of human rights within the natural rights theory. He argues though UDHR recognizes the universality and equality nature of human rights but there can be

found some difficulties in the practical implication of all the recognized human rights. For further explanation he mentioned the example of right to participation. The rights of participation can not be applied universally and equally across the globe. In some situation it becomes problematic, especially for the under developed and developing countries in making participatory institutions much more active and workable. Likewise some economic rights ,for example- right to a satisfying job, may not be established on some philosophical basis. So, such kinds of rights would not justify the universal implementation as claimed by natural rights theorists. Criticizing Beitz Donnelly again says that sometimes realization of some rights may not possible due to political or moral impossibility but it does entail one's possession of rights and its universal and equal character. Though natural rights are attenuated still they are important possession. One has a right if it is not regularly respected then he has moral position to demand this.

Besides scope, regarding to the source of natural rights there can also be seen dispute between the views of Beitz and Donnelly. Natural rights theory attributes that human rights are solely based on one's humanity, i.e. human nature. This characteristic is also questioned by Beitz by mentioning about right to work. But Donnelly argued that human nature have right to work.

Marx also argued in his readings that humans are creative laboring beings by nature and engaged in meaningful productive works. Beitz again criticized natural rights theory by stressing on the point that natural rights theory specifies the source of human rights but does not offer a list of human rights.

In contrast to Beitz, Donnelly believes that the rights are held against the whole world. It provides importance on bearers of the correlative duties of rights. The natural rights theorists referred natural rights as "rights in rem" which means right to something that is held against the world at large. Natural rights aims to protect human rights underlying on human dignity based on moral equality. Rem is also related to moral nature which means rights are available for one against the whole world. For example- right to property. The right to property protects one's property against the entire world. This is why these kind of rights can be also termed as negative rights. No one can interfere one's enjoyment of these rights. The personal rights, political rights and civil rights are imagined as right in rem. Besides, "rem" there is another type of rights which are regarded as "rights in personam", including social and economic rights. "Rights in personam" is different from "rights in rem". "Rights in personam" gives the rights against one person or class; not against the entire world. It is generally corresponded with duties imposed on the said person or party or class.

"personam" criticizes the unjust international order and seeks the transformation of the world rather being seen as invalidated by the shortcomings of national and international politics. "personam"s nature is both individual and social. However, in practice rights in "rem" are not held against everyone in the world. Personal rights like right to freedom of speech or having equal protection of laws can not make claims for its protection at all time or on all governments. For instance, a person living in Newyork can not make rights claims against the government of France to protect his freedom of speech. All these rights in "rem" and rights in personam" are internationally recognized and legal responsibility for their enforcement is vested with the sovereign states. Both the Civil and Political and Economic, Social and Cultural Covenants establish human rights held in relation to a particular state, even if their source lies in universal human nature. But there can be seen the absence of international responsibility for implementing the rights as a result of which rights in personam suffer more. Therefore, it would seem on first examination that a natural rights theory can not encompass the economic and social rights.

Social justice theory of human rights :

Here, Beitz argues that the social justice model is also the source of human rights and it can not be ignored. The social justice model is nothing but the Rawlsian principle of justice where social institutions are regarded as morally legitimate and the basic structure of society distributes the benefits and burdens of social co operation. So, according to Beitz human rights are also emerged from social co-operation and it will restore the socio-economic rights.

In regards to social justice and universality of human rights author Jack Donnelly counts to argue that universality of human rights can only be established through natural rights theory of human rights as it argues that human rights are inherent in human nature and so they are equal for all. It can never be the product of social co-operation. Even The Universal Declaration of Human Rights is also based on natural rights theory which recognizes human rights as universal rights.

The first paragraph of the Declaration speaks of “ the equal and inalienable rights of all the members of human family”. Article 1 of the Declaration also says that “all human beings are born free and equal in dignity”. Again, article 2 states that there should not be any discrimination based on colour, sex, language, religion, national or social origin, property, birth place or other status. Donnelly, again says that “ the International Human Rights Covenants are equally explicit in claiming that these rights derive from the inherent dignity of human person- which is universal”. Therefore, according to Donnelly, a natural rights theory of human rights necessarily preserves the essential universality of human rights, not the Beitz’s social justice theory. In relation to the point of ranking of human rights, Donnelly views that a natural rights theory believes that internationally recognized human rights are not hierarchically ordered and they are equal for all. These rights are interdependent and indivisible. He says ranking of human rights has become important in terms of implementation rather than definition because due to lack of resources, socio-cultural or political problems implementation of these rights may be constrained sometimes. Such situation specially breaks out in relatively poor countries or the third world countries.

In the sub-heading of ‘Manifesto Rights’ Beitz argues that manifesto rights are nothing but the economic and social rights which claim for better protection. The human rights also include these manifesto rights and they are not encompassed within the natural rights theory. He says that a manifesto right is particularly important interest, goal or value which claims for recognition, so are human rights. On the other hand, Donnelly argues that human rights are not mere interests, goals or values; they are entitlements. So, for Donnelly, the manifesto rights are not so important rights or they need not be right. Even in the strict sense, manifesto rights have no value without entitlements. When we do not have the basic entitlements we can not make claim for other rights (socio-economic). And; the social justice model fails to make the basic distinction between human rights and numerous other rights. Donnelly believes human rights are thus those interests which are essential to one’s standing as a moral person; one’s status as a fully human being. In respect to the international documents, only the Universal Declaration Of Human Rights appears to support Beitz’s social justice model in its appearance. But the basic justifying principles underlying the Declaration clearly suggest a natural rights theory.

Conclusion:-

In the article “Human Rights as Natural Rights” we can clearly see the dispute between natural rights and social justice theories of human rights. The American thinker Jack Donnelly tries to provide his justification about natural rights theory by criticizing Beitz’s model. The article has been succeeded to yield different accounts of the nature and force of human rights claims.

According to Donnelly, Beitz tries to re-conceptualize the concept of human rights which is not desirable. He strongly argues that the social justice model is no simpler, no clearer and most importantly it provides a set of principle to derive a list of human rights which are not compatible with established international human rights principles. It is only the natural rights theory which is able to rightfully answer all the basic theoretical questions of human rights.