Research Paper Political Science

Understanding Rights: Moral, Natural and Legal

* Mahuya Roy Karmakar

* Doctoral Scholar, Department of Political Science, Assam University (A Central University), India

ABSTRACT

'Right', a simple expression is often the most uttered one in our way of life. In simple sense, it implies entitlement (s); entitlement (s) that specify individual's standing or action in particular circumstances and protect them from their exploitation itself. Rights are those individual or group demands based on specific interests that are considered just and right (correct as fact). Besides the idea of this concept there are many other facets of it to understand. In this paper we shall concentrate on the concepts and differences between moral, natural and legal rights as well as their interdependence.

Keywords : Rights, Natural rights, Legal rights

INTRODUCTION

'Right', a simple expression is often the most uttered one in our way of life. In simple sense, it implies entitlement (s); entitlement (s) that specify individual's standing or action in particular circumstances and protect them from their exploitation itself. Rights are those individual or group demands based on specific interests that are considered just and right (correct as fact). The idea could also be realised through the study of concepts like, liberty, equality, justice, freedom, relationship between individual and the state implying the duties of the government towards the protection of the rights of individuals; claims of individual considering state as means and the individual as the end etc. in political philosophies of different times. All these expressions form the basis of the concrete concept of right today. However, the concept has been delineated by many political thinkers. For Harold J. Laski, "Rights are, in fact, those conditions of social life without which no men can seek, in general, to be him self at his best" (Arora & Awasthy, 2007). Professor Holland defines rights as "one man's capacity of influencing the acts of another, by means, not of his own strength, but of the opinion or the force of society" (Rutherford & Samuels, 2002). Essentially, rights have been categorized as moral, natural and legal. Further, legal rights have three subcategories such as, civil, political and economic. In this paper we shall concentrate on the concepts and differences between moral, natural and legal rights as well as their interdependence.

CONCEPTS AND DIFFERENCES

As part of the broad categories of rights moral rights entails those rights that exist due to the recognition by the moral sense of people. These are neither sanctioned nor enforced by any authority rather subsist on the basis of long usage, custom and strong public opinion. There remains the absence of any kind of legal action on the infringement of such rights but the force of belief is so strong that those violations are denounced in society. 'Natural rights' in political philosophies has been abstracted by many including Thomas Hobbes, John Locke, Jean Jacques Rousseau and Thomas Paine. To Greek political philosophers natural rights are those that men possess equally as a gift from nature prior to the formation of the state/government and cannot be taken away. It is, perhaps, Locke whose contribution on this concept is most well-talked. For him, there exist three natural rights – right to life, liberty and property which are to be protected by the state. Paine in his "Rights of Man" (1791) expressed, "Natural rights are those which appertain to man in right of his existence. Of this kind are all the intellectual rights, or rights of the mind, and also all those rights of acting as an individual for his own comfort and happiness, which are not injurious to the natural rights of others" (Eyler, 1996). Accordingly the concept of natural rights became the subject matter of discussion among different scholars during 17th and 18th centuries.

The third category of rights is legal that has gained most popularity due to its nature. To enjoy legal rights it is necessary for one (citizen) to have it recognised by the state/government; these rights are sanctioned and enforceable too. More importantly, it is the government with its law making bodies which establishes these rights. Civil rights as a subcategory of legal rights imply those conditions necessary to lead a civilized society, for example, right to life. Mere protecting men's right to life is not enough unless she/he is given the opportunity to be a part of the affairs of the state/government. Here, the political rights find importance like, right to vote, to hold public office and like this. It is also equally important that a man must have the right to work, to have adequate wages and reasonable hours of work as her/his economic rights. It is important because without economic rights it is really difficult to enjoy civil and political rights.

The essence of moral, natural and legal rights as discussed above distinguish themselves from one another. It is felt that the foundation of moral and natural rights is completely different from that of legal. The first two categories are universal whereas the legal rights emerge from the law of a particular land. Likewise, it is only the legal rights which are enforceable and not others. Further, violation of moral or natural rights cannot demand any sentence but the same is applicable in case of legal rights. Thus, there appears a clear distinction relating the basis, application and enforceability of these three categories of rights.

INTERDEPENDENCE

It is interesting that in spite the differences between moral, natural and legal rights one, with a close view, can observe their interdependence. Legal rights, to many, is the most approved or agreed one in society due to the fact that it is sanctioned, recognised and enforceable but we need to know that there are many legal rights which were earlier considered as moral or natural rights like, the right of man to not to be treated cruelly or inhumanly, right to freedom of speech etc. Moreover, right to life (in states where capital punishment is not in practice) and liberty are also time-honored. Conversely,

for the protection of moral and natural rights there can be no good alternative other than converting them into legal rights. It is only the legal rights that can act as the protector of moral and natural rights with just or rational explanations.

CONCLUSION

We could certainly believe that right is such a need that has always been respected by humans. Starting from the 'state of nature' to contemporary time it has undergone many debates relating its base but has not lost its importance; rather time has made it more worthy. It could also be noticed that different categories of rights though contrasted with each other in some respect but are interdependent as well. At the end, a relating question that seems sensible here is the protection of rights and we set it for further studies.

REFERENCES

[1] Arora, N.D., & Awasthy, S.S. (2007). Political Theory and Political Thought. New Delhi: Har-Anand Publications. | [2] Eyler, Robert Coates Sr. (1996). The Jeffersonian Perspective. Retrieved January 6, 2014, from http://eyler.freeservers.com/JeffPers/jefpco08.htm | [3] Jaswal, Dr. P. S., & Jaswal, Dr. N. (1996). Human Rights and The Law. New Delhi: APH Publishing Corporation. | [4] Mahajan, V.D. (1988). Political Theory. New Delhi: S.Chand & Company LTD. | [5] Mukherjee, S., & Ramaswamy, S. (1999). A History of Political Thought – Plato to Marx. New Delhi: Prentice Hall of India Private Limited. | [6] O'Byrne, D. J. (2004). Human Rights – An Introduction. Singapore, Indian Branch, Delhi: Pearson Education. | [7] Rutherford, M., & Samuels, W. J. (Eds.). (2002). John R Commons Selected essays Volume One & Two. London and New York: Routledge. |