

Introduction to Political Theory
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Lecture - 11
Rights and Duties

Hello, friends. Welcome to this third and concluding lecture on rights that we have been discussing. Today, we are going to focus on human rights and in the second part of the lecture, we will discuss briefly, about the relationship between rights and duties before concluding the lecture.

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Intro

- Human rights is based on the principle that every individual has certain basic rights recognized and protected simply by virtue to him or her being a human. It means that, to have those rights, individuals need not to be member of a state, or a community or culture. It is granted to them simply because they are human. There are no discrimination on the grounds of nationality, race, caste, class, gender, or religion.
- Although, the beginning of this idea could be traced back to enlightenment thinking of sixteenth to eighteenth century particularly in 'natural rights' theory, it was only in twentieth century that human rights became the central concerns in political discourse. The fundamental of human rights is based on the principle that each live matters and carries same or equal moral worth. Since its declaration on Dec 10, 1948 *Universal Declaration of Human Rights* (henceforth, UDHR) has initiated fierce debates in the domestic politics of each signatory states and in the global politics as well about protecting certain basic rights of the individuals.
- Human rights are complex and contested sets of universal rights which tries to organize the relationships between individuals, society and state. Although, there are instances of human rights violations and millions of people and numerous communities continue to face persecution often by their own states, however, UDHR has been successful in constituting a global consensus on these rights and many regional and national institutions have been set-up for the protection of these rights.

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While focusing on the human rights, it can be argued that the idea or premise of human rights discourse is based on the principle of every individual having same or equal moral worth. Therefore, they have certain rights which are inalienable or cannot be differentiated on the basis of their birth, class, caste, religion, and language.

Human rights, discourse assume that all individuals because of his or her being member of humanity has certain rights and these rights have certain overriding powers. The term overriding power means, suppose in domestic politics, there is a constitution which guarantees certain rights to individuals, and we call it as the fundamental rights. If the state or government enacts certain legislation which takes away those rights, then

fundamental rights have overriding power to nullify, those acts or legislations passed by the Parliament which takes away or curtails those rights guaranteed by the constitution.

In the similar way, the premise of human rights discourse is that these rights have certain overriding powers to suspend, curtail or limit those ordinary laws or policies of the state which takes away these rights. So, human rights, in that sense is based on the principle that every individual has certain basic rights, recognized and protected simply, by virtue of him or her being a human. There are no other criteria required for the protection of these rights. These rights are guaranteed, recognized and must be protected simply, because a person is human-being and not because he or she is a member of any particular community.

It means that to have those rights, individuals need not be a member of a state or a community or culture. The hard fact is all individuals must simultaneously, be a member of a particular community, be it state or society or community or religious groups. So, individual is in actual circumstances, and in actual practical existence are also, members of a particular community. However, the premise of these rights are based not because of the individual is a member of a particular community, but because that individual or that person is member of humanity, or more precisely, he is a human-being.

The discourse on human rights is very different from what we have discussed in the previous lecture on legal rights, citizenship rights or the rights guaranteed by state to its members or citizens. Now, human rights discourse transcends those boundaries of nation and state, and includes every single individual on the planet. The human rights discourse, as we will discuss tries to include within its fold different communities, races, religions and other kinds of communities, and groups within its fold.

There is a dichotomy, where the human rights discourse assumes certain rights which is or should be recognized as inalienable rights and they are based not because that individual or person is a member of particular community, but simply, because he or she is a human-being. It is granted to them because they are human and there is no discrimination on the grounds of nationality, race, caste, class, gender or religion. So, in the human rights discourse, there is no such discrimination on grounds of any of these or even if, all of these put together. Thus, we are going to discuss about different kinds of

rights which do not discriminate among the groups or individuals on the basis of any of these criteria like nationality, race, caste, class, gender or religion.

Now, looking at the origin of this idea of human rights, one can trace its origin in natural rights theory of enlightenment thinking from 16th to 18th century. So, in the natural right theory, as we have discussed, the assumption was that individuals before joining a society or forming a state was living in a 'state of nature'.

And in that 'state of nature', human-being had certain rights and those rights therefore, must not be or cannot be curtailed or limited by the society or state, because they have not guaranteed those rights. Those rights individuals have on the basis of the natural rights. These are rights based on the natural law. So, we can trace its origin in the natural right theory. However, it was only, in the 20th century and more particularly, after the Second World War and the persecution or genocide or mass killing or the large scale crimes that were committed during the Second World War, particularly, by the Nazi regime and the trials were followed. There emerge new discourses about protecting certain rights which should be overriding, promoted and protected in all contexts for every single individual and especially, those who are vulnerable and helpless.

And in that context, there laid the provision to interfere in the matters of internal affairs of the state in the name of protecting right. So, it is misused and that makes the human rights discourse challenging.

However, the human rights discourse has the provision of legitimate interference in the internal matters of state to protect the communities and people from persecution, human rights violation as committed by their own state or government. The specific location or emergence of human rights discourse was during the Second World War after the Nuremberg trial, where many crimes especially, crimes against humanity was discovered and there emerged a kind of consensus about how to curtail limits or persecute those criminal rights.

It was only, in the twentieth century that human rights became the central concern in the political discourse and since then, there has been a continuous emergence structuring situational formation, to protect or make individual groups, communities and state aware about their certain human rights.

The fundamental human rights are based on the principle that each life matters and carries same or equal moral worth. That is the very fundamental premise of human rights discourse. And since, its declaration on December 10, 1948, Universal Declaration of Human Rights and henceforth, we will refer to it. UDHR has initiated fierce debates in the domestic politics of each signatory or even non-signatory state as well as in the global politics about protecting these basic rights of the individuals.

Now, human rights are complex and contested types of universal rights. These rights are by default universal and so, it applies to everyone. However, these rights are very complex and contested. As we move on to discuss the particles of human rights declaration, we get to know that there is a conflict between political rights and the civil or political rights, and the civil rights on the one hand, and socio-economic rights on the other hand, and the groups and community rights, on the other hand. Thus, question arises, how to curtail or reasonably, limit some of these rights to maintain peace or harmony or morality, in the society and community.

The discourse on rights, as we have discussed in previous two lectures is not conclusive. There is a conflict and constant evolution and there are often, two rights which are at conflict with each other and some rights are negative and positive. That creates another kind of tension which we have discussed in the previous lecture as well. So, human rights are complex and contested sets of universal rights which try to organize the relationship between these three sets of actors. One is individual, then the society or community and finally, the state. The human rights discourse tries to manage or organize the relationship between the individuals, society and state.

The assumptions being that individual is of same or equal moral worth, but that individual constantly, or simultaneously, live in a society or within a state. So, these claims that individual has is not only, against other individuals or society, but more importantly, against the state. And state, therefore, remains a kind of contesting or contradictory element in this whole discourse, where states are expected to protect or uphold these rights. However, states are also, seen more often than not violated these rights. Now, in these circumstances, how to ensure effectively, or implement the human rights remains one of the biggest challenges.

There are instances of human rights violations and millions of people and numerous communities continue to face persecution often, by their own states. However, UHDR has been successful in constituting a global consensus on these rights and many regional and national institutions have been set up for the protection of these rights.

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➤ UDHR along with International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social and Cultural Rights (1966) also provide a model for the functioning of democratic welfare states in which individual enjoy certain civil, political and socio-economic rights. There are also regional organizations for the monitoring and protection of human rights such as European Convention on Human Rights (1950); US Convention on Human Rights (1969); African Charter on Human and People's Rights (1981). Government of India has also set up a National Human Rights Commission in 1993 and there are several State's level Human Rights Commissions to monitor and protect human rights.

"Human rights are not a privilege conferred by government. They are every human being's entitlement by virtue of his/her humanity." - Mother Teresa

➤ The UDHR contains 30 articles and a Preamble. Many of these rights are overlapping and for the purpose of our discussion we can club them together into three kinds of rights:

- Civil and Political Rights
- Economic, Social and Cultural Rights
- Group or Collective Rights for Development and Self-determination

So, UDHR, along with International Covenant on Civil and Political Rights 1966 and International Covenant on Economic, Social and Cultural Rights, formed again in 1966. It provided a model for a welfare democratic state in which individuals can enjoy certain civil, political and socio-economic rights.

Thus, together with UDHR and these two International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, they constitute a model for any state to function as a welfare democratic state in which every single individual can enjoy certain political, social and economic rights, and also, to live a dignified, moral and meaningful life. The human rights discourse provided a kind of mechanism to not just merely, discuss or talk about some rights of the individual, but also, to create a model or structure of an institution which will provide the conditions for the individuals to exercise some of these rights. So, this discourse led to some formation of regional level covenants or discussions at the national level.

For example, there are regional organizations for the monitoring and protection of human rights such as, most importantly, European Convention on Human Rights in 1950 and US

Convention on Human Rights on 1969. Similarly, African Charter on Human Rights on People's Rights on 1981. The government of India has set up a National Human Rights Commission in 1993 and there are many states level Human Rights Commission to monitor and protect human rights in India.

These are some of the discourses, the origin of discourses and institutional apparatus for the protection and monitoring of human rights. Besides, there are many NGOs also. Some of the NGOs like Amnesty International or the Human Rights Watch, we must be aware of or working on tracking the possible or the actual violation of human rights in different countries, coming with different reports and fixing responsibilities and developing awareness about the protection and promotion of these rights in different countries. So, these are some of the things that we have discussed.

Now, we will focus specifically, on some articles and through that we will try to understand what kinds of rights are considered as human rights. So, before doing that this quotation of Mother Teresa actually, reinforce the point which we have discussed that 'Human rights are not a privilege conferred by government. They are every human beings entitlement by virtue of his or her humanity'. This is the basis, or the source of human rights and not the government, and the state. The state and government is there to protect and promote these rights, and they are not the sanctioning authority.

These rights are understood as entitlements of individuals because of his or her being human and not because of his or her being member of a community or state or society. So, state, society and government is there to protect and promote those rights and they are not the sanctioning authority of these rights.

Now, we will discuss, some of these rights particularly, as enlisted in the Articles of Universal Declaration of Human Rights. So, it should be Universal Declaration of Human Rights. It contains 30 Articles, besides a preamble and many of these rights are overlapping and for the purpose of our discussion, we can club them together into three kinds of rights and we will discuss each one of them.

So, when and most of the rights, enlisted in these 30 Articles are Civil and Political Rights in nature, the second is about Economic, Social and Cultural Rights and finally, Groups and Collective Rights for Development and Self Determination. To give you this

background, it was not easy, to arrive at a consensus about what constitute the human rights.

In the advance, liberal democratic country, the rights are considered as essential for the individual, and it will not be necessarily, considered essential in other societies, for example, least developed societies or countries from Asia and Africa, where the organizing principle of life is a collective life or community life or group rights. Again, for example, the socialists or communist countries wanted economic or social or cultural rights and it should be given more preference than merely, political and civil rights.

There was a contestation about what does it mean to have human rights and which rights can be rightly, regarded as the human rights of individuals. It is a very contested terrain and there developed a gradual consensus, atleast, among the elites about some rights which are inalienable and it should be regarded as human rights which has overriding power on certain ordinary laws or on other considerations of policy or state. So, as we have discussed on Dworkin's principle, we need to remember that rights are not something, which can be traded off with some other values.

For the progress of largest number, like a utilitarian will argue that a policy and its justification is based on the principle that whether it maximizes the happiness of the greatest number or not. According to Dworkin and human rights discourse, also, some rights are good in itself, and it does not require some other justifications nor should be traded off with some other political goods or political values.

These rights must be protected. So, this consensus emerges, while constant negotiation or conventions, conferences or seminars. As we have discussed, evolution of not just the discourse on human rights, but also, the institutional structure or mechanisms for the monitoring or protection of human rights is something, very unique to the twentieth century as well.

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Civil and Political Rights

➤ Human beings should be treated equally, irrespective of personal characteristics or citizenship (Art 1-2); Right to life, liberty and security of person (Art 3); Prohibition on slavery, and on torture (Art 4-5); Equality before the law; equal protection by the state; right to an effective remedy for violation of one's rights; prohibition on arbitrary arrest and detention; right to a fair trial; presumption of innocence until proven guilty; prohibition on retroactive laws (Art 6-11); Prohibition on arbitrary interference in private life (Art 12); Freedom of movement, including emigration; right to asylum in another country (Art 13-14); Right to own property; prohibition on arbitrary seizure of property (Art 17); Freedom of thought, conscience and religion; freedom of opinion and expression; right to peaceful assembly; prohibition on compulsion to belong to an association (Art 18); Right to political participation; equal access to public service; 'the will of the people shall be the basis of the authority of the government' (Art 21).

Economic, Social and Cultural Rights

➤ Right to social security; right to work, and the free choice of employment; equal pay for equal work; right to 'just and favourable remuneration'; right to join a trade union; right to rest and leisure; right to an 'adequate' standard of living; motherhood and childhood are entitled to special care and assistance; equal protection of children; right to education; right of parents to determine the kind of education their children receive (Art 22-26)

Now, we will discuss each of these rights one by one. So, the civil and political rights, if you remember in the previous lecture, we have broadly, discussed what civil or political rights are. But some of these rights, we regard as the civil and political rights and these are disproportionately, large number of rights in comparison to say socio-economic rights or cultural or group rights.

So, the civil and political rights are in Article 1 and 2 which talks about human-beings should be treated equally, irrespective of personal characteristics or the citizenship. So, the nationality or the personal characteristics should not be the basis of treating everyone, equally. So, this treatment of equally is based on the idea of same equal moral worth. Article 3 talks about life, liberty and security of person that is the fundamental rights.

Then, Article 4 and 5 talks about prohibition on slavery or torture. So, no person should be put in the condition of servitude or dependence against his will. Any practices or policies or the laws which subject an individual or groups of individual to the condition of slavery or torture, that is, the violation of human rights. Thus, Article 4 and 5 prohibits slavery or torture.

The Article 6 to 11 talks about equality before law or equal protection by the state to each individual, right to and effective remedy for violation of one's right. So, if, there is some violation, they all have the same or equal access to the court or institution for the

protection of their rights. A state and law must treat or protect its citizens equally, without any discrimination.

Now, there is prohibition on arbitrary arrests or detentions. So, the state's right or power to detain or arrest a person should not be based on arbitrary principles. An individual cannot be detained arbitrarily, there must be some legal valid justifications for the arrest and detention, and the individuals must be informed for his detainment or arrest.

There are certain rights which protect the individuals from arbitrary arrests and detentions. Then right to free trial. So, that is based on the idea of natural justice that even those who are criminal, who is accused of certain crimes must be given free trial. That means, we must have access to defend and argue his case or to prove his innocence.

The presumption of innocence is until proven guilty. No individual should be regarded as guilty, unless, he is proven by the court of law. So, prohibition on retroactive laws, that means, for a crime that individual commits today, should not be persecuted on the law which has retrospective effect. For the crime, individual commits, only, those laws operates or which are in operation at the time of that crime. So, suppose someone committed a crime in 2015 and there is a new law, today, that is operational in 2018.

Now, this person who committed a crime in 2015, if he is persecuted, today, cannot be persecuted on the basis of law which is enacted this year. He must be persecuted on the laws which were operational at the time of his or her crime. So, there is a kind of prohibition on the retroactive laws in Article 6 to 11.

There is the prohibition on arbitrary interferences in private lives of people. The right to privacy in Article 12 talks about freedom of movement, including immigration rights to asylum in another country which is protected under Article 13 and 14. Again, the right to own property and prohibition on arbitrary seizure of property is found under Article 17. The Article 18 is something, very crucial which is similar to Article 19 in the Indian constitution. This Article talks about freedom of thought, conscience, religion, freedom of opinion and expressions, right to peaceful assembly, prohibition on compulsion, to belong to an association, etc.

These are some of the broader civil and political rights which are guaranteed under Article 18. Then, Article 21 talks about right to political participation, equal access to

public services or the will of people which shall be the basis of authority of the government. The legitimacy of the government is thus, based on the consent of people.

These are some of the rights, we have seen which the Universal Declaration of Human Rights contains under 30 Articles and almost 21 of it talks about civil and political rights. This is a kind of disproportionate value attached to the civil and political rights which treats individual as an autonomous individual as well as a member of humanity and not because he or she is member of a particular community or states.

That is the basis which we will discuss, while we conclude the human rights discussion. There are however, certain legitimate criticisms against these kinds of disproportionate focus and it is only, the civil and political rights which focus on individuals. The second kinds of rights are the economic, social and cultural rights, which is more about groups or the collectiveness. Ofcourse, there is one separate sub-topic to that but it is more towards the collective conditions or collective lives. So, Article 22 to 26 talks about economic, social and cultural rights which means right to social security that every individual should have certain minimum social security.

The right to work or everyone should have the employment or opportunities for the employment. There should be free choice of employment and nobody should be forced to do something, against his or her will. That means, enough of employment opportunities should be there. Then, there should be equal pay for equal work. There should not be discrimination on the basis of sex, gender, religion and in terms of rewarding for same kind of work. Thus, there should be equal pay for equal work, right to just and favorable remunerations. The remuneration will not be for his or her job, so, not below the minimum threshold. So, we have seen, many states especially, democratic welfare states set certain limits or minimum limits for employment opportunities.

Again, the right to join trade union, right to rest and leisure, right to adequate standard of living motherhood or childhood are entitled to special care and assistance, equal protection of children, or right to education right of parents should determine the kinds of education their children should receive. These are some of the rights which can be regarded as the social and economic rights protected under Article 12 to 16.

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Group or Collective Rights for Development and Self-determination

➤ Right to freely participate in the cultural life of the community (Art 27); 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized' (Art 28); Everyone has duties to his or her community; the exercise of the above rights can only be limited in order to meet the 'just requirements of morality, public order and the general welfare in a democratic society' (Art 29); Nothing in the Declaration should imply that any state, group or person can engage in actions destructive of any of the rights and freedoms enlisted here (Art 30).

Human Rights: An Assessment

➤ The concept of human rights is subject to continuous evolution. And it has led to recognition of many other rights such as children's rights, right of indigenous people. The present declaration gives prominence to civil and political rights of human beings. Then it also pays due importance to their social-economic rights. In order to strengthen the foundation of these rights it also highlights individual's duties toward the community.



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There are groups or collective rights for development and self-determination. These are basically, under Article 27, 28, 29 and 30. There is the right to freely, participate in the cultural life of community. So, the community lives are also, regarded as necessary, for the growth and progress of individuals which should not be denied only, on the basis of him or her personal characteristics or the color of his or her skin or his or her level of education. In the cultural life of community, everyone should have free and equal participation as in Article 27. Now, everybody is entitled to a social and international order in which the rights and freedom are set forth in this declaration. That means, universal declaration of human rights can be fully, realized.

The Article 28 talks about that conditions of social and international order, where the rights and freedom are part of this declaration where it can be fully, realized. Then Article 29 or 30, basically, talks about the relationship between the rights of individual and maintaining public order and morality. And thereby, posing certain limits or constraints or curtailment over individual right. So, everyone has duty to his or her community. There is a kind of balancing between individual rights on the one hand and the duties, and responsibility of individuals towards his or her community.

The exercise of the above rights can only be limited, in order to meet the just requirement of morality, public order and the general welfare in a democratic society. Article 29 talks about these rights. Here, we need to think about this idea of what is

morality, public order or general welfare, and that makes the whole discourse on rights a contested terrain. The institution of a state or government may use this category of public order or morality or general welfare in the name of curtailing certain individual rights to property, right to movement, right to seek a profession.

In the name of protecting or promoting public order or morality, a state may curtail or limit those rights of the individual. There is a genuine requirement for limiting some parts of individual rights for the protection of public morality and order. But it can also, be misused or abused by the state and its institutions for doing something, which is not intended to promote the general welfare. But in the name of general welfare, they can control or limit the rights of individuals.

The Article 30 talks about nothing in the declaration that should imply, any state or groups or persons who can engage in actions, whether destructive of any of the rights and freedoms enlisted, here. So, all the rights that are enlisted in this right must be protected and no state, person or groups are supposed to destroy, or limit any of these rights, that are already enlisted. These are basically, three broader categories of rights contained in the Universal Declaration of Human Rights.

Now, if we assess, these rights which we find in the concept of human rights is subjected to continuous evolution. That means, new rights are added to these rights. So, as we have discussed, there was Universal Declaration of Human Rights and in 1966, there were two conventions on political and civil rights, and socio-economic rights at the international level.

And also, at the regional or national level, there are many institutions or agencies that have been set up to recognize, to promote or to protect these rights. The discourse on human rights, also, leads to recognition of many rights, such as the children rights in different countries. In our own countries, we have seen, how much legislation have been passed to abolish child labour and to provide free education to every children. Now, right of indigenous people is again, a new kind of discourse which is there in the international discourse on rights. In Canada or in US or Australia, there is legislation for the protection of indigenous people and for the protection of their culture. In India, also, we have Fifth and Sixth Schedules which protects certain territory, groups of individuals and give them some leverage, to protect their culture, customs, and traditions.

The human rights discourse in that sense is a kind of contested, complex set of rights often at conflict with each other and constantly, evolves in the sense, of new rights are added to human rights. So, the present declaration gives prominence as I have said to the civil and political rights of human-beings. It pays due importance to their socio-economic rights, in order to strengthen the foundation of these rights. It also, highlights individual duties towards the communities, especially, Article 29 talks about those duties of individuals.

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- One of the major criticisms against the human rights is the fact that in this discourse state is expected to recognize and protect these rights. However, often state itself is violator of these rights. And, in the absence of other effective mechanisms implementations of human rights remains one of the biggest challenge.
- Although, there are international court of justice, UN agencies, and also NGO's like Amnesty International and Human Rights Watch. And, they are doing commendable job in campaigning for human rights awareness and monitoring human rights implementations and also holding the governments responsible for its violations. However, human rights violations are still rampant.
- Human rights are also criticized on the ground that it was the product of a particular context of eighteenth century 'West' and its impositions by many countries are seen as a form of 'imperialism'. Many countries, especially from the Global South see these discourses on human rights as part of developed countries pursuit for economic interests. Besides the cultural biasness, it is also argued that human rights favors individualism over collectivity and give primacy to negative over positive or political and civil over social, economic and cultural rights.

One of the major criticisms against human rights is the fact that in this discourse, state is expected to recognize and protect these rights. However, often, a state itself is the violator of these rights. In many countries, we find that state is supposed to protect and promote these rights, but it is itself the perpetrator. That means, state is the violator of those rights. In that sense, there is no other effective agency which can enforce these rights. There can be an international pressure and there can be NGOs which may initiate discussions on human rights violation in any country. But ultimately, because of the nature of the global politics, the state remains the predominant actor in domestic affairs of a state.

When the state becomes the proprietor or violator of human rights, in that sense, the idea of interfering in domestic affairs of a particular state takes place in the name of protecting human rights. That means, protecting the individuals or communities from

their own government. We have also seen many countries, especially, from the advanced countries which promote or pursue their own selfish economic interests in the name of protecting human rights in a particular country. So, they are those contestations, also. The state, itself, remains violated and in the sense of other effective mechanisms, the implementation of human rights remains one of the biggest challenges.

The effective implementation of human rights is far from satisfaction and individuals and communities continue to face human rights violation in most of the countries. Although, there are International Court of Justice or UN agencies and also, NGOs like Amnesty International and Human Rights Watch, and they are doing commendable job in campaigning for human rights awareness and monitoring human rights implementations in different countries. It holds the governments responsible for its violations. However, human rights violations are still rampant in different countries. For example, in the Middle East or in Asia or in Africa, some of the rights which we have discussed in these three groups of rights are denied to the majority of population.

However, it leads to a discourse, where we now increasingly, talk about eradicating poverty or freedom from curable diseases. So, the United Nations programs are like the millennium development goals or sustainable development goals. These are initiatives in these directions to create a society, where everyone will not just have political and legal equality or political and civil rights, but also, the social, economic and cultural conditions of living, where these political and civil rights will be more meaningful.

However, there are some other criticisms against human rights, also. Human rights are criticized on the grounds that it is a product of a particular context of the 18th century 'West' and its imposition by many countries are seen as a form of 'imperialism'. So, in the name of protecting human rights, there are undue interferences in the domestic matters of many countries by the developed countries. Many countries, especially, from the Global South, you see these discourses on human rights as part of developed countries' pursuit for economic interests. There is cultural biasness, also, where it is seen as the product of a particular geographical and historical context of 16th to 18th century Europe. And there, it is transcended or internationalized in the sense, where every country is supposed to recognize, protect and promote these rights.

Besides, the cultural biasness, it is also, argued that human rights favor individualism over the collectivity or community lives of many non-western countries and societies. This we have discussed in 'Asian value' debates, where the focus on the self is the very motive or interests of the individual that is the basis of western theory, social and political theory. But the 'Asian value' promotes loyalty or duty towards community or community lives. And especially, in the multi-cultural and communitarian critics, we have seen some of these tensions between understanding an individual as the autonomous, self-defining being and therefore, carrying certain rights and individual beings are embedded in his or her community.

There is a kind of critic, to human rights which favors individualism over the collectivity and give primacy to the negative and positive rights and over the positive rights, political and civil rights which is disproportionately, given more share in this declaration on human rights to the socio-economic and cultural rights of the individual.

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Rights & Duties

- Rights, it is said, have no meaning without duties. One person's rights necessarily involves another person's duties or *vice-versa*. Laski carefully points out to their correlation: *The possession of rights...does not mean the possession of claims that are empty of all duties...Our rights are not independent of society, but inherent in it...To provide for me the conditions which enable me to be my best self is to oblige me, at the same time, to seek to be my best self. To protect me against attack from others is to imply that I myself will desist from attacking others.*" (*A Grammar of Politics: 1938*)
- Rights without duties are meaningless claims. It puts an obligation on the individual to fight for the protection of rights which is necessary not only for him but also for every one else. It necessarily entails one's obligations and duties towards other.
- Rights often conflict with each other. And in the absence of duties excessive discourse on rights may lead to even more conflicts, violence and chaos. And, therefore, Gandhiji used to say that if we do our duties our rights will be automatically taken care of. Even, Articles 29 of UDHR focuses on everyone's duties towards their community.
- It is also said that an individual would be entitled to the rights and freedoms on the condition of recognizing similar rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

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Now, we will discuss about rights and duties. Rights, are said to have no meaning without duties and one person's rights necessarily, involves another person's duties or vice versa. So, the rights and duties must go hand in hand. This idea of rights and duties should go together is carefully, pointed out by Harold J. Laski, in his work, *A Grammar of Politics* in 1983, where he writes, 'The possession of rights does not mean the possession of claims that are empty of all duties. Our rights are not independent of

society, but inherent in it. So, to provide for me the conditions which enable me to be my best self is to oblige me, at the same time, to seek to be my best self. To protect me against attack from others is to imply, that I myself will desist from attacking others’.

Therefore, my rights or rights that are given to me, is meaningful only, on the condition when I recognize similar rights to others and that recognition of similar rights to others, oblige me to do something, or to have obligations and responsibility towards others as well. The conditions which enable the exercise of rights is possible only, in a society where there is not only just individual but there are other individuals as well.

One individual right is therefore, at conflict with other individuals rights in a sense; right of one is not absolute. It has to be balanced with rights of others. So, that mutual recognition is necessary, or the mutual obligation to each other’s right is necessary, for the exercise of one’s right.

That is at one level, the society and individual. The second level of this relationship is between the state and individuals or society on the other hand. The relationship between individual, society and state is somewhat, mediated through this recognition of certain rights and also, the corresponding duties and responsibility. Rights without duties are meaningless, claims and it puts an obligation on individuals to fight for the protection of rights which is necessary, not only for him, but also, for everyone else.

It necessarily, entails one’s obligations and duties towards others. The discourse on rights and struggle for rights are meaningful or have justifications, and not because it is meaningful for a person. But it is meaningful for everyone in that society, or in those groups which makes these claims as legitimate claims. That makes these claims to be recognized and therefore, it is termed as legal or social rights which a society or state may recognize.

The discourse on rights are claims which is not merely, for a single individual, but for every individual in a society or community which gives the rights or claims that strengthen the society. So, rights often, conflict with each other and in the absence of duties, excessive discourse on rights may lead to even more conflicts, violence and chaos.

To think about a society, where every individual is only, worried about his or her rights and those rights are guaranteed and they refuse or denied to do corresponding duties or responsibility for the exercise of those rights. It will lead to inherent conflicts, violence or chaos in the society. Gandhi, therefore, argued, if we do our duties, our rights will be automatically, taken care off.

Many liberals and other theorists of rights which we have argued like the natural right theorists, legal rights like Ronald Dworkin whose starting point is that individual has certain rights and those rights must be recognized, and protected by the society and state. Here, in Gandhi, we have seen that each individuals should must be conscious of his duties and actually, they are worried about performing his or her duties, and everyone should, if everyone does so, the rights of individuals or community or the groups or culture will be automatically, taken care off.

In Gandhian approach, there is no need to struggle or to fight for the rights, if everyone is willing to do his or her duties towards others, society, and community. His focus was on duties rather than excessive emphasis on rights. Article 29 in the Universal Declaration of Human Rights, also, focuses on everyone's duties towards their community.

It is also, said that an individual would be entitled to the rights and freedom, only on conditions recognizing, similar rights and freedom of others and of meeting just requirements of morality, public order and general welfare of democratic society. These are some of the grounds which enable the individuals to exercise his rights. Basically, the exercise of one's right is based on the idea that one is equally, obliged to do certain duties or responsibilities towards others, and to recognize their rights, to exercise similar rights that he or she claims against society or state.

To conclude this lecture on rights, we can refresh some of the things which we have discussed over the three lectures. First, rights are claims or entitlements of individuals against society or state.

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Conclusion

- Rights are claims or entitlements of the individuals against society or state. These claims or rights are regarded as necessary for the proper development and progress of the individual. However all the claims that an individual makes is not regarded as rights. As for the claims to be regarded as rights it must be recognized by the communities or state.
- We have discussed how discourse on rights is rooted in natural rights theory. We have also discussed the difference between positive and negative rights; moral rights and legal rights; civil and political right and social economic rights. We have also discussed conflicts in different theories of rights i. e. libertarian; communitarian; multiculturalist; and 'Asian value' debates and also human rights and relationships between rights and duties.
- Rights are often at conflict with each other and without duties it has no meaning. So, both right and duties should go together. Rights also require justifications and there could be reasonable restrictions on the rights.
- Rights protect the individual or groups from the tyranny of society or state. Human rights discourse and institutional apparatus have led to empowerment of many vulnerable and persecuted communities. It protect them from their own state or government. And this is biggest contradictions in rights discourse. State which is supposed to recognize and protect these rights is often its violators too. And therefore, citizens and civil society groups must remain ever vigilant for the protection of these rights.

Rights are enabling conditions or a kind of claim against a state or society. These claims or rights are regarded as necessary, for the proper development and progress of individual. However, all the claims that an individual makes is not regarded as rights that we have discussed. These rights are individual claims or entitlements against society and state for his or her due, progress or development. However, all the claims that individual makes against the society or state is not regarded as rights. Because for the claims to be regarded as rights, it must be recognized by society.

An individual can make hundred claims, but all the claims cannot be regarded as rights. For the claims to be recognized as rights, it must be recognized by the society at the collective level and also, by the state. And once, the state recognizes certain rights, those rights becomes the legal rights against whom individuals can go to the court for the protection of those rights. However, the other kinds of rights, for example, moral rights or human rights, individuals do not have or it cannot be enforced in the court of law. These are some of those differences which we have discussed and also how discourse on rights is rooted in natural rights theory.

At the same time, we have discussed about the difference between the positive and negative rights. That means, rights which invite the state to do certain things, to have proactive roles in providing the conditions for an individual to exercise certain rights. For example, providing quality and accessible education or medical care to everyone are

those rights of individuals which are positive rights that requires the proactive roles of the state and society.

There are certain negative rights which restrained the state from doing certain things. So, the right to life, right to freedom of speech and expression can be regarded as the negative rights. We have also, discussed about the difference between moral rights and legal rights, civil and political rights on the one hand, and social, economic rights on the other. We have discussed about the conflicts between different theories of rights such as libertarian, communitarian and multi-culturists perspective on rights and also, on 'Asian value' debates.

Today, we have discussed the human rights and the relationship between rights and duties. So, rights are often, at conflict with each other and without duties, it has no meaning. Both the rights and duties should go together and right requires justification and there could be reasonable restrictions to rights in order to promote, public order, morality and general welfare of the society.

So, rights protect the individual or groups from the tyranny of society or state. Human rights discourse and institutional apparatus have led to empowerment of many vulnerable and persecuted communities in the world, and it protects them from their own state or government. This is the biggest contradiction in the rights discourse, where a state is supposed to recognize and protect these rights are often its violators, too.

Therefore, citizens and civil society groups must remain ever vigilant for the protection of these rights. These rights or claims or entitlements are something, which require the vigilance on the part of citizens and also, the civil society because the authority of the state are often, seen as the violator of these rights in the name of public order, morality or general welfare of individuals.

So, you may be aware of the tussle in the Indian constitution between Directive Principles of State policy which intends to promote the general welfare of Indian people, especially, the weaker, marginal or the poor people and the fundamental rights which protect certain civil and political rights or democratic rights of individuals and groups.

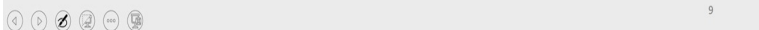
What should be given primacy? Or should we go for the political and civil rights or we must protect it at the cost of social and economic rights, or should we promote social and

economic rights at the cost of political and civil rights. These are the some of the inherent tensions in the discourse on rights, as to which rights should be given primacy that requires the vigilance on the part of citizens and civil society, to hold the government or authority accountable for those rights.

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That is all for today's lecture on rights. Some of these readings which you can look for on this lecture for rights are mentioned in the slide above. Thanks for listening. That is all for today and let us know, what you think about these lectures.

Thank you all.