

- ❖ To plan national and international book fairs.
- ❖ And provide financial support for the schooling of infants, girls and women with disabilities.
- ❖ Emergency relief from flooding, droughts, conflicts and other crises.
- ❖ Provides millions of children with supplementary meals.

## 2.8. THEORIES OF HUMAN RIGHTS

### 2.8.1. GENERAL

- ❖ One of the important characteristics of our national reality is human rights. These are the moral rights of the supreme order. Human rights have been built out of self-respect.
- ❖ Without any distinction of colour, sex, nationality, ethnicity, language, religion and colour etc., it is natural to all humans. When people started to think themselves, it acquired new form. Without prejudice, each and every human being is entitled to these rights.

### 2.8.2. DEFINITION

It is defined as the "The principle of interest claims that the primary role of human rights is to protect and promote those basic human interests, while the theory seeks to determine the validity of human rights based on the unique human potential for equality".

### 2.8.3. MEANING

Instead of being the foundation of human rights, democracy is the aim. Yet liberty is often contingent on others and other societies in essence. Achieving the conditions for liberty - civil rights - is the overriding universal responsibility of mankind.

### 2.8.4. IMPORTANCE OF THEORIES OF HUMAN RIGHTS

The most important Human rights theory are;

- ❖ Right to life and liberty.
- ❖ Freedom from torture and slavery.
- ❖ Freedom of speech and thought.

- ❖ Right to work and education.

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## 2.9. THEORIES OF HUMAN RIGHTS

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Here we are discussed about the some of the theories of Human Rights

- ❖ Natural Law Theory
- ❖ Positivism or Theory of Authority Of State
- ❖ Marxist Theory or Social Welfare Theory
- ❖ Theory Based on Justice or Legal Theory
- ❖ Theory Based on Dignity or Reciprocity
- ❖ Theory Based on Equality Of Respect and Concern

### 2.9.1. NATURAL LAW THEORY

#### ✓ DEFINITION

In ethics and philosophy, natural law is a principle that states that human beings hold inherent qualities that control our reasoning and actions. Natural law holds that these laws of right and wrong are innate in humans and are not established by judges of society or justice.

#### ✓ CHARACTERISTICS OF NATURAL LAW

- ❖ In contrast with an analytical procedure, natural law is a priori process. A-priori the methodology identifies things or assumptions in relation to a topic as they are without investigation or observation at all.
- ❖ Whereas an observational or a posteriori process seeks to classify the causes reasons and reasons in relation to the issue.
- ❖ It symbolises physical law of nature based on moral ideals, which has universal applicability at all places and times.
- ❖ Everywhere and all, common law orders and bans in the same tenor.

#### ✓ ORIGIN OF NATURAL LAW THEORY

- ❖ These are the earliest HR hypotheses.
- ❖ The birth of natural law goes to the Greeks and the Romans built it further.



- ❖ The early and original Roman law was called "Jus Civil" and another "Jus Gentium" legal framework was developed.
- ❖ It is referred to as "Natural Act" or "Jus Law".
- ❖ The essence of man as a logical and social being, as per Natural Law Theory.
- ❖ Roman law distinguished natural law from law, which is universal to all nations.
- ❖ The philosophy of natural law emerged from the interpretation of natural law
- ❖ John Locke was the inventor of the philosophy of natural law and it is closely related to contemporary theory.
- ❖ Human beings should have liberty and dignity, according to John Locke.
- ❖ Locke imagined that there was no force of another, no other state of existence.
- ❖ Natural Rights-Life, Equality and Property Rights-

#### ✓ ADVANTAGES

- ❖ It is clear cut theory.
- ❖ It is straight forward.
- ❖ Good guidance is given.
- ❖ Based on reason.

#### ✓ DISADVANTAGES

- ❖ It is inflexible.
- ❖ It is based on sense of purpose.
- ❖ It is based on belief.
- ❖ It is based on rational human being.

### 2.9.2. POSITIVISM OR THEORY OF AUTHORITY OF STATE

#### ✓ DEFINITION

Judicial positivism is the belief that justice, by its creation, is completely defined as man-made law. The function of positive law is to define and make explicit natural

law; to make it effective through penalties. A recurrent issue of the distinction of law from moral law and natural law is the positivist solution.

### ✓ ORIGIN OF POSITIVISM THEORY

- ❖ A particular approach was taken by the positivists in terms of rights.
- ❖ It was established in the 18th and 19th centuries.
- ❖ Positivism states that whether established by governmental or other authorities, citizens should follow the law.
- ❖ The originator of positivism was Bynker Sheek
- ❖ Prof. H.L.A. Hart, the modern exponent of positivism,
- ❖ A law to be valid must be enacted by legislative authority, according to Positivism.

### ✓ CHARACTERISTICS OF POSTIVISM THEORY

- ❖ Positivism also maintains that society works according to general principles, as the real universe.
- ❖ Introspective and intuitive understanding, as well as metaphysics and theology, was dismissed because sensory perception does not validate philosophical and theological arguments.

### ✓ POSITIVE RIGHTS

- ❖ Protection of the individual and property
- ❖ Economic, social and cultural living rights
- ❖ Living Standard
- ❖ The theory does not clarify the customary law validity that is not generated by legislative authority. It also fails to clarify the general principles of law that states recognise.

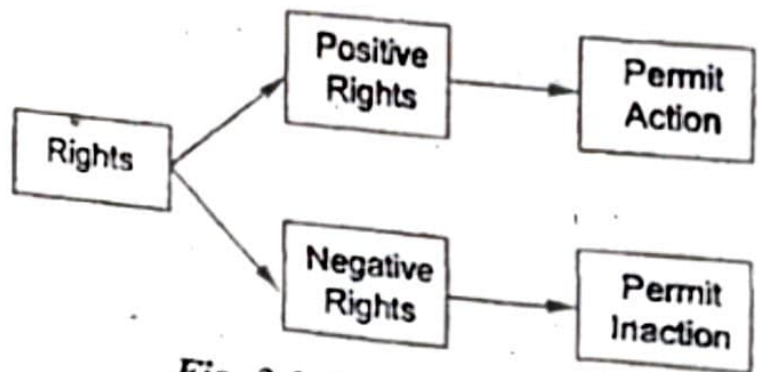


Fig. 2.3. Positive Rights



### ✓ **PERMIT ACTION**

- ❖ Security Personal and Land Security.
- ❖ Entitlement of social, economic and cultural rights.

### ✓ **PERMIT INACTION**

- ❖ Liberty of Speech.
- ❖ Crime Freedom.
- ❖ The Liberty of Slavery.

## **2.9.3. MARXIST THEORY OR SOCIAL WELFARE THEORY**

### ✓ **DEFINITION**

Marxism is a social, political, and economic philosophy originated by Karl Marx, which centres on the conflict between capitalists and the working class. Marx wrote that capitalist-employee power ties were fundamentally exploitative and would ultimately establish class conflict.

### ✓ **MAIN POINTS OF MARXIST**

- ❖ Through manipulating the proletariat, the capitalists would raise their income.
- ❖ All other institutions of society are dominated by those that have economic influence.
- ❖ Regulation of Philosophy.
- ❖ Revolution & Communism

### ✓ **ORIGIN OF MARXIST THEORY**

- ❖ It was founded by Locke, Grotius and Hobbes.
- ❖ The philosophy does not think of people's rights from the rights of society as a whole
- ❖ According to them, progress can be attained by uplifting culture or the environment.
- ❖ They accept the definition of law, democracy, liberty, etc. as historical categories established by society.

## ✓ ELEMENTS OF MARXIST

- ❖ There are some key components of a Marxist socialist society:
- ❖ The working classes retained political influence.
- ❖ Public control and political leadership of the material means of development in society.
- ❖ Planning globally.
- ❖ A significant degree of economic equality among the population.
- ❖ A high degree of, and ongoing, efficient forces.

## 2.9.4. THEORY BASED ON JUSTICE OR LEGAL THEORY

### ✓ DEFINITION

A Philosophy of Justice maintains that any citizen has an equal right to fundamental freedoms and that, like all people of comparable capacity, they should have the right to education and equal opportunity.

### ✓ ORIGIN OF LEGAL THEORY

- ❖ The chief proponent of this philosophy is John Rawls.
- ❖ "Justice is the first virtue of social institutions," they state.
- ❖ To understand human rights, the role of justice is critical.
- ❖ In culture, the standards of justice will grant rights and obligations
- ❖ It allows independence, prosperity, profits and riches that are similarly disrupted and created to serve all.

### ✓ DIFFERENT PRINCIPLES OF LEGAL THEORY

There are 2 types of legal theory ;(i).The Principle of Equal Liberty and (ii). Principle of Fair Equality of Opportunity

#### ➤ THE PRINCIPLE OF EQUAL LIBERTY

If the action defends our freedom from invasion and gives us rights equal to others' rights.

#### ➤ PRINCIPLE OF FAIR EQUALITY OF OPPORTUNITY

It demands that work credentials be connected to the work.



## ✓ FEATURES OF LEGAL THEORY

- ❖ Rejection to Utilitarianism the idea of Bentham was rejected.
- ❖ Self Respect the allocation of human rights and rights has been publicly affirmed and Freedoms.
- ❖ There should be an optimal relationship between democracy and equality.
- ❖ Substantive Social Justice the value system can only be understood in the history in interaction with groups and possession. It is a procedural norm of Justice that maximizes the welfare of the least benefited individuals. According to the theory of social justice, natural properties should be allocated.
- ❖ Then justice performs reasonably well as equity.

## ✓ CRITICISM

- ❖ Once his idea is wide, then it is too narrow all of a sudden.
- ❖ Rawl's philosophy of justice is questioned on the basis that justice opposes the interpretation of the underlying values and behaviours of people as fairness.

## 2.9.5. THEORY BASED ON DIGNITY

### ✓ DEFINITION

The philosophy of personal integrity was formulated as a "third way" between capitalism and communism, both of which were dismissed by the development of a social capitalist system for their purely materialist views.

### ✓ ORIGIN OF DIGNITY

- ❖ The key goal of this philosophy for culture is the defence of human dignity.
- ❖ Value-Policy-oriented approach to value
- ❖ Eight self-contained qualities are
  - Respect
  - Power
  - Illustration

- Good being
- Healthcare
- Skill
- Affection
- Rectitude-morally right behaviour or thinking; justice

- ❖ **Article 21**-The Indian Constitution contains the freedom to lead a dignified life
- ❖ Dignity is the ultimate aim of philosophies to ensure an international culture for the preservation of human dignity.

#### ✓ **FOUR TYPES OF DIGNITY**

- ❖ Dignity of the Human Being
- ❖ Dignity of Personal Identify
- ❖ Dignity of Merit
- ❖ Dignity of Moral Status

#### ✓ **CHARACTERISTICS OF DIGNITY**

The first, "human dignity" was related to being a person, and the second, "dignity as a quality" consisted of three main features:

- ❖ Restraint and calm,
- ❖ Invulnerability and separateness,
- ❖ Serenity with a strength of self-assertion that is not limited to humans, as it may even refer to animals, landscapes and even works of art.

#### **2.9.6. THEORY BASED ON EQUALITY OF RESPECT AND CONCERN**

##### ✓ **DEFINITION**

An equal consideration implies, I contend, that social policy must take the fate of each citizen to be just as significant as any other's fate. Equal regard implies that government must respect each individual's integrity by allowing each individual to decide what will count as a good life for himself or herself.



## ✓ ORIGIN OF EQUALITY OF RESPECT AND CONCERN

- ❖ The theory was developed by Dworkin,
- ❖ The definition of democracy to treat all people with equal treatment and dignity for all citizens.
- ❖ This includes the right to citizenship, freedom of expression, freedom of employment, cultural rights,
- ❖ No single theory can satisfactorily describe the situation and creation of human rights from the above theorems.
- ❖ The philosophy of natural law, however, remains the most generally known theory of the modern definition and creation of human rights.
- ❖ Natural rights philosophy, focused on dignity, justice and freedom, explains the emerging pattern in reverence for and defence of human rights.

## ✓ FOUR PRINCIPLES OF EQUALITY OF RESPECT AND CONCERN.

There are the following aspects to the content of the right to equality:

- ❖ The freedom to recognise the equal worth and dignity of any human being.
- ❖ The right, before the constitution, to equality.
- ❖ The right to equal protection and the benefit of the right to equal protection.
- ❖ The right to be handled with identical dignity.