

Lecture 8:

Justice and Rights

Course: Environment and Politics in India

Equality

The concept of equality:

- Relationship between 2 or more persons/groups.
- Evolving concept (Aristotle, Hobbes, Rousseau, Marx). Various aspects of equality.
- EQUALITY as UNIFORMITY?
 - Commitment to ‘UNIFORMITY’ of “ends”? (EXAMPLES: Equal home size, equal income, equal grades)
 - Uniformity of access/equal treatment? (EXAMPLE: law)

Problems in the above arguments. So why equalise?

- Commitment to fairness (EXAMPLE: Contract workers’ demand for *poore kaam ka poora daam*).
- Necessary for self-respect. Correlation between self-image and society’s perception (EXAMPLE: Dalit experience).
- Necessary for fraternal relations and respect

Equality

Equality of WHAT?

- Equality of WELFARE:
 - Related to Desire OR preference-satisfaction.
 - Does NOT depend on HOW MUCH, depends on WHAT can be done with resources.
 - NOT related to fairness/self-respect/fraternity.
 - LIMITATIONS: Car/jewellery versus bicycle/lantern.
- Equality of RESOURCES:
 - ❑ Distribution of resources.
 - ❑ CENTRALITY of the STATE. EXAMPLES: Taxing the rich more than the poor. Needs to think about “endowments” and “ambitions”.
- Equality of CAPABILITIES:
 - ❑ Emphasis on OPPORTUNITY rather than on INCOME/RESOURCES.
 - ❑ Reading, writing, self-dignity, political participation.

Justice

Is Justice ONLY about the LAW?

- Unjust laws (EXAMPLES: Apartheid, Segregation)
- Many changing notions:
 - Plato: Remaining 'true' to one's 'nature' (VIRTUE), fulfilling duties diligently
 - Aristotle: Equality, Proportionality, Reciprocity, Maintenance of equilibrium. Shift from Plato's notion of hierarchy
 - NOW: No longer a 'religious' concept or based on TRADITIONAL practices.
 - Set of PRINCIPLES to be upheld by the STATE to make life more regulated.

The issue of DISTRIBUTIVE Justice:

- WHO deserves WHAT? EXAMPLES: Workers *versus* Cricketers, Student Grades
- Who NEEDS what? Privileging NEEDS over CAPABILITIES.

Justice

- Procedural Justice:
 - ☐ When RULES are followed.
 - ☐ OUTCOMES/ 'Just' DISTRIBUTION is not relevant.
 - ☐ Justice is about individual behavior, not about structures in society.
 - ☐ Lesser involvement of the State. Defence of individual liberty.

EXAMPLES: Races, Property acquisitions

- Social Justice:
 - ☐ Justice is a feature of SOCIETY.
 - ☐ Evaluation done on basis of whether society itself is FAIR.

Justice

John Rawls' theory: Justice as FAIRNESS

- Despite meticulous following of rules, unjust conditions follow.
- Rawls' PRINCIPLES of justice:
 - Each person is to have an equal right to the most extensive liberty compatible with similar liberty to others.
 - Social and economic inequalities are to be arranged so that they are both:
 - a) to the greatest benefit of the least advantaged, and
 - b) attached to offices and positions open to all under conditions of fair equality and opportunity.
- 1. NO RISK of individual liberty being compromised by liberty of others. *Defence of inequality, class/caste divisions.*

Justifying the 'inevitable' divisions, power structures in society.
- 2. 'Inequality' in treatment should HELP the MARGINALISED.

Ambedkar and the Indian Constitution: Justice and Equality.

Justice

FEMINIST critique of Rawls and theories of justice:

- Family/housework is considered 'PRIVATE'. Not part of the 'public' concept of justice. Overlooks:
 - ❑ Family is ITSELF governed by the 'public'. Inheritance/divorce laws.
 - ❑ Social reproduction of labour.
- Any theory that overlooks unequal relations in the family is INCOMPLETE.

END-STATE/SOCIAL JUSTICE theories:

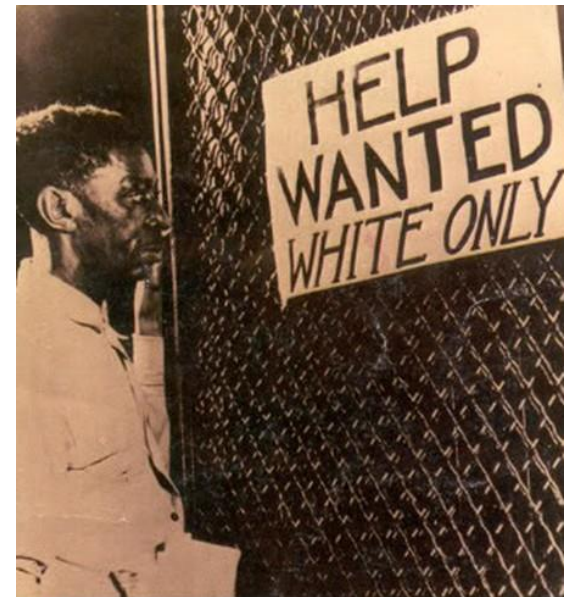
- Each person receives in accordance to labour contribution in production. Differences in skill/talent? Differences in NEEDS?
- MARX: "From each according to his capacity, to each according to his need". No NEED for 'justice' in a truly 'good' community, with no NEEDS/conflict/scarcity.

Rights

- VERY foundation of many modern political organizations. US *Declaration of Independence* (1776), French *Declaration of the Rights of Man and of the Citizen*, Civil Rights movement, Human Rights, Women's Rights, LGBTQI rights...
- RIGHT is one's DUE, entitlement to DO something or have something DONE (to vote, to avail of healthcare)
- SOCIAL character of Rights: RIGHTS are CLAIMS that are justified on LEGAL, MORAL, ETHICAL or HUMAN grounds.
- NEGATIVE and POSITIVE rights:
 - Negative rights: Non-interference from society/State (Right to property/life). No need to DO anything.
 - Positive rights: Active provision of something (Healthcare/education/basic subsistence)

Rights

- CIVIL rights:
 - ☐ Status of equal citizenship in a liberal democratic State.
 - ☐ THEN: Right to own property/legal recourse/practice religion/speech.
 - ☐ NOW: Personal, Political and economic rights.
- POLITICAL rights:
 - ☐ Right to stand for public office/vote/testify in court.
- ECONOMIC rights:
 - ☐ Right to food/shelter/medical care/employment.
- CULTURAL MEMBERSHIP rights:
 - ☐ Rights of indigenous people
 - ☐ Political autonomy?



Rights

THEORIES of Rights:

- The Theory of Natural Rights: Right to remain in the 'state of nature', to act according to the 'law of nature'. Absence of government/ORGANISED political authority.
- The UTILITARIAN theory of rights: Acting according to the theory that the "community" must achieve MAXIMUM utility.
 - ☐ Very popular with policy-makers (Nehru and the Hirakud Dam)
 - ☐ Assumes that UTILITY can be QUANTIFIED. By WHOM?
 - ☐ Justifies the impoverishment of SOME members.
- John RAWLS on rights.
- LIBERTARIAN theory of rights: Emphasizes procedural justice, puts individuals rights (over property etc.) ABOVE ALL.

Rights

HUMAN RIGHTS:

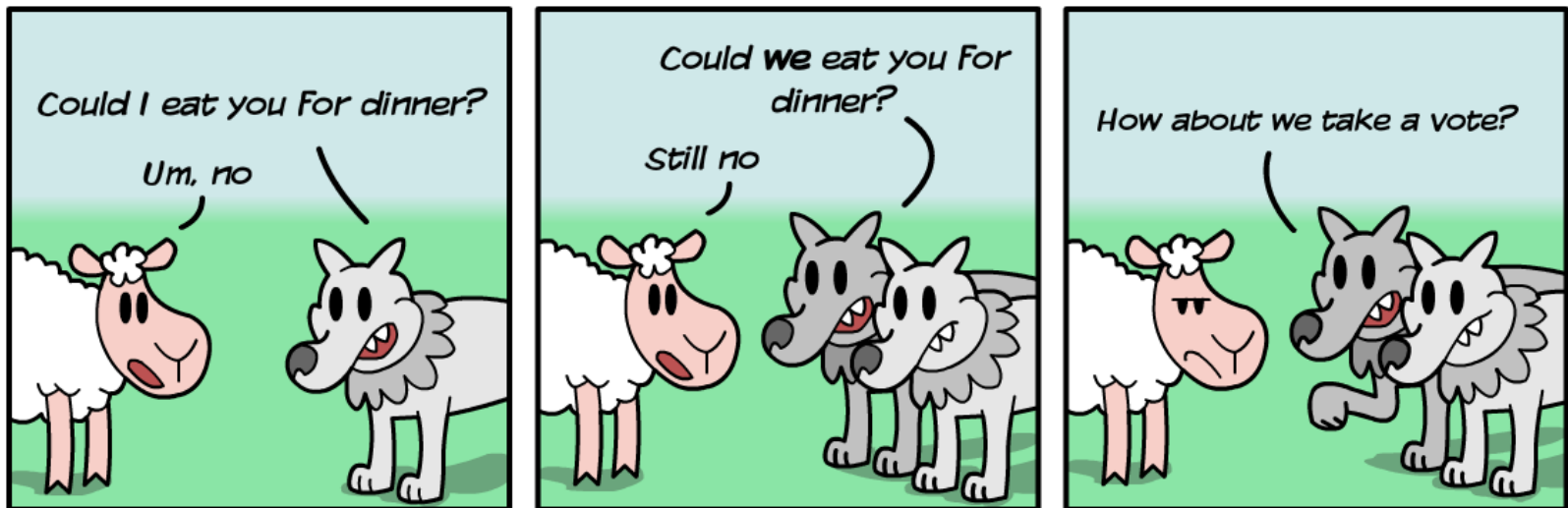
WHAT are they? International MORAL and LEGAL norms. Applicable to the STATE.

- ❑ SECURITY rights: Against murder/rape/torture
- ❑ LIBERTY rights: Freedom of belief/expression/association
- ❑ POLITICAL rights: Right to participate in political activity/vote/serve in public office
- ❑ DUE PROCESS rights: Against illegal detention/punishment without trial
- ❑ EQUALITY rights: Equality under law, protection against discrimination
- ❑ WELFARE rights: Economic and Social rights (food/education/health etc.)
- ❑ GROUP rights: Protection against genocide, religious/ethnic discrimination.

Rights

MULTICULTURAL perspective on human rights:

- Differences in society need to be accommodated.
- Some groups are less advantaged in the CULTURAL/political sphere.
- GROUP-DIFFERENTIATED rights to preserve cultures: territorial autonomy, veto powers, guaranteed representation, land claims, language rights.
- LIMITATIONS: Assaults on democratic values.



Democracy

redpanels.com