Chapter – I

Human Rights:
Moral Speculation And Problem Of Politics
Introduction.

Much of contemporary political philosophy has been a debate between utilitarianism on the one hand and Kantian or right-based liberalism on the other hand. But it is a debate largely decided in favour of the Kantians. For Kantian liberals, right is prior to good. The rights based ethic has recently faced a growing challenge from different directions, from a view that argues for a deeper understanding of citizenship and community than liberal ethic allow. Deontologists assumes priority of self over its ends. Contemporary liberals are not committed to a pre-social self, but to a self capable of reflecting critically on the values that have governed its socialization. It provides that each of us not only requires liberty to develop his individuality, but the satisfaction of social interest and growth of communitarian sentiments necessitate that other be likewise free to cultivate their nature.

The constructive theory of human rights insists that relatively self-conscious and 'free' political action can be an important factor in shaping the basic structures of state and society. While the moral visions that plays such a crucial role in the constructive theory are historically conditioned, this leaves a major range of variation within which significantly different conceptions of human nature might operate. Constructive theory insists that human development is possible only through comprehensive human action coordinated by human rights. It is committed to a view of human nature as conditioned but not fully determined by objective historical process. But deconstructionist theory argues that human rights should serve as a critical tool which permits to unmask the power structure in the society that inhibit
realisation of the full potential of human beings. It says that the fixed ideas about human rights and contextualization of right must be questioned.

This chapter is divided into three sub-chapters.
(1) From Human Nature To Human Rights
(2) End Of History And Communitarian Corrections Of Liberalism
(3) From What Is To What Can Be.

**From Human Nature To Human Rights.**

Since human rights and natural rights have been conventional liberal starting points for political theory, their discussion are necessary for the present world dominated by liberal democratic ideas. Human rights become a modern way of expressing the principle of natural law tradition. ¹ They are natural in the sense that every one born with them.² The theory of human rights as conceived in the natural law tradition is based on three main pillars.³ First, rights are inherent in human nature and do not require any positive recognition. Second, natural order on which these right are based is universal and immutable, irrespective of particular social context. Third, those rights belong to individual as such, not to social groups.

Though it is customary to regard Hobbes as the starting point for the modern analysis of natural rights, in the view of Freeden, it is both correct and misleading. Hobbes developed what are now considered to be important

component of the notion of rights (that is his insistence on mundane and equality of right). But he is not of the part of the humanist tradition that placed right-discourse firmly within emerging liberal thought. Hobbes regarded a right as pertaining to the unlimited exercise of will. This is because a right is merely the absence of duty i.e. a liberty and in a state (of nature) where duties are totally absent. If a right is a liberty, and a liberty signifies the absence of impediments, then a right denotes a condition, namely that of being able to use one's power. It is a descriptive rather than a normative term.

For Hobbes, nature has given every one a right to all. But it was the least benefit for men to have a common right to all things. The effect of this right is as if they have no right at all. In many ways, Locke's account of rights is more traditional than Hobbes's, yet it has been more directly linked to modern liberal theory. Its traditionalism lies in its view of natural law as God's design of man. But by asserting that in a state of nature all men were equally rational, Locke challenged the prevailing doctrine of the divine rights of kings. Unlike Hobbes, Locke regarded natural rights as derivative from natural law. For him, all virtues and morals springs from natural law.

Both Hobbes and Locke start from the assumption that men are equal in needs and capacities and deduce natural equal rights from equality. The difference is that while Hobbes finds a natural right of everyone to

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everything, Locke natural right to freedom is limited by law of nature, which teaches no one ought to harm another in his life, health, liberty and possession.\textsuperscript{7}

In the view of C.B. Macpherson, neither Hobbes's nor Locke's concept of natural rights satisfy the minimum requirements of now acceptable theory of human rights. Any concept of human rights which would be acceptable in the second half of the twentieth century must meet at least two requirements.\textsuperscript{8} First, the right must be some effective sense equal. The minimum acceptable equality may be stated as equal access to the means of 'convenient living' (not an equal right to a certain standard of life, but an equal right to attain it by one's energies). Secondly, the right must be right of recipience as well as right of action. That is to say, there must be an obligation on other to respect each man's right.

From his analysis, it appears that neither Hobbes's nor Locke's natural rights meet these requirements. Hobbes's natural rights, while absolutely equal are not rights of recipience. They meet the first requirement but not the second one. Locke's rational men seek unlimited property, which he assumes at the expense of others. The natural rights concept of Hobbes and Locke, in the view of Macpherson, are generally not acceptable, because of the possessive individualist postulates. Human rights can only be asserted as a species of natural rights, in the sense that they must be deduced from the

\textsuperscript{8}. Ibid.
nature (i.e, the needs and capacities of men as such) whether of men as they now are or of men as they are thought capable of becoming. 9

In the view of D.G. Ritchie, law of nature can be imaged as general command imposed on natural naturata or as general commands imposed by natural naturans. While making distinction between what man does and what exist, we call the former set of phenomena as human, social or artificial and the latter as natural. In some cases, by natural we meant what is original as opposed to what is acquired. Again sometimes nature is imaged in the sense which is ideal whether it actually exists as a fact or not. According to him, it is in the last sense (what is ideal) that nature is properly and intelligibly used when law of nature and natural rights are spoken of. Although sometimes the meaning of natural is mixed up with original and not human. But the natural as the ideal may quite reasonably represented as that which is in accordance with a divine purposes. The original and sub-human are only the incomplete manifestation of what ought to be. 10

In the view of Jack Donnelly, Just as the law is the source of legal rights, contracts are the source of contractual rights, human nature seems to be the source of human rights. In his opinion, the source of human rights in man’s moral nature, which is only loosely linked to the human nature. And human rights are based on human needs which are important part of human nature. 11 In the view of Macpherson, to say neither legal rights nor

9. Ibid.
10. D.G. Ritchie, 'Natural Rights', A criticism of some political and ethical conceptions, George Allen and Unwin ltd. London, (C) 1894. When we speak of nature as simply a collection of objects in whose presence we find ourselves and which form the material inquiry as how they stand related to one another, we are speaking of natural naturata.
customary rights are sufficient basis for human rights. The problem is whether there can be found a doctrine of human rights which is doctrine of natural rights and does not contain the factors which have made early doctrine of natural rights unacceptable.\textsuperscript{12}

Man has an original or what we might call a `natural' nature, as well as a second, `social' or `moral' nature which is historically evolved and culturally specific, but no less time part of `human nature'. It is in this `second nature' that the creative humanising work of society is reflected and natural human potential is realised. From this perspective, Burke's objection to natural rights doctrines that ignore the social nature of man, in favour of abstract universal nature. Thus, the very bifurcation of human nature can be seen as largely a social product and in particular a consequence of societies structured around inequality rather than the equal rights of man. A constructivist theory emphasis on the role of politics in the determination of the modal forms for the realisation of human potentialities.\textsuperscript{13}

Burke attacked the abstract metaphysical and simplistic character of natural rights which he contrasted with the real rights of men, which related to their particular history and complex circumstances. While professing not to deny natural rights, Burke was adamant in contradistinction to the Lockian tradition that they could not be translated into civil and political rights. Burke's described civil and political rights as the offspring of `convention' rather than innate.\textsuperscript{14}

\textsuperscript{14} Michael Freeden, 'Rights' Open Universtiy Press', Backingham, (c) 1991, pp.16,17.
Thomas Paine saw the origin of rights as divine. Man having been created equal and rational had natural imprescriptible rights. Man's natural rights included the Lockean rights to liberty, property and security, as well as the derivative right of resistance to oppression. For him, revolutions are become subjects of universal conversation. The novelty of Paine's view lay in extending natural rights to embrace an early version of welfare-rights. Despite a predominantly minimalist view of government, he allowed for some redistribution of wealth to those who had lost the fruits of their labour i.e. their natural right to property through unjust property arrangements.

Wollstonecraft argues that all societies are corrupted by inequality and unnatural distinctions of rank. Societies organised around principles other than the rights of man render all established courses of action either deadends or destructive of human values. Paine also argues that institutionalised inequality - i.e. government not based on natural rights, produces generalised social degradation. The remedy of course is social change based on natural right which will change the very nature of man. Paine argues that a regime based on the rights of man would actually raise all of mankind to new levels by establishing an environment where all men and women could at last be free to develop their full potential.

While dismissing the notion of natural rights, T.H. Green retains much of its content. He finds the doctrine of natural rights unacceptable for

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three reasons. First, it assumed that individuals brought into society rights that did not derive from society, and second, it asserted that those rights could be held against society, and Third, it detached rights from the duties individuals owed their society. Rights could be held by members of society provided each member recognized in that common good, that is a good for himself or herself as well. If the term 'natural' were to be used at all, it would apply to fulfilling a moral capacity without which a man would not be a man and to the necessary end that society had to realize. 18

The similarities between certain elements of Marx's thought and the constructivist theory also merit brief comment. Historical materialism implies the human nature is the creation of human activity. The strong element of economic determinism and the stress on labour as the essence of man clearly distinguishes Marx from the constructive theory. Nonetheless, the similarities are striking, 'The nature that dwells in human history...is man's real nature', if man is shaped by environment, his environment must be made human'. And yet it is this vision of human nature and society that underlies Marx's attacks on natural rights and related notions. 19

Marx unquestionably held that ruling conceptions of justice, rights and the like were primarily determined by economic structure. Such reading of Marx is highly controversial, but whether it is correct or not, it highlights a crucial point of companion with the constructive theory. Man is fundamentally formed by 'external' process; human nature is essentially

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historical. The question is the extent to which human control over the relevant historical process is possible.\textsuperscript{20}

A constructivist theory of human rights insists that relatively self-conscious and 'free' political action can be an important factor in shaping of the basic structures of state and society. In other words, political institutions and thus human nature, are subject to meaningful human control. While the moral vision that plays such a crucial role in the constructive theory are historically conditioned, this still leaves a major range of variation within which significantly different conceptions of human nature might operate.\textsuperscript{21}

Marx did not specifically advocate the idea of human rights. Nonetheless, the central elements of Marx' theory of human nature are very much in line with the constructive theory and therefore may be useful in further substantive work along constructive lines.\textsuperscript{22}

The possibility of substantial political progress and moral development as defined by human rights, is another fundamental premise of a constructivist theory. Nor the less, a constructive theory not only avoids the premise of guaranteed, inevitable progress, but clearly and strongly insists that human development is possible only through comprehensive human action coordinated by human rights. The theory is committed to a view of human nature as conditioned, but not fully determined by objective historical process.\textsuperscript{23}

\textsuperscript{20} Ibid. pp.42-43.
\textsuperscript{21} Ibid. p.43.
\textsuperscript{22} Ibid. p.43.
\textsuperscript{23} Ibid. p.44.
End of History and Communitarian Correction of Liberalism.

Liberalism like all ideologies embodies a simplified vision of human nature and of the character of social relations. But ideologies are not just simplified vision of human nature and society, they also embody ideals concerning how people and society ought to be.\textsuperscript{24} The most serious development in last couple of years have seen the economic crisis in Asia and apparent stalling of reform in Russia. But while these developments are rich in lesson for policy, they are in the end correctable by policy and do not constitute systematic challenges to the prevailing world order. In the view of Fukuyama, history is over at regular interval. History can not come to an end as long as modern natural science has no end. Much of the initial debate over 'The End of History' based on matter of semantics that Fukuyama was using history in its Hegelian – Marxist sense of the progressive evolution of human political and economic institutions. History understood in this manner’s driven by two basic forces: The unfolding of modern natural science and technology, which lays the basis for economic modernisation and the struggle for recognition which ultimately demands a political system that recognises universal human rights.\textsuperscript{25}

Though both right-based and duty-based theories place the individual at the centre, taking the decisions of the individual to be fundamental importance, they put the individual in a different light. Right-based theories


are concerned with the independence rather than conformity of individual action, be it to a code set by society to the individual or by the individual to himself. The deontological fundamentality assumes that what separates us as individuals is in some important sense prior to what connects us. This is an epistemological as well as a moral priority. As Sandel usefully describes it, 'we are distinct individual first, and then we form relationship and engage in cooperative arrangements with others. We are barren subjects of possession first, and then we choose the ends we would possess; hence the priority of the self over its ends'.

The liberal principle upholds that all individuals have an equal rights to pursue their own interests without interference, provided they do not harm others. It presupposes that all individuals are of equal worth. Yet, liberals are notorious for legitimizing the inequalities which arises in the liberal ideal state of maximum individual liberty. Liberalism’s ambiguous stances towards equality have now been complicated by the problem of difference. However, communitarians argue that liberal theory is itself a community in terms of having shared values, in particular those associated with 'cult of individual'. Nevertheless liberalism resolutely opposed to anything more than a minimal communitarian element that provides procedural rather than substantive norms so that individuals are free to follow their own conception of the good, provided they do not harm other.

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In the view of Sandel, in contemporary debate the liberal rejoinder seems increasingly fragile and its moral basis increasingly unclear. Toleration and freedom and fairness are values too, they can hardly be defended by the claim that no values can be defended. So it is a mistake to affirm liberal values by arguing that all values are merely subjective. Again he argues that how the commitment to a framework neutral among ends can be seen as a kind of value. For Kantian Liberals, the right is prior to the good in two senses. First, individual rights can not be sacrificed for the sake of the general good and second, the principles of justice that specifies these rights cannot be promised on any particular vision of good life.29

Capitalism provides the social space for civil society. It is the consequence of capitalism not the motive of capitalist that creates space for civil society. In the view of Schumpeter, the economic mechanism of capitalism would continue to work well, giving rise to social and cultural by products that would subvert the capitalist order from within. The creative destruction of capitalism would dissolve the moral basis of society.30

In the view of Walzer, liberalism is a self-subverting doctrine for that reason, it really does require periodic communitarian corrections. But it is not particularly that liberalism is literally incoherent or that it can be replaced by some pre-liberal or anti-liberal community waiting some how just beneath the surface or just beyond the horizon.31

Liberalism expresses strong associative tendencies along-side its dissociative tendencies. The liberal society is the social union of social unions as John Rawls described, a pluralism of group bonded by shared ideas of toleration and democracy. The standard liberal argument for neutrality is an induction from social fragmentation. Since dissociated individuals will never agree on the good life, the state must allow them to live as they think best. But there is a problem here. The more dissociated individuals are, the stronger the state is likely to be, since it will be the only or the most important social union. And then membership in the state, the only good that is shared by all individuals may well come to seem the good that is "best". 32

What is often taken to be the central issue between liberals and their communitarian crisis - the constitution of the self. Liberalism, it is commonly said, is founded on the idea of a pre-social self, a solitary and sometimes heroic individual confronting society, who is fully formed before the confrontation begins. Communitarian critics then argue first, the instability and dissociation are the actual and disheartening achievement of individuals of this sort and second, that there really can not be individuals of this sort. The critics are commonly said in turn to believe in a radically socialized self that can never 'confront' society because it is from the beginning entangled in society, and is itself the embodiment of social values. The disagreement seems sharp enough, but in fact, in practice, it is not sharp at all - for neither of these views can be sustained for long by anyone who goes beyond staking out a position and tries to elaborate an argument. Nor does liberal and communitarian theory require views of this sort.

32. Ibid.
Contemporary liberals are not committed to a pre-social self, but only to a self capable of reflecting critically on the values that have governed its socialization. The central issue for political theory is not the constitution of self but the connection of constituted selves.\textsuperscript{33}

While liberals pay heed to principles, communitarian pay homage to tradition. Teleological communitarians envision community fulfilling a common purpose. Both MacIntyre and Sandel belong to this group. Non-teleological communitarians like Rorty, Michael Oakeshott does not link their ideal community to the fulfillment of a common purpose.\textsuperscript{34} Where as MacIntyre and Sandel believe that the weak recognition of the importance of 'community' for "justice" in Rawls theory is its principle defect. MacIntyre rejects the modern political order which cannot be a matter of genuine moral consensus because it expresses a systematic rejection of the tradition (of the virtues). In the view of Sandel, a genuine community must be constitutive of the shared self-understandings of the participants and embodied in their institutional arrangements. It describes a framework of self-understanding that is distinguishable from and in some sense prior to sentiments and dispositions of individuals with the framework.\textsuperscript{35}

Communitarians such as Sandel charges Rawls with failing to appreciate the constitutive character of the self because the moral subject of 'justice as fairness' may not be identified by his or her constitutive attachments. But Rawls does not deny that the aforementioned attachements

\textsuperscript{33} Ibid.
\textsuperscript{34} John R. Wallach, 'Liberal, Communitarian and the Task of Political Theory', Political Theory, Sage Publication, Vol.15, No. 4, Nov. 1987, pp. 591-592
\textsuperscript{35} Ibid. pp. 593-594
constitute our nature; he simply wants to minimize their effects on the public identities of citizens. By ignoring the role of 'private attachments' in constituting the consensus that is bind us, Rawls's theory of justice jeopardizes its ability to assists any particular political community as it steers its historical course.

The modern liberal theory of man, however, provides that each of us not only requires liberty to develop his individuality, but the satisfaction of social interest and growth of communitarian sentiment necessitate that others be likewise free to cultivate their nature. C.B. Macpherson observes that starting from post-Millian liberalism, a very different understanding of human nature is introduced into liberalism. In his view, liberal theory from Hobbes to Bentham conceived man 'as essentially a consumer of utilities' or an 'infinite desier' and 'infinite appropriator', Such a man is a market man whose aims are consumption and appropriation' but the post-Millian liberal theory depicts man as self-developer and maximizer of human power.

In the international arena, controversy over the substance of human rights frequently takes the form of civil and political rights versus economic, social and cultural rights. For Hobbes and Locke, man in the state of nature is an autonomous being possessed of inherent and inalienable rights. The nature of man as an isolated, autonomous individual, possession of certain rights is being disrupted by rising demands for the rights of the groups. Just as in recent decades, liberal states espouse economic and social rights but

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37. Ibid. p. 588.
39. Ibid.
view them as secondary and contingent on economic factors, socialist states espouse civil and political rights but view them as secondary to the fulfillment of basic needs.\textsuperscript{40}

Whatever the diversity among the third world countries in their traditional belief systems, individuals still perceive themselves in terms of their group identity. J.M.Zvobgo states that in non-industrialized society, inherent individual rights 'rooted either in notion of 'freedom of' (civil and political rights) or 'freedom from' (economic and social rights) are meaningless concepts. If the concept of rights has any relevance, it is derived from relation with others. They are 'right with'. According to this view, rights are not individual attributes, be they civil, political or economic. They derive from relational situation with other persons.\textsuperscript{41}

Divergences of opinion arise regarding solidarity, universality and indivisibility criteria of human rights which in someway or other related to controversy regarding development. The North identifies solidarity as the key element in the declaration of right to development that is solidarity between developed and developing countries. The South calls for the right to development as inalienable and the main obstacles to its realisation lies at the international macro-economic level. In Vienna Conference on Human Rights (1993), it was accepted by the North that the people of South have right to development and it was accepted by South that pursuit of sustainable


\textsuperscript{41} Ibid.
development requires democratic society. In past, scholar preferred to keep the concept of human rights out of the discussion of development to make it non-political. They used to see development as a process of economic growth or fulfillment of basic need of individual. But Development is meaningless without economic, social, cultural, civil and political dimensions. Now, it is defined as global realisation of human rights in an interdependent world.

Rationalist model is based on traditional liberal view of human nature in which man is considered as a transcendental subject capable of achieving his own freedom through rational choice. Liberal theory persists with the assumption, as Dworkin puts it, 'of a natural rights of all men and women to equality of concern and respect, a right they possess not by virtue of birth or characteristics or merit or excellence but simply as human beings with the capacity to make plans and give justice. Any right-based theory must presume rights that are not simply the product of legislation or convention, or explicit social custom, but are independent grounds for judging such legislation and custom. 43

From What Is To What Can Be:

In the view of Hannah Arendt, human rights were not a problem of moral speculation or legal philosophy so much as a problem of politics. She insists that human dignity needs a new guarantee because its old guarantee that is Kantian idea of cosmopolis of peaceful republic respecting the natural rights of man had been destroyed. The faith in human moral agency had been shattered by the complicity of so many evils of century and by indifference to these evils. The


confidence in the republican nation-state as the repository of the rights of man had been undermined by the experience of the most civilised nations on the earth destroying cultures and people in the name of their sovereignty. In such circumstances the Kantian ideal had revealed itself as narrow and parochial despite its universal convictions.  

In the view of Norberto Bobbio, the very notion that an absolute principle could be useful is misguided. The strongest arguments against human rights generally relate not to their lack of foundation but their infeasibility. Like Arendt, he states that the fundamental problem of human rights is not so much how to justify them but how to protect them. And this is a political, rather than philosophical problem.

In the view of Julia Kristeva, Arendt sees that we must maintain the requirement of a human, trans-historical dignity, whose content nevertheless need to be made more complex, beyond the eighteenth century’s optimistic naivety. By a trans-historical dignity, Kristeva means dignity that applies to humans as such, one that is universally valid and not appropriate only for certain individual and societies. Yet, such a dignity can not rely upon naïve

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claims about human nature of the sort contained in the natural rights arguments that the twentieth century has falsified and Arendt has critcised. 46

But Bobbio has given quite different type of opinion. In his view, there can be no denying that there has been collapse in the influence of fundamental principles, but we must not attempt to overcome their reality by attempting to find another absolute principle to replace the one lost. Our task today is much more modest, but also more difficult. We do not have to find the absolute principle, a sublime and desperate undertaking but rather the various possible principles for each particular circumstances.47

From Plato to Nietzsche, philosopher have argued over what it is that makes us special as human beings, what the essential elements of humanity are. Rorty maintains that we should leave the question ‘what is our nature’ behind us, and rather to go on to discover what it is that we can make ourselves.48 The imperative for Rorty, to find ways of redescribing the ‘other’ so that they are brought within the perview of human rights culture. It shows the influence of enlightenment universalism in Rorty’s postmodern liberalism. It is the redescription that is chief instrument of cultural change in Rorty’s scheme. He claimed imagination, not reason, as the central human faculty.49

49 Ibid.
In the view of Bobbio, the idea of rights are justified by reference to the consensus that emerges from inter-subjectivity. Chesterman extends the consideration of inter-subjectivity to the subject of human rights by reference to the construction of self. By conceptualizing human rights qua discourse as describing not merely a political structure but a relationship to self, it may possible to arrive at a theoretical exposition of rights. It mediates the tensions evident in contemporary debate over human rights – the globalising violence of universalism, the fragmenting dissonance of relativism – by reference to the sense of self.50

In the view of Arendt, the ethos of consumption that associated with modern mass society, and that human productivity are the preeminent criteria of human well-beings. Yet she is careful not to dismiss categorically the emphasis on basic material thriving that is the product of the enlightenment. She describes it as politically rather than humanly pernicious. She does not wish to deny completely the value of such an ethos but only to caution against its hegemony. The emphasis on basic human needs that has informed so much of modern moral philosophy has helped to advance the idea of an elemental, universal humanity, an idea Arendt does not reject but can not embrace.51

For Arendt, human rights are not natural, they are not inscribed in the nature of human existence. They are not necessitated by the conscious reasoning for all humans as free subjects. For her, human rights are

conventions and the conventions they require more than the ineffectual lip service often paid to them by well-meaning liberals.\textsuperscript{52}

A constructive theory of human rights can be profitably viewed as an effort to wed the historicism of a Burke or Marx with the rationalism of Paine. Despite their hostility to the idea of natural rights, Burke and Marx proved perhaps the closest parallels to the account of human nature.\textsuperscript{53}

Burke's opposition to natural rights, which we will consider both fundamental and thorough going. For him, government rather than an instrument for securing natural rights, is principally a device for restraining the destructive power of passions. Society requires that passions be brought into subjection by government. Natural or pre-social man for Burke, as for Hobbes, is little better than a beast. Society is necessary for true humanity and society requires a radical break with the primordial state of nature and the renunciation of any 'natural rights' arising from state. Men can not enjoy the rights, of uncivil and civil state together. Rather than reserve natural rights. Burke argues that human nature requires that they be completely

renounced on entering society. 54

Burke, like Locke recognises an essential bifurcation of human nature into good and bad sides. But while natural rights are based on human nature, there is no reason why they must aim to protect or develop all aspects of that nature indiscriminately. Locke clearly intended such a selective fostering of human nature. He argues that natural rights must at all times be exercised within the substantive moral limits set by natural law/reason and no natural rights based on mere appetites or passions. 55 Moral judgements of original human nature are certainly controversial. The problems at hand seem to require that human nature be subjected to moral evaluation in the course of constructing a political regime. The real issue is not the need for such evaluation, but the basis on which it is made. The selective fostering of original human nature is especially important. Burke argues that society creates the good side of human nature. In an important sense, human nature itself is a social product for Burke which sounds very much like an extreme variant of the constructive theory. 56

But Arendt is not willing to go all the way with Burke. She can not agree however, that one's moral status is determined exclusively by one's local habitus, wholly offspring of convention. If this were the case there would be little ground on which to condemn the suffering and disempowerment of those stateless, homeless, marginal persons who fall between the cracks of national or other authoritative political identities and

54. Ibid. pp.37,38.
55. Ibid. p-38.
56. Ibid.
outside officially recognised categories of membership.⁵⁷ There would be just as little basis for the defence of the principle of human dignity, as emphatically universalist principle, one that Arendt insisted must the imperative is ethical --- find a new guarantee.⁵⁸

For Arendt, an action involves us in a seamless and boundless web of interrelationships. If we fail to act, we will simply be acted upon. When we act, we define ourselves for ourselves and in doing so we inscribe the world as our world.⁵⁹

The 'right to have right' was an unspecified and thus unrecognised presupposition of the rights of man proclaimed in the eighteenth century. By treating one’s basic humanity as springing immediately from the nature of man, philosophers failed to see just how fragile this states is. In the wake of world war, it has become clear that humanity of individuals needs a new guarantee. The question she puts is whether ‘the right to have rights’, or the right of every individual to belong to humanity, should be guaranteed by humanity itself. The ‘right to have right’. Arendt believes, can only be secured by politics, by the civic initiative of those vulnerable to the vagaries of world politics and those are solidarity with them.⁶⁰

⁵⁸. Ibid.
⁵⁹. Ibid.
⁶⁰. Ibid.
Burke rejects reason in favour of history. He argues that sovereign and subjects are coordinate parts of the state, and thus neither may legitimately alter the form of government or the distribution of rights and duties. Society and government and of course rights as well are, for Burke, historical products; they are not created by plan, but evolve in response to social wants and needs as they emerge in the historical experience of a people. Therefore, established institutions and practices represent the record of successful incremental adjustments, compromises and reforms, and thus deserve special respect and protection. Burke attempts to integrate the ruler into constraining web of prescriptive practices. 61

For Burke, prescription is a procedural principle of justice and therefore rests on the relative certainty that the procedure will produce beneficial result. 62 Prescription is at best only prima facie test of justice or utility. An additional substantive test is required. For this, Burke turns to natural law. Burke argues that 'the laws of morality are same everywhere'. He even speaks of 'the principles of natural equity, and of the law of nations, which is the birthright of us all'. However, once Burke allows the prescription is limited by natural law, government is opened to the claims of reason, substantive justice and natural rights. He never manage to resolve this tension between concrete procedural principles and more speculative substantive principles. 63

62. Ibid. p 63
63. Ibid, p. 64
Burke's historicism, does provide an illuminating counterpart to all the other approaches we have considered here. Thomistic natural law, Lockean natural rights, Benthamite utilitarianism all rely primarily on reason in constructing state. Locke suggests that it is at least easy for man in society to cultivate his reason and conform his actions to the natural law. Paine presents much the same argument implicitly, while Benthamite social engineering has similar rationalistic basis.64

Reason has an entirely different nature in Burke's theory. The speculative reason of Hobbes, Locke and Bentham is excluded from politics and replaced by reason that is 'practical' in most concrete sense. Political reason-prudence operating within the confines of tradition is Burke's guide and as justice it is a balancing principle rather than an abstract guide.65

Westernisation, modernisation, development and underdevelopment are the dominant social and economic forces of our era-have in fact severed the individual from the small, supportive community. Economic, social and cultural intrusions into, and disruptions of the traditional community have removed the support and protection that would, justify or compensate for the absence of individual human rights. A relatively isolated individual now faces social, economic and political forces that far too often appear to be aggressive and oppressive. Society, which once protected human dignity and provided each person with an important place in the world, now appears, (in the form of modern state, the modern economy and the modern city) as an alien power that assaults one's dignity. In such circumstances, human rights

64. Ibid. pp.64-65
65. Ibid. p-65
appear as the natural response to changing conditions, a logical and necessary evolution of the means for realising human dignity.  

There has been a tendency to view human rights ahistorically and in isolation from their social, political and economic milieu. What is being advocated is a rethinking of the conception of human rights that takes into account the diversity in sustenance that exist and recognize the need for extensive analysis of the relationship of human rights to the broader societal context. Through this process it may become feasible to formulate human rights doctrines that are more validly universal than those currently propagated.  

Arendt does not explicitly develop a theory of human rights as such but her political theory centers around the problems endangered by the failure of the rights of man to secure human dignity. While she does not present her constructive political theory as a theory of human rights as such, her account of praxis is intended to highlight atrophied potential whose realisation might alone secure human dignity for all.  

It is important that the framework for discussion of human rights issue not be established solely by the political community. Intellectuals must be in the vanguard, otherwise the discussion will continue to flounder in rhetoric and sterile politics. The next step is to develop an alternate way of viewing

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66 Ibid. p-83.  
human rights and to initiate discussion dealing with cross-cultural human rights that will establish minimum norms of human rights and should reasonably be implemented.\textsuperscript{69}

In the view Richard Falk, virtually any cultural heritage is morally rich enough that it can, if appropriately constructed, under some circumstances make inspirational contribution to the struggle for human rights, democracy and social justice. Falk concludes, however, that the respects for such development of human rights depends on an 'open process of communication, free from dogmatic interference.\textsuperscript{70}

While cultural relativist arguments have been employed to de-legitimate 'western' intervention in domestic affairs, development theory selectively internalises aspects of western culture, linking the economic imperative of modernisation to the social ends of civil and political autonomy. Lee Kuan Yew states this position at its broadest by challenging the western idea that the individual is inviolable and must be placed above social order.\textsuperscript{71}

This is obvious that the articulation of a rights in no way ensure implementation. It is not inherent dignity and rights of human beings that are foundation of freedom, justice, peace, but the act of 'recognition., The opening words of Universal Declaration of Human Rights mention this. This

\textsuperscript{69} Peter Schwab and Admantia Pollis (eds), 'Toward A Human Rights Framework'. New York : Praeger Publishers (c) 1982


\textsuperscript{71} Ibid.
implicitly acknowledges that human rights neither exist nor have meaning in the absence of a community within which to articulate them and a political function with which to attribute them. This is not to say that unenforced human right are not right rather, it is to affirm that rights can not be divorced from their social and political context. This was reflected also in transposition of human for natural rights.\textsuperscript{72}

Ultimately, human right is not about origin but about change. In an obvious sense, this refers to change in the circumstances of human existence. It is also change in the conception of the self that legitimates and perpetuates these abuses that is the capacity to deny the other as less than human, less than citizen.\textsuperscript{73}

In the view of Arendt, the common vulnerability of human beings should lead to a new global responsibility ...a process of mutual understanding and progressing self clarification on a gigantic scale. She calls for the establishment of a new regional and international forms of cooperation that might override the centralising tendencies of states and might encourage new forms of regional and international identity of moral responsibility. Those who wish to provide a new guarantee for human dignity, have no alternative but take responsibility up themselves on behalf of a dignity that is perpetual jeopardy in the world in which we live.\textsuperscript{74}

\textsuperscript{72} Ibid.

\textsuperscript{73} Ibid.


\textsuperscript{75} Jack Donnelly, 'The Concept of Human Rights', CroomHelm, London (c ) 1985
Human rights are product of constructive interaction between moral vision and political reality in which individual and states form one another through the practice of human rights. This theory relating the essential universality of human rights in atleast two important sense; the rights are based on universal human potential and they are held by all human beings. But deconstructionist view begins with a different view of human nature. It is argued that human rights should serve as a critical tools which permits student to unmask the power structure in the society that inhibits realisation of their full potential as human beings. It asserts that rational choice is an illusion. Individual, according to deconstructionist view, can neither be separate from attributes, nor from historic situation. It says that fixed ideas about human rights and contextualization of right must be questioned.

Much of the modern, postmodern debate has centered on the tension created by two conflicting sense of responsibilities. Those are universalism of the modernist ethic of 'the responsibility to act' and post-modernism theory's positive contribution of 'responsibility to otherness'. They can also supplement each other. Now the issues is to create a dialogue between their respective advocates to show how the moral aesthetic sense of post-modernism can enrich liberal theory by (among other things) making the question of otherness central to the current debate concerning justice.

Much contemporary political philosophy has been a debate between utilitarianism on the one hand and Kantian or right-based liberalism on the other --- a debate now largely decided in favour of the Kantians. But the rights based ethic has recently faced a growing challenge from a different directions, from a view that argues for a deeper understanding of citizenship and community than the liberal ethic allows.

Conclusion

Westernization, modernization, development and under-development are the dominant social and economic forces of our era, have in fact severed the individual from the small, supportive community. A relatively isolated individual now faces social, economic and political forces that far too often, appear to be aggressive and oppressive. Society, which once protected human dignity and provided each person with an important places in the world, now appears in the form of modern state, the modern economy and the modern city, as an alien power that assaults one's dignity. In such circumstances, human rights appear as the natural response to the changing condition, a logical and necessary evolution of the means for realizing dignity. But ultimately human rights not only about origin but about recognition. If we failed to act, we will simply be acted upon. When we act, we define ourselves for ourselves and in doing so we inscribe the world as our world.