



**BPYC-106**

Indira Gandhi National Open University  
School of Inter-disciplinary and  
Trans-disciplinary Studies

**SOCIAL AND POLITICAL PHILOSOPHY**



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PHILOSOPHY**



**BPYC-106**

# **SOCIAL AND POLITICAL PHILOSOPHY**

THE PEOPLE'S  
UNIVERSITY



**SCHOOL OF INTERDISCIPLINARY AND TRANS-DISCIPLINARY STUDIES (SOITS)**

**INDIRA GANDHI NATIONAL OPEN UNIVERSITY  
NEW DELHI**

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## EXPERT COMMITTEE

---

Dr. Rekha Basu  
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Department of Philosophy,  
Hindu College,  
University of Delhi

Prof. Ajay Verma  
Centre for Philosophy  
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Delhi

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University of Delhi

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SOITS, IGNOU

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SOITS, IGNOU

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SOITS, IGNOU

Dr. Abhishek Mishra  
SOITS, IGNOU

Dr. Ashutosh Vyas  
Academic Consultant,  
(Philosophy)  
SOITS, IGNOU

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**COURSE PREPARATION TEAM**

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<b>BLOCK</b>	<b>UNIT WRITER</b>
<b>Block 1 Concepts-I</b>	
Unit 1 Rights	Dr. Jeremiah A.V. Dumai
Unit 2 Equality	Dr. Md. Inamur Rahman
Unit 3 Liberty	Dr. Manik Konch
Unit 4 Justice	Dr. Manik Konch
<b>Block 2 Concepts-II</b>	
Unit 5 Sovereignty	Dr. Jeremiah A.V. Dumai
Unit 6 State	Dr. Neetika Singh
Unit 7 Democracy	Dr. Neetika Singh
Unit 8 Swarāj	Dr. Shridha Shah
<b>Block 3 Ideologies</b>	
Unit 9 Individualism	Dr. Rekha Basu
Unit 10 Communism	Dr. Rekha Basu
Unit 11 Secularism	Dr. Shridha Shah
Unit 12 Nationalism	Dr. Ashutosh Vyas
<b>Block 4 Debates-I</b>	
Unit 13 Torture	Dr. Neetika Singh
Unit 14 Social Discrimination	Dr. Prashant Kumar
Unit 15 Migration	Dr. Sadananda Sahoo
<b>Block 5 Debates-II</b>	
Unit 16 Gender	Ms. Pauline Chakkalalal
Unit 17 Privacy	Ms. Priyam Mathur
Unit 18 Affirmative Action	Dr. Jeremiah A.V. Dumai
<b><u>CONTENT EDITORS</u></b>	
Dr. Sudnya N. Kulkarni, Janki Devi Memorial College, University of Delhi, Delhi	
Dr. Dinesh Patidar, Kamla Raja Girls Govt. PG College, Gwalior	
Dr. Md. Inamur Rahman, Department of Philosophy, Presidency University, Kolkata	
Dr. Rinki Jadwani, Delhi Technological University, Delhi	
Dr. Mahak Uppal, Hindu College, University of Delhi	
Dr. Ashutosh Vyas, Consultant (Philosophy), SOITS, IGNOU, Delhi	
<b><u>FORMAT EDITORS</u></b>	
Prof. Nandini Sinha Kapur, SOITS, IGNOU, New Delhi	
Dr. Veeramalla Sreesailam, Assistant Professor, SOITS, IGNOU, New Delhi	
Dr. Ashutosh Vyas, Consultant (Philosophy), SOITS, IGNOU, New Delhi	
Dr. Sukanya, Consultant (Philosophy), SOITS, IGNOU, New Delhi	

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**PROGRAMME COORDINATOR**

---

Prof. Nandini Sinha Kapur, SOITS, IGNOU, New Delhi

Dr. Veeramalla Sreesailam, Assistant Professor, SOITS, IGNOU, New Delhi

**Academic Consultation:** Dr. Ashutosh Vyas, SOITS, IGNOU, Dr. Sukanya, SOITS, IGNOU

**Cover Design:** Ms. Sindhu Sujata

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**PRODUCTION TEAM**

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## COURSE INTRODUCTION

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Social and Political Philosophy begins with the basic human condition of living together. A person does not exist in isolation - from childhood to old age, there are various ways in which people are dependent on one another and their communities. This basic aspect of the human condition is one of the primary assumptions of social and political philosophy. Given that human beings are dependent on one another, their interrelations, as individuals, families, communities, nations, species, etcetera become significant issues for a philosophical examination.

Social and political philosophy is a fairly broad discipline and some of the issues that emerge overlap with other disciplines in the social sciences, as well as ethics in philosophy. From rights and duties, to nationalism and cosmopolitanism, to the understanding of concepts like sovereignty, justice, democracy - social and political philosophy has a large scope. Further, it not only analyses the given social and political institutions and concepts, but also examines normative issues such as what should be their goal, how should they be regulated?

The following course, **Social and Political Philosophy** a 6 credits course, is going to introduce the students to some pertinent issues within the domain of social and political philosophy. This course is divided into five blocks.

The first block “Concepts-I” discusses the issues of rights, equality, liberty and so on from a historical, sociological, factual and an overall philosophical perspective. It is not possible to have a meaningful discussion about modern political thought without an understanding of the concept of rights. Fundamental values such as equality and liberty support the rights of individuals and societies. The regulation of these values is further dependent on how we envisage justice in society. The first block will address some of these issues in detail.

The second block “Concepts-II” addresses some of the key concepts that determine the relations between the individual, society and state. Sovereignty, Democracy and State present the discourse on this relation. From the Indian perspective the concept of Swarāj shows the contribution of the Indian civilization to the global social political thought.

The third block “Ideologies” introduces the students to important issues that have characterised the political discourse. Debates within Individualism, Communism, secularism, to the role of

nationalism, these are key themes to that enables learners to form an overall understanding of the social and Political discourse.

Some contemporary “debates” that emerge within the socio-political discourse are taken up in the **fourth** block. As citizens of a fast changing technological, globalising world we encounter issues of migration, and Social discrimination. Individuals’ rights in conflict with those of community, and state security are some of the key themes in this block, which also leads us to the issue of torture and its justification or the lack of it.

The **fifth** block titled “Debates-II” takes further the debates of contemporary times. Issues of global importance such as Gender, privacy, and Affirmative action are discussed here.

**Note on Referencing style:** Since there are several styles which may be adopted for referencing and bibliographical citation, the learner would find that different blocks and units given in this study material exhibit an understandable variability in the style of referring being used both for “in-text” and “end-text” citations.

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## **BLOCK INTRODUCTION**

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**Block 1** “Concepts-I” is comprised of four units, namely— Rights, Equality, Liberty, and Justice. The concepts and issues of rights, equality, justice, and liberty; which appear along with other associated conceptions such as society, state, individual, etc.; together constitute the basic themes of social and political philosophy. These themes can be seen as emerging out of the multi-facetedness of the relation between an individual (seen as the member of a society; or as the citizen/subject of a state/nation/political institution) and the society or political institution(s) of which the individual is a member. While it is evident that our understanding of these concepts has tended to vary across times, yet it is hard to disregard these themes and concepts as being constitutive of social and political relations as well as a generalized understanding of the same. It is therefore the objective of Block 1 to introduce the learners to the subject-matter of social and political philosophy by building an understanding of some of its recurrent themes.

**Unit 1** titled “Rights” deals with the meaning, definition, nature of Rights; its kinds; and its indelible relation with Duty. This unit would also deal with some significant criticisms which have been raised against the very idea of Rights in a society.

**Unit 2** titled “Equality” tries to discuss the nature of the concept of equality with the help of varied Philosophical perspectives given in this regard; along with this the unit also puts forth views concerning the significance of incorporating equality in socio-political policy formulations, as well as the plausible means for achieving equality in practice.

**Unit 3** titled “Liberty” begins with an elucidation of the major kinds of liberty as understood from the socio-political and philosophical perspectives. This is accompanied by a discussion of the two major aspects of liberty— positive and negative; Liberty as conceptualized by Indian and Western thinkers; and the relationship between Liberty and Freedom.

**Unit 4** titled “Justice” discusses several socio-political and philosophical conceptions of Justice as discussed by both Indian and Western thinkers. It also elaborates upon the significance of the inter-relation and differences between the ideas of freedom and liberty.

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# UNITS 1

# RIGHTS<sup>1</sup>

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## Structure

1.0 Objectives

1.1 Introduction

1.2 Kinds of Rights

1.3 Human Rights

1.4 Animal Rights

1.5 Rights and Duties

1.6 Criticisms and Justifications

1.7 Let us Sum up

1.8 Key Words

1.9 Further Reading and References

1.10 Answers to Check Your Progress

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## 1.0 OBJECTIVES

The objectives of the Unit are as follows:

- To understand various elements of right
- To analyse the nature of rights.
- To understand its relationship with duties

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## 1.1 INTRODUCTION

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<sup>1</sup> Dr. Jeremiah A.V. Dumai, Former ICPR Post-Doctoral Fellow, Department of Philosophy, University of Delhi.

This unit will examine the nature of rights. Right is what is due of a person. It is a normative social bond between a person and other entities. These other entities could be a person or persons or even an institution. The fact that I have a right entitles me to certain forms of treatment towards me by others. Sometimes it may so happen that I may have a right, but I may not enjoy it. For instance, I may have a right to cast vote, but this right may have been deprived of me by a local politician who does not want me to vote for a rival candidate. Despite being prevented from exercising my right, I continue to possess the right. If I enjoy my rights, justice prevails; if I fail to enjoy my rights, justice is denied. In contemporary discourse on social justice, enjoying of rights by an agent or otherwise is considered to be the determining factor for whether justice prevails in a given society or not. If each individual enjoys his or her rights, justice prevails; if rights are denied to an agent, injustice prevails. Thus, justice enjoins that each individual enjoys his or her rights.

Rights are of different kinds. Categorisation of rights may be framed as legal rights vis-a-vis moral rights; negative rights vis-a-vis positive rights; objective rights vis-a-vis subjective rights etc. Depending on the kind, the nature of rights differs.

Rights also engender duties, while duties do not necessarily engender rights. Given that rights elicit duties that prescribe how others must act or restrain from acting, discourse on rights is an important aspect of ethics.

We can define rights in the following manner; Rights are what are due of a person. It is about entitlements. Having a right to something or some state of affair can be framed as having an entitlement to enjoying that thing or that state of affair.

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## **1.2 KINDS OF RIGHTS**

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### **1.2.1 Legal Right vis-a-vis Moral right**

The most common kind of right today is the type laid out in the Constitution of the state. Each state provides rights to the citizens through its Constitution. For example, the Constitution of India provides Indian citizens different types of rights. For instances, the right to equality, the right against exploitation, right to freedom of religion etc. are different types of rights guaranteed to citizens by the Indian Constitution. Similar types of rights are

guaranteed to each citizen by the state. This type of right ensures liberty for the citizens by restricting other citizens and even institutions from infringing on the liberty of the citizens. Provision of such rights enshrined in the Constitution allow citizens to explore and pursue happiness and contentment for one's life. These types of rights are known as Constitutional rights or legal rights. Violation of legal right of citizen invites penalisation from the state. Citizens can also pursue the state to come in and protect their rights whenever the rights are violated or undermined by another person or institution.

Besides legal rights, there are also moral rights that an individual possesses. Legal rights and moral rights often converge. For example, the right to life (the right not to be murdered) is a moral right that every individual possesses. However, this right is also protected legally. Thus, this right is a moral as well as a legal right. However, there have been instances when moral and legal rights do not converge. In Nazi Germany under Hitler, Jewish children were banned from attending public schools. This meant that the Jewish children were not given the legal right to attend public schools. The fact that Jewish children were not given legal right to attend public school did not mean that they lose their moral right to attend public school. Even when the unjust legal system deprived the Jewish children of legal rights, the Jewish children retained their moral right to access public schooling. This instance illustrates that moral rights subsist even in the absence of legal rights, and the two are not necessarily the same.

### **1.2.2 Positive Rights vis-a-vis Negative Rights**

Positive rights are the types that oblige others to act (towards the right bearer). These rights are also known as entitlements as these are the type of rights that someone must honour an agent with. As a case in point, Sonia has a *positive right to X* against A if and only if A is obliged to act to Sonia in some way regarding X. For example, a child under five is entitled to receive polio vaccine in India. This right obliges the government machinery to provide polio vaccine to this child. To put into perspective, Sonia – who is under five – has a positive right to polio vaccine, and this right claim is against the government machinery and the government machinery has an obligation to provide polio vaccine to Sonia. This is because the government has a law/policy that mandates children below five to receive free polio vaccine. This kind of law that confers positive rights on citizens is called a positive law. In

case, the government refuses to provide polio vaccine to Sonia, it would amount to violating the (positive) right of Sonia. Positive rights thus elicit obligation on the part of other entity to act and honour the right of the right bearer. Positive rights are thus synonymous with positive legal rights.

Negative rights are the types that oblige others not to act (towards the right bearer). I have a right to eat cabbage or carrot that grow in my garden. Other people have obligation not to prohibit me from plucking such vegetable from my garden. Similarly, I have the right to drive my car or to wear my shirt. The liberty that I possess ought not to be restrained by people around me. This negative right is in a way the liberty right that I possess to do this or that and which oblige others not to stop me from doing this or that.

Objective right vis-a-vis Subjective right: William Edmundson says that “the objective sense of ‘right’ is that kind of proposition which is expressed by the formula “it is right that  $p$ ”, where  $p$  stands for a proposition describing an actual or possible fact” (Edmundson, 2004: p. 7). One may illustrate objective right through examples such as “it is right that promises are kept” or “it is right that parents do not abuse their children”. Objective right thus evaluates the moral status of the state of affairs. Subjective right, however, expresses the relationship between an agent and a state of affair. The standard expression of subjective right goes like this: “‘X has a right to a thing or to do something’ – where X stands for an individual person, or perhaps a group of individuals (Edmundson, p. 8). One may illustrate subjective right through examples such as “I have a right to wear the shoes I own” or “I have a right to cast vote”. Edmundson goes further to differentiate between objective right and subjective right this way. When someone steals the pair of shoes I own, the thief has violated the objective right which says – it is right that one does not steal (or, thou shall not steal). This kind of proposition, however, does not mention about the state of affair between me (the owner of the shoes) and the shoes. The matter is taken care of when subjective right appears in the picture. Now, with subjective right coming in the picture, one can say “I have a right to wear the shoes I own (but because it is stolen I cannot wear it now).” The thief has thus violated my right, besides violating the impersonal proposition that says “it is right not to steal”.

<b>Check your progress I</b>
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**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Can there be legal rights that are morally wrong? Explain with illustration.

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2. What are the differences between negative rights and positive rights?

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### **1.3 NATURAL RIGHTS AND HUMAN RIGHTS**

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Natural right correlates with natural law. Natural law bestows natural right on an individual. “Locke, for example, gave as the fundamental law of nature that 'no-one ought to harm another in his Life, Health, Liberty, or Possessions” (Jones, 1994: p. 75). Natural law was thus conceived to be given by God, and this law bestows natural right on each human person. This natural right that each person possesses also obligates other individuals to honour the natural right of the right-bearer. Thus “each individual had a natural right to his life, liberty and property, and each individual had a natural duty not to harm the life, liberty or property of others.” (p. 76).

Human rights are rights that a person possesses by virtue of being human. Hence, human rights are considered to be inalienable and are therefore inherent in a person. They are universal, and thus their applicability is valid throughout the world. Human rights are thus moral rights that a person possesses.

Human rights that have been considered as moral rights came to be legislated by many nation-states in the twentieth century. With the adoption of Universal Declaration of Human Rights (UDHR) by United Nations General Assembly in 1948, human rights formally became a matter of international concerns. The fundamental rights provided by the Indian Constitution has many shared features with the rights enshrined in the articles of UDHR. Right to equal treatment before the law, right to freedom of expression, right to freedom of religion, right against exploitation etc. are some of the values of fundamental rights of the Indian Constitution that has commonality with articles of UDHR.

**Check your progress II**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. What is the difference between natural rights and human rights?

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**1.4 ANIMAL RIGHTS**

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The question whether animal has right in itself has been a matter of debate. There is no question that animals like the tiger have been given protection by different institutions and therefore killing a tiger may carry penalty. Given that tiger or cheetah may be an endangered species, many governments have declared them to be protected. This implies that protected animal has acquired rights, and therefore harming them would be violating their rights. But what about other animals that may have not been given legal protection by the government or other institution? Do they have rights at all?

To answer this question, one needs to ask whether animals have moral status at all? If animal has moral status, it would be reasonable to conclude that animals have moral rights of certain sorts. To make the case, David DeGrazia explains –Kicking a dog for fun is generally

considered to be wrong. The reason why it is wrong could be different for different people. One may say that kicking the dog harms the pet owner's property. Here, the reason for kicking the dog being wrong is because it harms the dog's owner's property. This kind of justification does not attribute the wrongness of the action for injuring the dog; it is rather a human-centric justification. Hence, it does not say anything about the moral status of the dog. Another person may say harming the dog is a cruel act, and cruelty is a vice; after all, vice makes a person more likely to harm other people in the long run. This way of reasoning also falls back on human for the wrongness of the action. Now, if a third person comes along and says that kicking a dog is wrong in itself because dogs have their own interest, and kicking the dog harms its own interest, this way of justifying underscores that dogs have moral status in their own right and this ought to be respected. Since kicking a dog and causing it great pain just for fun is wrong, it is plausible to say that dog as an animal has moral status. Such reasoning informs that animals too have rights of certain sorts (David, 2002: Section on "Moral Status").

**Check your progress III**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Justify animal rights.

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## 1.5 RIGHTS AND DUTIES

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Rights engender duties. If X has a right against Y, then Y has a duty towards X. The fact that I have a right to cast vote generates a duty on the election commission to provide opportunity to me to cast vote, which is a positive duty because it obligates the election commission to do certain things; my right to cast vote also generates a duty on other people not to prevent

me from exercising my franchise, which is a negative duty because it prevents others from obstructing me from casting my vote.

On the flip side, the fact that I have a duty to act does not always obtain rights. I have a duty not to throw litter on a river. But this does not mean that the river has a right not to be littered. (I have a duty to provide food for my child, and my child has a right to ask food from her parents. However, a river cannot claim that it has a right not to be littered though humans have a duty not to litter it.) It may so happen that a river might be given legal protection by a government or an international organisation and therefore it might have acquired a right. Such a right may then impose certain kind of duty on others. However, in the absence of such a protection, rivers would have no right. Yet, our duty towards the river persists.

#### Check your progress IV

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Do duties necessarily imply rights and vice versa? Elaborate.

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### 1.6 CRITICISMS AND JUSTIFICATIONS

The idea of rights has been criticised from various perspective. This section will underline some of the arguments raised against rights based arguments in addressing questions of right and wrong.

One of the criticisms against the language of rights is that it promotes possessive individualism. Explaining what the critics say, Nicholas Wolterstorff writes that the critics of rights-talk believe that the language of rights has been employed “for the purpose of *me* claiming *my* possession, *you* claiming *your* possessions, *him* claiming *his* possessions” and so on (Wolterstorff, 2008. p. 3). This kind of claim appears to undermine the aspect of duty

that each person owes to the other; it places focus on the entitlement that is due of one while giving inadequate importance to the obligation that one must give to other. Rights-talk also fails to give adequate importance to our collective life, critics argue. Possessive individualism directs the whole of life's purpose to the self, and fails to appreciate the bright side of cooperative living.

The language of rights has also been criticised by people located in certain social and cultural conditions. They argue that rights-talk is primarily a western product and therefore such discourse does not suit their social condition. Likewise, there has been reluctance to adopt human rights because of its western origin.

In defence, proponents of rights-talk provide arguments to justify discourse on rights. Wolterstorff argues that rights-talk is necessary to make sense of the moral order, and without such a language our vocabulary of right and wrong is poorer. He provides argument for his case to this effect: If X fails to perform her moral duty towards Y, X is guilty. But if it is a case where Y's right is violated, then Y has been wronged; Y is a victim. Now X may go to a holy river and bathe to get herself absolved of her moral failure or go to a priest and confess of her moral failure for the forgiveness of her moral failure. But that does not address the violation of Y's right; Y continues to remain being wronged due to X's moral failure. This way of framing the moral order demonstrates that if the language of right is removed from the picture, Y will not be able to say that he is wronged or that he is now a victim; we would only be left with X's moral failure. However, without the Y's perspective of the moral dimension, our language of right and wrong would not be complete. Hence, taking away the language of rights would render our moral discourse incomplete. (Wolterstorff, pp. 8-10).

Commenting on the applicability of the notion of human rights globally, James Griffin argues to this effect. So many people from the West have got attracted to eastern religion and have embraced it. These people looked at these religions and got attracted by these religions; they were not attracted to these religions because they could find western religious and metaphysical counterparts in these religions. These people did not consider eastern origin as a barrier to their embracing them. Similarly, even if human rights are of western origin, if the idea is attractive and reasonable, those from the east should not consider western origin as, in itself, a barrier that cannot be overcome (Griffin, 2008. p. 137).

In recent times with the adoption of UDHR by different nation-states, the reluctance to adopt the concept of human rights has been on a decline. The brutality and the horror unleashed by WW II has awakened the conscience of so many people to strive for a world order that is less brutal and less violent. In the light of such a quest, more and more people have come to believe that adoption and the respect for human rights is one way to address the predicament that war and the chaos that it engenders.

**Check your progress V**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Without the language of rights, can the moral dimension of guilty and victim be adequately expressed? Discuss.

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2. Even if the idea of human rights is of western origin, how do non-western societies appropriate them for their own society?

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**1.7 LET US SUM UP**

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The idea of rights is an important feature of discourse on ethics and/or justice. Rights can be categorised in different ways. In contemporary social and political conditions, rights are being embedded in the basic framework of the Constitution. Thus, legal rights have emerged as the most crucial and common aspect of rights. Another feature of rights that is gaining wider acceptance is human rights. With the declaration of the Universal Declaration of

Human Rights by the United Nations, today virtually every nation-state has incorporated features of this declaration in the Constitution and policies.

Despite such acceptance of legal rights or human rights, there are certain features of rights that continue to remain debated. For example, there are voices that say that unborn foetus, dead persons, animals, monuments etc. do not have real rights. However, there are those who argue that such entities also have rights. The status of the unborn generation is another crucial question that continues to be debated in the context of climate change.

The concept of rights will continue to engage our attention even in the coming years as the world faces new challenges due to emerging technology and threats from climate change.

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## 1.8 KEY WORDS

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**Positive law:** This is the kind of laws that are enacted by a state or society. Positive law engenders positive right.

**Natural law:** It is a system of law derived from the values that are believed to be intrinsic to human nature which can be deduced and applied independent of the positive law. Natural law engenders natural right.

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## 1.9 FURTHER READINGS AND REFERENCES

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DeGrazia, David. *Animal Rights: A Very Short Introduction*. Oxford: Oxford University Press, 2002.

Edmundson, W. E. *An Introduction to Rights*. Cambridge: Cambridge university press, 2004.

Griffin, J. *On Human Rights*. Oxford: Oxford University Press, 2008.

Jones, P. *Rights*. London: The Mac Milan Press Limited, 1994.

Motilal, S (Ed.), *Applied Ethics and Human Rights: Conceptual Analysis and Contextual Applications*. India: Anthem Press India, 2011.

Tierney, B. *The Idea of Natural Rights*. Grand Rapids, MI: Wm. B. Eerdmans Publishing Co., 2001.

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## **1.10 ANSWERS TO CHECK YOUR PROGRESS**

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### **Check your progress I**

1. There can be an occasion when certain legal rights granted to certain group of people may be morally wrong. For example, under the Nazi regime in Germany Jewish children were banned from public schooling. This gave the right to the public school to refuse admission to Jewish children. Though such refusal is legally okay as it was sanctioned by the government of the day, from the moral point of view such discrimination was wrong.

2. Positive rights are entitlements that a person has, and which impose duty on other people to act in such a way that the right bearer enjoys his or her right. Negative rights are the liberty rights that a person has which imposes restriction on other people from restricting the action of the right bearer. For example, I have a (negative) right to fence my garden and others are restricted from restricting me in fencing my garden.

### **Check your progress II**

1. Natural right correlates to natural law, and natural law is generally rooted in theology. The Stoics' understanding of natural law was not rooted in theology. However, over centuries that changed as the medieval thinkers grounded the idea of natural rights in theology. Human rights, on the other hand, are derived from the personhood that each individual possesses. It may be grounded in the dignity, autonomy, capability or the worth imputed by a divine source. One may or may not be rooted in theology to accept human rights.

### **Check your progress III**

1. It would appear to be wrong to kick a stray dog just for fun. A stray dog has no owner and it would cause no loss to anyone as such. However, it is not for the sake of harming any person that kicking a dog for fun appears to be wrong. It is wrong for the sake of the dog itself. This wrongness of kicking a dog for fun is so because dogs have a moral status. The moral status of the dog – or rather animals – elicits right for the dog, or rather animal in general.

### **Check your progress IV**

1. There are certain types of duties that necessarily do not engender rights. The fact that I have a duty to do something for, say, Mohan, does not necessarily mean that Mohan has a right to my doing it. I have a duty not to disfigure a mountain for its own sake. It is not necessarily because the mountain has a utility for certain people or for the generation not born yet; for the sake of the mountain itself I have a duty not to unnecessarily harm it. Such a duty does not necessarily imply right.

However, rights engender some kind of duties. When an entity has a right, the right of the entity obligates others to honour the rights of the right-bearer.

### **Check your progress V**

1. The right due to a person is the way other people around her are supposed to act towards her or refrain from acting towards her. The right to life is a person's right, and this right protects her from being harmed by other people around her; this right restrains other people from shooting at her, beating her etc. If a robber shoots with a gun at her and injures her, her right to life is violated. The robber is guilty and she is a victim. If the language of right is removed from the moral discourse, she would not be in a position to state that her right to life is violated and that she is now a victim of gun violence.

In moral discourse, there are actions that are morally right or morally wrong. Similarly, the agent who performs the action is morally right or morally wrong depending on his or her action.

2. With the proclamation of the Universal Declaration of Human Rights, human rights have now been appropriated by most nation-states. Societies value the concept of human rights as they envision and appreciate the contribution that human rights discourse could do for their respective society. The West has appropriated good and valuable things from the East, while the East has also appropriated good and valuable thing from the West. This exchange of ideas and values have made non-western countries appreciate and value the idea of human rights even if it is non-western in its origin.

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## UNIT 2

## EQUALITY<sup>2</sup>

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### Structure

2.0 Objectives

2.1 Introduction

2.2 Equality as advocated by John Rawls

2.3 Amartya Sen on Equality

2.4 Ronald Dworkin's Notion of Equality

2.5 Let us sum up

2.6 Key Words

2.7 Further Readings and References

2.8 Answers to check your progress

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### 2.0 OBJECTIVES

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The objectives of this unit are,

- to understand the concept of equality, the importance of it and how we can achieve it in the society.
- to engage in the debate surrounding the concept, metric and method of equality and how that leads towards a better formulation of policies in the social-political realm.

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### 2.1 INTRODUCTION

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Amartya Sen in his book *Inequality Reexamined* (1995) has raised some questions like “why equality?” and “equality of what?”(p.12). These questions are significant in social-political thought because any discussion of equality would not be completed without delving into these two questions. Sen has opined that the answer to the first question i.e., “why equality?” is not required

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<sup>2</sup> Dr. Md. Inamur Rahman, Assistant Professor, Department of Philosophy, Presidency University, Kolkata.

if we get an answer to the second question i.e., “equality of what?”, Meaning thereby, if we can identify that equality of  $x$  ( $x$  can be anything such as liberty, obligations, treatment, space, opportunities, wealth, rights, resources, property etc.) can make the lives of people equal then we have already answered the question why  $x$ ?

So, the need for equality can be understood from deficiency of something in our lives. Things which are not available to each but to some and those things are significant for making our lives meaningful, we need those things to be equally available for all. Equality of that thing can make our lives equally well-off. Then, in one sense, it could be argued that equality is one of the fundamental concerns of justice or one of the foundational requirements of justice. Without this justice would not be established in the society. One may say that any theory of justice which is not able to address the concerns of equality properly is not at all a theory of justice.

The problem does not lie concerning the *why* question of equality but with *what* question of equality. There is a consensus among scholars that equality is significant for the welfare of society. But the question is – how that equality would be achieved? Generally, people hold different positions concerning two aspects of equality. First, equality of what; what are the things that need to be distributed equally among people which can make people equal. And, second, how that equality would be achieved? The second question is more about the process of distribution. We will try to discuss some of the major positions on equality which will help us to understand it in better terms.

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## **2.2 EQUALITY AS ADVOCATED BY JOHN RAWLS**

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John Rawls as an advocate of social contract theory has discussed the *state of nature* which is the ground or the “circumstance of justice”. There are many other philosophers like Thomas Hobbes, John Locke, Rousseau, and Kant who have advocated social contract theory in explaining the origination of the State. But no other philosopher has articulated it the way Rawls has. Rawls has made the idea of social contract reach its optimum position in the history of modern political thought.

What makes Rawls’ position so unique? One of the major aspects which can be considered significant in making Rawls’ position unique is how he deals with the notion of equality. Rawls considers equality not as an outcome of justice but for him the very idea of “justice as fairness”

(Rawls 1999; p.11) is significantly based on the idea of equality. In articulating his position on the social contract, Rawls says that the objective of the contract is to arrive at principles of justice for the basic structure of society.<sup>3</sup> He states that the very process of arriving at principles of justice needs to be fair; otherwise it will end up arriving at unjust principles of justice. He also expresses the view that “certain principles of justice are justified only because they would be agreed to in an initial situation of equality” (Rawls 1999: p. 19). So, for Rawls, the principles of justice should not only be justified by whether it can address concerns of equality or not but whether the process followed to reach those principles has taken into account the concerns of equality or not. Equality or the concern of equality is a kind of pre-requisite for a principle of justice.

Rawls brings in the idea of the “veil of ignorance”<sup>4</sup> only to assure that the process people will follow to reach the principles of justice must make the people/participants in the contract equal to each other. If that is not the case, if people/participants are unequal then it is highly likely that some participants would manipulate others' opinions and frame a principle of justice that is in favour of them only, and which is injustice. For Rawls, the procedure must be just to make a just principle of justice. Rawls gives an example of why a procedure is significant to make an outcome just. He says that suppose a cake is to be divided into equal pieces among people having the inclination to get the maximum share out of it. In the absence of any restraint, the person who will divide the cake is likely to get the maximum share of it. However, if we restrain the person by framing a policy that the person who will cut/divide the cake will take the last piece of the cake after everyone else get their share out of it, then, every person will get an equal share of it. It is because the best chance for the person who divides the cake to get the maximum share of the cake is by dividing the cake equally. Otherwise, any other person will take the larger share leaving a smaller piece for the person who has divided it (Rawls 1999: p. 74). So the procedure makes the outcome just.

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<sup>3</sup> The basic structure of society can be understood in this way as David Reidy puts it; “A society’s basic structure is the network or system of institutions, taken as a whole and in a dynamic relation to one another, that forms the institutional background within which individual and associations interact with one another. It includes political and legal structures, economic systems, civil society, the family and so on” (Reidy 2015: p. 55).

<sup>4</sup> Inside this hypothetical veil, every person will forget his/her substantial differences which make them unequal to each other.

Rawls has emphasized the role of a method/process/ procedure for reaching a just outcome. In the case of the "veil of ignorance" as well, Rawls intends to assure that every participant in the contract must participate from an equal ground, making the procedure fair for everyone. And, it would necessarily reach principles which are just. Rawls argues that from within a "veil of ignorance" every rational person would choose a principle of equal distribution. Inside the veil of ignorance, nobody knows about their social positioning in society. So any participant who wants to maximize the scope of his/her welfare in society has to choose a principle for every other person in society as well and on equal terms. Otherwise, if someone chooses a principle only for his/her benefit and without any consideration of others then he/she might end up being the deprived person and not the receiver of it because everyone is ignorant about his/her position in society. Every rational decision inside a veil of ignorance would lead to an equal distribution of resources. This is the method part – which addresses the question of how to establish equality in society. Though it is a hypothetical method, it shows us the possibility of reaching just principles through a fair method and the significance of following that method.

Now, what are the things that should get equally distributed? Rawls' first principle of justice gives the answer – liberty, opportunity, income, wealth and social bases of self-respect – what Rawls calls 'social primary goods'. These things need to be distributed equally unless an unequal distribution of them makes everyone in an advantaged position. And, he states "Injustice, then, is simply inequalities that are not to the benefit of all" (Rawls 1999: p. 54). Thus, Rawls considers equality as one of the fundamental elements without which the conception of justice is not adequate. And, not only that, he even considers it as something essential to reach a principle of justice.

Regarding the natural endowment which may vary from person to person, Rawls has a mechanism called the "difference principle". He states that people with higher natural skills (endowment) may be justified in acquiring greater resources/income if they participate in a scheme/means of income which enhances the life prospects of the least well-off people in society. Rawls addresses this concern of deficiency of natural endowments with a practical concern. He knew that we cannot make people equal in terms of their natural endowments. But what we can do is to minimize the gap of inequality among people.

The first principle of justice is about the distribution of liberty and basic primary goods which should not be compromised or violated for any other concern than maximizing liberty. The second principle i.e., the difference principle is specifically for addressing economic inequality in society, to reduce the gap of inequality.

**Check your progress I**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Discuss Rawls' method for arriving at equality.

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### **2.3 AMARTYA SEN ON EQUALITY**

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In the concept of equality given by Rawls, we have seen that Rawls tried to provide us with a method of how to reach to equality and he also indicates towards things that need to be distributed in society to build a just society. Amartya Sen, one of the influential philosophers and contemporary to Rawls, tries to enrich the conception of equality by delving into it from a different perspective altogether. In addressing the notion of “equal distribution” which moral egalitarians and liberal philosophers like Rawls, generally advocate, Sen gives us an example, the example goes like this – suppose three children have equally reasonable claims over a flute. The first one claims that she is the only one who can play the flute; thus she should get it. The second one claims that he is the poorest among the three and has nothing to play with. The flute will significantly enrich his life prospects so he should get it. And, the third one claims that she is the one who has made the flute with her labour and thus she has all the right to own it (Sen 2009: p. 12).

The example does not only intend to think about how to address the scarcity of resources which Sen opines that many a theory of justice does not take into account. But it also compels us to ponder in this kind of scenario that what kind of principle we should follow for the distribution of

resources. Is it possible to apply any one objective rational principle over there? What kind of metrics in principle should get priority in order to justice to prevail in society – utility, welfare or rights? Sen, instead of identifying the object of equal distribution, invokes certain crucial aspects of it. He goes on to state, especially in addressing Rawls' position, that the problem with objective principles of justice is that they are less concerned about whether justice actually is realized in society or not.<sup>5</sup> They are more concerned about framing objective just principles for a society believing that it would necessarily make people equal in society. The flute example shows the problem that arises once you try to apply the principles at the ground level.

Sen points out that a person's *capability* to convert resources into 'good living' does play a very significant role in assuring whether the equal distribution of primary goods/resources are having equal positive outcomes or not. For example, a normal person can do far better things than a disabled person can do with the same amount of resources. The nutritional need of a pregnant woman is higher than a person not bearing a child (Sen 2009: p. 66). People cannot be presumed to be inherently equal. Why this point is significant in the context of a discussion on equality? It is because if we do believe that equal distribution of an important resource would make people equal then these factors compel us to re-examine our beliefs. Sen points out that a theory of justice which is centered on the notion of equality cannot afford to overlook heterogeneity in people's internal as well as external factors that enables or disables them in becoming an agent of free choice. And, if individuals are not equally capable to make free choices for the life they have reason to value then the credibility of the theory gets diluted.

The Capability Approach, pioneered by Amartya Sen and Martha Nussbaum, tries to shift the focus from the *means* to achieve equality i.e., resources or primary goods as Rawls would call them, to the *ends* i.e., "*actual opportunities of living*" (Sen 2009: p 233). Meaning thereby, for Sen, in order to establish equality in society it is not enough just to distribute resources equally which will supposedly help to achieve equality. We need to take into consideration whether people do have the "ability to achieve various combinations of functioning that we can compare and judge against each other in terms of what we have reason to value" (Sen 2009: p. 233). It is not enough, for example, to frame a policy which provides equal rights to each person having a legal voter-id card to cast a vote. Suppose a person whose both legs are amputated for some medical reason, how

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<sup>5</sup> See the distinction between *Niti* and *Nyaya* in *The Idea of Justice* (Sen 2009).

would he exercise this freedom/right to vote? The person might somehow manage to reach to the polling booth and cast his vote. But the policy itself is not ensuring that for him. Or, suppose every individual has a right to live in a healthy environment. Now, pollution at the optimum level does not let many people live a healthy life. Especially people from the deprived class who do not have the means to alter their situation are suffering from diseases borne out of pollution in the environment. Not only do they get deprived of living a healthy life but their free agency i.e., the agency to choose what they have reason to value among alternative life prospects, gets compromised. People's capabilities play a very fundamental role in the realization of a society of equals. So, people's capabilities need to be enhanced to make people equal to each other.

Capabilities do not mean what people just end up achieving. Sen has emphasized the distinction between achievement and freedom to achieve. And, he is of the view that both aspects are equally important in assessing whether people are having the capability to do or to be. He gives us an example – suppose a person decides to spend the whole day in his house, he has no intention to go out. Suppose, case 1 is that he does what he wishes to do (stay inside his house in this case), case 2 is that some goons enter his house and forced him to stay inside his house. And, case 3 is that the goons are forcing him to stay out of his home is. If we consider capabilities in terms of a person's achievement (outcome) only, then in case 1 and case 2, the achievement of the person is the same. The question that arises here is can we consider the achievement i.e., staying inside the house, in case 2 a substantial achievement? Though the person wishes to stay inside his house, in case 2 some goons have forced him stay inside his house. So, in case 1 the person has all the freedom to achieve what he has reason to value and achieved that. But in case 2 the person did not exercise his freedom to achieve what he has reason to value, he just forcefully end up doing what he otherwise would have done. Sen argues that if freedom to achieve and actual achievement do not coincide then the agent is not exercising his/her free agency. In case 3, the person's rights get grossly violated as he was forced to do what he did not wish to do. So, it is not only the *means* i.e., primary goods or resources, or the process of actualizing freedom, that enhances our freedom but it is also the *ends* i.e., achievements or actualized freedom, both need to be in coherence in order to ensure that an individual is exercising his/her capabilities in a proper sense. In this situation we can consider that people are equal in society otherwise its implications get limited within the policy matters and not in the lives of people.

It can be said that for Sen the more important factor for equality is the context or circumstances or the space of equality rather than the object of it. He tries to provide us with the input that without consideration of these factors, any theory of equality might not be able to address inequality meaningfully.

### Check your progress II

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Why consideration of *capabilities* is important in making people equal?

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## 2.4 RONALD DWORKIN'S NOTION OF EQUALITY

Ronald Dworkin engages in understanding the issue of equality with the question that which one is more significant in the context of equality – equality of welfare or equality of resources? It seems that equality of welfare would make people more equal than equality of resources. Ultimately welfare of all is the major concern of any theory of equality. Dworkin gives us an example: Suppose a man has several children and some wealth. One among them is blind, one is a sculptor, one is a politician and one is a playboy. Now, how should the person divide the resources among his children? If he wants to consider the welfare of all as the primary criterion of this division then he must divide the resources unequally keeping in mind the differences of his children. The distribution must take into account the differences of participants to make the welfare of all equal, which will not allow to distribute the resources equally but according to the life each person has reason to value (Dworkin 1981: p. 186-87). But, if the person gives importance to equality of resources then he will equally divide the resources in his possession among his children. In that case, he has to assume that all his children are already equal; ignoring the real-life circumstances or the differences they have in their lives.

So, which one should get priority – welfare or resources? Addressing this question, Dworkin put forth a method presuming that equality of resources should get priority. He states that suppose all the resources of a society are up for an auction and every individual of the society has equal capacity to buy their desired resources for his/her plan of life. After the auction, everyone will be satisfied with their bundle of resources because they have achieved what suits their plan of life and everyone is having an equal amount of resources. They will not give preference to anyone else's bundle of resources because if an individual does prefer another's bundle of resources he/she could have opted/bought it from the auction. He/she has a different plan of life thus he/she has bought what suits his/her plan of life. This Dworkin calls as “envy test”; which is the test of whether the auction is successful or not. If people value only what they have opted to buy in the auction then only we can say that the auction is successful. Otherwise, we might have to do the auction again to reach that state.

Everyone has equal resources and equal opportunity to prefer goods for leading a life they have reason to value. This method of distribution is known for the "ambition sensitive" and "endowment insensitive" method<sup>6</sup>. In this method, people's ambitions or their life plans get priority in choosing resources but their endowments are not getting priority. If people are provided with equal purchasing power then they all will equally be able to prefer the resources suitable for their life prospects and can achieve those resources. Thus, equality can be achieved in society. But, if people's endowments need to be taken into consideration then the resources cannot be divided equally among all, which will lead to a society of people having unequal purchasing power. So, a handicapped person will be compelled to spend a share of his/her bundle of resources (got from the auction) to compensate for his/her deprivation. That would make him/her, as Sen has already pointed out, deprived in terms of utilization of resources for actualizing the plan of life he/she has reason to value. So, a theory of equality cannot be completely endowment insensitive.

Dworkin also realizes it to be true. Thus he brings in a kind of “insurance” policy for his method. He states that we should have the option to buy insurance policies which will compensate for different kinds of deprivations people are having concerning their natural endowments. And, the interesting aspect of this insurance policy is that, as Dworkin puts forth, the insurance will be given to all the disadvantaged people for their “unchosen inequality in natural assets” (Kymlicka 2002:

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<sup>6</sup> See Kymlicka (2002).

p. 76) in terms of some social goods or extra buying power before the auction. Before auction everyone will be made sure that they are equal and then the auction will start with the same purchasing power of all.

Overall, Dworkin, like Rawls also does believe that we cannot make people similar in terms of their natural endowments and, sometimes, even their circumstances cannot be made equal. For policy purposes that exercise would be near to an impossible task. We can best address those heterogeneities in people's lives by providing them with some extra in addition to their share of equal distribution of resources. And, thus equality can be achieved in society.

### Check your progress III

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. What is Dworkin's ambition-sensitive and endowment-insensitive method?

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## 2.5 LET US SUM UP

Both Rawls and Dworkin have similar kind of orientations regarding the concept of equality and how equality should be established in society. Both of them have primarily focused on resources as something that should be equally get distributed among the people.<sup>7</sup> Whereas Amartya Sen has emphasized that it is not the object of distribution i.e., resources or something else, but the circumstance of distribution that is important for any theory of equality. Even Karl Marx has raised similar objections towards the liberal notion of equality. Marx was of the view that if society, from generations, is divided into two classes i.e., master and slave class or owner of production houses

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<sup>7</sup> Resource should not always be taken in a narrow sense. Freedom or liberty can also be formulated or defined within the domain of resources. For example, having possession of a certain amount of resources implies that the person is free to access or obtain certain specific facilities. Not having that much of resources would limit a person's freedom to access all those facilities.

and labour of production houses, then talking about equality in society is meaningless when the class distinction or class hierarchy is intact.

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## 2.6 KEY WORDS

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**Fairness:** impartial or just treatment without any kind of discrimination.

**Capabilities:** actual abilities to achieve a life that people have reason to value.

**Primary goods:** goods that every rational person is presumed to want to fulfill the basic needs.

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## 2.7 FURTHER READINGS AND REFERENCES

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Dworkin, Ronald. (1981). “What is Equality? Part 1: Equality of Welfare”, *Philosophy and Public Affairs*, 10 (3), pp. 185-246

Dworkin, Ronald. (1981). “What is Equality? Part 2: Equality of Resources”, *Philosophy and Public Affairs*, 10 (4), pp. 283-345.

Kymlicka, Will. (2002). *Contemporary Political Philosophy: An Introduction*. 2<sup>nd</sup> ed. New York: Oxford University Press.

Nussbaum, M. C. (2006). *Frontiers of Justice: Disability, Nationality, Species membership*. Cambridge, Mass.: The Belknap Press: Harvard University Press.

Rawls, John. (1999). *A Theory of Justice*. Rev. ed. Cambridge, Mass.: Belknap Press of Harvard University Press.

Sen, Amartya. (1995), *Inequality Reexamined*, India: Oxford University Press.

Sen, A, (2010). *The Idea of Justice*. England: Penguin Group.

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## 2.8 ANSWERS TO CHECK YOUR PROGRESS

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### Check your progress I

1. Rawls argued that in order reach a just outcome, we need to assure that the procedure to reach to it must be just or fair. If the procedure is constituted by unequal considerations then it is less likely that a just outcome will be reached. For example – if we want to divide a cake among equal pieces then we must restrain the person who is dividing it by making him/her follow a procedure that whoever will divide the cake would take the last piece of the cake after the division. The person most likely will be the victim if he/she divides it unequally. In this way we can make sure that the division of the cake will be equal.

## **Check your progress II**

1. Sen states that in order to establish equality in society it is not enough just to distribute resources equally which will supposedly help to achieve equality. We need to take into considerations that whether people are capable to achieve various combination of functioning that we can compare and judge against each other in terms of what we have reason to value. Whether we have the capability to convert different resources into good life or not is a serious concern for making people equal. It is not enough, for example, to frame a policy which provides equal rights to each individual person having a legal voter-id card to cast vote. We need enhance people's capabilities so that they can exercise their freedom to assess different alternatives and meaningfully chose whom to vote able to cast vote properly.

## **Check your progress III**

1. Ambition sensitive and endowment insensitive method, for a distributive concern, primarily focuses on people's ambitions or their plans of life that they have reason to value. This method articulates a position that if people are having equal purchasing power then they all will be equally able to prefer the resources suitable for their life prospects and can achieve those resources. This method is endowment insensitive because this method is not substantially addressing the differences in people's natural endowments.

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## UNIT 3

## LIBERTY<sup>8</sup>

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### Structure

3.0 Objectives

3.1 Introduction

3.2 Kinds of Liberty

3.3 Two Aspects of Liberty

3.4 The Concept of Liberty in Indian framework

3.5 Liberty and Freedom

3.6 Let Us Sum Up

3.7 Key Words

3.8 Further Readings and References

3.9 Answers to Check Your Progress

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### 3.0 OBJECTIVES

The objectives of the present unit are to discuss,

- the major kinds of liberty from the perspective of the socio-political and philosophical point of view.
- two major aspects of liberty: positive and negative.
- how the concept of liberty conceived by Indian thinkers and their response.
- the relationship between freedom and liberty.

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### 3.1 INTRODUCTION

Liberty is where one can enjoy the freedom to live their life in the way that they want, without interference from other people or the authorities. The word 'liberty' is derived from the Latin word

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<sup>8</sup> Manik Konch, Doctoral Research Scholar, Department of Humanities and Social Sciences, Indian Institute of Technology, Bombay.

‘liber’ or ‘librates’ which means freedom or free will. The synonyms of liberty are— to be free, independence, sovereignty, liberation, free will. Sometimes liberty is differentiated from freedom by using the word “freedom” primarily, if not exclusively, to mean the ability to do as one wills and what one has the power to do; and using the word “liberty” to mean the absence of arbitrary restraints, taking into account the rights of all involved. In this sense, the exercise of liberty is subject to capability and is limited by the rights of others. Thus, liberty entails the responsible use of freedom under the rule of law without depriving anyone else of their freedom.

There are many philosophers who have defined the idea called liberty in different ways. For instance, Roman Emperor Marcus Aurelius (121-180 AD) wrote: “a polity in which there is the same law for all, a polity administered with regard to equal rights and equal freedom of speech, and the idea of a kingly government which respects most of all the freedom of the governed” (*Meditation* Part I). In the *Leviathan*, Thomas Hobbes (1588–1679) also says, “a free man is he that in those things which by his strength and wit he is able to do is not hindered to do what he hath the will to do” (*Leviathan*, Part II, Ch. XXI).

On the other hand, has opposed such definitions of liberty. Particularly, Hobbes and Sir Robert Filmer’s definition of liberty. As Filmer says, ‘A liberty for everyone to do what he likes, to live as he pleases, and not to be tied by any laws’. Disagreeing with some of these ideas, John Locke (1632-1704) responded by writing,

In the state of nature, liberty consists of being free from any superior power on Earth. People are not under the will or lawmaking authority of others but have only the law of nature for their rule. In political society, liberty consists of being under no other lawmaking power except that established by consent in the commonwealth. People are free from the dominion of any will or legal restraint apart from that enacted by their own constituted lawmaking power according to the trust put in it. Thus, freedom is not as Sir Robert Filmer defines it: ‘A liberty for everyone to do what he likes, to live as he pleases, and not to be tied by any laws.’ Freedom is constrained by laws in both the state of nature and political society. Freedom of nature is to be under no other restraint but the law of nature. Freedom of people under government is to be under no restraint apart from standing rules to live by that are common to everyone in the society and made by the lawmaking power established in it. Persons have a right or liberty to (1) follow their own will in all things that the law has not prohibited and (2) not be subject to the inconstant, uncertain, unknown, and arbitrary wills of others. (*Two Treatise of Government*, Part II).

Another conceptual framework for understanding the idea of liberty has been given by John Stuart Mill (1806-1873) in his book *On Liberty*. He differentiates between liberty as the freedom to act and liberty as the absence of coercion. He emphasizes on two aspects of liberty namely, positive and negative. Positive liberty is the possibility of acting — or the fact of acting — in such a way

as to take control of one's life and realize one's fundamental purposes, while Negative liberty is the absence of obstacles, barriers or constraints. One has the negative liberty to the extent that actions are available to one in this negative sense.

Although, the concept of liberty comes from the Greek tradition, but there is a slight difference between ancient Greek and the Modern concept of liberty. As we have discussed the modern conception of liberty, we also need to see how ancient philosophers have defined liberty. In ancient Greek, to be free was not to have a master, to be independent from a master (to live as one likes). That was the original conception of Greek freedom and liberty which Aristotle (384-322 BC) discusses in his book *Politics*. His conception of liberty is based on democratic principles and the idea of equality. He wrote:

This, then, is one note of liberty which all democrats affirm to be the principle of their state. Another is that a man should live as he likes. This, they say, is the privilege of a freeman, since, on the other hand, not to live as a man likes is the mark of a slave. This is the second characteristic of democracy, whence has arisen the claim of men to be ruled by none, if possible, or, if this is impossible, to rule and be ruled in turns; and so it contributes to the freedom based upon equality. (*Politics*, book.VI).

But this definition of Aristotle only applied to free men or citizens of Athens. In ancient Athens women and slaves were not counted as a citizens. So, they have no freedom to cast vote, and they had to depend on a male relative to hold office for the legal and social right.

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## **3.2 KINDS OF LIBERTY**

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The concept of liberty occupies a central place in social and political philosophy like other significant concepts like justice, equality etc. Like other concepts, liberty also has some major types which are divided on the basis of the various social and political conditions of a nation or state. There are five major kinds of liberties namely, natural, civil, political, economic, and national liberty. These are briefly explained in the following sections.

### **3.2.1 Natural Liberty**

Natural liberty is a kind of liberty which people enjoyed in the imaginary 'state of nature' when civil society did not exist. The natural liberty is an unrestricted and unlimited kind of freedom like how birds are free to fly wherever they want to fly in the sky. Its a naturally gifted right given to the human beings by their birth. Jean Jacques Rousseau (1712-1778) was the chief exponent of the concept of natural liberty. In his opinion, man lost natural liberty with the emergence of the state or civil society. But such a concept of liberty is illusory, as from the political point of view, natural

liberty cannot exist without or prior to a state. Many thinkers have questioned the tenability of this idea by saying that the conception of natural liberty is a contradiction in 'terms' because law or authority is the essential condition of liberty but the same was conspicuously absent in the 'state of nature'. In the 'state of nature' liberty was enjoyed only by the strong. In a civil society, on the other hand, liberty is the common possession of all.

### **3.2.2 Political Liberty**

Political liberty refers to the freedom where every citizen should get right to access, and share in authority, of the state. It gets realized in a democracy or democratic states. As we know that without political liberty, neither, the state can be democratic nor can the individual enjoy full civil liberties. Civil liberty becomes meaningless if people do not possess the power to compel the government to accept their viewpoint. Different philosophers variously define political liberty. For instance, Stephen Leacock sees "political liberty as the right of the people to choose their government which should be responsible to the general body of the people". Like Leacock, Herold Laski also defines it as "the power to be active in affairs of the state. Political liberty is identical with constitutional liberty which means the democratic rule." Thus, we can summarize that political liberty is a kind of freedom where citizen can freely access their political rights. The political liberties are namely, right to vote, right to elect, right to criticize the government, and right to periodical election.

### **3.2.3 Economic Liberty**

Like political liberty or freedom, every citizen also needs economic security to live their life. Economic liberty means minimum material security to every citizen of a state. Without economic liberty, civil and political liberties become meaningless. But the economic liberty does not mean free competition in the economic sphere. In other words, it lies in the absence of gross inequalities of wealth that may enable some to obtain an unfair control over the lives and happiness of others by the mere fact of their economic superiority. It implies a socialist or socialistic system of economy. It may not mean economic equality but it means removal of wide economic disparities. Economic liberty protects the private property of citizens, right to work, but also right to a decent wage, right to leisure and right to social insurances like old age, sickness, disablement and unemployment insurances.

### **3.2.4 Civil Liberty**

Without civil liberty, one cannot think of economic and political liberty. Civil liberty implies freedom enjoyed by the people in civil society. Civil liberty denotes the civil rights which are

guaranteed by the state. This kind of civil rights consist of, right to life, liberty, property, speech, press, association, education etc. Civil liberty will become stronger if more civil rights are included. But the civil right has both positive and negative aspects. Positive aspect implies the right to free action, the opportunity of self-explanation and self-expression while the negative aspect of liberty implies freedom or the immunity of an individual from interference on the part of others. Thus, political scientists Raymond Gattel says, ‘Civil liberty consists of the rights and privileges which the state creates and protects for its subjects’.

### 3.2.5 National Liberty

National liberty looks like natural liberty because how natural liberty implies a person can access his freedom by birth in this world, similarly, national liberty implies that every nation has a birth right to be free from the political domination of others. It is synonymous with national independence or *Swarājya*. It is based on the principle of self-determination. Every nation has a right to regulate its national life according to its own will. For every nation, freedom is the necessary condition for development. Without freedom, citizen can’t access cultural, social, economic or political development. It is not possible so long as one nation is ruled by another, i.e., before 1947, citizen of India does not have national liberty. It was only possible when India became independent from British rule and constituted a sovereign country. Thus, national liberty implies the birthright of every nation to be free from external control or domination.

#### Check Your Progress I

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. What is the difference between Civil Liberty and National Liberty? Explain.

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2. What is Political Liberty?

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### 3.3 TWO ASPECTS OF LIBERTY: POSITIVE AND NEGATIVE

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We have mentioned earlier that liberty has two aspects namely, positive and negative. Positive liberty views of being free; it may be understood as self-mastery and self-determination; and includes ones having a role in choosing who governs the society of which one is a part. While negative liberty views of the absence of external limits or absence of obstacles, barriers or constraints. One has negative liberty to the extent that actions are available to one in this negative sense. Negative liberty is usually attributed to individuals while positive liberty is sometimes attributed to collective individuals. For example, suppose person *X* is driving a car through the city, and *X* come to a junction in the road. *X* turns left, but no one was forcing *X* to go one way or the other. Next *X* comes to a crossroad. *X* turns right, but no one was preventing *X* from going left or straight on. There is no traffic to speak of, and there are no diversions or police roadblocks. So, *X* seems, as a driver, to be completely free. But this picture of *X*'s situation might change quite dramatically if we consider that the reason *X* went left and then right is that *X* is addicted to cigarettes and *X* is desperate to get to the tobacconists before it closes. Rather than *driving*, *X* feels, *X* is *being driven*, as *X*'s urge to smoke leads *X* uncontrollably to turn the wheel first to the left and then to the right. Moreover, *X* is perfectly aware that *X* is turning right at the crossroads means *X* will probably miss a train that was to take *X* to an appointment *X* cares about very much. *X* longs to be free of this irrational desire that is not only threatening *X*'s longevity but is also stopping *X* right now from doing what he thinks *X* ought to be doing.

If anyone carefully examines *X*'s driving story, then they will find two contradictory views of liberty. On the one hand, one can think of liberty as the absence of obstacles external to the agent. *X* is free if no one is stopping *X* from doing whatever he might want to do. In the above story, *X* appears to be free in this very sense. On the other hand, one can think of liberty as the presence of control on the part of the agent. To be free, one must be self-determined, which is to say that *X* must be able to control his own destiny in his own interests. In the above story *X* appears, in this

sense, to be unfree: *X* is not in control of his own destiny, as *X* is failing to control a passion that *X* himself would rather be rid of and which is preventing *X* from realizing what *X* recognizes to be his true interests. One might say that while the first view liberty is simply about how many doors are open to the agent, on the second view it is more about going through the right doors for the right reasons.

Although these two conceptions of liberty have been developed by many philosophers and thinkers such as Immanuel Kant, J. S. Mill, Karl Marx, and Isaiah Berlin, but here we would briefly discuss Isaiah Berlin's (1909-1999) views on the two aspects of liberty. The idea of positive liberty appears to have been borrowed by Isaiah Berlin from Aristotle's definition of citizenship which is derived from the social role of the freemen of classical Athens. Berlin, in his essay 'Two Concepts of Liberty' (1958), Berlin argued that the liberty is granted to citizens to choose their government. Berlin granted that both concepts of liberty represent valid human ideals and that both forms of liberty are necessary for any free and civilised society. Berlin's conception of negative liberty represents a different, and sometimes contradictory, understanding of the concept of liberty, which needs to be carefully examined. For him, negative liberty constitutes an alternative, and sometimes even opposed, concept to positive liberty, and one often closer to the intuitive, modern usage of the word. According to Berlin, we use the negative concept of liberty in attempting to answer the question "What is the area within which the subject — a person or group of persons — is or should be left to do or be what he is able to do or be, without interference by other persons?", whereas we use the positive concept in attempting to answer the question "What, or who, is the source of control or interference that can determine someone to do, or be, this rather than that?" (1958, 121–22). But he did not argue that the concept of positive liberty should be rejected, instead he recognised it as one human value among many, and one which is necessary for any free society. Therefore, Berlin argued that positive liberty was a genuine and valuable version of liberty, so long as it was identified with the autonomy of individuals, and not with the achievement of goals that individuals 'ought to' 'rationally' desire.

### **Check Your Progress II**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. What are the two aspects of Liberty? Explain.

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### 3.4 THE CONCEPT OF LIBERTY IN INDIAN FRAMEWORK

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Like their western counterparts, Indian philosophers have also discussed the ideas associated with the concept of liberty, yet there are many confusions. In India, the concept of liberty is synonymous with the word ‘*Mokṣa*’ which means free from all kinds of bondage. In other words, *mokṣa* is the concept of ultimate freedom and liberation in Indian philosophy and religion. The word *Mokṣa* is derived from the Sanskrit word *muc*, meaning “to free,” it is the release from the life-death cycle and from the limitations of worldly existence. To reach the state of *mokṣa* is to attain absolute freedom, peace and oneness with the Divine. The term *mokṣa* is also called as *vimokṣa*, *vimukti*, *mukti*. This idea of *mokṣa* is used as a spiritual sense. In the epistemological and psychological senses, *mokṣa* refers to freedom from ignorance: self-realization and self-knowledge.

But the idea of liberty, as we are understanding it in this unit, is always used in a political sense. In this regard we find that many political thoughts developed during the Ashoka Dynasty (322-180 BCE) and Maurya Dynasty (322-180 BCE). For instance, in the Maurya Empire of ancient India citizens of all religions and ethnic groups had some rights to freedom, tolerance, and equality. They also tried to eradicate slavery from their state. King Ashoka emphasized the importance of tolerance in public policy by the government. The slaughter or capture of prisoners of war also appears to have been abolished by Ashoka.

In contemporary India, Sri Aurobindo (1872-1950) pointed out that in Europe the ideal of external freedom is important, whereas in India the theory of inner freedom has been stressed. According to Aurobindo, “they (the Europeans) have found out the way to external freedom. We have found out the internal freedom. We meet and give each other what we have gained. We have learned from them to aspire after external as they will learn from us to aspire after internal freedom” (Speech. p.15). This statement of Sri Aurobindo reflected the attitude of accepting the other and learning

from the other with respect and freedom.

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### 3.5 LIBERTY AND FREEDOM

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‘Liberty’ and ‘Freedom’ are words that have often been used interchangeably, yet a deeper analysis reveals that they are laden with quite distinct connotations. Most European languages have only one word to translate both ‘freedom’ and ‘liberty’, e.g., ‘libertà’ (Italian), ‘liberté’ (French), ‘libertad’ (Spanish), ‘Freiheit’ (German), ‘frihet’ (Swedish), and ‘vrijheid’ (Dutch). Moreover, many English and American writers use ‘freedom’ and ‘liberty’ as if they were synonyms. As we have said that liberty is defined as the right and the power to believe, act and express oneself as one chooses; of being free from restriction; and having the freedom of choice. It is the condition of having the power to act and speak without restraints. On the contrary, freedom is defined as the state of being free to enjoy political, social, and civil liberties. It is the power to decide one’s actions and the state of being free from restraints or confinement.

Liberty is very much individual centric as compared to freedom. ‘Liberty’ is the power to act and express oneself according to one’s will, while ‘freedom’ is the power to decide one’s actions. Liberty is the condition wherein individuals behave according to their will and govern themselves, taking responsibility for their actions and behaviors. Having liberty does not necessarily mean going against ethics and moral values. It is classified into: positive liberty wherein individuals act on their own will without being influenced by social restrictions and taboos, and negative liberty wherein individuals act without being influenced or coerced by other people.

Moreover, ‘freedom’ is a concept which is more associated with an individual’s connection with the state rather than with other individuals and circumstances. The word freedom comes from the English word signifying free will whereas “liberty” comes from Latin word ‘librates’, France ‘liberté’ etc., which means the condition of freeman and liberty must conform to what is morally right and ethical. More precisely to say, liberty is unrestricted freedom. One can enjoy liberty fearlessly-positive liberty while freedom is autonomy for a particular thing or action. Even in the Constitution of India and in its Preamble enshrines liberty while Article 19(1) (a)-(g) incorporate different types of freedom. Similarly, Article 21 also enshrines Personal liberty in order to make life fearless.

Above discussed differences are more or less based upon on socio-political conception of freedom and liberty. For instance, J.S. Mill advocated that liberty shall not be negative, i.e. without

restriction. This is the reason why democratic constitutions set a goal of liberty whereas they provide different types of freedom to achieve the goal of ensuring that rights of all citizens are balanced. It ensures that both individual and social interests are well-balanced and work smoothly in the society. On the contrary, Berlin does not believe the positive liberty in the strict sense. For example, a blind person cannot blame to the authority for his liberty that he cannot watch a movie in the hall because of his/her physical weakness.

From the philosophical perspective, freedom is a natural property of human beings — the property that makes them persons as distinct from specimens of just another animal species. Within the domain of human persons, it is an objective universal, on a par with speech and the intellectual faculties. It defines the natural-law condition of freedom among likes. Liberty, in contrast, is the legal status of a member of an organised group or society. It is not a property of a natural person but of a position in a group or society. It applies not to natural but to artificial persons (e.g., citizens). Consequently, it is a relative notion in the same sense that citizenship is a relative concept.

### Check Your Progress III

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. What is the relation between Liberty and freedom?

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## 3.6 LET US SUM UP

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In this unit we have mainly tried to explain different kinds of liberty from the perspective of the socio-political and philosophical point of view, with some main issues like what the relation between liberty and freedom is, and what the positive and negative aspects of liberty are. An attempt

has also been made to understand the concept of liberty from the perspective of Indian thinkers.

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### 3.7 KEY WORDS

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**Liberty:** the power to act and express oneself according to one's will.

**Freedom:** the power to decide one's actions.

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### 3.8 FURTHER READINGS AND REFERENCES

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Aristotle, *Politics*, translated by W D. Ross, Oxford: Oxford University Press, 1999.

Aurelius, Marcus, "Meditations", *Book I, Wordsworth Classics of World Literature*, Mackkai: Berta Books 1999.

Berlin, Isaiah, "Two Concept of Liberty", *Argument for Freedom*, pp. 56-99, 1958.

Carter, Ian, "Positive and Negative Liberty", *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.), 2018.

Eckstein, Walter, "Rousseau's Theory of Liberty", *Rousseau's Freiheitslehre by Otto Vossler (Review)*, *Journal of the History of Ideas*, Vol. 26, No. 2 (Apr. - Jun. 1965), pp. 291-294.

Hobbes, Thomas, *Leviathan*, London: Penguin Publisher, 2002.

Khosla, Madhav, *The Indian Constitution, (Oxford India Short Introductions Series)*, Oxford: Oxford University Press, 2012.

Locke, John, *Two Treatises on Government: A Translation into Modern English*, London: Churchill, 2009.

Mill, John Stuart, *On Liberty*, Kitchener: Batoche Books, 1859-2001.

Verma, Vishwanath Prasad, "Shri Aurobindo Concept of Freedom and Western Political Idealism: A reconstruction and Comparative Study", *The Indian Journal of Political Science*, Vol. 17, No. 2 (April-June 1956), pp. 105- 134.

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### 3.9 ANSWERS TO CHECK YOUR PROGRESS

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#### Check Your Progress I

1. Civil liberty implies freedom enjoyed by the people in civil society. Civil liberty denotes the civil rights which are guaranteed by the state. This kind of civil rights consist of, right to life,

liberty, property, speech, press, association, education etc. Civil liberty will become stronger if more civil rights are included.

National liberty implies that every nation has a birth right to be free from the political domination of others. It is synonymous with national independence or *Swarājya*. It is based on the principle of self-determination. Every nation has a right to regulate its national life according to its own will. For every nation, freedom is the necessary condition for development.

2. Political liberty refers to the freedom where every citizen should get right to access, and share in authority, of the state. It gets realized in a democracy or democratic states. As we know that without political liberty, neither, the state can be democratic nor can the individual enjoy full civil liberties.

### **Check Your Progress II**

1. Liberty has two aspects namely, positive and negative. Positive liberty views of being free; it may be understood as self-mastery and self-determination; and includes ones having a role in choosing who governs the society of which one is a part. While negative liberty views of the absence of external limits or absence of obstacles, barriers or constraints. One has negative liberty to the extent that actions are available to one in this negative sense. Negative liberty is usually attributed to individuals while positive liberty is sometimes attributed to collective individuals.

### **Check Your Progress III**

1. Liberty is individual centric as compared to freedom. ‘Liberty’ is the power to act and express oneself according to one’s will, while ‘freedom’ is the power to decide one’s actions. Liberty is the condition wherein individuals behave according to their will and govern themselves, taking responsibility for their actions and behaviors. Having liberty does not necessarily mean going against ethics and moral values. Freedom is a concept which is more associated with an individual’s connection with the state rather than with other individuals and circumstances. More precisely to say, liberty is unrestricted freedom.

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## UNIT 4

## JUSTICE<sup>9</sup>

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### Structure

4.0 Objectives

4.1 Introduction

4.2 Kinds of Justice

4.3 Indian Conception(s) of Justice

4.4 The Concept of Justice Conceived by Western Thinkers

4.5 Justice and Equality

4.6 Let Us Sum Up

4.7 Key Words

4.8 Further Readings and References

4.9 Answers to Check Your Progress

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### 4.0 OBJECTIVES

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The objectives of this unit are,

- to identify the various types of Justice
- to understand the nature of Justice from the philosophical and socio-political point of view.
- to discuss different views on Justice proposed by both Indian and Western thinkers.
- to reflect upon the relation between the ideas of justice and equality.

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### 4.1 INTRODUCTION

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<sup>9</sup>Manik Konch, Doctoral Research Scholar, Department of Humanities and Social Sciences, Indian Institute of Technology Bombay.

The idea of justice comes from the Latin words *Justitia* which etymologically mean “righteousness, equity, upright, just.” In general, the term justice is understood as ‘right order, equity, the rewarding to every one of that which is his due’. By definition, justice is described as the moral obligation to act on the basis of fair adjudication between competing claims. As such, it is linked to fairness, entitlement and equality. The concept of justice occupies a central place in both ethics, social and political philosophy. But the concept of justice is different in every culture and society. One of the earliest theoretical discussions of the idea of justice can be found in the works of the Greek philosopher Plato (424– 348 BC). In his work *Republic*, he used justice as virtue along with other three cardinal virtues (courage, fortitude and prudence/wisdom). His idea of justice covers both the just person and the just City-State. Justice is a proper, harmonious relationship between the warring parts of the person or city. In the modern period, the concept of justice was discussed by John Rawls in his book ‘*A theory of Justice*’ (1971), where he describes it as ‘the first virtue of social institutions’, and identifies justice as fairness. Michael Sandel in his famous book called ‘*Justice: What Right Thing to Do?*’ (2008) is addressing a series of alternative theories of justice and argues that justice, rather than being autonomous (as Kantians or Rawlsians might have it), has a goal. This view is considered to be a form of communitarianism. According to C.E. Merriam “Justice consists of a system of understandings and a procedure through which each is accorded what is agreed upon as fair.”

Justice is a complex concept and touches almost every aspect of human life. It is the most primitive of ideas known to mankind and the most fundamental concern in human history. Primarily, it is based on reason but at the same time, it is an article of faith. It is the end of which all intellectual pursuits are the means. Justice, though being considered to be an individual virtue but social in its application with certain obligations, rights and duties. Justice is grounded not only in morality and religion but also in law and Constitutional order. It generally depicts a well-ordered society or State where the responsibility of the State is to ensure justice to all sections of people.

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## **4.2 KINDS OF JUSTICE**

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So far as the distinction of justice is concerned, philosophers tend to look at four elements such as economic, social, political and legal aspects that are present in every use of the concept of justice. The idea of justice is not static in both social and political philosophy. Many philosophers have given different views on classifications because it varies from person to person. On the basis of

various conceptions of justice, it may be classified into seven major kinds namely, natural justice, economic justice social justice, political justice, legal justice, distributive justice and corrective justice.

#### **4.2.1 Natural Justice**

According to Magna Carta and the Universal Declaration of Human Rights (1948), 'Right to Life' is a basic human right for every individual whoever is born in this world, he/she has earned this right by nature. That's what it is called as a natural right for human beings. The right to life is a moral principle based on the belief that a human being has the right to live and, in particular, should not be killed by another human being. The concept of a right to life arises in debates on issues of capital punishment, war, abortion, euthanasia, justifiable homicide, and public healthcare etc. Similarly, natural justice defines as a person of a society someone who has to modify their behaviour so that he/she can act in a proper way without disturbing the feelings of others. Thus, to modify the behaviour of an individual to his fellow beings in accordance with the laws of nature implies natural justice. The expression of natural justice would mean the innate tendency or quality of being fair. The literal meaning of natural justice also refers to the innate quality of being fair. In other words, the name of common sense justice meaning thereby natural of what is right and what is wrong.

#### **4.2.2 Economic Justice**

Economic justice is nothing but a corollary of social justice. This kind of justice involves equal economic values, opportunity and right for all, and the prohibition of economic discrimination between man and woman in economic matters. Economic justice involves the idea of a socialistic pattern of society. The ideal society/state is one which has given economic equality by their constitution for welfare society. For example, the constitution of India has ensured to people to establish a welfare state. Thus, economic justice has been accepted as one of the basic principles. The first prime minister of India Pt Jawaharlal Nehru, said during the constituent assembly debate, "I trust this Constitution itself will lead us to the real freedom that we have clamoured for and that real freedom, in turn, will bring food to our starving people, clothing for them, housing for them and all manners of opportunity of progress".

#### **4.2.3 Political Justice**

Political justice recognizes a justice where everyone has a share in the political process. In other words, political justice implies that every state should establish political justice by creating conditions under which all, including the minorities, find scope for exercising their political rights in pursuance of a system of Universal Adult Suffrage, the rule of law, achievement values as opposed to ascriptive values. The major essence of political justice is to ensure that the citizen of the country should have equal opportunity to represent political activities in the states by their constitution. For instance, Dr B.R. Ambedkar (1891-1956) says that political justice involves Universal Adult Franchise and no distinction on the grounds of religions, sex, caste, colour and the like in matters of recruitment of public services. It also ensures reasonable reservations and safeguards for the betterment of the minorities and other weaker sections of the society.

#### **4.2.4 Social Justice**

Social justice implies social transformation and concern about the absence of discrimination on the basis of caste, colour, religion, etc. It also demands equality along with liberty. Besides these, protection and improvement of the weaker and downtrodden sections of the people, equitable distribution of the necessities of life etc. constitutes social justice. Social justice in a wider sense, demands harmony and co-operation between labour and capital, a substantial minimum wage according to the capacity of each industry and other incidental benefits that improve the standard of living of the general people of the country.

#### **4.2.5 Legal Justice**

Like other kinds of justice, legal justice is also necessary because everyone needs not only economic and social protection but also needs legal protection. Legal justice is supported by law. It implies justice given according to the law which again implies equality before the law. It means no one can be above the law and everybody should be equally punished for equal crimes. According to Barker, law ought to have both validity and value. Validity stands for sanction of law and law draws its value from justice. The courts of law can give legal justice.

Although there are various kinds of justices, but in the modern times the fundamentals of modern justice are the codes of civil and criminal law, the law of evidence, property and contract law, the procedure of trial, provisions for appeal to higher courts etc. All those were evolved from the

medieval concept of rude and crude justice based on the mood and mercy of the ruler or similar self-styled despot.

#### **4.2.6 Corrective Justice**

This kind of justice is concerned with the reversal of wrongs or the undoing of transactions. Corrective justice also offers powerful insights into tort law, contract law, and unjust enrichment, among other fields. Many theorists provide very different accounts of its content and justification. For example, prominent accounts draw on moral duties, expressive meanings, and economic efficiency to justify corrective justice. Aristotelian corrective justice defines the form of the private law relationship. It treats the wrong, and the transfer of resources that undoes it, as a single nexus of activity and passivity where actor and victim are defined in relation to each other. For example, suppose X steals Y's computer or sells Y's faulty goods which he claims to be in perfect order: then Y suffers a loss, justice demands that X should remedy by returning the computer or fulfilling his contract honestly. Thus, corrective justice is that which essentially concerns a bilateral relationship between a wrongdoer and his victim, and demands that the fault be cancelled by restoring the victim to the position she would have been in had the wrongful behaviour not occurred; it may also require that the wrongdoer not benefit from his faulty behaviour.

#### **4.2.7 Distributive Justice**

Distributive justice is just opposite to the corrective justice. It is generally understood as a justice that is concerned with the distribution or allotment of goods, duties, and privileges in concert with the merits of individuals, and the best interests of society. This kind of justice seeks to specify what is meant by a just distribution of goods among members of society. Such theories of justice may be interpreted as specifying that the outcome of individuals acting independently, without the intervention of any central authority, is just, provided that those who fare ill (for reasons that the theories deem to be arbitrary, for example, because they have fewer talents than others) receive compensation from those who fare well.

#### **Check Your Progress I**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Discuss the various kinds of Justice?

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### 4.3 INDIAN CONCEPTION(S) OF JUSTICE

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In ancient India, the word *Dharma* was often used to connote Nyaya which equals to justice; and adhering and upholding justice was to uphold Dharma that speaks of the eternal values of peace and tranquility in society. Although, there is a vast variety of meanings attached to the term Dharma, but there is also a significant sense in which Dharma stood for harmonious relation in society. Dharma means truth and righteousness, and it integrated civil, moral and spiritual values and supplied the basic impetus for human development towards higher perfection.

In India, dharma or justice has other meaning too because justice has been enclosed within the concept of Dharma. Dharma refers specifically to the moral function of rewarding good and punishing the evil. The word Dharma corresponds to the concept of laws. It acquires several meanings. Specifically, Dharma becomes the sum total of pious duties. The four commandments, together with five injunctions, form the core of Aryan ethics.

Most of the commandments are found in in the *Brihadāranyaka Upaniṣad* which supplements *Satapatha Brahman̄*; we find that supremacy of Dharma over mere physical or military strength-*Kṣatra*. In the Upanishad, the notion of Dharma was clearly elaborated:

The Brahman has created the most excellent Dharma. Dharma is the force of force or power of power. There is nothing higher than Dharma. Henceforth even a weak man rules a stronger person with the help of Dharma, as with (the help of) a King. This Dharma is (equivalent to) truth. Hence if a man speaks truth they say he speaks the Dharma and if he speaks the Dharma they say he speaks the truth. (*Brihadāranyaka Upaniṣad* I, 4. 14.).

Dharma is the *Kśatra* of the fight which means Dharma is superior to *Kśatra*. It is the highest principle since with its help even a physically weak person can wield authority over a more powerful one.

Thus, the Dharma centric concept of justice is intended to preserve or conserve a just, social order. The concept of Justice or Dharma (Nyaya) is not a new concept for Indian political philosophy. There are many ancient and contemporary thinkers in Indian history whose political thoughts have been extensively discussed such as Manu, Kautilya, B.R Ambedkar, etc. Here, we will briefly discuss their views:

#### **4.3.1 Manu (Svayambhuva)**

*Manusmriti* is also called the *Mānava-Dharmaśāstra* or Laws of Manu, Manu's code of justice, or legal history of India. *Manusmriti* is a systematic and cogent collection of all rules of Dharma Sastras, covering all the branches of law then in force. The simple language and great clarity in its composition made the *Manusmriti* the most authoritative source of ancient Hindu jurisprudence.

According to Manu, Dharma protects those who protect it. Those who destroy Dharma get destroyed. The entire concept of the Rule of Law is incorporated and in principle laid down in this concept of Justice. Justice, for Manu, regulates the mutual obligation of individual and the society and he warns "Do not destroy Dharma, so that you may not be destroyed".

#### **4.3.2 Kautilya (Chāṇakya 371-283)**

Kautilya, through his work *Arthaśāstra*, immensely contributed to the legal and constitutional history of India. Kautilya was the first lawgiver in Indian history of law. For him, every man and woman had the right to move the court of law. According to Kautilya, the law in the hands of ignorant people gets tampered and becomes incomplete. He prescribed a panel of three members acquainted with the sacred law and three ministers of the King to carry on the administration of justice. He prescribed that judicial organization and procedure should be carried out with a high sense of honesty and impartiality.

#### **4.3.3 Dr B.R. Ambedkar**

In contemporary times, Indian political and legal thinker Dr B.R Ambedkar has immensely contributed to the Indian social justice system. He played a critical role in the drafting of the Indian

constitution and fought against social injustice. Ambedkar writes, 'A Just society is that society in which ascending sense of reverence and descending sense of contempt is dissolved into the creation of a compassionate society'. He was fighting against discrimination, particular caste-based prejudice. During his time, in India, systematic discrimination was widely prevalent and practiced. This was one of the cardinal principles which shaped Dr Ambedkar's fight for justice. He knew that as a society which had cultivated a certain mindset for hundreds of generations, it would be difficult if not impossible to do away with caste. In light of the above, he devised a system of reservation to allow equal access and opportunities to all.

Dr Ambedkar had a clear vision regarding social justice- he was deeply influenced by ideas of liberty, equality and fraternity. He envisioned a society wherein no one would be destined to a miserable fate because of the chance of birth and everyone would have equal opportunities. Dr Ambedkar's views can be found imprinted in our constitution. He also said that legal, political justice or rights are conterminous with social rights. A constitution is only as useful as its implementation by the people. He opposed Manu's ideas of social justice. According to Ambedkar, 'Dharma or religious rules and caste-based justice cannot be a way of social justice'.

Ambedkar stood for a social system in which a man's status is based on his merit and achievements and where no one is noble or untouchable because of his/her birth. He advocated the policy of preferential treatment for the socially oppressed and economically exploited people of the country. The Constitution of India, which was drafted under his chairmanship, contains a number of provisions that enjoins the state to secure to all its citizens, justice, social, economic and political, along with liberty, equality and fraternity. It also contains a number of provisions that guarantee a preferential treatment to the downtrodden people in various sectors. Article 17 of the Indian Constitution declares untouchability as abolished. Ambedkar, in his speech before the Constituent Assembly for the passage of the Constitution, said 'I have completed my work; I wish there should be a sunrise even tomorrow. The new Bharat has got political freedom, but it is yet to raise the sun of social and economic liberty.'

### **Check Your Progress II**

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Discuss Ambedkar's idea of Social Justice

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## 4.4 THE CONCEPT OF JUSTICE CONCEIVED BY WESTERN THINKERS

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Like Indians thinkers, many western philosophers and political thinkers have proposed various theories on the concept of justice. Here we would briefly discuss their views:

### 4.4.1 Plato

Plato (423– 348 BC) discusses his idea of justice in his dialogue called *The Republic*. His conception of law and justice is extensive as it covers not only the social realm but also the moral life of the individual. Plato does not make a distinction between legality and morality. He used the Greek word *Dikaisyne* for justice which comes very near to the word ‘morality’ or ‘righteousness’, it properly includes within it the whole duty of man. It also covers the whole field of the individual’s conduct in so far as it affects others. Plato contended that justice is the quality of soul, in virtue of which men set aside the irrational desires of selfish pleasures and satisfaction and accommodate themselves to the discharge of a single function for the general benefit. Plato saw in justice the only remedy of saving Athens from decay and ruin, for nothing agitated him in contemporary affairs more than amateurishness, meddlesomeness and political selfishness which was rampant in Athens of his day in particular and in the entire Greek world in general. In addition, Sophistic teaching of the ethics of self-satisfaction resulted in the excessive individualism also induced the citizens to capture the office of the State for their own selfish purpose and eventually divided “Athens into two hostile camps of rich and poor, oppressor and oppressed. Evidently, these two factors amateur meddlesomeness and excessive individualism became the main targets of Plato’s attack. The attack came in the form of the construction of an ideal society in which “Justice”

reigned supreme since Plato found in justice the remedy for curing these evils. Thus, Plato propounded the idea of justice as a fundamental principle of a well-order society.

#### **4.4.2 Aristotle**

Like Plato, Aristotle (384-322 BC) also widely discusses about justice in his book *Nicomachean Ethics*. Aristotle has mentioned twelve kinds of moral virtues such as courage, temperance, magnanimity, generosity, self-confidence, truthfulness, good temper etc. Virtue is a mean between two vices. But Aristotle does not include justice in that list of moral virtue. For him, justice does not fall between two extremes or vices because justice has only one extreme that is injustice.

Aristotle upholds that there are two forms of justice: distributive and rectificatory. The first form of justice deals with the distribution of wealth among the members of a community on the proportion of his/her merit, good and bad person. Distributive justice emphasizes on the person being deserving. On the other hand, Rectificatory justice emphasizes on unequal distributions of gain and loss between two people. In other words, it may be called for in cases of injustice which involves voluntary transactions like trade or involuntary ones like theft. For instance, Aristotle says, justice must be distributed proportionately. He says a shoemaker and a farmer cannot exchange shoes with farmer because shoes cannot be equal to harvest. Rather, the shoemaker would have to give a number of shoes proportional in value to the crops the farmer provides. Moreover, Aristotle discusses another two kinds of justice: political and domestic. Political justice is based on rules and natural laws and which is the same for all; while domestic justice relies more on respect.

#### **4.4.3 John Rawls**

John Rawls (1921-2002) in his book *A Theory of Justice* (1971) charts out a conception of justice which is concerned not merely with human welfare but also with the individual's welfare. Rawls argues that an adequate theory of justice must morally respond to, and preserve the "distinction of persons". Rawls assumes that society is a more or less self-sufficient association of persons, who in their mutual relations recognize certain binding rules of conduct specifying a system of co-operation. Principles of social justice are necessary for making a rational choice between various available systems. The way in which a concept of justice specifies basic rights and duties will affect problems of efficiency, coordination and stability. This is why it is necessary to have a

rational conception of justice. Practical rationality has three aspects, namely value, right, and moral worth. Rawls believes in these three components of justice.

Rawls argues that the concepts of freedom and equality are not mutually exclusive. His assessment of the justice system leads him to conclude that for justice to be truly just, everyone must be afforded the same rights under the law. In his book, he discusses three unique concepts:

In the first part of the book, Rawls asks: if everyone was stripped of their privileges and social status and made entirely equal, what kind of justice system would they want to be subject to? He concludes that the only logical choice is to pick a system that treats people equally, regardless of their race, class, gender, etc.

In the second part, he discusses how his theory of justice would affect institutions today. Without pointing fingers, he makes it clear that no one is living up to the prescribed standards.

In the third part, he describes the good effects that a real justice system can have on society.

#### **4.4.4 Michael J. Sandel**

Michael Sandel (1953-) in his book *Justice: What's Right Thing to Do?* (2009) discusses a series of alternative theories of justice. This includes discussion of the theories attributed to Aristotle, Immanuel Kant, John Stuart Mill, John Rawls, and others. He argues that justice, rather than being autonomous (as Kantians or Rawlsians might have it), has a goal. Defending a form of communitarianism, Sandel quotes Alasdair MacIntyre and his characterization of humans as being 'storytelling beings' who live their lives with narrative quests. In his book, he focuses on Affirmative action, same-sex marriage, physician-assisted suicide, abortion, national service, the moral limits of markets—Sandel relates the big questions of political philosophy to the most vexing issues of the day, and shows how a surer grasp of philosophy can help us make sense of politics, morality, and our own convictions as well.

According to Sandel, justice is lively, thought-provoking, and wise—an essential new addition to the small shelf of books that speak convincingly to the hard questions of our civic life. Sandel proposes three ways in which we could account for our beliefs about justice: (1) the idea that justice involves maximizing welfare, (2) that it involves always respecting some aspect of personhood, and (3) that ideas of justice involve ideas about promoting 'the good life'.

### Check Your Progress III

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Given an overview of some prominent Western Theories of Justice.

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## 4.5 JUSTICE AND EQUALITY

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A key question which has been an issue of ongoing academic debate is whether justice is similar to equality or not. So, we need to ask what are the circumstances in which justice requires a substantively equal distribution of advantages. John Rawls' proposed the idea of 'Justice as fairness' which refers to two principles namely, liberty and equality. The first principle of liberty states that every individual has an equal right to basic liberties, Rawls claims "that certain rights and freedoms are more important or 'basic' than others". Rawls articulates the Liberty Principle as the most extensive basic liberty compatible with similar liberty for others; he later amended this in his book *Political Liberalism*, stating instead that "each person has an equal claim to a fully adequate scheme of equal basic rights and liberties. The second principle of equality is a component of Justice as Fairness establishing distributive justice. As far as Rawls is concerned Fair Equality of *Opportunity Principle* has lexical priority over the *Difference Principle*: which implies that a society cannot arrange inequalities to maximize the share of the least advantaged while not allowing access to certain offices or positions. Therefore, Rawls says, an individual should not only have the right to opportunities but should have an equal effective chance as another of similar natural ability.

Justice always deals with distribution and question of equality also comes when unequal distribution prevails in the society. Equality also acts as a default in circumstances where, although

people may indeed have unequal claims to whatever good is being distributed, we have no reliable way of identifying and measuring those claims. For instance, equality, as a concept, presupposes that all people start at the same point of action, consideration or footing. From there, they are supposed to sink-or-swim on their own merits, and not from criteria established to omit some from the same opportunities or experiences as others. On the other hand, justice as a concept applies after the fact of an insult to equality or by other criminal behavior or activities. Having your investment portfolio stolen is a crime that demands intervention for justice, in an attempt to correct the theft and punish the wrongdoer.

Equality doesn't always qualify justice. Equality, or the act of treating everyone equally regardless of any particular attribute, doesn't always treat everyone fairly. By sharing the good equally, we can at least ensure that every claim has been partially satisfied. Suppose, we have limited supplies of a drug that can treat malaria, and a number of patients displaying symptoms of the disease, but lacking specialized medical knowledge. Therefore, we cannot tell whether one person's condition is more serious than another's; then by sharing out the drug equally, we can guarantee that each person at least receives the highest fraction of what they really need. Any other distribution must leave at least one person with less (this, of course, assumes that there is no threshold amount of the drug beneath which it is ineffective; if that assumption is wrong, justice under the stated conditions might require a lottery in which the chosen ones receive threshold-size doses).

Although many thinkers who claim that the idea of justice and equality is similar by their nature, but there is a slight difference between them in practice. The idea of justice is always concerned with the equal distribution of goods with respect to utility or who deserves what? On the other hand, equality concerns the equal distribution goods without concerning differences or necessity. For example, suppose there is a family of six member, and they have six apples, and you need to distribute six apples among them according to the principle of justice and equality. Out of six members, three are kids, one is young and the other two are adult. Of course, the consumption capacity of the members is different. As far as justice is concerned, you need to distribute as per their consuming capacities because kids cannot eat one apple on the contrary adult can eat more than one apple. On the other hand, if you believe in the equality principle, then you need to give one apple to each member without seeing their necessity or consuming capacity.

But equality should have a limit when we are doing justice otherwise it becomes a uniformity principle. In this connection, we can bring the most fundamental principle of justice—one that has been widely accepted which was presented by Aristotle through the principle that “equals should be treated equally and unequal’s unequally.” (*Nicomachean Ethics*, book IV, 1999)

### Check Your Progress IV

**Note:** a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. How are the concepts of Justice and Equality related?

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## 4.6 LET US SUM UP

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This discussion begins by identifying the core distinctions of justice with their nature from the perspective of the philosophical and socio-political point of view. Then, we have discussed and examined the Indian and Westerns versions of justice. We have discussed the idea of Dharma and idea of social justice and the relation between dharma and social justice. In western perspectives, we discussed the idea of justice, in the philosophy of Plato, Aristotle, Rawls and Sandle. Finally, we discussed whether such theories successfully addressed the idea of human good and the relation between justice and equality.

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## 4.7 KEY WORDS

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**Difference Principle:** Difference principle implies that a society cannot arrange inequalities to maximize the share of the least advantaged while not allowing access to certain offices or positions.

**Justice:** The idea of justice comes from the Latin words *Justitia* which etymologically mean “righteousness, equity, upright, just.” In general, the term justice is understood as ‘right order, equity, the rewarding to every one of that which is his due’.

**Principle of Equality:** The principle of equality is a component of Justice as Fairness establishing distributive justice.

**Principle of Liberty:** The principle of liberty states that every individual has an equal right to basic liberties. Rawls articulates the Liberty Principle as the most extensive basic liberty compatible with similar liberty for others; he later amended this in *Political Liberalism*, stating instead that “each person has an equal claim to a fully adequate scheme of equal basic rights and liberties.

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## 4.8 FURTHER READINGS AND REFERENCES

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Aristotle, *Nicomachean Ethics*, Translated by W. D. Ross, Oxford: Oxford University Press, 1999.

Doniger, Wendy, *Manu Samhita: The Laws of Manu*, translated by George Bühler, London: Penguin Publisher, 2000.

Indian Constituent Assembly Debates. Vol. II, 1948.

Jackson, Paul, *Natural Justice (Modern legal Justice)*, London: Sweet & Maxwell Ltd, 1979.

Kangle, R. P., *The Kautilya's Arthashastra*, Translated by Mahamahopadhyaya, Delhi: Motilal Banarsidass Publishers, 2000.

M., Rama Jois, *Legal and Constitutional History of India*, Nagpur: Universal Law Publishing Co. Pvt. Ltd. 2001.

Miller, David, “Justice”, *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.). 2017.

Plato, *Republic*, Translated by Allan Bloom, USA: Basic Books, 1993.

Rawls, John, *A Theory of Justice*, Cambridge: Harvard University Press, 1971.

Santal, Micheal J., *Justice: What's Right Thing to Do?*, Canada: D& M Publishers, 2009.

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## 4.9 ANSWERS TO CHECK YOUR PROGRESS

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### **Check Your Progress I**

1. On the basis of various conceptions of justice, it may be classified into seven major kinds namely, natural justice, economic justice social justice, political justice, legal justice, distributive justice and corrective justice.

### **Check Your Progress II**

1. Dr Ambedkar's idea of Social Justice was deeply influenced by ideas of liberty, equality and fraternity. He envisioned a society wherein no one would be destined to a miserable fate because of the chance of birth and everyone would have equal opportunities. Dr Ambedkar's views can be found imprinted in our constitution. He also said that legal, political justice or rights are conterminous with social rights. He opposed Manu's ideas of social justice. According to Ambedkar, 'Dharma or religious rules and caste-based justice cannot be a way of social justice'.

### **Check Your Progress III**

1.
  - a) Plato propounded the idea of justice as a fundamental principle of a well-order society.
  - b) Aristotle discussed 'distributive and rectificatory justice' and 'political and domestic justice'.
  - c) Rawls argued that an adequate theory of justice must morally respond to, and preserve the "distinction of persons".
  - d) Sandel proposes three ways in which we could account for our beliefs about justice: (1) the idea that justice involves maximizing welfare, (2) that it involves always respecting some aspect of personhood, and (3) that ideas of justice involve ideas about promoting 'the good life'.

### **Check Your Progress IV**

1. Justice deals with distribution, and the question of equality also comes in when unequal distribution prevails in the society. Equality also acts as a default in circumstances where, although people may indeed have unequal claims to whatever good is being distributed, even though we may not have a reliable way of identifying and measuring those claims. Yet, equality doesn't always qualify justice. Equality, or the act of treating everyone equally regardless of any particular attribute, doesn't always treat everyone fairly.