NAME- DR. AKANKSHA GUEST FACULTY P.G DEPARTMENT OF PHILOSOPHY, PATNA UNIVERSITY, PATNA M.A SEMESTER-III COURSE CODE-Phil CC- 12 PAPER – HUMAN RIGHTS & FEMINISM TOPIC : The Philosophical Justification of Human Rights

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As we have established that human rights are originated as moral rights but from the successive overview, the national and International laws ended us to these that human rights are both moral rights and legal rights. Again we can say that there is a diverse categorisation of Human Rights as claim rights or liberty rights and it may also have negative or a positive complexion in respects of the obligations imposed by other in securing the rights. Therefore, Human Rights may be divided into five different Categories. The principal object behind this categorisation is based on securing human rights of all individual to have the opportunity to lead a minimally good life.Briefly speaking, philosophers generally accept two issues as the formal properties of human rights (1) The object of human rights and (2) The force of human rights. As we have seen that philosophers have tried to justify human rights by appealing single ideals such as equality, autonomy, human dignity, fundamental human interest, the capacity for rational agency and even democracy. However, there are two prominent philosophical attempts for justifying Human rights that is (1) Interests theory and (2) Will theory

The Interests Theory Approach-Supporters of the interest theory approach argue that the principal function of the human rights is to protect and promote certain essential human interests of the person and securing human being's essential interest is the principal ground upon which human rights may be morally justified. Thus, the interest's theory approach is primarily concerned to identify the social and biological. Prerequisites of human beings for leading as minimally good life.

The universality of Human rights is rooted in considering some basic, indispensable, qualities for human well-being, which is necessary shared by all of us. For example all human beings interested in securing personal dignity of life. This interest serves ground of our claim to the rights. Again, it may require the derivation of other rights as prerequisites to security, such as, the fulfilment of basic nutritional needs and the need to be free from slavery.

"As the political philosopher John Finnis provides as good explanation for interest theory approach. Finnis (1980) argues that human rights are justifiable on the ground s of their instrumental value for securing the necessary condition of human well being. He tries to identify the seven fundamental interests or what he called as "basic forms of human good", for providing the basis to human rights. These are as follows:-

- (1) Life and its capacity for development,
- (2) The acquisition of knowledge, as an end in itself.
- (3) Play as the capacity for recreation
- (4) Aesthetic expression
- (5) Sociability and Friendship
- (6) Practical reasonableness, the capacity for intelligent

and reasonable thought process.

(7) Religion or the capacity for spiritual experience

Thus, all these seven fundamental interests approach given by Finnis for fulfilment of the basic needs of human beings, are serve to justify our claims to the corresponding rights of different variety such as claims rights or liberty rights. On the other hand, some other philosophers have defended human rights from an interest based approach and have tried to addressed the questions of how an appeal

to interest can provide a justification for respecting; and when necessary, even positively acting to promote the interests of others. Such questions have a long heritage in western moral and political philosophy and extend at least as far back as the 17th century philosopher Thomas Hobbes Generally, this approach attempt to provide what James Nickel has termed 'prudential reason' in support of human rights. Taking as the starting point the claim that all human being posses' basic and fundamental interests, advocates of this approach argue that each individual awes a basic and general duty to respect the rights of every other individual. The basis for this duty is not mere benevolence of altruisms, but individual self-interest'. As Nickel writes, ' a prudential argument from fundamental interest attempts to show that it would be reasonable to accept and comply with human rights, in circumstances where most others are likely to do so, because these norms are part of the best means for protecting one's fundamental interests against actions and omissions that endanger them, Protecting one's own fundamental interests requires others willingness to recognize and respect these interests, which in turn, requires reciprocal recognition and respect of the fundamental interest of others. The adequate protection each individuals fundamental interests necessitates the establishment of a co-operative system, the fundamental aim of which is not to promote the common good, but the protection and promotion of individuals selfinterests. For many philosophers the interests approach provides a philosophically powerful defence of the doctrine of human rights. It has the apparent advantage of appealing to human commonality, to those attributes we all share, and, in so doing, offers a relatively broad-based defence of the plethora of human rights considered by many to be fundamental and inalienable. The interests approach also provides for the possibility of resolving some of the potential disputes which can arise over the need to prioritise some human rights over others. One may do this by

hierarchically ordering the corresponding interest identified as the specific object or content, of each right.

The Will Theory Approach:

In the contrast of interest theory approach, the will theory attempts to establish the philosophical validity of human rights upon a single human attribute that is 'will' "or the capacity for Freedom" will theorists argue that what is distinctive about human agency is the capacity for freedom and this ought to be taken as the core of human rights. As Will theorists view human rights as originating in, or reducible to, a single constitutive right, or alternatively, a highly limited set of purportedly fundamental attributes.

Thus interest theory and will theory is the important approach for philosophically justifying human rights.