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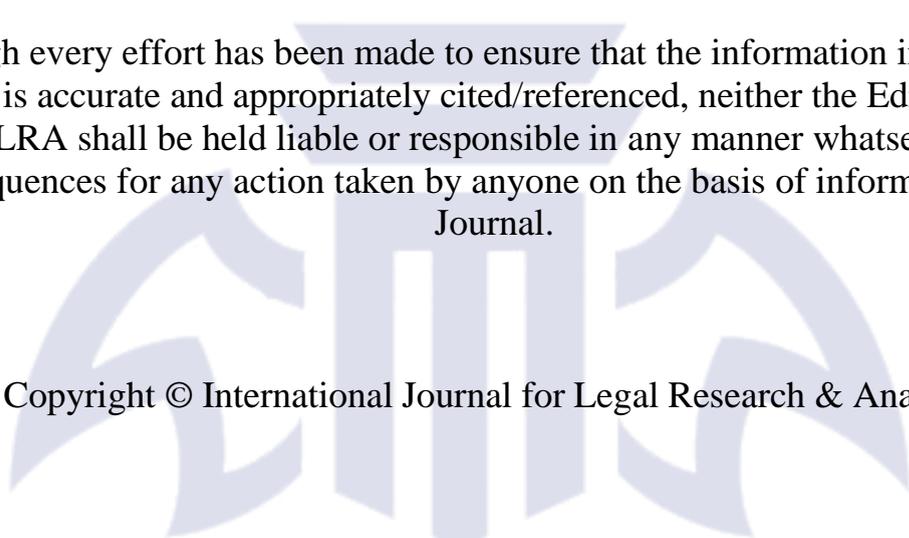
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# **TOPIC: THOMAS HOBBS & NATURAL LAW THEORY**

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LLM II Year

## **1. Introduction:**

Natural law theory is a legal theory that recognizes law and morality as deeply connected, if not one and the same. Morality relates to what is right and wrong and what is good and bad. Natural law theorists believe that human laws are defined by morality, and not by an authority figure, like a king or a government. Therefore, we humans are guided by our human nature to figure out what the laws are, and to act in conformity with those laws.

The term 'natural law' is derived from the belief that human morality comes from nature. Everything in nature has a purpose, including humans. Our purpose, according to natural law theorists, is to live a good, happy life. Therefore, actions that work against that purpose -- that is, actions that would prevent a fellow human from living a good, happy life -- are considered 'unnatural', or 'immoral'.

### ***In Maneka Gandhi V/s. Union of India<sup>1</sup>***

It was held that Section 10(3)(c) of the Passport Act confers vague and undefined power on the passport authorities, it is violative of Article 14 of the Constitution since it doesn't provide for an opportunity for the aggrieved party to be heard. It was also held violative of Article 21 since it does not affirm to the word "procedure" as mentioned in the clause, and the present procedure performed was the worst possible one. The Court, however, refrained from passing any formal answer on the matter, and ruled that the passport would remain with the authorities till they deem fit.

After this case various other fundamental rights were included in the constitution to provide a good life to citizens of this country as well as alien person also.

Laws have a purpose too: to provide justice. From a natural law perspective, a law that doesn't provide justice (an unjust law) is considered 'not a law at all.' Therefore, a law that is flawed is one that no one should follow. In short, any law that is good is moral, and any moral law is good.

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<sup>1</sup> Section 10(3)(c) of the Passport Act

Legal positivism is a legal theory that is the opposite of the natural law theory. Legal positivists believe that a law can be deeply flawed, and yet still be considered a law.

Natural law theory is not always a simple school of thought. It should come as no surprise that the ethics associated with natural law are equally complicated. The idea that the definition of what is 'right' and what is 'wrong' is the same for 'every person' is sometimes difficult to apply to complex ethical dilemmas.

Thomas Hobbes (1588-1679) is rightly considered to be one of the most significant political thinkers of the English-speaking people.

According to Macpherson, "Hobbes is a formidable political theorist not because he is difficult to understand but because his doctrine is at once so clear, so sweeping, and so disliked." His paramount consideration for order in society emanated largely from his own life resulting in his fear for violent death, and his utmost concern for security, peace and order towards a commodious living. Hobbes openly declared that the sovereign authority should not only protect its people, but also see to it that they can secure, "all other contentment's of life".

## **2. Social Contract Theory**

Social contract theory, nearly as old as philosophy itself, is the view that persons' moral and or political obligations are dependent upon a contract or agreement among them to form the society in which they live.

**For e.g.:- The traffic rules which are made are to be followed by the people in order to ensure their safety.**

Socrates uses something quite like a social contract argument to explain to Crito why he must remain in prison and accept the death penalty. However, social contract theory is rightly associated with modern moral and political theory and is given its first full exposition and defense by Thomas Hobbes.

After Hobbes, John Locke and Jean-Jacques Rousseau are the best known proponents of this enormously influential theory, which has been one of the most dominant theories within moral and political theory throughout the history of the modern West.

### **3. Modern Social Contract Theory: Thomas Hobbes**

The period of renaissance in the history of development of Natural Law may also be called the modern classical era which is marked by rationalism and emergence of new ideas in different fields of knowledge.

Thomas Hobbes, 1588-1679, lived during the most crucial period of early modern England's history: the English Civil War, waged from 1642-1648. To describe this conflict in the most general of terms, it was a clash between the King and his supporters, the Monarchists, who preferred the traditional authority of a monarch, and the Parliamentarians, most notably led by Oliver Cromwell, who demanded more power for the quasi-democratic institution of Parliament. Hobbes represents a compromise between these two factions. On the one hand he rejects the theory of the Divine Right of Kings, which is most eloquently expressed in his Patriarcha or the Natural Power of Kings<sup>2</sup>, (although it would be left to John Locke to refute Filmer directly).

Hobbes also rejects the early democratic view, taken up by the Parliamentarians, that power ought to be shared between Parliament and the King. In rejecting both these views, Hobbes occupies the ground of one is who both radical and conservative. He argues, radically for his times, that political authority and obligation are based on the individual self-interests of members of society who are understood to be equal to one another, with no single individual invested with any essential authority to rule over the rest, while at the same time maintaining the conservative position that the monarch, which he called the Sovereign, must be ceded absolute authority if society is to survive.

#### **In Demonetisation in 2016<sup>3</sup>**

The demonetisation of high value currency denominations featuring Rs. 500 and Rs. 1,000 notes were banned effective 8 November midnight by Prime Minister Narendra Modi in a televised announcement. The decision to ban high value notes was taken to weed out black money and counterfeit notes from the system which had been deep-rooted in the economy for the past many decades. Hence the society had to follow the rules laid down by the Sovereign in order to survive peacefully.

Hobbes' political theory is best understood if taken in two parts: his theory of human motivation, Psychological Egoism, and his theory of the social contract, founded on the hypothetical State of Nature. Hobbes has, first and foremost, a particular theory of human nature, which gives rise to a

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<sup>2</sup> Robert Filmer

<sup>3</sup> Demonetisation in 2016

particular view of morality and politics, as developed in his philosophical masterpiece, *Leviathan*, published in 1651.

The Scientific Revolution, with its important new discoveries that the universe could be both described and predicted in accordance with universal laws of nature, greatly influenced Hobbes. He sought to provide a theory of human nature that would parallel the discoveries being made in the sciences of the inanimate universe. His psychological theory is therefore informed by mechanism, the general view that everything in the universe is produced by nothing other than matter in motion.

According to Hobbes, this extends to human behavior. Human macro-behavior can be aptly described as the effect of certain kinds of micro-behavior, even though some of this latter behavior is invisible to us. So, such behaviors as walking, talking, and the like are themselves produced by other actions inside of us. And these other actions are themselves caused by the interaction of our bodies with other bodies, human or otherwise, which create in us certain chains of causes and effects, and which eventually give rise to the human behavior that we can plainly observe. The gradual disintegration of memory, for example, can be explained by inertia.

As we are presented with ever more sensory information, the residue of earlier impressions 'slows down' over time. From Hobbes' point of view, we are essentially very complicated organic machines, responding to the stimuli of the world mechanistically and in accordance with universal laws of human nature.

In Hobbes' view, this mechanistic quality of human psychology implies the subjective nature of normative claims. 'Love' and 'hate', for instance, are just words we use to describe the things we are drawn to and repelled by, respectively. So, too, the terms 'good' and 'bad' have no meaning other than to describe our appetites and aversions. Moral terms do not, therefore, describe some objective state of affairs, but are rather reflections of individual tastes and preferences.

#### ***In Regina v/s Dudley and Stephens*<sup>4</sup>**

Thomas Dudley and Edwin Stephens (defendants) were on the crew of an English yacht, along with fellow seamen Brooks and Richard Parker. Due to a storm, the men were lost at sea in an open boat for approximately twenty-four days. They had no water except for occasional rainwater, and little food. After over a week without any food, Dudley and Stephens approached Parker, who was sick and in a much weaker state, and slit his throat. The three remaining men fed off Parker's body for four days until a passing ship rescued them. Dudley and Stephens were put

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<sup>4</sup> (1884) 14 QBD 273 DC

on trial in order to determine whether the act of killing Parker was murder.

The jury determined that the men would not have survived to the time of rescue if they had not fed off Parker's body and that, at the time, it was reasonable to assume they would die of starvation before they were rescued. The jury also determined that Parker would likely have died before the other three men.

The jury made these conclusions of fact but was ultimately unable to reach a verdict as to Dudley and Stephens' culpability. It instead submitted a special verdict requesting the Court to determine Dudley and Stephens's culpability based on its findings of fact.

In addition to Subjectivism, Hobbes also infers from his mechanistic theory of human nature that humans are necessarily and exclusively self-interested. All men pursue only what they perceive to be in their own individually considered best interests - they respond mechanistically by being drawn to that which they desire and repelled by that to which they are averse.

**For Critical explanation-** This is a universal claim: it is meant to cover all human actions under all circumstances – in society or out of it, with regard to strangers and friends alike, with regard to small ends and the most generalized of human desires, such as the desire for power and status. Everything we do is motivated solely by the desire to better our own situations, and satisfy as many of our own, individually considered desires as possible. We are infinitely appetitive and only genuinely concerned with our own selves.

***In the case of Suresh Kumar Koushal and Others v/s NAZ Foundation and Others***<sup>5</sup>

The NAZ Foundation filed a writ petition in the Delhi High Court challenging the constitutional validity of Section 377 of the Indian Penal Code. This section penalizes unlawful sexual acts 'against the order of nature' which has the effect of criminalizing even consensual sexual intercourse between two adults of the same sex or even of the opposite sex indulging in penile non-vaginal sexual activities. The Delhi High Court decided that Section 377 of the Indian Penal Code, 1860 disregarded various fundamental rights, including the right to privacy and right to dignity under the fundamental right to life and liberty (Article 21), the right to equality (Article 14), and forbiddance of separation on grounds of sex (Article 15). The said decision was appealed against in the Supreme Court of India and it was held that the Delhi High Court was wrong in its findings and was also wrong in reading down the section to allow consensual homosexual activities between two adults of the same sex.

According to Hobbes, even the reason that adults care for small children can be explicated in

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<sup>5</sup> Civil Appeal No. 10972 OF 2013

terms of the adults' own self-interest (he claims that in saving an infant by caring for it, we become the recipient of a strong sense of obligation in one who has been helped to survive rather than allowed to die).

In addition to being exclusively self-interested, Hobbes also argues that human beings are reasonable. They have in them the rational capacity to pursue their desires as efficiently and maximally as possible. Rationality is purely instrumental. It can add and subtract, and compare sums one to another, and thereby endows us with the capacity to formulate the best means to whatever ends we might happen to have.

**The Right to information Act was brought in existence because of the will of the people of India in order to bring transparency in the acts of the Public Servants.**

According to Hobbes, the justification for political obligation is this: given that men are naturally self-interested, yet they are rational, they will choose to submit to the authority of a Sovereign in order to be able to live in a civil society, which is conducive to their own interests. Hobbes argues for this by imagining men in their natural state, or in other words, the State of Nature.

In the State of Nature, which is purely hypothetical according to Hobbes, men are naturally and exclusively self-interested, they are more or less equal to one another, (even the strongest man can be killed in his sleep), there are limited resources, and yet there is no power able to force men to cooperate.

**The Directive Principles of State Policy are the best examples of such type because they are those laws which can only be observed and not those which can be punished for, for the violation of such laws.**

Given these conditions in the State of Nature, Hobbes concludes that the State of Nature would be unbearably brutal. In the State of Nature, every person is always in fear of losing his life to another. They have no capacity to ensure the long-term satisfaction of their needs or desires. No long-term or complex cooperation is possible because the State of Nature can be aptly described as a state of utter distrust. Given Hobbes' reasonable assumption that most people want first and foremost to avoid their own deaths, he concludes that the State of Nature is the worst possible situation in which men can find themselves. It is the state of perpetual and unavoidable war.

Recently the **Sec of 498A of the Indian Penal Code** was amended which had both positive as well as negative duties on the State. The situations where women who misused the applicability of this Sec against their husbands were taken into consideration and hence the laws were amended providing certain guidelines in order to protect the male class in the society.

The situation is not, however, hopeless. Because men are reasonable, they can see their way out of such a state by recognizing the laws of nature, which show them the means by which to escape the State of Nature and create a civil society. The first and most important law of nature commands that each man be willing to pursue peace when others are willing to do the same, all the while retaining the right to continue to pursue war when others do not pursue peace. Being reasonable, and recognizing the rationality of this basic precept of reason, men can be expected to construct a Social Contract that will afford them a life other than that available to them in the State of Nature. This contract is constituted by two distinguishable contracts.

First, they must agree to establish society by collectively and reciprocally renouncing the rights they had against one another in the State of Nature. Second, they must imbue some one person or assembly of persons with the authority and power to enforce the initial contract. In other words, to ensure their escape from the State of Nature, they must both agree to live together under common laws, and create an enforcement mechanism for the social contract and the laws that constitute it. Since the sovereign is invested with the authority and power to mete out punishments for breaches of the contract which are worse than not being able to act as one pleases, men have good, albeit self-interested, reason to adjust themselves to the artifice of morality in general, and justice in particular. Society becomes possible because, whereas in the State of Nature there was no power able to "overawe them all", now there is an artificially and conventionally superior and more powerful person who can force men to cooperate.

In the case of *Bijoe Emanuel and Others v/s State of Kerela and Others*<sup>6</sup>

The Supreme Court said all cinema halls across the country should play the national anthem and that those present "must stand up in respect" to "instil a feeling within one a sense of committed patriotism and nationalism". Hence any person violating such rules and guidelines would be held liable for punishment. Hence the Supreme Court dealt with the law as it was laid down in the Articles of the Constitution.

While living under the authority of a Sovereign can be harsh (Hobbes argues that because men's passions can be expected to overwhelm their reason, the Sovereign must have absolute authority in order for the contract to be successful) it is at least better than living in the State of Nature. And, no matter how much we may object to how poorly a Sovereign manages the affairs of the state and regulates our own lives, we are never justified in resisting his power because it is the only thing which stands between us and what we most want to avoid, the State of Nature.

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<sup>6</sup> 1987 AIR 748, 1986 SCR (3) 518

According to this argument, morality, politics, society, and everything that comes along with it, all of which Hobbes calls 'commodious living' are purely conventional. Prior to the establishment of the basic social contract, according to which men agree to live together and the contract to embody a Sovereign with absolute authority, nothing is immoral or unjust - anything goes. After these contracts are established, however, then society becomes possible, and people can be expected to keep their promises, cooperate with one another, and so on. The Social Contract is the most fundamental source of all that is good and that which we depend upon to live well. Our choice is either to abide by the terms of the contract, or return to the State of Nature, which Hobbes argues no reasonable person could possibly prefer.

#### **4. Human Nature**

Hobbes' conception of sovereignty is based on his idea about human nature. Hobbes has made a fundamental departure from his contemporaries by saying that man is essentially nasty, brutish and an uncivilised creature. He made individual, as against society, the spring board of his thought. Before him Plato, Machiavelli, St. Augustine and St. Thomas had developed their philosophies but they made society and not the individual as a unit.

Hobbes concluded that men by birth were equal in intelligence but it is the desire for having the same thing which made them quarrel with one another. Men will never quarrel with one another if they are not willing to get one and the same thing. He believed that competition, glory, and difference make people brutal and quarrelsome. It is an uncontrolled desire of human beings that changed the whole concept of basic principles of the society. His conception of human nature is essentially based on two basic factors.

"The first one is that all men are equal. Nature has made men so equal with faculties of body and mind."

**For e.g.- Art 14 of the Indian Constitution gives equality before law and equal protection of laws to every citizen in the country.**

Secondly, he held that man is not an idle spectator in political scenario but always ready to struggle and achieve something higher.

Hobbes seems to have held that the cause of anything is a form of motion which both generates that thing and enters into its definition and which can be discovered and specified apriori. It is necessary to consider the properties and effects of uniform motion, and of the combination of

such motions (this is simply geometry applied to motion), and the laws of the action and reaction of moving bodies (Physics). All this is completely abstract and possesses demonstrative certainty. But' in passing from, geometry to physics, it becomes necessary to account for the operation of our senses and to explain observable phenomena such as the movement of the stars and the tides. To do this, it is necessary to bring in new evidence or conjecture that, -in conjunction with the abstract principles one already possesses, will enable one to reach conclusions that can now be only plausible because the new principles with which it is necessary to deal are no longer fabricated in definitions but incorporated in the things themselves.

After Physics comes Moral Philosophy, "the motions of the mind" such as appetite, aversion, fear etc., which have to be treated after Physics because they have their causes in sense and imagination. Lastly, Civil Philosophy may either be deduced by synthesis from what has gone before, or pursued independently by the analytic method. In the latter case, political phenomena are traced back to their causes in human nature, i.e., to the passions which are known to every man by introspection. In order to discover the causes of a well-ordered Commonwealth, man must break it down by analysis into its constituent parts. These are the matter, generation and form of civil government, and Hobbes starts by considering its matter, which is the condition of man in the state of nature. According to Hobbes, the natural tendency of any organism is to preserve its own life. In a state of nature, a man desires self-preservation and will do anything that seems to him necessary for selfpreservation.

The desire for self-preservation gives rise to a desire for pleasure, since pleasure is the appearance in consciousness of what conduces to life. Conversely, there is an aversion from pain, pain being the mental appearance of what conduces to death. According to Hobbes, man's desire for continued preservation leads him to desire not only pleasure now, but a store of pleasure for the future as well. This is possible only by the acquisition of power. Power is the means to satisfy man's desires. Therefore, every man naturally desires power and more power, "a perpetual and restless desire of power after power that ceaseth only in 2death"<sup>7</sup> If one person had powers so great that no one could resist him, he would be master of all.

This is the position of God. God is irresistible, in consequence of which he has the right of dominion. But among men in a natural state, none has the ability to attain for himself powers so great that he can have dominion over all. Yet, all men are equal in their capacity to acquire power.

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<sup>7</sup> Leviathan, or the Matter, Form and Power of Commonwealth, Ecclesiastical and Civil ; by Thomas Hobbes ; edited by C. B. Macpherson. Harmondsworth : Penguin (Pelican Books), 1968 (originally published 1651); Ch.XI, p.49.

As such, they must have equal hope of attaining their ends, and so, if any two desire the same thing, they must become enemies and distrust one another. In the face of this mutual distrust, the only reasonable way to secure oneself is by anticipation, so as to get power over others. Some men would be content with a moderate power, but unfortunately, others are not, and so a man "cannot assure the power and means to live, well which he hath present, without the acquisition of more".<sup>8</sup>

The result is that as long as men lack a common power to keep them all in awe, they must remain "in a state of war of every man against every man and in this state, there is no possibility of progress or civilization, but only continual fear and danger of violent death, and the life of man, solitary, poor, nasty, brutish and short".<sup>9</sup> Thus, Hobbes supposes men to be necessarily competitors. If men's powers be opposed, one must admit the necessity of struggle and enmity among them. If the state of nature were a state of plenty, then men might refrain from hostility. But given that a man, in order to survive, may need some object which is also needed by his fellows, then competition necessarily follows. Enmity arising out of competition leads to enmity arising out of diffidence. It is in the interest of potential competitors to forestall one another from the outset and this is no more than his own conservation requireth, and is generally allowed".\*

This explains the conversion of limited enmity into unlimited enmity. A further source of conflict is found in the desire for glory, whereby man must assure himself of his ability to maintain himself, and convince others of this ability. Thus, there are three principal causes of quarrels among men: competition for the means of satisfying their appetites, diffidence or mistrust which moves them to attack others for fear of being attacked by them, and glory which makes them attack for the sake of reputation.

## **5. NATURAL LAWS THEORY (Laws Of Nature)**

The laws of nature are rational precepts, laying down what reason requires, rather than merely permits. Or put another way, what is contrary to the laws of nature is what is contrary to reason. ' To speak of these precepts as laws would seem, from the passage quoted from De Cive, to be only to say that action against them would be wrong. Since "wrong" means only "repugnant to right reason",<sup>3</sup> the simple conclusion would be that the laws of nature are precepts laying down the requirements of "right reason". This is the formal definition of a law of nature. The material definition of a law of nature follows directly from Hobbes's own account, although it could also be constructed from the formal definition, by substituting for "the requirements of right' reason",

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<sup>8</sup> Ibid., Ch.XI, p.50.

<sup>9</sup> Ibid., ch.XIII, p.65.

a phrase indicating the actual content of those requirements. To state it otherwise, the laws of nature are equivalent to precepts laying, down what is required for preservation.

A law of nature is different from the right - of nature. The right of nature is what we may do, what we are at liberty to do, in order to preserve our lives. On the other hand, a law of nature states an obligation or a precept or rule; it tells us what we should do, what we are obliged to do, in order to preserve our lives. To use the language that was later to be introduced in ethical theory by Immanuel Kant, a law of nature is a hypothetical assertoric imperative; is a rule prescribing the means necessary to an end we all desire, viz., our preservation.

Therefore, the first law of nature is to seek peace. This law is the most general conclusion that man derives from his experience of "the war of all against all".<sup>®</sup> Clearly, it depends on that experience, whether real or imagined. Although, hypothetically, a man might conclude that war is necessarily inimical to human life, only an analysis of the human condition with all social bonds removed shows that peace is the primary requisite for preservation.

## **6. Conclusion**

According to this thus morality, politics, society, and everything that comes along with it, all of which Hobbes calls 'commodious living' are purely conventional. Prior to the establishment of the basic social contract, according to which men agree to live together and the contract to embody a Sovereign with absolute authority, nothing is immoral or unjust - anything goes. After these contracts are established, however, then society becomes possible, and people can be expected to keep their promises, cooperate with one another, and so on. The Social Contract is the most fundamental source of all that is good and that which we depend upon to live well. Our choice is either to abide by the terms of the contract, or return to the State of Nature, which Hobbes argues no reasonable person could possibly prefer.

## **Bibliography**

1. Edgar Bodenheimer jurisprudence (6<sup>th</sup> Indian reprint 2009)
2. Dr. Anup Chand Kumar's Principles of political science (21<sup>st</sup> revised edition)
3. Dr. Bijal N. Mani Tripathi Jurisprudence (15<sup>th</sup> edition 2004)

## **Webliography**

1. [www.actionindia.org](http://www.actionindia.org)
2. [www.indiankanoon.org](http://www.indiankanoon.org)
3. [www.lawteacher.net](http://www.lawteacher.net)
4. [www.lawyersclub.com](http://www.lawyersclub.com)
5. [www.law.auckland.ac.nz](http://www.law.auckland.ac.nz)

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