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HUMAN RIGHTS FOUNDATIONS: A PHILOSOPHICAL PERSPECTIVE

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ABSTRACT

One of the ways in which the recent phenomenon referred to as "globalization" has been manifested in the legal systems of the nations of the world is by what can be safely termed the human (natural) rights revolution. This is largely due to the resurgence or increase in the people's awareness about the fundamental nature of human rights and its dependence or connection with natural law, especially after the terminal end or near death of positive law at the Nuremberg trials. This is further strengthened by the fact that the American Constitution gave this subject matter a prime of place by its adoption of the American Bills of Rights adopted in the Constitution of United Stated of America in 1791. It has been seriously contended that natural or human rights are founded upon or grounded in the principles of natural law. Some philosophers have on the other hand indeed argued that without natural law, human rights have an independent existence provided it is captured by the Constitution of a state, and which gives it affect and power. This trend of argument only serves to open up for further questions. It props up questions such as whether human right possesses an independent existence separate from and without reference or relevance to any standard of test. This work seeks to lay these and related issues bare and to go beyond this misconception and to argue that by its form and nature, human or natural rights originate or arise from natural law.

INTRODUCTION

> *I have often asked myself why human beings have any rights at all. I always come to the conclusion that human rights, human freedom, and human dignity have their deepest roots somewhere outside perceptible world. These values are as powerful as they are because, under certain circumstances, people accept them without compulsion and are willing to die for them, and they make sense only in the perspective of the infinite and the eternal… (Havel, 1999)*

Globalization and its twin evil called market mechanism, it's been contended severally, have a self destructive character. However, the mollifying or soothing aspect of all this is the fact that globalization itself also produced a counter – movement or counter-balancing effect which is the resurgence of the ideology of human or natural rights in recent decades. It is postulated that it is the protective counter moves of human or natural rights which have effectively blunted the destructive tendencies of the extension of the

globalization or market organization with respect to genuine commodities. The introduction of a network of measures and policies designed to check the actions of the market between such a large combinations of people in the formative years of the United States, very likely informed the adoption of the Bill of Rights into the Constitution of the United States of America in 1791. But it has not been an easy ride. Human or natural rights have been punctuated with arguments for or against its foundation or basis in philosophy. This contention has been between the proponents of positive law who tend to laugh and scorn and jettison at the existence of anything but human rights, holding that at best it is as spelt out in the constitution of a state, and no more. Continuing, they have even argued that: Natural rights is simple nonsense: natural or imprescriptible rights, (by which Bentham meant rights which could not be abrogated by a legislature, was) rhetorical nonsense, - nonsense upon stilts (Waldron 1987: 53).

Human or natural rights, as captured above by Vaclav Havel, are not to be considered simply as primordial needs like the crave for a drink by a thirsty man, but these rights stand as valid claims which ground other people's duties. If a citizen has a right to religious freedom, it also implies that the state has a duty not to impose a state religion on the people. Also, if the citizens have a right to their property, then apart from the property owner, the state and all other persons have a duty not to trespass or to forcefully take the other persons property.

The above position gradually culminated into the general acceptance of the proposition that there exists a supra-sensible world and that man is the creation of a supernatural being called God. Though this is strongly contested and abandoned by some philosophers because of our inability to prove God's existence, but it remains the mainstay of the Christian and the religious angle's explaining the foundation of natural rights vis-a-vis, natural law theory. Questions that begged answers as were accordingly posed in the submission of Peter T. Manicas (Manicas 2010: 2) included such questions as to what are to be included as rights, what were the agreements on rights designed to settle, whether rights are absolute and if they can be over-ridden? The Enlightenment period brought to the fore certain theories in attempts to ground natural/human rights and these they sought in natural law of the Kantian variety. They moved away and shifted from the divine origin to principles of true morality which may or may not have a divine origin, but which are discoverable by reason (Manicas 2010: 2).

The theory of human/natural rights which anchored on the omni-competence of reason was again confronted by moral skepticism during this period. Joel Feinberg is one of the foremost proponents of natural law as the basis of human rights. He formulated a series of these issues in his work, one of which is that any society that lacks the concept of right has consequently missed what he called the absence of a ground to make claims. In the words of Peter T. Manicas, *"rights are especially sturdy objects to stand upon, a most useful sort of moral furniture; rights are politically critical, forcing reconsiderations of the status quo"(Manicas 2010: 3).* These questions definitely require a justification of what we consider to be rights which unfortunately is not within the contemplation of this study/work.

On the same issue, Joel Feinberg was to further declare that:

> *Having rights enables us to 'stand up!!! Look other in the eye, and to feel in some fundamental way the equal of anyone…indeed, respect for persons…may simply be respect for their rights…and 'human dignity" may simply be the recognizable capacity to assert claims(*Feinberg 1980: 151).

Thus, if we draw on the above assertions of Feinberg, we come to realize that it is only with the institution of rights that a ledge of defence and protective shield is built around the individual, and it is that which can save him from being annihilated by the self-destructive mechanism crafted by globalization and

authoritarian governments that spring up here and there. This therefore situates human or natural rights within the correlative of natural law, as a universal valve or regulator on the excesses of the state, and a reminder that the duty of the civil state is to preserve and protect the individuals in the state. This indeed makes us return to the words of Leonardo Garcier, that *"A system of rights requires more than the mere conceptualization of rights"*(Garcier 1999:). For Garcier, indeed rights inspire confidence, rights lead to action and rights place on the individual the capacity to assert his claims.

As earlier stated, John Locke derived his natural rights theory from two lines of argument which drew on the law of nature. We will revisit the relation to the law of nature later but suffice it to say that Locke's natural rights theory relied on the theological argument because he asserted that God created man as rational beings and this puts on man the duty to obey the commands of their creator. From this Locke tried to establish that man derive general principles of moral conduct from their knowledge of God's perfect nature and which is enhanced by the innate character of man to use his rational capacity.(Hasnas 2005: 111-147).

This was later to be challenged forcing John Locke to go a step further to propose a secular theory of rights which held that the natural law rights of liberty, property and life were based on the law of reason commanding what is in the best interest of the human race, the need to treat equals equally since treating equals unequally was irrational, and the substantive proposition that all human beings are of equal moral worth. In concluding John Locke held that *"the duty to preserve any human life logically entails the equal duty to preserve everyone's life, and hence the duty to preserve mankind by restraining from action that impair the life, liberty and property of others"(Locke 1980 (1690): S.6).* Peter Hasnas (op. cit) further held that the position adopted by Locke was re-defined and developed by Nozick. Hasnas went on to contend that:

> *An argument that grounds rights not in the law of nature, but directly on Kantian moral theory, identifying them as reflections of "the underlying Kantian principle that individuals are aids and not merely means* (Hasnas 2005: 14).

Nozick, when considered against the back drop of his comments as highlighted in the passage above can be seen arguing, not only that every human life has equal moral value, as Locke did, but specifically making a convincing case to the effect that every human being is equally possessed of a dignity that requires respect for the sake of his or her autonomy. To buttress this fact, Hasnas pointed out further that:

> *This is a much more promising basis for an argument for the existence of Lockean rights. On the one hand, it is strong enough to ground not only the right to life, but also broad negative rights to liberty and property. A duty to respect others, autonomy bars not only taking their lives, but also coercing their persons both generally and more specifically, in order to deprive them of justly acquired possessions (Hasnas 2005: 15).*

This is a major drawback to Locke's philosophy of natural rights as Locke's tying his notion and proving that the law of nature exists to his idea of the obligation to obey God. It has been generally stated that the law of nature as offered by John Locke cannot serve as the source of the human rights without making the argument circular. This is as a result of the "*obvious difficulty of providing a compelling account of God's nature and the philosophical debate not only about what constitutes human nature, but about whether there even is such a thing"(*Hasnas, 2005: 15). Because of the attack, Locke again proposed and can be seen arguing, not only that every human life has equal moral value, but specifically making a convincing case to the effect that every human being is equally possessed of a dignity that requires respect for the sake of his/her did autonomy. This was what informed Hasnas' observation that;

> *This is a much more promising basis for an argument for the existence of Lockean rights. On the one hand, it is strong enough to ground not only the right to life, but also broad negative rights to liberty and property. A duty to respect others, autonomy bars not only taking their gives, but also coercing their persons both generally and more specifically, in order to deprive them of justly acquired possessions (Hasnas 2005: 15).*

The arguments outlined above, is to prove to a large extent the fact that human rights have been proved, at least from the Lockean and Kantian points of view to exist in human society and that it is in fact a veritable tool to protect mankind from abuse and undue coercion and force, and individual freedom from totalitarian control. For example, relying on the Kantian categorical imperative, Kant was held to have stated that we should:

> *Act in such a way that you treat humanity, whether in your own person or in the person of another, always as an end, never simply as means"* (Kant 1981[1785]; 36 [429]).

The aggregate of the points articulated rights are mainly geared towards showing that every human being in the world possesses a set of universal legitimate entitlements or claims, both negative and positive, protecting basic elements of their well-being, purely on account of their humanness. It is instructive to point out that "humanity itself is dignity" (Kant 1991(1797): 462). These claims or entitlements are independent of any other contribute, attribute or status such as sex, race, ethnicity, wealth, age, creed, ability/disability, sexual orientation, etc. These entitlements or human rights are guaranteed naturally to the particular individual, not collectively; it is universal and equal, in that it applies to all humans equally, has reciprocal application and is not conterminous with all aspects of human well being.

LITERATURE REVIEW

> *Individuals have rights, and there are things no person or group may do to them (without violating their rights) . . . All human being possesses inherent moral value -dignity that others are required to respect. Rights, he says, protect this dignity and so rights 'express the inviolability of other person" hence establish our separate existences. (Norzick 1974: ix, 25).*

The above passage describes how Robert Nozick conceives human rights, over and above the institution called the state, the point where John Locke took same. In this way, he made a good point as to the fact that in issues of human rights entitlements, no moral balancing can take place, no outweighing of some lives in preference to others is feasible or can be reasonably anticipated with success because neither can lead to a greater over all good. In same vein, he disapproves sacrifice of any sort arguing that it is not justified in any way and that the failure to respect the rights of others cannot be compromised because the person whose right was infracted or not respected is a separate person. To further make a case for this trend of arguments, he propounded questions such as: Are humans equal? Then why treat them equally? Does human life has value and does this give rise to the duty to preserve mankind from the fulcrum of Norzick's perception of human life and its inviolability? The main point of departure here was the introduction of the notion of human dignity, and it served to give to his theory the secularity and plausibility, which the notion of Locke's that drew heavily on the existence of God did not possess (Norzick ibid.).

On his own, Harold R. McKinon (McKinon, 2012), writing on the foundational basis of human right of human rights or the rights of man traced the root of the human rights to the awesome overbearing phenomenon of natural law and thus explained that anything otherwise would impale human rights and then everything else shall lie in the temple of brute force. To him, if there is no higher law or natural law which

support the philosophy of human or natural rights, then its as good as agreeing that the *"(Bill of) Rights is a delusion, and everything which a man possesses – his life, his liberty and his property – are held by sufferance of government"*(McKinon, ibid), in which case, government can rise up one good morning and simply take these supposedly rights away without any qualms. At most the best offer is that natural rights should be understood in terms of *"commutative and distributive justice"*(Strauss 1959: 81).

Frank Van Dunn, writing on the topic *"Human Dignity: Reason or Desire?"* (Dun 2001: 1), argued that the universal Declaration of Human Rights, though introduced in December 1948, did not have an immediate impact until the early 70s. To him, the rights enumerated therein do not concern the rights of man as such, but the rights of citizens, members of a political association, most probably in a state. (Dun 2001: 3). This inform his contention that:

> *The human rights of the Universal Declaration of Human Rights are not and cannot be absolute, even in the most normal of circumstance unless anything short of utopia should court as an emergency. By their very nature, they are susceptible to continuous weighing negotiation and qualification* (Dun 2001: 9)

Explaining this further, Van Dunn asserted that the document generated social tensions of no mean magnitude between government, the pressure groups and persons with vested interests because full adoption had far reaching implications that would lead to serious budgetary constrictions. This therefore meant pretence by governments, inflated political rhetoric's and that the is so bad to the point that *"each policy option can be interpreted at one and the same time as both a measure to further some human right and as a neglect or even violation of any number of other human rights"* (Dun 2001: 9). I agree no less with Van Dunn. Of a fact, the document do not seem to be drafted or crafted with the dexterity finesse that flow from an expert, hence it tends to accumulate in one fell swoop a retinue of contradictions and problems which call for resolute resolution to make the charter workable and to achieve its objective. As a case in point its enumeration of the rights of man are anything but chaotic; its idea for free education and favourable remuneration for employment rights do not seem to resort to resources that are always in short supply, and failed to satisfy the yearning for a good explanation between the charter itself and the Hobbesian political Philosophy as the later tended to rest exclusively on formal and material similarities which are incompatible with classical natural law tradition. (Dun 2001: 9).

On a further analysis, we find that while Tanvir Aeijaz admits some of the terse submissions of Van Dunn, and in particular when he declared about rights that:

> *The concept (of rights) is in vogue and perhaps all the modern nation states have tried to formulate their own institutional rights, which may not or may relate to human rights. Even though with such political concern, there has been lack of consensus and too many controversies surrounding human rights* (Aeijaz 2012: 1).

This fuels his disbelief in the actual application or implementation of the United Nations Declaration on Human Rights or the Charter by participating nations. It is common knowledge that apart from the developed nations of the West, most nations pay lip service to it. In fact, he declares additionally that *"virtually no one actually rejects the principle of defending human rights, but they are violated virtually everywhere* (Aeijaz 2012: 1).

This sort of uncoordinated, incompatible and divergent attention and partial implementation of the Charter issues from the perception of a wide spectrum of people from academia, politics, and philosophers. For instance, it is interesting that while some describe or refer to these rights as *"Human rights are the moral rights of the highest order* (Donelly 2003: 12), others disagree and hold that *"there are no (human) rights,*

and belief in them is one with belief in unicorns and witches (Macintyre 1981: 67). With respect to their position, we hold an exception as it tends to make a way for us in our philosophical endeavour. Philosophical enterprise consists of postulations, extrapolations and the contemplation of the ultimate reality and thoughts about metaphysics. This therefore is logical, because, belief in unicorns and witches can at worst be permissible in the realms of metaphysics, merely reminiscing about the existence or not of human rights and contemplating their form and nature is enough metaphysical and epistemological exercise, and cannot devolve to asserting that it exists or not.

On his part of Jeremy Bentham threw spanners into the wheel by declaring that *"Natural rights is simple nonsense: natural and imprescriptibly rights, rhetorical nonsense upon stilts"* (Bentham1987: 53). This was a harsh attempt at abandonment, because by tagging human rights nonsense upon stilts, he situates it as simply worthless, rejected and of no consequence (non-de-script). This we reject and say it was an understatement of sorts. In same manner Karl Marx argues in the same fashion and this thought pattern thus pervades all the communist or socialist ideologies and regimes of the world. Human or natural rights or rights of man are believed to be no other than that:

> *None of the so-called rights of man goes beyond egoistic man, man as he is in civil society, namely an individual with drawn behind his private interests and whims and separated from the community.* (Marx 1987-(Waldron): 147).

The above, positions are highlighted to show that there is a wide disagreement on the philosophical presupposition of human rights and there appears to be *"no possible rapprochement between theory and practice"*(Aeijaz 2012: 2). In her work, the "Tragic Foundation of Human Rights*"* (Wolcher, 2006), Louis E. Wolcher, emphasizes the need to formulate or develop a phenomenon that will serve to provide a possible but stable foundation for human rights. To realize what she understands as the "Rights of Man", she proposed a "*foundation that would ground the passage, from the idea of universal human rights to their enactment in practice"(Wolcher 2006: 523).* Making further clarifications, Wolcher argued that as a child of the enlightenment epoch, the whole concept of Universal Declaration of Human Rights-

> *….is conventionally taken to signify that certain minimum entitlements belong to individual human beings solely by virtue of the fact that they are humans (*Wolcher 2006: 535).

These claims, she went on to further to state that they are held to be unaffected by all accidents of status and nationality, once the appropriate expression is determined. She accedes to the standard nature of the United Nation Declaration of Human Rights or the Charter and equally upholds all other instruments which promote human rights such as the American Bill of Rights because *all people being life equally endowed with Fundamental Human Rights*(Wolcher, ibid). It is this endowment of equality and rights, especially in the style of the Lockean trilogy of right to life, right to property and right to personal liberty that provokes Louis E. Wolcher's to remain committed to unearthing the foundation of such gross violations of the rights of the people, and in particular took cognizance of the fact that *"the justly punished suffer more than the unjustly punished for every increment of paint they endure"* (Wolcher, 2006: 530). This charge, she asserts, of dividing suffering into the just and the unjust, or the necessary and the unnecessary has been decided by God, or better by nature for the natural law thinkers, and for positive law philosophers, it lies in the hands of politics and its primary instrument, Law. As a penultimate reference, Wolcher therefore cautions that:

> *A human rights practice that does not put compassion in place of justice as its highest value threatens to sink to the level of ideology and to become an apology for the vast palm of human suffering that it ignores, condones, or causes.*(Wolcher 2006: 534).

This concise remark from Wolcher brings us to the door steps of the analysis on Human Rights credited to John Helis as published in the *Journal of Politics and Law, 2008*. He observed that:

> *The problems associate with the human rights project can be summed up in the simple phrase that it is trying to achieve too much for some in theory while at the same time achieving too little for other in practice.* (Helis 2005: 73).

This adds up to strengthen the position taken by Wolcher and this is the position adopted on human rights globally and to which we subscribe unwaveringly. In certain spheres, human rights are viewed or considered merely as a new form of Western imperialism and hence an affront to national sovereignty which is the consideration in the Eastern nations and within the Socialist and Communists governments. This poses so much of a source of concern and worry. Helis, in his analysis thus presents to us the views of Hannah Arendt, whose conception of human rights was patterned by the Holocaust and the 2nd World War, the refugee in crisis and mass statelessness and untoward massacre of Jews. He says that Arendt in attempting to decipher a logical reason why the concept of natural and inalienable rights failed humanity at the most inauspicious time, was held to have answered that it was:

> *To the detriment of individualism by suggesting that individuals without belonging to a political community are not ass sacred in themselves as the concept of individual human rights would suggest. The politically empowered cannot relate to the disempowered as equal members of community.* (Helis 2005: ibid).

For Hannah Arendt therefore, *"The world found nothing seared in the abstract nakedness of being human"* (Arendt 1951: 295), and as a well thought out recipe, she proposed a theory which sought to remedy the shortfalls of the of the problems of the idea of the natural and inalienable right to be limited to the basic understanding of human dignity, which was central to our filling the gaping lacuna. Hannah Arendt's introduction of the concept of human dignity did two things, it came to terms with the two significant controversies in contemporary human rights discourse which are universalism and cultural specificity, while at the same time it provided an appealing and persuasive foundation for human rights.

For Arendt, political empowerment requires a genuine form of citizenship, a situation to speak and at to be heard so as to reveal the unique personal identities and to announce the person's appearance. This Arendt contends requires reliance upon and the safeguard of human dignity, the one factor that *"obliges us to respect others as equals as a matter of principle, …arouse(s) curiosity or respect for what makes others different"*(Sznaider 112, 113). It is a recipe which Arendt says is potent and strong to:

> *Perhaps provid(e) some form of escape for the powerless individual from the theoretical slippery slope which (keeping freedom out of politics) approach leads humanity down, is the justification from the "notion that men can lawfully and politically live together only when some are entitled to command and the other forced to obey* (Arendt 1958: 222).

This impressive feat of Hannah Arendt's hinging human rights on human dignity; Helis pointed out resolves most inherent controversies surrounding human rights theory. It is submitted as a theoretical basis upon which the substantive rights of man are anchored. It is actually human dignity that shall be inviolable, inherent and natural to man. In drawing this sequent to a close, we reproduce below and rely on the words of Jurgen Habermas, who principally consider that it might just be fun and fulfillment to *"live in a world ordered by Hannah Arendt's notion of equal participation, defending the liberty of all against the threat of domination by any group or individual. (Habermas 1986: 88).*

HUMAN RIGHTS FOUNDATION IN NATURAL LAW

It is the position of this work that despite contentions and debates against the meta-ethical factity that human and basic rights of man are founded on natural law precepts, or that the conception as conceived in natural law failed man when humanity so desired it, the foundation of human rights, no matter to which angle it is driven tapers nonetheless to the natural law theory.

The prop our contention, we will choose to begin with the following passage:

> *And in the matter, we are in the most unyielding dilemma. For if there is no higher law, there is no basis for saying that any man-made law is unjust, and in such case, the ultimate reason for things as Justice Holmes himself conceded is force. If there is no natural law, then no natural rights and if no natural rights, the Bill of Rights is a delusion, and everything which a man possesses- his life, his liberty and his property - are held by sufferance of government and in that case, of is inevitable that government will someday find it expedient to take away what is held by a title such as that. And if there are no external truths, if everything changes everything, then we may not complain when the standard of citizenship changes from freedom to servility and when democracy relapses into tyranny* ((McKinnon 1946: 85).

The above is a representative of our thought about human rights as contained in the Universal Declaration of Human Rights and accompanying instruments such as the American Bill of Rights and the French Bill of Rights. We do not intend to delve into dissipating energy trying to prove or promote natural law. But it is our stand that because natural law is a standard stipulation against which to compare and relate every other legal concept including human rights, its foundation has to be in natural law and no other. The point the above remark is intended to regularize is the fact that human rights are founded or based upon a clear insight into some abiding principles and the responsibility to humanity, even in differing polities.

At the Nuremberg Trials of the perpetrators and criminals of the Holocaust, labour camps and genocide the court held that human rights, which was violated by the Germans were founded or derive from man's origin, grounded in discovered reality that being human can be reflectively known by humans who know they carry in them the specks and forms of the natural phenomenon which makes up the world.

In Immanuel Kant's formulation of rights, freedom and equality, which was one of the principles on rights that was acknowledged to be comprehensive was formulated at almost the same time that similar rights values were being implemented in America and France. For Kant, his categorical imperative was evident hence he warned that each and every time we:

> *Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means* (Kant 1981 [1785) 36 (429).

For Kant, man is to be understood as a human being, and humanity is imbued with dignity, that is priceless and invaluable, which is that attribute which opens all doors to all men to the legitimate claim of respect from others and to return same, and that this respect especially to political elements are specified through human rights. (Kant ibid: 329). In this we agree with Jack Donelly that-

> *Human rights thus go beyond the inherent dignity of the human person to provide mechanisms for realizing a life of dignity Human rights both specify forms of life that are worth of beings with inherent moral worth and provide legal and political practices to realize a life of dignity that vindicates the inherent worth of the human person. In other*

> *words human rights insist that the inherent worth of human beings must not be left in an abstract philosophical or religious domain, but rather must be expressed in everyday life through practices that respect and realize human beings.* (Donelly 2009: 84).

Further, on, Tanvir Aeijaz in treating the theories of human rights admits that under natural law, the human person is pictured as an autonomous individual. In particular, he notes that natural law theory evolved to the natural rights theory, or at most a change of nomenclature. He further points out that under the natural law as a standard against which to judge the legitimacy of any government, the government was bound to respect the dignity of the individual as an autonomous being, capable of exercising choice, and the government's ability to protect the individual in that state. The state was estopped from taking away that right, nor abridging same under any guise at all. It was measured against apriori moral principles and was value laden, which is why it came under attack as enumerated by Aeijaz, adding that this became possible because human rights claims are capable of subjective interpretation (Aeijaz 2012: 3), howbeit wrongly.

Hannah Arendt's take on natural law as the foundation of human rights was not out-right rejection of basing it on this foundation. Human dignity, which is central to her philosophy of human rights, was according to Helis intended to *"come to terms with two of the most significant controversies in contemporary human rights"* (Helis 2005: 73). Helis informs us that Arendt combines Kant, Aristotle and Burke in rephrasing the idea of natural or inalienable right based on dignity alone, and also in her contending that human rights are culturally specific thus restating the universality of the concept. This did not counter or oppose, but modified the precepts of human rights to fit into the natural law mould more appropriately. Natural law leaning ensures universality, objectivity and non selectivity of the considerations of human rights issues. This is the object of our discourse and focus in this work.

Douglas J. Den Uyl and Douglas B. Rasmussen (Den Uyl & Rasmussen 2001) in their work stated that natural rights are to be taken as on extension of natural law. They contend that natural rights should be taken or considered simply as principles of natural law expressed through an individual. Agreeing with position adopted by Heinrich Rommen, and they went on to declare that:

> *Rights are conflated with what is right such that rights are the sphere of right that is given with the nature of a person….each natural right is founded on a corresponding duty on the part of its possessor. (Den Uyl & Rasmussen 2001: 37).*

It is in line with the demand from these two inherently conflated concepts that rights basically reiterate the notion that obligations are held by individuals, it does not do or contemplate any new substantive work. Natural law being inherent innate in the rational nature of man, obliges each person to seek human flourishing and fulfillment of moral obligation which can only take place when one is free and unencumbered. It then follows that:

> *Natural rights, then refer to those spheres of freedom that individuals must have in order to fulfill their moral obligation. These spheres of freedom of action are distinct from the principle upon which action is based; - that is the obligation to seek human flourishing - so there is a distinction here between natural rights and natural law. Yet on this account, natural rights and natural law are dependent upon each other and here functions in necessary relation to each other.*(Den Uyl & Rasmussen 2001: 43).

The same flow of thought originates from John Wild who declared that:

> *All genuine natural law philosophy . . . must be unreservedly ontological in character. It must be concerned with the nature of existence in general, for it is only in the light of such*

> *basic analysis that the moral structure of human life can be more clearly understood* (Wild 1953: 172).

The above statement of John Wild's can serve to give a direction to questions which hinge on our basing these ontological rules of human right on agreement, or what to do with a state that in following its state laws commits genocide as in the Holocaust, or whether clitoridectomy is not rights violation because it is not expressed in any code or law, or whether religious persecutions were not wrong before the 10th of December 1948 when the Human Rights Charter was drawn?

Human rights are rooted in reason and the nature of the human person in same way that natural law is dependent on reason. Human society and the human intellect depend on certain principles, among them consistency, order and a respect for conclusions affirmed and promises made, by sticking to the treatise obligations – *pacta sunt servanda* - states both affirm these principles and subject themselves to their rule. This is a way of re-enforcing the legitimacy of these treatises. They could do otherwise, but that will undermine their own *raison detre* and weaken the compact which is the root and source of the protection of social life. This is the work of human rationality, not social institution like a state. Reason dictates and prompts an understanding of the above. Reason tells us to respect the dignity, property, life and freedom of the other person and hopefully expect the same from others. It sets out a moral demand for common, unusual treatment of persons. It makes for peace and increases unity because it can contemplate the power inherent in unity. These are expressions of human right that unfold or find their bearing within the realms of natural law. This proves that natural rights more than anything else are founded on natural law, and very less likely than any other theoretical formulation or principle.

Reason is the yardstick measuring everything that has the form of nature in it while human nature and the common good its indices. When the two – natural law and human rights are juxtaposed, the end result is just as expected- a strong affinity with and to natural law precepts. Though evolving and changing to compensate for the agelessness of this principle, human rights it cannot be denied are still evolving from, dependent on, related to, promote and share similar ideals with natural law and which reality is expressed in such concepts as universalism, tolerance, freedom, concern for the poor and needy, interpersonal obligation and cross-cultural relations. Natural law, is a feature of the world, having to do with the constitution of the human person, laying the basic principles on which to build relationships and the unsung foundation behind that the constitution of created reality as a whole. It does contain within its kernel, the foundation for human and basic rights of man. If we lost sight of the principles of natural law, we cannot be sustained by individualistic or personalistic themes because they would collapse into a personalistic relativism by and through which we cannot tell what amounts to suing a person wrongly, what is right and how to achieve wholeness, unless to look at man simply as a means to an end as put forward by Kantian and Arendtic ideologies (Budziszewski 2007: 12). It is pretty safe to declare that the desire for freedom, liberty and respect for human (personal) dignity beats naturally in every chest. This an altruistic fact of reality that beats contest and opposition.

It is therefore a fundamental conviction to assert without any conviction that human right, indeed by its form and features are rammed and programmed into place and contained by its foundational linkage and theoretical appendage to and structural reliance on the universal theories of natural law. It lives in our hearts and intellect even without being recognized and promulgated by the constitution of a state or any legal instrument. We yearn and adulate it and in cannot be abridged, abrogated or repealed. This is because of its affiliation to and with natural law.

CONCLUSION/SUMMARY

Our conclusion, which comes in the form of a summary of the discourse that has taken us several winding steps and paths will be a restatement of our purpose or objectives. There could be several explanations for human rights, but they remain attenuated suppositions because they fail to re-direct or re-order our steps to a set of abiding principles, unchanging norms, an uncorrupted scale, a higher law against which to measure all our actions. A set of values based on which we can know independent of all and any intrinsic factors that which is good or bad, external to the human person, and on which to base our notions of human right. Natural law fulfils this, even though it cannot be subjected to empirical and validly objective proofs. It is in natural law that human rights have its validity and stay. In the words of Immanuel Kant, it could well be beyond verifiability, but the mere fact that it could be satisfactorily be contemplated serves a very useful purpose in itself. The facts point only in this direction and it can only be obvious and plausible that human rights arose and evolved from natural law precepts as contemplated over the ages.

As a further emphasis, we adopt and rely on the dictum of Louis E. Wolcher who said:

> *What is needed for human right thinkers to awaken to the real problem of human suffering is a quasi-religious attention to universal human suffering, and a radicalized compassion that manages to let go of obsessive attachment to textual foundations.* (Wolcher 2006: 554).

We elect to go with Wolcher in the above and add that this is what indeed is the needful. We are compelled to question the rationale behind why we should dissipate energy when human sufferings have gone beyond mere rhetoric and pretence. Whole populations are suffering deprivations, abuse and grave breach of their rights and we all stand aloof and watch under the guise of relativism and individualism. The unfettered intrusion of natural law into this as in international law will counter the hazy reflections that befuddle our appreciation and understanding of the definite foundation of human rights and this is what we need to give way to mindfulness. In mindfulness, what we will arrive at is an open awareness of what is needful and carefully obviating being supplanted with wild interests and void prejudice just to even up. Under the present focus, we would be reaching out passionately to the target persons, adept at rebounding and recoiling movements, which are a genuine reflection of efforts aimed at self refinement. This is the stuff with which human rights are made of and intended.

In the final analysis, we cling to the sacrosanct deductions of Douglas J. Den Uyl and Douglas B. Rasmussen who held that:

> *Our position, then is relatively simple, and one we have stated earlier. We wish to take a classical teleological eudemonistic approach to ethics and a moderate realist approach to metaphysics and epistemology and use and these as a foundation for a modern – looking political theory, that is one that emphasizes the liberty of the individual. With respect to the particulars of this essay, our claim is that the natural law approach as we find it today is not sufficiently attentive to the individual, and that we prefer the natural rights approach. However, the natural law tradition, by emphasizing a teleological eudemonistic framework, is closer than other ethical framework to having the correct foundation for natural rights.*(Den Uyl & Rasmussen 2001: 47).

More so, it is well established that within natural law theorists according to Jacques Maritain that generally, natural law is:

> *The ideal formula of development of a given being. It might be compared with an algebraic equation according to which a curve develops in space, yet with man the curve has freely to conform to the equation. Let us say then that in its ontological aspect, natural law is an ideal*

> *order relating to human actions, a divide between the suitable and the unsuitable, the proper and the improper which depends on human nature or essence and the unchangeable necessities rooted in it" (Maritain 1956: 30).*

Natural law therefore is the ideal formula, and the algebraic equation, be it of laws to govern the society or of human or natural rights are expected to freely conform to the equation outlined or given by natural law. Anything to the contrary is sure an aberration and a misnormer. Further, for David Oderberg also states that:

> *The reconnection of metaphysics and ethics must be at the heart of the natural law project. Not only must natural law theory advance on the allied format, it must also deepen its conceptual foundation and locate itself within broader areas of philosophical concern. (Oderberg 2010: 75).*

In tune with the suggestion of Oderberg therefore, natural law and its fall out human rights ought to advance its cause on the format that requires the reconnection of metaphysics and ethics in which case therefore, human rights which is propped up in all its elegance by natural law can only be deepened and advanced by reliance on and being rooted in natural law. This is further strengthened by the fact that human nature is the sole determinant of the operations of human rights. This is bolstered and reinforced by Donelly who argues thus:

> *Now I want to suggest that human dignity is a quasi foundational notion that lies deeper than human rights , but on which there is (only) an overlapping consensus (Donelly 2009: 82).*

This is our stand. If natural law was dethroned, could some scientific or rational standard be found to serve as a better foundation for human rights? How would we thenceforth rate and regard human rights? How would human dignity be protected and fostered if human rights are allowed to fly in the face of reason and logic? Which other standard devised by man can expressly guarantee that rights to personal property and private liberty be held sacred and respected by the government and other individuals? The obvious and unchallenged fact is that for human dignity to make a meaning to humanity, and for it to be respected, then human rights founded upon the tenets of natural law, which is not dependent upon any other person's perceived bias or prejudices remains the sure and primary foundation on which to erect or base human rights.

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