

STUDY OF HUMAN RIGHTS GENERATIONS WITH SPECIAL REFERENCE TO FOURTH GENERATION HUMAN RIGHTS

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Introduction:

Human rights are available to person simply because he is a member of human family. Human rights are those basic inalienable rights without which no one can live as a human being. Human rights become applicable to an individual since his birth. Being the birth rights they are inherent in all the individuals irrespective of their caste, religion sex and nationality. These are sometime also referred as Fundamental Rights, Basic Rights, Inherent Rights, Natural Rights, Inalienable and Birth Rights. All human rights derived from dignity and worth inherent in human person, and that the human person is the central subject of Human Rights and Fundamental Rights.² These are nothing but the claims for life of dignity which needs protection against arbitrary and coercive state action. This paper tries to explain the generations of human rights and need of recognition and active participation for protection of the Fourth Generation of Human Right.

Globalisation of Human Rights:

There are certain characteristic of Human Rights like Universal application, inalienability, indivisibility, human Dignity, etc. Human rights are required for the stability and development of country and ultimately to that of the world. In order to protect and to ensure them international standards are required. These rights are recognized by various International Instruments like Universal Declaration of Human Rights, Treaties on War Crimes (Geneva Convention),1949; For the protection of vulnerable group UN Convention on Right of Child,1989 and its two optional protocol, Convention on elimination of all forms of discrimination against women,1979;International Covenant on Economic, Social and Cultural Rights,1966, and the International Covenant on Civil and Political Rights,1966 and its two Optional Protocols. Other Core Universal Human Rights Treaties are the International Convention on the Elimination of All Forms of Racial Discrimination,1965; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,1984 and its Optional Protocol; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,1990. The most recent are the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities and its Optional Protocol, which were all adopted in December 2006. There is a growing body of subject-specific treaties and protocols as well as various regional treaties on the protection of human rights and fundamental freedoms³.

Generations of Human Right

“Ultimately humanity has a commitment to history to make human rights a viable reality”⁴

- Justice V.R. Krishna Iyer

From the historical emergence the human rights are categorized as Four generations. It is the history of struggle by societies from all over the world for acquiring these human rights. It may be the struggle for Independence, struggle for gaining Voting Rights, Struggle among men and women for equality, struggle for life with human dignity, etc. So these generations are nothing but the historical transitions where after achieving first a need has been felt for next to live life with dignity. Like during the era of invention of Computer, as per the advancement of technology the size of computer and its accuracy, memory, portability, speed, efficiency are changed in reverse direction which leads to the

generations of Computer. Exactly on same line various human rights are developed and recognized by Law leads to generation of Human Rights.

From Babylon Code to Documents asserting individual rights, such as the Magna Carta (1215), the Petition of Right (1628), the US Constitution (1787), the French Declaration of the Rights of Man and of the Citizen (1789), and the US Bill of Rights (1791) are historical human right document. For Generation of Human Rights Universal declaration of Human right is considered as starting point.

Generations of human rights are as follows :

1. The first generation of Human Rights and The Universal Declaration of Human Rights (1948)
2. The second generation of Human Rights: the UN twin covenants (ICCPR, ICSECR- 1966 as well as the other core treaties in the international system)
3. The third generation of Human Rights: collective, environmental and development rights
4. The fourth generation of Human Rights and the right to sustainable development of the future generations

First Generation of Human Right :

The Universal declaration of Human Rights of 1948 carries the general provision of UN Charter that “*to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small*” and through the UN to promote “*Universal Respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion*” and specifies what actually constitutes Fundamental rights. It contains only 30 Articles but carries great significance. These rights are also known as civil and political rights. Some of rights are as follows:

- the Right to life⁵;
- the Right to privacy⁶;
- Prohibition of torture and inhuman or degrading punishments⁷;
- Prohibition of slavery and forced labor.
- Freedom and security of a person⁸.
- The right to property of the person or of a legal person.
- Freedom of mind, of thought and religion⁹.
- Freedom of expression and information¹⁰.

According to the Roman jurist Ulpian, natural law was that “*which nature and the State assures to all human being*.”¹¹ These rights are naturally conferred upon a person by his creator as human and rational being which are so indispensable and inalienable. A person needs not to invoke source of his life as right to life.

Second Generations of Human Rights:

From 1960-1980 Second generations of Human Rights developed. In 1966 two Covenants were adopted “International Covenant on Civil and Political rights” and “International Covenant on Economic, Social and Cultural rights” Second generation rights are based on the principles of social justice and public obligation—they tend to be “positive” rights, based on Continental European conceptions of liberty as equality. This generation of human rights developed through those who had a strong desire for the state to provide protection for its neediest inhabitants via providing relief to the less fortunate.

These rights include :

- 1) The right to just and favourable conditions of work
- 2) The right of protection against unemployment
- 3) The right to equal work for equal pay
- 4) The right to rest and leisure as an employee
- 5) The right to reasonable limitation of working hours and periodic paid holidays
- 6) The right to free elementary education
- 7) The right to higher education equally accessible to all via merit
- 8) The right to education which promotes tolerance and understanding
- 9) The right to food, clothing, housing, medical care, and necessary social services
- 10) The right to security in the event of unemployment, sickness, disability, widowhood, old age
- 11) The right to special care and assistance for mothers and children
- 12) The right to enjoy remuneration and standards of living adequate for the health, well-being, and dignity of citizens and their families

Third Generation of Human Right:

It broadly defined category of human rights corresponding primarily to rights of a collective or communal nature. These rights have a positive consecration, generally in international law.

- 1) The Right of People to Self-Determination
- 2) The Right to Peace;
- 3) The Right to Development;
- 4) The Right to Humanitarian Assistance;

Fourth Generation of human Right:

Rapid decline of forest areas, Rapid increase in temperature of Earth, Soil erosion, Change in Climate, Reduction in Plant Varieties and Live Stock, Huge Conversion of Agricultural land into non-agricultural are causing great threat for future generations. At present also we are facing the problem of loss of Plant varieties, live stock, hi prices of food product, if it will be continued then though we may have created thousands of law for Protection of Human Rights, upcoming generation might have to struggle for food which is very basic requirement..

In Stockholm Conference on Human Environment a Solemn duty was imposed on every human being for protection and improvement of environment for future generation so that they can satisfy their needs without doing any compromise. Environmental Law, talks about these rights as “*rights of future generations*”. They are required to be seen within the tendency of assertion of the rights of the fourth generation because right now, only some of countries trying to crystallize them in the form of solidarity rights.

In the Romanian environmental law through the Water Law no. 137/1995 (subsequently repealed by Emergency Ordinance no. 195 of December 22, 2005) on environmental protection, an express reference to the rights of future generations can find when the legislature defining the concept of “*sustainable development*” said that it is “*a development that meets the needs of present without compromising the ability of future generations to meet theirs*”¹² This connects human rights and especially the right to development to the future generations. According to the universally recognized

principle of social equity the future generations are entitled to find at their birth a friendly environment, sufficient resources for development as well as an unmodified human genome.

*“The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations”.*¹³

The World Conference on Human Rights recognizes that illicit dumping of toxic and dangerous substances and waste potentially constitutes a serious threat to the human rights to life and health of everyone. Consequently, the World Conference on Human Rights calls on all States to adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and waste and to cooperate in the prevention of illicit dumping. Everyone has the right to enjoy the benefits of scientific progress and its applications. The World Conference on Human Rights notes that *“certain advances, notably in the biomedical and life sciences as well as in information technology, may have potentially adverse consequences for the integrity, dignity and human rights of the individual, and calls for international cooperation to ensure that human rights and dignity are fully respected in this area of universal concern”.*

Supreme Court of India is one of first court in evolving and developing the concept of *“Right to Healthy environment as a fundamental right as an attribute of life under Article 21 of the Constitution of India”*¹⁴.

By way of Judicial Activism it was held that Right to healthy environment is an obligation on states under art.21 and art.47 both.¹⁵

Conflict of Fourth Generation Right with Other Generations:

“Humanity will not enjoy security without development, it will not enjoy development without security; and it will not enjoy either without respect for human rights.”

-Kofi Annan Former UN secretary General

In case of first generation rights, as consecration requires significant effort from the State and so it is appropriate to everyone's prosperity. The second generation of rights, against the first generation of rights requires institutional support from the state, the first generation rights can be exercised independently and singular while the state must intervene through legislation to create an institutional system that allows the exercise of it. The environmental law allows social groups to live in a healthy environment, clean, without harmful agents to health but, in the same time, involves a number of limitations of rights of first or second generation, like owning a forest or the right to work.

Third generation rights cannot be exercised in isolation, it requires effort from both side that of State and individual. The third generation rights require not only the need to create an institutional support by the State, but, as in the case of second generation rights, they need to restrict the first generation of rights, through a so called “positive discrimination”, in the sense that these rights, like the rights of any minority, require a limitation of rights of first generation. For the Protection of Fourth Generation of the Human Right self initiative of individual and effective action by state both are indispensable. A quick, consistent and strict action will be required. Recognition of the right of fourth generation will be the protection of rights of future generation.

Suggestions:

- A global watch is required to be established for monitoring and reporting the unethical transactions between Government of developing Nations and Global Corporation.

- There is a need of Policy by which Plantation Area can be increased.
- Plantation of trees like Neem, Tulsi or trees which are having environmental importance.
- Proper management and planning is required to restrict and direct a desirable sustainable way to protect fertile agricultural land.
- Awareness is to be created for multi-purpose of land.
- It is a need of a hour to inculcate the value of protection of environment from childhood.
- The efforts which states are taking for creating investment rules must be subjected to analysis and scrutiny through Human Right discourse.
- A Policy for proper management and of hazardous waste and recycling of E-waste is to be invented.

Conclusion:

Human Right has acquired a new dimension in fourth generation. Ignorance of it will ultimately result into destruction of all rights of future generations. Only by preserving the fourth Generation Right the enjoyment of First generation, Second Generation and Third Generation right of Future Generation can be possible. As it is necessary that “*All people should have generally satisfactorily environment favourably to their development.*”¹⁶ As the natural resources are permanent assets of mankind and are not intended to be exhausted in one generation¹⁷ It is not only the duty of State but also that of the individuals to protect the human rights of future generations.

(Endnotes)

- 1 Principal, Modern Law College, Pune 16
- 2 World Conference on Human Rights, Vienna, 1993
- 3 <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>
- 4 V.R. Krishna Iyer, *Human Rights and Inhuman Wrongs* (New Delhi : B.R Publishing Co., 1990) 36.
- 5 Article 3 of Universal Declaration of Human Rights, 1948
- 6 Article 12 Universal Declaration of Human Rights, 1948
- 7 Article 5 Universal Declaration of Human Rights, 1948
- 8 Article 3 Universal Declaration of Human Rights, 1948
- 9 Article 18 Universal Declaration of Human Rights, 1948
- 10 Article 19 of Universal Declaration of Human Rights, 1948
- 11 H.O. Agarwal, *Human Rights*, 7th ed. (Allahabad: Central Law Publications, 2004) 8.
- 12 Art. 1 Vienna Declaration and Plan of Action (The World Conference on Human Rights, Vienna, 1993)
- 13 Vienna Declaration and Plan of Action 11.
- 14 *Bandhu Mukti Morcha vs. Union of India* ((1984)3SCC161)
- 15 *State of Punjab vs. Ram Lubhaya Bagga* (1998)4SCC
- 16 African Charter on Human and Peoples Rights Adopted in Nairobi June 27, 1981 Entered into Force October 21, 1986
- 17 *Kinkari Devi vs. State of Himachal Pradesh* AIR 1988H.P.4