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Concept of Human Rights and it's Generations: An Overview

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ABSTRACT

The International Human Rights or rather the fundamental human rights whenever are studied they are divided into three parts which are called as three generations of rights. This concept of three generation of rights introduced by Karel Vasak covers almost all the Human Rights. This paper focuses on the study of the evolution of human rights and with it studies in detail the concept of three generation of rights and how these rights are incorporated in the our Indian Constitution. This Paper briefly touches on the lack of inclusion of certain new rights that are emerging today because of rapid technological advancements which is paving path for a new generation of rights which can be categorised as emerging 'Fourth Generation'.

I. INTRODUCTION

Corporate Human Rights are the rights which are inherent to all human beings, without any kind of discrimination on basis of race, sex, nationality, ethnicity, language, religion or any other differences. These human rights include the basic rights like right to life, liberty and dignity and freedom from slavery, freedom of speech and expression, right to education, right to equality and many others as well. These rights are the rights which everyone is entitled to without any discrimination. International Human rights law has originated in response to protection of our Human Rights. It pushes the State to protect and promote Human rights in their nation. These rights are inalienable. They cannot be taken away, but in certain specific situations these rights can be restricted with due process of law but in no situation can right to life and dignity be compromised with. The rights can be divided into three types of Human Rights: Civil and political rights, socio-economic rights and solidarity rights.

II. CONCEPT OF HUMAN RIGHTS

The roots of Human rights can be traced back to ancient and medieval times. In India ancient thinkers like Manu, Prasara or Kautilya all have tried to protect the rights and dignity of individual from the tyranny of the rulers.² These rights before they could be called as human

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² Sarbani Guha Ghosal, Human Rights: Concept and Contestation, 71 The Indian Journal of Political Science,

rights were some moral principles and these moral principles acted as restriction on rulers providing protection to the individuals from the arbitrary acts of rulers. Though the concept of Human Rights is an ancient doctrine of natural rights founded on the principles of natural law, but the word Human Rights is of recent origin. It has emerged after the second world war by international charters and conventions.

Natural rights: The evolution of the concept of Human Rights can be traced from the concept of natural rights, the natural rights are those rights that are which are inherent in the nature of a man and are part of his nature, human rights are also the rights which a person inherits from the time of its birth as a virtue of being born as a human being.

Post-World War II: the devastation that occurred to the Human Life and property during the World War II were to the extent that one could never imagine. After the World War II ended, it was somehow known to people that such destruction to the human life must never happen again, and as a result The United Nations organisation was founded in the year 1945 by 51 countries committed to maintaining international peace and security, developing friendly relation among nations and promoting social progress, better living standards and Human Rights.³ The United Nations one of the objective was protect and promote Human rights and to complete this task United Nations has introduced Universal Declaration of Human Rights which was adopted by the United Nations General Assembly in 1948 and after that many important covenants dedicated to promote and protect the Human Rights. Some of them are The United Nations Charter (1945), Universal Declaration of Human Rights (1948), ICCPR AND ICESCR (1966) and European Convention for protection of Human Rights, (1953).

III. ORIGIN OF THE CLASSIFICATION OF HUMAN RIGHTS

A reflection of three generation of Human Rights can be seen in the popular phrase of the French Revolution: *liberte, egalite, fraternite*⁴. In 1977 The UNESCO Courier published Karel Vasak⁵ essay that stated the theory on human rights in international law. He mentioned the term as three generation, the first: civil and political rights, specifically the ones found in the International Covenant on Civil and Political Rights.

The second one was social and economic rights which are recognised the International Covenant

1103-1125 (Oct-Dec 2010)

³ History of United Nations, UN available at < <https://www.un.org/un70/en/content/history/index.html> >

⁴ Lindsey Reid, 'The Generation of Human Rights', UAB Institute for Human Rights Blog, Jan 14, 2019 available at <<https://sites.uab.edu/humanrights/2019/01/14/the-generations-of-human-rights/>> (Last visited Jan 20, 2021)

⁵ Law Explorer, 'Human Rights: Three Generations or one?', April 3, 2016 available at <<https://lawexplores.com/human-rights-three-generations-or-one/#law-9780190267315-chapter-3-note-144>> (Last visited Jan 20, 2021)

on Economic, Social, and Cultural Rights, includes rights like right to housing. The third, which Vasak said was just beginning, includes “solidarity rights” or “collective-developmental rights.” These could include minority rights. Each of the three generations also has two subtypes. At the same time, Vasak distinguished the first and second generations as “negative rights,” which means a person has the right for something to not happen to him, like slavery. Positive rights refer to rights where a person is entitled to something, like healthcare or housing.

Vasak created these generations based on the three tenets of the French Revolution: liberty, equality, and fraternity. The Vasak’s three generations is appreciated and criticised at the same time, and the World Conference on Human Rights didn’t like the idea that civil and political rights were distinguished from economic, social, and cultural rights on the other hand the classification of rights is appreciated to make the concept of Human Rights. Despite criticism Vasak division of rights into the three generation has helped the scholars and activists a useful tool to organize the vast concept of Human rights.

FIRST GENERATION OF RIGHTS

The first-generation rights are in relation to the negative rights and corresponds to the civil and political rights and liberties.⁶ With the passage of time the idea and concept about the state were developed and came the concepts of political power and rights and freedom. These were the time of struggle and fight against the monarchy system and these struggles resulted in writing of documents which contained rights and liberties of the people and incorporating them with legal force, the first generation of rights has a long history of accenting liberty dating back to document such as:

- Magna Carta in 1215: Magna Carta originated as an unsuccessful attempt to achieve peace between royalist and rebel factions in 1215 as a part of the events leading to outbreak of First Baron’s War.
- Petition of Rights in 1628: A document drawn up by opposition members of the English Parliament, led by Coke. It came at the time of Charles I's wars against France and Spain, and the lengthy quarrel over tunnage and poundage. It stated parliamentary grievances and forbade illegal unparliamentary taxation, the forced billeting of troops, the imposition of martial law, and arbitrary imprisonment. Charles did assent to the Petition but it was a limited parliamentary victory and did nothing to curb Charles's unconstitutional rule during the 11 years of government without Parliament.

⁶ The concept of negative liberty was firstly addressed by Isaiah Berlin in 1990 in his essay Two Concepts of Liberty.

- The Bill of Rights (Declaration of Rights) in 1689, England: Bill of Rights, formally An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown (1689), considered as one of the basic instruments of the British constitution, the result of the long 17th century struggle between the Stuart Kings and the English people and Parliament, it incorporated the provisions of the Declaration of Rights.
- The American Declaration of Independence, 1776: it is one of the most important documents in the history of the United States. It was an official act taken by all 13 American colonies in declaring independence from British rule.
- The French Declaration of Human and Citizenship Rights, 1789: The declaration contained two new ideas, the first was that man as an individual has natural rights which are inalienable and sacred including liberty and security, the second one states that the purpose of all political association is the preservation of natural and inalienable rights of man.⁷

In the modern age the idea of classification of rights has been incorporated in international documents such as U. N's the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights. The ICCPR which was signed in 1966 incorporates the Isaiah Berlin idea of negative liberty and is the best example of what Vasak call it as classification of rights. The covenant contains 53 Articles which includes Human Rights such as right of self-determination, right against discrimination, right to equality, right to life, right against torture, right against slavery, right against arbitrary arrest and detention and other civil and political rights.

Second generation of rights

The second generation of rights presumes a positive action of the state and includes social, economic and cultural rights.⁸ The second generation of right has its corresponding covenant signed in 1966, ICESCR that is International Covenant on Economic, Social and Cultural Rights, 1966. The second-Generation rights or rather the covenant includes rights such as:

- The right to work
- Freedom of association
- Right to education

⁷ The French declaration of Human Rights and Citizenship Rights, 1789, art. 2

⁸ Karl Vasak, in his article "30 years of struggle: the sustained efforts to give force of law to the Universal Declaration of Human Rights" states that second generation rights require positive action by the state to be implemented, as is the case with most social, economic and cultural rights.

- Right to highest attainable standards of physical and mental health, including health care
- Right to culture and benefit from scientific progress
- Right to just and favourable conditions at work
- Right to adequate standard of living

The second generation right requires institutional support from the State. Here the state must intervene through legislation to create an institutional system that allows exercise of rights such as right to education.

Third Generation of Human Rights

The concept of third generation oh Human Rights was introduced by Professor Karl Vasak , 1979 inaugural lecture at the International Human Rights Institute where Vasak stated that:

“Third generation solidarity rights are new in the aspirations they express, are new from the point of view of human rights in that they seek to infuse the human dimension into areas where it has all too often been missing, having been left to the State, or States. They are new in that they may both be invoked against the State and demanded of it; but above all they can be realized only through the concerted efforts of all the actors on the social scene: the individual, the State, public and private bodies and the international community.”⁹

The third generation of Human Rights is also referred to as solidarity rights which requires collective action of individuals and states and other political unit to be enforced in a rightful manner. The three solidarity rights which were discussed by Vasak were; the right to development, the right to healthy environment, and the right to peace.¹⁰ The right to development was codified in 1986 in the United Nations Declaration on Rights to Development. In case of right to healthy and clean environment many conventions have mentioned about this right like Stockholm Declaration on the Human Environment in 1972, The African Charter on Human and Peoples rights in 1981, The United nations World Charter for Nature in 1982 and the Additional Protocol to the American Convention on Human Rights in the Area of Economics, Social and Cultural Rights of 1988.

The right to peace was first codified in as an individual and collective right by the UN General Assembly Declaration on the preparation of Societies for Life in Peace, 1978, which states that every nation and every Human being has the inherent right to life in peace. The right to peace

⁹ Jason Morgan-Foster, “Third Generation Rights: What Islamic Law Can Teach the International Human Rights Movement”, 8 YALE HUM. RTS & DEV. L.J. (2005) available at <<https://digitalcommons.law.yale.edu/yhrdlj/vol8/iss1/2/>>

¹⁰ Ibid, page 85

is also mentioned in the 1984 Declaration on the Right of Peoples Peace. Now there are many others rights that part of solidarity rights such as right to natural resources, right to participation in cultural heritage, right to intergenerational equity and sustainability. The African Charter on Human and People's Rights, 1981 incorporates in itself many of these solidarity rights.

IV. THREE GENERATION RIGHTS UNDER INDIAN CONSTITUTION

The Constitution of India came into force on 26th January, 1950. The Fundamental rights under Indian Constitution incorporated the rights mentioned under the Universal Declaration of Human Rights. India has acceded to the UDHR and also the subsequent covenants of Economic, Social and Cultural rights and Civil and Political rights adopted by the Central Assembly of the United Nations. The incorporation of three generation of rights can be easily identifies under Part III and IV of the Constitution incorporating Fundamental rights and Directive Principle of State Policy.

First Generation of Rights: The Fundamental Rights guaranteed under Part III of The Constitution incorporates the rights mentioned under United Declaration of Human Rights and International Covenant on Civil and Political Rights. These covenants incorporate the natural rights in them and therefore Part III also has transformed those natural rights into fundamental rights. These rights limit the powers of the organs and authorities set up by the Constitution or by the State. But the fundamental rights are not absolute, they are subject to limitations imposed by the Constitution on these Fundamental Rights. Starting from the Preamble of the Constitution, it states to secure to all its citizens:¹¹

- Justice: social, economic and political
- Liberty: of thought, expression, belief, faith and worship
- Equality: in status and opportunity
- Fraternity: which will ensure the dignity of the individual.

The other fundamental rights of the constitution derive their authority from the Preamble of the Constitution. Part III of the Constitution incorporates the first generation of rights such as right to equality¹². The rights against discrimination on grounds of religion, race, caste, sex or place of birth¹³, the equality of opportunity in matters of public employment¹⁴. The six-freedom

¹¹ The Constitution of India, Preamble

¹² The Constitution of India, art. 14 guarantees equality before the law where it states that the State shall not deny to any person equality before the law or equal protection of laws within the territory of India.

¹³ The Constitution of India, art. 15

¹⁴ The constitution of India, art 16

incorporated under the head protection of certain rights regarding freedom of religion¹⁵, it guarantees six freedoms:

- Freedom of speech and expression
- Freedom to assemble peacefully and without any arms
- Freedom to form association or unions
- Freedom to move freely throughout the Territory of India
- Freedom to reside and settle in any part of the territory of India
- Freedom to practise any profession or carry on any occupation, trade or business.

The most important right is right to life and personal liberty but it is also subject to limitation¹⁶. Article 22 protects the citizens of India from arrest and detention in certain cases. It provides for fair procedure to be followed in case of arrest and detention of an individual. Article 25 to 28 of the Constitution gives freedom of religion, article 29 and 30 incorporates cultural and educational rights, article 23 and 24 incorporates right against exploitation and article 32 provides for right to constitutional remedies.

Second Generation Rights: The cultural, social and economical rights are incorporated under Part IV of the Constitution stated as Directive Principle of State Policy. The DPSP are borrowed from Constitution of Ireland and Ireland from the Spanish Constitution. These are the instruments of instruction which were enumerated in the Government of India Act, 1935. These directives seek to establish economic and social democracy in the country. The socialist and welfare precepts have been incorporated under Article 39 of the Constitution:

- Right to adequate means of livelihood, art. 39 (a)
- Right against economic exploitation, art. 39 (e)
- Right to equal pay for equal work for both men and women, art. 39 (d)
- Right to work, art. 41
- Right to leisure and rest, art. 41
- Social security rights, art. 41 provides right to public assistance in case of unemployment, old age, sickness.

DPSP also incorporates principles of social and economic justice and goals that State strives to

¹⁵ The Constitution of India, art. 19

¹⁶ The Constitution of India, art. 21 which protects right to life and personal liberty except according to procedure established by law.

achieve. Article 38 directs the State to bring about welfare of the people by securing and protecting the social order by keeping a check that there is no concentration of wealth and control of the material resources so that they are distributed in such a manner so as to best subserve the common good.¹⁷ DPSP also provides just and human conditions of work and maternity leave¹⁸, mandatory payment of living wages to workers¹⁹, the state shall also endeavour to secure for the citizens a uniform civil code throughout the territory of India²⁰, free and compulsory education and promotion of educational, economical interest of scheduled castes, scheduled tribes and other weaker section mentioned under article 45 and 46 respectively. Other duties and rights include equitable justice and free legal aid, protection and improvement of environment and safeguarding forest and wild life, promotion of international peace and security etc.

Third Generation rights: the rights also known as solidarity rights are also part of the Indian Constitution under unenumerated rights. These rights are not enumerated under Indian Constitution but are part of it such as right to privacy, right to clean environment etc. Most of these rights are part of right to life and personal liberty. The Supreme Court of India has given wider implication to right to life and personal liberty. In the case of Justice K.S. Puttaswamy v Union of India²¹ held that right to privacy is protected as an intrinsic part of right to life and personal liberty under Article 21 and as a part of freedom guaranteed by Part III of the Constitution. Justice D.Y. Chandrachud held that privacy concomitant of right of individual to exercise control over his or her personality. In the Doon Valley Case²² Article 21 was invoked to prevent the degradation of the Mussoorie Hills due to the mining operations. The court held that Article 21 included in its sweep a right to clean environment and that the permanent assets of the mankind cannot be allowed to be exhausted in our generation.

In the case of Subhas Kumar v State of Bihar²³ it has been held that public interest litigation is maintainable for ensuring enjoyment of pollution free water and air which is included in the right to live under article 21 of the Constitution. In M.C. Mehta v. Union of India²⁴ Supreme Court held that the right to clean environment is a fundamental right. Article 21 also incorporates compensation rights in case of violation of right to life and personal liberty. In the

¹⁷ The Constitution of India, art. 39 (b), (c)

¹⁸ Ibid, art. 42

¹⁹ Ibid, art. 43

²⁰ Ibid, art. 44

²¹ AIR 2015 SC 3081

²² AIR 1985 SC 652

²³ AIR 1991 SC 420

²⁴ AIR 1988 SC 1037

case of *Rudal Shah v State of Bihar*²⁵ the supreme court held that the court has the power to award monetary compensation in appropriate cases where there has been violation of Constitutional right of citizens.

V. CONCLUSION AND EMERGENCE OF FOURTH GENERATION

The division of Human rights by Karl Vasak is not a rigid demarcation, and it doesn't seem so that by dividing the Human Rights into three generation he wanted to separate civil and political rights from social, economic and cultural rights and both of them from solidarity rights. Most of the rights overlap each other from all three categories. These division of rights is basically indicating the evolution of Human Rights from generation to generation. Different rights have played important role in different time period, post World War II era needed protection of basic Human Rights of the people because of the unimaginable destruction caused to the Human life and large-scale violation of human rights. After some time with the increase in development, the social and cultural and economic rights were required to be protected. The people asked for equality in pay between men and women, right to opportunity and employment, right to education, right to work are important rights. As globalisation started the economic gap increasing between the people which is still prevalent therefore the economic rights like checking upon concentration of wealth, proper distribution of resources, right to basic needs such as shelter, food and clothes were all included in Human Rights.

Fourth Generation?

With further passage of time industrialisation has increased and so has the environmental problems and therefore right to clean environment has also been included under the Human Rights which in turn requires protection of the degrading environment. A new generation of rights are also in discussion called as Fourth Generation of rights, its obvious this generation is digital generation so the Human rights may also include new rights for this generation. The recent example being internet suspension in Kashmir because of the abrogation of Article 370. The act was challenged in the Supreme Court where the court held that freedom of speech and expression and trade and commerce through internet is fundamental right²⁶. The internet has become necessity and therefore Human rights of digital age may also develop as Fourth Generation of rights. Rapid decline of forest areas, increase in temperature, rapid environment degradation is causing great threat for future generation therefore it is indicative that there will be formulation of new Human rights keeping in mind the degradation of environment for the

²⁵ (1983) 4 SCC 141

²⁶ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637

future Generation. Environmental Law see them as rights of future generation and it seems that it may be one included and form part of Fourth Generation Rights.

It is safe to conclude that there is need for emergence of fourth generation of Human Rights as an answer to the rapid technological advancements and changes in social dynamics and these rights shall surround many areas such as Digital Rights, Environmental Rights, Bioethical Rights, Artificial intelligence and robotics.

VI. BIBLIOGRAPHY

References:

- Domaradzki, S., Khvostova, M. & Pupovac, “D. Karel Vasak’s Generations of Rights and the Contemporary Human Rights Discourse”, 20 Hum Rights Rev 423-443 (2019)
- Dr. Anant Kalse, “A Brief Lecture on Human Rights in Constitution of India”, Commonwealth Parliamentary Association, Dec 30, 2016.
- Jason Morgan-Foster, “Third Generation Rights: What Islamic Law Can Teach the International Human Rights Movement”, 8 YALE HUM. RTS & DEV. L.J. (2005)
- Jason Woodroffe, “A Fourth generation of Human Rights?”, *The Organisation for*
- Lindsey Reid, ‘The Generation of Human Rights’, UAB Institute for Human Rights Blog
- Sarbani Guha Ghosal, Human Rights: Concept and Contestation, 71 The Indian Journal of Political Science, 1103-1125 (Oct-Dec 2010)
- *World Peace*, Oct 19, 2020 available at < <https://theowp.org/a-fourth-generation-of-human-rights/> > (Last visited on Feb 20, 2021)

International Documents Referred:

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966

Constitution

- The Constitution of India
