

EVOLUTION AND GENERATIONS OF CONCEPT OF HUMAN RIGHTS : AN ANALYSIS

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ABSTRACT

The term “Human Rights” refers to the concept that every member of human race has a set of basic claims simply by virtue of humanness. They are based on the principle of respect for the individual. They are universal so they are called human rights. Human rights are founded on respect for the dignity and worth of each person. They are inalienable, indivisible, interrelated and independent. Human rights are integral to promotion of peace and security, economic, prosperity and social equity. Human rights are possessed by the human being irrespective of the fact that they belongs a particular state, society, race or religious faith. Human rights are provided by the constitution to protect human from the atrocities of the state. In present age nobody can imagine living without human rights. They are must for overall development of individual. In present study an effort has done to explain evolution and categories of human rights.

KEYWORDS: MEGNA CARTA, Petition of Rights, Bill of Rights, Inalienable, Enforceable.

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Human is the best and unique creation of the god, so it is necessary to give priority to the human relationship and values in human made society. Nature has given some natural rights to every human being to live dignified life. Generally they are called Human Rights. Harold J. Laski defines rights as – those conditions of social life without which no man can seek, in general, to be himself at his best. Human Rights are given to every person by birth, so that every human being has the liberty to perform all functions according to the norms of society and law. Rights are an essential requirement of social life, without which the human being neither develop his personality nor do useful work for the society. The existence of human life without rights cannot be imagined. The best objective of the state is the overall development of the personality of the individual; for it some facilities are provided to the persons by the state. These external facilities provided to persons by the state are named rights. The term “Human Rights” was mentioned in the United States of America’s Declaration of Independence in 1776. A Bill of Rights was embodied in the Constitution of The United States of America.

MEANING OF HUMAN RIGHTS :

The term “Human Rights” is a dynamic concept. Human rights also regarded as fundamental and inalienable rights which are essential for life as human being. Everyone is endowed with certain entitlements merely by reason of being human. Human rights are the rights which are available to every human being, irrespective of his or her nationality, race, religion, sex, etc., simply because he or she is a human being. Human rights and fundamental freedom allow us to fully develop and use our human qualities, our intelligence, our

talents, and our conscience and to satisfy our physical, spiritual and other needs.

According to N.A. Palkhiwala, Human rights may be described as those rights which required for the development of a fully and complete human personality; the rights that recognize the dignity and worth of human persons; the right that are conducive to the flowering of human spirit, a humanizing and civilizing force.

The United States defined Human Rights in policy document in 1978 and said:-

The right to be free from governmental violation of the integrity of the person. Such violations include torture; cruel, inhuman, or degrading treatment or punishment; and arbitrary arrest or imprisonment, as well as “denial of unfair public trial and invasion of the home”;

The “right to the fulfillment of such vital needs as food, shelter, health, care, and education”;

The “right to enjoy civil and political liberties” such as freedom of thought, religion, assembly, speech and press, as well as freedom of movement within and outside one’s own country and freedom to take part in government.”

In the National sphere, the protection of human rights act, 1993, defines human rights as “the rights relating to life, liberty, equality and dignity of the individuals guaranteed by the constitution or embodied in the international covenants and enforceable by courts in India. The India embodied only enforceable rights in the constitution that are called human rights.

In simple words, **Human rights are those moral rights which are owned by each man and woman solely by reason of being a human being.** They are inherent in human

being rather than in societies and states. Thus the concept of non-discrimination is the basis of the human rights and they are the sacred possession of the entire community. These are the rights which no one can be deprived without a great affront to justice.

Development of Human rights and Universal Declaration of Human rights: Human rights have a long history of development. On 15 June, 1215 in England **Magna Carta** was accepted by King John. By it feudal potentate's rights were accepted and gradually they would also have transferred to the common men. The **Magna Carta** ended the tyranny kingship and established the limited monarchy and rule of law in England. This process of rights was continuing ahead by **The Petition of Rights** (1628) and **The Bill of Rights** (1689). These three are called the Bible of England's constitution. These are the most spiritual impulses of the English revolution but much more than the metaphysical inspiration of the present declarations of human rights. In United States of America on July 04, 1776 it was declared that "All persons are born equal and God gives them some rights which cannot be snatched away by anyone. Right to life, Right to freedom and Right to pleasure are included in it." By first ten amendments of the constitution of United States of America, the Bill of Rights was adopted. In French Declaration (1789) of human rights, three things were adopted Freedom, Equality, and Fraternity. The three basic tenets of human rights in 19th century all these became a part of the law of all European states.

After World War 1st the Russian revolution widened the concept of human rights and added a new vital dimension of socio-economic rights of the people. International charter and national constitution framed after World War 2nd have shown realization that peace within and among the nation's can be permanent only, if it is based on basic human rights and socio-economic justice. The traditional rights like-freedom, liberty, and equality could be meaning fully enjoyed accompanied by social and economic right. The concept of right of the individual has become the concept of "Justice-social, economic and political". It is a significant development of our time. The term human right has become popular after World War 2nd. During the World War 2nd the ruthless tyranny of Nazi regime and the slaughter by the Germans of minorities and inhabitants of occupied territories, brought a wide insistence that human rights must be internationally accepted and protected.

With a view to implement the provisions of the United Nations Charter concerning human rights, the General Assembly of the United Nations decided to prepare an International Bill on Human Rights. The Declaration on Human Rights was prepared by the commission on Human Rights in 1947 and 1948. On December 10, 1948 the United

Nation Organization's General Assembly adopted, characteristically without a dissenting note, the now famous Universal Declaration of Human Rights which may be said to be almost the first ever international effort to codify the fundamental rights. The General Assembly then consisted of representatives of 58 States, out of these 48 voted in favour of the declaration and non against it. That show how complete was the unanimity among the leaders of the world that the inherent dignity of man and equal rights of all members of human family are the foundation of freedom, justice and peace in the world. When the Universal Declaration of Human Rights was adopted, it was a most eloquent expression of hope by a world emerging from the most devastating war in the history of human race. The experience gave the Universal Declaration a momentum that is reflected in the boldness of this document, destined for a world of peace where the rights to live in peace has become reality for all.

Preamble of the Universal Declaration of Human Rights: One of the main reasons for the inclusion of the provisions concerning human rights in the United Nations Charter was the bitter experience which the mankind had undergone during the 1st and 2nd World War when large scale violations of human rights were made. The preamble of the United Nations Charter expresses the determination "to save succeeding generations from the scourge of war" which twice has brought untold sorrow to mankind, and "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women" Preamble of the Universal Declaration of Human Rights is as follows:-

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of the freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspirations of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort to rebellion against tyranny and oppression, that human beings should be protected by the rule of law.

Whereas it is essential to promote the development of friendly relations between nations.

Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal

rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observation of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

It may be noted that the Declaration is neither addressed to nations nor to Member States but to every individual. This is in the words "We the peoples of the United Nations" with which the preamble of the United Nations Charter commences.

The rights proclaimed in the Universal Declaration of Human Rights are these:-

Article 1:- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2:- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3:- Everyone has the right to life, liberty and security of person.

Article 4:- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5:- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6:- Everyone has the right to recognition everywhere as a person before the law.

Article 7:- All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8:- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9:- No one shall be subjected to arbitrary arrest, detention or exile.

Article 10:- Everyone is entitled in full equality to fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12:- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nation.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouse.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18:-Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19 :-Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22:- Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24:-Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28:-Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedom, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedom may in no case be exercised contrary to purposes and principles of United Nations.

Article 30:-Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Since its adoption the Universal Declaration has exercised a powerful influence, both internationally and nationally. The Declaration has set a standard by which national behaviour can be measured and to which nations can aspire. Human Rights have covered a wide variety of different aspects of life ranging from genocide and prevention of discrimination, to freedom of information, association, status of women, refugees, etc.

The Universal Declaration of Human Rights, 1948; the international Covenant on Civil and Political Rights, 1966; the International Covenant on Economic, Social and Cultural Rights 1966 and Optional Protocol of the international Covenant on Civil and Political Rights constitute International Bill of Human Rights. The provisions of the Universal Declaration of Human Rights have influenced various national constitutions enacted after the adoption of the Universal Declaration.

Generation of Human Rights:

In 1979 a Czech Jurist Karel Vesak, (First secretary-General of the International Institute of Human Rights in, Strasbourg) introduced the three generation of Human Rights. The division proposed by Vesak, follows the three core principles of the French Revolution which is: Liberty, Equality and Fraternity. This division of human rights has given place in the charter of Fundamental Rights of European Union. The Universal Declaration of Human Rights includes rights that are thought of as Second Generation as well as first generations ones, but it does not make the distinction in itself. Human Rights may be classified in

various ways. Louis B. Sohn has classified human rights in the following three categories.

- (1) The Human Rights of First Generation;
- (2) The Human Rights of Second Generation; and
- (3) The Human Rights of Third Generation.

Human Rights of First Generation (Civil and Political Rights):

First Generations of human rights are civil and political. They are known as “Blue Rights” because these rights are mainly concerned with Liberty and Political participation. They are sometime called “Negative Right” because they prevent a state from interfering with rights of individuals. The Main source of the civil and political rights is considered to be the American and French Revolution. First Generation rights came as formal assurance against the arbitrary and oppression of governmental tyranny. Moses Moskowitz calls the human freedom and liberty as “the fruits of struggle against the authority of state.”

Apart from liberty and political participation first generation rights include, following other rights: Freedom of speech, Freedom of the press, Freedom of Assembly, Freedom of religion, Right to fair trial, Right to vote, Right to life, Right to Privacy, Prohibition of torture and inhuman or degrading punishments, Prohibition of slavery and force labour, Equality before law etc. These Human Rights reflects in various national and international documents as: (1) Magna Carta, (1215), (England) (2) Claim of Right Act (1689), (Scotland) (3) Bill of Rights (1689), (England) (4) Universal Declaration of Human Rights –Articles 03 to 21 (1948), (“UDHR”) (5) International Covenant on Civil and Political Rights (1966), (“ICCPR”).

Improving First Generation rights is a casual link from first generation human rights to improve socio-economic outcomes.

Human Rights of Second Generation (Economic, Social and Cultural Rights)

Second-Generation human rights are concern to equality and after World war 1st many governments began to recognize these rights. The main source for the origin of these rights is considered to be the Russian Revolution of 1917 and the Paris Peace Conference of 1919. The Paris peace Conference is more significant for the establishment of the International Labour Organization. Second-Generation human rights are fundamentally economic, social and cultural rights. They are sometimes called “Positive” rights because they may require the government to spend money and impose positive obligation on the state. They promote equal conditions, opportunities and treatment (to extent of available resource). These rights are required that government should take action to secure these rights to the people. The Second

Generation rights with minorities rights are known as the “Security Oriented Human Rights” because they collectively provide and guarantee the essential security in the life of an individual.

These rights are sometimes called as “Red Right” because it is government’s responsibility to respect, promote and fulfil them, but this depends on the availability of government resources. Secondary rights include many rights as: Right to education, Right to housing, Right to health care, Right to work, Right to free time, Right to organize and bargain collectively, the right to insurance for sickness, old age and disability (Social insurance), Right to unemployment benefits or social security. These Human Rights are found in various national and international documents as: (1) Universal Declaration of Human Rights –Articles 22 to 27 (1948), (“UDHR”) (2) International Covenant on Economic, Social and Cultural Rights (1966), (“ICECR”).

The actual credit goes to the American President Roosevelt for giving wide expression to these rights. On 06 January, 1941, President Roosevelt referred in his message to the congress the four essential freedoms viz., freedom of speech and expression, freedom of every person to worship god in his own way, freedom from want and freedom from fear to which he looked forward as the foundation of a future world. Today, many nations or groups of nations have developed legally binding declarations guaranteeing comprehensive sets of human right e.g. the European Social Charter.

Human Rights of Third-Generation (Collective Rights)

These are collective rights. Third-Generation human rights are beyond the civil and social rights. They are sometimes called “Green Rights.” They are described in many progressive international documents as: Stockholm Declaration of United Nations Conference on the Human Environment, (1972) and Rio Declaration on Environment and Development, (1992) and other soft law documents. They also known as Solidarity human rights or Collective rights, because they focus on collective concepts, such as community or people. According to Louis B. Shon, individuals are also members of communities- family, religious communities, social or professional communities or racial communities (groups) or political community, the state. It is not surprising, therefore, that international law not only recognises inalienable rights of individuals, but also recognises certain collective rights exercised jointly by individuals who are grouped into larger communities including people and nations.

These rights are also known as Solidarity Rights, because their implementation depends upon international cooperation. This category of rights is based on the sense of solidarity, which is essential for the realisation of the major

concern of the international community such as peace, development and environment. According to Karel Vesak, the third generation of human rights refers to the fraternity or brotherhood.

Third-Generation human rights include many rights as: Group and collective rights, Right to self-determination, Right to economic and social development, Right to a healthy Environment, Right to natural resources, Right to communicate and communication rights, Right to participation in cultural heritage, Right to intergenerational equity and sustainability. As a group and collective rights we may include: Disabled rights, Women rights, Old age people rights, Children rights, Refugee rights and other many groups. The most cherished rights belonging to the Third Generation of rights are the rights to self determination, the right to development and right to peace. According to Karel Vesak two generation of human Rights represents the first two of the three guiding principles of the French revolution, which is liberty and equality.

Some countries have constitutional mechanisms for safeguarding Third Generation rights. For example, the New Zealand Parliamentary Commissioner for Environment; The Hungarian Parliamentary Commissioner for future generations and the Parliament of Finland’s Committee for the future, and the erstwhile commission for future generation in the Knesset in Israel. Some international organizations have offices for safeguarding such rights. An Example is the high commissioner on National Minorities of the Organization for Security and co-operation in Europe. The Directorate General for Environment of the European Commission has as its mission protecting, preserving and improving the environment for present and future generations and promoting sustainable development

Human Rights of Fourth-Generation (Fourth-Generation of Subjective Rights)

Many activist, authors, thinker and analysts working in the field of Human Rights claim regarding emerging of Fourth Generation of rights. In this category we included the so called rights –Cyberspace and information technical rights (Digital Right), the Rights of Future Generation and Genetic Engineering or Rights.

Cyberspace is as relatively new and unknown field of human rights law. Generally it is supposed to use of internet, as a service tool for private purposes without the fear of third parties accessing and using user data in various way without their consent. This mainly includes topics like: receiving information, freedom of expression, security and privacy on internet.

Future Generation rights belong to humanity as a whole. The rights of future generation are related to Environmental rights (Sustainable development).

Genetic engineering initially referred to various techniques used for the modification or manipulation of organisms through the processes of heredity and reproduction. Studying of human genome, genetic manipulation, in vitro fertilization, experiences with human embryos, euthanasia and eugenics are activates that can generate complicated issues. Critics have objected to the use of genetic engineering on several grounds, including ethical, ecological and economic concerns.

The central idea is that human being should not be genetically influenced, in any way. Each person has its right to life, dignity, personal identity so genetic manipulation must be prohibited on the basis human rights.

Conclusively, Human rights are rights inherent to all human being. They define relationships between individuals and power structures, especially the state. Human rights delimit state power and; at the same time, require states to take positive measures ensuring an environment that enables all people to enjoy their human rights. Human rights pertain to all aspects of life. Human rights encompass civil, political, economic, social and cultural rights, as well as the collective rights of people. Starting with On 15 June 1215 in England Magna Carta, the idea of human rights has driven many revolutionary movements for empowerment and for control over the wielders of power, particularly government. Even today, as civilization is developing, new dimensions of human rights are developing.

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