

THREE GENERATIONS OF HUMAN RIGHT

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Proposed in 1979 by Czech-French jurist Karel Vasak at the International Institute of Human Rights in Strasbourg, the three generations of human rights are the reflections of the main human rights ideals being protected and upheld during the three centuries, namely the 18th, 19th and the 20th century. During each century a particular dimension of human rights were given primordial concern. The “Three Generations of Human Rights” concept is also regarded as a portrayal of the evolution of human rights from its inception till the 20th century.

The concept of “three generations” is critically linked to the concepts which shaped the French revolution: liberté, égalité and fraternité. By proposing this concept, Vasak argues that Human Rights can be classified into three generations: civil-political (18th century), social-economic-cultural (19th century) and collective or solidarity rights (20th century). Vasak’s model is, of course, a simplified expression of an extremely complex historical record, but it does not suggest a linear process in which each generation gives birth to the next and then dies away. Nor does it imply that one generation demands precedence over the other. The rights unique or ascribed to each generation do overlap, are cumulative, interdependent and interpenetrating.

First Generation – Civil and Political Rights

The first generation alludes to the rights prevalent and derived from the 18th century. It embodies the concepts of liberal individualism and laissez-faire and consisted primarily of negative rights rather than positive ones.

This generation marks the inception of the concept of human rights; associated with the Enlightenment; so, it reflects an outcry against state intrusion into individualistic pursuits, primarily, civil and political. The freedoms from discrimination, inhuman treatment, arbitrary arrest, detention, exile, torture etc. have been deliberated during this time period. Also, proprietary rights were also advocated during this period. It formed the basis of the American and French revolutions.

The first generation human rights, primarily consisted of negative rights (“freedom from”) as opposed to positive ones (“right to”) because the reason for the advocacy of such rights were to stand against the arbitrary power of the state along with the intrusion of the papal church. But it would be wrong to conclude that only negative rights were advocated. Positive rights, namely, right to security, a fair and public trial, asylum were also negotiated during this period.

Freedom forms the primary notion furthered by the first generation. It was regarded as a shield of protection against the abusive and arbitrary power of the state over individuals. This first generation attribute and ideal of freedom is resonated in almost every Constitution of countries embarking democracy.

The key people instrumental in the formulation of first generation human rights were Hobbes and Locke whose works solicited individualism and the generation is considered a reprisal against Hegelian glorification of the State.

Second Generation – Social, Economic and Cultural Rights

Drawing life from the socialistic tradition, second generation human rights, formulated in the 19th century, consisted of fundamental rights concerning social,

economic and cultural dimensions of human life. The formulation of second generation rights was retaliation against capitalism that had formed as a result of the 18th century. The human rights movement, which defined the second generation, began in early 19th century simultaneous and concurrent to the Saint-Simonian movement which advocated Christian Socialism.

The second generation human rights movement was opposed to capitalistic endeavours, rather than the State. It was due to the uncritical conception of individual liberty which ultimately led to abusive exploitation of the working class and of colonial peoples.

Essentially, the second generation human rights are a counter-point to first generation human rights. To be accurate, it countered the excessive and uncontrolled advocacy of individualism which ultimately led to the oppression of individuals, communities and classes alike. That constituted the reason why the second generation consisted majorly of positive rights as compared to the first generation which primarily advocated negative rights.

A stark contrast that the second generation bore as compared to the first was that it called for the intervention of the state rather than its abstention. It made such a call to ensure that there was equitable distribution of values and capabilities among the oppressed. Yet, such a call was limited as the second generation was emphatic on attaining and promoting social equality and most rights claimed during the period did not essentially require much state intervention for the enforcement of the same.

Second generation human rights have been embedded in the Universal Declaration of Human Rights, such as the right to social security; the right to work and to protection against unemployment; the right to rest and leisure, including periodic holidays with pay; the right to a standard of living adequate for the health and well-being of self and family; the right to education; and the right to the protection of one's scientific, literary, and artistic production.

Again, it cannot definitely be said that the second generation exclusively identifies positive rights only. Rights such as the right to free choice of employment, the right to form and to join trade unions, and the right to participate freely in the cultural life of the community enshrined in the Universal Declaration of Human Rights do not inherently require affirmative state action to ensure their enjoyment.

When compared to first generation rights, second generation rights have not gained sufficient momentum and have not formed part of a strict international legal regime. This is much due to the delayed arrival of socialist-communist influences and the neo liberal globalisation of the 20th century. But since the demand for social equality rise with apparent human rights violations by corporate entities; second generation human rights is predicted to grow and mature as time goes on.

Third Generation – Collective or Solidarity Rights

Evidently the product of 20th century liberal thought, anti-colonialism and anti-imperialism; third generation human rights is a reconceptualization of the first two generations of human rights. Predicted to have followed from the rise and fall of the state, third generation rights was facilitated by the technological advancements of

the second half of the 20th century; so, the movement involved the efforts of human rights institutions and interest groups.

The third generation essentially reflected the rise of “nationalism” and the demand international comity in the distribution of wealth and power among peoples, particularly the protection of colonised and indigenous people.

Six rights in general can be said to claim the rights belonging to the third generation. The right to political, economic, social, and cultural self-determination; the right to economic and social development; the right to participate in and benefit from “the common heritage of mankind”, the right to peace, the right to a clean and healthy environment, and the right to humanitarian disaster relief forms the third generation of human rights. The first three rights mentioned above mirrors the concept of nationalism and “the revolution of rising expectations.” And the remaining three rights were claimed in the third generation realising the impotency of the state in certain critical aspects.

The third generation embodies the concept of collective rights; which requires different social actors to put in effort to safeguard and enforce these rights. So, these rights render themselves more aspirational rather justiciable and possess an ambiguous character.

Thus, at various stages of modern history, human rights have been accorded amorphous definitions. Each definition accorded did not invalidate the existing definition or the concept but accrued the regime. The history of the three generations reveals that each successive generation evolved as a product of necessity rather

than any different approach to interpretation or academic perception. One can see that the first generation resulted in the evolution of the second and the third was the reconceptualisation of the first two. And when closely observed, one can predict the future evolution of the content of human rights to a “fourth” generation (the rights of future generations); which indeed is under debate among scholars.