

CHAPTER - 3

CLASSIFICATION OF HUMAN RIGHTS

Karel Vasak, a Czech jurist has classified Human Rights at international institute of human rights in Strasbourg into three generations in 1979 as;

- Human Rights of first generation- International covenant on civil and political right sometimes called Blue Rights.
- These rights include; the rights to life, equality before the law freedom of speech, the right of a fair trial, freedom of religion and voting right.
- They were pioneered by the United States Bill of Rights and The Declaration of the Rights of Man and of Citizen during eighteenth century.
- Human Rights of second generation- International covenant on Economic, social, and cultural Rights are called Red Rights.
- These Rights are related to equality and began to be recognized by government after World War Two.
- These rights are economic, social and cultural in nature. In this category rights includes right to be employed in just and favourable condition, right to food, housing and health care, rights of social security and unemployment benefits.
- These rights are imposed on the government of the state to fulfill the duty of protecting and promoting rights of citizens.
- Human Rights of third generation Group and Collective rights, these are positive rights hard to legally binding.
- These are the rights beyond the civil and social rights. These rights may be called as Green Rights.

His Theory of division of generations of human rights have primarily taken root in European Laws.

As Lous B. Sohan has also given three categories for human rights.¹ These are following;

(1) First Generation of Human Right,

(2) Second Generation of Human Right,

1. U.L.Rev.(1) 1982, Cited by: Dr. Chandra supra note 16 page-20.

(3) Third Generation of Human Right,

B. Louis Sohn, 'The International Laws Protection of the Right of Individual Rather than State'

3.1 First Generation of Human Rights:-

At the present rights declared by different countries before or after the 'Universal Declaration of Human Rights' by the United Nations Organization are continued to be a subject of debate and research of various jurists, political thinkers and philosophers since civilization throughout the world. The different rights contained in the concession to the common (civil) and political rights are the rights have possessed old history of their journey.

These are the right that grow in course of a long stretch of the time following the time the history of the Greek City State and created as the Magna Carta, the American affirmation of freedom and rights of man and the French Declaration of the privilege of man and of the Citizen many other legal documents as discussed in earlier chapter. Moral values as the essential feature of fundamental or human rights always attracted the attention of legal and political thinkers and philosophers.

They gave positive response to the society on moral values. Hence the rights considered under the human rights and fundamental rights category since a long time, have reconcile human values and in that capacity are strengthen in the documentation on political and civil rights in the European Conventions on inter American and African agreement on human rights.

These rights show the impact of human values and norms on the basic structure of declared human rights. Most of the rights are directly or indirectly related to the constitution of different states such as in International Conventions on political & civil right, the European Conventions for individual right & African instrument.

These rights are related to number of important national and international document, and are overwhelming of international association presented the ascent to international standards and law of worldwide affiliation for general application Under Indian constitution some principle of social equality such as -rights to love, rights, to security, rights to free discourse, rights to freedom, rights to life etc. & some political

rights likewise like - right to vote, right to free race etc. rights are related to liberties to person are provided for persons.

These rights are necessary and fundamental for any person to live a dignified life. Though the nature of political and civil right may be quite different but both are co-related to each other. These rights are included in the first generation of human rights. Which are taken after some events of 17th and 18th century from reformative theories which are related to American, French and English revolutions.

3.2 Second Generation of Human Rights:-

The second generation of Human rights is covered by international convention on social, economic and cultural rights. The sources for the creation of economic, and social rights are from Russian revaluation 1917, and the peace conference of Paris 1919. The Paris peace conference known for the further establishment of International Labour Organization which gave more importance or emphasis on the social justice by proclaiming that “peace can be established only if it is based upon social justice.”

The organization says that peace can be making or established by social justice.¹ If any nation fail to adopt all the better human conditions of labour then other nation that can take help from the Organization to improve the condition of labour of its own country. The International Labour Origination develops many international treaties or agreement for successful development of international labour standard with the effective system of supervision and investigation of the complaints.²

For this development credit goes to the American president ‘Roosevelt’ because first time in the history he expressed his desire, for the foundation of any agency dealing with social and economic rights. The president Roosevelt in his message on 6th January 1941 provided four essential freedoms that is freedom for worship of god to every person in his way, freedom of expression and speech, freedom from fear and freedom form wants to which we look all these forward to found a new world.³

1. The International Law, third Indian Reprint,1971 page-152 Ft. N. 67. -Fenwick, Charles G.

2.International Labour Office, Conventions and Recommendations Adopted by the International Labour Conference, 1919-1966(1966)

3 . (1941), 35 AJIL, p. 662

Social, economic and cultural rights are necessary for human life. In the absence of these entire rights person become endanger to the peace and society. He contemplated that “true individual freedom cannot exist without economic security and independence” and that “people who are hungry and out of job are the stuff of which dictatorships are made.”, thus “economic truths have become accepted as self – evident.”¹

Right to food, housing, clothing, freedom from hunger, right to social security, right to work, right to mental and physical health and right to education etc. all these rights covered under this generation of rights. All these right also included or mentioned in the international agreement on social, economic and cultural rights. Sometimes all these rights called positive rights. Social, economic and cultural rights are based on the concept of social equality. Generally these rights are called the rights of second generation.

Here again it is clear the concept of freedom from want in his views, the real freedoms for the individuals would not existed without economically securities & independencies all the rights are another kind of right that may be enjoy by individuals. These are only general principles and not a specific rules or any laws. Nonetheless these rights have begun to come of age.

3.3 Third Generation of Human Rights:-

It is known as collective rights. According to B. Soha every individual are member of this unit or group like religion, family, social, trade, union etc. people, racial, state and nation all are professional union or association. The international law not recognize only by friendly or in alienable rights for the people, but It is recognized by collective rights of the individuals who are grouped into larger communities, including people and nations.²

Those are part of larger society or community. In this both includes people and nation .The united nation recognized only two rights separately in convention there is

1. Eleventh Annual Message to Congress, Jan 11, 1944, pg. 2881 cited by- Dr. U. Chandra, supra note 16 page 21

2. Thomas Buerqenthal and Dinah Shelton, p.11

close relation between these two rights all these easily adopted in developing countries. The political and civil rights are both categories are equally important of these rights when political and civil rights do not apply there is economic, social and cultural rights are not fully applied .

The relation between these two categories of rights applied by or recognized by international human rights in 1968. These rights are declared finally by the authority fundamental freedom and human rights are provided individually. The political and civil rights are not enjoy fully without social, economic and cultural right. In 1977 the general assembly provided all human rights and fundamental freedoms.

The general assembly provides these rights to the indivisible and inter depended and provide equal attention and Thought. The get together secures both rights that are political and social equality and social, financial and society rights. The determination expressed that political and social liberties are method for the monetary and social right of the people.

In 1993 the Vienna gathering again compel that there is the same between the two arrangements of rights. All human rights are indissoluble, general and entomb ward and co related. The global society or group treat human rights are generally and all inclusive reasonable and equivalent way and on the same route and with the same accentuation. This announcement is to appear to be genuine rights and drive from innate poise of the individual and important for his full and free improvement.

The third era of human rights alludes to the organization of fraternity. This classification of rights is best on the same. Maurice Cranston not recognized the second generation and third generation rights as rights. Economist F. A. Hayek also asserted that the concept of social justice of second generation is not practically possible: No state of affairs as such is unjust: it is only when we assume that somebody is responsible for having brought it about.

In the same sense, a spontaneously working market, where prices are as guides to action, cannot take account of what people in any sense need or deserve, because it creates a distribution which nobody has designed, and something which has not been designed, a mere state of affairs as such, cannot be just or unjust. And the idea that

ought things ought to be designed in a “just” manner means, in effect, that we abandon the market and turn to a planned economy in which somebody decides how much each ought to have , and that means, of course, that we can only have it at the price of the complete abolition of personal liberty.¹

Jeremy Waldron, Professor of New York University School of Law, has written in response to opponent thoughts of second generation rights: In any case the argument from the first generation- second generation rights was never supposed to be a matter of conceptual analysis. It was rather this: if one is really concerned to secure civil and political liberty for a person.

It is commitment should be accompanied by a further concern above the condition of the person’s life that make it possible for him to enjoy and exercise that liberty. Why on earth would be worth fighting for this person’s liberty. If he were left in a situation in which the choice between A and B meant nothing to him or in which he choosing one rather than the other would have no impact on life?

1 . Hazlett, Thomas W.(July 1992). “The road from Serfdom: For seeing the Fall”. Retrieved January 4, 2010.