

THIRD GENERATION OF HUMAN RIGHTS: BEYOND UDHR

Dr. Kaushik Mitra, Asst. Prof. & Head, Department of Political Science, Lucknow Christian Degree College, Lucknow.

Dr. Anshu Daud, Asso. Prof. & Head Department of Psychology, Isabella Thoburn College, Lucknow.

Abstract

This article aims to bring a historical summary of the problem of the third generation of human rights, the history of Human rights norms, introduce the historical documents during which human rights are barely declared, particularly ensuring directional attention to the historical circumstances of the prevalence of the Third-generation human rights. Third-generation human rights show that human rights are not just establishments instead they are developing and dynamic in nature. On the contrary, through them, we can establish new issues that threaten the right to life of all folks. Therefore, these rights ought to get and secure their place within the catalogue of human rights. Standards of human life ought to be supported by the capabilities of natural atmosphere while not exhausting resources that ought to retain unchanged in quality and level of exploitation for future generations. Unlike the first and second generation of human rights these concurrent rights are not primarily focused on the protection of individuals; they refer to the class of different social groups.

Keywords: Human rights, Third-generation human rights, environment, Stockholm Conferences, future generations, existence, dignity.

“Human Rights are not a privilege conferred by government, they are every human being’s entitlement by virtue of his humanity” - Mother Teresa.

Introduction

Every person has life and dignity. The norms and principles of human rights have been gradually developed by humanity as a means to ensure that the life and dignity of every human being, without any distinction whatsoever, is properly and equally respected and developed. In other words, it means that a human being will be freely able to fully develop and utilize human inherent qualities (i.e., intelligence, talents and conscience) and satisfy its physical, emotional and spiritual needs. Life and dignity give an individual a sense of real value and worth. However, human life and dignity are not individualistic, exclusive and isolated concepts; these are rather an integral part of our common human existence. The existence of human rights norms and their enforcement mechanisms demonstrate that human beings are aware of each other’s value and worth.

Human rights enable humans to genuinely respect and co-exist with each other; in other words, these are not only abstract notions to be expressed, requested or demanded but to be properly and adequately respected and be fully responsible for their rightful observance. The human rights that apply to an individual also apply to every member of humanity. The denial, abridgement and disrespect of human rights is not only an individual and personal deprivation or tragedy, but also seriously ushers in creation of palpable conditions of social, economic and political unrest, sowing the real seeds of violence and conflicts, inter and intra individuals, families, communities, societies and nations.¹

Human Rights: Types and Contents

Human rights encompass many different areas of human co-existence. They can be divided into several groups, but they are broadly classified into three categories:

- First generation rights
- Second generation rights

➤ Third generation rights

The *first generation* of human rights includes *civil and political rights* such as the right to freedom of expression, freedom of enjoyment, right to life, right to a fair trial, etc.

The *second generation* of human rights includes *economic, social and cultural rights* such as the right to an adequate standard of living, the right to health, right to education and similar rights.

The *third generation* of human rights refers to the *collective rights of society or people*, such as the right to sustainable development, peace or a healthy environment etc.

1. Zafarullah Khan (2019), *Homo Dignita: Theory and Practice of Human Rights*; Pakistan Law House. P. 9

On the one hand, the third generation of human rights indicate that human rights are not just mere institutions, but they develop and change. On the other hand, though they recognize new problems that threaten the legal life of people and therefore, these rights need to find their place in the catalogue of human rights. When it is about the content of human rights, there is no such catalogue of human rights that all countries of the world would recognize as legally binding, a comparison with the text of human rights in various national constitutions, international conventions and proclamations shows the uniqueness of the whole range of human rights. They include the human rights that *Roman Herzog*, a German lawyer and politician, labelled as *Rights to Life*. *Herzog* states: the right to life are protection of the body (including the prohibition of torture and human experimentation), the right to be imprisoned only in certain cases and with respect to certain conditions of freedom, and the right to minimum economic subsistence. This includes the so-called right to freedom, such as the right to freedom of opinion, religious and ideological beliefs, forming and expressing opinions, the right to freedom of assembly and association, the right to freedom of housing and use of property, investment of one's own workforce, etc.

Social human rights must not be understood exclusively as classical rights to freedom, but as objective of legal norms that formulate the obligations of the state as directly valid law, oblige the state to act positively and become directly enforceable law by means of executive laws.

For many years, scientific literature and the UN have been discussing the broader category of human rights, the so-called collective rights, that is, human rights of the third generation.

Development of Third Generation of Human Rights

Until the beginning of the seventies, environmental law and policy were some sort of unfamiliar concepts. The term environment (Umwelt) was for the first time defined by the Estonian biologist, *Jakob von Uexküll* (1864 - 1944), in the book, *'The surrounding and inner world of animals.'* According to him *"the environment is a whole that man sees through his specific, anthropogenic point of view and which he creates by surrounding media (atmosphere, water, land, geographic location, climate, etc.) as well as other living organisms (plants and animals)."*

According to the *ISO 14001* standard, the environment is *"in which an organization operates; these include air, water, soil, natural resources, flora, fauna, humans and their mutual influences."* Today, the environment and its problems should be observed interdisciplinary, and should be put into operation as a whole by acquired knowledge about nature, man and society. From this point of view, the environment can be viewed as a unity of natural environment, social environment and the environment as a result of work.

Before the organization of the Stockholm Political Conference with regard to the environment, it more or less referred to technical measures, for the protection of human health (control of drinking water, measures against air pollution...); on consumer protection and protection of unhindered competition (legislative measures related to health and toxic substances); on safety issues (safety at work, prevention of explosions of various boilers... etc.), measures regarding preservation of nature and appropriate habitats (demarking of natural reserves, protection of natural and historical monuments etc.) were also undertaken.

The first program dedicated to the protection of environment was a conference of the United Nations on *man and the biosphere*, which took place from the 5th to the 16th June 1972, and held at *Stockholm* (Sweden). At its 27th session, the Assembly of the United Nations (hereinafter referred to as the UN) adopted all the recommendations of the *Stockholm Conference*, as well as the Resolution on the establishment *UN Environment*

Programme (UNEP). The *Stockholm Conference* concluded by adopting a declaration that for the first time made the environment a matter of deep political debate, which during the 1960's was triggered and encouraged by scientists from the field of humanities, who gathered at the *Roman Club*. This Roman Club was one of the first and most influential contemporary NGO group. Founded in the beginning of 1968, the Roman Club comprised of a significant group of influential intellectuals and industrialists who encouraged the discussion for solving a large number of political issues of international importance. Their first major breakthrough is the report *Limits of Growth (1972)*, a book that is still one of the most popular books in the field of environmental protection.

The Stockholm Conference is considered a turning point for the UN office, as well as the activities of all factors on environmental protection, because its content and adopted documents raised awareness more intensively and in an organized manner, compelled the world towards serious thinking about the need for environmental protection.

The principles and recommendations of the Stockholm Conference emphasized the general duty of states to protect the environment, and the duty not to cause damage to the environment of other states and to the environment beyond the borders of their national jurisdiction. The need for the cooperation of states in the application of existing international agreements dedicated to environmental protection and in the drafting of new agreements that would cover all sources and methods of environmental pollution, were also highlighted

Principles and recommendations of this conference were mandatory (this is a category of so-called "soft law"). Though the Stockholm Conference, did not adopt an international treaty, it managed to create a new collective atmosphere of cooperation between countries, and it was the first serious step towards the building an international legal environment.

After the Stockholm Conference, many international agreements dedicated to the protection and preservation of the environment mushroomed, which elaborated the principles and the recommendations of the conference. At the same time, based on the recommendations of the conference, at the end of 1972, the UN General Assembly established a new international institution/ Program for environmental issues – '*United Nations Environment Programme (UNEP)*', as the coordinator of environmental protection and preservation activities within the UN system.

In the same year, the UN Assembly declared 5th of June as the *World Environment Day* to mark the importance of the Stockholm Conferences. World Environment Day is celebrated around the world in different ways, such as, gatherings, cycling, parades, reforestation, environmental cleaning actions, etc. Its main goal is to create environmental awareness among people. Only through awareness of individuals one can expect more significant results at the collective level.

The majority of international treaties that were concluded after the conference in Sweden were of a regional character; Because of the numerous advantages of the regional approach to environmental protection and preservation, at least with regard to some sources of pollution. Basically, each region requires a specific approach to the problems of environmental protection due to its characteristic: industrial and economic development.

Second Generation Human Rights: Problems Related to the Environment.

Intensive industrial development caused the emergence of the so-called second generation problems related to the environment (eg. climate change, damage to the ozone layer, droughts, destruction of forests, threats to the maintenance of biological sustainability etc.), which were not covered by principles and recommendations of the Stockholm Conference, nor any international agreements concluded after the conference.

Solving these problems required a completely new approach, i.e. the direct inclusion of environmental protection and preservation in development plans. In this connection, the so-called concept of '*Sustainable Development*', which after the report of the World Commission on *Environment and Development (1987)* became the main theme and guiding idea for a new approach to environmental protection and preservation.

Different international constitutions consider the right to a secure, healthy and balanced environment as an independent human right. At the UN Conference on Environment and Development held in 1992 in *Rio de Janeiro* (the conference is popularly known as the '*Earth Summit*') leaders and high officials of 179 nations had

gathered. In this meeting of world leaders, a working plan was adopted, which aimed to solve development and environmental problems.

This "Program for the 21st Century", popularly termed as '*Agenda 21*', proposes mutually coordinated actions which would make development, economically, socially and ecologically sustainable.

Agenda 21: Program for the 21st Century

The Agenda 21 document was the outcome of the '*Earth Summit*', held in 1992, in '*Rio de Janeiro*' that presents a template for 40 different areas (protection of soil, forests, water, air, sustainable agriculture, rural development, preservation of biological diversity, waste disposal, etc.), and identifies nine basic social groups (women, children and youth, indigenous population, non-governmental organizations, local authorities, workers and trade unions, business world and industry, scientists and farmers), whose actions are of crucial importance for the sustainable development of the Earth. The idea of *Sustainable Development* is the harmonization of economic growth and natural ecosystems. The standards of human life need to be based on the possibilities of the natural environment without exhausting the resources that must remain unchanged in quality and degree for the use of future generations.¹⁴

Historical overview of important meetings since the adoption of the *Agenda 21* document:

- In 1972, the Conference on human environment was held at Stockholm. - the first global meeting of 113 states on the environmental issues.
- In 1983, the UN formed the *World Commission on the Environment and Development*, known as the *Brundtland Commission* (the commission is named after its chairman *Gro Harlem Brundtland*)
- In 1987, The Brundtland Commission issued its report "Our Common Future", which warned that economic development should take place within the ecological limits of planet Earth so that it is sustainable and it satisfies current needs without jeopardizing the needs of the future generations.
- In 1989, the planning of the Conference on Environment and Development began. The preparation process lasted two years and involved many experts, politicians, businessmen, non-governmental organizations and representatives of various social groups.
- In 1992. "*The Earth Summit*" was held in *Rio de Janeiro*, a meeting that brought together the leaders and high officials of 179 countries together. It drafted the "*Program for the 21st century*"- *Agenda 21*.

Human Rights of the Third Generation

Nature is a prerequisite for the survival of human society. While the biosphere can exist without human society, but the opposite is not possible. There is simply no human society without the biosphere. Human society has developed the potential to destroy the earth as its habitat. Despite efforts to preserve the land, society still thrives in exhausting of natural resources and creating damage to the environment. Despite efforts to preserve the land, society still thrives in exhaustion of natural resources and thus resulting in environmental damage. Accepting the premise that a balanced biosphere is a physical prerequisite for life, its preservation should be provided a central and privileged status.

The classification of rights has been grouped into first, second and third generations since the 19th century. In 1977, the division of human rights into three generations was propagated and explained by a *Czech* professor *Karel Vasak*, who was the first general secretary of the *International Institute of Human Rights* in *Strasbourg*.

The *first generation of human rights* refers to those *traditional and political freedoms* that marked the rise of liberal constitutional democracies in the West: *viz. freedom of speech, freedom of religion, freedom of press, freedom from torture etc.*; basically the classical rights.

The *second generation of human rights* refers to the so-called *collective rights*. In contrast to the rights of the first generation, which belonged to the individual, the second generation rights were considered to be held by the whole nation or certain parts of it. Among those rights are the *right to - development, work, security, self-determination, an adequate standard of living*. These rights were codified by the *International Pact on Economic, Social legal and Cultural Rights (1966)*, that is, the *General Declaration of Human Rights (in 1948)*.

Many theoreticians however refuse to recognize these rights as human rights, they argue that courts cannot force the state to perform affirmative duties and that is why such rights are statements of wishes. Critics point out that all states, regardless of the form of their political system or the level of economic development, can ensure civil and political freedoms, but cannot provide financial and technical resources for the realization of affirmative obligations such as education and an adequate standard of living.

The *third generation rights* or so-called *solidarity rights* are the latest recognized generation of rights. This group differs from the previously mentioned groups of rights since their realization is not conditioned by self-affirmation, that is, by the negative duties of the state, but by the behaviour of each individual. These rights of solidarity are not primarily the contagion of the first and second generations of human rights aimed at the protection of the individual. They correspond to different social groups of people.

Rights in this category include self-determination as well as a number of other normative statements whose status is still controversial, *for example, the right to development, right to settlement, the right to a healthy environment, and the right to intergenerational equality.*

Among these rights, the right to a healthy environment requires a healthy human habitat, which means clean water, air, soil, that is free from toxics or risks that threaten human health and life. That is why the right to a healthy environment is connected with the following obligations of the state:

- *Refraining from any direct or indirect interference with the enjoyment of the right to a healthy environment;*
- *Preventing third parties, like corporations etc., to interfere, in any way with the enjoyment of the right to health care of the people;*
- *Adoption of necessary measures to achieve the realization of the right to a healthy environment.*

The Third Generation Human Rights includes:

- *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*
- *Rights to intergenerational equity and sustainability*

These rights include the right to live in an environment that is clean and protected from destruction. Recently, several analysts have started talking about the so-called *Fourth Generation Human Rights* or "*Communication Rights*" which are related to human rights especially in relation to technological development and information and communication technologies and cyberspace.

Conclusion

Along with the right to development, which should help reduce the gap between poverty and wealth around the world, third generation rights include primarily the right to environmental protection. Man's negative impact on the environment was insignificant until the beginning of the 20th century. Because of his activities, the Earth's ecological system was not threatened by serious danger until then. However, man has forgotten that forests, oceans, mountains and scorching deserts, as well as all living beings, are firmly connected to this planet and that they demand respect and reasonable behaviour from him, in order not to disturb the natural balance of the planetary ecological system.

The explosive growth of the population in the last century, the strengthening of the economic activity of human-being, the development of international trade, and man's ever-increasing pursuit of energy and material goods has and will have negative consequences on the quality of the environment. Ecological problems have taken on dramatic proportions because they directly affect people's health and threaten the survival of life on Earth. Harmful to the environment - economic consequences for the environment are manifested not only in the sphere of pollution and depletion of natural resources necessary for life, but also in the sphere of complete degradation of individual spaces in which neither ecologically nor economically man can continue life and economic activity.

It is the first time that the right to a healthy living environment was explicitly mentioned at the UN conference on the human environment, held in 1972, in Stockholm. Since then, the legal foundations of the right to a healthy environment have been strengthened, and a close and inextricable connection between environmental protection and the promotion of human rights has been established.

Although rights in the field of environmental protection quite often attributes the affiliation of the so-called third generation of human rights, requiring that they extend through all three categories. As part of the first group of civil and political rights, these rights serve to enable groups or individuals to receive legal information, legal intervention, and participation in political processes. In this sense, it strives to ensure a minimum standard that is sufficient to protect the right to life and property in the event of environmental damage. Furthermore, a healthy and sustainable environment can be seen as an economic and social right which ensures a certain level of standards and quality in environmental protection. And finally, the right to a healthy environment is often presented as one of the rights in the field of solidarity. (The right to international solidarity is a human right by which individuals and people are entitled, on the basis of equality and non-discrimination, to participate meaningfully in, contributing and enjoying a social and international order in which all human rights and fundamental freedoms can be fully realized.)

Human rights of the third generation represent therefore, a guarantee that the natural human living spaces will not be damaged or completely destroyed, but should protect natural resources for the future generations.

It is necessary to work intensively to raise the consciousness of every individual, every inhabitant of the planet Earth, because every single individual venture, that action taken even at the lowest, local level, can produce effects and consequences of wider regional and global scale.

Several analysts claim that a fourth generation of human rights is emerging, which would include rights that cannot be included in the third generation, future claims of first and second generation rights and new rights, especially in relation to technological development and information and communication technologies and cyberspace. However, the content of it is not clear, and these analysts do not present a unique proposal.

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