CLASSROOM: LESSON Nº4

GENERATION OF HUMAN RIGHTS
What are Human Rights?

**Human:**
Member of the homo sapiens species; man, woman, adult,
Kid; a person

**Rights:**
basic needs to which we are entitled or allowed

**Human Rights** are inalienable fundamental rights to which a person
is inherently entitled for the mere fact of being human
What does the term “generations” mean?

Do the term ‘generations’:

• refer to temporal differences about the emergence of different human rights throughout time?
• refer to properties that some rights share with others or differences among rights?
• refer to the fact that the protection of certain rights is prior to the protection of other rights?

Generations succeed one another, not only in that the members of one generation are born before those of the next generation, but also in that parents tend to die before their children.’ Carl Wellman

“Generations” as a metaphor

a word or phrase used to describe somebody/something else, in a way that is different from its normal use, in order to show that the two things have the same qualities and to make the description more powerful.
A 30-year struggle
The sustained efforts to give force of law to the Universal Declaration of Human Rights

by Karel Vasak

that the Universal Declaration is binding on Member States, others feel that it has become part of customary law, still others see it as brief or "consensual law" for all nations.

In all probability, none of these views is entirely correct. But by recognizing the Universal Declaration as a living document and leaving the judges to argue among themselves, one can probably one's faith in the future of mankind.

The adoption of the Universal Declaration in 1948 opened the way for the drawing of a "network" of bilateral and multilateral treaties. Today the system of international law governing human rights is composed of some 150 treaties, the most important being the Declaration on the Right to Independence of Colonial Countries and Peoples, adopted by the UN on 14 December 1960.

In addition, some 50 protocols can be considered as appendices or the contentious clauses in the related declarations.
Three generations of human rights correspond, respectively, to the three ideals of the French revolution: liberty, equality and fraternity.

- Liberty corresponds to first-generation rights because they protect fundamental freedoms such as freedom of expression and religion.
- Equality corresponds to second-generation rights because they are aimed at the amelioration of social and economic inequalities.
- Fraternity underpins third-generation rights in the sense that it promotes the social solidarity necessary for individuals to develop their full human potential.
THE GENESIS OF HUMAN RIGHTS

- The Cyprus Cylinder
- Magna Carta
- British Petition of Rights
- Thomas Hobbes’ state of nature
- British Bill of Rights
- John Locke’s social contract
- Enlightenment (priority on reason rather than tradition)
- Jean-Jacques Rousseau’s Social contract
- American Revolution and declaration of independence of Britain
- French Revolution
- American Bill of Rights

1800
- Napoleon Invades Europe and proclaimed himself Emperor
- European Coalition against Napoleon
- European started their colonisation’s campaigns across the world
- World War I
- The League of Nations
- Hitler in Power (Nazism)
- World War II (100 millions deaths)
- The United Nations
- Debates on Human Rights: Cyrus Cylinder, Natural Law of Roman, French Declaration of Rights?
- The Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
Three Generations of Human Rights

1\textsuperscript{st} Generation:
Civil and Political Rights

2\textsuperscript{nd} Generation:
Economic, Social and Cultural Rights

3\textsuperscript{rd} Generation:
Collective Rights or Solidarity Rights
1. CIVIL AND POLITICAL RIGHTS OR NEGATIVE RIGHTS

• Emerged as a theory during the 17th and 18th centuries and were based mostly on political concerns.
• Represent the claims of individual persons against the state
• Based on the idea that there were certain things that the all-powerful state should not be able to do and that people should have some influence over the policies that affected them.

Central ideas: – personal liberty
  – protecting the individual against violations by the state.
1. CIVIL AND POLITICAL RIGHTS OR NEGATIVE RIGHTS

**Negative Rights:**

- A negative right is a right not to be subjected to an action of another person, a state or group; negative rights permit or oblige inaction.
- Rights are negative, in the sense that their respect requires that the state do nothing to interfere with individual liberties.
- Said to be of immediate application

These rights draw from those articulated in 2 historical documents:

- The French Declaration of the Rights of Man and the Citizen (1789)
- United States Bill of Rights (1791)

Main Sources: - Articles 3 to 21 of the Universal Declaration of Human Rights
- The 1966 International Covenant on Civil and Political Rights.
FIRST GENERATION OF RIGHTS

1. CIVIL AND POLITICAL RIGHTS OR NEGATIVE RIGHTS

“civil-political” rights are about liberty and participation in political life.

CIVIL RIGHTS:

provide minimal guarantees of physical and moral integrity and allow individuals their own sphere of conscience and belief:

Example:

the rights to equality and liberty, freedom to practise religion, freedom from torture, freedom of movement...
1. CIVIL AND POLITICAL RIGHTS OR NEGATIVE RIGHTS

“civil-political” rights are about liberty and participation in political life.

POLITICAL RIGHTS:

Necessary to participate in the life of the community and society:

Example:
the right to vote, freedom of thought, to join political parties, to assembly and attend meetings, to express one’s opinion...
2. ECONOMIC, SOCIAL AND RIGHTS OR POSITIVE RIGHTS

Human dignity required more than the minimal lack of interference proposed by the civil and political rights.

‘if one is really concerned to secure civil or political liberty for a person, that commitment should be accompanied by a further concern about the conditions of the person’s life that make it possible for him to enjoy and exercise that liberty’. Jeremy Waldron

• Began to be recognised by states after World War II
• effects of industrialisation and the rise of a working class.
• Rooted in the ideas of equality and guaranteed access to essential social and economic goods, services, and opportunities.

Main documents: - Articles 22 to 27 of the Universal Declaration.
- International Covenant on Economic, Social, and Cultural Rights.
Positive Right:

Right to be subjected to an action or another person, state or group;

positive rights permit or oblige action.

Social, economic and cultural rights, require ‘positive action by the state to be implemented’.

Understood to be implemented only in the long term or progressively.
SECOND GENERATION OF RIGHTS

2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS OR POSITIVE RIGHTS

ECONOMIC RIGHTS:

Reflect the fact that a certain minimal level of material security is necessary for human dignity.

Example:

The right to work, to an adequate standard of living, to housing and the right to a pension if you are old or disabled...
SECOND GENERATION OF RIGHTS

2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS OR POSITIVE RIGHTS

SOCIAL RIGHTS:

Necessary for full participation in the life of society.

Example:

The right to education, the right to health care, privacy and freedom from discrimination...
SECOND GENERATION OF RIGHTS

2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS OR POSITIVE RIGHTS

CULTURAL RIGHTS:

refer to a community’s cultural “way of life”

Example:

The right to participate in the cultural life of the community

and the right to education.
**THIRD GENERATION OF RIGHTS**

**3. COLLECTIVE RIGHTS OR SOLIDARITY RIGHTS**

**Collective**

Done or shared by all members of a group of people; involving a whole group or society.

*Example: collective leadership/decision-making/responsibility*

**Solidarity**

Support by one person or group of people for another because they share feelings, opinions, aims... etc.
3. COLLECTIVE RIGHTS OR SOLIDARITY RIGHTS

Ideas at the basis of the third generation of rights:

• Reflect a certain conception of community life, can only be implemented by the combined efforts of everyone: individuals, states as well as public and private institutions.

• Addressing extreme poverty, war, ecological and natural disasters.

• Technological changes and Increasing globalisation as a result of new threats emerging.

• Recognition of a new category of human rights necessary to ensure the appropriate conditions for societies, particularly in the developing world, to be able to provide the first and second generation of rights.

• Deeper understanding of obstacles that may stand in the way of realising the first and second generation rights.

Example:

the rights to development, to self-determination, to peace, to a healthy environment, to share in the exploitation of the common heritage of mankind, to communication and to humanitarian assistance.
3. COLLECTIVE RIGHTS OR SOLIDARITY RIGHTS

Sources:


The UDHR (right to self-determination)

1986 UN General Assembly Declaration (A human right to development)

The 1992 Rio Declaration on Environment and Development

SECOND GENERATION OF RIGHTS

CRITICISMS OF THE DIVISION OF RIGHTS INTO GENERATIONS

• all rights—whether civil, political, social, or economic—give rise to both positive and negative state obligations. The right to property, for example, classically conceived of as a negative civil right that requires the state to refrain from interfering with its exercise, requires extensive state action: legislative, judicial and administrative to protect the value of one’s property from the actions of others.

• Social and economic rights, too, can be cast in either positive or negative terms, depending on how one characterises the state obligations to which they give rise. A right to shelter for example contemplates a negative obligation on government not to demolish one’s housing as well as, under some formulations, an obligation to provide housing to those in need.
Basic Rights, Henry Shue:

- Have the highest priority among human rights in terms of the need for their realisation.
- Their status lay in the functional need for their realisation in order to secure other, ‘non-basic’, rights.
- Basic rights include rights associated with physical security, such as the right not to be tortured and not to be assaulted. They also included those rights such as economic subsistence rights: the rights to food, shelter and health care.
- Basic rights are associated with liberty, including freedom of physical movement and political participation.
- Together, this set of basic rights, is ‘the morality of the depths. They specify the line beneath which no one is to be allowed to sink.’

Shue’s conception of basic rights include?
Human Rights are indivisible interdependent and interrelated

**CRITICISMS OF THE DIVISION OF RIGHTS INTO GENERATIONS**

**Indivisibility:** inseparability.

**Interdependency:** the enjoyment of any right or group of rights requires enjoyment of others.

**Interrelatedness:** mutual relationship or connectedness.

All human rights are equal in terms of their status and importance, and that the content of each intrinsically relates to and mutually reinforces all other human rights.
Human Rights are indivisible, interdependent, and interrelated.

1G: Freedom of Expression  
(non violent campaign  
Raising awareness  
critic of the Nigerian government)

2G: Right to Health

3G: Right to Development  
Crude oil extraction  
Ogoniland, Niger Delta

Freedom of Assembly  
Movement for the Survival of the Ogoni People

Freedom of Participation  
Community's way of Life

Standard of Living

Right to Education

Right to clean environment  
Environment degradation of land and waters

Right to Peace

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