



DIMENSIONS OF HUMAN RIGHTS - A CRITICAL STUDY

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Introduction

Classification means the basic cognitive process of arranging into classes or categories. Classification involves putting things into a class or group according to particular characteristics so it's easier to make sense of themⁱ. Human rights can be classified and organized in a number of different ways. It is time to examine the classification of human rights, which will be compassionate for further advancement.

Major Classification

At an international level the most common categorization of human rights has been to split them into three major classifications. First one is civil and political rights, second one is economic, social and cultural rights. Another categorization is third-generation rights.

Civil and political right or first-generation rights often called "blue" rights, deal essentially with liberty and participation in political life. They are fundamentally civil and political in nature, as well as strongly individualistic: They serve negatively to protect the individual from excesses of the state. First-generation rights include, among other things, freedom of speech, the right to a fair trial, freedom of religion and voting rights. They were enshrined at the global level and given status in international law first by Articles 3 to 21 of the 1948 Universal Declaration of Human Rights and later in the International Covenant on Civil and Political Rights, 1966.

Economic, social and cultural rights are second generation human rights, often called "red" rights, such as the right to education, right to housing, right to adequate standard of living, right to health and the right to science and culture. Economic, social and cultural rights are recognised and protected in international and regional human rights instruments. Member states have a legal obligation to respect, protect and fulfil economic, social and cultural rights and are expected to take "progressive action" towards their fulfilment. The Universal Declaration on Human Rights recognises a number of economic, social and cultural rights and later in the International Covenant on Economic, Social and Cultural Rights, 1966. In addition to protection by international treaties, customary international law may protect some human rights, such as the prohibition of torture, genocide and slavery and the principle of non-discrimination.

The term "third-generation human rights", often called "green" rights, remains largely unofficial, which houses an extremely broad spectrum of rights, including: Right to Peace, Right to development, Right to self-determination, Right to victims of crimes, Right to Public Services, Right to information, Group and collective rights, Right to a healthy environment, Right to natural resources, Right to communicate, Right to participation in cultural heritage, Rights to intergenerational equity, Right to sustainability, etc. Out of these generations, the third generation is the most debated and lacks both legal and political recognition.

Four Categories

Human rights can classify into four categories also as natural rights, moral rights, constitutional rights and legal rights. Natural rights are those rights which are considered to be inherent and integral to human rights. Moral rights are based on the general principles of fairness and justice. These are simply aspirations and ideals of the people, who claim for itⁱⁱ. A constitutional right is more fundamental to the people living in that country and all other laws and rights flow from the constitution itself. Constitutional rights are supreme legal rights, because they are delineated by a written document adopted by the government. A constitutional right is a right granted by the Constitution, which normally is inalienable and any other right granted by the statutes are the legal rights, which have lesser degree of protection. Legal rights are a superset of all rights granted or delineated by a statute or other proscribed law. A constitutional right is strictly protected but a legal right is easier to take away.

India

Human rights can classified into three categories in India as fundamental rights, which are provided in the Constitution of India, defined human rights, which are defined in the Protection of Human Rights Act, 1993 and legal rights, which are expressed in the existing laws.



Many of human rights and freedoms in the Universal Declaration of Human Rights (UDHR), 1948, and in the International Covenant on Civil Political Rights, 1966, are guaranteed in Part III of the Indian Constitution as fundamental rights. It is worthwhile to note the fundamental rights here.

One of the important provisions under our Constitution is the Right to Equality. Article 14 of Constitution says: “The State shall not deny to any person equality before the law, or the equal protection of laws within the territory of India.” Article 7 of UDHR says “All are equal before the law and are entitled without any discrimination to equal protection of the lawⁱⁱⁱ.”

Article 15 of the Constitution prohibits discrimination on grounds of religion, race, caste, sex or place of birth. No person can, on any of any of these grounds, be denied access to shops, hotels, public restaurants and places of public entertainment or the use of wells, tanks, bathing Ghats, and places of public resort.

Article 16 of the Constitution provides equality of opportunity for all citizens in matters relating to employment or appointment to any office the state. However, qualifications can be fixed for various jobs.

Article 17 of the Constitution eradicates the evil practice of untouchables in India, the Constitution has abolished untouchable. Practice of untouchable in any form is an offence punishable by law. Article 18 of the Constitution prohibits the state from conferring any title on citizens. However, honors for military or academic distinctions can be given.

Article 19 of the Constitution says all citizens have the right to: (i) Freedom of speech and expression. (ii) Freedom of assembly (iii) Freedom to form associations (iv) Freedom of movement (v) Freedom to reside and settle (vi) Freedom of profession, occupation, trade or business. The Right to Freedom, like the right to equality is also not absolute. It is also subject to reasonable limitations. These freedoms have to be used without any violation of public order, public health, morality and security of state.

Article 19 of UDHR provides for freedom of opinion and expression^{iv}. Article 20 of UDHR is equivalent to Article 19(1) (b) of Constitution. (Right of peaceful assembly)^v Article 13 of the UDHR provides right to move freely, reside and settle anywhere, which is equivalent to Article 19(1) (d) of Constitution. Article 23 of the UDHR guarantees everyone’s right to work and free choice employment, which is corresponding to Article 19 (1) (g) of the Constitution.

Article 20 of the Constitution provides protection against arbitrary conviction in cases of offences committed by a person. It lays down that: No person can be punished except for a violation of law. No person can be subjected to a punishment greater than the one prescribed by law. For one crime one punishment can be given. No person accused of any offence can be forced to give evidence against him.

Article 21 of the Constitution grants protection to the life and liberty of citizens as well as non-citizens. It says, “No person can be depriving of his life and liberty except according to the procedure established by law.” Article 22 of the Constitution also provides protection against arbitrary arrest and detention. Any person arrested by the police enjoys certain protections. He has a right to be informed about the grounds of his arrest. He has the right to consult his lawyer. He is to be produced before the nearest magistrate within a period of 24 hours of his arrest. Article 3 of the UDHR says, “Every one has the right to life, liberty and security of the person^{vi}.”

Article 23 of the Constitution prohibits sale and purchase of human beings. It also prohibits beggar or forced labour. Article 24 of the Constitution says no child below the age of fourteen years can be employed to work in any factory or mine or any other hard harmful job.

Right to Freedom of Religion (Art. 25- 28) - Freedom of profession and propagation of religion (Art 25) - all persons enjoy the freedom of conscience. They have the right to profess, practice and propagate any religion. Forcible conversions stand prohibited. No one can be forced to adopt or leave a particular religion. Freedom to manage religions affairs (Art. 26) - every religion has the right to establish and maintain religions institutions. Manage its own affairs; Own and acquire movable and immovable property; and administer its property in accordance with law.

Freedom from paying taxes for the promotion of any religion (Art. 27) - no person can be compelled to pay any tax for the promotion or maintenance of any particular religion. Freedom to attend or abstain from religious functions (Arts. 28) - the Constitution prohibit is the imparting of religious instructions in any educational institution. No student can be forced to



participate in a religious worship that may be conducted in his institution. The right to religious freedom, like other fundamental rights, has certain limitations. This right can be exercised subject to public order, morality and public health. It does not prohibit the introduction of social reforms. Article 18 of the UDHR is corresponding to the Articles 25 to 28 of the Indian constitution.

Cultural and Educational Rights (Arts. 29 and 30) - Right to maintain language, script and culture (Art. 29) - any section of the citizens having a distinct language, script or culture of its own has the right to maintain the same. Right to establish and administer educational institutions (Arts. 30) - all minorities, whether based on religion or language, have the right to establish and administer their own educational institutions.

Right to Constitutional Remedies (Arts. 32 - 35) - The right to move to the courts for securing the fundamental rights is a very valuable right of the people. Citizens can approach the Supreme Court or High Courts for getting their fundamental rights enforced. Human rights can be classified into the following ten points of views also.

Classification from Historical Point of View

In the ancient time, natural law produced an off-shoot in the form of natural rights. In due course, natural rights were recognized by the Monarch everywhere in the world into the realm of practical reality. Example: *Magna Carta*, 1215, Petition of rights, 1628, etc. At next stage, proposal of theory of social contract such as John Locke, Rousseau and Blackstone described these natural rights as civil and political rights. At next stage, the doctrine of alienable rights came in which described these rights the civil rights are not superior to these natural rights. At next stage, it was the period of codification when all these natural rights were recognized either by the constitutional law or by ordinary law and they were called fundamental rights and these fundamental rights including earlier concept of natural rights became the concept of human rights prevalent now a days.

Classification from Chronological Point of View

During the period, classification of human rights has been considered from the point of view of passage of time as we know when there was no organized society, there was no human rights at all. At second stage, when the people started to live in jungle, but in unorganized manner, then also people were least concerned with human rights. At third stage, when the peoples were residing in jungle but in organized way in the form of tribes, then only customary law at the whims of head of tribes, was there, but it was without visibility of human rights. Human rights were at the mercy of head of tribes. If he considered any case, then at the name of natural justice, relief in the form of human rights were granted in barbarous form. At fourth stage, with the rise of political thinker, the concept of State came existence. State and political thinkers in due course considered and acceded the demand of public for protection of their person and property. Lastly, the recognition of these rights by State was included in the fundamental law of the nation and finally it crept into final nutrition in the form of human rights at national and international law.

Classification from Philosophical Point of View

The classification of human rights under this head may be either in liberal or strict sense. These classifications may be based on the basis of religion, natural law, positive law, Marxian concept, Realistic concept, Sociological concept and lastly unique Indian concept toward duty orientation and no right concept.

Classification from the Social Science point of View

The classification of human rights under this head may be of two kinds as Social and Economical rights, Civil and Political rights. These rights are more in the nature of ideals which are to be attained by the state by gradual steps because many of these rights, such as right to be a decent standard life, depend on certain standard of economical prosperity which may not so far have been attained in some countries. So long as the process is not complete, the international declaration of these rights stands as beacon-light of human dignity which would not inspire the suffering humanity but remind the respective stages of their obligation to undertake the legislation required to transform the ideal into the reality.

Another point of distinction between the civil and political rights on the one hand, and the social rights, on the other hand, and the social rights, on the other, is that while the civil and political rights are the traditional rights of the individual as against the state, representing the society, and reflect the *lassie faire* doctrine of non-interference, the concept of social rights is, relatively, a latter growth, founded on the status of the individual as a member of the society. The social rights thrive not on the non-interference of the state but on the positive contribution of the society. It is difficult to exhaust in a constitution



all the civil and political human rights, it is all the more difficult to exhaust an enumeration of all the human rights of the social groups, particularly because they represent an overgrowing ideal of a decent living for man as a social being.

The 'social rights' are indeed aimed at a social order, which is an antithesis of laissez faire. It involves a large extent of social control over the economic activities of individuals that would otherwise have remained unrestrained under a purely capitalistic system and a partial socialization of the resources and means of production as well. It has grown out of the realization that civil and political rights are hollow to the masses unless and until they are placed on a footing of viability with the more advanced and flourishing section of the human community.

Classification from the Enforceability point of View

In this view, the Indian Supreme Court has sometimes described them as 'collective' human rights, which have inspired the court to indirectly ensure their implementation by state. The object of incorporating the non-justifiable social rights in a national constitution is to emphasise that the goal of the state is to establish a 'Welfare State' under which the state takes responsibility for the basic well being and development of the individuals who constitute the state, by offering them social security, a decent standard of living, educational and cultural opportunities. In India, fundamental rights are the justifiable human rights, while directive principles of state policy are non-justifiable human rights are present.

Classification from the Point of View Individual and Society

In this category, human rights may be classified into two forms. First, rights in personal and rights in rem. Those human rights, which are strictly meant for individual person are called rights in rem and even they may be, said individual rights. Secondly those rights, which are available indefinitely to all members or to society at large, are called the rights of society or rights in rem.

Classification from Geographical Point of View

In this category, human rights have been considered from geographical point of view. We may see that in Africa and America human rights of black and Negroes are protected from geographical point of view. The protection of human rights of scheduled castes and scheduled tribes are geographically fitted to Indian conditions as special human rights. In other countries, looking into the geographical conditions, may be other rights for which no specific list can be prepared.

Classification from Importance Point of View

It is a value-based classification of human rights. There may be rights, which are highly important such as human rights to life, person and property. These rights may be called essential or main human rights. There may be other rights which may not be essential and highly important but even to lead a comfortable and convenient life, their contribution cannot be ignored, such as right to shelter, right to home, right to family, right to work, right to education, etc. Both these kinds of rights cannot be separated. They are complemented to each other, For the enforcement of essential rights, secondary rights must also be in force.

Classification from Special and General Point of View

As clear from its heading, human rights under this category, can be classified as general rights or specific rights. All the human rights are general rights unless they are specifically otherwise categorized. There may be an occasion when human rights for certain groups or individuals or cities or places may be classified on different pattern such as Article 370 as provided special status to the state of Jammu and Kashmir. Hence, the human rights position in the state of Jammu and Kashmir is different footing that rest of India.

Intelligentsia Classification

The intelligentsia classification, human rights have been classified either universally or particularly (local). Particular (local) rights are changeable to the time, place and circumstances, hence, they are dynamic rights, while universal rights do not change with the time, place and circumstances, hence, they are static rights.

Universal rights are those human rights which are available universally to all or which can be exercised throughout the world by all. Particular or local human rights those rights, which are available to be individual or group of individuals for a particular time, place and circumstances or to be a fixed position for any one. From another corner, it may be counted that universal human rights always universal and permanent. They do not change either by circumstances or by change in the time, place or otherwise, such as example right to life and human dignity is universally applicable throughout the world. Right to life and human dignity was also available in ancient and medieval period of history although it was a fact that these



rights were subject to exploitation by the ruling class, but the importance of these rights were never denied. Particular rights may be change with time, place and circumstances. Whatever it particular human right in India, and then it may be modified from according to time, place and circumstances.

Conclusion

The study found that the human rights are classified in different ways, which attempts to explain the different dimensions of the human rights. Such kinds of classifications are leading to analysis and progress of human rights. The study identified that the first generation human rights are mostly accepted by the nations and the second generation are under developing. The third generation rights have attain the recognition by way of international human rights law.

ⁱ <https://www.vocabulary.com/dictionary/classification>

ⁱⁱ Arun Ray, National Human Rights Commission of India: Formation, Functioning, and Future Prospects, Volume - I, Khama Publishers, NewDelhi, 2003, p.50.

ⁱⁱⁱ Hospet Suresh, *All human Rights are Fundamental Rights*, Universal Law Publishing Company, New Delhi, 2010, p.19.

^{iv} Ibid, p.34.

^v Ibid, p.35.

^{vi} Ibid, p.53.