

LL.B VI SEMESTER

LAW OF HUMAN RIGHTS

GENERATION OF HUMAN RIGHTS

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When human rights are being discussed, they are often divided up into three categories called generations. A reflection of the three generations of human rights can be seen in the popular phrase of the French Revolution: liberate, equality, fraternity. These generations of human rights were first formally established by Karel Vasak, a Czech jurist, in 1979. This division of the types of human rights helps improve conversations about rights, especially those involving legislation and the role that governments play in human rights

There are three generation of human rights-

- civil and political rights
- economic, social and cultural rights
- collective rights

First Generation of Human Rights

Once time passed and ideas and concepts about state were developed, political power, and right and freedom (the works of philosophers John Locke, Ch Montesquieu, Th. Hobbes, JJ Rousseau), appeared a fight against monarchical absolutism, struggle which will be successful, success expressed by documents with legal force as:

- Magna Charta in 1215
- Petition of Rights in 1628
- The Bill of Rights (Declaration of Rights) in 1689, England
- The American Declaration of Independence in 1776
- The French Declaration of Human and Citizen Rights in 1789

Through these documents of constitutional nature, were established early forms of limitation of absolute power in the sense that:

1. There were established safeguards against the introduction of taxes by the king, without the approval of Parliament;
2. also have established safeguards against arrest of persons and confiscation of assets without observance of procedure of courts

3. there were supported and declared the freedom of speech, that freedom of thought and the right to petition;

4. there were stated principles of individualism, starting from the idea expressed by the French Declaration of Human and Citizen Rights in 1789 as "the purpose of each political associations is keeping natural and indefeasible human rights."

It is considered that the Declaration of human and citizens rights from 1789 expresses in the best way the idea that there are inherent human rights, rights that are exercised in a state which is not an end in itself, but only a mean to ensure coexistence of individuals and the exercise of individual rights. For this reason, it is estimated that it is an expression of the first generation of subjective rights. The French Declaration of Human and Citizens Rights from 1789 contained two new ideas:

1. the idea that man as an individual, benefits of "natural rights, inalienable and sacred" including liberty and equality;
2. The second idea is that the "purpose of all political associations is the preservation of the natural and indefeasible rights of man" (Article 2 of the Declaration).

There are two categories of rights which the Declaration of Human and Citizens Rights from 1789 is referring to

1. civil rights or human rights as:

- Freedom of opinion (Article 10)
- Freedom of expression and press (Article 11)
- Personal ownership (Article 17)
- The right to personal security in relation to justice and police (art. 7-9)
- Equality before the law (Art. 6)

2. political rights, those that allow citizen participation at power, namely:

- Equal access to public (Article 6)

- Participation in elaboration of laws (Article 6)
- Control of taxes (art. 13-14)
- Citizen control over the administration (Art. 15)

These rights represent the first generation of subjective rights, and more precisely those rights that refer to personal autonomy of the individual and the rights that enable citizen participation in power in a society where "the exercise of natural rights of each man has no limits, than those which ensure for the other members of society the same rights" (article 4). In the modern age, these rights have found their consecration in constitutions and in the laws of most countries, as well as in international documents. Among them we mention:

- **The Universal Declaration of Human Rights U.N.**
- **The International Covenant on Civil and Political Rights.(ICCPR)**

The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights. The ICCPR, together with the Universal Declaration of Human Rights and the International Covenant on Economic Social and Cultural Rights, are considered the International Bill of Human Rights. The ICCPR obligates countries that have ratified the treaty to protect and preserve basic human rights. The Covenant compels governments to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy. The Covenant was adopted by the U.N. General Assembly in 1966 and came into force in 23march, 1976.

Important rights of first generation in international document, **ICCPR**

- The right to life
- The right to property
- The right to seen equal before the law
- The right to receive a fair and public hearing where one is innocent before proven guilty
- The right to privacy at home
- The right to move and reside anywhere within one's country
- The right to seek asylum internationally

- The right to marry and found a family
- The right of freedom of belief and religion
- The right of freedom of speech and opinion
- The right to peacefully assemble and associate
- The right to take part in the government directly or indirectly
- The right to periodic and genuine elections
- The right to have free choice of employment
- The right to be protected from compulsion to join an organization
- The right to be protected against slavery
- The right to be protected against torture and cruel punishment
- The right to be protected against arbitrary exile or arrest
- The right as a parent to choose the type of education for your child
- The right to hold ownership over any scientific, literary, or artistic production one creates