

The Human Rights Generations Hypothesis: Have Human Rights Really Developed In Four Generations?

By

Hayan Ibrahim Hayder AL-khayyat

Department of Law, Al-Nisour University College, Baghdad, Iraq Email:

hayan.i.law@nuc.edu.iq

Abstracts

When reviewing the literature of human rights, the most prominent feature of it is dividing it into individual and collective rights at times, or dividing it into basic and ordinary rights at other times, but there is another division of great importance, which is called "generations of human rights." It is a hypothesis mentioned by the Czech lawman "Karel Vasak" for the first time when he divided human rights into three generations in his article published in the (UNESCO Bulletin) in November 1977. Vasak used the term in reference to the developments in the concept of human rights, The reason for choosing this division and studying it alone is that despite the fact that the division according to generations is the most famous in recent research and studies that dealt with the history of human rights, but this division is not based on a solid ground that proves its validity and realism, according to some researchers.

Keywords: The human rights, The human rights generations, The four generations of human rights.

Introduction

The importance of the topic

The importance of this research is reflected in the importance of human rights themselves, as knowing the foundations upon which these rights are based and their historical gradation will reflect positively on our understanding of human rights.

Research Methodology

We have followed the historical descriptive approach by following the intellectual roots of human rights, in addition to studying legal texts, specifically international conventions and covenants.

Research problematic

The problematic of research clarified the validity of the human rights generations hypothesis, and does it have a scientific balance that proves its conformity with reality, or is it just an idea to clarify the categories of human rights?

Research divide

We will divide the research into five branches, where we will discuss in the first section civil and political rights, while in the second section we will discuss economic, social and cultural rights, as for the third section, it is for environmental and development rights, while the fourth section will be devoted to digital rights, and finally the fifth section will be to discuss the scientific credibility of the human rights generations hypothesis.

Civil and Political Rights

Before we start with the nature of the first generation rights, we must review the philosophical premises that led to the legalization of these rights later on, and even opened the door to the emergence of other generations rights as well. We start with the English philosopher "[John Locke](#)" (1632-1704), who is considered one of the first thinkers who called for religious tolerance and the need for the state not to interfere in religious matters in his book "A Letter Concerning Toleration" published in (1689). As for his book "Treatise On Civil Government" which was published in 1690, it contributed in undermining the foundations of the divine mandate for the king in his rule, and delineating the boundaries that the state should not cross, he also attacked slavery and servitude and condemned it absolutely, but considered it disgraceful things ([Locke, 1959](#)).

As for the French philosopher [Montesquieu](#) (1689 - 1755), he put forward in his book "The Spirit of the Laws", which he published in Geneva in (1748), the idea of separating the powers of the state. This is done by dividing the state's powers instead of limiting them to the hands of a king or some authority. The division is in the form of three powers, the legislative authority, which enacts laws but does not implement them, the executive authority, which ensures the implementation of laws without enacting them, and finally the judicial authority, which interprets and implements the law ([Durant, 2001](#)); thus, the people are guaranteed to block the way for anyone who tries to possess absolute power, who may tyrannize or abuse it, and Montesquieu argues that the separation of powers is necessary and it stimulates the subordination of state authorities to the law ([Muhammad, 2019](#)).

Then the Swiss philosopher [Jean-Jacques Rousseau](#) (1712 - 1778), who wrote his book "On the Social Contract" in 1762, in which he criticized slavery and inequality and claimed that the people are the sovereign. Indeed, his book (The Social Contract) became the gospel of the French Revolution thirty years later. Just from his writing. It is noteworthy that Rousseau, along with Locke and other philosophers, contributed to laying the foundations for the idea of the "social contract", which is the hypothesis that gave individuals an important role in the emergence of the state after the idea of divine mandate was prevalent for a long time ([Rousseau, 2013](#)).

The last contributor to which we are touch it, is the French philosopher [Voltaire](#) (1694-1778), who directed many criticisms of the ruling authority, as well as his continuous attempts to criticize religious fanaticism, especially in his book "Treatise on Tolerance" in 1763. His ideas caused him to be imprisoned more than once and exiled outside France on other times ([Voltaire, 2009](#)).

We return to the rights of the first generation, which we find that the common denominator among them is that they are individual rights in the face of authority, as the individual's enjoyment of these civil and political rights is often in the face of state authorities and they allow the individual to do something such as freedom of expression, the right to vote, the right to establish trade unions , etc., in return for non-interference by the state and placing obstacles in the way of individuals exercising their rights ([Tomuschat, 2003](#)).

The basis on which the rights of this generation are based is the two ideas of "freedom and choice", which refer to the need to protect the individual from state violations while ensuring that the holistic role played by the state is limited as well ([Sirkeci, 2015](#)).

These rights were supported in both the "French Declaration of the Rights of Man and the Citizen" in 1789 and "The Charter of Rights in the United States of America" in 1791, but the adoption of international and universal recognition was only manifested in the "Universal Declaration of Human Rights" in 1948, and later in "The International Covenant on Civil and Political Rights" in 1966.

Among the most prominent rights represented by this generation as mentioned in the Universal Declaration of Human Rights: the right to life, the prohibition of slavery and the slave trade, the right to a fair trial, the sanctity of home and correspondence, freedom of religious belief, freedom of expression, the right to vote and other rights (UDHR, 1948).

Economic, Social and Cultural Rights

The rights of the second generation, which are economic, social and cultural rights, appeared in the midst of the conflict between ideas related to the economy and the emergence of socialism, where the legal thought that originated the rights of the second generation went to the view that the state is not the only source of threat to the individual, but that there are other threats that come from difficult life circumstances, so it is assumed that the state intervene by taking measures to protect human rights and work to achieve it, An example of this is the pressure exerted on governments to take a role in providing assistance to the sick, the needy and the elderly. Chancellor Otto von Bismarck launched his first program for compulsory sickness insurance for workers in Germany in 1883, followed by France in 1905, and England in 1911 with the National Insurance Law, and most European countries followed that In 1914, the new Russian Socialist Union developed a social security program fully funded by the government (Gibson, 2014).

We do not forget the impact of the second French Revolution of 1848, and then the revolutions in Belgium, Poland, Italy, Austria, Hungary and Germany (Nawar and Na'ay, 2014), bringing together thought and revolution and contributing to the emergence of economic, social and cultural rights.

All of these efforts culminated in the emergence of the International Covenant on Economic, Social and Cultural Rights in 1966, which the pressure of the socialist countries had a strong influence on its establishment (Sarani, 2017), but these pressures were not enough, as these rights did not receive the attention that civil and political rights received.

It is also noted that the Human Rights Committee, when it began drafting a comprehensive international treaty on human rights, was unable to combine civil, political, economic, social and cultural rights together (Al-Derby, 2011), as a dispute arose over the entitlement of any type of rights to take precedence over other rights, and in this stage, the socialist countries adopted economic, social and cultural rights, while the liberal countries preferred to give priority to civil and political rights. The reason for the disagreement about which kind of human rights has priority over other rights has an ideological basis on which states are based in their attitude, as liberalism exalts individual rights and believes that the availability of all individual rights enables the individual to maximize the size of his own benefits, and then his contribution to maximizing public benefits increases (Al-Moussawi, 2016). Whereas, the socialist doctrine elevates the group to the responsibility of the individual and his individual rights, and thus gives importance to economic and social rights over traditional individual rights. Whatever the case, the dispute resulted in that the comprehensive treaty never saw the light and was replaced by two covenants, one related to civil and political rights, and the other related to economic, social and cultural rights (Al-Hiti, 2011).

Examples of the rights of this generation are: the right to social security, the right to work and establish trade unions, the right to rest and leisure, the right to education, to participate in cultural life and to enjoy the benefits of scientific progress and its applications (UDHR, 1948). Gender equality in the enjoyment of economic, social and cultural rights, the right to an adequate standard of living, the right to health and other rights (ICESCR, 1996).

Environmental and Development Rights

During World War I (1914-1918) and World War II (1939-1945) human rights were subjected to major violations due to killing, torture, displacement, rape and other effects that often accompany wars, but the matter changed after the end of World War II, which inaugurated a new chapter of claiming human rights chapters (Al-Nsour and Al-Majali, 2012). The United Nations was established in 1945, which emphasized "the basic rights of the human person, the dignity and worth of the individual, and the equal rights of men and women and nations large and small". The founding nations of the United Nations also pledged themselves to make the world a better place (Hanimaki, 2017).

Based on the foregoing, we find that the third generation of human rights, unlike the first and second generations, which were the product of liberal and socialist philosophies, as it was the result of human experience and scientific developments, and therefore the rights that appeared under it are called "new rights." For example, the average person did not have a big problem with the environment and its damage in the past, but nowadays, pollutants have become a serious problem for many who are interested in environmental issues due to the increase in pollution rates in terms of quantity and quality. Accordingly, the rights of this generation are the fruit of the various developments that occurred in the twentieth century, including the communications and information revolution, as well as the dominance of the market economy and the emergence of globalization (Obada, 2011).

The right to a suitable environment is one of the most prominent rights of this generation, and this right is characterized by being a collective and modern right together. The first conference on the environment was held in Sweden in 1972, and its work ended with the issuance of the "Environment Declaration", which stipulates the human right to live in appropriate living conditions. It has a primary duty to protect the environment for present and future generations (El-Fil, 2011). About twenty years later, the "Earth Summit" was held in Rio de Janeiro under the title "Environment and Development", which stipulated, among other principles, the international commitment to preserving the environment as well as the principle of international responsibility borne by polluting countries (Omar, 2013).

The right to development is another of the rights of the third generation, which was clearly emphasized in the Declaration on the Right to Development in 1986. Then there were several conferences that dealt with the issue of the right to development, including the "World Summit for Social Development" in Denmark in 1990 and "Vienna Summit" in 1993 (Hashem, 2018).

Opinions differed about the nature of the right to development and whether it is an individual or a collective right, in addition to the difference in whether it is a complex or a basic right. Some jurists are inclined to the opinion that the right to development is a complex right due to its complexity and its association with pre-existing concepts, while others go to adopting the narrow concept of the right to development as a specific right by giving priority to serving

a number of basic economic and social rights. With regard to it being an individual or collective right, the jurists have also divided into two directions. The first trend, in line with the view of the United Nations, sees that the right to development is inalienable, and it is a right that belongs to the human being, which requires recognition and guarantee without discrimination. As for the second trend, it goes to Considering the right to development as a collective right because of its closeness to the group and the people, not to individuals and persons (Al-Jubouri, 2018).

Other examples of the rights of this generation are the right to international peace and security, the right of peoples to control and exploit their natural resources, the right to participate in benefiting from the common heritage of humanity, the right of peoples to self-determination and other rights (Tella, 2006).

It is worth noting that some countries have put in place constitutional and legal mechanisms to protect the rights that are classified within the rights of the third generation. For example, in New Zealand, there is a member of the New Zealand Parliament who specializes in environmental affairs, who is assisted by twenty employees from various academic disciplines, and he exercises his work according to the Environmental Law of 1986. In Hungary, there was a seat in Parliament dedicated to the Hungarian parliament member concerned with future generations, who was replaced by the parliament member specialized in fundamental rights in accordance with Law No. (111) of 2011. In Finland, the Parliamentary Future Committee was established in 1993, which is a permanent committee consisting of seventeen member.

The same is true at the international level, as we find that some international organizations have offices for the protection of rights from the third generation, for example, the High Commissioner on National Minorities in the Organization for Security and Cooperation in Europe, whose work, in a large part, is to identify the causes of ethnic tensions and national conflicts. High motives of tension or inter-ethnic conflict on the short or long term level. In the case that the participating state does not meet its political commitments or international standards, then the High Commissioner will provide the necessary analyzes and recommendations.

There is also the European Commission's Directorate-General for the Environment, which is responsible for drawing up EU policy on the environment. Its work can be summarized in the context of protecting the environment by preserving and improving it for the sake of present and future generations.

Digital Rights

The fourth generation of human rights includes emerging rights whose legal features have not yet been completed and are still under study so far, as these rights are linked to technical progress, whether digital or biological, and for example, medical experiments on stem cells for therapeutic or reproductive purposes, euthanasia, human cloning, modification Genes, automation, the Internet and the problem of its regulation and other issues that did not exist before several decades ago (Soh,2018).

The right to privacy has also reappeared in a different way this time, because governments and business owners have the ability to invest user data in various sites and applications through training digital algorithms that have become able to predict and even manipulate human behavior (Kanter and Veeramachaneni, 2015).

The most prominent example of this is search engines on the Internet and social networking sites that have the ability to access user data through their mobile devices, whether in the form of pictures, messages or contact data, as well as the ability to identify the whereabouts of the user and keep all records his own conversations. Accordingly, the privacy of individuals is being violated to support advertisements or in order to sell information to companies directly (Andrews, 2015).

The discovery of the “human genome” is one of the defining moments in human history, which occurred during the past two decades, as man’s knowledge of genetic information located above his genetic tape is tantamount to knowing the history of his ancestors with accuracy and foreseeing his future as well. However, this knowledge threatens his very existence, in the event of knowledge others have to, such as knowledge of the family's medical history or the presence of specific genetic characteristics and other things, and this knowledge may affect human rights in many countless ways (Ridley, 2001).

In view of these digital scientific developments that we discussed in the above models and others that did not have the opportunity to delve into their details, we say that these developments have a great impact on human rights and rights, the latter need extensive reviews in order to upgrade them and accommodate any potential violations in the near or far future (Murray and Klang, 2005).

The Scientific Credibility of The Human Rights Generations Hypothesis

After we have clarified the contents of the four generations of human rights, it is necessary to address the hypothesis of human rights generations and the extent to which they enjoy scientific credibility. We will review this in the following two paragraphs:

Supporting the Human Rights Generations Hypothesis

Supporters of the human rights generations hypothesis argue that dividing rights into generations has provided scholars, activists and analysts with a useful tool for organizing human rights discourse (Domaradzki, Khvostova and Pupovac, 2019).

Doubting the validity of the human rights generations hypothesis

On the other hand, the human rights generations hypothesis has received great criticism from some researchers. Where one of the researchers goes, in his criticism of the hypothesis of generations of human rights, that this hypothesis has failed to appreciate the common denominator between human rights, which is international law (Macklem, 2013).

On the other hand, another researcher argues that the problematic hypothesis that there are generations for human rights is that it places a rigid and fixed division, and that its attempts to link each generation with the prevailing ideological pattern during a certain period were completely unsuccessful (Whelan, 2010). A third opinion held that this hypothesis does not have a scientific basis, as it contradicts the characteristics of human rights, including their indivisibility, in addition to the fact that it was not enshrined in international charters and national constitutions (Abbas, 2014).

Using the Hypothesis of Human Rights Generations for Teaching Purposes

The owners of this trend believe that this hypothesis of generations of human rights is basically incorrect, as those who hold this view misbelieve the possibility of separating rights into hierarchical generations, but they allow this in the event that the division is carried out for the sake of academic classification, that is, for purposes of academic classification, teaching or scientific research (Monteiro, 2014).

In our opinion, those with the last opinion regarding the generational hypothesis of human rights are the closest to the truth, as this hypothesis is a method of scientific classification that describes the phases of human rights development, but it does not extend to describing their nature.

Conclusion

The Results

- 1 The common denominator between civil and political rights, which are called the rights of the first generation, is that they are individual rights in the face of authority, as the individual's enjoyment of these civil and political rights is often in the face of state authorities.
- 2 The state is not the only source of threat to the individual, but there are other threats that come from difficult life circumstances, so the state is supposed to intervene by taking measures to protect human rights and work to achieve them.
- 3 The third generation of human rights, in contrast to the first and second generations, which were the product of liberal and socialist philosophies, was the result of human experience and scientific developments, and therefore the rights that appeared under it are called "new rights."
- 4 Fourth generation rights are tie up to technical progress and because of that they are constantly referred to as including emerging rights whose legal features have not yet been completed.

the suggestions

- 1 It should be noted in all textbooks related to human rights that the generational hypothesis of human rights has not yet received sufficient scientific support and that it is just one of the methods of scientific classification that describes the stages of human rights development, but it does not extend to describing their nature.
- 2 Human rights need extensive revisions in order to elevate them and accommodate any potential violations in the near or far future.
- 3 Academic studies related to human rights should be intensified in order to know the real foundations on which they are based, which will help ease their enforcement and application.

References

- A. Reis Monteiro 2014 Ethics of Human Rights, springer, Switzerland, 115-119.
Abd al-Salam Muhammad 2019 The Theory of Separation of Powers and the United Nations' Attitude towards it in the Libyan System (Legal Study), Qabas Journal for Humanitarian and Social Studies, Volume (3), Number (2), 30-35.

- Abd al-Wahhab Muhammad Jawad al-Moussawi 2016 Liberalism and Crises: A Study of the Economic Reality of Transforming Countries, Al Yazouri Scientific Publishing and Distribution House, Amman, 59-80.
- Abdel Basset Abdel Rahim Abbas 2014 Generations of Human Rights between Intellectual Proposition and Scientific Support, Journal of the College of Law, Al-Nahrain University, Vol. 16, No. (2), 314-320.
- Abdel-Al Al-Derby 2011 Obligations arising from international conventions: human rights (a comparative study), 1st edition, The National Center for Legal Publications, Cairo, 97-110.
- Abdul Aziz Suleiman Nawar and d. Abdul Majeed Na'ay 2014 Contemporary History: Europe from the French Revolution to World War II, Dar Al-Nahda Al-Arabiya, Beirut, 181-205.
- Ali Adnan El-Fil 2011 International Legislation for Environmental Protection, 1st Edition, Dar Al-Hamid for Publishing and Distribution, Amman, 9-15.
- Amer Hadi Abdullah Al-Jubouri 2018 Transitional Justice and the Role of United Nations Organs in Establishing Their Curricula, 1st Edition, The Arab Center for Publishing and Distribution, Cairo, 113-114.
- Andrew Murray and Mathias Klang 2005 Human Rights in the Digital Age, the Glasshouse Press, London, 7-8.
- Bilal Ali Al-Nsour and Dr. Radwan Mahmoud Al-Majali 2012 Al-Wajeez in International Humanitarian Law: Between Legal and Political Considerations (Theoretical and Practical Aspects), 1st Edition, Academics for Publishing and Distribution, Amman, 64-77.
- Changrok Soh, Daniel Connolly and Seunghyun Nam 2018 Time for a Fourth Generation of Human Rights?, The United Nations Research Institute for Social Development, 3-4.
- Christian Tomuschat 2003 Human Rights: Between Idealism and Realism, oxford university press, new York, 25- 33.
- Daniel J. Whelan, Indivisible Human Rights: A History, University of Pennsylvania Press, Philadelphia, 55-59.
- Fernando falcon y tella 2007 translated into English by howard shneider, Challenges for Human Rights, Martinus Nijhoff Publishers, boston, 66-69.
- Ibrahim Sirkeci, Doga Elcin and Guven Seker 2015 Politics and Law in Turkish Migration, Transnational Press London, the United Kingdom, 8 -10.
- International Covenant on Economic, Social and Cultural Rights of 1966.
- James Max Kanter, Kalyan Veeramachaneni 2015 Deep feature synthesis: Towards automating data science endeavors, IEEE International Conference on Data Science and Advanced Analytics (DSAA), Paris, France, 7-8.
- Jean-Jacques Rousseau, translation: Adel Zuaiter 2013 The Origin of Inequality between People, Hindawi Foundation for Education and Culture, Cairo, 6-9.
- John Gibson, translated by: Samir Ezzat Nassar 2014 A Dictionary of International Human Rights Terms, Academic Book Center, Amman, 224-228.
- John Locke, translation: Majid Fakhry 1959 On Civil Government, International Committee for the Translation of Masterpieces, Beirut, 7-9.
- Laurie Andrews, translation: Shadi Rawashdeh 2015 I Know Who You Are and I See What You Did: Social Networking Sites and Loss of Privacy, Obeikan Library, Riyadh, 30-34.
- Madiha Ahmed Obada 2011 Arab Women's Issues: Between Reality Challenges and Future Aspirations, Dar Al-Fajr for Publishing and Distribution, Cairo, 180-200.
- Makhlouf Omar 2013 Human Rights of the Third Generation, Journal of International Law and

- Development, Volume (1), Number (2), Faculty of Law and Political Science, Abdel Hamid Ibn Badis University, 201- 210.
- Matt Ridley, translation: Dr. Mustafa Ibrahim Fahmy 2001 *The Genome (The Biography of the Human Species)*, World of Knowledge, Kuwait, 280-302.
- Mohammad Reza Sarani, Seyed Hossein Sadeghi and Hossein Ravandeh 2017 *The Concept of "Right" and its Three Generations*, International Journal of Scientific Study, Volume (5), Issue (4), 38-40.
- Numan Atallah Al-Hiti 2011 *Human Rights: International Rules and Mechanisms*, 1st Edition, Raslan House and Institution for Printing, Publishing and Distribution, Damascus, 7-12.
- Patrick Macklem 2013 *The Sovereignty of Human Rights*, Oxford University Press, New York, 51- 54.
- Salah Hashem 2018 *Justice and the Right to Development*, 1st Edition, Atlas House, Cairo, 76-81.
- Spasimir Domaradzki, Margaryta Khvostova and David Pupovac 2019 *Karel Vasak's Generations of Rights and the Contemporary Human Rights Discourse*, Human Rights Review, volume (20), 424-433.
- Universal Declaration of Human Rights of 1948.
- Voltaire, translated by: Henriette Aboudi 2009 *A Treatise on Tolerance*, Petra House, Damascus, 2-10.
- Will Durant, translated by: Fouad Andrews and Muhammad Ali Abu Durra 2001 *The Story of Civilization (Voltaire's Era)*, Volume Eighteen (36), Family Library, Cairo, 166-170.
- Yossi M. Hanimaki, translated by: Muhammad Fathi Khader 2017 *United Nations*, Hendawi Foundation, United Kingdom, 19-22