

Distinction between Civil and Political and Social, Economic and Cultural Rights

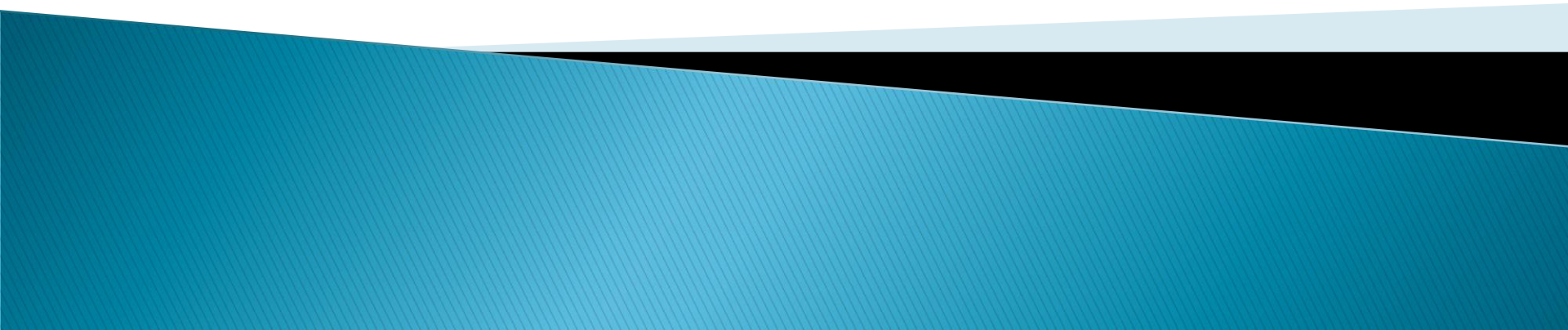
Dr. Mohammed Amin AL-MIDANI

Arab Center for International Humanitarian Law and Human Rights Education, France

Pr. Karal Vasak introduced in the seventies of the last century the theory of « Generations of Human Rights". He wrote about it and presented it; he, once again, defended it in the nineties of the last century as well. The gist of the theory is that there are three generations of human rights, namely:


First Generation: including a set of civil and political rights which were the result of revolutions in both Europe and America, and the fruit of social ideas, human philosophies and liberal concepts.

Second Generation: including a set of economic, social and cultural rights. First defenders of these rights were European human rights non-governmental associations which adopted in Paris in 1936 what had been known as a supplement to the Declaration of the Rights of Man and the Citizen of 1789. Also, Warsaw Pact states played a role (Before the fall of the Berlin Wall and the concurrent collapse of this bloc) in the discussion, approval and accommodation of these rights within the framework of the United Nations' instruments. These rights were also supported by many Third World countries throughout the three decades of the second half of the twentieth century, which mirrored some of the socialist concepts, social demand issues and national demands of developing countries that got liberated from the yoke of colonialism and looked forward to a better future for their peoples.

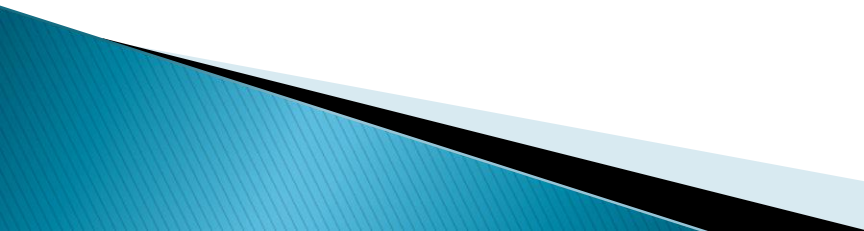


Third generation: Including a set of rights which featured the end of the twentieth century and were associated with the advocacy of a new economic system in the seventies of the last century, and of a new world order in the last decade of the last century as well. Thus, the call came from the global non-governmental domain promoting new rights which are mutually interconnected and have become known under the title of "solidarity rights", such as: the right to development, the right to peace, the rights of the elderly, and the rights of the disabled or people with special needs. Also, the international community got on the alert with regard to certain shameful and appalling social conditions and the need to fight poverty, homelessness and disease.

Some people have also started to talk about a **fourth** « Generation" of human rights, listing therein: the right to democracy and a welfare state, the right to human prosperity and the right to preserve human dignity against the adverse consequences of scientific experiments, the right to training and rehabilitation, the right to acquire knowledge for all, the necessity of preserving biodiversity, etc.




But, my presentation of the various generations of human rights as such and my recognition of the importance of these rights, their chronology as well as their development from intellectual and philosophical standpoints and of the variety of their degrees of enforcement, do not imply that I do accept the division of rights into generations. In my view, civil and political rights, on the one hand, and economic, social and cultural rights, on the other hand, complement each other. Furthermore, I can say that human rights are a complete whole; therefore, the separation of these two sets of rights is not definitive. Honouring these rights, defending them, instilling them through education, disseminating them and promoting awareness of them are all but elements in one strategy. Yet, I agree that the enforcement of some of them, such as the economic, social and cultural rights, can be undertaken gradually, as well as phased into stages, depending on the economic and social levels of various countries. However, the enforcement of civil and political rights and viewing them with respect do not require talking about any economic or developmental level to be attained. It is essential, therefore, that these rights are enforced straight on without any delay or excuse. Finally, solidarity rights continue to be associated with the political, economic and social aspects of various countries, with the result that their enforcement is also associated with economic and social conditions and the prevailing world order. At the same time, they are related to a set of priorities which themselves must be addressed and effectively resolved. That is the case on one hand.

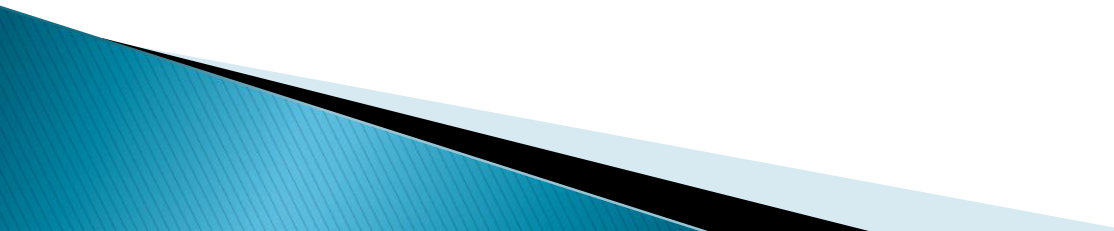


On the other hand, if we admit that civil and political rights were historically recognized in a first stage, then the economic, social and cultural rights, the distinction between them should be considered "serious" in practice, due to the interconnectivity and overlapping between these two sets of rights. To illustrate this, we find, for example, that "the right to strike", which is a form of the "freedom of expression", is provided for in the International Covenant on Economic, Social and Cultural Rights (Article 8, paragraph d). Also, the Covenant does not provide for "the right to property" in spite of its economic nature.

We note, finally, that there is a group of "common provisions" between the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, such as the first article which recognizes that all people have the right of self-determination, and the principle of non-discrimination which is provided for in both international covenants, as well as the principle of equality between men and women.



Here comes my proposal that we should talk about **“Groups”** of human rights, not about "generations" of human rights, because the latter term, in addition to what was already stated, also suggests that there is preference between one generation and another, or there is a sequence in terms of importance, or there is priority for one generation over another generation, while the use of the term **“Groups”** helps to avoid us a lot of confusion, debate and uncertainty in the use of terms.



- ▶ It is useful now to refer to the nature of economic and social rights which are at variance with the nature of civil and political rights in that the economic and political rights place upon a state that recognizes them and, hence, includes them in the provisions of its legislation and law, the duty to “intervene” so that they can be exercised in a manner benefitting all segments of the society and all members of the society fairly and equally, as well as the duty to create the conditions that are conducive to their proper enforcement.

But, it must also be pointed out that the enforcement of economic, social and cultural rights depends on the economic conditions and the financial resources of various States, which means that their enforcement is achieved in a "gradual" form and that the duty of economically developed States and those with rich resources, regardless of their nature, is more pressing, obligatory and important than that of developing or poor States that seek to honour and enforce those rights relying on their primitive potentialities and modest resources.

