

In ancient times, the balance between the individual (citizen) and social group (State) was clearly in favour of the State. Individual rights were subordinated to the interest of the "fortress". This was the situation for the people who enjoy the status of citizen, for all other social classes or foreigners (barbarian people themselves), the situation was much more dramatic. In the Medieval period, personal safety and private property were at the arbitrary disposal of the sovereign who had absolute rights without limits, the right to life and death over their subjects. This period generally is characterized by the existence of the right to force itself and not the force of law, subordinating rights of circumstances, to servitude towards the absolute monarch (monarchy by divine right). Under these conditions, individual rights were at the discretion of the ruling class, the senior pyramid to the monarch. In terms of the history of law, and general theory of law, this evolution may be surprised by the evolution of the generations of subjective human rights. In essence, the evolution of generations of rights is a return, a refund of duties previously delegated to Hobbes's sovereign or government, citizen and civil society. On the other hand, represents a return to the just naturalist conception of subjective rights and to the valorization of persons in a juridical sense, as a human being.

THE FIRST GENERATION OF SUBJECTIVE RIGHTS

The rights of this generation are mainly political and civil rights and freedoms. Rights such as freedom of speech, free choice of residence and freedom of religion are among the first generation rights. The first generation of rights is generally about the person against political power and typically, maintains the originality of the human. This has been considered in Article 2 to 21 of the Universal Declaration of Human Rights. Martin Golding called these rights as "selective" rights which mostly deal with the concepts of freedom and choice. They are the same traditional freedoms and citizenship privileges which have been formed as political and civil rights. The first generation rights mainly match the Liberalism Tradition; because these are the inalienable rights of people which have immunity against aggression of common goods and State authority; the point emphasized by Liberalism.

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.

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

- I. There were established safeguards against the introduction of taxes by the king, without the approval of Parliament.

- observance of procedure of courts.
3. There were established safeguards against arrest of persons and confiscation of assets without 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 :

- (a) Freedom of opinion (Article 10)
- (b) Freedom of expression and press (Article 11)
- (c) Personal ownership (Article 17)
- (d) The right to personal security in relation to justice and police (Article 7-9)
- (e) Equality before the law (Article 6)

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

- (a) Equal access to public (Article 6)
- (b) Participation in elaboration of laws (Article 6)
- (c) Control of taxes (Article 13-14).
- (d) Citizen control over the administration (Article 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 :

- (a) The Universal Declaration of Human Rights of U.N.
- (b) The International Pact on Civil and Political Rights.)

At regional level in Europe, there were created legal mechanisms for protecting these rights: The system of the Council of Europe and of European Court of Human Rights, based on European Convention of Human Rights and the Additional Protocols of this Convention. In the system of protected rights which belong to the first generation protected by the European Convention on Human Rights and by the Additional Protocols to this Convention we mention:

- The Right to life.
- The Right to privacy.
- Prohibition of torture and inhuman or degrading punishments.
- Prohibition of slavery and forced labour.
- Freedom and security of a person.
- The right to a fair trial.
- The right to property of the person or of a legal person.
- Freedom of mind, of thought and religion.
- Freedom of expression and information.
- Freedom to free elections.

THE SECOND GENERATION OF SUBJECTIVE RIGHTS

The second generation of human is shown in social and economical areas. Rights such as education, dwelling, hygienic protection, employment and an appropriate level of living, are considered as the rights of second generation. The rights of second generation guarantee an active life along with health, healthy nourishment and hygienic protection does not exist, doesn't it harm the health of human accordingly the health of the society?

The basic idea of such division is that, the rights of first generation are ascertained by avoiding action, and rights of second generation by doing some actions. But the most important

THE ESTABLISHMENT OF HUMAN RIGHTS

The establishment of the third generation is the result of new needs of human. The developing weaknesses of the first and second generations led to appearance of the third generation of human rights. The rights of third generation or unity rights do not talk about human; but put emphasis on the universal citizen.

Third-generation human rights are those rights that go beyond the mere civil and social, as expressed in many progressive documents of international law, including the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, the 1992 Rio Declaration on Environment and Development, and other pieces of generally inspirational "soft law".

In this generation of rights, the beneficiaries are society and social groups which of course its general benefit is also shared with every individual. The most important features of the third generation of rights are: establishing a powerful feeling among members of the universal society, the inability of not deviating the commitments to such rights for the harms they cause to all, putting emphasis on subjects higher than the geographical areas or special economical and political systems, and specifying the rights which are made as the results of human presence in the human society. Most instances of the third generation of human rights (unity rights) are : development right, peace right, right of human in choosing his destiny, right to have a healthy environment, right to human common wealth, right to philanthropic aids and the right to communication. The term "third-generation human rights" remains largely unofficial, just as the also-used moniker of "green" rights, and thus houses an extremely broad spectrum of rights, including :

- Group and collective rights
- Right to self-determination
- Right to economic and social development
- Right to a healthy environment
- Right to natural resources
- Right to communicate and communication rights
- Right to participation in cultural heritage
- Rights to intergenerational equity and sustainability

These rights have a positive consecration, generally in international law.

The rights in this category cannot be exerted individually, but only by groups or collectivities of people. The third generation rights require not only the need to create an institutional support by the State, but, as in the case of second generation rights, they need to restrict the first generation of rights, through a so called "positive discrimination", in the sense that these rights, like the rights of any minority, require a limitation of rights of first generation. The environmental law allows social groups to live in a healthy environment, clean, without harmful agents to health but, in the same time, involves a number of limitations of rights of first or second generation, like owning a forest or the right to work.

Some international organizations have offices for safeguarding such rights. An example is the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe. The Directorate-General for the Environment of the European Commission has as its mission "protecting, preserving and improving the environment for present and future generations, and promoting sustainable development".

There are laws that recognize different and in some proportions, the existence and exercise of this kind of rights environmental rights, rights of minorities. Romania is one of the countries that have

recognized the great importance of third generation rights. We have the right to environment, the right of ethnic and sexual minorities (Their substantial base being put after 1990, in the approach to join the Council of Europe and Integration in the European Union, and harmonization of national legislation with international documents of the two regional organizations).

THE FOURTH GENERATION OF SUBJECTIVE RIGHTS

This category includes the so called "rights related to genetic engineering", rights which are on the doctrinal debate in what regards their recognition or prohibition of certain activities.

We could put in the same category the so called rights of future generations, as well as rights that can not belong to an individual nor to social groups, including nations, they belong only to humanity as a whole. The rights of humanity would treat the common assets of the whole humanity.

In the same category it is possible to insert rights deriving from exploration and exploitation of cosmic space. In the classic way it is considered that rights related to genetics can be classified as belonging to this last generation of rights, but even if fourth generation in itself is challenged as existence. In doing so, there are identified rights that ensure the inviolability of individual rights and unavailability of human body in terms of development of medical science, of genetics.

The UNESCO Declaration on Human Genome from 1997 :

1. stipulates the compulsoriness of the international community to protect the human genome, the right to genetic identity of a person entitled to the banning of cloning;
2. stipulates the obligation of States to defend the person and its dignity, regardless of its genetic characteristics;
3. stipulates limits of intervention on a person's genetic characteristics, subordinated to medical purposes, that concern human health;
4. the respect of humans ego from conception to real death. In the debate are issues of assisted euthanasia (the right to die in peace and dignity), maintaining artificial life after brain death, sterilization, fetal status, infanticide (late abortion).

MULTIPLICATION AND INSTITUTIONALIZATION OF NEW RIGHTS

In their historical evolution, it is estimated that human rights have passed through four different processes :

1. Positivation
2. Generalization
- 3 Internationalization
4. Specialization.

After the Second World War, as a response to atrocities of the war and to affecting of human person, both in civil society, as well as in institutional, national and international level, humanity has sought to assert its valences and to obtain legal recognition and protection of its sacred values. So, appeared more demands from the individual, as well as from groups of individuals, demands which evolved and took up the legal form of subjective rights, the State recognizing and protecting them. What is characteristic of the postwar period is the multiplying and institutionalization of human rights. In the doctrine this legal and factual reality is undergoing critics:

1. It is considered as threatening the existence of legal States, weakening its authority.
2. The institutionalization of some rights would attract inefficiency of others.

3. The apparition of a conflict between different generations of rights.

Under the name of human rights there were to be affirmed, recognized and protected in national and international level, a number of rights of first and second generation rights. Subsequently, the concept of human rights had to be included rights of the third generation.

From the generations of rights only a part was defined as human rights. After a socio-legal criterion, the latter are different from the other subjective rights for two reasons :

1. They are fundamental rights, absolutely essential for human beings, as individuals or members of a community, rights recognized at an international level.
2. Secondly, these are "models destined to convince, lacking any sanction, enjoying approval and spontaneous support, motivated by ethical values". In the category of human rights, we can identify the rights from the first generation like: the right to life, personal safety, the right to property and rights from the second generation like: socio-economical rights or freedom rights (freedom of association) or from the third generation (minorities' rights, the right to an environment).

On the other hand, the doctrine says that we are facing two tendencies :

- (a) Of creating new subjective rights (of children, old persons, sick people, those with disabilities).
- (b) Of creating new subjects of rights (the case of animals, environment, human species). These tendencies are affronting the classical conception of subjective rights and cause reflection to the anticipation of future.

QUESTIONS

MULTIPLE CHOICE QUESTIONS

1. The Second Generation of human rights concerns the rights of whom?
 (a) Workers (b) Peoples (c) Proletariat (d) Women
2. Which generation of human rights embodies freedom of speech and assembly?
 (a) First (b) Second (c) Third (d) Fourth
3. The theory of rights in the Middle Ages rested on the idea of :
 (a) Clemency (b) Royal privilege (c) Common law (d) Natural law
4. What document was instrumental in establishing the political practice of extracting charters of liberties?
 (a) The Royal Proclamation, 1763
 (b) The Magna Carta, 1215
 (c) The Universal Declaration of Human Rights, 1948
 (d) The Port Huron Statement
5. What thinker pointed to the way in which the liberal position on rights stresses property rights to the advantage of the rich and powerful?
 (a) W.F. Hegel (b) Jeremy Bentham (c) Karl Marx (d) John Locke
6. Child Labour by 10 year olds :
 (a) Is always a violation of the rights of the child.
 (b) Is a violation of the rights of the child if the task is harmful.
 (c) Is a violation of the rights of the child if the government has fixed the minimum working age to be under 17.