

**NAME- DR. AKANKSHA**

**GUEST FACULTY**

**P.G DEPARTMENT OF PHILOSOPHY, PATNA UNIVERSITY, PATNA**

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**PAPER – HUMAN RIGHTS & FEMINISM**

**TOPIC : MEANING AND NATURE OF HUMAN RIGHTS**

**MOBILE NO: 7839270596, 7979872919**

**E-MAIL ID: [sakanksha806@gmail.com](mailto:sakanksha806@gmail.com)**

In the realm of Global Ethics Human Rights are certain moral guarantees which could be generally defined as those rights which are inherent in our nature and without which we cannot live as a human being. As all human beings are born free and equal in dignity and rights. The moral doctrine of human rights aims at identifying the fundamental prerequisites for each human being leading as minimally a good life. Human rights aims to identify both the necessary negative and positive prerequisites for leading a good life, such as, right against torture and rights to health-care. Human rights embody the fundamental values of human civilization. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent inalienable (within qualified legal boundaries), Indivisible, universally applicable to all. Thus, the main duties derived from human rights falls on states and their authorities not on individuals.

The term "human rights" is all comprehensive - it includes civil-political (negative rights) and economic, social and cultural (positive rights) and collective or group rights.

## **DEFINITION OF RIGHTS**

There exist problems in the concept of rights. Many definitions of the concept of rights are found under human rights. Each of the following definitions may help us in understanding different facets of Human Rights.

According to **Ernest Barker**, "Rights are the external conditions necessary for the greatest possible development of the capacities of the personality".

**Wilde** considers that "Rights are reasonable claims to freedom in the exercise of certain activities". He further says: rights depend upon duties. "It is only in a world of duties that rights have significance". They are like the two sides of a coin.

**Prof. Hohfeld** calls the four things which the term 'a right' covers: "claims", "privileges or liberties", "powers" and "immunities". Examples of "claim rights" are the right of an old-age pensioner to a pension and an unemployed to get his social security benefits. Examples of "Liberty rights" are the right of a man to spend his leisure as he pleases, and to grow a beard if he wants to. A "Power right" entitles the right-holder to require other people to do certain things at his discretion. Examples are the right of a landlord to alter the rent paid by his tenants, and the right of a policeman to question eyewitnesses at the scene of a crime. An "immunity right" entitles the right holder to be exempt from something-an MP (Member of Parliament) to be exempt from the law

and libel for what he says in Parliament, a conscientious objector to be exempt from military service.

**Feinberg and White** assert that rights can be "possessed, enjoyed, exercised and claimed, demanded and asserted".

**There are two other terms-legal rights and moral rights.** The former refers to rights laid down in law and the latter refers to rights based on general principles of fairness and justice. Moral rights may or may not be enforced and supported by the law of the land. For example, a teacher may claim that he/she has a moral right to discipline their pupil, offer them advice about their academic and moral development or about their choice of career.

## **NATURE OF HUMAN RIGHTS**

Three kinds of human rights have emerged at the international level. They are:**1. Civil and political rights, 2.Economic, social and cultural rights and 3.Group or solidarity rights.**

The UDHR and ICCPR recognize many Civil and Political Rights, such as right to life, liberty and security of persons, prohibition of slavery, torture, arbitrary arrest, detention or exile, right to fair trial, freedom of movement, religion, freedom of expression, right to privacy, right to seek asylum, right to nationality . These rights are sometimes known as first generation rights, as they found their first formulation in the Western socio-political thought and governance in 17th and 18th centuries. On the other hand, Economic , Social and Cultural Rights are considered as second generation rights. Which includes, right to education, right to health, right to property, right to food, right to shelter, etc?

In the 1970s another, set of rights have evolved at the international level. They are known by different names, such as, third generation rights, group rights and collective rights. Such rights are the following: The right to development, which, is also seen as a right of individuals • The right to peace; • The right to clean natural environment; • The right to one's own natural resources; • The right to one's own cultural heritage.

It should be noted that the term "generation" of rights is a misnomer. It suggests a succession of phenomena, whereby a new generation takes the place of the previous one. That is, however, not the case with the three generations of human rights. On the contrary, the idea is rather that the three "generations" exist and be respected simultaneously. Moreover, there is the curious phenomenon that one particular right - that of self-determination belongs both to the first and the second generations. It needs to be noted that, according to the Vienna Declaration and Programme of Action, 1993, all rights are indivisible, interdependent and essential. In fact, the term generation of rights is not coined by the United Nations. It is suggested that the word "generation" should be replaced by "categories"

### **Salient Features that mark the concept of human rights.**

(1) Human rights are universal moral rights; they belong to everybody because they are human. By definition, rights are not earned, bought or inherited. They are inherent in human dignity. They are inalienable.

(2) One of the guiding principles is that rights are available to all persons in the State irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property or other status (Article 2 of the UDHR). They are universally applicable to all

persons. In other words, non-discrimination is an important principle of contemporary human rights.

(3) They are universal in the sense that they transcend the national boundaries or ideologies. They are designed to be culturally and ideologically neutral; they are not specifically liberal or socialist, Eastern or Western, Northern, developed or developing, Christian, Buddhist, Islamic or Hindu.

(4) The concept of human rights is comprehensive in its nature and content. It includes all categories of rights, such as civil and political, economic, social and cultural and even the newly emerging group or collective rights like, rights of minorities, indigenous peoples, right to development, right to peace and right to clean environment etc. In fact, the catalogue of rights is very detailed and comprehensive. The list of rights is expanding everyday. Moreover, no catalogue elaborating specific human rights will ever be exhaustive. The content of human rights goes hand in hand with the state of moral consciousness, or civilization development at any given time in history.

(5) Also, all rights and freedoms are indivisible and interdependent. The United Nations does not rank them in any hierarchy or any order of priority. Though we may classify rights in different categories, they are all complementary to each other. They are also inter-related. No set of rights has priority over the other.

(6) Rights are not absolute or unlimited. Some of them can be suspended during war or public emergency. Justifiable and reasonable limitations can be imposed on their exercise, which are necessary to protect national security, public order, public health or morals or the rights and freedoms of others.

**CONCLUSION:** Thus, Human rights, by definition, are the ultimate norms of all politics and is an emerging part of Social and Political Philosophy. Today everyone talks about them and struggles for their recognition, promotion and protection. In any event, human rights represent a new element in the development of mankind, and in the life of human society, because they signify the end of a period and the beginning of a new era in national and international governance.