

discretion in formulating the rights in accordance with their particular circumstances. Rather than attempting a definition of slavery, the covenants provide simply that no one shall be held in slavery. The question of admissible limitations posed another problem, for so many were put forward that they threatened to detract from the rights to be protected. In the discussion on the right to liberty and security of person, for example, some 30 limitations were suggested, and it became evident that it was better to provide simply that no one should be subject to arbitrary arrest or detention.

A right in its jurisprudential sense is an interest, claim or advantage that is legally recognized and protected and implies a corresponding duty on the part of others. In other words, a right is a legal conception, while a human right is one that inheres in the human individual. In the interest of analysis and orderly discussion, many attempts have been made to classify human rights. One such system uses four categories: political (or civil) liberties (or rights), including the traditional freedoms of association, assembly, speech, press, conscience and religion; economic liberties, including the rights to property and not to be deprived thereof without due compensation, the freedom of contract, and the right to withhold one's labour; legal liberties, including freedom from arbitrary arrest, a right to a fair hearing, protection of an independent judiciary, and access to counsel; and, finally, egalitarian liberties, including the right to employment, accommodation, education, etc., without discrimination on the basis of race, sex, religion or economic circumstances. However, this and other attempts to classify rights are not without difficulty, and there is a growing opinion that classification serves only the purpose of analytical convenience.

In both British and American traditions, the definition of political liberties has focused on the search for the reach and limit of these freedoms, and particularly the necessity of reconciling them with potentially conflicting liberties and other social values. The accommodation of this conflict is an inherent and continuing part of the human-rights process. A number of tests have emerged — for example, United States courts will consider whether there is “a clear and present danger” that the action complained of will bring about results the legislature has determined to forestall. The common law has a test of compliance with “the public welfare”. It also has specific limits on the freedom of speech — namely the offences of defama-

tion, blasphemy, sedition and censorship. Sedition is perhaps the most critical of these tests, and it has generally been held that words become seditious when the intent is to advocate or incite others to violence, public disorder or unlawful conduct against the state. Religious liberty has been interpreted as being essentially freedom of religious thought and expression, not extending to conduct that violates the criminal law, offends public morals or interferes with the legitimate exercise of the police power for the protection of public safety and health.

Economic liberties have emerged only in the twentieth century, partly, no doubt, from the recognition that equality before the law is likely to affect adversely the poor more often than the rich and that the enforcement of some rights may have the effect of perpetuating inequalities. It was often argued that it was more important to guarantee basic personal liberties rather than those concerned with the shifting processes of economic and social organization. Gradually, economic liberties came to be seen as directly related to the social and political well-being of society. It proved even more difficult, however, to formulate economic rights than it had civil and political rights, and it is often concluded that the conception will not readily be turned into legally-enforceable values. This conclusion is reflected in the United Nations Covenant on Economic, Social and Cultural Rights, which declares that such rights are for gradual implementation.

Rule of law

There is another dimension to the articulation of human rights: the requirement that the regulation of an individual's rights be subject to “the rule of law” or “due process of law” or be “in accordance with the law of the land”. In its simplest form, due process of law is a complex of procedural safeguards designed to protect the individual from arbitrary acts of government. Its origins go back to Magna Carta. By the seventeenth century, criteria had emerged for judging the acts of the executive and of the judiciary itself.

The requirement for “due process” was included in the French Declaration of 1789, the Fifth and Fourteenth Amendments of the United States Constitution and the Canadian Bill of Rights. The notion embodies the belief that man should be ruled by laws and not by man. Today, in its procedural sense, it seems to include three essential elements: (a) the individual's right to a meaningful day in court to challenge the exercise of judicial or ad-

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