

What are human rights?

By M. D. Copithorne

Human rights have suddenly emerged on the centre stage of international affairs. The political context in which this has occurred is clear enough, but it is much less certain what these rights entail. Their origins can be traced back to the historic movements for freedom and equality as well as to the inspiration provided by the great religions and philosophies of the world that affirm the dignity and worth of the individual.

The earliest efforts to resist absolute rule gave rise to the barest of civil liberties, which in time evolved into a system of rights by which the individual could resist government and private coercion. The development continues today, reflecting the dynamic nature of the relation between state and individual, towards the fulfilment of the needs of the individual and the realization of his personality. This process, indeed the whole development of human rights, has been uneven. Different social organizations and cultural traditions have produced many varieties of historical experience. The question is whether these divergent experiences have yet led to general recognition of basic universal values reflecting the essential dignity of man.

The Western tradition of civil liberties is bound up with the emergence of its democratic forms of government. Englishmen trace their freedom back to the Magna Carta and to the Bill of Rights of 1689. It was a system generally thought able to keep pace with the demands of the governed for protection against legal and administrative encroachments upon what were considered the rights and liberties of free men under the common law.

United States and French experience took what seemed a different turn. The Declaration of Independence reflected the heady influence of the boldest thinkers of the age. The central importance of the

rights of the individual to the philosophical basis of the American political system was most eloquently expressed at the beginning of the Declaration: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness, that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the Governed . . ." It was a revolutionary view of the purpose of government and the status of the individual, and some urged that it needed to be more precisely spelt out. Madison, in particular, argued that political truths enunciated in a solemn manner in a bill of rights would acquire "the character of fundamental maxims of free government and as they become incorporated with the national sentiment, counteract the impulses of interest and passion". It was debated and finally decided that the best hope of dissuading the governors from depriving those they governed of their civil liberties lay in the enshrinement of fundamental rights in the Constitution. Over the years, through constitutional amendment and judicial interpretation, these provisions became the corpus of United States civil rights that serve to express the ideals of an open, free and pluralistic society.

The French tradition dates from *La Déclaration des Droits de l'Homme* of 1789 and the subsequent *Déclaration* of 1795. The radical ideas flourishing in the revolutionary atmosphere on both sides of the Atlantic nourished each other. The Declaration of 1789 sets out a number of individual rights and clothes them in a political philosophy: "*Le but de toute association politique est la conservation des droits naturels et imprescriptible de l'homme. Ces droits sont: la liberté, la propriété, la sûreté et la résistance à l'oppression.*"

Canadian experience

The Canadian experience was different. The adequacy of Canada's common law inheritance was not seriously questioned until the Second World War, and even then much of the debate focused on constitutional aspects. The issues were

Civil liberties bound together with emergence of democratic government

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