

HUMAN RIGHTS: ARE THEY INDIVIDUAL OR COLLECTIVE?

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The Canadian people and government are in the process of exploring a vision of Canada in the broader context of contemporary social, economic, political and ideological challenges. Among the challenges being examined today are federal-provincial relations, regional disparities, the social safety net, job creation, and Canada's place in the global economy.

But a vision of Canada is incomplete if it does not encompass moral and ethical principles inherent in our understanding of human rights. As Walter S. Tarnopolsky, one of the foremost jurists in Canada, notes: "Human rights, claimed by individuals and groups, are considered so fundamental to human dignity that they receive special protection under the law and usually under the constitution of a country." While adherence to human rights principles alone can not fully define Canadian identity, it is important to remember that these principles are a central element in the articulation of a vision of Canada.

The question of human rights, which is hotly debated in different parts of the world today, is essentially an issue that relates to equality. Concern with the issue of equality is of long standing, dating back to the years before the Christian era, when Greek philosophers were addressing this theme in very explicit and pointed ways. Since then,

these discussions have, more or less, dominated the intellectual discourses in Eastern and Western societies. In the Western world, these discussions accompanied the

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Industrial Revolution and eventually formed the cornerstone of Western intellectual thought. Today, the issue of equality is part of both the national and international discourse.

Western liberal democracies are highly industrialized and complex societies. Correspondingly, discussions of equality and of human rights have become increasingly complex and multifaceted. Social philosophers and lay people, alike, may support the idea of human rights, but they may differ on certain details. The debate on issues of equality and human rights within liberal democracies is characterized by what the famous Canadian political philosopher, Charles Taylor, calls tension in liberal thought regarding the achievement of equality. Is equality best achieved, he asks, by difference-blindness (i.e., by ignoring human differences and treating all individuals and groups equally) or by recognition of difference (i.e., by giving attention to differences in the needs of different individuals and groups)?

The above noted tension is part of the Canadian experience. This is so because of differences in the conceptualization of human rights. In times past, a unitary conceptualization, based on difference-blindness and on singular emphasis on the individual, was dominant. This conceptualization is no longer adequate to address a myriad of national and global situations in which human rights are implicated.

In modern times, the United Nations must be credited with advancement in our understanding and conceptualization of human rights. The first international instrument, the Convention on the Prevention and Punishment of the Crime of Genocide, was created by the United Nations General Assembly (December 9, 1948) in response to Nazi atrocities against Jews. This was followed by a remarkable declaration, the Universal

Declaration of Human Rights, which was adopted by the U.N. General Assembly on December 10, 1948. The human rights principles underlying this declaration are freedom, equality and dignity.

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These two international instruments have had considerable influence on subsequent U.N. declarations, notably the International Convention on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. These latter declarations protect collective rights to self-determination, among other things.

National legislation pertaining to human rights in Canada, culminating in the 1982 Canadian Charter of Rights and Freedoms, has undoubtedly been influenced by these international instruments. The Canadian Charter, for example, guarantees fundamental freedoms, democratic rights, mobility rights, legal rights, and equality rights. Further, the Canadian Charter protects minority-language rights and, under specified conditions, other collective rights.

The complexity of human rights principles, violations and claims in Canada is reflected in a typology developed by Evelyn Kallen in her book Ethnicity and Human Rights in Canada. Kallen distinguishes between *individual* human rights ("rights to life, freedom, equal opportunity, dignity"); *group/category* rights ("right to life, freedom, i.e. group autonomy, equal opportunity, group dignity"); *collective cultural rights* ("distinctive ethnocultural design for living"); *collective national rights* ("self-determination"); and *collective Aboriginal rights* ("right and title to aboriginal lands based on collective use and occupancy by aboriginal peoples"). The respective claims which correspond to these fundamental human rights are individual; categorical; collective; nationhood; and aboriginal rights claims.

Human Rights, to be promoted and properly implemented, require government intervention. This is normally done by enacting laws against discriminatory treatment from individuals, groups, or even governments. Typically laws provide administrative

assistance to victims of discrimination and compensation for injury or loss of employment to the economically deprived. In that sense they differ from civil liberties

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which require restriction of government action. For example, the traditional Western value of freedom of religion and expression requires restriction of government action.

To answer the question posed in the title of this brief article, it is clear that human rights are both individual and collective. Thus, equality is best achieved by "difference-blindness" as well as by "recognition of difference". While tension will probably always exist between these two forms of recognizing difference, judicious application of the cardinal principles of freedom, equality, and dignity is absolutely necessary to resolve this tension and to facilitate the achievement of equality.

Source: First Reading, Published by Edmonton Social Planning Council, September 1996, pp. 8-9.