

RIGHTS

Recently we have been bombarded with incessant chatter concerning "Rights," Rights that hardly anyone had ever given much thought to in Canada. Civil rights, women's rights, individual rights, collective rights, property rights, aboriginal rights, provincial rights, the charter of rights, social rights and a proposed charter to deal with them, children's' rights, animal rights, environmental rights, ecological rights, foetal rights, judicial and legal rights, etc., have been given some prominence. The list could probably go on and on.

At one time, actually not that long ago, we collectively knew what our rights were without a need for their being spelt out. Now, it seems that, anytime any of us feel that we have been mistreated by someone or by some faceless institution, we invent a new right that we argue has been denied to us. All of this has led to an awful amount of confusion. This chaos will most certainly be compounded if Canada ever becomes as prone to litigation as is the case in the U.S., a country we nearly always emulate, often to our regret.

Whether codifying "Rights" in a Charter of Rights was and is beneficial is certainly debatable. There are good arguments to be made on both sides of that issue. However, we have a Charter of Rights and we had better learn to live with it. The purpose of this very short essay is to attempt to clear up some of the confusion around the term, make some suggestions about how to deal with the plethora of recommendations that have recently emerged vis a vis "Rights" and open a discussion around this important topic.

There seems to be some sort of consensus as to what the word, "Rights" actually means based on the frequency of its use. This may be an erroneous impression, which would explain the confusion evoked by the term. The Oxford English Dictionary has two definitions that appear acceptable. First: "A right is a justifiable claim, on legal or moral grounds, to have or obtain something, or to act in a certain way." Second, an old English definition, very short and to the point: "A right is one's due."

Take your pick!

It can be argued that all "Rights" can be placed into two categories. The first are those that a "free people" intrinsically possess. These consist, mainly, of:

- The Right to believe what one wishes;
- The Right to be openly expressive about nearly anything;
- The Right to be wrong;
- The Right to associate with whomever one wishes;
- The Right to collectively hold and participate in meetings, in other words, the Right of Assembly;
- The Right of Privacy;
- The Right to choose, be it one's possessions or one's government;
- The right to resist any attempt on the part of anyone to abrogate any of the above mentioned "Rights." No-one has the "Right" to remove any of the above "Rights."

These "Rights" are inalienable to a free people. They are not given. This is how a free people are defined. When people have the freedom to exercise these "Rights", it is they

that confer upon government the "Right" to govern, which in a free society is supposed to mean a mandate to serve the people. As a corollary, when a government successfully removes any or all of these "Rights," then the people under that regime are no longer free. It is obvious that, with the possible exception of the "Right" to believe anything one wishes, none of the above mentioned "Rights" are absolute. For example, the "Right" to freedom of expression is mitigated by the laws of libel and slander, advocacy of violence and hatred against any individual or group, and the protection of the public. Similarly the "Right" of assembly and association is moderated by laws dealing with criminal conspiracy and national security. Despite these provisos these "Rights" remain the fundamental "Rights" of a free people. Indeed, it is here argued that these are the only "Rights" of a free people.

It is a misnomer and misleading to designate such things as Universal Medical Care, Education, Food, Shelter, Clean Environment, Property, Work, Social Safety Net, Equity, etc. as "Rights." As desirable as they certainly are, they are not "Rights." These all require the expenditure of resources and the agreement of the collective. Thus they are subject to the whim of political forces and can be abrogated at any time. Most importantly they are conferred to the populace, instead of being an intrinsic characteristic of a free people. Thus they can be delivered by a benevolent dictator to an enslaved populace with great benefit and yet, as such, could and should never be considered as "Rights." Furthermore, since they require the expenditure of resources it must be assumed that these resources exist if these so called "Rights" are to be conferred. What if they do not? How can medical care, food, shelter, etc. be delivered by even the best intentioned government in the world if it does not have either the resources or the means to deliver these services? A true "Right" is neither conferred or delivered. It is freely exercised by a free people.

Then how should these very desirable benefits be considered and identified? They are the result of government policy. For example, if government policy supports a certain level of financial equity, various stratagems such as universal health care, unemployment insurance, welfare, progressive income taxes, and tax exemptions could be adopted. These measures could be considered as "Entitlements." This approach could easily be extended to other pertinent areas. Perhaps, we should be giving consideration to a "Declaration of Entitlements."

There are those that believe that certain conferred benefits should be retained as "Rights." Perhaps the most noteworthy, contemporary example is "Women's Rights." In response to those who favor this concept, it is argued that these "Rights" fall into the broader area of "Equity." Despite the fact that, biologically, we are not born equal, we are all entitled, no matter our sex, genetic background, religion or race to an equal opportunity to make our way and find our place in society. Also we are all entitled to equality before the law. These types of equity can and should be provided by government and as such are conferred. Thus they are "Entitlements."

Another item often cited as a "Right" is the "Right to Private Property." There are two types of property, namely land and all other possessions. Dealing with the latter type first, it is agreed that everyone has the "Right" to their possessions within reason. For example, it is not reasonable for any individual to own all the food in a given society because this could deprive others of their "Right" to private possession of those necessities.

As for land, it is compellingly argued that there should be no private ownership of land. Land is like air and water. It is a common and free good. Further, the original owners of land, from whom the present owners of land have ultimately derived their claim to it, more than likely acquired it, either by thievery, piracy or coercive force. Such means, today, would be considered downright immoral and illegal. Thus the present owners of land are not really entitled to it.

Finally, we have argued that "Rights" are intrinsic to a free people and by extension, that being free is one of the most valuable of human conditions. We concede that there might be a major flaw in the logic of this position since: how free are the poor, the destitute, the sick, the hungry, the underprivileged, the homeless, the uneducated, and the powerless?

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