

Rights: Gifts before entitlements

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The question as to where rights come from is viewed differently in different societies. Canadians are fortunate to enjoy many freedoms and rights. These include the right to the choice of one's religion, the right to vote under specified conditions, freedom of the press, freedom of speech, educational rights, and many other additional rights. In fact, Canadians often assume that these rights are something we are born with. Some would say they are "God given rights". Others believe we are born with certain inalienable rights.

In actual fact, the rights we enjoy are the rights given to us by the societies where we live. Do women have a right to vote? Only in certain countries, and in Canada, only in fairly recent Canadian history (since 1918) women have had the right to vote. Should women have the right to vote? Yes, they certainly should in a fair and just society. The right to vote includes not only the privilege of voting, but also the notion of fairness, justice, and equality. Decisions about rights are human-made and come from the laws of the communities in which they reside. Until these freedoms and privileges are accepted in law and within the customs and the mores of society, these rights exist only as ideals yet unrealized.

Rights are given by our legal systems and/or sometimes by wide acceptance of societies. They often carry concepts of ethical fairness or correctness, but not always. Simply because something is just or fair does not in itself give a citizen approval to act upon just and fair assumptions. For example, when unemployed people are willing to work, and there perhaps ought to be jobs available, there are no legal rights which provide jobs for everyone. When a citizen is physically or mentally disabled such a person would likely believe that in a fair and just world they deserve to have a job available to them. But there is no such legal right supporting their claim to fairness or justice in this respect.

When someone is robbed there is no guarantee they will be financially compensated for their losses. In order to understand rights better, we need to

separate what ought to be in the sense of ideal justice from what actually exists as legal rights.

Years ago, in farming communities, sometimes a farmer's barn might be struck by lightning resulting in the loss of his/her barn and livestock. In such cases, there was frequently no fire insurance to cover the costs of the damage. Although there were no legal requirements for compensation it was often the case that neighborhood farmers and/or some conscientious religious groups, would come together to erect a new barn and share in the costs by offering gifts of free livestock or free grain. In these actions, the community willingly joined together to help because it was the "right" thing to do. To do less would seem to be unfair or unjust. In these cases, the community did their best to bring some justice to the unfortunate farmer. Their actions were independent from legal rights.

It is important to understand that rights of free speech, freedom of association, peaceful assembly, freedom of religion, etc. are human-made rights. These rights exist because politicians such as our former Prime Minister, Pierre Trudeau, and other like-minded politicians included these rights in our Canadian Constitution under an updated Charter of Rights and Freedoms in the Constitution Act of 1982.

Our legal rights are very important to our Canadian freedoms. Police must have reasonable grounds for search or arrest or detainment. Canadians are fortunate to have the right to peaceful assembly, freedom of expression, freedom of belief in personal choice of religious preferences, and the presumption of innocence in courts of law. Also important to Canadians is habeas corpus (forbidding long imprisonment without a court hearing). In addition, Canadians have the right to legal counsel during a citizen's court trial. We are fortunate to have our legal rights protected by our updated Charter of Rights in the Constitution Act of 1982.