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rights and freedom
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Introduction

The Canadian Charter of Rights and Freedom, generally referred to as the Charter, is a bill of rights found in the first section Constitution of Canada enacted in 1982. This Charter assures the freedom and rights, that is, civil and political rights, to all Canadian citizens and persons within the territory of Canada. This Charter replaced the Bill of rights that was enacted to the constitution in 1960 but was found wanting due to the fact that it was a federal statute instead of a constitutional document. A federal statute is subject to amendments by the Parliament and does not apply to some provincial laws within the country. The Canadian Supreme Court worsened the situation further by barely interpreting the Bill of Rights coupled with its reluctance to declare it operational for some time . This prompted the country to look into the Human rights and the immediate need of entrenching these freedoms in the constitution of the country.

As a result, a Charter of Freedom and Rights was drafted and officially accepted by the British Government in 1982 after an application from the Canadian Parliament . This new document provided constitutional rights and

freedoms to citizens of Canada with a new mandate given to the Judiciary for enforceability. This freedoms or rights can be viewed as an assurance made by the government to its people and thus the government has obligated itself in the constitution to provide for these rights no matter the cost. For instance, while the constitution has assured freedom of expression to its citizens, a person can as well claim that freedom when it deprived. This relation of obligation-to-claim is what makes the Charter a very powerful document and its impacts have been felt in the country. It is without doubt that Canada is one of the countries that enjoy a good Human Rights record and this can be attributed to the Charter. This paper looks to examine the many aspects of Canadian System that has greatly benefitted from the Charter.

Positive Impacts of the Charter

The first aspect of great benefit that come along with the Charter of Rights and Freedom is Fundamental Freedoms granted to the citizens of Canada. Section 2 of the Charter has a basic frame work that clearly outlines the constitutional rights granted to each citizen . These freedoms include; freedom of association, freedom of conscience and religion, freedom to peaceful assembly, freedom of expression and freedom to personal opinion, thoughts and beliefs. The charter also took broad steps to include freedom of press and other media expressions. These rights have been described by the enforcing courts as Liberty Rights, to imply to any undertaking that a person is allowed to pursue with minimal or no state interference. These rights and freedom have created a great living environment within Canada. A ranking

scheme called the Human Development Index used to evaluate the progress of citizens as a result the prevailing freedom in the country rank Canada among the top twenty countries in the world .

This is also evident when it comes to the religions in Canada. The Charter declares that there is no official or state religion for Canada. The country reported in a census that two thirds of the country is Christians with about 16% not professing to any specific religion . The report further stipulates a total of about nine religions practiced in the country and several denominations within Christianity. This freedom of religion has led to creating a cohesive state. Furthermore, immigrants who bring great expertise to the nation have found it easy to live in the country and practice their religion freely.

The second right that has greatly benefited Canada is the Democratic Right. This right can be discussed in two broad aspects. The first aspect in which the democratic rights have improved Canada is the Right to Vote. Everyone in Canada has a right to vote in provincial and federal election and to run for any electoral position in any such an administration (Magnet, 2003). This legislation has been drafted to ensure that no individual, no matter race, religion or group affiliation, is denied the chance to exercise a democratic choice making Canada one of the most democratic nations according to a United Nations Report . The free democratic space has also greatly provided a good environment for a consistent economic growth.

The second aspect in which the Democratic rights in the Charter relates to the operation of the legislatures of the both the federal and provincial governments. Section 4 stipulates that no House or chamber whether the

Commons or Provincial Assembly can continue to sit for any time longer than five year . The Charter further demands a general election must held after the elapse of such a time. The only exception to this rule is in special times such a war or national emergency. It also demands that these house representatives must sit regularly, about once a year, so as to give the representatives a chance to question the government on matters affecting the electorate . This is a great step towards ensuring that a sitting administration is responsible for its performance to the public.

The third right provided in the Charter is the Mobility Rights. Section 6 of the Charter has provided with the citizens the option to enter, remain or leave Canada and its territories as they please. It also grants citizens with the right to take up or move to residence in any of the province within Canada. This provides the citizens with the freedom to pursue and gain a livelihood in any province in Canada with the assurance form the government to security and non interference. However, care must be taken by provincial and territorial governments regarding legislation that require someone to be a resident for some time . A good example is the policy regarding health care and professional trade unions.

The fourth important right that came along with the Charter of Freedom and Rights is the right to Minority Group Education. This right provides for education to minority group in the national language of their choosing. Canada has two broad speaking groups, that is, the English Speaking Canada and the French Speaking Canada . What this right seeks to ensure is that French speaking minority citizens residing in the English part have a right to access education in French and vice-versa. This rule however, has its

exception. The first exception is that, the parents of the minority children must prove that the minority language is their first language. Secondly, the children of the minority group must reach a threshold number so as to qualify for this right . In spite of these requirements, several minority schools exist in the country showing the state of recognition the government has towards respecting it citizens.

One of the most profound aspects of the charter that the country has benefited from is Access to Justice. The charter promises its citizens that will provide full defense and answer to protect someone against wrongful conviction when facing criminal charges (Magnet, 2001). The charter is broad in discussing how it ensures that a suspect assured of a correct result after following the due process.

The first aspect, in which the charter ensures that access to justice is fair, is right to free counsel at trial. Section 10 of the charter provides for a state legal counsel for every citizen upon lawful detention and the respective state organs have done well to ensure this is implemented well. Police and other arresting bodies have been mandated by state to let the suspect know their rights once detained, while other state organs provide legal advice to suspects. The charter also provides that anyone who does not have the resources to afford counsel should be provided with one during trial and such counsel shall be of qualified competence to see through such a trial. Public policies have been developed towards implemented this requirement and has been implemented with good result.

The second form of access to justice granted by the charter is that of Access to Justice for Victims. While in tradition, access to justice has been centered

on the suspects of criminal offence, the charter recognizes the need for justice to the victims of such offenses. Women and children have been known to be victims of such violations, that the resourceful are in a position to bypass the law and get away with wrong doings. In fact, there was a victims' movement before the enactment of the Charter in 1982 . The charter stipulated the ' equality of justice principle' giving the constitution the power to mandate a court to ensure a balance approach in administration of justice.

The judiciary has taken bold steps towards ensuring that the victims receive justice from the court through a civic education. These organs have taken steps to educate the public that the Charter is not a simple document but one that bears the values of the Canadian society.

Finally, due to a landmark ruling by the constitution based on the Charter, the death penalty may have been abolished for good. In the case United States v. Burns two Canadians were to be extradited to face a death penalty in the United States of America . The Supreme Court ruled that such that an extradition to face death penalty is a fundamental breach to the Charter of Freedom and Rights. This judicial precedence has founded a major advance in eliminating the worst form of capital punishment in human nature. It is also very unlikely that such a legislating to bring back this punishment will ever be enacted by the parliament.

Conclusion

In conclusion, the Charter of Freedoms and Rights may not be an ideal document, since such products are a result of intense negotiations and

concessions. It also heavily relies on courts and other judicial processes to enforce the requirements of such a document. But it is without doubt that Canada has made tremendous strides in enhancing the rights and freedoms of individuals. Canada has seen tremendous improvements in the human rights aspects of the country making it more habitable and successful.

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