

## Group rights v individual rights

### Me, myself and them

*From indigenous peoples to newly installed migrants, governments face awkward demands for collective exemptions and entitlements*



WHEN one category of citizens is singled out for privileged treatment, are the rights of others infringed? Phil Eidsvik, a Canadian salmon-fisher, thinks the answer is yes. He hopes his country's newly re-elected prime minister, Stephen Harper, recalls a pledge he made five years ago: to oppose “racially divided fisheries programmes”, in other words, giving special fishing rights to indigenous groups.

But given the storm that Mr Harper's comment provoked—he was accused of stoking white nativism—he is likely to proceed cautiously. And legal moves are now afoot to broaden the rights of indigenous fishermen. At present Canada upholds the rights of aboriginal groups to engage in traditional, subsistence fishing; hence regulators often open a fishery to a particular indigenous group for a limited time before a commercial catch begins.

One tribe, the Lax Kw'alaams, is fighting a legal battle for special rights in the field of commercial fishing, too, challenging the government's contention that commercial harvesting only began with the arrival of whites, and so is not a traditional activity of Canada's first inhabitants. All this horrifies Mr Eidsvik, who argues that the rights of other fishermen (including indigenous ones) are violated when a stretch of water is allocated to a particular tribe. “The individual is completely lost in the conflict over group rights,” he says, speaking for the British Columbia Fisheries Survival Coalition, an NGO.

Among the world's liberal democracies, Canada stands out for the entitlements it grants to one group of citizens and for its open acknowledgment that there are hard trade-offs between individual rights and group rights. From South Africa to India, many countries have “affirmative action” policies, with the aim of correcting past wrongs by allocating a disproportionate share of jobs or educational places to groups that apparently need a leg up. But critics of the Canadian system say it goes further; it creates two levels of citizen by excluding indigenous people from conservation rules, and by exempting tribes from the accountability rules that other groups must follow. It is one thing to offer benefits to citizens who are felt to need them, another to water down the principle of equal citizenship.

Canada may be egregious, but, in one form or another, most democracies have to weigh the demands of groups against the rights of individuals—and getting the correct balance has become harder in the age of identity politics, when arguments about culture and even religion have replaced older ones over economics and class. Ostensibly at least, France has remained at the far end of the spectrum from Canada. French officials like to contrast their own policy of equal citizenship with the sloppy *communautarisme*—rights for specific groups—that some countries, including multicultural Britain, tolerate.

Whatever lies behind that French rhetoric, the question of group entitlement has been thrown into sharp relief in all rich democracies by the recent arrival of migrants whose “cultural practices” are at odds with any liberal understanding of rights. Extreme examples include the stigmatising of children accused of witchcraft; the practice of female genital mutilation; domestic violence; and forced marriages with partners in distant lands. Whenever those practices are tolerated, the victims are deprived of basic human rights—and the perpetrators enjoy a peculiar leniency.

As countries wrestle with those problems, realities often differ less than theories do. At least in the recent past, the French authorities turned a blind eye to polygamy among north African migrants. And if there are British inner cities where the Queen's writ (in respect of equality of the sexes, say) hardly runs, something similar applies to the ghettos of Marseilles.

Governments and courts, charged with upholding the ideal of equality before the law, claim to be guided by eternal principles, not fashion—but they are inevitably affected by a climate of opinion created by lobby groups, scholars and international bureaucracies that spend their time debating and defining human rights.

And in that world of wonks and campaigners, there has been more emphasis in recent decades on social and cultural rights—generally demanded by groups—and less on the individual rights which are upheld by classic texts like the American Bill of Rights. For example, the Vienna declaration of 1993, which forms the basis for much for the UN's human-rights activity, incorporates cultural rights as well as a “right to (economic) development”.

According to Eva Erman, a professor at Sweden's Uppsala University, “the Vienna text implies there is no tension between individual and group rights, although in practice such a tension often arises.” Elsewhere in academia, Will Kymlicka, a Canadian scholar, has argued that individual rights cannot be fully enjoyed without respect for the traditions, languages and religions of groups, because culture gives people “meaningful options”. He agrees that culturally defined groups may sometimes oppress their own members, but insists that weak cultures need defending from strong ones. And Amnesty International, the granddaddy of global human-rights groups, broadened its agenda a decade ago to include social, economic and cultural rights as well as freedom from jail and persecution, its first concern.

But as advocates of human rights mull over this year's Arab revolts, there seems to have been a rediscovery of the role of brave individuals who fight old-fashioned oppression in the name of universal rights, not identity politics. In its latest annual report, marking the organisation's 50th anniversary, Amnesty highlights both the role of new technologies in rallying protest, and the price paid by courageous souls who use them. It recalls the death of Khaled Said, an Egyptian who was beaten to death by police while using an internet café; and that of Mohamed Bouazizi, a Tunisian whose self-immolation was rapidly relayed round the country through social networks.

Amnesty still thinks rights are interlinked, according to Widney Brown, one of its directors: the cry on the Arab streets is against police repression and torture, but also against economic mismanagement that blights societies. The report rejects a “false dichotomy” between civil and political rights on one hand, and social, economic and cultural ones on the other; but its general tone suggests a renewed emphasis on the ability of individuals to force change in the name of noble ideals.

If the Arab uprisings prevail, will the resulting elected governments impose the will of the majority group—Sunni Muslim in Syria or Tunisia, Shia in Bahrain? Or will they be genuine liberal democracies, with guarantees that members of minorities will be treated no better and no worse than anybody else? That question is impossible to answer in advance, though there are many vulnerable groups, from the Christians of Syria to the Tuareg nomads of the Maghreb, who have reason to fear they might fare worse under free, universal suffrage than they did under secular despots.

Compared with the chaos that could accompany any regime change in the Arab world, decision-makers in stable places like Canada or France have an easy time of it; they are free to experiment and negotiate. And in any lively democracy, groups—defined by language, religion or simply voluntary association around an idea or a pastime—will bargain vigorously over things like language teaching or zoning rights for mosques. But a dangerous line has been crossed, and a bad signal sent to other places, if, in the name of group rights, the principle of equality before the law is openly breached.