HUMAN RIGHTS LAW IN CONTEXT: 
THE CASE OF GHANA

INTRODUCTION

The indivisibility and interdependence of human rights have been emphasised by international bodies on several occasions. Yet some states have sought to draw a dichotomy between social and economic rights, and civil and political rights. The argument in most African countries south of the Sahara is that, economic and social rights should take precedence over political and civil rights.

Successive post-independence Ghanaian governments have sought to justify denial of civil and political rights with the argument that economic rights come first. One of the ex-leaders of Ghana is reported as saying, “‘one man one vote’ is meaningless unless accompanied by ‘one man one bread.’” Western states, on the other hand, stress civil and political rights over economic and social rights. The US, for example, ratified the Covenant on Civil and Political Rights in 1992, but has not yet ratified the

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Covenant on Economic and Social Rights. The US has, however, agreed to recognise the Covenant on Economic, Social and Cultural Rights in 1993.

It is often argued (especially in the west) that economic and social rights cannot be legalised as human rights because their existence and enjoyment require expenditure by the government. On the other hand, it is said that since states only recognise the existence of political and civil rights and refrain from interfering with them, making such rights enforceable makes sense. In some cases, it is difficult to sustain the distinction between the two groups of rights. Some civil and political rights constrain states from acting in a certain way, but in practice they equally require expenditure by the state. The right to vote and the right to fair trial, for example, require resources from the state. If states are allowed to deny the existence of economic and social rights because such rights would compel them to undertake costly expenditures, they would end up denying the existence of the other civil and political rights which require costly expenditures. In contrast to rights such as the right not to be tortured, the right to privacy and the right to personal liberty, rights such as the right to health, the right to education and the right to social security require state resources. Thus, in general, the level of resources will determine the extent of the state's duty to guarantee economic and social rights. It does not, however, follow from the resource-based nature of the rights that they should not be enforceable under any circumstances. Some of the issues generated by this debate are as follows:

(1) Is it useful to legalise economic and social "rights" as rights?
(2) Should civil and political rights be second to social and economic rights?

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4 See Martha Jackman, Constitutional Rhetoric and Social Justice: Reflections on the Justiciability Debate, in SOCIAL JUSTICE AND THE CONSTITUTION 17, 22 (Joel Bakan & David Schneiderman eds., 1992);
5 Id.
6 Id. at 22-23.
7 As in art. 2(1) of the Covenant on Economic, Social and Civil Rights. According to Art.2(1) "each party to the ... Covenant undertakes to take steps ... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the ... covenant by all appropriate means..."