

Charter: A Course

A podcast about Canadian Constitutional Law & Litigation

Season 4, Episode 3: Section 12 of the Charter

About the Series

Charter: A Course is a podcast created by the David Asper Centre for Constitutional Rights (the Asper Centre) and hosted by the Asper Centre's Executive Director [Cheryl Milne](#).

Charter: A Course focuses on leading Canadian constitutional cases and current constitutional law issues, highlighting strategic aspects of constitutional litigation and exploring what it's like to practice in this area of law in our *Practice Corner* segment.

Whether you are a law student, a lawyer, or just an interested person, we hope that you learn about an aspect of constitutional law and litigation that interests you in our podcast.

Show Notes

This episode focuses on Section 12 of the Canadian Charter of Rights and Freedoms, which provides that everyone has the right not to be subjected to any cruel and unusual treatment or punishment. Joining Cheryl to discuss the most significant jurisprudence and application of Section 12 is [Professor Lisa Kerr](#), an associate professor and the director of the criminal law group at Queen's University Faculty of Law, who has worked and researched extensively in the fields of sentencing and prison law.

In the Practice Corner, Cheryl is joined by Catherine Latimer, the Executive Director of the [John Howard Society of Canada](#) since 2011, the current President of the National Associations Active in Criminal Justice and a member of the Order of Canada. Ms. Latimer discusses how the John Howard Society of Canada's efforts to reform administrative segregation in Canada have been pursued through various types of advocacy, including litigation and participation in the legislative process.

Find a FULL transcript of this episode [HERE](#).

Case Links and other Resources

In this episode, the following cases, papers, Bill and reports were mentioned/discussed:

[United States v. Burns, \[2001\] 1 S.C.R. 283, 2001 SCC 7](#)

[R. v. Bissonnette, 2022 SCC 23](#)

[Quebec \(Attorney General\) v. 9147-0732 Québec inc., 2020 SCC 32, \[2020\] 3 S.C.R. 426](#)

[R. v. Hills, 2023 SCC 2](#)

[R. v. Smith, \[1987\] 1 S.C.R. 1045](#)

[R. v. Nur, 2015 SCC 15, \[2015\] 1 S.C.R. 773](#)

[R. v. Hilbach, 2023 SCC 3](#)

[R. v. Bertrand Marchand, 2023 SCC 26](#)

[R. v. Gladue, \[1999\] 1 S.C.R. 688](#)

Lisa Kerr and Benjamin Berger, [“Methods and Severity: The Two Tracks of Section 12” \(2020\), 94 S.C.L.R. \(2d\) 235](#)

[British Columbia Civil Liberties Association v. Canada \(Attorney General\), 2019 BCCA 228 \(CanLII\)](#)

[Canadian Civil Liberties Association v. Canada, 2019 ONCA 342 \(CanLII\)](#)

[R. v. Boudreault, 2018 SCC 58, \[2018\] 3 S.C.R. 599](#)

[Ashley Smith Coroner’s Report \(final verdict\)](#)

[Bill C-83 An Act to amend the Corrections and Conditional Release Act and another Act \(Royal Assent\)](#)

[Charter Rights and Structured Intervention Units: Have Rights Abuses of Administrative Segregation Been Corrected?](#) Report by the John Howard Society and the Asper Centre

The [Doob Sprott Reports on Structure Intervention Units](#).

Thank You’s

Thank you to our wonderful guests on this episode, Professor Lisa Kerr and Catherine Latimer.

Thank you to University of Toronto Faculty of Law JD student Kate Shackleton, who helped with the production of this episode.

Thank you to our audio editor Liam Morrison of [Bell Room Media Solutions](#).

Thank you to the creators of our theme music, Charter: A Course! Constitutional law professor Howie Kislowicz and law professor Rob Currie gave us the licence to use their constitutional law shanty in exchange for a donation to the Calgary Food Bank. The song’s performers are Vanessa Carroll, Rob Currie, Howie Kislowicz, Avinash Kowshik, Anna Lund, Patricia Paradis, Elin Sigurdson, Lyle Skinner, and Dave Wright. You can listen to the entire shanty here: [Charter a Course](#). Please consider contributing to your local food bank.