Charter: A Course

A podcast about Canadian Constitutional Law & Litigation

Season 2, Episode 1: Section 28 of the Charter and Feminist Law Reform

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 Canadian constitutional law and litigation. In each episode, we highlight the accomplishments of U of T Law's faculty and alumni involved in leading constitutional cases and issues. Each episode also includes a "Practice Corner," where we talk about the ins and outs of what it means to be a constitutional litigator.

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 28 of the Canadian Charter of Rights and Freedoms, which states that notwithstanding anything in the Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

With the help of our distinguished guest Professor Kerri Froc we trace the history of Section 28 and its questionable usage in jurisprudence, before discussing how a case currently making its way to the Quebec Court of Appeal may provide an opportunity for Section 28 to truly shine for the first time.

In the Practice Corner, Professor Martha Jackman tells us about Feminist Law Reform 101, a free online course designed to provide the tools to teach and inspire a new generation of feminist legal advocates like the ones who brought Section 28 into being.

Find a full transcript of this episode HERE.

Case Links

In this episode, the following cases were discussed:

Bliss v Canada (AG) [1979] 1 SCR 183

Canada (AG) v Lavell, [1974] SCR 1349

Andrews v Law Society of British Columbia, [1989] 1 SCR 143

R v Hess; R v Nguyen, [1990] 2 SCR 906

Blainey v Ontario Hockey Association (1986) 54 OR (2d) 513

Newfoundland (Treasury Board) v. N.A.P.E., [2004] 3 SCR 381, 2004 SCC 66

Centrale des syndicats du Québec v. Quebec (Attorney General), 2018 SCC 18, [2018] 1 SCR 522

Hak c. Procureure générale du Québec, 2019 QCCS 2989

Kerri Froc's new article:

Froc, Kerri, A Law in Rupture: Section 28, Equal Rights, and the Constitutionality of Québec's Bill 21 Religious Symbols Ban (July 24, 2022). "The Surprising Constitution", edited by Howard Kislowicz, Richard Moon and Kerri Froc: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4171256.

NAWL Feminist Law Reform 101 Course: https://nawl.ca/feminist-law-reform-101/

About the Asper Centre

The Asper Centre, a part of the University of Toronto's Faculty of Law since 2008, is devoted to realizing constitutional rights through advocacy, research and education. The Centre aims to play a vital role in articulating Canada's constitutional vision to the broader world. The cornerstone of the Centre is a legal clinic that brings together students, faculty and members of the bar to work on significant constitutional cases and advocacy initiatives. The Centre was established through a generous gift from U of T law alumnus David Asper (LLM '07).

Thank You's

Charter: A Course is proudly sponsored by the University of Toronto's affinity partner **TD Insurance.** We would like to thank our sponsor, and you can discover the benefits of affinity products here.

We would like to thank the creators of our theme music for 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!

Thank you to Kathryn Mullins, JD student at the University of Toronto Faculty of Law and Asper Centre Summer Research Assistant, for her contributions to the production of this episode.

Thank you to our wonderful guests on this episode, Professors Kerri Froc and Martha Jackman!

Thank you to our audio editor Liam Morrison of Bell Room Media Solutions.

Lastly, we are very grateful to you, our listeners, for taking the time to join us on as we continue to Charter a course into podcasting!