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**Topic A: Canadian Charter of Rights and Freedoms**

Introduction:

The Constitution Act of 1982 incorporates the Canadian Charter of Rights and Freedoms, which serves as a cornerstone for defending Canadians' fundamental rights. Canadian society has been profoundly influenced by this constitutional framework, which has shaped legal standards and promoted an individual rights culture. There are various examples in the history of Canadian courts regarding rights and freedom.

Example- 1: (Freedom of Expression)

The R. v. Keegstra case in Canada set an important rule: you can't say things that promote hatred. The Supreme Court decided this when a teacher was charged for making hateful statements about Jews. The ruling means the government can restrict speech that spreads hate. This decision has a big impact, making clear the limits on free speech, supporting multiculturalism, and starting discussions about how to balance individual rights with what's good for society. It also affects how teachers need to be careful about what they say in class. Overall, the case keeps shaping how Canada deals with hate speech.

As per a study of [John Boyko] in “The Canadian Encyclopedia”, he concluded that The Supreme Court of Canada ruled in 1990 that the hate speech laws violated Keegstra's freedom of expression but were a "reasonable limit." A second trial in 1992 resulted in a guilty verdict. The case highlighted tensions between free expression and societal protection against hatred.

References: <https://www.thecanadianencyclopedia.ca/en/article/keegstra-case>

<https://globalfreedomofexpression.columbia.edu/cases/r-v-keegstra/>

Example – 2: (Right to Equality)

The problem in Andrews v Law Society of British Columbia was the requirement of Canadian citizenship for admission to the bar, challenged by Mark David Andrews. The impact on Canadian society was significant as the Supreme Court ruled that such a rule, excluding individuals solely based on citizenship, violated equality rights under Section 15 of the Charter. This decision set a precedent, establishing the "Andrews test" and expanding the scope of equality rights in subsequent cases, impacting the recognition of historically marginalized groups.

[Mark David Andrews] and [Gorel Elizabeth Kinersly] in their work “Andrews v. Law Society of British Columbia, [1989] 1 S.C.R. 143” also mentioned the impact on Canadian society.  
The impact of Andrews v Law Society of British Columbia on Canadian society was significant as it established a legal precedent for equality rights. By ruling that citizenship-based restrictions on employment violated Section 15 of the Charter, the decision contributed to a more inclusive legal framework. This had broader implications for the recognition of diversity and the rights of historically marginalized groups in Canada, influencing subsequent cases and promoting a more inclusive and equitable society. The decision marked a step towards dismantling discriminatory barriers and fostering a legal environment that values equality for all individuals, irrespective of their citizenship status

References: <https://en.wikipedia.org/wiki/Andrews_v_Law_Society_of_British_Columbia>

<https://law.yale.edu/sites/default/files/documents/pdf/Intellectual_Life/Andrews_v._Law_Society_of_British_Columbia.pdf>

Example – 3: (Freedom to Religion)

In Multani v. Commission scolaire Marguerite-Bourgeoys, an Orthodox Sikh challenged a school's ban on wearing a kirpan, citing religious obligations. The Supreme Court of Canada ruled the ban violated freedom of religion (Charter s.2(a)) and wasn't justifiable under s.1.

Audrey Macklin,[“Charter right or Charter-lite? Administrative discretion and the Charter,”](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2507801) (2014) 67 SCLR (2d) 561. Ayelet Shachar, “Interpretation Sections (27 and 28) of the Canadian Charter,” (2013) 61 sCLR (2d) 147-190 also mentioned its impact on the society.

Multani v. Commission scolaire Marguerite-Bourgeoys (2006) significantly impacted Canadian society by affirming religious freedom and establishing a legal precedent for balancing individual rights with institutional regulations. The case emphasized the need to accommodate diverse religious practices, particularly in education, and sparked discussions on the proportionality of restrictions in the context of safety concerns. This landmark decision shaped subsequent legal considerations of conflicts between religious freedoms and institutional policies, reflecting Canada's commitment to a diverse and inclusive society. It also prompted educational institutions to reassess their policies, fostering greater cultural sensitivity while maintaining safety.

References : <https://aspercentre.ca/constitutional-cases/supreme-court-case-materials/alphabetical-list-of-cases/multani-v-commission-scolaire-marguerite%E2%80%91bourgeoys/>

Example – 4: (Mobility Rights)

The authors [Gwen Brodsky], [Rachel Cox], [Shelagh Day], and [Kate Stephenson] have explained mobility rights with the help of the case study of Gosselin V. Quebec. Gosselin v Quebec (AG) is a significant legal case in Canadian constitutional law that dealt with the interpretation and application of the Canadian Charter of Rights and Freedoms. The case focused on the rights of young adults in Quebec to receive full social assistance benefits and raised important questions about equality rights and the government's ability to condition benefits on participation in employment programs.

[Louise Gosselin] from York University beautifully explained the impacts of this right on this society, The Gosselin v Quebec (AG) case, with its rejection of the Charter challenge against a Quebec law conditioning full social assistance benefits for youth on participation in employability programs, has had significant implications for Canadian society. The majority's decision reinforced the government's authority to link benefits to participation in programs, emphasizing short-term autonomy among youth. This has influenced social policy, highlighting the delicate balance between promoting government objectives and safeguarding individual rights. The case underscored the challenges in addressing the needs of vulnerable populations within legal frameworks, shaping ongoing discussions on social justice, equality, and the role of the state in ensuring citizens' well-being. The dissenting opinions, particularly on positive obligations under section 7 and the potential harm to dignity, contribute to the ongoing debate, serving as a reference point for future considerations of constitutional rights and social assistance programs in Canada.

Reference: <https://www.thecourt.ca/the-womens-court-of-canada-gosselin-v-quebec-attorney-general-2006-1-w-c-r-193/>

<https://www.yorku.ca/khoosh/PPAS%202200/Cases/Gosselin-repro.pdf>