

THE CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

Talk delivered by the Solicitor-General to the Continuing Legal Education program of the Victorian Bar

7 March 2007

AUTHORITIES

Section 4: “Public Authorities”

1. *Aston Cantlow PCC v Wallbank* [2004] 1 AC 546
2. *R v Leonard Cheshire Foundation* [2002] 2 ALL ER 936
3. *Johnson v The London Borough of Havering* [2007] EWCA Civ 26
4. *Ransfield v The Radio Network Ltd* [2005] 1 NZLR 233.

Section 7: Proportionality

5. *R v Oakes* [1986] 1 SCR 103

Section 28: Legislature - Obligation to table compatibility statements

Right not to be subjected to medical treatment without full, free and informed consent (s 10)

6. A.C.T. Compatibility Statement, Mental Health (Treatment and Care) Amendment Bill 2005 (accessible at www.legislation.act.gov.au).

Section 32: Judiciary - Interpretive Obligation

Right to Equality before the Law (s 8)

7. *Ghaidan v Godin-Mendoza* [2004] 2 AC 557

Right to freedom of Expression (s 15)

8. *Moonen v Film & Literature Board of Review* [2000] 2 NZLR 9

9. *Hopkinson v Police* [2004] 3 NZLR 704
10. *R v Lambert* [2002] 2 AC 545
11. *Hansen v The Queen* (20 February 2007) (NZSC)

Right to the presumption of innocence (s 25(1))

12. *Brown v Stott* [2001] 2 WLR 817
13. *R v Upton* [2005] ACTSC 52.

Right against self-incrimination (s 25(2)(k))

Right to a trial without unreasonable delay (s 25(2)(c))

Section 36: Declaration of Inconsistent Interpretation

14. *A v Secretary of State for the Home Department* [2005] 2 AC 68

Section 38: Executive (Public Authorities) - Obligation on public authorities to comply and to take into account in deciding

Right to Privacy (s 13)

15. *R v Secretary of State of the Home Department, ex parte Daly* [2001] 2 AC 532.

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COMPARATIVE HUMAN RIGHTS LEGISLATION

1982	<i>Canadian Charter of Rights and Freedoms</i>
1990	<i>New Zealand Bill of Rights Act (ICCPR)</i>
1991	<i>Bill of Rights Ordinance (Hong Kong) (ICCPR)</i>
1996	Bill of Rights (Chapter 2 of the Constitution of South Africa)
1998	<i>Human Rights Act (UK) (European Convention)</i>
2003	<i>European Convention on Human Rights Act (Ireland) (European Convention)</i>
2004	<i>Human Rights Act (ACT) (ICCPR)</i>

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INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights (ICCPR)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

European Convention on Human Rights (ECHR)

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TEXTBOOKS FOR HUMAN RIGHTS RESEARCH

AUSTRALIA

Simon Evans and Carolyn Evans, 'Legal Redress under the Victorian Charter of Human Rights and Responsibilities' (2006) 17 *Public Law Review* 264

Simon Evans, 'The Victorian Charter of Human Rights and Responsibilities and the ACT Human Rights Act: Four Key Differences and their Implications for Victoria', Paper given to the Australian Bill of Rights: The Act and Beyond Conference, Canberra, 21 June 2006

Hilary Charlesworth, 'Human Rights and Statutory Interpretation' in *Statutory Interpretation: Australian Approaches* (Federation Press, 2005)

CANADA

Peter Hogg, *Constitutional Law of Canada* (4th ed) (Carslaw, 1997)

Peter Hogg, *Constitutional Law of Canada* (Loose-leaf Edition) (Carslaw, updated annually)

NEW ZEALAND

Andrew Butler and Petra Butler, *The New Zealand Bill of Rights Act: A Commentary* (Lexis Nexis, 2005)

SOUTH AFRICA

Iain Currie and Johan de Waal, *The Bill of Rights Handbook* (5th ed) (Juta, 2005)

UNITED KINGDOM

Richard Clayton and Hugh Tomlinson (eds) *The Law of Human Rights* (Oxford University Press, 2000) (with paperback supplements) (2nd ed to be published July 2007)

Volume 2 contains relevant comparative domestic legislation and international instruments

WEBSITES FOR HUMAN RIGHTS RESEARCH

AUSTRALIA

Victoria

Institute for Comparative and International Law, Melbourne University
<http://cccs.law.unimelb.edu.au/> (good range of academic papers on the Charter of Human Rights and Responsibilities)

Human Rights Law Resource Centre
http://www.hrlrc.org.au/html/s01_home/home.asp?dsb=18 (links to papers dealing with the Charter of Human Rights and Responsibilities)

ACT

ACT Human Rights Act Research Project <http://acthra.anu.edu.au/> (useful case summaries and papers on ACT Human Rights Act)

CANADA

Canadian Legal Information Institute <http://www.canlii.org/ca/com/chart/index.html>
(commentaries on the various sections of the Canadian Charter of Rights and Freedom and digest of relevant cases)

NEW ZEALAND

New Zealand Ministry of Justice <http://www.justice.govt.nz/> (contains Ministry of Justice advice to the NZ AG on the consistency of bills with the Bill of Rights Act and AG's statements to the Parliament on any inconsistencies)

SOUTH AFRICA

Constitutional Court of South Africa
<http://www.concourt.gov.za/site/yourrights/thebillofrights.htm> (overview and text of South African Bill of Rights with links to case law and legislation databases)

UNITED KINGDOM

Department for Constitutional Affairs, Human Rights Unit:
<http://www.dca.gov.uk/peoples-rights/human-rights/index.htm> (links to legislation, publications and other websites on the Human Rights Act)

United Kingdom Parliament Joint Committee on Human Rights:

http://www.parliament.uk/parliamentary_committees/joint_committee_on_human_rights.cfm

One Crown Office Row's Human Rights Update: <http://www.humanrights.org.uk/5/>

(reports and commentaries on human rights case law and articles on human rights issues; free email updates service)

INTERNATIONAL

European Court of Human Rights <http://www.echr.coe.int/ECHR> (case law of the European Court of Human Rights, the European Commission of Human Rights and the Committee of Ministers)

United Nations Human Rights Committee

<http://www.ohchr.org/english/bodies/hrc/index.htm> (links to international instruments, the UN treaty database, and the Committee's interpretation of human rights provisions)

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VICTORIAN PARLIAMENTARY MATERIALS

Office of Chief Parliamentary Counsel

http://www.ocpc.vic.gov.au/domino/web_notes/ocpcweb.nsf

provides information about the Office of Chief Parliamentary Counsel and the laws of Victoria, including links to Victorian legislation and parliamentary documents

To obtain statements of compatibility:

1. Go to <http://www.legislation.vic.gov.au/> (a link to it is on the Office of Chief Parliamentary Counsel website)
2. Click on Parliamentary Documents
3. Click on Bills
4. Click on the relevant Bill and there is a link to the Statement of Compatibility

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RECENT VISITING SPEAKERS

Professor David Feldman, former chair of the United Kingdom Joint Committee of Human Rights

Sir Nigel Rodley, former vice-chair of the United Nations Human Rights Committee

Justice Zac Yacoob, Judge of the Constitutional Court of South Africa