

Charter of rights and freedoms politics essay



**ASSIGN
BUSTER**

Charter of rights and freedoms an important piece about Canadas history. That created Canadian society into an incredible state of providing equality. Charter has brought a society of equality, unity and justice as well as, diversity in Canada. Charter of Rights and freedoms has given new independence to Canadian society. In order to make a nation strong, a nation needs great leadership and laws that make people equal in a society, with different background, regardless of race, color, mental disability, gender or nationality. History has it, a country that has not provided equality towards minority or considers differences of race and color. That nation has not survived a first round of independence. Definition of independence doesn't mean freedom from external hindrances but also freedom within a nation. The main purpose to convey to audiences, that Charter of Rights and Freedom has provided equality to majority and minority, unity between citizen, permanent residents and newcomers, as well as, created equal opportunity on seeking justice from offenders' side and victims.

The history of Charter of Rights and freedom goes back in time and responsibility of main personalities of Canadian leadership, who have made charter a reality, its effects on diversity in Canada and most importantly benefits on the society we live in today.

“ An overview, Charter has provided those sets of rights and freedom that are necessary in a free and democratic country. For example:

- 1) Freedom of religion, expression, conscience, beliefs, opinion.
- 2) Democratic rights,

3) Rights to live and employment in Canada

4) Equality rights (Native Rights, Mobile Rights, Gender Rights) etc.

5) Multiculturalism, Practice of Tradition Rights and many more” (An Overview of the Canadian Charter of Rights and Freedoms, 2009, Para. 2)

Charter of Rights and Freedoms

Introduction

The charter of rights and freedoms is a historic piece of written law in the Canadian constitution, where, every person in Canadian society became free in choosing the life, people desired (freedom) under the law. It has provided an entire new identity to the nation and became the symbol of freedom and equality under the law, as well as, among other countries around the world. Along with the charter, came freedom and improved laws about multiculturalism and religious expressions. Cultures and religious group were given permission to practice their traditions and values in the society without fear of hindrance.

History of the charter of rights and freedom goes back to, independent bill of rights, an older version of Charter of rights and freedom; it was not constituted but labeled as, an independent bill in 1958 by Sir, John A Diefenbaker and was first document of rights that provided rights of life, religious freedom, equality between different racial groups, press, media, speech and other sections. Bill of rights was first regarded as, charter of rights and freedom in 1958 but did not have any power in government. Thereafter, the bill of rights superseded into a charter of rights and freedoms.

<https://assignbuster.com/charter-of-rights-and-freedoms-politics-essay/>

Afterwards, charter came into the Canadian constitution in 1982 from liberal government of Pierre Trudeau. The main purpose, of the charter, is to give equality, Unity and Justice in every possible way, because an person living in the society would not feel unequally oppressed between majorities in the state For example; Aboriginal groups were oppressed by most of white population in society before 1982. Charter has created unity and trust between Canadian individuals with different racial backgrounds, political views, democratic and other categories that took part in creating defects in dividing a nation and made it into a stronger nation today.

Charter of Rights and Freedoms:

Charter has 12 divisions and has 34 sections about political rights, fundamental rights, and Democratic rights, Guarantee of rights and freedom, official languages of Canada, legal rights, Mobility rights, Equality rights, Minority language Educational Rights, Enforcement, General and Application of Charter. Each sub-section has been divided into defining the law in the most convenient way of understanding aims.

Guarantee of rights and Freedoms:

“ Every citizen or resident living in the Canada has these rights and freedom in the charter. Government of Canada has guaranteed to provide these laws to citizens but also, the government or juridical system has the right to take away rights and freedoms from people, if violated”. (Department of Justice, 2012, n. p)

Fundamental Rights:

Fundamental rights has four sections. These include:

A) " Citizens living in Canada can enjoy freedom of practicing religion without fear of hindrance or reprisal in Canadian society and having no fear of conscience.

B) People can have inner freedoms of, thoughts and beliefs.

C) Freedom of expressing opinion and expression of religious and beliefs.

Individuals can express their opinions freely in a group without any fear from majority or government. This also includes freedom for press and media communications for expressing awareness and importing and exporting news.

D) Mostly importantly, people living in Canadian society have freedom of forming assembly, different groups and associations. These rights can be used as, creating strikes, long March, groups of peace, as well as anti-groups".

(Department of Justice, 2012, n. p)

Democratic Rights:

" Citizens living in Canada have the right to vote, stand against or stand in election. However, as indicated, these rights are not absolute. They can only be interrupted under the first section one of charter. Furthermore, charter indicates; in a democratic state, elections should be fair. An elected government can only stay in power for five years. Thereafter, a new government should be appointed. As well as, in a state of war, invasion or insurrection; with this, as an exception a parliament and legislative assembly can continue beyond five years. Also, it can only be interrupted, if members

of House of Commons and legislative assembly can vote more than one-third to change the government in this situation". (Department of Justice, 2012, n. p)

Mobility Rights:

" These rights explain every person has the right to live in, enter, stay in, and leave Canada, as well as, move to and take up residence in any provinces and have a right to pursue towards gaining of a livelihood. Even as, there is a limitation towards, mobility rights; subsection two, individuals must offer to prove of residency from other provinces they have resided in before". (Department of Justice, 2012, n. p)

Legal Rights:

" Legal Rights, includes people have the right to live in security in the society with rights to life and freedom. They have the right to demand for a warrant for a search or the property they own by police officers. In addition, a person charged with an offence must be notified and have the right to have fair trial in juridical system. Offenders are proven innocent until proven of offence under the Canadian law. They should be treated properly in humane manner in police custody as well as; an offender has the right to be represented by lawyers and If found been responsible of crime before or after, also crown can release an offender on reasonable bail". (Department of Justice, 2012, n. p)

Equality Rights:

" Every person in Canadian society is equal in the eyes of law and has right to be treated equally regardless of gender, colour, race, ethical origins,

nationality, religion, age and mental disability and every person has the same rights in the juridical system and the criminal-justice system”.

(Department of Justice, 2012, n. p)

Official languages in Canada:

“ Canada has two authorized languages English and French. Both have equal status in the provinces. Individual can use either language in courts, federal government, parliament or being provided regular services as well as; English and French are official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick, Manitoba and Quebec. Minority Language Educational Rights: Citizens living in Canada have the rights to educate their children in English or French in the any province. They can choose to accept French or English educational standard in Primary or secondary institutions. This provides the rights to people, living in Quebec can come to different province can still choose French to be taught in”. (Department of Justice, 2012, n. p)

Enforcement:

“ If enforcement, rights are not being met for an individuals. An Individual has the right to take this matter into justice system and he will be defended under the section one of charter”.(Department of Justice, 2012, n. p)

Application of Charter:

“ Charter’s the main focus of implanting these sections against government and its authorities only. This shall not be implanted against private individuals”. (Department of Justice, 2012, n. p)

Case Law:

Relating these, charter of rights and freedoms' government has faced many difficult cases in providing equal justice. Any case that passes from courts of Canada, it should be compared by the violation of law from charters perspective, as well as, criminal code, most of the cases which have passed the Supreme Court of Canada. Most of them have been in favor of Charter of rights and Freedoms. So far, charter has survived every imposed action that has been put in the court against it, but the question raises can charter be an ultimate justice to the problems of society. Even as, it has proven itself, people can have justice and freedom at the same time in democratic society like Canada.

There have been many famous cases like R. V. Andrews case of violation of Freedom of expression, R. v Latimer case of mercy killing as well as, cases of honor killing, that have tested the flexibility of charter. Sometimes justice cannot be provided too all in equal from but outcome can become neutral point, whereas, both sides of parties are in favour in some cases.

R. v Andrews:

This case law was related towards fundamental freedom. A hate group of a nationalism party of Canada discriminated and made wrongful claims against Jew and black minority in Canada. A battle between freedom of expression and charter was condemned by section one in the charter (Guarantee of Rights and Freedoms), which indicted charter can only be used towards limited extend if government permits. The case actually resulted into " hate propaganda" (Supreme court of Canada R. v. Andrews, 1990) and wrong use

of power of freedom of expression against minority. Case result came out neutral about violation of charter but also saved by charter's section one.

R. v Latimer:

Latimer case produced huge buzz in Canada, due to mercy killing his own disable child. This case was a challenge against the charter. Robert Latimer was accused of first-degree murder, than outcry from public switched around towards second-degree murder and other unacceptable steps were from juridical system. Few questions were raised from the justice system.

- 1) If justice system, were to declare Latimer innocent. It would be the violation of the charter.
- 2) If Latimer is declared innocent, the rights of disable minority will be at risk.
- 3) Human beings are adaptable creatures, if Latimer is free, other father might adapt mercy killing.

Justice system keeping an eye of a majority of things, made answer towards sentencing. The outcome of the case resulted in violation of the charter. Since, there was no support came for the disabled minority. Afterwards, Latimer was sentenced for a little while. Some individual had considered; Latimer was innocent of a father's perspective. However, minority of disable were left without an answer.

R. v. Nurses:

A recent case, of nurses has made the center point of gender biased. " Nurses complained that, they were listed as administrative and clerical staff
<https://assignbuster.com/charter-of-rights-and-freedoms-politics-essay/>

while working for the federal public service, instead of being classified as health professionals” (Gender equality case nets nurses \$150M, 2012, n. p). Women in the hospital were not being treated equally under the Canadian law. They had made an appeal from the help of human rights, and case was taken against government. The compliant was written in 2004 and recently, it was solved. Won by group of nurses and received 150-million dollars after the human’s right settlement, and this was the case of gender biased. This case shows, the effectiveness of the charter on the gender biased produced from government.

Charter and Benefits:

After thirty years of the written charter, some sections of Charter have generated beneficial outcomes of being one of democratic state in the world. Charter has, limited police powers, as well as focused on providing gender equality and strengthens aboriginal rights. The major concept of the charter has influenced Multiculturalism and took involvement of diversity in Canada.

Limited Police Power:

The facts have shown that, if legal sections within charter have not been written, Police forces might have used its power for wrong proposes, for disturbing the peace and freedom of individuals in the society. Sections limited police powers into handling people in humane manner as well as, offender with careful treatment.

“ In Oakes case 1986, David E, Oakes was accused possession of drugs for pain relief but under the Narcotic Control Act, drug possession equals to the punishment trafficking drugs but judge overruled the (section 8) of Narcotic

control Act and defended the victim under the (section 1) of the charter of Rights and Freedom. Therefore, Charter had defended the individual's rights and freedoms". (Beaudoin, G. (2012)

Gender Equality:

Gender equality existed in Canada before; women weren't meant to own personal property. They didn't have the equal hand to hand opportunities with men for being labours. Males were dominant from in consideration of physical attributes towards high-level jobs. Until Bill of rights started making amendments in society, later Charter of rights and freedoms came into power and granted, equality rights between males and females under the Canadian Law. Thereafter, males and females were provided equal status in the society for freedom of equality, right to own property and have same work as male.

Aboriginal Rights:

Aboriginal Rights are one of major factors of equality from charter. Native people have received majority of rights from this constitution. Charter had imposed restrictions on the government and gave few rights of land towards native people. Charter has also imposed restrictions towards discrimination against aboriginal people. Recently, idle no more movement is being made, according to charter of rights and freedoms. Signs are being shown, aboriginal minority might gain another set of rights under the charter.

Value of Diversity:

The greatest value of diversity comes, from charter of rights and freedom, the attraction between different individuals' background. The basics of

attaining diversity in a country, is simply providing equality and generated output could be unity, productivity and stronger economy. Different background groups of people attracting with each other, freely without any fear of minority or tyranny of majority alterations. The unique identity of the charter has made Canada, diverse society along with United Kingdom and United States of America.

Diversity has also provided benefits to Canada, such as; different mind sets and educated individuals have immigrated, and each person has unusual ideas and knowledge to express. On the other hand, different cultural and religious values, each of these must have different ways in shaping the society in good and convenient manner and morally excellent information could be extracted from these cultures or religions and should be implanted in society. For example: Diversity has many beneficial factors.

“ Increased Productivity: Diversity brings in diverse talents/gifts together working towards a basic idea using various sets of skills and techniques that ignite their loyalty and increase’s productivity in group or workplace” (Andrade, S, 2010, Para. 2).

“ Increased creativity and Problem solving: Since diversity has unusual minds and brings together, this increases the chances of creating solutions to problems in a society, as well as, making powerful decisions towards positivity. Therefore, if the charter of rights and freedom was no longer permitted, the average of different talents and problem solving would be different in some way” (Andrade, S, 2010, Para. 2).

Decrease crime rate: Diversity is an significant tool, in decreasing the crime rate. The facts have shown, different ethical cultures immigrate in western countries, these groups will have disverse ideas and values they follow. Cultures and religions have values in controlling crime by, having too implant peaceful direction in inner minds and hearts. These values only impact inner views of a human being into doing a good deed. and dismentals negative desire of doing wrong.

Religious attributes: similar religions and cultures have different laws in controlling human behavior. A religion controls human beings inner behavior of desires and wants; mostly, it controls human's negative desires of wanting, something that is unacceptable in society. For example: In islamic religion, a person is not allowed to drink alcohol, because dose of alcohol effects human's brain of thinking properly and starts harming himself or others in process. Similarly in south asian cultures, a person must not do drugs or alcohol, this represents; how weak a human being innerself is. Therefore, different individuals with different backgrouds have uniqe directions that provide them with guidences. Therefore, ideas from the religious perspective could be implanted in a society into preventing crime.

Economic growth: Diversity has played an important part in creating Canadian economic since, each industry in Canada has special talent to depend on different groups and ethical people in Canada. For example: The convenient stores are mostly owned by middle eastern and these small businesses; one of major sources in generating tax system and make customers spends money on little products. (Andrade, S, 2010, Para. 2)

Conclusion

Charter provides many great and beneficial features towards Canadian society. Some do not understand the basic concept of the charter. If an individual were to translate the charter meaning, it would come as Unity, Justice, and equality. These three concepts are similar with everyday human being's life.

Major distinction of the charter could be described by, following up on any religious values and views in the world. Charter provides basic principles among living with different mentality, ethical, gender and many other aspects of living life in the society as compared to most of religions in the world. For example: In today's society, if an individual compares charter with the basic aspects of religious beliefs and values. Almost every religion in the world supports the fact; every human being is equal under god/creator. As well as, Charter indicates that, every citizen living in Canada is equal under the law. We can go even further; religion and charter share similar boundaries, following any religion does not make categories of colour and race. It does not matter to a god/creator, colour or race prayers better because, he created him without any difference of praying better or not. Unity is a significant aspect and base of any religions in the world, if every human being in that particular religion is unified, knowledge increases, values become influential and beliefs become strongest. On the other hand, Justice religions have different values in the providing justice in their laws towards people. Some religion fail in providing justices; unity becomes weak. Therefore, charter is providing values as most of religions would do in a

world. However, a different translation of particular religions has created a black hole in some societies around the world.

These words are very powerful in the society but invisible to majority. They can only be seen by personalities who are in light of injustice. Similarly, if an individual is in pain, he will turn to god, for justice. He does not have value of god, when he is happy.

However, some audiences must not agree with religious justification. In order to make them understand, another justification would be necessary. Charter is a gift towards the Canadian society. Many countries around the world have adopted Canadian charter's importance and implanted into their societies. "Canada has influenced other former British colonies as they create or revise their own constitutions, the study finds. Israel, Hong Kong and Eastern European countries have also drawn from the Canadian example" (Ibbitson, J. 2012, Para. 3). This proves that, eastern countries are leaving behind American amendments has their role model, and adapting Canadian constitution as universal model. Therefore, charter is very successful in providing maximum justice and equality in the country. The Canadian nation would not survive without charter, if it were to be dismantled from the constitution. Society would collapse and tyranny of majority would be in power, unfair justice would be provided toward minority, gender equality would be brought into consideration. The main downfall would be, even majority in power would not provide justice towards its people on the bottom level.

Therefore, keeping these things in mind, audiences who are unaware of charter's benefits would come to consideration that charter not only provides equality to minority but also, to every single individual living in the society, including to those, who condemn it, to express their opinion bad or good.