

Case Summary and Reflection: Andrews's v Law Society of British Columbia (1989)

The Supreme Court of Canada case “*Andrews v Law Society of British Columbia (1989)*” was the first to interpret Section 15(1) of the “Canadian Charter of Rights and Freedoms”, setting a precedent for assessing discrimination.

Mark David Andrews, a British citizen and permanent resident of Canada, applied to the “Law Society of British Columbia” to become a lawyer. His application was denied because the Legal Professions Act required that applicants be Canadian citizens. Andrews challenged this requirement, arguing it violated “Section 15 of the Charter” (Andrews & Kinersly, 1989).

In 1989, the Canadian Supreme Court ruled that the citizenship requirement was discriminatory and violated Section 15, after a case heard by seven justices, including Chief Justice Brian Dickson, with the Canadian Human Rights Commission and Attorney General of Canada intervening (Andrews & Kinersly, 1989).

The key legal issue was substantive, concerning whether the citizenship requirement constituted discrimination under Section 15 and how equality should be assessed. The Supreme Court ruled that the *citizenship requirement was unconstitutional*. The restriction did not serve a substantial objective and was not justified under Section 1 of the Charter, which allow rational limits on rights. As a remedy, the Court struck down the citizenship requirement for admission to the bar in British Columbia (Buckley, 2018).

The Court found that the citizenship requirement created an unjustifiable barrier to professional opportunities. Justice McIntyre introduced a test for assessing discrimination, stating that a law is discriminatory when it creates a distinction based on an enumerated or analogous ground that results in disadvantage.

The judgment made a distinction between formal equality, or treating everyone the same, and substantive equality, or taking into account disadvantages faced by certain groups. The majority decision was against the requirement, but Justice La Forest dissented in part, holding that while Section 15 was violated, more evidence was needed before striking down the law.

The Andrews decision shaped Charter jurisprudence and set the bar for evaluating equality rights. Equality does not mean identical treatment but ensuring laws do not operate in a manner that creates unjustified disadvantages. The judgment resulted in legal reforms, removing citizenship-based discrimination in professional licensing. It also impacted immigration, employment, and human rights policies, strengthening the protection of non-citizens in Canada (Black-Branch, 2018).

The judgment in Andrews was a clear indicator of the judiciary's role towards the protection of minorities. The court clearly shows how arbitrary distinctions are carved to create disadvantage against the minority. If the Court used a substantive approach to equality, then it ensured that future equal benefit claims would be judged fairly.

This case illustrates how the courts shape the development of rights and even demonstrates how discrimination could exist under seemingly neutral laws (Black-Branch, 2018). A controversial ruling like this forever changes the dimensions of public policy regarding immigration, regulation of professionals, and human rights in Canada.

In conclusion, Andrew was a classic case in the history of legal jurisprudence in Canada-a case that affirmed that laws may not create avoidable barriers towards citizenship. Ultimately, it fortifies Charter safeguards, ensuring this country upholds fairness and all-inclusivity in its scheme of laws.

References

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