

## HANDOUT 4: Fundamental Freedoms in the *Charter*

### Conscience and Religion

- You have a right to practice your religion's beliefs and to declare them without fear.
- No one can be forced to act in a way contrary to one's beliefs or conscience.

### Focus Case 1

In 1985, a landmark case, *Regina v. Big M Drug Mart Ltd.* [1985] 1 S.C.R. 295, tested the *Lord's Day Act* which prevented stores from opening on Sunday because it was supposed to be a day of rest. The *Act* was struck down because it went against the *Charter's* right of freedom of religion and conscience. The *Act* essentially forced people of other religions to observe Sunday in a Christian context. Other Canadian courts have also held up employee's rights to take days off to observe religious holidays.

Note: Sometimes the Court must weigh one *Charter* freedom against another. An example is the issue of blood transfusions. While the Court recognizes parents' rights to worship freely, it will not support this right if parents refuse to approve a life-saving blood transfusion on religious grounds.

### Thoughts and Expression

Under s. 2(b) you are free to think and believe what you want and to publicly express your opinions through writing, speech, art, music or photography.

### Focus Case 2

In 2009, in *Greater Vancouver Transportation Authority v. Canadian Federation of Students* [2009] 2 S.C.R.295, the Supreme Court of Canada ruled that BC's two transit agencies TransLink and BC Transit violated the *Charter* by rejecting ads on the sides of buses from the BC Teachers' Federation and the Canadian Federation of Students. The ads were to encourage students to vote in the 2005 provincial election, but the bus companies argued that the ads would create an unwelcome environment for bus patrons.

The Court's decision was unanimous, but that does not mean that TransLink would not be well within its rights "to ban ads that do threaten the safety or welfare of the public, such as ones that incite or condone violence or include discriminating violence," opined Peter McKnight in his op-ed column in the Vancouver Sun.

### Focus Case 3

The RCMP planned to set up free speech areas during the 2010 Olympic and Paralympic Winter Games in Vancouver. Many questions were being asked. Does this mean that there was not free speech at any other Olympic sites? Does it mean that the

RCMP think the public would be safer if the *Charter* right to freedom of speech was restricted to certain areas only?

Craig McInnes, writing in the Vancouver Sun, said, “But legitimate free speech, no matter how stupid, must be allowed anywhere and anytime it doesn’t unduly impinge on the equally important rights of others.”

### Peaceful Assembly and Association

- You may gather with friends to celebrate an event or to demonstrate a point-of-view as long as it is lawful and peaceful.
- If, however, you break a law in the Criminal Code, your group could be dispersed and arrested.

### Focus Case 4

In the 1990’s, people gathered to celebrate (protected under freedom of peaceful assembly) with other hockey fans (protected under freedom of association) a Vancouver Canucks’ win during the Stanley Cup hockey playoffs. However, when the assembly turned into a riot in 2011, the freedoms of others (such as those of shopkeepers whose windows were broken and of bystanders who felt a threat to their personal safety) were compromised. The police had to arrest some rioters who were then charged with breaking the law. Freedoms are guaranteed only to such reasonable limits as can be justified in a free and democratic society.

