



The Charter only protects human beings—not corporations—from cruel and unusual treatment or punishment, the Supreme Court has ruled.

9147-0732 Québec inc. was a corporation. It was found guilty of doing construction work without a licence. Quebec’s *Building Act* set out a minimum fine as punishment. It was fined over \$30,000. The corporation said that the minimum fine was cruel and unusual punishment. It said this made the fine unconstitutional.

The *Canadian Charter of Rights and Freedoms* sets out the rights and freedoms that Canadians have. It is part of Canada’s Constitution. Section 12 says that everyone has the right “not to be subjected to any cruel and unusual treatment or punishment.” This means certain treatments or punishments are unacceptable and not allowed.

A corporation is a “legal person.” A legal person is treated like a physical person (a human being) for some purposes under the law. It has its own “legal personality,” meaning it has its own rights and duties. For example, it can sign contracts and own property, just like a human being can.

Corporations can benefit from some *Charter* rights. For example, corporations are protected against “unreasonable search and seizure” under section 8. The state can’t search or take something private from a corporation without permission, unless the law specifically allows it, like when police have a warrant. Corporations also have the right to a criminal trial in a reasonable time under section 11(b). However, they don’t get the benefit of all *Charter* rights. Corporations don’t have a right to “life, liberty and security of the person” under section 7. They also don’t have a right not to be forced to testify under section 11(c). The question in this case was whether a corporation could be protected from cruel and unusual punishment under section 12.

The trial judge at the Court of Quebec said the fine wasn’t cruel and unusual. Anyway, he said, section 12 only protects human beings, not corporations. The first appeal judge, at the Superior Court, agreed. The majority of judges at the Court of Appeal disagreed, though. They said section 12 could apply to corporations.

All the judges at the Supreme Court agreed that section 12 only protects people (that is, real, live human beings). They said it doesn’t protect corporations.

Cases dealing with section 12 have focused on “human dignity.” Human dignity is the idea that everyone has value and deserves respect, simply because they are a human being. It doesn’t matter who they are or what they’ve done. The judges pointed out that section 12 is meant to protect human dignity. Only human beings can have human dignity. Corporations can’t.

The majority noted that it didn’t matter that there were human beings behind the corporation. There are always real human beings behind a legal person. Even though they may be making decisions on its behalf, they still keep their own separate, individual legal personality.

Most of the judges looked at the word “cruel” in the phrase “cruel and unusual punishment.” They pointed out that this word would normally only describe something that caused pain or suffering. That could only happen to a living thing like a human being, not a legal person like a corporation. This supported the idea that section 12 didn’t apply to corporations.

The majority of judges focused on the wording of the *Charter*, its goals, and its history in making their decision. They said the wording of the *Charter* and past Canadian court decisions made it clear that section 12 only applied to human beings. The majority said they didn’t need to rely on international treaties or laws or cases from other countries to help them decide. But they said international treaties that Canada agreed to should matter more than ones that it didn’t agree to.

Section 12 falls under the part of the *Charter* that deals with legal rights. Sections 7 to 14 protect people’s rights when they are dealing with the justice system. They make sure people can trust it and that they are treated fairly, especially when they are charged with a crime. They are based on a belief in the dignity and worth of every human being.

Breakdown of the decision: *Majority:* Justices Russell [Brown](#) and Malcolm [Rowe](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Moldaver](#) and [Côté](#) agreed) | *Concurring:* Justice Rosalie Silberman [Abella](#) said the *Charter* should be given a broad meaning based on its purposes, and courts shouldn't make the text the most important part; international and comparative legal sources should continue to have a significant role in *Charter* interpretation (Justices [Karakatsanis](#) and [Martin](#) agreed) | *Concurring:* Justice Nicholas [Kasirer](#) also said it was clear that section 12 didn't apply to corporations, and that there was no further need to consider questions about the proper approach to constitutional interpretation in this case

More information (case # 38613): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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