

## “Notwithstanding” Clause in Constitution Act 1982 Canadian Charter of Rights and Freedoms

This document will show **proof** that Article 33. (1) in the CCRF 1982 is **meant for Corporations**. Anything other than that would be **crimes against humanity**.

1. Whereas it is my understanding and claim that the **Canadian Constitution Act 1982 is the Supreme Law**.

### **Canadian Constitution Act 1982** **Canadian Charter of Rights and Freedoms** **PART VII** **GENERAL** **Primacy of Constitution of Canada**

**52. (1)** The Constitution of Canada is the **supreme law of Canada**, and **any law that is inconsistent with the provisions of the Constitution** is, to the extent of the inconsistency, of **no force or effect**.

### **Canada (Attorney General) v. Sam Lévy et Associés Inc., 2005 FC 171 (CanLII)**

First, and most importantly, the Constitution is, under s. 52(1) of the Constitution Act, 1982, "the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect" . **The invalidity of a legislative provision inconsistent with the Charter does not arise from the fact of its being declared unconstitutional by a court, but from the operation of s. 52(1). Thus, in principle, such a provision is invalid from the moment it is enacted, and a judicial declaration to this effect is but one remedy amongst others to protect those whom it adversely affects**

2. Whereas it is my understanding and claim that the **Supreme Law (Constitution) is for the Governance of the Corporation of Canada**.

### **Powers of the Parliament** **Legislative Authority of Parliament of Canada**

**91. It shall be lawful for the Queen**, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good **Government of Canada**  
[Cont'd]

**Supreme Court of Canada**

**Supreme Court Judgments [1980] 1 SCR 54 1979-12-21**

**Re: Authority of Parliament in relation to the Upper House**

Further, although s. 91(1) gave the Queen the power, with the advice and consent of the Senate and the House of Commons, to alter the “Constitution of Canada” **except in certain expressly designated areas**, it does not confer a power to amend the B.N.A. Act. The word “Canada” in s. 91(1) **does not refer to Canada as a geographical unit** but **refers to the “JURISTIC FEDERAL UNIT”**

**Black’s Law 7th Edition**

**Juristic person**. See artificial person.

**artificial person**. artificial person. **An entity, such as a corporation**, created by law and given certain legal rights and duties of a human being; a being, real or imaginary, who for the purpose of legal reasoning is treated more or less as a human being.

**Black’s Law 9th Ed.**

**artificial person**. An entity, **such as a corporation**, **created by law** and given **certain legal rights** and duties of a human being; a being, real or imaginary, who for the purpose of legal reasoning is treated more or less as a human being.

**fictitious person**. See artificial person.

**juridical person**. See artificial person.

**juristic person**. See artificial person.

**legal person**. See artificial person.

**moral person**. See artificial person.

3. It is my understanding and claim that the **Corporation of Canada is signatory and obligatory to the International Covenants**

**International covenant on Civil and Political rights**

**Article 2.1** Each **State Party** to the present Covenant **undertakes to respect and to ensure** to all individuals within **its territory** and subject to its jurisdiction **the rights recognized in the present Covenant, without distinction of any kind,**

[Cont’d]

**Article 2.2** Where ***not*** already ***provided*** for by ***existing legislative*** or ***other measures***, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the ***present Covenant, to adopt*** such ***legislative*** or ***other measures*** as may be necessary to ***give effect*** to the ***rights recognized*** in the ***present Covenant***.

**Zingre v. The Queen et al.**, [1981] 2 SCR 392 (Supreme Court of Canada).

It is a ***recognized principle*** of ***international customary law*** that a ***state may not invoke*** the provisions of its ***internal law*** as justification for its ***failure to perform*** its ***international obligations***.

**R. v. Hape**, [2007] 2 S.C.R. 292, 2007 SCC 26

Para 53... It is a ***well-established principle of statutory interpretation*** that ***legislation will be presumed to conform to international law***. The presumption of conformity is based on the rule of judicial policy that, as a matter of law, courts will strive to ***avoid constructions of domestic law*** pursuant to ***which the state would be in violation of its international obligations***.

4. It is my understanding and claim that the ***Corporation of Canada knows*** that they must have all the ***international rights and freedoms*** expressed through the Constitution Act 1982 Canadian Charter of Rights and Freedoms.

#### **Canadian Constitution Act 1982**

#### **Canadian Charter of Rights and Freedoms**

#### **Fundamental Freedoms**

#### **Fundamental freedoms**

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

[Cont'd]

**Canadian Constitution Act 1982  
Canadian Charter of Rights and Freedoms  
Other rights and freedoms not affected by Charter**

**26.** The guarantee in this Charter of certain rights and freedoms ***shall not be construed as denying the existence of any other rights or freedoms*** that exist in Canada.

**5.** It is my understanding and claim that the ***Corporation of Canada has included Corporations with the Humans in the "Everyone"***.

**Universal Declaration of Human Rights**

**article 6** everyone has the ***right*** to recognition everywhere as a person before the law the

**International Covenant on Civil and Political Rights**

**article 16** everyone shall have the ***right*** to recognition everywhere as a person before the law

**Graham Garton, The Canadian Charter of Rights Decisions Digest,  
Justice Canada**

The reason that ***everyone*** in section 7 of the constitution act is recognized only as a Human being is ***due to the nature of the rights and freedoms*** being dealt with. The rights being brought forth in article 7 of the constitution act are the right to liberty and the right to the security of the person.

**International Covenant on Economic, Social and Cultural Rights**

**article 11** the state parties to the present covenant recognize the ***right of everyone*** to an adequate standard of living for himself and his family including adequate food clothing and housing and to the continuous improvement of living conditions. The state parties will take appropriate steps to ***ensure the realization of this right***, recognizing to this effect the essential importance of international cooperation based on ***free consent***.

**ICCPR**

**Article 18.1** ***Everyone*** shall have the right to ***freedom of thought, conscience and religion***. This right shall include freedom to have or to adopt a religion or belief of his choice, and ***freedom***, either ***individually OR*** in ***community with others*** and in public or private, to manifest his religion or belief in worship, observance, practice and teaching [Cont'd]

ICCPR

**Article 22.1** Everyone shall have the right to **freedom of association with others.**

**Canadian Constitution Act 1982**

**Canadian Charter of Rights and Freedoms**

**Fundamental Freedoms**

**Fundamental freedoms**

2. **Everyone** has the following fundamental freedoms:  
(d) freedom of association.

**Thomson Newspapers Ltd. v. Canada** (Director of Investigation and Research, Restrictive Trade Practices Commission)

While individuals as a rule **have full legal capacity by the operation of law alone, artificial persons are creatures of the state** and enjoy **civil rights** and powers only upon the **approval of statutory authorities.**

The **individual may stand upon his constitutional rights. He owes no duty to the State,** since he receives **nothing** there from, **beyond the protection of his life and property.** His **rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. He owes nothing to the public so long as he does not trespass upon their rights.**

**Thomson Newspapers Ltd. v. Canada** (Director of Investigation and Research, Restrictive Trade Practices Commission)

That is, read as a whole, it appears to us that this section [s. 7 ] was intended to confer protection on a singularly **human** level. A plain, common sense reading of the phrase "**Everyone** has the right to life, liberty and security of the person" serves to **underline the human element involved;** only human beings can enjoy these rights.

"Everyone" then, must be read in light of the rest of the section and defined to **exclude corporations and other artificial entities** incapable of enjoying life, liberty or security of the person, and include only **human beings.**

6. Whereas it is my understanding and claim that the **Human being and the juridical personality are not one and the same.** There is a **distinction being expressed between the Human and what the Human possesses,** the juridical personality. A Juridical personality is not one and the same when compared to a living human being.

#### **Civil Code of Quebec**

**Article 1**-Every human being **possesses juridical personality** and has the full enjoyment of civil rights

7. Whereas it is my understanding that a juridical personality is an artificial person.

#### **Blacks Law :**

Artificial Person. (17c) An entity, such as **a corporation, created by law** and **given certain legal rights** and duties of a human being; a being, real or **imaginary,** who for the purpose of legal reasoning is treated **more or less** as a human being.

**R. v. Hynes**, 1999 CanLII 18979 (NL CA)

**[101]** The determination whether to enforce **constitutionally protected rights under s. 24(2) was never intended to revert to the executive arm of government.** Indeed, as has already been discussed, **a primary purpose of the Charter was to place courts between the executive and the individual to protect the latter's individual fundamental rights and freedoms.**

8. It is my understanding and claim that the **Corporation of Canada has illegally incorporated the inhabitants of a Municipality.**

#### **Municipal Act**

##### **Part 2 - Incorporation of Municipalities**

##### **Incorporation of a new municipality**

**7 (1)** On the recommendation of the minister under subsection **7 (2)** the Lieutenant Governor in Council may, by letters patent, **incorporate the residents** of an area into a new municipality.

**Godbout v Longueuil.** <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1560/index.do>

Since municipalities cannot but be **described as “governmental entities”**, they are **subject to the Canadian Charter** .

[Cont'd]

**Slaight Communications Inc. v. Davidson**, [1989] 1 SCR 1038, 1989

The reference in s. 32 to the "Parliament" and a "legislature" make clear that the Charter operates as a **limitation on the powers of those legislative bodies. Any statute** enacted by either Parliament or a Legislature which is **inconsistent with the Charter** will be outside the power of (ultra vires) the enacting body and **will be invalid**. It follows that **any body exercising statutory authority**, for example, **the Governor in Council or Lieutenant Governor in Council, ministers, officials, municipalities, school boards, universities, administrative tribunals and police officers, is also bound by the Charter**. Action taken under statutory authority is valid only if it is within the scope of that authority. Since **neither Parliament nor a Legislature can itself pass a law in breach of the Charter, neither body can authorize action which would be in breach of the Charter. Thus, the limitations on statutory authority which are imposed by the Charter will flow down the chain of statutory authority and apply to regulations, by-laws, orders, decisions and all other action** (whether legislative, administrative or judicial) which depends for its validity on statutory authority

9. Whereas it is my understanding and claim that the **"Rule of law" must be respected here in Canada** and even the **adjudicators are bound and expected to respect the natural rights and freedoms**, the positive rights flowing from the **International Covenants** through the charter.

**R. v. Wagner**, 2015 ONCJ 66

The Rule of Law

**The idea that there are certain fundamental unwritten principles that govern all members of society including legislators and which judges are expected to enforce is not particularly new**

**The contemporary concept of unwritten constitutional principles can be seen as a modern reincarnation of the ancient doctrines of natural law**

Natural law- A physical law of nature. A philosophical system of legal and moral principles purportedly deriving from a universalized conception of human nature or divine justice **rather than from legislative or judicial action;**

Natural right- A right that is conceived as part of natural law and that is therefore thought **to exist independently of rights created by government or society, such as the right to life, liberty, and property.**

[Cont'd]

Inalienable right- A right that ***cannot be transferred or surrendered***, a natural right such as the right to own property.

Absolute right- 1. ***A right that belongs to every human being***, such as the right of personal liberty; a natural right.

**10.** Whereas my understanding and claim that the Corporation of Canada implied the “Notwithstanding” clause for Corporations only. Humans cannot be forced into association by incorporating them against their will. This would be in breach of the International Covenants, Slavery and a Crime against Humanity.

Claudio Silvaggi  
Human Being with Intrinsic Rights.