Francis Anthonimuthu Appulonappa (appellant) v. Her Majesty the Queen (respondent)

Hamalraj Handasamy (appellant) v. Her Majesty the Queen (respondent)

Jeyachandran Kanagarajah (appellant) v. Her Majesty the Queen (respondent)

Vignarajah Thevarajah (appellant) v. Her Majesty the Queen (respondent) and Attorney General of Ontario, Amnesty International (Canadian Section, English Branch), British Columbia Civil Liberties Association, Canadian Civil Liberties Association, Canadian Council for Refugees and Canadian Association of Refugee Lawyers (interveners)
(35958; 2015 SCC 59; 2015 CSC 59)

Indexed As: R. v. Appulonappa (F.A.) et al.

Supreme Court of Canada
McLachlin, C.J.C., Abella, Rothstein, Moldaver, Karakatsanis, Wagner and Gascon, JJ.
November 27, 2015.

Summary:

On October 17, 2009, the vessel Ocean Lady was apprehended off the west coast of Vancouver Island in British Columbia. Seventy-six people were aboard. All were Tamil asylum-seekers from Sri Lanka. None had the required legal documentation. The Crown claimed that the four appellants (the captain and chief crew of the vessel) were the organizers of the venture. The Crown alleged that the majority of passengers each paid, or promised to pay, $30,000 to $40,000 for the voyage. The appellants were charged under s. 117 of the Immigration and Refugee Protection Act (IRPA), which made it an offence to "organize, induce, aid or abet" the coming into Canada of people in contravention of the IRPA. Consequences of conviction could include lengthy imprisonment and disqualification from consideration as a refugee. Before their trial, the appellants challenged the constitutionality of s. 117 of the IRPA on the ground that it was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter.

The British Columbia Supreme Court, in a decision reported at [2013] B.C.T.C. Uned. 31, ruled that the provision was unconstitutionally overbroad because it criminalized not only organized people smuggling, but helping close family members to come to Canada and humanitarian assistance to refugees. In a decision reported at [2013] B.C.T.C. Uned. 198, the court ordered that the indictments against the appellants be quashed. The Crown appealed. Before the Court of Appeal, the Crown changed its submission on the purpose of s. 117 of the IRPA. It submitted that s. 117 was enacted to prevent all organizing or assisting of unlawful entry of others into Canada, including assistance to close family members and humanitarian assistance.

The British Columbia Court of Appeal, in a decision reported at (2014), 355 B.C.A.C. 98; 607 W.A.C. 98, allowed the appeal. The court accepted the Crown's revised submission as the purpose of s. 117 of the IRPA and on that basis held it to be constitutional. The court added that the s. 117(4) requirement of the Attorney General's consent to prosecute would guard against improper prosecutions on humanitarian grounds, family grounds or other grounds. The court overturned the

declaration of invalidity, set aside the acquittals and remitted the matter for trial. The appellants appealed.

The Supreme Court of Canada concluded that, insofar as s. 117 permitted prosecution for humanitarian aid to undocumented entrants, mutual assistance amongst asylum-seekers or assistance to family members, it was unconstitutional. The court allowed the appeals and read down s. 117 of the IRPA, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members), to bring it in conformity with the Charter. The charges were remitted for trial on that basis.

Aliens - Topic 2

Definitions and general principles - Legislation - Interpretation - [See **Aliens - Topic 5074**].

Aliens - Topic 3.2

Definitions and general principles - International Conventions and obligations (incl. incorporation of) - [See **Aliens - Topic 5074**].

Aliens - Topic 5074

Offences - Illegal entry - Organizing or assisting illegal entry (human smuggling or trafficking) - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Civil Rights - Topic 660.2

Liberty - Limitations on - Immigration - [See **Aliens - Topic 5074**].

Civil Rights - Topic 3107.2

Trials - Due process, fundamental justice and fair hearings - General principles and definitions - Overbreadth principle - [See **Aliens - Topic 5074**].

Civil Rights - Topic 8348

Canadian Charter of Rights and Freedoms - Application - Exceptions - Reasonable limits prescribed by law (Charter, s. 1) - [See **Aliens - Topic 5074**].

Civil Rights - Topic 8380.18

Canadian Charter of Rights and Freedoms - Denial of rights - Remedies - Reading down - [See **Aliens - Topic 5074**].

Constitutional Law - Topic 2507

Determination of validity of statutes or Acts - Reading down - [See **Aliens - Topic 5074**].

Statutes - Topic 502

Interpretation - General principles - Intention of Parliament or legislature - [See **Aliens - Topic 5074**].

Statutes - Topic 526

Interpretation - General principles - Consistency with comity of nations or international law - [See **Aliens - Topic 5074**].

Statutes - Topic 1644

Interpretation - Extrinsic aids - Legislative debates - [See **Aliens - Topic 5074**].

Cases Noticed:

B010 v. Canada (Minister of Citizenship and Immigration), [2015] N.R. TBEd. NO.027; 2015 SCC 58, refd to. [para. 22].

Singh v. Minister of Employment and Immigration, [1985] 1 S.C.R. 177; 58 N.R. 1, refd to. [para. 23].

Reference Re Section 94(2) of the Motor Vehicle Act (B.C.), [1985] 2 S.C.R. 486; 63 N.R. 266, refd to. [para. 23].

Bedford et al. v. Canada (Attorney General), [2013] 3 S.C.R. 1101; 452 N.R. 1; 312 O.A.C. 53; 2013 SCC 72, refd to. [para. 26].

Carter et al. v. Canada (Attorney General) et al., [2015] 1 S.C.R. 331; 468 N.R. 1; 366 B.C.A.C. 1; 629 W.A.C. 1; 2015 SCC 5, refd to. [para. 26].

R. v. Nur (H.), [2015] 1 S.C.R. 773; 469 N.R. 1; 332 O.A.C. 208; 2015 SCC 15, refd to. [para. 28].

R. v. Chartrand (J.), [1994] 2 S.C.R. 864; 170 N.R. 161; 74 O.A.C. 257, refd to. [para. 33].

R. v. Heywood (R.L.), [1994] 3 S.C.R. 761; 174 N.R. 81; 50 B.C.A.C. 161; 82 W.A.C. 161, refd to. [para. 36].

R. v. Hape (L.R.), [2007] 2 S.C.R. 292; 363 N.R. 1; 227 O.A.C. 191; 2007 SCC 26, refd to. [para. 40].

Németh v. Canada (Minister of Justice), [2010] 3 S.C.R. 281; 408 N.R. 198; 2010 SCC 56,

refd to. [para. 40].

Febles v. Canada (Minister of Citizenship and Immigration), [2014] 3 S.C.R. 431; 464 N.R. 7; 2014 SCC 68, refd to. [para. 50].

Application Under Section 83.28 of the Criminal Code, Re, [2004] 2 S.C.R. 248; 322 N.R. 205; 199 B.C.A.C. 45; 326 W.A.C. 45; 2004 SCC 42, refd to. [para. 64].

Global Securities Corp. v. British Columbia Securities Commission et al., [2000] 1 S.C.R. 494; 252 N.R. 290; 134 B.C.A.C. 207; 219 W.A.C. 207; 2000 SCC 21, refd to. [para. 64].

R. v. Gladue (J.T.), [1999] 1 S.C.R. 688; 238 N.R. 1; 121 B.C.A.C. 161; 198 W.A.C. 161, refd to. [para. 64].

Reference Re Firearms Act (Can.), [2000] 1 S.C.R. 783; 254 N.R. 201; 261 A.R. 201; 225 W.A.C. 201; 2000 SCC 31, refd to. [para. 64].

R. v. Anderson (F.), [2014] 2 S.C.R. 167; 458 N.R. 1; 350 Nfld. & P.E.I.R. 289; 1088 A.P.R. 289; 2014 SCC 41, refd to. [para. 74].

R. v. Oakes, [1986] 1 S.C.R. 103; 65 N.R. 87; 14 O.A.C. 335, refd to. [para. 79].

R. v. Videoflicks Ltd. et al., [1986] 2 S.C.R. 713; 71 N.R. 161; 19 O.A.C. 239, refd to. [para. 81].

R. v. Edwards Books & Art Ltd. - see R. v. Videoflicks Ltd. et al.

Schachter v. Canada et al., [1992] 2 S.C.R. 679; 139 N.R. 1, refd to. [para. 85].

Statutes Noticed:

Immigration Act and the Criminal Code in consequence thereof, An Act to amend the, R.S.C. 1985 (4th Supp.), c. 29, sect. 1 [para. 53].

Canadian Charter of Rights and Freedoms, 1982, sect. 1 [para. 79]; sect. 7 [para. 23].

Immigration and Refugee Protection Act, S.C. 2001, c. 27, sect. 3(1)(h), sect. 3(1)(i) sect. 3(2)(a), sect. 3(2)(b), sect. 3(2)(c), sect. 3(2)(d), sect. 3(2)(f) [para. 55]; sect. 3(2)(g), sect. 3(2)(h) [para. 52]; sect. 37(1)(b) [para. 19]; sect. 117(1) [para. 8]; sect. 117(2), sect. 117(3) [para. 20]; sect. 117(4) [para. 21]; sect. 118 [para. 47]; sect. 121(1)(c) [para. 20]; sect. 133 [para. 43].

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W. Paul Riley and Banafsheh Sokhansanj, for the respondent;

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Marlys A. Edwardh and Daniel Sheppard, for the intervener, the British Columbia Civil Liberties Association;

Andrew I. Nathanson and Gavin Cameron, for the intervener, the Canadian Civil Liberties Association;

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Andrew J. Brouwer, Jennifer Bond and Erin Bobkin, for the intervener, the Canadian Association of Refugee Lawyers.

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These appeals were heard on February 17, 2015, before McLachlin, C.J.C., Abella, Rothstein, Moldaver, Karakatsanis, Wagner and Gascon, JJ., of the Supreme Court of Canada. The judgment of the Supreme Court of Canada was delivered in both official languages by McLachlin, C.J.C., on November 27, 2015.

Appeals allowed.

Editor: Angela E. McKay

Aliens - Topic 2

Definitions and general principles - Legislation - Interpretation - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right

to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Aliens - Topic 3.2

Definitions and general principles - International Conventions and obligations (incl. incorporation of) - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Civil Rights - Topic 660.2

Liberty - Limitations on - Immigration - The appellants were charged with the offence of

"Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Civil Rights - Topic 3107.2

Trials - Due process, fundamental justice and fair hearings - General principles and definitions - Overbreadth principle - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the

alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Civil Rights - Topic 8348

Canadian Charter of Rights and Freedoms - Application - Exceptions - Reasonable limits prescribed by law (Charter, s. 1) - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Civil Rights - Topic 8380.18

Canadian Charter of Rights and Freedoms - Denial of rights - Remedies - Reading down - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s.

117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Constitutional Law - Topic 2507

Determination of validity of statutes or Acts - Reading down - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Statutes - Topic 502

Interpretation - General principles - Intention of Parliament or legislature - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing

humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Statutes - Topic 526

Interpretation - General principles - Consistency with comity of nations or international law - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.

Statutes - Topic 1644

Interpretation - Extrinsic aids - Legislative debates - The appellants were charged with the offence of "Organizing entry into Canada" found in s. 117 of the Immigration and Refugee Protection Act (IRPA) - At the relevant time, s. 117(1) of the IRPA provided that "No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons

who are not in possession of a visa, passport or other document required by this Act" - The Supreme Court of Canada held that s. 117 was overbroad and infringed the right to liberty enshrined in s. 7 of the Charter - The purpose of s. 117 was to criminalize the smuggling of people into Canada in the context of organized crime, and did not extend to permitting prosecution for simply assisting family or providing humanitarian or mutual aid to undocumented entrants to Canada - A broad punitive goal that would prosecute persons with no connection to and no furtherance of organized crime was not consistent with Parliament's purpose as evinced by the text of s. 117 read together with Canada's international commitments, s. 117 's role within the IRPA, the IRPA's objects, the history of s. 117, and the parliamentary debates - With respect to the scope of s. 117, s. 117(1) appeared to criminalize some conduct that bore no relation to its objective, raising the spectre that s. 117 as a whole was overbroad - The requirement under s. 117(4) that the Attorney General authorize prosecution did not cure the overbreadth problem created by s. 117(1) - Finally, the overbreadth was not justified under s. 1 of the Charter - The provision failed the minimal impairment branch of the s. 1 analysis - Section 117 was of no force or effect to the extent of its inconsistency with the Charter - The court read down s. 117, as it was at the time of the alleged offences, as not applying to persons providing humanitarian aid to asylum-seekers or to asylum-seekers who provided each other mutual aid (including aid to family members) - See paragraphs 26 to 86.