

HANDOUT 5: Enrichment Case Study 1

Case Study: R vs. Keegstra [1990] 3 S.C.R. 697

James Keegstra was a high school teacher in Eckville, Alberta. In 1984, he was charged under the section 281.2(2) of the *Criminal Code* for “promoting hatred against an identifiable group by communicating anti-Semitic statements to his students.” During class time, he would describe Jews as people who were evil, “revolutionists,” “treacherous,” “impostors,” “communists,” “secret,” “sneaky,” “manipulative” and “deceptive.”

He taught that Jewish people were “barbaric,” “subversive,” “sadistic,” “materialistic,” “money-loving” and “power hungry, greedy people who made up the Holocaust to gain sympathy for their cause.” He would test students on these statements and if students did not write answers to test questions about his theories on Jewish people, they would be penalized.

Keegstra applied to have the charges quashed for violation of his freedom of expression as laid out in the *Canadian Charter of Rights and Freedoms*. His motion was denied and he was eventually convicted at trial. The Supreme Court of Canada in 1990 upheld the *Criminal Code*’s provision prohibiting the willful promotion of hatred against an identifiable group as constitutional under the freedom of expression provision in section 2(b) of the *Charter*.

The main issue before the Supreme Court was whether sections 319(2) and 319(3) of the *Criminal Code* violated section 2(b) of the *Charter*. The court found that the violation of freedom of expression was justified under section 1 as the law had reasonable objections against hate crimes. It was not overly limiting the freedom of expression and there was a need to protect people against hateful expression.

This case provided precedent for other freedom of expression and hate speech cases. The Crown must prove the intent of “hatred” when accusing someone of hate crimes and hate speech as it conflicts with section 2(b) in the *Charter*.

Questions to Think About:

1. Was the Crown justified in accusing Keegstra of hate crimes under the *Criminal Code* or did doing so violate his freedom of speech and expression as guaranteed under the *Canadian Charter of Rights and Freedoms*?

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2. Should freedom of expression be limitless? Why or why not?

3. Was Keegstra justified in spouting hate about Jews to his class and penalizing students who did not repeat his teaching if he truly believed what he said? Why or why not? Do you think he was justified in going to court to have the charges quashed because his rights had been violated?
