

Abstract and Citations for Public Lecture on “Equality” by The Hon. Mr. Justice Bokhary

Abstract

Cases show the law at its best when protecting equality, at its worse otherwise. Equality is universally the bedrock of human rights, natural law, customary and treaty international law and constitutions. Constitutional provisions are of structure and rights. Suffrage is equal if universal. Legislative apportionment goes to structural equality. Natural law views can be commended to legal positivists. Widespread acceptance may have made the Universal Declaration of Human Rights binding as customary international law. Anyway, it binds via the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”). Domesticated as our Bill of Rights, the ICCPR is entrenched by art 39 of the Basic Law. Non-domestication of the ICESCR creates rule of law concerns and inequality here between these Covenants. But Basic Law rights include many socio-economic ones. And the ICESCR aids interpretation of socio-economic legislation. Constitutions typically guarantee equality. Save as differentiation is needed, equality demands identical treatment. Stereotyping spawns discrimination. Affirmative action is often necessary. Universal design enables persons with, and without, disabilities to share equally. Selective placement services benefit employers and employees alike. Sometimes inequality is piled upon inequality. Shortfalls in respect for otherness remain to be redressed. Equality in exercising the divine mandate to inhabit the earth needs work in this world of nation states. Struggles for equality continue. Justice is a long road.

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