

empower the Minister to revoke a licence. For him to attempt to do so simply because it would generate additional revenue for the Treasury was a 'misuse of power'.³⁷

Congreve might broadly be construed as supporting the notion that 'misuse of power' is a distinct sub-category of the illegality doctrine. As such, it would demand that courts always be willing to inquire into the motives which underlay the impugned decision. That inquiry was unproblematic in *Congreve* itself, as the Home Secretary candidly stated that his purpose was to raise money. In other cases, where the defendant was less forthcoming, an inquiry into motives could lead the court into rather delicate political territory. The case might therefore better be construed more narrowly, as an illustration of the simple point that the courts have consistently maintained that governmental powers to levy taxation can only be created by explicit statutory language.³⁸

The uncertainties inherent in the 'four corners of the Act' characterisation of illegality are further magnified when we recall the judicial presumption that many (if not most) statutory provisions can properly be regarded as 'always speaking'.³⁹ This point is nicely illustrated—in respect of a rather prosaic issue—by the judgment of the House of Lords in *Akumah v LB of Hackney*.⁴⁰ Mr Akumah had repeatedly parked his car on a local council housing estate in breach of the parking scheme that the local authority had established. He had received a good many penalty tickets and eventually his car was impounded. The issue before the court was whether the council derived the power to run such a scheme from s 21(1) of the Housing Act 1985. Section 21(1) was cast in very general terms:

The general management, regulation and control of a local housing authority's houses is vested in and shall be exercised by the authority and the houses shall at all times be open to inspection by the authority.⁴¹

Section 21(1) of the 1985 Act was a re-enactment of a provision first enacted in the 1930s, at a time when very few people owned cars and there was no need for councils to control parking. Seventy years later, car parking had become an important issue in many cities, but Parliament had not altered the text of the original provision to give local authorities express powers to deal with the matter.

The interpretive technique adopted by the House of Lords in *Akumah* might be seen as either teleological or always speaking in nature:

21[I]s inherent in the management of houses in a housing estate that parking on the estate should be regulated. Unregulated parking could in many housing estates lead to congestion of the roads and the unavailability of places for residents to park their cars if other persons can park there at will. It is also important to ensure access for service and emergency vehicles to the houses on the estate. Those factors are clearly capable of affecting the amenity of life for the residents and their access to and enjoyment of their houses and flats on the estate. I find no difficulty in accepting that safeguarding and improving that amenity and facilitating that access and enjoyment are proper functions of a council managing a housing estate.⁴²

As in *Fulliam* however, it is difficult to fashion a compelling argument to support the proposition that the House of Lords could not have equally credibly come to the opposite

³⁷ *Ibid.*, at 651.

³⁸ Cf *Roskill I*], *ibid.* at 657–658: 'If the Secretary of State wishes to put his position in this respect beyond all argument, he should seek the necessary Parliamentary powers—if he can obtain them'; and Denning at 652: '[The Home Office letters] were an attempt to levy money for the use of the Crown without the authority of Parliament; and that is quite enough to damn them; see *A-G v Wilts United Dairies*' (1922) 38 TLR 781, HL.

³⁹ See 'Complicating the literal rule: (most) statutory provisions are "always speaking"' pp 64–65 above.

⁴⁰ [2005] UKHL 17, [2005] 1 WLR 985.

⁴¹ *Ibid.*, at 993; per Lord Carswell (for a unanimous court).

Rights Critical Introduction

Juan Carlos Ochoa S.



Rights Critical Introduction:

Critical Human Rights Education Michalinos Zembylas, André Keet, 2019-08-30 This book engages with human rights and human rights education HRE in ways that offer opportunities for criticality and renewal It takes up various ideas from critical and decolonial theories to philosophers and intellectuals to theorize the renewal of HRE as Critical Human Rights Education The point of departure is that the acceptable truths of human rights are seldom critically examined and productive interpretations for understanding and acting in a world that is soaked in the violations these rights try to address cannot emerge The book cultivates a critical view of human rights in education and beyond and revisits receivable categories of human rights to advance social justice oriented educational praxes It focuses on the ways that issues of human rights philosophy and education come together and how a critical project of their entanglements creates openings for rethinking human rights education HRE both theoretically and in praxis Given the persistence of issues of human rights worldwide this book will be useful to researchers and educators across disciplines and in numerous parts of the world

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disaggregated into either hopefulness or criticality and secondly as an analytical concept where critical hope is engaged and diversely theorized in ways that recognize aspects of individual and collective directions of critical hope The book is divided into four sub sections Critical Hope in Education Critical Hope and a Critique of Neoliberalism Critical Race Theory Postcolonial Perspectives on Critical Hope Philosophical Overviews of Critical Hope Education can be a purveyor of critical hope but it also requires critical hope so that it as a sector itself can be transformative With contributions from international experts in the field the book will be of value to all academics and practitioners working in the field of education *Politics and Poetica of Rights in Modern Iran* Behzad Zerehdaran,2024-03-29 This book delves into the history of subjective rights within the context of 19th century Iran specifically during the eventful Qajar era The crux of its research lies in the emergence and evolution of the concept of subjective rights as opposed to the notion of objective rights During this pivotal period this transition marked a paradigm shift from right as to be right to right as to have a right A central pillar of this book is the creation of a meta theory one that sheds light on the semantical evolution of the concept of rights Within these pages readers will find a concise history tracing the conceptual path that led from the objective to the subjective realm of rights In addition to these historical explorations it delves into the intricate field of rights theory investigating the foundations and justifications of rights Employing the Hohfeldian framework it analyses various conceptions of rights as they manifest within travel literature enlightenment literature and dream literature of the Qajar era This book will be of interest to scholars and students with an interest in Iranian studies Iranian history Persian literature and human rights *Rights* Tom Campbell,2011-02-25 We take rights to be fundamental to everyday life Rights are also controversial and hotly debated both in theory and practice Where do rights come from Are they invented or discovered What sort of rights are there and who is entitled to them In this comprehensive introduction Tom Campbell introduces and critically examines the key philosophical debates about rights The first part of the book covers historical and contemporary theories of rights including the origin and variety of rights and standard justifications of them He considers challenges to rights from philosophers such as Bentham Burke and Marx He also examines different theories of rights such as natural law social contract utilitarian and communitarian theories of rights and the philosophers and political theorists associated with them such as John Stuart Mill John Rawls Robert Nozick and Michael Sandel The second part of the book explores the role of rights promoting institutions and critically assesses legal rights and international human rights including the United Nations The final part of the book examines how philosophies of rights can be applied to freedom of speech issues of social welfare and the question of self determination for certain groups or peoples Rights A Critical Introduction is essential reading for anyone new to the subject of rights and any student of political philosophy politics and law *Rights* Tom Campbell,2011-02-25 In this comprehensive introduction Tom Campbell introduces and critically examines the key philosophical debates about rights **Question & Answer Constitutional and Administrative Law** Christopher W. Taylor,Dr Chris Taylor,2019 [A Critical Introduction to](#)

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academics and affected societies throughout the world Should victims of serious human rights violations be granted under international law the rights of access to and participation in criminal proceedings before international hybrid and domestic tribunals Juan Carlos Ochoa applies a thorough analysis of international and comparative domestic law and practice to this question taking into account a host of international human rights instruments and case law the theory law and practice of international and hybrid criminal tribunals the law and practice in several domestic jurisdictions and many theoretical and empirical studies After first determining the current state of and emerging trends in international law in this area he argues that the lack of recognition of these rights under customary international law is inadequate because access to and participation in criminal proceedings for victims of these infringements are based on several internationally recognised human rights and principles contribute to the expressivist objectives of these procedures and are consistent with the principles that inform the enforcement of criminal law in democratic States On this basis Ochoa convincingly suggests concrete reforms

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