

The obligations of the Minister of Justice in examining regulations and legislation for potential violations of rights and due process are deeply rooted in **Common Law principles**, the **Canadian Bill of Rights**, and statutory legislation such as the **Department of Justice Act** and **Statutory Instruments Act**. Below is a detailed breakdown of these obligations, supplemented by relevant case law.

1. Common Law Principles and Due Process

Under **Common Law**, the Minister of Justice holds a fundamental duty to ensure that legislation and regulations respect the **rule of law**, **natural justice**, **procedural fairness**, and **equality before the law**. Common Law establishes the right to be heard, the right to a fair trial, and the prohibition against arbitrary governmental actions.

Relevant Common Law Cases:

1. **Roncarelli v. Duplessis, [1959] SCR 121**

- **Key Principle:** Rule of law and non-arbitrary government action.
- **Summary:** In this case, Premier Duplessis arbitrarily revoked a liquor license in retaliation for political opposition. The Supreme Court of Canada held that such actions violated the **rule of law**, as government power must be exercised within legal bounds. This case underscores the duty of the Minister of Justice to prevent legislation that could lead to similar abuses of power.

2. **Cooper v. Wandsworth Board of Works (1863) 143 ER 414**

- **Key Principle:** Procedural fairness (natural justice).
- **Summary:** The court ruled that even where statutes are silent, an individual must be given an opportunity to be heard before decisions that affect their rights are made. This enshrined the principle of **audi alteram partem** (the right to be heard), a principle the Minister of Justice must ensure is reflected in legislation and regulations.

3. **Cardinal v. Director of Kent Institution, [1985] 2 SCR 643**

- **Key Principle:** Procedural fairness.
- **Summary:** This case established that procedural fairness applies to all administrative decisions that affect the rights, privileges, or interests of individuals. The court held that inmates facing disciplinary measures had a right to procedural fairness, reinforcing the Minister's duty to scrutinize legislation for due process protections.

4. **Baker v. Canada (Minister of Citizenship and Immigration), [1999] 2 SCR 817**

- **Key Principle:** Duty to act fairly.
- **Summary:** The Supreme Court ruled that procedural fairness applies even in administrative decisions, such as immigration. The decision outlines factors determining fairness, including the nature of the decision,

the rights affected, and the statutory framework. The Minister of Justice must ensure legislation complies with such fairness requirements.

5. **Dunsmuir v. New Brunswick, [2008] 1 SCR 190**

- **Key Principle:** Standard of review for procedural fairness.
- **Summary:** The case established that procedural fairness is a matter of **constitutional and common law duty**, and that legislation must provide for adequate fairness in administrative proceedings. The Minister must evaluate whether legislation meets these fairness requirements, especially in regulatory and administrative frameworks.

2. **Canadian Bill of Rights (1960)**

The **Canadian Bill of Rights** imposes specific obligations on the Minister of Justice to ensure that federal legislation does not infringe upon fundamental rights and freedoms, including the rights to **life, liberty, security of the person, due process, and equality before the law**.

Relevant Provisions:

- **Section 1:** Lists the fundamental rights and freedoms protected, including the right to **life, liberty, security, and due process of law**.
- **Section 2:** Prohibits the abrogation of these rights by federal laws unless the law expressly states otherwise.

Relevant Case Law:

1. **R. v. Drybones, [1970] SCR 282**

- **Key Principle:** Application of the Canadian Bill of Rights to invalidate discriminatory laws.
- **Summary:** The court struck down a provision of the **Indian Act** that criminalized Indigenous people for being intoxicated off-reserve. The provision was found to violate the **right to equality before the law**. This landmark case underscores the Minister of Justice's duty to scrutinize legislation for compliance with the **Canadian Bill of Rights**.

2. **R. v. Morgentaler, [1988] 1 SCR 30**

- **Key Principle:** Security of the person and due process.
- **Summary:** The Supreme Court found that the criminalization of abortion violated a woman's right to **security of the person** and procedural fairness under the **Canadian Bill of Rights**. This case highlights the importance of ensuring legislation does not infringe upon individuals' rights to security and due process.

3. **Singh v. Minister of Employment and Immigration, [1985] 1 SCR 177**

- **Key Principle:** Right to a fair hearing and due process.

- **Summary:** The Supreme Court held that refugees had the right to a fair hearing and that the Immigration Act violated the **Canadian Bill of Rights** by denying procedural fairness. This case obliges the Minister to ensure that legislative frameworks affecting life, liberty, or security provide for due process.

4. **Re Manitoba Language Rights, [1985] 1 SCR 721**

- **Key Principle:** Constitutional and statutory compliance.
- **Summary:** Although focused on linguistic rights, the case established the principle that legislation must comply with fundamental rights protections, including those in the **Canadian Bill of Rights**. The Minister of Justice is obligated to ensure that proposed legislation adheres to these principles.

5. **Attorney General of Canada v. Lavell, [1974] SCR 1349**

- **Key Principle:** Equality rights under the Canadian Bill of Rights.
- **Summary:** Although this case upheld a discriminatory provision in the Indian Act, it sparked significant legal and political discussion about equality before the law, highlighting the Minister's role in protecting equality rights under the Bill of Rights.

3. **Department of Justice Act (R.S.C., 1985, c. J-2)**

The **Department of Justice Act** mandates the Minister of Justice to ensure that every government bill complies with the **Constitution of Canada**, including the **Canadian Bill of Rights**, **Common Law principles**, and statutory obligations.

Relevant Provisions:

- **Section 4.1(1):** Requires the Minister of Justice to examine all proposed legislation to ensure that it complies with the **Canadian Constitution** and the **Canadian Bill of Rights**.
- **Section 4.1(2):** The Minister must ensure that all regulations and administrative instruments conform to the rule of law and fundamental human rights standards.

Relevant Case Law:

1. **Schachter v. Canada, [1992] 2 SCR 679**

- **Key Principle:** Interpretation of legislation in accordance with human rights protections.
- **Summary:** This case involved the interpretation of federal legislation concerning the denial of benefits under the **Unemployment Insurance Act**. The ruling emphasized that the government must interpret legislation consistently with **human rights guarantees**, an obligation of the Minister under the **Department of Justice Act**.

2. **Reference re Residential Tenancies Act (Ontario), [1981] 1 SCR 714**

- **Key Principle:** Constitutionality and protection of due process.

- **Summary:** This reference case examined whether Ontario's residential tenancy laws violated procedural fairness rights. The court's ruling reinforced the principle that legislation must conform to constitutional standards of fairness, a core responsibility for the Minister of Justice.

4. Statutory Instruments Act (R.S.C., 1985, c. S-22)

The **Statutory Instruments Act** requires the Minister of Justice to scrutinize **regulations** and other statutory instruments for compliance with the law and fundamental rights.

Relevant Provisions:

- **Section 3:** The Minister of Justice must examine proposed regulations to ensure they do not violate fundamental rights or exceed the regulatory authority granted by the enabling statute.
- **Section 19:** Allows for judicial review of regulations that exceed statutory authority or violate the Constitution.

Relevant Case Law:

1. **Reference re Anti-Inflation Act, [1976] 2 SCR 373**
 - **Key Principle:** Statutory and constitutional compliance.
 - **Summary:** This case involved a challenge to regulations enacted under the **Anti-Inflation Act**. The court affirmed the principle that regulations must not exceed statutory limits, which the Minister of Justice must ensure under the **Statutory Instruments Act**.
2. **Thorne's Hardware Ltd. v. The Queen, [1983] 1 SCR 106**
 - **Key Principle:** Ultra vires regulations.
 - **Summary:** The Supreme Court invalidated regulations that went beyond the powers conferred by the enabling statute. This case reinforced the importance of the Minister of Justice's role in ensuring regulations do not exceed the authority granted by Parliament.
3. **Re: Gray, [1918] SCR 150**
 - **Key Principle:** Delegated legislative powers.
 - **Summary:** The case dealt with the issue of delegated legislative powers during wartime. The ruling highlighted that even in extraordinary circumstances, regulations must conform to statutory and constitutional limits, an important function for the Minister of Justice under the **Statutory Instruments Act**.

Summary of Obligations:

1. **Common Law Principles:**

- Ensure laws and regulations adhere to **procedural fairness** and the **rule of law**.

Here's the **completed summary of the Minister of Justice's obligations**, integrating **Common Law principles**, the **Canadian Bill of Rights**, the **Department of Justice Act**, and the **Statutory Instruments Act**:

Summary of Obligations:

1. Common Law Principles:

- The Minister of Justice must ensure that all legislation and regulations conform to **procedural fairness** and the **rule of law**. This includes upholding principles such as the right to be heard, equality before the law, and protection against arbitrary government actions.

- **Key Cases:**

- **Roncarelli v. Duplessis, [1959] SCR 121** – Reinforces the principle that government actions must follow the law and be non-arbitrary.
- **Cooper v. Wandsworth Board of Works (1863) 143 ER 414** – Establishes the principle of procedural fairness (right to be heard).
- **Cardinal v. Director of Kent Institution, [1985] 2 SCR 643** – Confirms that procedural fairness applies to administrative decisions affecting rights.

2. Canadian Bill of Rights (1960):

- The Minister must scrutinize all federal laws and regulations to ensure they do not infringe on the fundamental rights protected by the **Canadian Bill of Rights**, including rights to **life, liberty, security of the person**, and **equality before the law**.

- **Key Cases:**

- **R. v. Drybones, [1970] SCR 282** – Demonstrates the use of the Bill of Rights to invalidate discriminatory provisions in the Indian Act.
- **Singh v. Minister of Employment and Immigration, [1985] 1 SCR 177** – Ensures procedural fairness for individuals seeking protection under immigration law.
- **R. v. Morgentaler, [1988] 1 SCR 30** – Clarifies the importance of security of the person and due process in legislation affecting personal rights.

3. **Department of Justice Act (R.S.C., 1985, c. J-2):**

- The **Department of Justice Act** mandates that the Minister of Justice examine every bill and regulation for consistency with the **Constitution** and **Canadian Bill of Rights**. The Minister must ensure laws are not inconsistent with constitutional rights and advise the government on potential legal issues.
- **Key Cases:**
 - **Schachter v. Canada, [1992] 2 SCR 679** – Emphasizes the need to interpret laws consistently with human rights protections.
 - **Reference re Residential Tenancies Act (Ontario), [1981] 1 SCR 714** – Highlights the Minister's duty to ensure legislation adheres to constitutional standards of due process.

4. **Statutory Instruments Act (R.S.C., 1985, c. S-22):**

- Under the **Statutory Instruments Act**, the Minister is required to review proposed regulations to ensure they comply with statutory authority, the **Canadian Constitution**, and fundamental rights. The Minister must also ensure that regulations are not ultra vires (beyond legal authority) or inconsistent with human rights.
- **Key Cases:**
 - **Reference re Anti-Inflation Act, [1976] 2 SCR 373** – Reaffirms that regulations must not exceed the authority granted by statute.
 - **Thorne's Hardware Ltd. v. The Queen, [1983] 1 SCR 106** – Confirms that ultra vires regulations can be struck down, emphasizing the Minister's duty to ensure the legality of regulations.

Final Obligation:

The **Minister of Justice** holds a vital role in safeguarding **human rights, procedural fairness, and constitutional legality**. By examining every legislative and regulatory instrument, the Minister ensures that Canada's legal framework upholds the principles of **justice, equality, and due process**. Any failure to fulfill these obligations risks undermining fundamental rights, and challenges to legislation on constitutional grounds may arise.

This broad and multi-faceted duty is critical to maintaining the integrity of the Canadian legal system and protecting individual rights within the framework of **Common Law, the Canadian Bill of Rights, and statutory obligations**.