

# Book Notes: In Defence of Principles: NGOs and Human Rights in Canada, by Andrew S. Thompson

Stephen Hsia

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## Book Note

### IN DEFENCE OF PRINCIPLES: NGOs AND HUMAN RIGHTS IN CANADA, by Andrew S. Thompson<sup>1</sup>

STEPHEN HSIA

TODAY, CASES LIKE *SINGH*,<sup>2</sup> *Keegstra*,<sup>3</sup> and *Kindler*<sup>4</sup> might be remembered simply as landmark *Charter* rulings on refugee rights, freedom of expression, and capital punishment. In his book *In Defence of Principles: NGOs and Human Rights in Canada*, Andrew S. Thompson reminds readers that the paths to these judgments were paved with controversy. He argues that many of these cases remain contested even to this day, thanks in part to the intellectual contribution of Canada's non-governmental organizations (NGOs)—which may not have always been on the winning side of the debate, but were on the side of fundamental human rights principles.

The book is divided into three chapters, each recounting the history of a *Charter*-level human rights case and its NGO interveners. Chapter one traces the development of the Canadian Council of Churches (CCC), which sought to obtain reforms to the refugee determination process in the *Immigration Act, 1976*.<sup>5</sup> The CCC was only successful in doing so in the 1985 case *Singh v MEI*. At issue in *Singh* was whether refugee claimants should be guaranteed the right to an oral hearing. While the CCC was able to secure oral hearings for their clients and for all future claimants, the victory in *Singh* was short-lived: the Mulroney government responded to *Singh* by limiting access to oral hearings, based on financial and human trafficking concerns.

In chapter two, Thompson describes the history and debate behind *R v Keegstra*. With Canada's hate propaganda law being challenged, *Keegstra* attracted the

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1. (Vancouver: UBC Press, 2010).
  2. *Singh et al v MEI*, [1985] 1 SCR 177.
  3. *R v Keegstra*, [1990] 3 SCR 697.
  4. *Kindler v Canada (Minister of Justice)*, [1991] 2 SCR 575.
  5. *Immigration Act*, SC 1976, c 52.

intervention of two prominent NGOs. As the architect of the disputed law following the Second World War, the Canadian Jewish Congress (CJC) contended that hate speech constituted a “misuse” of the freedom of expression that could threaten democracy itself if left unregulated.<sup>6</sup> By contrast, the Canadian Civil Liberties Association (CCLA) argued that ideas were the “engine” to democratic governance and that hate was best confronted openly rather than through the courts.<sup>7</sup> Ultimately, while the Court upheld Canada’s hate speech restrictions, the four-to-three split on the bench reflected the strong philosophical disagreement between the two organizations.

Rounding out Thompson’s trilogy of cases, chapter three recounts the unsuccessful challenge launched by Amnesty International Canada (AI Canada) against Canada’s extradition laws in *Kindler v Canada*. While AI Canada had helped to repeal the death penalty in the late 1970s, the debate over the merits of capital punishment was far from settled by the early 1990s. The question in *Kindler* was whether the extradition of two violent fugitives, Charles Ng and Joseph Kindler, to face potential execution in the US violated the *Charter*. While AI Canada argued that extradition would violate both domestic and international law, “shock[ing] the conscience of Canadians,”<sup>8</sup> the Supreme Court held that the lack of a clear international consensus on capital punishment should not interfere with Canada’s ability to extradite both fugitives to the US.

*In Defence of Principles* is a comprehensive survey of three groundbreaking *Charter* cases and the NGOs that plunged into the heart of these controversies. Thompson’s book ultimately reminds readers of the fragility of NGOs’ gains in the field of human rights, as the experiences of AI Canada in *Kindler* and of the CCC in *Singh* both show. Thompson’s work also describes how NGO intervention is not without its costs. The CCLA and AI Canada, for instance, paid a substantial price in the form of adverse publicity and decreased donations, respectively, for being seen to side with odious individuals (whether a virulent racist or two violent criminals). In spite of these setbacks, the persistence of *Singh*, *Keegstra*, and *Kindler* in current debates on refugees, free expression, and capital punishment remains a legacy of the intervention and bold ideas of Canada’s NGOs.

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6. *Supra* note 1 at 54.

7. *Ibid* at 12.

8. *Ibid* at 105.