

## Page 118, Building Your Understanding

### 1. What is meant by “the right to life, liberty, and security of the person”?

Right to life

- the courts have found it difficult to define s. 7, arguing that a fetus does not have the right to life, but also declaring that an individual, in a case of euthanasia, does not have the right to assisted suicide
- the purpose is to protect life against harm from government or its agencies

Right to liberty

- refers most often to criminal cases
- a person cannot be deprived of this right except in accordance with the principles of fundamental justice

Right to security of the person

- has been interpreted to protect people against certain forms of corporal punishment and physical suffering
- the Canadian government, for example, would be held accountable for torturing a terror suspect, as torture would violate the person’s “security of the person”

### 2. Explain one controversial aspect of s. 7 of the *Charter*.

Section 7 “right to life, liberty, and security of the person” has led to a number of controversies. Anti-abortion activists have argued that the “right to life” includes the rights of a fetus, but this was challenged by those who argued that this would lead to a violation of the mother’s right to “security of the person.” Justices must find a balance between the rights of individuals and those of society as a whole, therefore there will continue to be controversies in interpreting this aspect of s. 7 of the *Charter*.

### 3. What considerations do the courts weigh in striking a balance between the right to security for those accused of criminal offences and the rights of the public?

The courts consider whether an accused was given due process of law, including the presumption of innocence, the burden of proof, and the right to a fair hearing before an impartial judge. The courts consider whether removing a person’s liberty is necessary to ensure the safety of society as a whole.

### 4. Explain why random police spot checks to determine whether motorists have been drinking are legal even though they violate s. 9 of the *Charter*.

All rights are subject to reasonable limits and although the use of spot checks may violate s. 9 of the *Charter* they are reasonable given their importance in preventing drinking and driving and the harm it causes to society.

**5. Katrina was arrested for possession of marijuana. The police informed her that she had the right to contact a lawyer without delay. Katrina said, "Who can afford a lawyer?" The police laughed and then asked Katrina several questions about who sold her the marijuana and how much she paid for it. Katrina answered all of their questions. Can this evidence be used against her in court? Why or why not?**

The evidence may be used in court if it can be shown that

- Katrina was informed of her rights
- she understood that she had the right to obtain counsel
- she freely chose to continue answering police questions

The evidence may be excluded if it can be shown that

- police did not inform Katrina that she may be eligible to obtain legal counsel even if she cannot afford a lawyer
- she was coerced into answering questions

**6. Explain the principle of double jeopardy.**

The principle of double jeopardy is that if someone is tried for an offence and found not guilty, that person cannot be tried on the same charge again.

**7. Make an argument opposing the decision in *Andrews v. Law Society of British Columbia* on the previous page.**

- all rights are subject to reasonable limits
- it is a reasonable limit to require that lawyers who are responsible for upholding Canadian law should be Canadian citizens
- the criteria for becoming a Canadian citizen is not onerous
- all lawyers are expected to fulfill this requirement and Andrews is being treated in the same way as all other lawyers
- Andrews is not part of a disadvantaged minority and therefore cannot benefit from s. 15 (b) of the *Charter*
- the decision to become a Canadian citizen is Andrews' choice—he is not being discriminated against due to some physical handicap, race, or colour that cannot be changed