



# LLB ANSWERED

SAMPLE CHAPTER FROM OUR LLB PUBLIC LAW  
(CONSTITUTIONAL & ADMINISTRATIVE) CASE BOOK

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| CASE  | FACTS  | PRINCIPLE  |
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| <p><b>A Local Authority v BF</b><br/>[2018]</p>   | <p>The court ordered that a vulnerable old man should be required to reside at a care home over Christmas rather than at his, or his son’s home. The elderly man had capacity to make decisions and wanted to leave the care home.</p>   | <p>This application was brought by the local authority. The Court of Appeal held that the elderly man could be deprived of his rights for his own protection without any infringement of <b>Article 5 ECHR</b>.</p>  |
| <p><b>AAA v Secretary of State for the Home Dept*</b><br/>[2023]</p>                                    | <p>A challenge was brought against the Government’s plan to remove to Rwanda (for processing and potential resettlement or deportation to their country of origin) a number of asylum seekers who reached the UK other than through the use of safe and legal routes.</p>  | <p>The Supreme Court held that Rwanda is not a safe third country to which asylum seekers can be removed. There was a risk of refoulement (the asylum seekers being returned to their countries of origin) and the policy put the UK in breach of a number of international treaty obligations. Deportation to an unsafe country would breach the asylum seekers ECHR rights and rights under the <b>Human Rights Act</b>.</p> |
| <p><b>AB v Worcestershire County Council</b><br/>[2023]</p>   | <p>The court was asked to consider a possible violation of <b>art.3</b> where social services had failed to remove a young person from the care of their parents. The young person later contested that decision, on the basis that the failure to remove had led to him being subjected to treatment falling within <b>art.3</b>.</p> | <p>The ill treatment claimed was parental abuse, physical and emotional and neglect. The Court of Appeal held that there was no real and immediate risk if the child were left with his parents. None of the harm suffered either by individual incidents or cumulatively was enough to amount to a breach of his <b>art..3</b> rights. The Supreme Court refused leave to appeal.</p>   |
| <p><b>Abdulaziz, Cabales and Balkandali v UK</b><br/>[1985]</p>   | <p>Three women had lawfully settled in the UK and later married men from their countries of origin. They argued that denying the men the right to settle in the UK was a breach of <b>Article 8 ECHR</b>.</p>  | <p>The <b>Article 8 ECHR</b> right to family life did not extend this far and was not engaged; however, UK immigration rules would have allowed men in these circumstances to bring their wives into the country. This was discriminatory and was a breach of <b>Article 14 ECHR</b>.</p>  |
| <p><b>Agricultural, Horticultural and Forestry Training Board v Aylesbury Mushrooms*</b><br/>[1972]</p> | <p>The Mushroom Growers’ Association was one organisation a Minister was obliged to consult in considering a new training board for the agricultural industry. A draft of the consultation document was sent, but never arrived and no further consultation happened.</p>  | <p>The Minister was held to have been acting improperly. Failure to adhere to procedural rules as laid down in statute can invalidate a decision.</p>  |

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| CASE  | FACTS  | PRINCIPLE   |
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| <b>Airedale NHS Trust v Bland</b><br>[1993]   | A victim of the Hillsborough disaster spent the following three years in a persistent vegetative state. The patient could not give or withhold consent to treatment. The hospital (with the parents' consent) applied to the court for a declaration that stopping feeding him by tube would not be murder.  | The Court classified the withdrawal of the feeding tube as an omission and contrasted it with administering a fatal dose of a drug, which be an act. Taking active steps to accelerate death could never be lawful, but in some circumstances (such as here) withholding life sustaining treatment could be lawful.   |
| <b>Airey v Ireland*</b><br>[1979]             | An Irish woman attempted to get a legal separation from her abusive husband but was unable to find a lawyer she could afford, and she was denied legal aid.  | <b>Article 6(1) ECHR</b> was held to have been violated, as she had been denied access to the court.  |
| <b>Aksoy v Turkey*</b><br>[1996]              | A man was stripped and repeatedly electrocuted by the authorities.   | Torture is intentionally cruel and violent; a high threshold is required to prove it. This treatment was torture.   |
| <b>Ali v Channel 5 Broadcasting</b><br>[2019] | This was an application by debtors featured in a Channel 5 programme about debt recovery, " <i>Can't Pay? We'll take it away.</i> "  | The Claimants successfully argued that their <b>Article 8 ECHR</b> rights had been engaged and that there was no defence on grounds of public interest or engagement of the broadcaster's <b>Article 10 ECHR</b> rights of freedom of expression.   |
| <b>Al-Jedda v UK</b><br>[2011]                | A UK citizen was arrested by US soldiers in Iraq and placed in a Basra prison (run by British forces) for several years. During his internment, he was deprived of his British citizenship. When he was released, he sought to challenge the removal of his citizenship but failed, and then progressed to challenge his detention as a violation of his human rights. | Military bases, and occupied territories (as in <i>Al-Skeini</i> ) are within the jurisdiction of the UK for the purposes of <b>Article 1 ECHR</b> . The UK has a duty under <b>Article 1</b> to " <i>secure to everyone within their jurisdiction the rights and freedoms defined in Section 1 of [the] Convention</i> ". This duty had been breached and a compensation order was made.<br><b>COMPARE with Al-Skeini and Al-Saadoon</b>   |
| <b>Al-Khawaja and Tahery v UK</b><br>[2009]   | Applicants were convicted on hearsay evidence. Al-Khawaja had a statement against him from the victim in his indecent assault trial read out; she had died before the trial. Tahery complained about a statement read out from a witness who was too scared to attend the trial.   | <ol style="list-style-type: none"> <li>1) The court held that Tahery's <b>Article 6 ECHR</b> rights had been breached, but Al-Khawaja's had not. This was based on the fact that Tahery's conviction had been based almost exclusively on a witness statement from a witness who did not give oral evidence.</li> <li>2) The court also stated that conviction based solely on evidence from an absent witness (denying the possibility to cross-examine) would not always be a breach, providing that sufficient safeguards were in place.</li> </ol> <b>COMPARE with R v Horncastle</b> |

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## THE RULE OF LAW

### KEY CASES – THE RULE OF LAW

- Anisminic Ltd v Foreign Compensation Commission [1969]
- Privacy International v Investigatory Powers Tribunal [2019]
- R v Somerset County Council ex parte Fewings [1995]

### ADDITIONAL CASES – THE RULE OF LAW

- Kelly v Faulkner [1973]
- Liversidge v Anderson [1942]
- Malone v Metropolitan Police Commissioner [1979]
- R (Mohamed) v SoS for Foreign and Commonwealth Affairs [2010]
- R (Unison) v Lord Chancellor [2017]
- Sunday Times v UK [1979]

## HUMAN RIGHTS IN THE UK AND USING THE HRA 1999

### KEY CASES – HUMAN RIGHTS IN THE UK AND USING THE HRA 1999

- AAA v SoS for the Home Dept [2023]
- Aston Cantlow and Wilmcote PCC v Wallbank [2003]
- Handyside v UK [1976]
- Klass v Germany [1978]
- Smith, Ellis, Allbutt and Redpath v Ministry of Defence [2013]

### ADDITIONAL CASES – HUMAN RIGHTS IN THE UK AND USING THE HRA 1999

- Al-Jedda v UK [2011]
- Al-Saadoon & Ors v Secretary of State for Defence [2016]
- Al-Skeini v UK [2011]
- Gillan & Quinton v UK [2010]
- Kay v Lambeth London Borough Council [2006]
- Khan v UK [2013]
- Malone v Metropolitan Police Commissioner [1979]
- Malone v UK [1984]
- Poplar Housing and Regeneration Community Association v Donoghue [2001]
- R (A) v Secretary of State for the Home Department [2004]
- R (Alconbury Developments Ltd) v Secretary of State for the Environment [2001]
- R (Heather) v Leonard Cheshire [2002]
- R (Weaver) v London and Quadrant Housing Trust [2009]
- R v Special Adjudicator (ex parte Ullah) [2004]
- Smith and Grady v United Kingdom [1999]
- YL v Birmingham City Council [2007]