

INVESTIGATING ALTERNATIVES TO RIGHTS:
THE HUNGARIAN CONSTITUTIONAL COURT AND
THE PROTECTION OF A MINIMUM LEVEL OF
ASSISTANCE

GRAHAM REYNOLDS

In recent years, in the attempt to achieve "fiscal responsibility", governments have decreased social assistance rates, reduced program eligibility, and terminated social services. As a result, more and more individuals have slipped into poverty. In order to prevent governments from cutting these services to below subsistence levels, this paper proposes that Canada take steps to achieve constitutional protection of a minimum level of assistance. The concept of a constitutionally protected minimum level of assistance has been considered. Most recently, advocates focused their efforts on achieving constitutional protection through the language of rights. However, both through the legislature and the judiciary, these efforts have failed. This paper will attempt to achieve protection without resorting to the language of rights. It will do so by examining the law of Hungary, a country whose Constitutional Court used the principles of legal certainty, legitimate expectations, and property protection to find legislation terminating a system of social welfare benefits unconstitutional.