

The Charter of Rights and Freedoms

How Canadian Rights are Protected



Before the Charter

- The Charter of Rights and Freedoms was created in 1982
- This doesn't mean that we didn't have rights before this
 - Bill of Rights
 - Common-law

So why is the Charter so important?

- What's important about the Charter is that it is entrenched in our constitution
- Entrenched means that it is protected
- This is because it is very difficult to change a part of the constitution
 - Regular laws can be changed in the legislative branch
 - The Constitution requires that 7/10 provinces agree to make the change, and those provinces must include at least 50% of the Canadian population

So what are your rights?

- Fundamental Freedoms
 - These are the rights we usually think of first, like our freedom of speech and the press
- Democratic Rights
 - These rights are only given to Canadian citizens (many of the rights in the Charter apply to anyone living in Canada)
 - These rights include being able to participate in government, and the requirements for how long government must sit (debate in the legislative assemblies)



- **Mobility Rights**

- These rights ensure that as a citizen of Canada you can move wherever you want and not be discriminated against

- **Legal Rights**

- These are the rights we think of when people get arrested – that they have the right to a fair trial and not be treated cruelly



- **Equality Rights**

- This small section has huge power, as it states that you cannot be discriminated against for a variety of reasons, like a disability, your age or gender

- **Language/Language Instruction Rights**

- These rights were established to ensure that both English and French are treated equally in Canada by providing government services and education in both languages



- Enforcement

- This section of the Charter is very important, because many dictatorships may have a document that outlines rights, but if there is no enforcement, then it is just a piece of paper
- This is where the independent courts play a role
 - There is some concern that because of the Charter and the role that the judicial branch plays in interpreting the Charter, it is giving the judicial branch authority over law making, when that is the role of the legislative branch



- **General/Application**

- This section explains how the Charter does not override other legislation, such as aboriginal treaties.
- It also states that just because a right is not specifically outlined in the Charter doesn't mean that it doesn't exist (part of our common-law/ unwritten constitution)
- In this section there is a notwithstanding clause, which states that a province can override some parts of the Charter for a period of time
 - Quebec has used the notwithstanding clause to ignore the language rights section in order to protect the French language in Quebec.