

Human Rights and the Charter

Ch. 10 (p. 324-334)

Human Rights Movement

- Global concern for protection of human rights increased dramatically after Holocaust discovery
- UN Universal Declaration of Human Rights
 - Drawn up by UN General Assembly in 1948
 - Outline of the rights to which all humans are entitled
 - Most UN countries (inc. Canada) have signed it
 - We can make complaints to the UN Human Rights Committee if Canadian gov. isn't meeting UN standards
 - No punishment for offending countries, though, just encouragement to follow the rules

Human Rights Movement

- International Courts and Tribunals
 - 1946: International Court of Justice (ICJ)
 - Settles disputes between countries
 - Can only get involved if both sides ask it for help
 - Temporary courts set up to deal with specific events
 - Nuremberg and Tokyo trials after WWII
 - War crimes tribunals for Kosovo, Yugoslavia, and Rwanda
 - 2002: International Criminal Court (ICC)
 - Investigates and prosecutes war criminals and those guilty of crimes against humanity
 - 114 countries are members (inc. Canada, but not US, China)

Human Rights Law in Canada

- Slowly began to expand after WWII
 - Asian-Canadians get right to vote in late-1940s
 - Still much discrimination and inequality, though
 - First Nations didn't get right to vote until 1960
- 1960: Canadian Bill of Rights
 - Passed by PM Diefenbaker to protect human rights
 - Could be changed by Parliament, could be overruled by federal/provincial laws
- Wouldn't be until 1982 that human rights in Canada were solidly entrenched

Canadian Bill of Rights





THE CANADIAN BILL OF RIGHTS

*An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms.
Statutes of Canada 1960, c-9 Elizabeth II, Chapter 44, assented to 10th August 1960.*

THE Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

THEREFORE Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PART I
BILL OF RIGHTS

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex the following human rights and fundamental freedoms, namely:

a) the right of the individual to life, liberty, security of the person and enjoyment of property; and the

right not to be deprived thereof except by due process of law;

b) the right of the individual to equality before the law and the protection of the law;

c) freedom of religion;

d) freedom of speech;

e) freedom of assembly and association; and

f) freedom of the press.

2. Every Law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the Canadian Bill of Rights, be so construed and applied as not to abrogate, purport to infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared in particular no Law of Canada shall be construed or applied so as to

a) authorize or effect the arbitrary detention, imprisonment or exile of any person;

b) impose or authorize the imposition of cruel and unusual treatment or punishment;

c) deprive a person who has been arrested or detained (i) of the right to be informed promptly of the reasons for his arrest or detention,

(ii) of the right to retain and instruct counsel without delay, or

(iii) of the remedy by way of habeas corpus for the determination of the validity of his detention, and for his release if the detention is not lawful;

d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self-incrimination or other constitutional safeguards;

e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;

f) deprive a person charged with a criminal offence of the right to be presumed innocent until, proved guilty, according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or

g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which his wife or a witness before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

3. The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the Statutory Act and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purpose and provisions of this Part and shall report any such inconsistency to the House of Commons at the first convenient opportunity.

4. The purview of this Part shall be known as the Canadian Bill of Rights.



Roger Ducharme, 1960, Queen's Printer, Ottawa, Canada.

"I am a Canadian, a free Canadian, free to speak, without fear free to worship God in my own way, free to stand for what I think right, free to speak what I believe wrong, free to change those who shall govern my country, free heritage of freedom I pledge to uphold for myself and all mankind."

*The Right Honourable John G. Diefenbaker, Prime Minister of Canada,
House of Commons Debates, July 1, 1960.*

The History of the Charter

- Strongly supported by PM Pierre Trudeau, but argued over by the provinces
- Signed into law in 1982 by Queen Elizabeth II, along with the rest of the Canadian Constitution Act



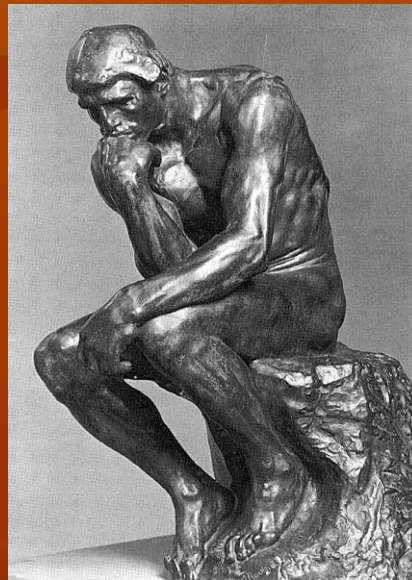
Charter of Rights and Freedoms

- The Charter protects our fundamental freedoms and guarantees our rights as Canadians



Fundamental Freedoms

- Freedom of conscience and religion
- Freedom of thought, belief, opinion, and expression
- Freedom of peaceful assembly
- Freedom to associate with whom you please



Democratic Rights

- Right to express your opinion
- Right to vote
- Right to run for election



Mobility Rights

- Right to enter, remain in, and leave Canada
- Right to move to, live in, and work in any Canadian province or territory



Legal Rights

- Right to life, liberty, and security of the person
- Right to a fair trial if you are accused of a crime



Equality Rights

- Right to equality before the law regardless of race, nationality, ethnic origin, colour, religion, sex, age, or mental or physical disability



Language Rights

- Equal status for the use of English and French in the government and courts of Canada
- Right to have your children educated in either English or French where there are enough interested students



Enforcement

- Right to take the matter to court if any of the rights and freedoms has been denied

