

Simply put: some basic legal rights and freedoms in Canada

On April 17, 1982 Canada's *Constitution Act* was signed by Queen Elizabeth II and Prime Minister Pierre Trudeau and it became the highest law in the country. All government services, departments and agencies in Canada — whether federal, provincial, territorial, regional or municipal — must respect the rights and freedoms guaranteed in the Constitution's *Charter of Rights and Freedoms*. Under it, laws that are inconsistent with the *Charter* can be declared unconstitutional and struck down by a court of law.

In addition, each province and territory also has its own *Human Rights Code*, which guarantees that businesses providing services to the public, as well as employers and landlords, cannot discriminate against you. These are some of your guaranteed rights and freedoms:

Fundamental freedoms

- Everyone has the right to worship, or not, as she or he wishes, in the place of worship of her or his choice.
- Everyone has the right to have her or his own thoughts, beliefs and opinions, and the right to communicate, publish and broadcast them.
- Everyone has the right to gather in peaceful groups, and to associate with whom she or he chooses.

Democratic rights

- Every citizen of Canada has the right to vote and to be qualified to run in a federal election.

Mobility rights

- Every citizen of Canada has the right to enter, remain in, and leave Canada, and to live and seek work in any province.

Legal rights

- Everyone has the right not to have her or his life, freedom, or security taken from her or him — except in accordance to the principles of fundamental justice.

Search or seizure

- Everyone has the right not to be searched and not to have her or his property taken away without good reason.



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Canada's New *Constitution Act* Becomes Law (April 17, 1982)

Her Majesty Queen Elizabeth II signs the official proclamation of the *Constitution Act* on Parliament Hill, together with then Prime Minister Pierre Trudeau. The official ceremony marked Canada's final step to full independence, when the *Constitution Act* replaced the *British North America Act* (passed by British Parliament in 1867) as the highest law in all of Canada. The new *Charter of Rights and Freedoms* replaced the old Canadian *Bill of Rights*, which had been enacted in 1960.

PHOTO: National Archives of Canada
(<http://www.canadianheritage.org>)



Detention or imprisonment

- Everyone has the right not to be arbitrarily detained or imprisoned.

Arrest or detention

If you are arrested, you have the following rights:

- to be promptly told why you have been arrested
- to contact a lawyer as soon as possible
- to have the validity of the detention determined by way of "*habeas corpus*" (you appear before a judge who decides whether the charges are lawful), and to be released if the detention is unlawful

Court

If you are charged, you have the following rights:

- to know the charge as soon as possible
- to be considered innocent until proven guilty
- not to be denied bail without just cause
- to have a public and impartial trial within a reasonable amount of time
- if finally acquitted of a criminal offence, or if finally found guilty and punished for a criminal offence, not to be tried for it again
- to have assistance from an interpreter during any court proceedings conducted in a language you don't understand or speak, or if you are deaf



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Punishment/fair treatment

- Everyone has the right not to be punished, and not to be treated cruelly or unnaturally.

Self-incrimination

- Everyone has the right not to testify against her- or himself, as long as she or he doesn't give false or contradictory testimony.

Equality

- Everyone is equal under the law and has the right to equal protection under the law, free of discrimination based on race, ethnic origin or nationality, colour, religion, sex, age, or mental or physical disability.

Enforcement

- Anyone whose rights or freedoms are denied has the right to seek justice in court.
- Everyone has the right not to be detained illegally and to apply to have the legality of her or his detention reviewed by a judge.

Limits on rights and freedoms

- Any of the rights and freedoms guaranteed in Canada's *Charter* can be limited by laws, if the limitation is justified in a free and democratic society, as determined by the Supreme Court of Canada. For instance, the *Criminal Code* limits free speech in cases where opinions are considered to incite hatred.

MORE ON CANADA'S CHARTER OF RIGHTS & FREEDOMS

Resources about constitutional law and how it works in court

→ **See Canada's Official *Charter of Rights and Freedoms***

<http://www.walnet.org/csis/reports/charterrights.html>

→ ***Constitutional Law (3rd Edition)***

By The Constitutional Law Group. Toronto: Edmond Montgomery Pub., 2003

<http://www.emp.on.ca/books/85-3.html>

→ **Canadian Civil Liberties Association**

<http://www.ccla.org>

