

## CHAPTER 3

# How effectively does Canada's Charter of Rights and Freedoms protect your individual rights?

"I have my rights! This is a free country!"

Have you ever heard anyone say something like that?

When people talk about rights and freedoms, they're really talking about governance: the rules that describe what government can do with its power. They're saying that government power can only go so far — up to the point where it limits the choices you or any individual can make. If government power goes beyond that point, there has to be a reason, based on the values we hold as a society.

In Canada, the rights and freedoms of individuals are stated in the Charter of Rights and Freedoms. This chapter explores what the Charter says about individual rights, and how the Charter affects government decisions and the quality of our lives.

This chapter explores rights that every Canadian citizen and permanent resident has. The next chapter explores collective rights, which particular groups in society have.

### FOCUS QUESTIONS

- How does the Charter protect individual rights and freedoms?
- How does the Charter affect law making in Canada?
- How does the Charter affect the workplace?

Students with Insight Theatre in Ottawa put on a performance in 2006. They are exercising some of their rights under the Charter of Rights and Freedoms. **Think critically:** What would your life be like if you couldn't join other people in projects, events and activities of your choosing?



Based on the photographs below, how do rights and freedoms affect citizenship, identity and quality of life?



These posters are advertising plays at Edmonton's Fringe Festival in August 2007. People have the right to put up posters, but not just anywhere. Many cities in Canada only allow posters in specific spots as a way to control garbage. **Think critically:** In what way might these laws affect your quality of life? When is it okay for laws to restrict people's choices?



Yousra Hasnain, 13, receives her citizenship document after becoming a Canadian citizen in 2002. **Think critically:** What rights and freedoms do you expect to have, as a citizen of Canada? To what extent do individual rights build a society that includes you and others?



Jack Layton, leader of the New Democratic Party, greets supporters at an election rally in 2006. Canadians have the right to organize and join political parties, and to elect their government. **Think critically:** What responsibilities come with these rights? What's the connection between the right to representation in government and your identity?





## Organize an informal debate about individual rights and freedoms in Canada.

### Your Role

A leading educational broadcaster is producing a documentary for students focusing on the Canadian Charter of Rights and Freedoms and its impact on Canadians. It wants to film students in your school expressing their views and ideas on issues affecting individual rights and freedoms in Canada today. You have been asked to help the broadcaster by organizing an informal debate that answers the question:

**What do you believe is the most important Charter issue affecting individual rights and freedoms in Canada today?**

### Your Presentation

Your debate should showcase:

- An understanding of how the Charter fosters recognition of individual rights in Canada.
- Examples of Charter cases, the issues and the multiple perspectives involved.
- The decision-making process used by individuals who have challenged a law or government action by exercising their individual rights and freedoms under the Charter.

Sharing views and perspectives in a debate is one way to address issues that affect quality of life and become more informed as a citizen. Debates are a way to explore different views and perspectives, and make everyone count!



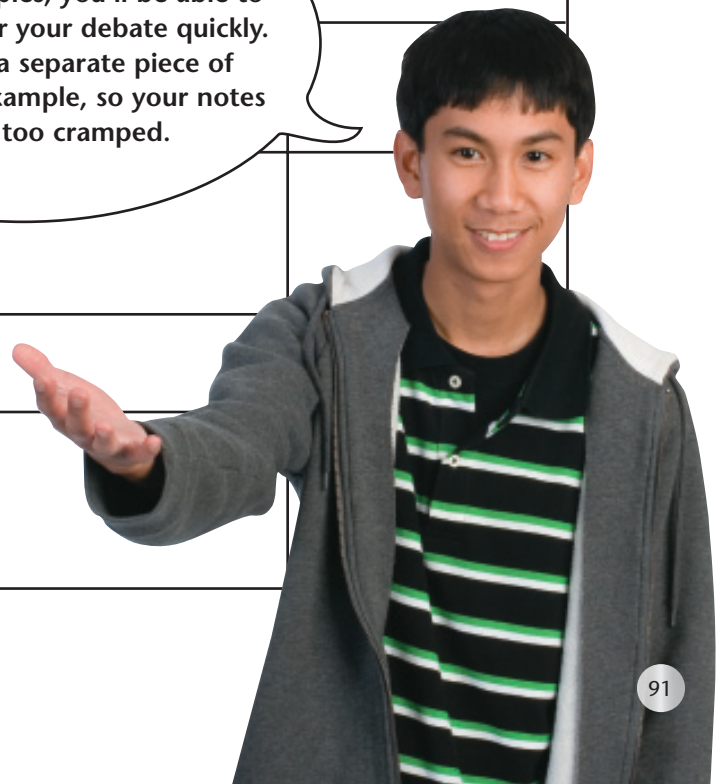
## Let's get started!

In this chapter, you will encounter examples of how the Charter of Rights and Freedoms protects individual rights and freedoms, and how it affects legislation. As you work through the chapter, watch for views and perspectives on individual rights and the Charter. Think about issues concerning individual rights and the Charter that strike you as most important. How can you find more information about these issues? How do you decide what action to take?

Use the questions below to help find out more about the issues and examples you encounter in this chapter. Refer to the description of the Charter on pages 97 and 98 to help you determine the rights and freedoms involved in the issues. Later, you can use the information you collect as facts and evidence to support your ideas in your debate.



What is the issue or problem?	Issue/Example	Issue/Example	Issue/Example
What individual rights and freedoms are involved?			
What views and perspectives are involved?	<p>Save yourself some time! If you stay organized while you collect examples, you'll be able to prepare points for your debate quickly. You could use a separate piece of paper for each example, so your notes don't get too cramped.</p>		
Why is the issue important? For whom?			
How does it affect quality of life and citizenship for all Canadians?			
Where can you get more information?			
What action was taken on the issue? What action should be taken?			



# How does the Charter protect individual rights and freedoms?

## WHAT'S IN THIS SECTION

In this section you will read about the Charter of Rights and Freedoms and how it protects the rights of individuals. You will find:

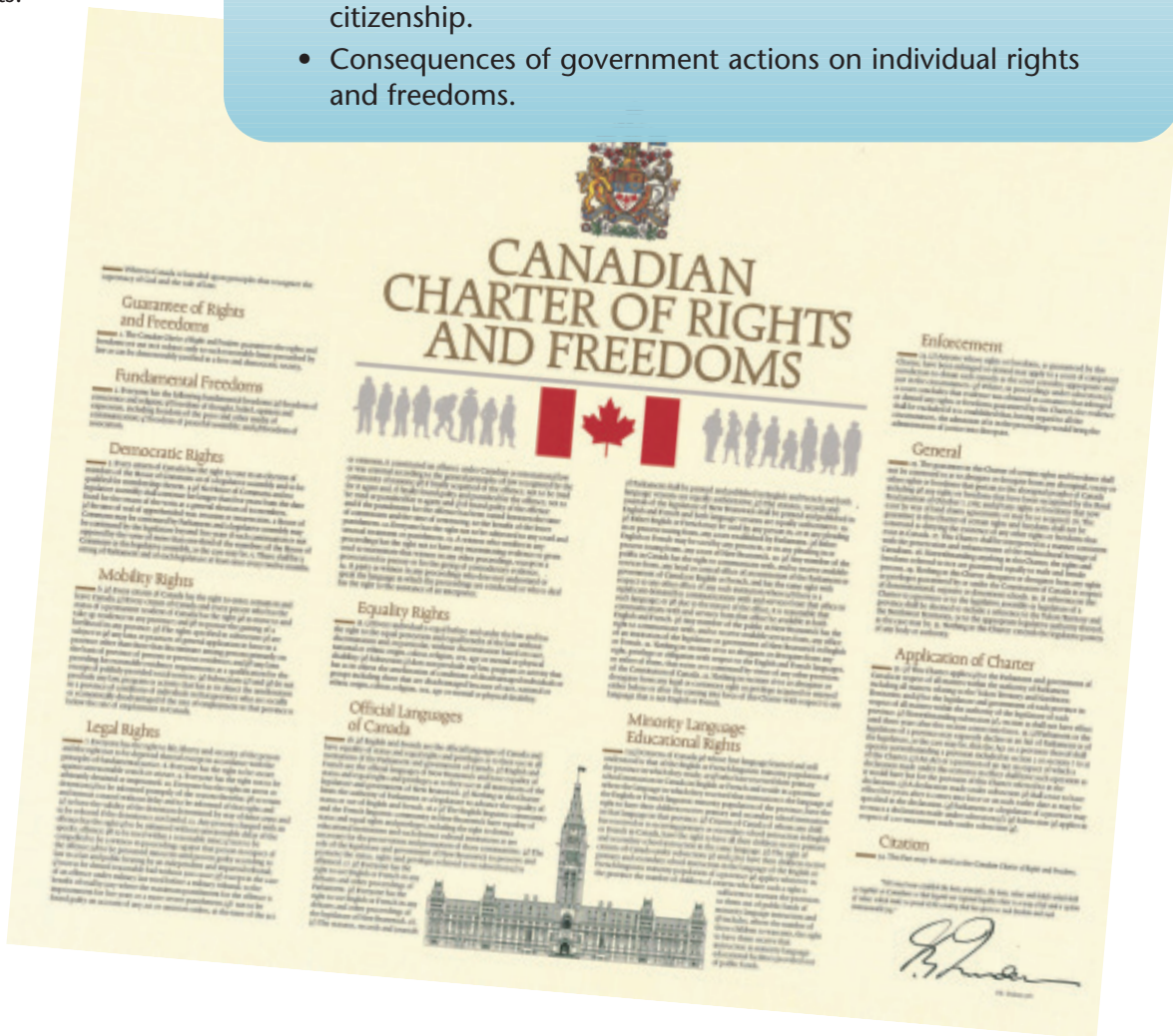
- A true story about a locker search conducted in a Canadian school that affected the individual rights of one student.
- A description of the Charter as an important piece of legislation that is enshrined in Canada's constitution.
- A look at events that affected individual rights in Canada's past.

## What are you looking for?

As you read the section, look for:

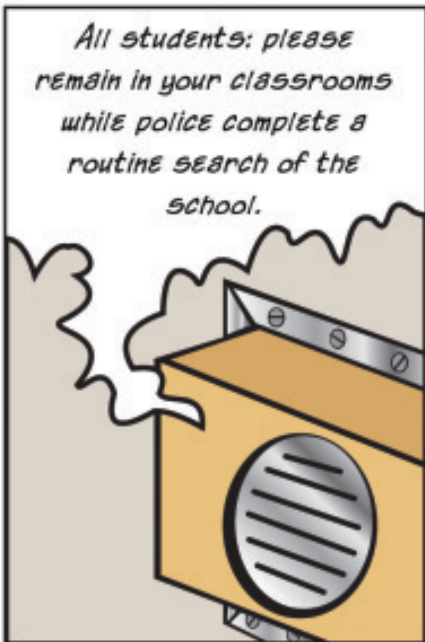
- The individual rights and freedoms listed in the Charter.
- The responsibilities that are linked with the rights of citizenship.
- Consequences of government actions on individual rights and freedoms.

Canada's Charter of Rights and Freedoms dates from 1982. The Charter includes individual rights and rights for groups in society, called collective rights. This chapter explores individual rights. Chapter 4 will explore collective rights.



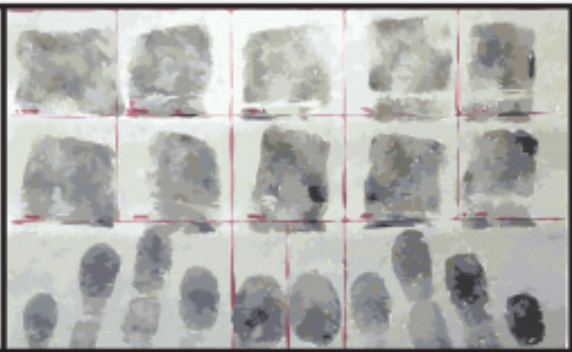


Based on a true story of what happened in a school in Canada...





The student was charged. In court, he challenged the charge because of his rights under Canada's Charter of Rights and Freedoms




## The Charter of Rights and Freedoms

Clause 8: Everyone has the right to be secure from unreasonable search or seizure.





To what extent should individual rights and freedoms be protected in society? Which speaker do you agree with most? Why? 



## What is the Charter of Rights and Freedoms?

**constitution:** a special set of laws that establish a framework of governance



How does the Charter connect to what you learned about the judicial branch in Chapter 1?

- The Charter of Rights and Freedoms is part of Canada's **constitution**. The constitution sets out the framework for how Canada is to be governed.
- The constitution is the highest law of Canada. All other laws must be consistent with it.
- Before the Charter, Canada's provincial and federal government had — and still have — a variety of laws about individual rights. The Charter created constitutional protections for individual rights and freedoms, which apply to laws and governments across Canada.
- With the Charter, Canadians can challenge in court laws that restrict their rights. The judicial branch makes decisions about these challenges by interpreting how to apply the Charter. It strikes down laws that restrict rights in an unjustified way.
- The Charter says that Canada's government is justified in restricting rights, if the restrictions are necessary to maintain Canada as a free and democratic society. Why might Canadians have different views about what restrictions are justified?

In a free and democratic society, it is important that citizens know exactly what their rights and freedoms are, and where to turn for help and advice in the event that those freedoms are denied or rights infringed upon. In a country like Canada — vast and diverse, with eleven governments, two official languages and a variety of ethnic origins — the only way to provide equal protection to everyone is to enshrine those basic rights and freedoms in the constitution. We have a Canadian Charter of Rights and Freedoms that recognizes certain rights for all of us, wherever we may live in Canada.

— Jean Chrétien, "The Charter of Rights and Freedoms: A Guide for Canadians," Ottawa 1982.

Jean Chrétien served as prime minister of Canada from 1993 to 2003. He was Minister of Justice in 1982, when the Charter of Rights and Freedoms became part of Canada's constitution.



According to Jean Chrétien, why is it important to enshrine the Charter in the constitution? Do you agree or disagree with his statement?



## YOUR INDIVIDUAL RIGHTS UNDER THE CHARTER

The Charter sets out rights and freedoms that Canadians believe are necessary in a free and democratic society. These rights and freedoms limit what government can do. For example, because of Canadians' democratic rights, the government cannot ban elections and become a dictatorship.

The following list describes your individual rights and freedoms under the Charter.

### Fundamental Freedoms

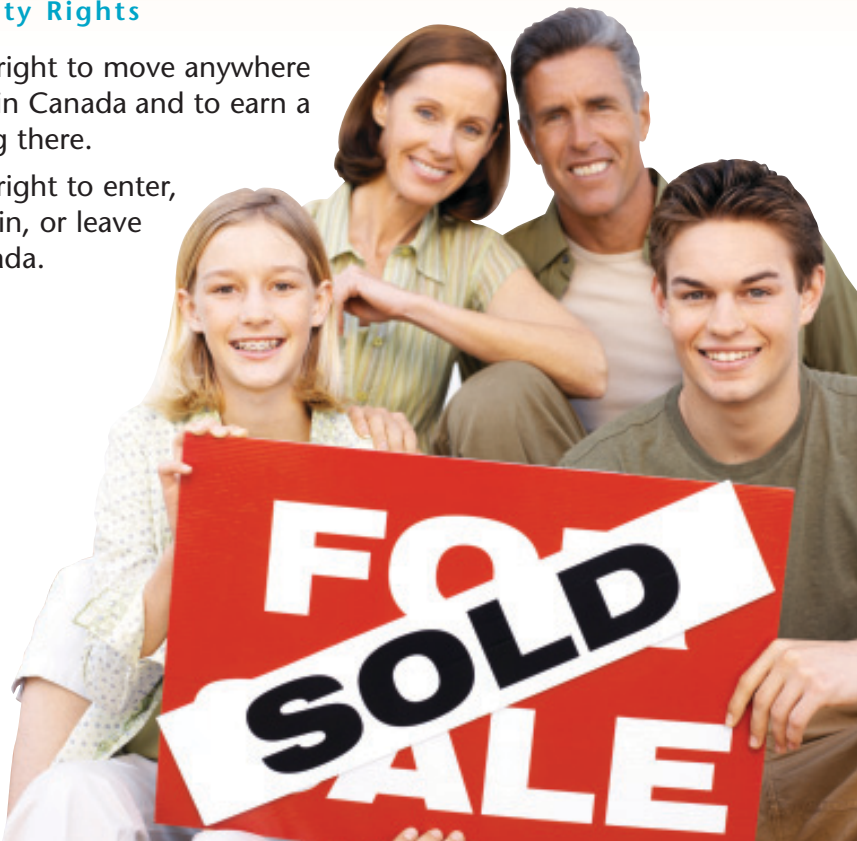
- The freedom to express your opinions.
- The freedom to choose your own religion.
- The freedom to organize peaceful meetings and demonstrations.
- The freedom to associate with any person or group.

### Democratic Rights

- The right to vote for members of the House of Commons and of provincial legislatures.
- The right to vote for a new government at least every five years.

### Mobility Rights

- The right to move anywhere within Canada and to earn a living there.
- The right to enter, stay in, or leave Canada.



### DID YOU KNOW?

With two exceptions, the Charter of Rights and Freedoms gives every person in Canada the same rights, whether or not they are citizens. The exceptions are the right to vote and the right to leave and enter Canada freely. Only Canadian citizens have these rights.

**What does a free and democratic society mean to you?**

**Legal Rights**

- The right to be free of imprisonment, search and seizure without reasons backed by law and evidence.
- The right to a fair and quick public trial by an impartial court that assumes that you are innocent until proven guilty.



**What's the relationship between a free and democratic society and respect for individual rights?**

**Equality Rights**

- The right to be free of discrimination because of race, national or ethnic origin, religion, gender, age, or mental or physical disability.



Students in Canada, like the students in this photo, have a right to be treated without discrimination at school.

**connect to the big ideas**

1. Citizenship is about building a place for yourself and others in society. To what extent does the Charter support this goal? Using technology, create a research plan for this question that includes a schedule for managing your time.
2. Examine the rights and freedoms of individuals listed in the Charter. What responsibilities do you believe individuals have because of these rights? Complete a T-chart like the one below.

Rights and Freedoms	Responsibilities
Democratic rights	The responsibility to respect the results of elections. The responsibility to vote.

To what extent do Canadians take up these responsibilities, in your opinion? Consider using your conclusions, supported with evidence and reasons, in the informal debate for your chapter task.

## Diversity and Students for Change

Emily is a Grade 9 student in Calgary. She belongs to a group at her school called Diversity and Students for Change. The group promotes awareness and respect for the diversity of peoples in Canada and at Emily's school. It has sponsored lunchtime movie festivals about different cultures, and made presentations about bullying and discrimination.



I was flipping through the channels on TV and I noticed that a lot of programs had racist or sexist comments. A lot of music does too. It made me think about what I could do to counter that. I figure it's easier to change people's minds now than as adults.

Respect is what builds everything in our world. If you don't have respect, then you don't have cooperation. Without respect, you have no friends, no happiness. If we want to be happy in today's world, we have to share. We have to be helpful to others.

Once a year, we do a Diversity Day. Part of it is performances that embrace the different cultures we have at our school. And we have workshops and guest speakers that the students get to choose from. It's really cool.



Emily is part of a student group focused on building respect for others. **Think critically:** What contribution does her work make to Canadian society? What contribution could you make at your school?



What are the goals of Diversity and Students for Change?



What sections of the Charter connect with these goals?



**How did the Indian Act restrict the rights and freedoms of First Nations people?**

## What does the Charter reflect about today's society compared to the past?

This section describes some events from Canada's history. As you read about them, consider the consequences that government actions had for the rights of individuals. Compare your observations with how the Charter reflects attitudes towards individual rights today.

### First Nations and the Indian Act

In 1876, parliament passed the Indian Act. The Indian Act affected First Nations who had concluded Treaties with Canada's government. It was passed without consulting First Nations, at a time when people of European descent generally viewed European ways as superior to the ways of other cultures. At points in its history, the Indian Act:

- Required First Nations people to obtain government permission to wear traditional clothing.
- Banned traditional ceremonies, such as the Sundance of the Siksika.
- Prevented First Nations from taking political action.

Read more about the Indian Act on page 137.

This photo dates from the 1930s and shows the Plume family, members of the Tsuu T'ina First Nation, in Calgary.



## Canadian Women and the Right to Vote

For more than fifty years, until 1918, the Canada Elections Act barred women from voting and from running as candidates in federal elections.

Canadian women began to campaign for the right to vote in 1876. Emily Howard Stowe, Canada's first female doctor, founded a club to promote women's suffrage — women's right to vote. The idea was so radical for its time that she gave the group a "cover" name: the Toronto Women's Literary Club.

Over the next four decades, the fight for women's suffrage gradually gained momentum worldwide. England's famous "suffragettes" held large, angry rallies for the cause, and were often imprisoned for their views.



### CRITICAL THINKING CHALLENGE

What attitudes does the Charter reflect towards women today?



To what extent is voting a responsibility as well as a right, in your opinion?

## DID YOU KNOW?

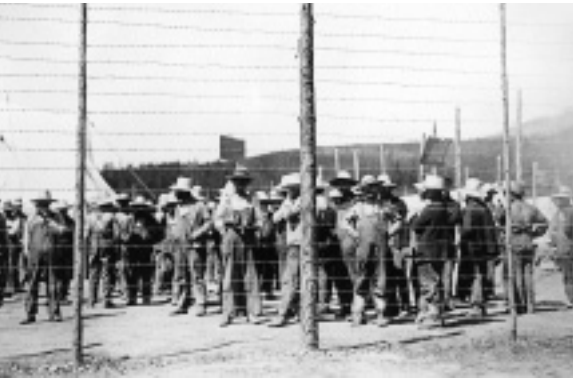
### Historical Context

Historical context is about events, and generally accepted values and attitudes, that shaped the actions of people in the past. It's useful to think about historical context, because it makes you aware that the present is also shaped by events, values and attitudes. The point of comparing the past and the present is not to judge the past, but to better understand the present. The past connects to the present, and historical context is part of understanding how. *Refer to page 342 in the Skills Centre for more information on historical context.*



This photo from New York in 1915 shows Canadian women at a rally for women's right to vote — part of a struggle that had been going on for decades in Europe and North America. What evidence can you detect in this photo that women from around the world sought the right to vote?





This photo shows the Castle Mountain internment camp for people of Ukrainian descent in Alberta in 1915. The labour of these internees built parts of Banff National Park.



This photo shows prisoners at the internment camp in Kananaskis, Alberta. Antonio Rebaudengo, an Italian Canadian from Calgary, is in the front row, second from the left.



**A prejudice is a “pre-judgment.” How do prejudices affect the identity of individuals and groups? Consider to what extent the Charter can protect people from prejudice.**

### The Internment of Ukrainian Canadians

At the beginning of World War I in 1914, more than 8000 people of Ukrainian and German descent were arrested and sent to camps because of their identity. Canada and its allies were at war with Germany and Austria-Hungary and part of Ukraine fell within enemy territory. Canada’s government made the arrests under the War Measures Act, which it passed in 1914 at the outbreak of the war. In many cases, the government seized the homes and possessions of those arrested. Many were men, but their families often also went to the camps because they had no other choice. The people interned had to work as labourers — they built roads, for example. They did not receive any wages. After the war ended and the War Measures Act was no longer in force, the government required many people to remain in the camps and continue to work as labourers without pay.

In 2005, Canada’s parliament passed the Internment of Persons of Ukrainian Origin Recognition Act, which acknowledges this event in Canadian history. It calls for “a better public understanding of... the important role of the Canadian Charter of Rights and Freedoms in the respect and promotion of the values it reflects and the rights and freedoms it guarantees.”

### The Internment of Italian Canadians

During World War II, Canada used the War Measures Act to arrest people of Italian descent and send them to camps. The arrests began on June 10, 1940, when Italy declared war on Canada. The arrests focused mostly on men, but some families had to follow the men to the camps. The government seized the property of some of those arrested. The arrests affected about 700 people.

Antonio Rebaudengo was one of those arrested. His family kept his letters from the camps. On June 2, 1941, he wrote, “My thoughts are with you constantly. May we remain in good health and then we will see. Joys and sorrows, love and hate, these are life’s ups and downs, a perennial see-saw. When inadvertently I think about my job at the railway or about some acquaintance, I get upset and try to forget. I hope everything is fine at home...”

In 1990, Prime Minister Brian Mulroney apologized to Canada’s Italian community for the internment. Some members of the community have sought compensation from the government. This was still under negotiation in 2007.

### The Internment of Japanese Canadians

On December 7, 1941, during World War II, Japan attacked Pearl Harbor. Canadians with Japanese ancestry suddenly found themselves treated with suspicion or even hatred, even though most of them had been born and raised in Canada.

In February 1942, Canada's government decided to move all people of Japanese origin away from the west coast. Under the War Measures Act, more than 20 000 men, women and children were forced to leave their communities, bringing only what they could carry. They were loaded onto trains and moved inland, mostly to remote communities in B.C.'s interior. They were not permitted to leave the camps without permission from the RCMP.

The government promised to safeguard the property of Japanese Canadians, but in 1943 it sold off their homes, businesses and possessions. Families that had spent decades building a life in Canada suddenly had nothing.

In 1988, Canada's government formally apologized to Japanese Canadians.



Based on the values and attitudes in the Charter, why did Canada's government apologize to Japanese Canadians?

This photo dates from 1942 and shows Japanese Canadians being forced to leave their homes for internment camps in B.C.'s interior.





## HOW TO ANALYZE CAUSE AND EFFECT

In the previous section, you read about five events from Canada’s past where government actions had an impact on individual rights and freedoms. Each of these events had consequences for the views and perspectives individuals and groups on rights and freedoms in Canada. What consequences? How do the consequences affect our understanding of the Charter today?

Alone or with a partner, use the questions below to discuss one of the events. Identify the causes of the government action involved, and its effects on individuals and groups. An organizer like the one below can help you categorize your ideas.

- What events, values and attitudes contributed to the government action?
- What clues can you find in the information that help you identify causes?
- What happened after the event?
- How do the causes and effects compare in importance or impact? Rank them.
- How does the intent of the government action compare with the results?

Example:

Cause		Effect
Cause	Internment of Japanese Canadians	Effect
Cause		Effect



In a small group, brainstorm ways you could use these steps to help you analyze other information found in this chapter. Make a list of your ideas and share it with another group. For your chapter task, you need to demonstrate an understanding of issues connected to individual rights and freedoms today. Your cause-and-effect analysis of events in Canadian history can help you do this. Consider using a historical example of cause and effect as evidence for your task. **Refer to page 365 in the Skills Centre for tips on creating cause-and-effect diagrams.**



## How does the Charter affect law making in Canada?

### WHAT'S IN THIS SECTION

In this section, you will read about how the Charter affects legislation. You will find:

- Examples of citizens who have exercised their individual rights by challenging government legislation.
- Examples of issues affecting individual rights.

### What are you looking for?

As you read the section, look for:

- The ways citizens make decisions to exercise their rights.
- The extent to which lawmakers are fair and equitable in protecting individual rights.
- The impact that government decisions have on individual rights.



Some people who use sign language to communicate need interpreters to communicate with those who have hearing. **Think critically:** In what way is providing sign-language interpreters in hospitals fair and equitable?

## Breaking the Communication Barrier

Imagine you're in a hospital, and that none of the doctors or nurses speak your language. For B.C.'s Robin Eldridge, and John and Linda Warren, that scenario was a terrifying reality.

All three of them had been born deaf. Until 1990, whenever they needed to see a doctor, a non-profit agency in Vancouver provided sign-language interpreters free of charge. When the agency became short of funds, however, the service disappeared.

When Robin Eldridge next went to the hospital, she discovered that the province wouldn't provide an interpreter to help her understand the doctor's advice. When Linda Warren gave birth to twins, she watched helplessly as her babies were whisked from the room for treatment. She found herself unable to ask where they had been taken, or why.

Warren and her husband, along with Robin Eldridge, took the B.C. provincial government to court. They argued that people who relied on sign language needed interpreters to communicate properly with health care workers. By failing to provide interpreters, they said, the B.C. government was violating their equality rights under the Charter.

The trio fought their case all the way to the Supreme Court of Canada and won.



**CRITICAL THINKING CHALLENGE**  
What other groups might be affected by this decision?

## Always Open: 24-7

Have you ever spent a Sunday afternoon shopping? For many of your parents, that simply wasn't an option.

Until 1985, the Lord's Day Act made it illegal for most Canadian businesses to open on Sunday. The law upheld the Christian Sabbath, or day of rest.

In May 1982, three months after the Charter of Rights and Freedoms became part of Canada's constitution, Calgary's Big M Drug Mart deliberately opened for business on a Sunday to challenge the Lord's Day Act. It deliberately broke the law to make a point.

When the challenge came before the Supreme Court, the Supreme Court overturned the law. It found that the Lord's Day Act violated Canadians' fundamental right to freedom of conscience and religion.

To what extent does the right to shop on Sundays affect your life?



In what ways did the Lord's Day Act infringe on Canadians' right to freedom of religion?



Do you agree with the Supreme Court decision? Why or why not?

## Restrictions on Flying

In June 2007, Canada's government banned certain people from travelling by air for security reasons. Why do people disagree about this "no-fly" list? What evidence can you find in these articles?

### Canada to launch no-fly list in June

Toronto Star, May 12, 2007

OTTAWA — A Canadian "no-fly" list of people to be barred from boarding airline flights is set to take effect June 18. The move amounts to a blacklist of people "reasonably suspected" by federal officials as immediate threats to the safety of aircraft, passengers or crew.

Under the rules, as passengers check in for flights, their names will be automatically screened against the government's list. The new rules will apply to all passengers "who appear to be 12 years of age or older."

Who's on the list: People deemed threats to airline safety, including members of terrorist groups and individuals convicted of one or more serious and life-threatening crimes against aviation security.

— Adapted from an article by Tonda MacCharles.

### Calls to suspend no-fly list

June 2007

Canada's privacy commissioner, Jennifer Stoddart, says the government should suspend Canada's new no-fly list.

The privacy commissioner watches out for the privacy of Canadians, as required under Canada's Privacy Act. Stoddart says the no-fly list makes secretive use of personal information, and "profoundly impacts" the rights of Canadians, including freedom of association and mobility rights.

Lindsay Scotton studies issues for the privacy commissioner. She says airline safety is important, but so are rights. The no-fly list suspends people's rights based on suspicion. What about the right of "innocent until proven guilty"?

In Scotton's view, it's difficult to know where the balance lies.

— Based on research into events, views and perspectives.



## CRITICAL THINKING CHALLENGE

How do we decide if the needs of society should outweigh the rights of individuals? How does the Charter affect these decisions?



**Examine the cartoon carefully. What do you believe the cartoonist thinks is more powerful: the Charter of Rights and Freedoms or the Anti-Terrorism Act?**

Page 107 presented some information on Canada’s no-fly list. The no-fly list was one of many new security measures restricting the rights of individuals that Canada adopted after September 11, 2001. These measures included the Anti-Terrorism Act, portrayed in the cartoon above.

On September 11, 2001, members of Al-Qaeda flew airplanes into the twin towers of the World Trade Center in New York. This cartoon recalls that event, but in a significantly new context: it shows the Canadian Charter of Rights and Freedoms as an airplane, and the Anti-Terrorism Act as a tower in the airplane’s path.



### SPOT AND RESPOND TO THE ISSUE

Sometimes government makes decisions for the common good of everyone. What issues might arise from these decisions for individual rights and freedoms? How might these decisions affect citizenship? Refer to the steps in **Spot and Respond to the Issue** on pages 12 and 13.

## Banning Junk Food Ads

Advertising attempts to persuade people of all ages to buy products. How might the Charter of Rights and Freedoms affect decisions about advertising to children? As you read this page, consider how the Charter could affect other decisions for children, such as standards for toys, games and TV programs.



### CRITICAL THINKING CHALLENGE

What possible problems arise from advertising to children? How effectively would the Charter protect children?

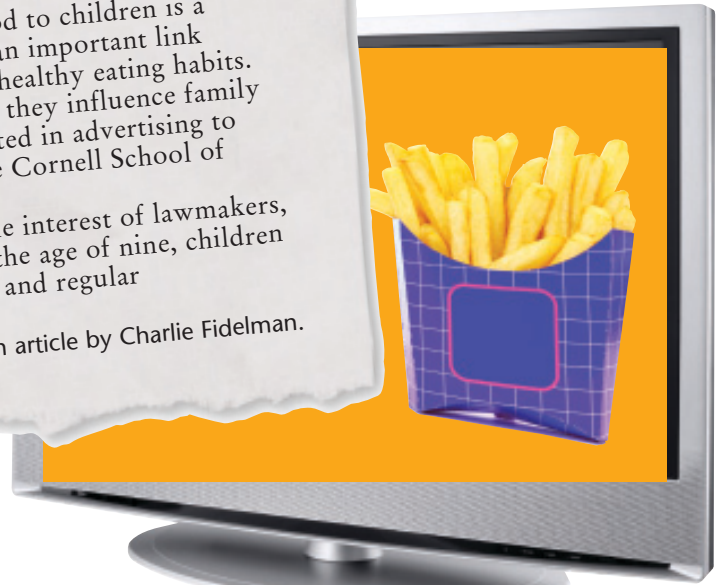
### Food ads bad for kids, expert warns

CanWest News Service, October 27, 2006

MONTREAL — Experts suggest marketing food to children is a powerful and dangerous tool. They say there's an important link between advertising junk food to youth and unhealthy eating habits. Children have their own spending money and they influence family purchases — two reasons marketers are interested in advertising to children, says Jordan LeBel, who teaches at the Cornell School of Hotel Administration.

But advertising to children has also caught the interest of lawmakers, because children are at risk, he added. "Until the age of nine, children can't tell the difference between a commercial and regular programming," LeBel said.

— Adapted from an article by Charlie Fidelman.



## connect to the big ideas

1. Explore in more depth one of the issues in this section.

To begin, you need to gather facts, views and perspectives. Use a chart like the one below to make notes. Then, decide your own position on the issue and write a position statement that explains it. Support your position with evidence. You can use this work as preparation for your chapter task.

Should the government ban advertising aimed at children (for example, junk food ads)?	
Yes: facts, views, perspectives	No: facts, views, perspectives
My Position	

2. To what extent is the Charter an effective part of law making in Canada? Choose one of the examples from this section to explain your answer.



## Skillful Decision Making and Problem Solving

This section has explored how laws affect individual rights. It has presented some examples of citizens making decisions to exercise their rights. The coming pages will present more examples. What strategies do you think these citizens used to help them decide to take action?

Learning to make effective decisions is an important citizenship skill. Every decision we make affects others — especially decisions about laws everyone has to follow. Skillful decision making helps you to figure out what action to take. It's part of building a society that includes you and everyone.



### WHAT DOES SKILLFUL DECISION MAKING AND PROBLEM SOLVING INVOLVE?



I try to find reliable information.  
You can't make effective decisions by guessing at what's involved and what others think.

When I make decisions, I make a list of all the pros and cons of my choice. Then I weigh them and go with the decision that best solves the problem.

It may not always be the easiest decision, but it definitely solves my problem.

When I choose what high school to go to next year, I'm going to take my time. I want to consider all the angles and possibilities. Snap decisions don't always work out for the best.



## Try this!

You make decisions every day about simple issues that you encounter. For more complex problems, you may need to use a series of steps to help you sort out the issue and examine it from all sides before you make a decision.

Have a look at the chart below. It presents two scenarios for you to practise your decision-making and problem-solving skills, and it gives you a series of questions to sort through each scenario. Each scenario has to do with individual rights and freedoms. Work through each scenario with a partner, and refer to the summary of the Charter on pages 97 and 98 for ideas. What other scenario involving rights can you think of? How might the Charter affect it?

	<b>Problem A</b> You and your friends are walking on the street and are stopped and searched by a police officer.	<b>Problem B</b> You are a Canadian citizen with a valid passport flying to visit family in another country. You are stopped at airport security and not permitted to leave the country.	<b>Other</b>
What problems could arise from this situation?			
What individual rights and freedoms have been infringed upon or protected? Why?			
Who is this a problem for?			
Why is a decision for this problem necessary?			
What are some possible solutions?			
What would your decision be if you were in this situation?			





## How does the Charter affect the workplace?

### WHAT'S IN THIS SECTION

In this section you will read how the Charter is used to protect workers' rights. You will find:

- A case where women used the Charter to seek equality rights in the workplace.
- A summary of how the Charter can protect workers from discrimination in the workplace.

### What are you looking for?

As you read the section, look for:

- How the Charter is used to protect workers from discrimination in the workplace.

Young people provide a source of labour for Canada's economy. The number of young people with jobs depends on the state of the economy. During times of labour shortages, many young people have jobs, for example, as servers in restaurants. **Think critically:** What workplace issues might you encounter as a server in a restaurant? How might the Charter protect you on the job?



What jobs are young people legally allowed to hold in Alberta?



## On the Job with the Charter of Rights and Freedoms

In 2001, four Ontario women and five **labour unions** launched a Charter challenge, arguing that the province was discriminating against them based on gender. A 1993 Ontario law required the province to pay women and men equally when they had equivalent levels of experience and training. The four women said the province hadn't followed through on this promise of "pay equity," and that they and their female co-workers were owed millions of dollars in lost wages.

In 2003, before the courts began a hearing on the case, the Ontario government agreed to pay female workers a total of \$414 million in pay adjustments.

One of the women who launched the challenge was Mary Kelly, a community-care worker.

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**labour union:** an organization of workers that acts to protect workers' rights and interests — see page 231

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Traditionally, women have been underpaid for doing the same work as men. My union came to me and told me about the Charter challenge. This was a chance to improve women's wages in the province. I thought, "Why should somebody make more than I do, for the same job?"

The union asked me to make a sworn statement about my qualifications and wages. I said, "Sure, I'd be glad to." Because the government at the time wanted to just cancel pay equity.

So I met with the union lawyer, Mary Cornish. We talked and talked, and she took down all the details of my situation. Then they filed my statement. After that, they kept me up to date on the case, and then on the settlement.

When we got \$414 million for women, it ended up as back-page news. I guess I was a little disappointed that the case never made it to a hearing. I thought it should be made public, that Ontario's government had overlooked women's rights.

But it was worth the effort. Any time you can get more money for women in low-paying jobs, it's worth it. There are a lot of single parents out there with kids, and you can't make it on the wages that they were paying women. And it felt good to know that you could actually take on the government. It takes lawyers, and it takes a lot of money, but you can do it.

An individual could not do it alone, though. The average person couldn't afford to hire Mary Cornish, or anyone like her. She put a huge amount of work into this. It had to be a group effort.

Mary Kelly was one of four women who launched a Charter challenge in 2001 about the right of women to be paid the same as men.



Mary Kelly's case focused on jobs where women make up most of the workers, such as jobs caring for the elderly. The recognition of the right of women workers to equitable wages affirms their value as citizens and also reflects the importance of their jobs to our society. **Think critically: How might rights concerning wages affect quality of life?**



**CRITICAL THINKING CHALLENGE** Citizenship is about building a society in which everyone belongs. How do individual rights connect to citizenship?

## connect to the big ideas

1. In what ways does Mary Kelly's choice to launch a Charter challenge reflect skillful decision making? Using the chart on page 111 and evidence from the interview, outline the factors involved in her decision. What decision would you have made, based on these factors? Why?
2. Based on evidence from the article, how easy or difficult is a Charter challenge? How does this factor into the effectiveness of the Charter in protecting the individual rights of Canadians?

## Do people have the right to work without facing discrimination based on their age?

In the early 1990s, Professor Olive Dickason challenged whether the University of Alberta could force her to retire at age 65. The Charter entitles everyone to "equal protection and equal benefit of the law without discrimination." Professor Dickason said forced retirement was discrimination based on age. The Supreme Court disagreed with her, because she had agreed to retire at 65 before she took her teaching position.

Since the Supreme Court ruling, provinces in Canada have reexamined their legislation concerning retirement. Some provinces, including Alberta, have made it illegal for employers to force employees to retire because of their age.



Dr. Olive Dickason is a distinguished Métis historian. She taught at the University of Alberta from 1985 to 1992.



**Why do you think decisions based on the Charter might vary from case to case? In your opinion, does this make the Charter more effective or less effective in protecting individual rights?**

### DID YOU KNOW?

The Charter of Rights and Freedoms creates equality rights in the workplace. For example, you have the right to work without facing discrimination based on race, religion or gender.

## connect to the big ideas

1. Do an online search of government sites to find out more about workers' legal rights in the workplace. How is the information you find similar to or different from what is in the Charter? How could you use it when applying for a job yourself? *Refer to page 361 in the Skills Centre for tips on searching online*
2. For your chapter task, you need to participate in an informal debate about the most important Charter issue connected to individual rights and freedoms today. Use the information on pages 113 to 115 and your online search from question 1, above, to assess issues about rights in the workplace. In your view, how important are these rights? Why?





## Wrap Up Your Task

By now you have gathered information to help you with your chapter task. For the task, you need to organize an informal debate on the question:

**What do you believe is the most important Charter issue affecting individual rights and freedoms in Canada today?**

### TIPS FOR SUCCESSFUL DEBATES

- ✓ Be prepared with your research and evidence.
- ✓ Listen respectfully to others.
- ✓ Be open to the views and perspectives of others.
- ✓ Evaluate the information, not the person providing it.
- ✓ Be open to changing your ideas!

### Summarize Your Ideas

Review the research you began on page 91 and summarize your ideas. Add any other information that you found through your own research to help you answer the question. Formulate your conclusions and write up your position. Remember to:

- State your position on the issue.
- Present your ideas, supported by evidence.
- Organize your ideas logically and persuasively.

### Plan an Informal Debate

There are many ways to organize an informal debate. Plan your debate using one of these formats:

Horseshoe Debate	Small Group Debate	Four Corners Debate
<p>In a horseshoe debate, people arrange themselves in the shape of a horseshoe. People who agree with a proposed idea sit on one side, people who disagree with the proposed idea sit on the other side. Those who are undecided sit in the middle. In turn, each explains their position. People can change their position if they are persuaded by another person's argument.</p>	<p>In a small group debate, groups of four sit together face to face. Each person presents his or her argument on the issue and the others ask questions to clarify ideas. People can change their position if they are persuaded by another person's ideas and evidence.</p>	<p>Post four signs in the four corners of the room — agree, strongly agree, disagree, and strongly disagree. When the debate begins, each person chooses the sign that best expresses their position on a proposed idea, and moves to that corner. People in each corner present their information. After, if they have been persuaded, people can move to the corner that expresses their new position.</p>

## Chapter 3 Review

### WHAT DID CHAPTER 3 EXPLORE?

- How does the Charter protect individual rights and freedoms?
- How does the Charter affect law making in Canada?
- How does the Charter affect the workplace?

### Revisit the Chapter Issue

Use what you have learned in this chapter to develop your own informed position on the chapter issue:

#### **How effectively does Canada's Charter of Rights and Freedoms protect your individual rights?**

Work through the directions for "Demonstrating Your Learning" on page 55 to present your position.

### Share What You Know

Create a poster that promotes the relationship between the rights and freedoms outlined in the Charter and the responsibilities of citizens in upholding those rights. Include slogans, key words and illustrations to communicate your point. Your poster should be catchy and persuasive. Ask permission to post your poster in your school or community.

### Link with Technology

Create a multimedia presentation that summarizes the role of the Charter in Canadian society. Include graphics and visuals that illustrate the individual rights and freedoms that are in the Charter.

### Take Action

This chapter presented examples of people who decided to improve their quality of life by taking action on issues affecting their individual rights and freedoms. Consider what issues are important to your individual rights and freedoms — they can be issues going on in your school, community, or in the world. Use the skills for skillful decision making that you learned in this chapter to decide if and how you will take action on the issue.

### Reflect Before You Forget

Reflect on what you learned about the Charter of Rights and Freedoms in this chapter. Complete these thoughts:

- In this chapter I discovered... about decision making and problem solving.
- The most important thing I learned in this chapter about individual rights and freedoms is...
- One thing I'd like to know more about, regarding how the Charter affects laws, is...