

FEDERAL-PROVINCIAL CONFERENCE
OF
FIRST MINISTERS ON THE CONSTITUTION

accepted in a free and democratic society with a
parliamentary system of government.

Fundamental freedoms

2. Everyone has the following fundamental
freedoms:

- (a) Freedom of conscience and religion;
- (b) Freedom of thought, belief, opinion
and expression, including freedom of the

Revised Discussion Draft of
September 3, 1980
The Canadian Charter of Rights
and Freedoms

Electoral Rights

3. Every citizen of Canada has, without
undue delay, the right to vote in an election of members of
the House of Commons or of a legislative assembly and to be
qualified for membership therein.

4. (1) No House of Commons and no legislative
assembly shall continue for longer than five years
from the date of the return of the writ for the
election of its members.

Ottawa
September 8-12, 1980

September 3, 1980

REVISED DISCUSSION DRAFT

THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Rights and
freedoms in
Canada

1. The Canadian Charter of Rights and Freedoms recognizes the following rights and freedoms subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government.

Fundamental Freedoms

Fundamental
freedoms

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media; and
- (c) freedom of peaceful assembly and of association.

Democratic Rights

Democratic
rights of
citizens

3. Every citizen of Canada has, without unreasonable distinction or limitation, the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

Duration of
elected
legislative
bodies

4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date of the return of the writs for the election of its members.

Continuation
in special
circumstances

(2) In time of real or apprehended war,
invasion or insurrection, a House of Commons may
be continued by Parliament and a legislative
assembly may be continued by the legislature
beyond the period of five years, if such continuation
is not opposed by the votes of more than one-third
of the members of the House of Commons or the
legislative assembly, as the case may be.

Annual
sitting of
legislative
bodies

5. There shall be a sitting of Parliament
and of each legislature at least once in every
year and not more than twelve months shall
intervene between sittings.

Legal Rights

Life, liberty
and security
of person

6. Everyone has the right to life, liberty
and security of the person and right not to be
deprived thereof except in accordance with the
principles of fundamental justice.

Search and
seizure

7. Everyone has the right to be secure
against unreasonable search and seizure.

Detention or
imprisonment

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

Arrest or
detention

9. Everyone has the right on arrest or detention

(a) to be informed promptly of the reasons
therefor;

(b) to retain and instruct counsel without
delay; and

(c) to the remedy by way of habeas corpus
for the determination of the validity of the
detention and for release if the detention is
not lawful.

Proceedings
against
accused in
criminal and
penal matters

right

10. Anyone charged with an offence has the

(a) to be informed promptly of the specific
offence;

(b) to be tried within a reasonable time;

(c) to be presumed innocent until proven
guilty according to law in a fair and public

hearing by an independent and impartial

tribunal;

(d) not to be denied reasonable bail without
just cause;

(e) not to be found guilty on account of any
act or omission that at the time of the act

or omission did not constitute an offence;

(f) not to be tried or punished more than

once for an offence of which he or she has

been finally convicted or acquitted; and

(g) to the benefit of the lesser punishment

where the punishment for an offence of which

he or she has been convicted has been varied

between the time of commission and the time of

sentencing.

Treatment or
punishment

11. Everyone has the right not to be subjected
to any cruel and unusual treatment or punishment.

Self-
crimination

12. A witness has the right when compelled to
testify not to have any evidence so given used to
incriminate him or her in any subsequent proceedings,
except a prosecution for perjury or for the giving
of contradictory evidence.

Interpreter 13. A party of witness has the right to the assistance of an interpreter if that person does not understand or speak the language in which the proceedings are conducted.

Mobility Rights

Rights of citizens to move 14. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

Rights of persons in Canada to move, etc. (2) Everyone in Canada has the right
(a) to move to and take up residence in any province; and
(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.

Limitations (3) The rights specified in subsection (2) are subject to

- (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence, and
- (b) any other laws referred to in subsections (4) or (5) of section 121 of the British North America Act.

Non-discrimination Rights

Equality before the law and equal protection of the law 15. (1) Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex.

Affirmative action programmes (2) This section does not preclude any programme or activity that has as its object the amelioration of conditions of disadvantaged persons or groups.

Interpreter

13. A party of witness has the right to the assistance of an interpreter if that person does not understand or speak the language in which the proceedings are conducted.

Mobility Rights

Rights of
citizens
to move

14. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

Rights of
persons in
Canada to
move, etc.

(2) Everyone in Canada has the right

(a) to move to and take up residence in any province; and

(b) to acquire and hold property in, and to pursue the gaining of a livelihood in any province.

Limitations

(3) The rights specified in subsection (2) are subject to

(a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence, and

(b) any other laws referred to in subsections

(4) or (5) of section 121 of the British North America Act.

Non-discrimination Rights

Equality before
the law and
equal
protection
of the law

15. (1) Everyone has the right to equality before the law and to equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age or sex.

Affirmative
action
programmes

(2) This section does not preclude any programme or activity that has as its object the amelioration of conditions of disadvantaged persons or groups.

Official Languages

Official
languages
of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada.

Status of
languages
and
extension
thereof

(2) In addition, English and French have the status set forth in this Charter, which does not limit the authority of Parliament or a legislature to extend the status or use of the two languages or either of them.

Language Rights

Proceedings
of Parliament

17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.

Debate of
legislatures

(2) Everyone has the right to use English or French in the debates of the legislature of any province.

Statutes,
etc. of
certain
legislatures

18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French.

Statutes,
etc. of
certain
legislatures

(2) The statutes, records and journals of the legislatures of Ontario, Quebec, New Brunswick and Manitoba shall be printed and published in English and French.

Idem

(3) The statutes, records and journals of the legislature of each province not referred to in subsection (2) shall be printed and published in English and French to the greatest extent practicable accordingly as the legislature of the province prescribes.

Both versions of statutes authoritative

(4) Where the statutes of Parliament or a provincial legislature are printed and published in English and French, both language versions are equally authoritative.

Proceedings in Supreme Court and courts established by Parliament

19. (1) Either English or French may be used by any person in, or in any pleading or process in or issuing from, the Supreme Court of Canada or any court established by Parliament.

Proceedings in courts of certain provinces

(2) Either English or French may be used by any person in, or in any pleading or process in or issuing from, any court of Ontario, Quebec, New Brunswick or Manitoba.

Idem

(3) Either English or French may be used by any person in, or in any pleading or process in or issuing from, any court of a province not referred to in subsection (2), to the greatest extent practicable accordingly as the legislature prescribes.

Rules for orderly implementation and operation

(4) Nothing in this section precludes the making of such rules by any competent body or authority for the orderly implementation and operation of this section.

Communications
by public
with govern-
ment of
Canada

20. (1) Any member of the public in Canada has the right to communicate with and to receive available services from any head or central office of an institution of the Parliament or Government of Canada in English or French, and has the same right with respect to any other office of any such institution where that office is located within an area of Canada in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language.

Communications
by public
with govern-
ment of a
province

(2) Any member of the public in a province has the right to communicate with and to receive available services from any head, central or principal office of an institution of the legislature or government of the province in English or French to the greatest extent practicable accordingly as the legislature prescribes.

Rights and
privileges
preserved

21. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the commencement of this Charter with respect to any language that is not English or French.

Language of
educational
instruction

22. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school levels wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

Provisions
for deter-
mining where
numbers
warrant

(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

Undeclared Rights

Undeclared
rights
and
freedoms

23. The enumeration in this Charter of certain rights and freedoms shall not be construed to deny the existence of any other rights or freedoms that may exist in Canada, including any rights or freedoms that may pertain to the native peoples of Canada.

General

Laws, etc.
not to apply
so as to
derogate from
declared
rights and
freedoms

24. Any law, order, regulation or rule that is inconsistent with the provisions of this Charter is, to the extent of such inconsistency, inoperative and of no force or effect.

Laws
respecting
evidence

25. No provision of this Charter other than section 12 affects the laws respecting the admissibility of evidence in any proceedings or the authority of Parliament or a legislature to make laws in relation thereto.

Application
to territories
and
territorial
institutions

26. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory or the Northwest Territories or to the appropriate legislative authority thereof, as the case may be.

Legislative
authority
not
extended

27. Nothing in this Charter confers any legislative power on any body or authority except as expressly provided by this Charter.

Continuation
of existing
constitutional
provisions

28. Nothing in sections 17 to 19 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada. (*)

Application
of certain
language
rights

29. A legislature of a province to which subsections 18(2) and 19(2) do not expressly apply may declare that one or both of those subsections shall have application, and thereafter any such provision shall apply to that province in the same terms as to any province expressly named therein.

(*Transitional provisions will be required for repeal of these provisions at an appropriate time.)