



Charter of Rights

TEACHER GUIDE

Canadian Press reporter Joan Bryden looks at how the Charter of Rights and Freedoms has transformed Canada. From same-sex marriage, Sunday shopping and medical assistance in dying to no legal restrictions on abortion, the charter has resulted in profound changes to Canadian society since it was enshrined in Canada’s newly patriated Constitution in 1982.

Even though not all the changes the charter has wrought were warmly welcomed initially, Canadians have, by and large, accepted them and moved on. Sunday shopping is taken for granted. Same-sex marriage is commonplace. The charter itself remains hugely popular and has become, in the view of Supreme Court Chief Justice Beverley McLachlin, “a part of the Canadian identity.”

Additional discussion/research points:

- Prior to 1982, Canadians’ rights were protected in the federal Bill of Rights and various provincial laws. How is the charter different?
- Charter rights are not absolute. Explain how they can be limited.
- If not for sect. 33, the so-called notwithstanding clause, Canada’s first ministers may never have agreed to include the charter in the patriated Constitution. Under pressure from premiers, Pierre Trudeau, prime minister at the time, only grudgingly agreed to add the clause, which he believed undermined the protection of individual rights. Research how the clause has been used and explain whether Trudeau’s fears have turned out to be founded.
- This story includes a timeline of important court rulings on charter cases. Pick the one that strikes you as bringing about the most profound change and explain why.
- The rights of individuals accused or suspected of crimes have been strengthened by the court in charter rulings. What are the most significant rulings?
- In 1986, the Supreme Court established the so-called Oakes test, setting out when sect. 1 of the charter can be used to impose “reasonable limits” on rights and freedoms “as can be demonstrably justified in a free and democratic society.” Explain the Oakes test.
- Some critics of the charter resent the fact that it has resulted in “judge-made law,” where the courts are striking down legislation passed by Parliament or duly elected provincial legislatures. Explore the controversy and determine whether, on balance, it’s a good or bad thing to have individual rights protected in the charter.



Queen Elizabeth II signs Canada’s constitutional proclamation in Ottawa on April 17, 1982 as Prime Minister Pierre Trudeau looks on.



Undated photo of the Canadian Constitution.



Supreme Court of Canada in Ottawa.



Adil Charkaoui Supreme Court of Canada in Ottawa.