

# The Charter is for Everybody: A Guide to Understanding Your Rights

## Video #4

### Privacy and Legal Rights

#### Before embarking on any discussion

- As newcomers arrive from many different realities it is important to be mindful of cultural differences and sensitivities that may affect their understanding or interpretation of rights and freedoms.
- It is important to foster an open and respectful environment where participants feel comfortable asking questions or sharing perspectives.
- Use the document *Before Watching the Videos: important information on using the videos*. This document will guide you on how to use the following videos and documents. It will also offer suggestions on introductory questions and discussions to determine what your audience already knows about the *Charter*.

#### Objective

This workshop looks to help newcomers to Canada draw personal connections from the videos to their own lives and to understand the relevance of the content in their own lives. Also, participants can compare their personal experiences in their home countries (for e.g. regarding freedom of expression, freedom of religion, equality, etc.) to the Canadian experience.

By the end of this workshop, newcomers should be able to:

- understand the purpose of the *Canadian Charter of Rights and Freedoms*
- be able to identify key rights and freedoms the *Charter* guarantees
- discuss its role in Canadian society and its significance in their lives

#### Materials Needed

- Document: **Before Watching the Videos: important information on using the videos.**
- Computer for showing Video #4
- Document: **Possible Cases to Discuss**
- Document: **Statue #4: Access to Justice**
- Document: **Word Cloud Example.**

#### Leading the Workshop

1. Begin by giving a brief description of the following video:  
**Video #4: Privacy and Legal Rights** explores privacy rights in section 8 (search and seizure) of the *Charter*. The video also discusses the importance of the legal rights in sections 9 (arbitrary detention) and 11 (legal rights for those charged with an offence).
2. Play **Video #4: Privacy and Legal Rights**
3. Once the video is over, take the time to go over the key points of the video (the overview provided below can help with this). Ask if there are any questions, or elements that need to be reexplained or clarified. If needed, you can re-read what the *Charter* states in **Sections 8, 9 and 11**.

4. Continue by exploring the provided discussion questions and activities. It is not necessary to explore each question or activity, you can make choices based on the needs and interests of your participants. For each there are provided discussion points, important considerations and information to help lead the conversation.
5. *Important: Remember that participants are invited to share personal experiences. Remind them that this participation is on a voluntary basis, and that the workshop is a safe place to share, free from judgement.*

### Overview

**Video #4: Privacy and Legal Rights** explores privacy rights in section 8 (search and seizure) of the *Charter*. The video also discusses the importance of the legal rights in sections 9 (arbitrary detention) and 11 (legal rights for those charged with an offense).

Key points:

- ❖ Section 8 of the *Charter of Rights and Freedoms* guarantees privacy rights by protecting people in Canada from unreasonable search and seizure.
- ❖ It protects the right to be left alone, the freedom against interference from the government, and it protects personal information.
- ❖ These protections apply to everyone in Canada. Newcomers are often asked to provide a lot of information to the government; the *Charter* offers protection against abuse or misuse of this information.
- ❖ Section 9 protects against arbitrary detainment or imprisonment (including psychological and physical detention).
- ❖ Section 11 guarantees rights for those charged with offenses. Protections are in place to ensure that the government cannot arbitrarily decide to imprison someone.
- ❖ It also guarantees the right to be innocent until proven guilty and the right to a speedy trial, among other legal rights.

### What the *Charter* says

Section 8 of the *Canadian Charter of Rights and Freedoms* states:

*Everyone has the right to be secure against unreasonable search or seizure.*

Section 9 of the *Canadian Charter of Rights and Freedoms* states:

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

Section 11 of the *Canadian Charter of Rights and Freedoms* states:

*Any person charged with an offence has the right (a) to be informed without unreasonable delay of the specific offence; (b) to be tried within a reasonable time; (c) not to be compelled to be a witness in proceedings against that person in respect of the offence; (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal; (e) not to be denied reasonable bail without just cause; (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment; (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations; (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.*

| Possible discussion questions   | Information and ideas to guide the discussion  |
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| <p><b>What role does Section 8 play in daily life in Canada? How does it protect all those in Canada? How does this make you feel about the Canadian legal system?</b></p>  | <p>Knowing about Section 8 helps newcomers understand their rights in various situations, such as interactions with law enforcement. They may come from a country where their relationship with law enforcement is dramatically different. In many countries, there is no protection against unreasonable search and seizure, and citizens are not able to challenge the actions of the police in court. This knowledge can help them navigate legal processes and ensure their rights are upheld.</p> <p>If they are subjected to an illegal search and seizure, they have the right to challenge it in court. There are legal avenues they can pursue.</p> <p>Awareness of Section 8, and how it safeguards our privacy rights, helps build trust between newcomers and Canadian institutions. Understanding that there are safeguards in place in the <i>Charter</i> that protect our privacy (from the police, from the government, etc.) can foster confidence in the legal system and government authorities.</p> <p>Examples:</p> <p><b>Reasonableness of Searches and Seizures:</b><br/>If law enforcement wants to search your home, Section 8 requires that they obtain a warrant based on probable cause. This means they must provide evidence to a judge that there is a legitimate reason for the search. Without this warrant, any evidence obtained could be considered unlawfully seized and may be inadmissible in court.</p> <p><b>Protection Against Unwarranted Intrusions:</b><br/>If one is asked to provide personal information for a government application, such as for a work permit or residency, Section 8 ensures that any collection of this data by authorities must be done in a manner that is lawful and not overly intrusive. For instance, a government agency cannot demand more information than is necessary for the purpose of processing the application.</p> |
| <p><b>How might Section 9 be applied in cases where individuals believe they have been detained without proper legal justification? What legal recourse do individuals have if they feel their rights under Section 9 have been violated? What does the term "arbitrary" mean in this context, and why is it significant?</b></p> | <p>Someone who believes they have been detained arbitrarily can file a legal challenge in court. They can argue that their detention violated Section 9 of the <i>Charter</i>, which guarantees that everyone has the right not to be arbitrarily detained or imprisoned.</p> <p>A person can ask a court to review the decision or action that led to their detention. This involves asking a higher court to examine whether the detention was carried out in accordance with the law and whether it respected <i>Charter</i> rights.</p> <p><b>Arbitrary</b> means something that is done without any fair or consistent rules. In the context of detention, if someone's detention is described as arbitrary, it means they are held without a valid reason or legal justification. If a person is detained by the police just because someone feels like it, or if the proper legal procedures are not followed, that detention is considered arbitrary. It is unfair and not grounded in established rules or laws. Section 9 of the <i>Charter</i> protects all of us against this.</p>   |

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| <p><b>What rights does Section 11 of the Charter guarantee to individuals who are charged with a criminal offense?</b></p> <p><b>How do these rights contribute to the fairness of the judicial process?</b></p>   | <p><b>Right to a Fair Trial:</b> The right to be tried fairly and in a reasonable amount of time. This ensures that everyone gets a chance to defend themselves properly.</p> <p><b>Right to Be Informed:</b> A person must be told clearly what crime they are being accused of. This is important so that a person can understand and prepare for their defense.</p> <p><b>Right to a Lawyer:</b> A person has the right to get legal help. They provide expert advice and representation.</p> <p><b>Right to a Public Hearing:</b> A trial should be open to the public, so it is transparent, which keeps the legal process open and accountable, preventing secret or unfair proceedings.</p> <p><b>Right to a Jury Trial:</b> For serious offenses, a person has the right to be tried by a jury of their peers, which means a trial by a group of ordinary citizens, which helps ensure impartiality.</p> <p><b>Protection Against Double Jeopardy:</b> A person cannot be tried twice for the same crime if they have already been acquitted or convicted. This prevents the government from repeatedly prosecuting you for the same crime, which protects against harassment and unfairness.</p> |
| <p><b>In Video #4, they introduced the statue Access to Justice found in the McMurtry Gardens of Justice in Toronto. In the video, Shakir Rahim states that there is “inequality in how we approach the justice system as individuals”. What does he mean by this? How do the doors or frames of the statue represent equality and inequality simultaneously?</b></p>  | <p><b>Document: Statue #4: Access to Justice</b><br/>The guide includes a picture of the statue; participants can reflect on their own interpretations of the statue.</p>   |
| <p><b>Possible activities</b></p>  |   |
| <p>This section offers ideas for further exploration of Sections 8, 9 and 11 of the <i>Charter</i>. The goal of these activities is to allow for the workshop to be more interactive.</p>  |   |
| <ol style="list-style-type: none"> <li>Using either paper or a computer, participants can create a Word Cloud using words and concepts they have learned from Sections 8, 9 and 11 of the <i>Charter</i>. Participants can then share their work and discuss why they made the choices they did. <ul style="list-style-type: none"> <li>Participants will need access to either a computer (<a href="https://wordart.com/">https://wordart.com/</a>) or art supplies (a sheet of paper, markers or pencil crayons).</li> <li>Give them an example of what a Word Cloud looks like. They can use a word once or multiple times. An example is provided with the <b>Document: Word Cloud Example</b>.</li> </ul> </li> </ol> |   |
| <ol style="list-style-type: none"> <li>Statue #4: Access to Justice: Explore the Statue and the McMurtry Gardens of Justice through a virtual tour <a href="https://artandthecourts.ca/en/garden/pillars-of-justice/">https://artandthecourts.ca/en/garden/pillars-of-justice/</a>.</li> </ol>   |   |