

Judging Your Rights Activity Sheet

The *Canadian Charter of Rights and Freedoms*, commonly known as the *Charter*, is an important document contained in the *Constitution Act (1982)*.¹ Previously to the *Charter* being added to the *Constitution*, every province had a different *Bill of Rights*. This was a problem because one type of right would be protected in British Columbia but that self-same right might not be secured in Newfoundland. Thus, the *Charter* was created to standardize legal protections of individual rights across all of Canada. In order to achieve this, the *Charter* was appended (added-on) to the *Constitution Act* (the highest law in country). The main purpose of the *Charter* is it protects individuals from un-necessary interference by the government (while also protecting individual Canadians from one another).

The *Charter* guarantees to all Canadians the right to liberty, equality under the law, and freedom of religion, expression, association, and peaceful assembly, among other things. It is the supreme law of the land. This means that the *Charter* takes priority over any existing federal or provincial law, i.e. if any provincial or federal law contradicts the *Charter* then those laws must be revised or removed (repealed).

Procedure

- 1). Meet in your small groups.
- 2). Read and discuss all of the *Charter* related issues.
- 3). Appoint a recorder to write down the group's answers.

Note: legal decision-making and reasoning is not characterized by passion but to an appeal to the supremacy of reason. Thus, while discussing the controversial issues below avoid the temptation to pontificate or moralize. Instead, try to develop an answer by first understanding the underlying issue in each controversy while making direct reference to all of the *relevant* sections of the *Charter*.

Situation 1

The Royal Canadian Mounted Police (RCMP) has been a strong Canadian cultural symbol since the institution was created in 1920. The distinctive uniform of the RCMP, called the "Red Serge" with its red tunic, riding boots and flat trimmed hat, has remained relatively unchanged for almost a century. In 1988, a Sikh man applied to the RCMP. He met all entrance requirements; however, the dress code of the RCMP forbade beards and wearing a turban in place of the uniform hat. For many Sikh men, the turban and beard are compulsory components of their religious faith. As it turns out, the man's application to serve with the RCMP was rejected because of the dress code violation.

What sections of the Charter protect the Sikh man's right to both serve as a member of the RCMP while continuing to follow the dress requirements of the Sikh faith?

Situation 2

In 2006, a Canadian writer published a controversial book called *America Alone*. In this book, the author argued low birth rates of white people in the West, combined with the mass migration of Muslims (and

¹ The *Constitution Act* is also known as the *Canada Act (1982)*.

their higher birth rates), would result in the eventual destruction of Western society. The author also argued that since Western nations were so focused on moral and cultural relativism, they were unable to recognise that their tolerance of so much diversity actually threatened their existence. The head of the Canadian Islamic Congress launched a formal complaint about the book arguing that the book “discriminat[ed] against Muslims on the basis of their religion. It exposes Muslims to hatred and contempt due to their religion.” The complaint was heard before three human rights commissions—Ontario, British Columbia and the Canadian Human Rights Commission—and all three dismissed the federal complaint.

Making direct reference to the relevant section(s) of the Charter, why did the three commissions likely dismiss the complaints raised against the author by Muslims?

Situation 3

A sick baby needs an operation that will require a blood transfusion. Her parents will not authorize the transition, because it goes against their religion.

Which sections of the Charter apply to either the child’s or the parent’s rights in this situation?

Situation 4

A TV camera crew videotapes people breaking into a government building and damaging it, and shows it on the evening news. The police get a warrant to search the TV station and seize the tapes. The TV station argues that this is an unreasonable search and that the police should have used other methods to get the information they needed.

What section of the Charter deals with this issue? Who do you think won this case, and why?

Situation 5

Victims of a burglary spot a group of three young men drinking in a back yard, two of whom match a witness’ description of the men who stole their television. They call the police. The officer asks the two men to sit in the back of the police car and answer questions. The police officer asks one of the young men to just tell him where the TV set it. One of the men spontaneously answers, incriminating himself. The two men are given the customary caution and told they have a right to counsel. Back at the police station, both men admit to having been involved in the break-and-enter, and the television is found at one man’s home with both their fingerprints on it.

Did the police violate any of the burglars’ rights under the Charter, making the evidence inadmissible (useless) to the courts?