

The Charter Of Rights Turns 30

April 17, 1982 is a day that is hailed in Canadian history – and a day when it actually hailed!

On that date, Liberal Prime Minister Pierre Trudeau sat down with Queen Elizabeth outside Parliament Hill in Ottawa. As rain and ice pellets pounded down and trumpets blared, they both signed the new Constitution of Canada. About 30,000 Canadians braved the bad weather to watch the ceremony. They wanted to witness the exciting moment when our nation truly grew up.

What Is A Constitution?

A constitution is a set of basic laws or principles for a country that describe the rights and duties of its citizens and the way in which it is governed.

Drafting a constitution is not an easy process. It usually requires tough negotiations between groups with different ideas about how a country should be run. But once these differences have been worked out and a constitution has been crafted, the people must live by its words and its principles. That's why a constitution is often considered a nation's most important written record. In fact, a constitution is often called a country's supreme law.

The Road To 1982

Before 1982, Canada didn't have a constitution of its own. Although our country became independent from Britain following **Confederation**, when it came to making some important laws, our actions were still restricted. That's because we continued to



function under the **British North America (BNA) Act**, which gave the British parliament – not the Canadian government – the power to change certain laws.

Thirty years ago, however, all that changed – and many Canadians have been celebrating the anniversary with great pride.

“I was honoured to be able to speak in favour of the [constitution] in the House of Commons debates many years ago, and to vote for its **patriation**,” said interim federal Liberal leader Bob Rae. “Thirty years later [its] impact on Canadian society has been significant and lasting. It does not belong to one political party or one group. It belongs to all Canadians.”

The Charter Of Rights And Freedoms

At the heart of Canada's constitution is the **Charter** of Rights and Freedoms. This list of our most important rights and freedoms defines what Canadians believe to be fair and just. It replaced the Canadian Bill of Rights, which was a largely ineffective federal law enacted in 1960.

The Charter outlines basic rights, such as the right to life, **liberty** and security of the person, that all Canadians are entitled to. It states that we may move wherever we want. It also says that we can't be imprisoned or detained without good cause, nor treated cruelly if we are jailed. And it

enshrines the principle that people are presumed innocent of a crime until they are proven guilty.

Under the Charter, Canadians also have the right to a democratic government and to participate in political activities, such as voting and standing for election. As well, citizens and residents must not face discrimination before the courts. Finally, the Charter confirms that English and French are Canada's official languages and that Canadians have the right to communicate with the federal government in either one.

Canadian Freedoms

Our Charter also guarantees certain freedoms.

The freedom of conscience and religion means Canadians cannot be forced to behave in a way that goes against their faith or other deeply-held beliefs. Freedom of thought allows us to have ideas that may not be popular with others or with the government. Freedom of expression entitles us to talk about these unpopular thoughts – and any other notions we may have. Freedom of the press and other media means we can communicate these thoughts in newspapers, on TV or radio, or through the Internet. And freedom of assembly means we are able to gather peacefully for political rallies or protests – and to get together with whomever we want.

A Model Constitution

Canada's constitution and its

Charter of Rights and Freedoms are highly regarded throughout the world.

According to a recent study conducted by law professors in the United States who looked at over 700 constitutions worldwide, our constitution has become a role model for nations across the globe. Specifically, it

has greatly influenced the constitutions of Israel, South Africa and New Zealand.

“Today, [the Canadian Constitution is] the envy of millions of people around the world who dream of having their democratic rights and civil liberties similarly protected,” said Montreal lawyer Bernard

Amyot.

We’re lucky, he said, to have our rights and freedoms so well protected.

“Canadians cherish the Charter and **adhere** to it. They know about it, understand that it protects their rights and trust that impartial courts will uphold them.”

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Did You Know?

The Charter only controls government laws and actions. It doesn’t control private citizens, businesses or organizations.

Canada’s Court System

Canadians who feel their Charter rights have been violated can bring their cases to court.

There are four main branches of court in Canada. One branch, the provincial/territorial courts, deals with most cases. These courts handle traffic violations, cases involving small sums of money and most minor criminal offences, among other things.

There is another branch of provincial and territorial courts called superior courts. These courts take on more serious crimes, cases involving larger sums of money and some other issues, such as divorce. A separate section also hears **appeals** of lower-court decisions and verdicts.

The federal courts are a third branch. These courts deal strictly with federal laws and handle matters such as disputes between provinces, copyright challenges and citizenship issues.

The highest court is the Supreme Court of Canada. It is the final court of appeal for all other Canadian courts. Before a case can reach the Supreme Court, it must have used up all other appeals.

The Supreme Court also has a special role as advisor to the federal government, which appoints its Chief Justice and its eight other judges.

adhere: to believe in and follow the practices of
appeals: transfers of cases from a lower to a higher court for a new hearing

British North America (BNA) Act: a series of laws passed between 1867 and 1975 by the United Kingdom and Canadian parliaments that created the country of Canada and set out how the Canadian government operates. Much of the BNA Act was incorporated into Canada’s new constitution in 1982.

Charter: an official document describing the goals, rights, or principles of an organization

Confederation: the date Canada was created (July 1, 1867)

enshrines: preserves in a form that ensures it will be protected and respected

liberty: the right and power to act, believe, or express oneself in a manner of one’s own choosing

patriation: brought under Canadian authority

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On The Lines

Answer the following in complete sentences:

1. Explain what a **constitution** is.
2. What prevented Canada from making changes to some important laws before April 17, 1982?
3. What happened in Ottawa on April 17, 1982 that changed Canada's ability to make its own laws?
4. What is the Charter of Rights and Freedoms?
5. List at least four basic rights enshrined in the Charter.
6. List at least two democratic rights in the Charter.
7. List at least three freedoms contained in the Charter.
8. What are the four main branches of court in Canada?
9. What is the function and make-up of the Supreme Court of Canada? Explain.

Fact Or Opinion?

Facts are descriptions of what is the case or of what has occurred/will occur. They can be verified or tested; they are true or false. **Opinions** are unconfirmed beliefs or conclusions that indicate what could be or what is a good or bad idea. They can be justified or argued for; they are reasonable or unreasonable.

Mark each statement **F** (Fact) or **O** (Opinion):

- _____ 1. The Charter of Rights is part of the Constitution of Canada.
- _____ 2. The Charter of Rights should apply to private citizens, businesses and organizations as well as to government laws and actions.
- _____ 3. The Charter of Rights is the most important part of Canada's constitution.
- _____ 4. The Charter of Rights outlines basic rights, such as the right to life, liberty and security of the person, that all Canadians are entitled to.
- _____ 5. The British North America Act governed Canadians before 1982.

Between The Lines

Making an inference: An inference is a conclusion drawn from evidence. *A plausible inference is supported by evidence in the article and is consistent with known facts outside of the article.*

What if . . . Canada had no Charter of Rights?

Beyond The Lines

Reread the sidebar 'Canada's Court System.' Then, create a concept map to show what each branch in this system is responsible for and how the branches are related.

A good concept map *is complete and clearly shows how the information it contains is related.*

Just Talk About It

As you see it, what is the significance of Canada's constitution?

