

The Canadian Charter of Rights and Freedoms

LESSON OVERVIEW

This lesson plan is designed to be used as a precursor to Lesson 4: Climate Litigation. It can also stand alone as a general overview of the Canadian Charter of Rights and Freedoms, helping students build a foundational understanding of how rights, freedoms, and legal frameworks function within the Canadian context.

GOALS

- Introduce students to the Canadian Charter of Rights and Freedoms
- Learn more about which rights were included in the Charter and which were left out

MATERIALS

- Overview and Background Information Document
- Slide Deck: The Canadian Charter of Rights and Freedoms
- Fact Sheet: The Charter
- Worksheet: Discussion Questions
- Fact Sheet and Worksheet: The Oakes Test
- Optional Activities
 - Activity 1: Should environmental protection be a constitutional right?
 - Activity 2: Proposing Environmental Protections in the Canadian Charter of Rights and Freedoms
- Optional Case Studies



PROGRAM OF STUDY CONNECTIONS

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|---------------------------------------|--|
| Social Studies 9 | 9.1.1, 9.1.6, 9.1.7 |
| Environmental and Outdoor Education 9 | Environmental Investigations: 2a, 2b, 2c |
| Social Studies 10-1/-2 | 2.1, 2.6, 2.10, 2.11, 3.6-3.9, 4.7, 4.8 |
| Social Studies 30-1/-2 | 1.2, 1.8, 2.8, 3.7, 3.8 |
| CTS: Legal Studies | ENS 2050, 3050 |
| CST: Natural Resources | LGS 1020, 2030 |



LESSON OUTLINE

| Time (times are all approximate) | Description | Materials and Resources |
|---|---|---|
| 30 Minutes | A. Canadian Constitution and Charter <ul style="list-style-type: none"> • What is the Constitution? • What is the Charter? • Review the Charter and go over the discussion questions | Canadian Charter of Rights and Freedoms Slide Deck Slides 1-4 <ul style="list-style-type: none"> • The Charter Fact Sheet • The Charter Discussion Questions Worksheet |
| 10 Minutes | B. Who and what does the Charter apply to? | Slide 5 |
| 10 Minutes | C. Charter Limitations | Slides 6-7 |
| 10-20 Minutes | D. The Charter and the Environment | Slides 8-9 <ul style="list-style-type: none"> • The Charter Fact Sheet • The Oakes Test Facts and Worksheet |
| If you choose to include the optional components, more time will be required. | E. Optional Activities | Slides 10-11 <ul style="list-style-type: none"> • Activity 1 Worksheet • Activity 2 Worksheet |
| 15 Minutes | F. Lesson Reflection | Slide 12-13 |



LESSON PLAN

All background knowledge needed to facilitate this lesson can be found in the [“Environmental Laws 101” Document on pages 12-17](#). Along with the slide deck and activities provided, you have all the resources needed to facilitate this lesson. If you need further clarification or additional information, please don't hesitate to reach out to programs@abcee.org.

A. WHAT IS THE CANADIAN CONSTITUTION AND THE CHARTER?

Slides 1-3

- **Topic: What is the Canadian Constitution?**
 - The Constitution is the most powerful law in Canada and comes before all other laws. This means that all other laws must align with the Constitution or they will be of no force and effect (cannot be legally enforced).
- **Topic: What is the Canadian Charter of Rights and Freedoms?**
 - The *Canadian Charter of Rights and Freedoms* (also known as the Charter) was enshrined in the Constitution in 1982 when the Constitution was amended.
 - The Charter governs the relationships between individuals and the government, not between individuals.
 - This is different from common law actions, judge-made law developed through the court system ([Background info, pg. 9](#)), which governs relationships between individuals.
 - The Charter sets out certain rights and freedoms and states that the government cannot pass laws or enact policies that infringe upon these rights and freedoms.
- **Discussion:** As a class or in small groups, students can take some time to go over the Charter of Rights and Freedoms Fact Sheet and [pg. 14 of the Background document](#) to complete the discussion questions.
 - Hand Out Discussion Questions Worksheet

Slide 4, in conjunction with the Charter Fact Sheet and the Discussion Worksheet

B. WHO AND WHAT DOES THE CHARTER APPLY TO?

Slide 5

- **Topic: Who and what does the Charter apply to?**
 - Section 32 of the Charter states that it applies to “the Parliament of Canada in respect of all matters within the authority of Parliament...” and “to the legislature and government of each province in respect of all the matters within the authority of the legislature of each province.”
 - This means that it does not apply to problems you may have with your boss or with your neighbour but rather it applies to problems that you encounter with laws (or the lack of a law) in your province or across the country.



- It can also apply to government actors – those people who are controlled by the government and who undertake functions of the government.
 - Example: A government actor could include people working in the position of government employees, RCMP officers, or Canadian Border Service Employees.
- **Topic: Claiming a Charter right**
 - Being able to claim a Charter right will also depend on which right is being cited.
 - Some of the rights apply only to individuals while others can be used by corporations. Some are also limited to Canadian citizens, such as mobility rights, while others apply to everyone regardless of citizenship.
 - Example: Section 6 of the Charter guarantees every citizen of Canada “the right to enter, remain in and leave Canada.” However, if you are not a citizen you may not have this right. For example, a non-citizen may not be able to enter Canada without the proper visa documents.
 - On the other hand, section 7 of the Charter which guarantees the right to life, liberty and security of the person applies to every person physically in Canada whether they are a citizen or not.

C. CHARTER LIMITATIONS

Slides 6-7

- **Topic: Section 1 of the Charter**
 - Section 1 of the Charter states: “The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”
 - This section is designed to balance the rights of individuals with the interests of society as a whole.
 - This balance is achieved by allowing certain limits on the rights and freedoms set out in the Charter in order to ensure that one person’s guaranteed rights do not mean another person’s are negatively impacted.
- **Topic: The Oakes Test**
 - The test to determine whether or not section 1 applies in any given situation is known as the Oakes test – named after an important Supreme Court of Canada decision R v Oakes.
 - To use this section as an exemption to an otherwise guaranteed right, first it must be shown that a right has been infringed upon. Then, the government (the party infringing upon the right) will be required to prove that the infringement is justifiable under the circumstances.
 - The standard of proof is the civil standard or balance of probabilities – 50% plus 1. This is a lower standard than the criminal standard of “beyond a reasonable doubt.”
 - In order for a section 1 Oakes Test to apply, the limit must be “prescribed by law”. This means that it must be written in a statute or regulation; in a government policy; or in a common law limit.
 - **The Oakes Test asks:**
 - i. Is the legislative goal pressing and substantial? i.e., is the objective sufficiently important to justify limiting a Charter right?
 - ii. Is there proportionality between the objective and the means used to achieve it?



- Extend the Learning:
 - For a more in depth look at the Oakes test, go to the Canadian Department of Justice's page [Section 1 – Reasonable Limits](#) and the [Ontario Justice Education Network's In Brief Teacher Resource on Section 1](#).
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D. THE CHARTER AND THE ENVIRONMENT

Slides 8-9

- **Topic: Is The Charter currently used to protect the environment?**
 - No, there are currently no provisions in the Charter that enshrine environmental protections.
 - The bulk of environmental protections come down to federal, provincial, and municipal laws being created and enforced.
 - Countries that have included environmental protections in their constitutional documents include Norway, Costa Rica, and France ([Background document, pg.17](#)).
 - [Some countries have granted personhood to water](#), including New Zealand's Whanganui River
- **Topic: Section 7 of the Charter and the environment**
 - Due to the fact that the environment is not currently included in the Charter, climate litigation relies primarily on other sections of the Charter such as in the case of [Environment Jeunesse v Attorney General of Canada](#) ([Background info: pg. 61](#)) and the [Mathur et al v Her Majesty in Right of Ontario](#) case both of which relied on Section 7 of the Constitution: "the right to life, liberty and security of the person".
 - Section 7: Divided into three main parts
 - Life – generally understood as the basic right to be alive
 - Liberty – protects an individual's freedom to act without physical restraint and make important personal choices
 - Security of the person – consists of rights to privacy of the body and its health
 - All three rights included in Section 7 may be compromised if it is done in "accordance with the principles of fundamental justice". This can be used as a defence and can be argued to 'justify' infringing upon a person's section 7 rights.



E. THE CHARTER AND THE ENVIRONMENT: ACTIVITIES

Slide 10 in conjunction with the Activity Worksheet

Activity 1: *Should environmental protection be added as a specific right under the Charter of Rights and Freedoms? Why or why not?*

Students will critically examine the role of environmental protection in Canada's legal system and debate whether it should be recognized as a specific right in the Canadian Charter of Rights and Freedoms.

- Put the following question on the board: **Should environmental protection be a specific right under the Charter of Rights and Freedoms?**
 - Ask students to write a **quick response**. Then, have a few volunteers share their initial thoughts with the class.
- You can stop here or continue with research and a debate.
 - Divide the class into **small groups** and hand out the **activity 1 worksheet**
 - **Each group must:**
 - Discuss and decide: **Do you support or oppose adding environmental rights to the Charter?**
 - You can allow groups to decide for themselves or split the class evenly to ensure both sides are represented.
 - Identify **three key points** that support their position
 - Find at least one **international example** that helps justify their viewpoint
- Host a **structured debate or town hall-style discussion**. Half the groups will present **arguments in favour**, and the other half will present **arguments against**.
 - Each group presents their position and supports it with evidence and reasoning. After all groups have presented, open the floor for a general discussion, encouraging students to respond to each other respectfully.
 - Alternatively, students can reflect on their own opinions (whether they are the same or different from their groups) to allow for individual assessment of their understanding of the Charter and their ability to use evidence to support their opinion.



Slide 11 in conjunction with the Activity Worksheet

Activity 2: Proposing Environmental Protections in the Canadian Charter of Rights and Freedoms

Students will explore how environmental rights could be protected through Canada's Constitution by drafting a proposed amendment to the Canadian Charter of Rights and Freedoms.

Use the Charter Fact Sheet, the pros and cons of environmental constitutional protections infographic or Page 15-16 of the Background Document, and the examples shown in other countries to help inform student responses

- Divide the class into **small groups** and hand out the **activity 2 worksheet**.
- In your group, develop a proposal that includes the following:
 - **Create a New Section or Clause:** Write a short, clear statement that would be added to the Charter—this could be a new section entirely (e.g., “Environmental Rights”) or an amendment to existing sections. Your proposal should:
 - Guarantee the right to a healthy environment (clean air, clean water, safe climate, etc.)
 - Consider responsibilities alongside rights (e.g., stewardship, protection of biodiversity)
 - **Connect to Existing Sections:** Identify at least one section of the current Charter where your amendment could apply or be referenced. For example:
 - Section 7 (Legal Rights – Life, Liberty and Security of the Person)
 - Section 15 (Equality Rights)
 - Section 2 (Fundamental Freedoms – e.g., expression, assembly)
 - Explain why environmental protection fits with or strengthens that section.
 - **Justify Your Proposal:** Use supporting documents to back up your ideas. These could include:
 - The Charter Fact Sheet
 - The Pros and Cons of Environmental Constitutional Protections infographic (**page 15-16 of The Background Document**)
 - Examples from other countries with constitutional environmental rights (e.g., Ecuador, France, South Africa, New Zealand amendment)
 - **Present Your Proposal:**
 - Share your proposal with the class in a creative format (e.g., poster, speech, video, or slideshow). Be prepared to answer questions and explain how your proposed amendment would protect people and the planet.



F. LESSON REFLECTION

Slides 12-13

- Do you think environmental rights belong in a constitution? Why or why not?
 - What challenges or concerns might come up if environmental protections were added to the Charter?
 - How could adding environmental rights to the Constitution affect future laws, policies, or court decisions in Canada?
 - In New Zealand, some parts of the environment, like rivers, have been granted legal personhood. How could this idea be used in Canada, and what opportunities or benefits might it create for protecting the environment?
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RESOURCES

- [Canadian Department of Justice: Section 1 – Reasonable Limits](#)
- [Government of Canada: The Canadian Charter of Rights and Freedoms, Graphics and Learning Resources](#)
- [Ontario Justice Education Network's In Brief Teacher Resource on Section 1](#)
- [Tours of Alberta's Legislative Assembly](#)

