

# Legal Rights

The legal rights section of the *Charter* guarantees the rights held by anyone investigated, detained or criminally charged, or who is faced with legal restrictions of any kind.

Sections 8 through 14 of the *Charter*<sup>[1]</sup> protect **procedural** legal rights. These rights explain what state agents such as police officers may do when investigating, or prosecuting, a legal infraction. As “the treatment meted out by agents of the state to even the least deserving individual will often indicate the treatment that all citizens of the state may ultimately expect,”<sup>[2]</sup> courts will diligently protect procedural rights. These include section 8,<sup>[3]</sup> which protects against unreasonable search and seizure, section 9,<sup>[4]</sup> which protects against arbitrary detention, and section 12,<sup>[5]</sup> which protects against cruel and unusual punishment. Sections 10,<sup>[6]</sup> 11<sup>[7]</sup> and 13<sup>[8]</sup> protect rights upon and after arrest, such as the right to legal counsel and the right to trial within a reasonable time.

Section 7 protects **substantive** legal rights from restriction.<sup>[9]</sup> This section ensures that our rights to “life, liberty and security of the person” are only infringed by laws that conform to the “principles of fundamental justice.” There are three established principles of fundamental justice.<sup>[10]</sup> A law that restricts section 7 rights must not be arbitrary: it must relate to a specific problem. The law must not be overbroad: it must only restrict section 7 rights to the extent necessary. Finally, a law must not be disproportionate: the restriction to the rights must not outweigh the problem the law addresses.

Legal rights ensure the state treats citizens fairly. Section 7 specifically ensures that laws do not unfairly restrict the life, liberty or security of people living in Canada. Sections 8 through 14 protect people in their interactions with the justice system and law enforcement.

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<sup>[1]</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 .

<sup>[2]</sup> *R v Stillman*, [1997] 1 SCR 607 at para 47.

<sup>[3]</sup> *Charter*, *supra* note 1, s 8.

<sup>[4]</sup> *Ibid*, s 9.

<sup>[5]</sup> *Ibid*, s 12.

<sup>[6]</sup> *Ibid*, s 10.

<sup>[7]</sup> *Ibid*, s 11.

<sup>[8]</sup> *Ibid*, s 13.

[9] *Ibid*, s 7.

[10] *Carter v Canda (Attorney General)*, 2015 SCC 5 at para 72.