

# Individual Property Rights

Section 1(a) of the 1960 [Canadian Bill of Rights](#) provides federal statutory recognition of “the right of the individual to ... enjoyment of property”, and the right “not to be deprived thereof except by due process of law.”<sup>[1]</sup> The right to property is also included under the fifth and fourteenth Amendments of the American Bill of Rights.<sup>[2]</sup> However, the *Canadian Charter of Rights and Freedoms* does not provide constitutional protection for individual ‘property rights’. At the meetings of the Special Joint Committee on the Constitution and during Parliamentary debate on Bill C-60, Progressive Conservative MPs proposed that a right to “the enjoyment of property” be included under section 7 of the *Charter*. This amendment was rejected largely due to provincial government concerns, shared by federal New Democratic Party MPs, that entrenching property rights in the *Charter of Rights and Freedoms* could interfere with environmental, zoning and other land use regulation; public ownership, expropriation and regulation of resource-based and other industries; and with legislative restrictions on foreign ownership of land.<sup>[3]</sup> In the 1989 decision of *Irwin Toy v Quebec (AG)* the Supreme Court of Canada referred to the intentional exclusion of property rights from the *Charter* as a basis for finding that economic rights of a “corporate-commercial” nature are not protected under section 7.<sup>[4]</sup>

<sup>[1]</sup> *Canadian Bill of Rights*, SC 1960, c 44, s 1(a), reprinted in RSC 1985, Appendix III.

<sup>[2]</sup> US Const amend V; US Const amend XIV, § 1.

<sup>[3]</sup> See: Alexander Alvaro, “Why Property Rights Were Excluded from the *Canadian Charter of Rights and Freedoms*” (1991) 24:2 Can J Political Science 309.

<sup>[4]</sup> *Irwin Toy Ltd v Quebec (Attorney General)*, [1989] 1 SCR 927 at 1003-04, 1989 CanLII 87 (SCC).