The Importance of Section 15 of the Charter

This opening section focuses on the history and origins of the equality provision of the Charter. The speakers featured discuss those origins in a philosophical, political and personal context. Each speaker reflects on how the equality rights enshrined in the Charter present great opportunities for future change and evolution in our rights-based democracy.

What you will find in this section:

- Speaker Summaries and Viewing Notes
- Key Terms
- General Discussion Questions
- Clip-specific Discussion Questions
- Activities for Civics and Law classes
- Resource Links
- Curriculum Expectations

Speaker Summaries and Viewing Notes

Professor Lorraine Weinrib (Faculty of Law, University of Toronto) **(1:32 minutes)** Professor Weinrib very briefly positions the *Charter* in its historical context and suggests that the *Charter*, and specifically the equality provision (s. 15), are **milestones** in Canadian social and political history. She explains that Canada has become an international model because of the way the *Charter* has transformed Canada from a "parliamentary federal democracy" into a "**rights-based democracy**". Professor Weinrib also explains the purpose of the conference as a discussion forum for reflecting on the strengths, weaknesses, challenges and future development of the *Charter's* equality law.

- *This section is best used as a brief introduction to the contents of the rest of this DVD. The clip can be omitted by teachers who intend to focus on only one or two of the included themes.*

The Right Honourable Joe Clark (Former Prime Minister of Canada, Former Leader of the Opposition) **(6:06 minutes)** Mr. Clark focuses on the historical role played by citizens in shaping the *Charter*. Mr. Clark acknowledges that while the *Charter* was created primarily by political elites, it is the activism and experiences of Canadians that have shaped the role that the *Charter* currently plays in our democracy. Specifically he notes that it was activism that led to the inclusion of equality rights in the *Charter,* and that a dialogue between parliaments, courts and citizens have shaped how those equality rights have been applied and interpreted.

- *This section is good in particular for Civics classes in order to focus debate on the personal rather then the legal aspects of the Charter.*

Justice Peter Cory (Former Justice of the Supreme Court of Canada) **(1:55 minutes)** Justice Cory's talk focuses on the historical need for the equality provision by highlighting past examples such as the Holocaust to illustrate the kind of indignities that result from a denial of equality. Justice Cory celebrates the inclusion of s. 15 in the *Charter* as a necessary safeguard against abuses of human dignity, and as protection which must be seen as central to our understanding of equality. Finally Cory emphasizes that a focus on human dignity will allow equality rights to evolve as our society evolves.

- *This is an excellent clip to start a discussion of the central role that the concept of "human dignity" plays in our equality law. This clip could also be a starting point for a Civics discussion or activity on international concepts of dignity or as a Law class focus on how the Charter intersects with international law.*

Key Terms in this Section

Equality
Rights-based democracy
Civil society
Human Dignity
Evolution of rights

General Discussion Questions

- What was the Patriation of the Constitution in 1982? How was the *Charter* a part of this process?
- How were human rights protected prior to the *Charter*?
- What was the significance of the inclusion of s. 15 (Equality Rights) at the time the *Charter* was introduced? Has the significance of this section changed over time?
- Why did s. 15 come into effect after the rest of the *Charter*?

Clip Specific Discussion Questions

Professor Lorraine Weinrib

- Why do you think the *Charter* is considered a model for other countries?

The Right Honourable Joe Clark

- What are common types of prejudice experienced by many Canadians today?

- What does Mr. Clark mean when he suggests that the *Charter* is "the rocky mountains" of many Canadians?
- What role did women's groups and other activist organizations play in the drafting and development of the equality rights in the *Charter*?
- Do you think the *Charter* has created a more equal society or does it merely reflect the elements of equality that already exist in society?

Justice Peter Cory

- How did the Holocaust represent an abuse of human dignity and why was this treatment a violation of equality?
- What groups in Canada have faced historical discrimination or persecution?
- What does Justice Cory mean when he says that the *Charter* will continue to evolve?

Activities

Suitable for:
Civics 10
Law 11 or 12

The Importance of Equality

a) Introduce s. 15 of the *Charter* by placing the word EQUALITY on the chalkboard. Create a mind map using student ideas and their conceptions of equality.

- Ask – *what does it mean to be equal? How does the law ensure equality in society? If equality was not protected what, if any, dangers would this pose?*

b) Using the overhead found on page 7, introduce s.15(1). Have a student(s) read the section and explain the meaning and importance of equality rights.

c) Ask students to discuss the following questions:

- *What does the word dignity mean?* Student responses may vary but the class should arrive at a definition of dignity such as: having self-worth, self-respect, self-esteem.
- *How does s.15 protect and preserve human dignity?* Student responses should reflect that, by definition, s.15 affords equality protection before and under the law, free from discrimination. Thus, this protection ensures that the human dignity is given to all Canadians.

d) Explain to students that the *Charter* only governs state actions, and explain how this limits the scope of s.15.

The Importance of Equality to Newcomers to Canada

Suitable for:
Civics 10
Law 11

Students are asked to independently conduct an interview of an immigrant to Canada who arrived prior to 1982 using questions provided on page 8. Have students generate a written report based on this interview.

Students can use the information obtained from the interview (i.e. interviewees' experience of discrimination) to complete an analysis of the benefits of the *Charter's* equality protections. Students then present their analysis in the form of a written presentation. Students can be evaluated based on the quality of their research, analysis, application and communication of the results. In other words, students are asked to compare and contrast Canada pre-*Charter* (s.15) to Canada post-*Charter* in the context of a specific example of discrimination obtained during an interview. An evaluation rubric can be found in the Teacher Resources section of this DVD under "evaluation rubrics".

Comparative Law: Equality Provisions

Suitable for:
Law 12

a. Explain to students that each year, the United Nations commissions a team to research and study the overall quality of life in almost 200 countries around the world. From their findings, the UN generates a list called the United Nations Human Development Index which ranks the countries after taking a variety of criteria into account. The HDI examines life expectancy, literacy, education, and standard of living. The highest ranking countries are considered the best countries to live in.

b. Keeping in mind the criteria above, have students generate a list of countries which they think should be in the top 10. Students should work in small groups to generate this list. Each group presents a list of 10 countries. As a whole group, discuss reasons for their selections.

c. The teacher will then share the actual top 10 list (see www.undp.org). The teacher will ask students if there are any countries that they are surprised to see on the list, and whether there are any countries that they were certain would make the list, but in fact, did not.

d. The teacher will explain that in 2006, Canada was ranked 6th. One reason for Canada's high ranking is that Canadians enjoy rights and freedoms guaranteed by the law. The type of equality rights found in section 15 of the *Charter* are unique to rights based democracies. While many of the countries on the HDI list have some form of equality rights protecting their citizens, some of the countries ranked lower on the list have no equality rights protections at all.

e. The teacher will explain the following research assignment:

Students will locate the most recent United Nations Human Development Index list and select one of the countries from the **bottom half** of the list. They will research that country's equality

rights (or lack thereof) and they will complete an organizer chart (Page 9). Students may be asked to present their findings in an oral presentation or they may be asked to write a report. In both forms, students must compare and contrast equality rights of their chosen country with those in Canada. Students can be asked to outline the equality rights of that country, explain how these rights are enforced, and outline the types of prohibited grounds of discrimination. Students can assess whether the nature of equality rights in both countries impacts on where they are ranked on the HDI list.

Historic Discrimination

Suitable for:
Civics 10
Law 11

a) Ask students to recall Grade 10 Canadian History lessons which outlined the instances in which the Canadian government discriminated against particular minority communities such as women, non-Christians, etc. Brainstorm some of those incidents on the board.

b) Explain how this discrimination necessitated the creation of s.15 of the *Charter*.

c) Have students research any one of the incidents listed in class or on Page 10. Teachers can evaluate based on criteria outlined in the evaluation rubrics within the Teacher Resources section of this DVD.

Resources/Links

- Classroom Civics or Law Textbooks
- The *Canadian Charter of Rights and Freedoms*
- The United Nations Human Development Index www.undp.org
- CBC - http://archives.cbc.ca/IDC-1-73-1092-6021/politics_economy/Patriation/clip3
- Canadian Human Rights Commission http://www.chrc-ccdp.ca/default-en.asp
- Ontario Human Rights Commission http://www.ohrc.on.ca/
- Chinese Head Tax Redress Statement http://www.canadianheritage.gc.ca/progs/multi/redress-redressement/faq_e.cfm
- Royal Commission on Aboriginal Peoples (Reconciliation Report) www.parl.gc.ca/information/ library/PRBpubs/prb9924-e.pdf

Curriculum Expectations

Civics Open Grade 10 (CHV2O)

- Distinguish between democratic and authoritarian forms of decision-making, and compare the benefits and drawbacks of each form when used in everyday contexts

- Describe fundamental beliefs and values associated with democratic citizenship
- Communicate their own beliefs, point of view, and informed judgments, and effectively use appropriate discussion skills
- Demonstrate and ability to organize information effectively
- Explain the causes of civic conflict, and identify the need for decision-making processes and strictures

Understanding Canadian Law, Grade 11, University/College Preparation (CLU3M)

Overall Expectations

- describe the sources of rights and freedoms in Canada and explain how particular rights and freedoms may conflict
- describe historical and contemporary barriers to the equal enjoyment of human rights in Canada
- describe the rights and freedoms enshrined in Canadian law and explain how they are interpreted, how they may be limited, and how they are enforced in Canada and in Ontario

Specific Expectations

Rights and Freedoms

- explain key concepts associated with human rights

Barriers to Human Rights

- describe historical and contemporary situations in which rights in Canada have been denied
- evaluate the contribution of individual citizens and organizations in developing and increasing awareness of human rights issues

Canadian and International Law, Grade 12, University Preparation (CLN4U1)

Overall Expectations

- explain the rights and responsibilities of individuals under the Canadian *Charter* or Rights and Freedoms
- explain the roles of the legislature and the judiciary in defining, interpreting, and enforcing *Charter* rights in Canada

Specific Expectations

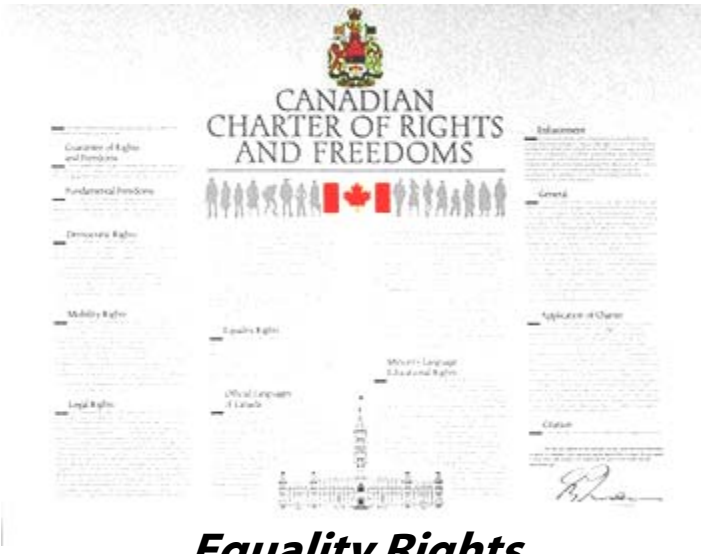
Human Rights in Canada

- explain the evolution of Canadian human rights from English common law to the Canadian Bill of Rights and then the *Canadian Charter of Rights and Freedoms*
- identify historical and contemporary barriers to the equal enjoyment of human rights faced by individuals and groups in Canada, and analyse their effect

The Canadian Charter of Rights and Freedoms

- analyse how rights and freedoms are protected under the *Charter of Rights and Freedoms*

EQUALITY RIGHTS AND THE CHARTER



Equality Rights

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

An Immigrant Experience – Pre-Charter

Interview Questions

1. What is your name?
2. When did you arrive in Canada?
3. How long have you been in Canada?
4. What country did you immigrate from?
5. Did you face any discrimination in the country you immigrated from?
6. Are their any protections against discrimination in the country you came from?
7. Did you face any immediate obstacles upon arriving in Canada?
8. Have you faced discrimination in Canada. If so, what type of discrimination have you faced? Describe in detail.
9. Do you know of another person who has experienced discrimination? If so, what was the nature of the discrimination they faced?
10. Do you know about the protections from discrimination that exist in Canada?

Comparing Equality Provisions

CANADA vs. _____

Country of your choice

EQUALITY LAW	S. 15 EQUALITY BEFORE AND UNDER LAW AND EQUAL PROTECTION AND BENEFIT OF LAW **15. (1)** Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. **(2)** Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.	
WHERE IS IT STATED?		
WHAT YEAR WAS IT CREATED?		
WHAT DOES THE LAW MEAN?(in simple terms)		
WHAT ARE THE PROHIBITED GROUNDS OF DISCRIMINATION?		
HOW ARE THE RIGHTS ENFORCED?		
ARE THE RIGHTS GUARANTEED? WHO IS INVOLVED IN PROTECTING THESE RIGHTS? (INDIVIDUALS, LAWYERS, GOVERMENTS, OTHERS…		

DISCRIMINATION IN CANADA: A GOVERNMENT MAKES MISTAKES

The Right Honourable Joe Clark speaks of the many Canadians who were victims of discrimination at different points in the history of Canada. Select one of the events below and complete the activity sheet:

1884 - The Indian Act is amended to outlaw Native cultural and religious ceremonies.
1900 - Chinese Immigration increases head tax to $100 for all Chinese immigrants.
1914 - The Komagata Maru ship is sent back to India.
1921- Quebec theatre owner wins the right to refuse to allow entry to a black person
1928 -The Supreme Court of Canada judges that women are not considered "persons"
1942 - Japanese Canadians are forced from their homes and interned in camps.

1. Explain the circumstances surrounding this event in Canadian history (who? what? where? when? how?)

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_____
_____
_____
_____
_____

2. What evidence is there that the Canadian government acted in a discriminatory and unjust fashion?

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_____
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3. Does s.15 of the *Charter* prevent such acts of discrimination from occurring today?

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