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CANADIAN CHARTER OF RIGHTS AND FREEDOMS



Guarantee of Rights and Freedoms

Fundamental Freedoms

Democratic Rights

Mobility Rights

Legal Rights

Equality Rights

Official Languages of Canada


Minority Language Educational Rights

Enforcement

General

Application of Charter

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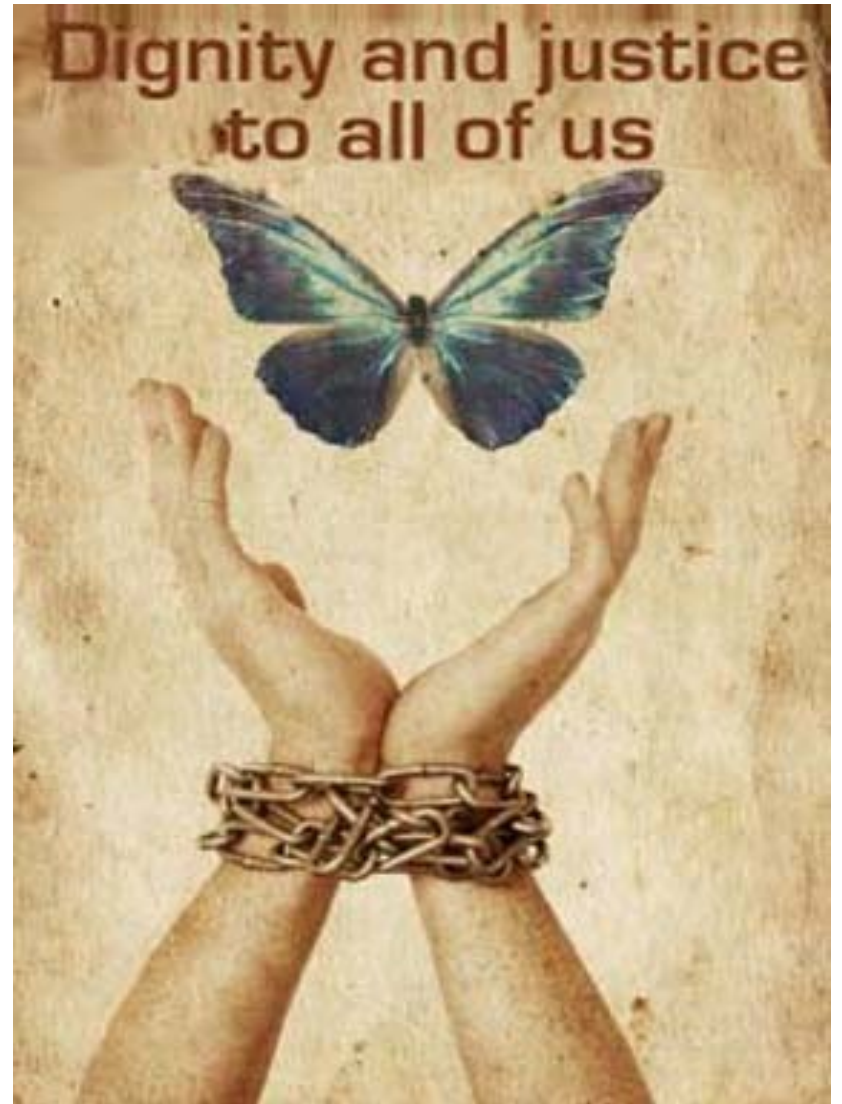
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*What Rights Should
All People Have?*



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*Should some rights
be ABSOLUTE?*



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*Is everyone entitled
to the same rights?*



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What is the power of the state in creating and protecting rights?



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Main Historical Documents on Human Rights

Magna Carta

American Declaration of Independence 1776

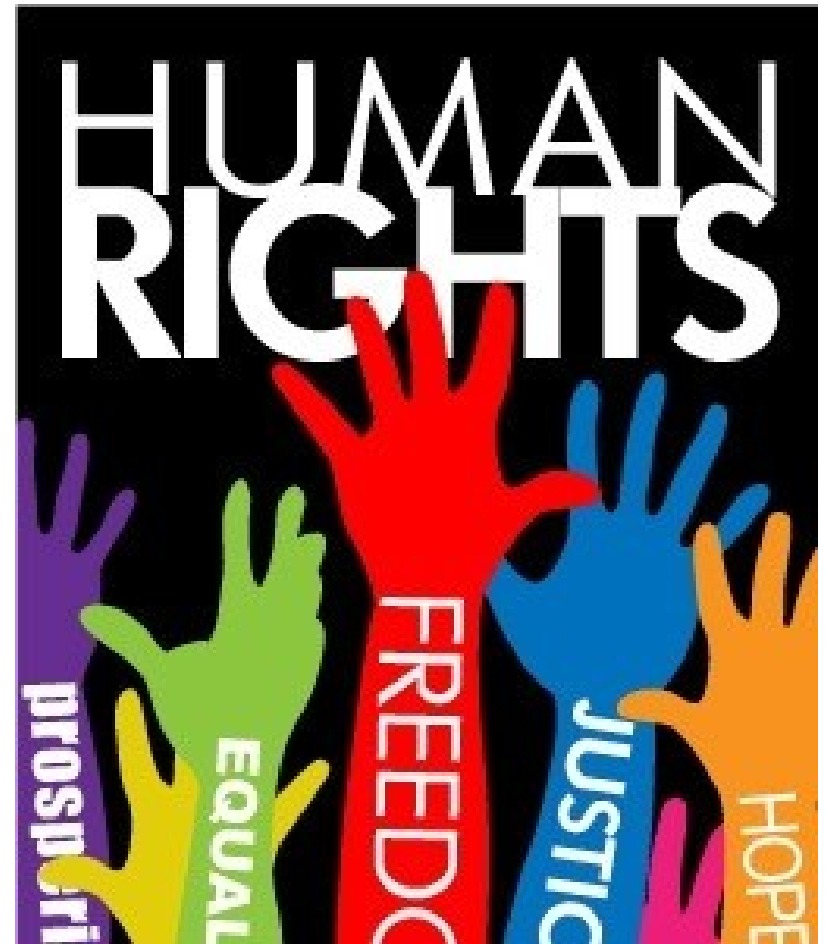
French Declaration of the Rights of Man 1789

English Bill of Rights 1869

United Nations Universal Declaration of Human Rights 1948

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All recognize the equal and inalienable rights of all members of the human family and provide for the fundamental freedoms of thought, opinion, expression, conscience, religion, and peaceful assembly and association



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They all included equal rights for men and women, equality before the law, right to be innocent until proven guilty, education rights, and freedom from torture or inhumane punishment



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After WWII focus shifted to human rights.

For the next 15 years individual rights in Canada became statute law and were codified into the Canadian Bill of Rights



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Canadian Bill of Rights

The rights of the individual to life, liberty, security of person and enjoyment of property

Freedom of religion, speech, assembly and association

Freedom of the press



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The Canadian Bill of Rights

The right to counsel and the right to a fair hearing

The Bill of Rights was weak as it was a federal statute and had limited applications in provincial jurisdictions, was a statute and could be changed by new governments, was subject to judicial interpretation



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What was the solution to this problem?

Trudeau repatriates the Constitution and adds the Canadian Charter of Rights and Freedoms to the document

This would protect these rules from acts of government and elevates them to constitutional law status

To get the provinces to agree to this idea Trudeau had to agree to “the notwithstanding clause”



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- **Section 33 the notwithstanding clause**

This law allows government to override some of the rights and freedoms guaranteed in the Charter



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- **Section 33 the notwithstanding clause**

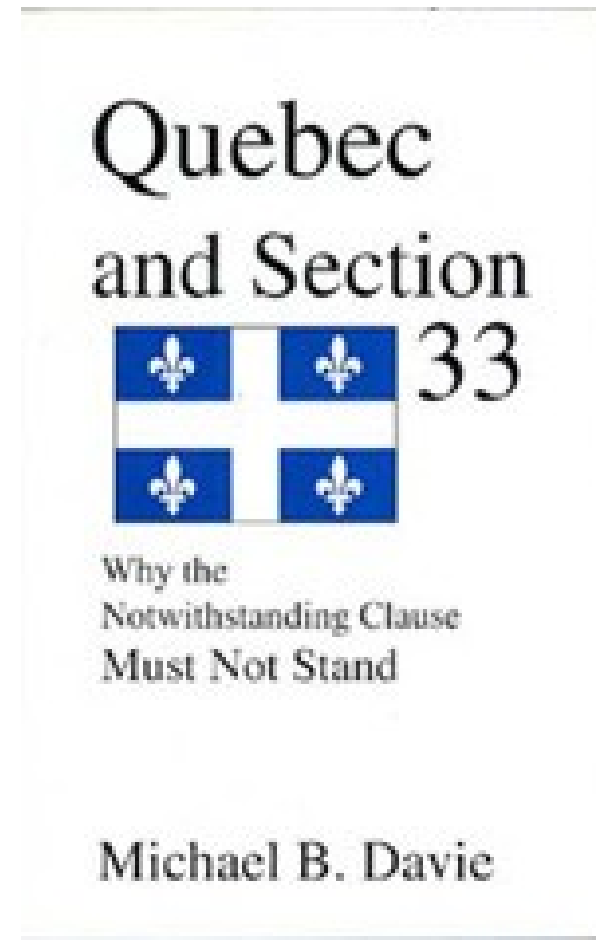
Governments are elected and as such do not want to offend voters which limits the amount of times they invoke Section 33



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- **Section 33 the notwithstanding clause**

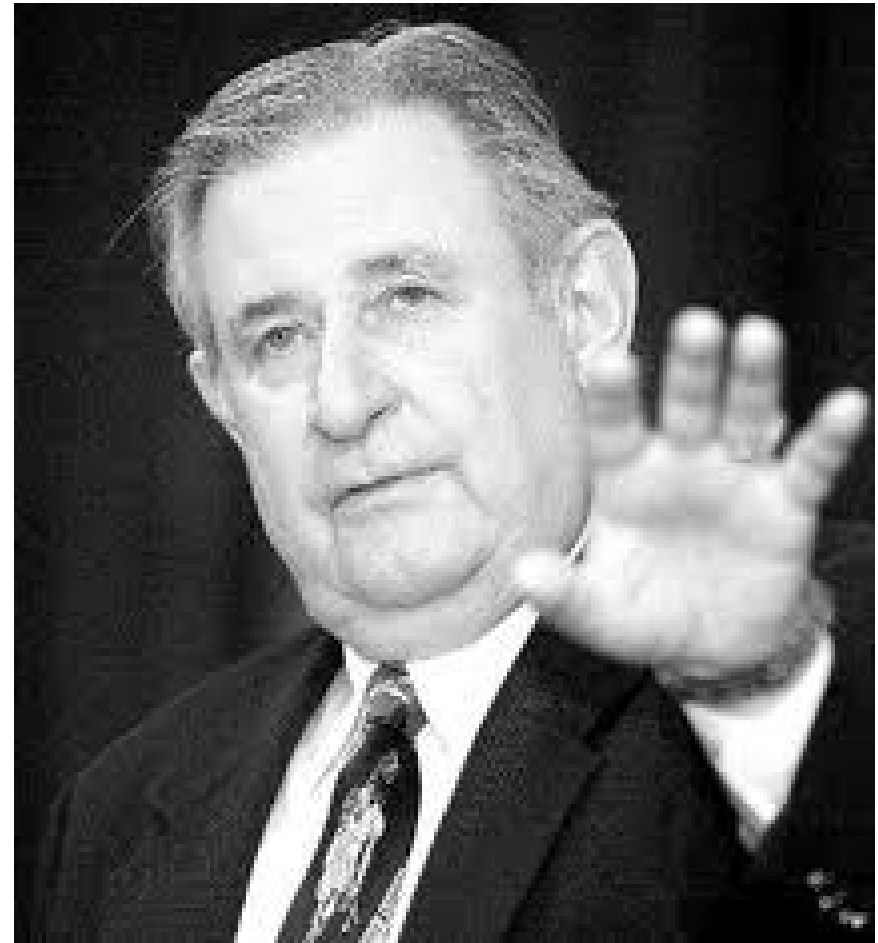
Quebec used it in 1988 to ensure French was the only language displayed



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- **Section 33 the notwithstanding clause**

Ralph Klein and the sterilization compensation
(See Case Link)”



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The Canadian Charter of Rights and Freedoms

Prohibits Federal government departments, crown corporations and regulated businesses from discriminating based on

Race, Ethnic Origin, Age, Marital Status, Colour, Criminal Conviction, Religion, Gender, Physical or Mental Disability, and Sexual Orientation

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Jurisdiction : Rules only apply to government run or regulated agencies

Section 24 gives you the right to sue the government if your rights are infringed upon.



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The case will be heard by the Supreme Court and they will consider three questions:



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1) Was the right infringed or violated by government or its agencies?



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2) Is the right in question covered by the charter?



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3) Is the right or infringement within a reasonable limit?



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Cases

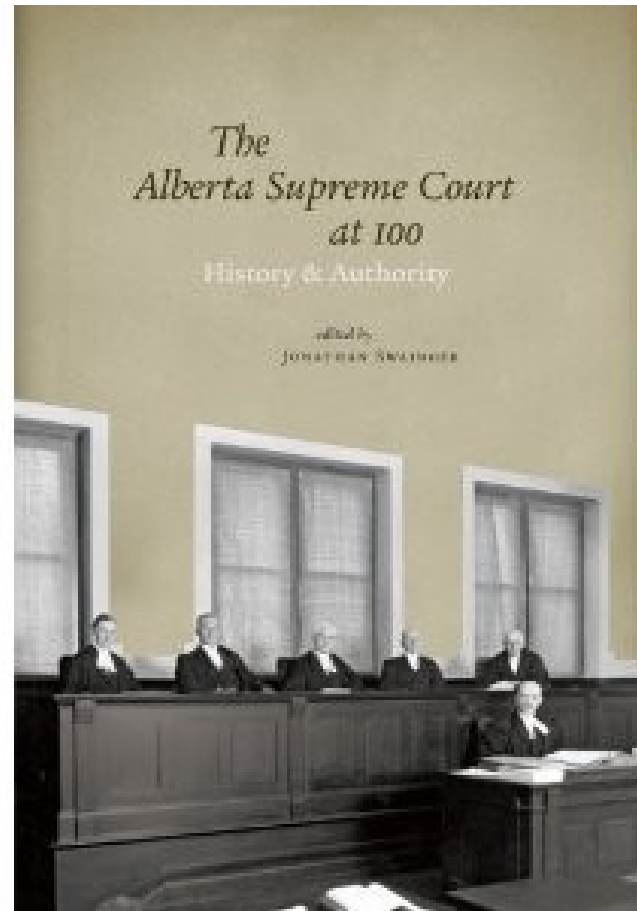
R vs Tessling



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Cases

R vs Fenton



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Cases

R vs Sauve

