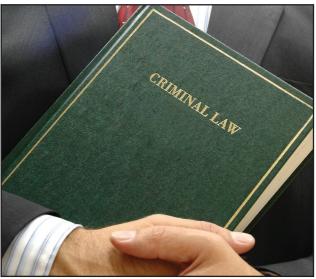
Learning about the Law





Fundamentals Criminal and of the Law

Civil Law

This booklet will help you understand the law in Canada. You will find out about the two major areas of law: criminal law and civil law.

> It focuses on your legal rights and responsibilities under Canadian law.

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Publisher:

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People's Law School acknowledges the contribution of the Justice Education Society in the earlier versions of this publication.

The section in the Criminal Law chapter about Getting Legal Help is based on the Legal Services Society booklet, If You Are Charged with a Crime. None of this material may be commercially reproduced, but copying for other purposes, with credit, is encouraged.

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About this booklet

This booklet will help you understand the law in Canada. You will find out about the two major areas of law: criminal law and civil law.

Throughout this booklet, we focus on your legal rights and responsibilities under Canadian law.

This booklet is divided into two sections:

- Fundamentals of the Law
- Criminal and Civil Law

We tried to keep the language easy, but some parts may still be hard. The words that are in bold type and underlined are defined in the sections, **What the words mean**.

Be sure to use the information in the, **Find out more** sections at the end of the booklet. It refers you to a wide range of resources that will answer your questions and provide help if you have a legal problem.

This booklet is part of a three-part series of booklets, *Learning About the Law*. The other two booklets in the series are:

Learning about the Law: Family Law, Young People and the Law, Older People and Elder Law

Learning about the Law: Working in BC, Renting a Home



Fundamentals of Canadian Law

In this section, you will learn about:

- Canada's laws
- Canada's constitution
- your rights and responsibilities
- the Rule of Law
- who makes the laws
- levels of government
- Canada's Queen

Canada's laws

Canada's laws express the values and beliefs of Canadian society. They aim to protect individuals and provide stability for society as a whole. They also aim to make sure there is a peaceful way to settle disputes.

Many Canadians have come to Canada from other countries. Some of these countries have laws and legal systems that are different from Canada's.

When people come to Canada, they bring ideas about the law that they learned in their own countries. They may be surprised to find there are many differences here. It is important for newcomers to know that the laws are not the same, and to understand the differences.

Where do Canadians get their ideas about the law?

Canada's legal system and political system first came from Britain. We also brought our ideas of personal rights and freedoms from Britain. In Quebec, parts of the legal system came from France.

Canada's Constitution

The Canadian constitution is the set of rules that define the powers of the government and

the rights of the people. It says how we want to govern ourselves and structure our society. The constitution includes the Charter of Rights and Freedoms (often called the "Charter"). The Charter lists Canadians' most important rights and freedoms.

The constitution, which includes the Charter, is the highest law in Canada. This means that governments must respect it whenever they pass a law, make a policy, or have day-to-day dealings with us.

Rights and freedoms

A person's rights and freedoms are very important to Canadians. All Canadians have some important freedoms. In Canada, you can:

- speak freely
- believe in any religion or no religion
- meet with or join any group, except a terrorist organization
- live and work anywhere in Canada
- participate in peaceful political activities

Legal rights

Everyone in Canada has legal **rights**. Some of your important legal rights are:

- the right to be thought of as <u>innocent</u> until proven <u>guilty</u>
- the right to have a fair **trial** in court
- the right not to suffer cruel or unusual punishment

All Canadians are equal

Equality is one of the most important values in Canada.

Everyone in Canada is equal under the law. Laws in Canada apply to all people, including the police, judges, and those who work for the government. People in Canada do not get better jobs because of the amount of money they have, their social class or gender. For example, in Canada, women can have the same jobs as men and all the same responsibilities.



Your rights

There are many Canadian laws that protect your rights. Laws about human rights are one example.

Canada's human rights laws protect you against unfair **discrimination** when you:

- use public services,
- buy or rent a home,
- look for a job, or
- deal with any government agency.

Discrimination is against the law in Canada. To discriminate against someone means to treat him or her differently from other people in a way that is unfair.

The law says that no one can discriminate against you because of your:

- gender,
- age,
- race or birthplace,
- your religion,
- sexual orientation (gay, lesbian, bisexual, transsexual or straight),

- your marriage or family status (single, married, or living common-law), or
- mental or physical disability.

For example: It is against the law to discriminate against women. Women in Canada are equal to men. They are equal partners in the family, in business, in law, and in government.

Racial discrimination is illegal in Canada. It is against the law for anyone to discriminate against you because of the colour of your skin, or the country you or your ancestors came from.



Your responsibilities

In the same way that the law protects you from discrimination, the law says you have a **responsibility** to respect other people's rights. For example, your right to freedom of religion means you must respect the beliefs of others.

You must respect the rights of other people even if you don't like or don't approve of those rights.

For example: Irena doesn't approve of gay couples. Her culture and religion doesn't accept them. However, in Canada, she cannot discriminate against them.

You also have responsibilities to the community as a whole. Because you can make use of **social**

<u>services</u> in Canada, you must pay your share of the taxes that finance those services.

Canadian laws aim to balance rights and responsibilities.

For example: When you rent a place to live, you have the right to the quiet enjoyment of your home. Your neighbours also have this right. This means you have a responsibility not to make noise that disturbs your neighbours. And your neighbours have a responsibility not to make noise that disturbs you.

The Rule of Law

The Rule of Law means that we recognize and accept that we need laws to **regulate** society. We must find a way to live together peacefully. Laws exist to help us do this.

The Rule of Law is a fundamental principle of Canadian democracy. The Charter states that the Rule of Law is one of the principles upon which Canada was founded.

The Rule of Law means that the law applies equally to everyone. No one is above the law. Our **politicians**, police officers, and wealthy individuals must all obey the law.

Under the Rule of Law, Canadians have a responsibility to respect the laws even if they disagree with them. This means you must obey a law even if you don't like it.

Who makes the laws?

Canadians vote for people to represent us in government. The people who get the most votes become our elected representatives. It is their job to make the laws.

When Canadians vote, we give consent to the party that wins the **election** to make our laws.

The elected politicians can propose new laws or bills. A "bill" is what a law is called before it becomes a law. These bills are debated in order to decide whether or not they should become laws. The goal of the debate is to explore all possible effects of a bill, both good and bad. After the debate there is a vote. If the majority of our elected representatives vote for the bill, it can become a law.



Changing the Laws

If you want a law to change, you can work with other Canadians to seek change through peaceful means. Canadians write letters, organize political protests, work with political parties, or join groups of people who have the same ideas as they do. Working in this way, groups may succeed in persuading the government to change a law. Changing a law takes a lot of time and work but Canadians believe that slow, peaceful change is best.

Voting

To vote in any election you must:

- be a Canadian citizen,
- be at least 18 years old on election day, and
- be on the voters' list.

To vote in a BC election, you must have lived in the province for the six months before voting day. To find out how to get on the voters list for a federal election, go to Elections Canada, online at www.elections.ca.

Levels of government

In Canada, there are three levels of government: **federal**, provincial, and **municipal**. The Canadian constitution describes what the federal government is responsible for, and what the provincial governments are responsible for. The provincial governments can give some of their responsibilities to the municipalities.

We have a federal government for the whole country. It is called the Government of Canada. The elected representatives of the federal government are Members of Parliament, often called MPs. They meet in Ottawa.

The leader of the federal government is called the Prime Minister.

The Parliament in Ottawa has two sections: the House of Commons and the Senate. The House of Commons is where Members of Parliament debate and vote in order to make laws. The purpose of the Senate is to review proposed laws to make sure they are the best they can be.

British Columbia, like other provinces, has a provincial government. In BC the elected representatives of the provincial government are Members of the Legislative Assembly, often called MLAs. They meet at the legislature in Victoria. The leader of the provincial government is called the Premier.

We also have local government in our cities and towns. The elected representatives are called councillors. They meet at City Hall or Town Hall. The leader of the municipal government is called the Mayor.

Each level of government has different responsibilities

The federal government has the power to make laws that affect the whole country. Examples are citizenship and immigration laws and criminal laws.

Provincial governments, such as the Province of British Columbia have the power to make laws that apply only in that province. Examples are landlord and tenant laws, and laws about employment.

Municipalities, cities and towns have the power to make local laws about such things as streets, parking, and noise. The laws for municipalities, cities and towns are called **bylaws**.

Canada has a Queen

Queen Elizabeth II, who lives in Britain, is the Queen of Canada. The elected representatives have the political power in Canada. The Queen's role is symbolic.

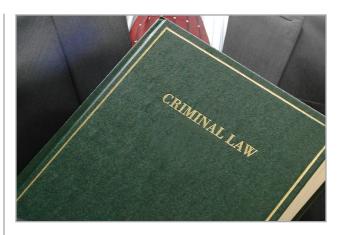
Canadians often say "The Queen" to mean the elected government of Canada and all of its laws. This is because the Queen and her representative in Canada, the Governor-General, are the symbolic head of Canada.

All new Canadians promise to be loyal to the Oueen and her laws.

Two kinds of law: criminal law and civil law

There are two kinds of law in Canada.

- Criminal law deals with crimes, like assault or theft. People can go to jail if they are found guilty of a crime. The purpose of criminal law is to make sure we stay safe and secure. Criminal law is the same all across Canada. The Criminal Code of Canada lists what the crimes are and how they should be dealt with.
- Civil law deals with all other legal issues, like having a contract with someone, or buying property. Family law is another kind of civil law. The purpose of civil law is to make sure that we are fair in our dealings with each other.



The courts apply the laws

The courts exist to provide a way to apply the laws in a fair and rational manner. Courts have a variety of functions. For example, they enforce the criminal law and they **resolve** civil law disputes among people.

Two very important principles are fundamental to the Canadian court system:

- the courts are separate from government, and
- judges are independent.

The courts are separate from government

In Canada, the courts are separate from the government. This arrangement is often called "a separation of powers."

The courts decide how the laws that are made by government apply to individuals in everyday situations. The purpose of the courts is to protect the rights and freedoms of everyone in Canada.

When judges make a decision in court, they apply the law made by our elected representatives. They are also guided by what other judges have decided in previous similar cases.

Judges are independent

In Canada, judges are free to make decisions without interference or influence from any source, including government.

It is our constitutional right to have our legal issues decided by a fair decision-maker. Judges have a responsibility to listen to both sides of a case and then to make fair decisions based on the law and on the facts and evidence before them.

If a judge felt pressure from the government or anyone else to decide a case in a particular way, the result would be unfair. The rights of individual citizens would not be protected.

Provincial Courts

In BC there are three levels of court:

- Provincial Court
- Supreme Court
- Court of Appeal

Provincial Court of British Columbia

The Provincial Court is the first level of court. The Provincial Court hears most cases about criminal law matters. It also hears cases involving **young offenders** who have been **charged** with committing a crime.

The Provincial Court also has several parts that hear cases about civil law matters:

- Family law cases (but not divorce or division of property used by the family. Those are heard in Family Court).
- Cases about smaller amount of money (up to \$25,000). They are heard in Small Claims Court.
- Cases that involve traffic offences. They are heard in Traffic Court.

BC Supreme Court

The BC Supreme Court has jurisdiction over most legal cases. It hears:

- serious criminal cases,
- civil cases involving large amounts of money,
- family cases that are about divorce or dividing property owned by the family, and
- appeals of cases from the Provincial Court.

Court of Appeal for British Columbia

If someone does not agree with the decision from their trial in the BC Supreme Court, they may be able to appeal their case to the Court of Appeal for British Columbia. Usually, three judges from the Court of Appeal will hear the appeal.

Federal Courts

The federal court system is separate from the provincial court system. The Federal Court can only deal with some cases that involve the rights of all Canadians, like citizenship, and cases that involve an organization owned by the Government of Canada.

An appeal from the Federal Court goes to the Federal Court of Appeal, then to the Supreme Court of Canada.

Citizenship Court of Canada

This court examines all applications for Canadian citizenship. The judges of the Citizenship Court may interview permanent residents who apply to become Canadian citizens. The Citizenship Court has citizenship ceremonies for new Canadians.

Supreme Court of Canada

The Supreme Court of Canada in Ottawa is the highest court in Canada. It hears appeals from all other courts in Canada. There is no appeal from a decision made by the Supreme Court of Canada.

Tribunals

<u>Tribunals</u> hear disputes about government rules or regulations. Tribunals are like courts but are not part of the court system. Tribunals are less formal than courts.

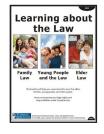
At the tribunal, each side has a chance to present its case and the decision-maker makes the decision. The decision-maker, also called an **adjudicator** is someone with specialized knowledge. The decision-maker may be a judge or may be someone who is an expert in a specialized area of law.

Here are some examples of the issues where you can use a tribunal to resolve your dispute:

- disability benefits
- employment insurance
- human rights claims
- landlord tenant matters
- refugee claims



Other related public legal information booklets include:



This booklet contains basic information about family law, young people and the law, and older people and the law.



This booklet contains basic information about working in BC, BC employment standards, and landlord and tenant law.

This series and other public legal education booklets are available online at:





www.publiclegaled.bc.ca

www.clicklaw.bc.ca

What the words mean

Adjudicator	Someone who makes a formal judgment on a disputed matter, such as a judge in a court.
Appeal	Ask a higher court to overturn a lower court's decision.
Arrest	Take someone into custody by legal authority.
Confidential	Something that is meant to be kept a secret from non-approved people.
Cross-examine	To question an opposing party's witness in order to challenge or clarify his or her previous testimony in a court proceeding.
Discrimination	The practice of treating one person or group differently from another in an unfair way.
Elected	Chosen by popular vote to fill a position, usually political.
Equality	A situation where people are treated the same way despite their cultural, social or economic differences.
Federal	Matters or institutions that deal with the whole country where different provinces or states also have their own institutions and responsibilities.
Guilty	Found to be responsible for a wrongdoing.
Innocent	Found to be not responsible for a wrongdoing.
Judgment	A decision on a dispute. In law, it is a decision by a court on a contested matter.
Jurisdiction	The right to use an official power to make legal decisions, or the area where this right exists.
Legislative Assembly	The group of individuals who, meeting in regular session, have the power to pass laws provincially. In Canada, each province has a legislative assembly whose members are elected by popular vote at general elections.
Mediator	Someone who tries to bring parties in dispute to a mutual agreement or resolution.
Municipal government	The government for a local area, usually a city or a district.

Parole	The release of a prisoner before his or her full sentence is served on a promise of good behavior in future.
Politicians	People who involve themselves in matters related to governing a territory.
Punishment	The penalty given to a wrongdoer.
Regulate	Control or supervise by means of rules and regulations.
Representatives	People chosen to act and speak on behalf of a wider group.
Responsibilities	The things one is required to do or not do as part of a legal obligation, a job or a role.
Rights	Legal or moral entitlement to have or do something.
Social Services	Services provided by the government or other organizations for the benefit of the community.
Trial	A court procedure to examine the evidence in a disputed matter, whether criminal or civil, to arrive at a legal judgment.
Tribunals	Official legal forums set up to decide or pass judgment on disputed matters.
Young offenders	Criminal offenders who are 12 years or older and 18 years or younger. Among other things, they are subject to less severe sentences than adults, and their names are generally not publicized. For certain serious offences, youths aged 14-18 can be tried and sentenced as adults.

Find out more

Canadian Bar Association	Our Court System and Solving Disputes offers information describing our court system and ways to resolve legal disputes without going to court.	www.cba.org/bc/public_ media/lawyers/432.aspx
Clicklaw	A website with legal information and education from across BC. The resources available through Clicklaw are designed to be used by the public.	www.clicklaw.bc.ca
Dial-A-Law	Has brief legal information on over 130 topics, available in English, Chinese and Punjabi. Dial-A-Law is a free service of the Canadian Bar Association, British Columbia branch. You can listen on the telephone or online. You can also read the information online.	Phone: 604-687-4680 Greater Vancouver: 1-800-565-5297 www.dialalaw.org
Family Law in BC	Family Law in BC is a website that provides information and resources on a wide range of family law issues. It is produced by the Legal Services Society.	www.familylaw.lss.bc.ca
ImmigrantLegal.ca	ImmigrantLegal.ca provides free legal information and education on legal topics for newcomers to Canada and the people working with them. The website is a project of the Immigrant Public Legal Education and Information Consortium. It is managed by the Justice Education Society.	www.immigrantlegal.ca
JusticeBC	This is the website of the BC Ministry of Justice, which is responsible for managing the justice system in BC. The website provides information on a wide range of legal topics and describes the government services available to help you.	www.justicebc.ca

The Court Information Program for Immigrants provides free legal information to new immigrants and refugees. All content on the website is available in English, Chinese, Vietnamese, and Hindi.	www.justiceeducation. ca/programs/court- information-program- immigrants
Your Human Rights in BC has a series of five videos — available in English, Mandarin and Punjabi — which teaches immigrants about human rights in BC and Canada. Discrimination occurs when someone treats you differently based on your personal characteristics.	www.justiceeducation. ca/resources/human- rights-in-bc
Courts of BC is a website that uses information and videos to describe the structure and function of BC's courts: Provincial Court, Supreme Court and Court of Appeal. Administrative Law BC - Resolving Disputes is	www.justiceeducation.ca/resources/Courts-of-BC
a website that explains what tribunals are and how they work.	www.adminlawbc.ca/ resolving-disputes/
This service can help you find a lawyer who will meet with you for 30 minutes for \$25.	Phone: 604-687-3221 Greater Vancouver: 1-800-663-1919 www.cba.org/bc
You may be able to get free legal help (legal aid) if: • your legal problem is covered by legal aid rules, • your income and the value of your property are below a certain limit, and • you have no other way of getting legal help The Legal Services Society also has free booklets on legal topics in English and many other languages.	Phone: 604-408-2172 Greater Vancouver: 1-866-577-2525 www.lss.bc.ca
	provides free legal information to new immigrants and refugees. All content on the website is available in English, Chinese, Vietnamese, and Hindi. Your Human Rights in BC has a series of five videos — available in English, Mandarin and Punjabi — which teaches immigrants about human rights in BC and Canada. Discrimination occurs when someone treats you differently based on your personal characteristics. Courts of BC is a website that uses information and videos to describe the structure and function of BC's courts: Provincial Court, Supreme Court and Court of Appeal. Administrative Law BC - Resolving Disputes is a website that explains what tribunals are and how they work. This service can help you find a lawyer who will meet with you for 30 minutes for \$25. You may be able to get free legal help (legal aid) if: • your legal problem is covered by legal aid rules, • your income and the value of your property are below a certain limit, and • you have no other way of getting legal help The Legal Services Society also has free booklets on legal topics in English and many other

MOSAIC	Offers programs and services to help immigrants and refugees in their settlement and integration into Canadian society.	Phone: 604-254-9626 www.mosaicbc.com
	MultiLingoLegal.ca website features many legal publications in nine languages. MultiLingoLegal is operated by MOSAIC - a settlement and integration organization for immigrants and refugees in BC.	www.multiLingoLegal.ca
	Multilingual Legal Glossary is an online dictionary that allows you to search for the meaning of legal words. It provides the meaning of the word in English, and translates it into Chinese (Simplified and Traditional), Farsi, Korean, Punjabi, Russian, Spanish, or Vietnamese.	www.legalglossary.ca/ dictionary
People's Law School	The People's Law School provides people in BC with free public legal education and information. Visit our website or call us to find out how to access the education and information needed to exercise your legal rights and responsibilities.	Phone: 604-331-5400 www.publiclegaled.bc.ca
Pro Bono Legal Services	In these programs, lawyers volunteer to provide free legal advice to those who can't afford a lawyer or can't get Legal Aid. A good place to start is with the Access Pro Bono Society of BC, which has legal advice clinics across BC.	Greater Vancouver: 1-877-762-6664
Victimsinfo.ca	A website for victims and witnesses of crime in BC. The website gives people the information they need to deal with the consequences of crime.	www.victimsinfo.ca

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