

Search or seizure

Detention or imprisonment

Arrest or detention

8. Everyone has the right to be secure against unreasonable search or seizure.

9. Everyone has the right not to be arbitrarily detained or imprisoned.

10. Everyone has the right on arrest or detention

(a) to be informed promptly of the reasons therefor;

(b) to retain and instruct counsel without delay and to be informed of that right; and

(c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

*"Our society is anchored as well on openness of our courts, and of our Legislative Assemblies, underpinned by a universal franchise, on fair procedure before adjudicative agencies, be they courts or other tribunals which, at least, means a right to be heard or to make representations before being condemned criminally or made liable civilly. In the administration of our criminal laws, special protections have developed for an accused, such as the rule against forced confessions, the presumption of innocence, and the privilege against self-incrimination. These values are not absolutes, but a heavy burden lies on any Legislative Assembly or Court to justify any attenuation of these. The Canadian Bill of Rights, operative on the federal level, has given sanctity to these values, short of constitutional entrenchment."*

*The Right Honourable Chief Justice Bora Laskin, University of Alberta, May 4, 1972*

11. Any person charged with an offence has the right

(a) to be informed without unreasonable delay of the specific offence;

(b) to be tried within a reasonable time;

Proceeding in criminal and penal matters

These legal rights are an expansion of those included in the *Canadian Bill of Rights* of 1960, and most of them already exist in Canada by precedent and practice, or ordinary statute law. Enshrining them in the Constitution will ensure Canadians that they will not be able to be taken away from us easily by the state or its law enforcement agencies.

Specifically, we are guaranteed that the right to life, liberty and security of the individual will not be able to be taken away from us by the authorities of the state, except by laws and procedures that are lawful and fair.

These legal rights also prohibit unreasonable search or seizure. In addition, even though the law authorizing the search or seizure may be reasonable in itself, the manner in which it is executed by the police might be challenged as unreasonable in the circumstances; for instance, the police will not be able to use unnecessary force.

There is also the assurance that no person may be detained or held in an arbitrary manner. A police officer will have to show reasonable cause for detaining a person.

The rights on arrest or detention are designed to protect you against arbitrary or unlawful actions by law enforcement agencies. Therefore, anyone held or arrested by any authority will have the right to be told the reasons for being taken into custody, the right to be informed of the right to contact and consult a lawyer forthwith to obtain legal advice, and the right to have a court determine quickly whether the detention is lawful.

This section sets forth other important protections for any person charged with offences under federal or provincial law.

First, an accused person will have to be told promptly of the offence with which he or she has been charged, and brought to trial without undue delay. Also, the accused