

proclaimed in Canada as the Constitution Act, 1982, as Schedule II of the Canada Act. This act includes the Canadian Charter of Rights and Freedoms, establishing for all Canadians protection of basic rights and freedoms essential to maintaining a free and democratic society and a united country. The explanation of the charter states that this charter applies to all governments, federal, provincial and territorial, and will provide protection of the following:

**Fundamental freedoms** which include freedom of conscience and religion, freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication, freedom of peaceful assembly, and freedom of association;

**Democratic rights** giving Canadians the right to vote in all elections and to seek a seat in the House of Commons or in a legislative assembly;

**Mobility rights** which include the right to enter, remain in and leave Canada and the right to live and seek employment anywhere in Canada;

**Legal rights** explained as the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice;

**Equality rights for all individuals**, allowing no discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability;

**Official languages of Canada**, being English and French, giving them equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada;

**Minority language education rights** which set out the rights of Canadians regarding the allowance of an education in either the English or French language; and

**Native people's rights** are protected in that the guarantee of certain rights and freedoms shall not be construed so as to abrogate and derogate from any aboriginal treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada.

As well, the charter is designed to protect minorities in that it must be interpreted in a way that will preserve and enhance the multicultural heritage of Canadians.

The Charter of Rights entrenches in the Canadian constitution the same concepts that were passed in the Canadian Bill of Rights (RSC 1970, Appendix III) enacted in 1960. It also overlaps with the Canadian Human Rights Act passed in 1977, which set out specific rights, and established the Canadian Human Rights Commission and a privacy commissioner to administer the rights and obligations included in the act.

To control abuse of rights and freedoms, and to protect the rights of everyone in Canada, Section 1 of

the charter states that the Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. In this way, rights are not absolute, but qualified.

#### 20.1.4 Criminal law

Criminal law deals with crimes and their punishment. A crime may be described as an act against society, as distinct from a dispute between individuals. It has been defined as any act done in violation of duties an individual owes to the community, for which act the law has provided that the offender shall be punished.

The criminal law system in Canada has its basis in the Constitution Act, 1867 (the former BNA Act). Section 91 provides that exclusive legislative authority of Parliament extends to the criminal law, except the constitution of courts of criminal jurisdiction but including the procedure in criminal matters. By Section 92, provincial legislatures may make laws in relation to the administration of justice in the province, including the constitution, maintenance, and organization of provincial courts, and may impose punishment by fine, penalty, or imprisonment to enforce any law of the province.

At the time of Confederation each of the colonies had its own body of statutes relating to criminal law. In 1869, in an attempt to assimilate them into a uniform system applicable throughout Canada, Parliament passed a series of acts, some dealing with specific offences and others with procedure. Most notable of the latter was the Criminal Procedure Act, but other acts provided for the speedy trial or summary trial of indictable offences, the powers and jurisdiction of justices of the peace in summary conviction matters and otherwise, and the procedure in respect of juvenile offenders.

Codification of the criminal law through a criminal code bill founded on the English draft code of 1878, Stephen's *Digest of criminal law*, Burbidge's *Digest of the Canadian criminal law*, and the relevant Canadian statutes, was brought about by the justice minister, Sir John Thompson, in 1892. This bill became the Criminal Code of Canada and came into force in July 1893.

The criminal code has been revised and amended frequently. In its present form it defines offences in the following general categories: offences against public order; firearms and other offensive weapons; offences against the administration of law and justice; sexual offences, public morals and disorderly conduct; invasion of privacy; disorderly houses, gaming and betting; offences against the person and reputation; offences against rights of property; fraudulent transactions; wilful and forbidden acts in respect of certain property; and offences relating to currency. The code also defines procedure to be