

**YOUR ADVICE!**

We know that lawyers go to court to represent their clients. But another important part of their job is to **meet people** to give them **legal advice**.

Imagine for a moment that you are a fundamental rights lawyer. You have to give advice to young people who come into your office. **Read their stories carefully** and **answer their questions**. Your answers should be short and should incorporate your understanding of the Charters.



I'm **Naomie**! Ever since I was little I have been swimming at my municipal swimming pool. Last summer I applied to become a life guard, but the city did not want to hire me!

The coordinator told me that I had all the required qualifications, but she could not hire me because my father held an important position with the city. She does not want to be perceived as favoring a boss's daughter.

I think that's discriminatory! I challenged the city's decision under the Quebec Charter. The Superior Court has just heard my case, but has upheld the city's decision. I would like to appeal this decision.

**1.1.** In my opinion, the Superior Court judge made a monumental mistake! Without further delay, can you help me appeal this decision to the Supreme Court of Canada?

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**1.2.** My swimming coach testified for me during the trial but he believes that he could have been more convincing ... Can we give him a second chance to testify on appeal?

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**1.3.** My father told me that he knows the Superior Court judge who rendered the judgment in my file. She was employed as a lawyer for the city a few years ago. In your opinion, does this situation pose a problem?

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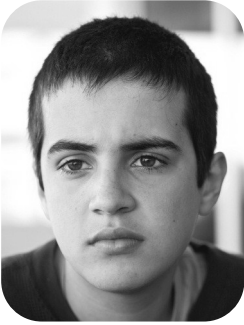
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Hello! My name is **Simon** and I go to a public high school. Last week I failed my math exam because I was away. But I had no choice! The exam fell on the same day as an important Jewish holiday, Yom Kippur. It is a tradition that I cannot miss because of my beliefs.

My teacher explained to me that I must be present at the exams like all other students. My parents called the principal, but she told them she could not do anything for me. I think it's unfair!

**2.1.** I know that it is the school that requires me to be present on the day of the examination. It is not a law! Do you think the Canadian Charter still applies to my situation? Why?

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**2.2.** I would like to challenge my school's decision. Can I use one or more Charter sections before the tribunals?

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Hello, my name is **Alexandra** and I am 18 years old. I will soon begin a technical degree in a CEGEP in another region. Last weekend I traveled with my parents to visit apartments. I found a small "3½" that is ideal and not too expensive!

Yesterday, I called the owner of the apartment. He refused to lease the apartment to me and would not tell me why! I feel that it is because I am black. During the visit, he repeated on several occasions that he had had problems with a former black tenant.

I really want this apartment and my parents think I can challenge the owner's decision.

**3.1. Which Charter should I use to support my case? Why?**

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**3.2. What section of this Charter can I rely on?**

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**3.3. My parents called the owner back. He told them that the only reason he refused to lease the apartment to me was because he found me too young. If that is true, is the section you mentioned above still relevant?**

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My name is **Inez** and I am 20 years old. Three weeks ago, I went out to a bar with my friends. At the end of the evening, I decided to take a nap in my car to "sober up" before driving. To my surprise, the police stopped me! They explained that it is illegal to sit in my car under the influence of alcohol, even if the engine is not turned on.

I was immediately released pending trial. Since that day, I am anxious and I cannot sleep anymore. I do not know if the judge will convict me or not!

I have been told that I will not be tried for at least another few months. I find it unreasonable to leave me in such a state of anxiety for so long!

**4.1.** I want to challenge this long waiting period. Is there anything in the Charters that would be relevant to my situation?

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**4.2.** In your opinion, do the Charters forbid the State from making me wait so long before I am tried? Why?

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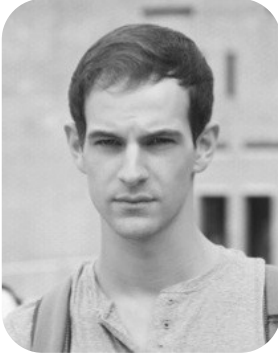
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I am **Thomas** and I have major problems! A few days ago, while we were in class, the police entered our school with sniffer dogs. It was not the first time, since they have randomly come from time-to-time to look for drugs.

As they walked around the gym, one of the dogs sniffed at my backpack, which I had left unattended. The police opened the bag and found ten small bags of marijuana. I was charged with possession of drugs for the purpose of trafficking.

The lawyer I called suggested that I challenge the legality of the search because the police did not get a warrant to come to school.

The lawyer told me that section 8 of the Canadian Charter prohibits "unreasonable searches," but he does not know what my chances are because he is not a fundamental rights specialist ...

**5.** In your opinion, were the police abusive in their search by entering my school with sniffer dogs? And by opening my backpack?

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My name is **Ross**, I'm 19 and I'm a very engaged student. I am on a committee for environmental protection at my college. Last month, I went and glued small posters on the telephone poles of my neighborhood to express our opinions.

A policeman saw me and gave me a ticket! I did not know, but there is a by-law that prohibits people from posting things on poles. It seems that the goal of the by-law is to preserve the beauty of the streets and avoid the costs of cleaning.

I complained to the policeman that this was censorship and that the by-laws violate my freedom of expression. He said, "You may be right, but sometimes the government has permission to censor people."

**6.1.** It seems to me that the Charters prohibit any violation of protected rights, do they not? What sections of the Charter did the policeman rely on when making his statement?

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**6.2.** In your opinion, is the city really justified in infringing my freedom of expression in this way?

*To answer Ross's question, repeat the test explained on pages 18 to 19 of your Guide. Briefly answer each sub-question.*

**A)** What is the objective of the by-law? Is this objective important enough to justify an infringement of Ross's freedom of expression?

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**B)** Is there a logical connection between the municipal by-law and its objective?

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**C)** In trying to meet its objective, does the by-law infringe Ross's rights in a reasonable and necessary manner? Are there other alternatives that would cause Ross less harm?

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**D)** Are the positive effects of the by-law greater than the negative effects of the infringement on Ross's freedom of expression?

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Hello, I'm **Sophie** and I am 25 years old. Recently, I have been receiving social assistance payments from the government because I cannot find a job.

I find that I do not receive a lot of money ... Actually, the law provides that social assistance recipients who are young and healthy and who are not enrolled in any training programs are entitled to less money than participants who are over the age of 30.

This seems unfair to me! The government does not have the right to discriminate.

7. In your opinion, what is the purpose of this legislation?

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