

CANADIAN
CIVIL LIBERTIES
ASSOCIATION



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CANADIENNE DES
LIBERTES CIVILES

February 11, 2025

Hon. Premier Doug Ford

Via Email: doug.ford@ontariopc.com

Room 281, Legislative Building Queen's Park, Toronto, ON M7A 1A1

Marit Stiles, Leader of the Official Opposition

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Bonnie Crombie, Leader of the Ontario Liberal Party

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Dear Party Leader:

Re: Questions About Your Party's Commitment to *Charter* Rights and Freedoms

Following the recent launch of the electoral campaign in Ontario, we are writing today to ask about your party's commitment to upholding the basic civil liberties and human rights guaranteed under the *Canadian Charter of Rights and Freedoms* ("*Charter*").

The Canadian Civil Liberties Association ("CCLA") is an independent, national, nongovernmental organization that was founded in 1964 with a mandate to defend and foster the civil liberties, human rights, and democratic freedoms of all people across Canada. Our work encompasses advocacy, research, and litigation related to the criminal justice system, equality rights, privacy rights, and fundamental freedoms. Key aspects of our mission include fighting for democratic accountability and fighting against government overreach.

You will find below the questions we are asking you to answer by **February 17, 2025**. We also attach a backgrounder providing additional information about the issues at hand, and the *Charter* rights and freedoms at play.

1. Abusive Use of the Notwithstanding Clause

If elected to form the next government in Ontario, will you pass legislation limiting the use of the notwithstanding clause?

2. Commitment to Accessibility and Barrier Free Ontario

If elected to form the next government in Ontario, will you commit to adopting strong measures to ensure enforcement and compliance of the Accessibility for Ontarians with Disabilities Act, including promptly enacting accessibility standards for Education, Healthcare and Housing?

3. Upholding Dignity and Rights for 2SLGBTQIA+ Communities

If elected to form the next government in Ontario, will you commit to supporting 2SLGBTQIA+ youth and ensure the rights of trans and gender diverse Ontarians are protected, and ensuring that 2SLGBTQIA+ communities are consulted on policies that impact their communities?

4. Roll-Back on Vital Health Services to People with Addictions

If elected to form the next government in Ontario, will you repeal Bill 223 and instead adopt an evidence-based and rights respecting approach to the opioid crisis?

5. Rights Respecting Solutions to Combat Homelessness Crisis

If elected to form the next government in Ontario, will you commit to investing in long-term and human rights-based solutions to combat the homelessness crisis in Ontario?

6. Addressing the Crisis in Ontario Prisons

If elected to form the next government in Ontario, will you commit to implementing the recommendations from the *Independent Review of Ontario Corrections* and Ontario Chief Coroner’s Expert Panel on Deaths in Custody, calling into force the *Correctional Service Transformation Act*, and establishing an independent corrections inspectorate?

Thank you for your attention to this letter.

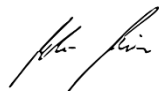
Sincerely,



Anaïs Bussièrès McNicoll
Director, Fundamental Freedoms Program
Canadian Civil Liberties Association



Harini Sivalingam
Director, Equality Program
Canadian Civil Liberties Association



Shakir Rahim
Director, Criminal Justice Program
Canadian Civil Liberties Association

BACKGROUND

1. Abusive Use of the Notwithstanding Clause

Respect for human rights and civil liberties is a bedrock of democracy. The recent, rampant and growing use of the notwithstanding clause by provincial governments—including Ontario’s—has put important *Charter* rights under threat.

The notwithstanding clause prevents courts from striking down laws despite serious *Charter* violations. At its inception, this clause was understood as a last resort to be used only in exceptional circumstances. For forty years, almost every province refrained from using it. Alarming, this is no longer the case. In recent years, the Ontario government has used or attempted to use the clause to prevent education workers from striking, and to limit organizations from sharing their political views a year ahead of elections. The Ontario Premier also recently threatened to use the notwithstanding clause if his government were to disagree with future court decisions upholding the rights of unhoused people.¹

Last December, the CCLA launched a [national campaign](#) urging lawmakers not to wait for the outcome of ongoing court challenges to explicitly limit how the notwithstanding clause can be used. We are calling on the federal and provincial governments to each enact a law (i) banning the pre-emptive use of the notwithstanding clause, (ii) requiring a supermajority to invoke the clause, and (iii) banning the use of the clause to shield egregious rights violations.²

2. Commitment to Accessibility and Barrier Free Ontario

The Accessibility for Ontarians with Disabilities Act (AODA) was passed in 2005 with a promise that Ontario would become accessible to people with disabilities by 2025. Over the past 20 years, successive governments have failed to heed the calls from [disability advocates](#) to ensure that the measures necessary to achieve this target were implemented despite four Independent Reviews of the AODA. Barriers continue to persist that prevent people with disabilities from full participation in all aspects of their daily lives.

The AODA requires the government to enact enforceable accessibility standards in order to achieve the purposes of the AODA. So far, the government has enacted five accessibility standards for customer service, employment information and communication, transportation, and built environment for accessibility in public spaces. These existing standards need to be strengthened as there continues to be significant barriers for people with disabilities in these areas. In addition, there are no enforceable accessibility standards in key sectors that are vital for people with disabilities, namely Education, Healthcare and Housing.

3. Upholding Dignity and Rights for 2SLGBTQIA+ Communities

Anti-2SLGBTQIA+ sentiment is on the rise globally, particularly targeting the trans and gender diverse community. [Reporting](#) has found that experiences of transphobia are nearly universal

¹ Learn more about recent uses of the notwithstanding clause [here](#). Read [here](#) CCLA’s reaction to the Ontario Premier’s letter foreshadowing future use of the notwithstanding clause to override court decisions.

² Learn more about the 3 parameters outlined by the CCLA [here](#).

amongst trans Ontarians, and transgender Canadians are [more likely to experience violence](#) than their cisgender counterparts.

While Ontario does not have blatant laws akin to many of the U.S. states that place a blanket ban preventing trans people from accessing healthcare and resources, many trans adults face restrictions and have difficulty accessing healthcare and certain life-saving gender affirming healthcare.³

Moreover, multiple Canadian provincial governments have rolled back protections for gender diverse students in schools by implementing policies that prevent youth from using chosen names and pronouns. Certain provinces have also taken aim at preventing gender diverse youth from participating in recreation, accessing doctor-recommended healthcare, and impose limits on the uses of gendered public spaces, such as change rooms and bathrooms. Ontario must resist following this trend and ensure that the rights of gender diverse youth are protected so that students can learn in safe and inclusive environments.

4. Roll-Back on Vital Health Services to People with Addictions

At a time where the opioid crisis reportedly killed more than 26,000 people in Ontario since 2016, elected officials need to protect communities while showing compassion and respect for vulnerable people's rights to life, liberty and security of the person. Elected officials also need to tackle this crisis in an evidence-based way.

The Supreme Court of Canada has recognized that addiction is a disease, and that preventing people with addictions from accessing health services offered through supervised injection sites threatens their health and indeed their lives.⁴ Experts in the field have also concluded that these services are far from being detrimental to the rest of the population. Data and research show that supervised injection sites actually decrease crime and social disorder in the communities they serve.⁵

Despite these conclusions, Ontario's recent Bill 223 shuts down about half of the province's supervised injection sites and requires provincial preapproval for future applications to Health Canada.⁶ Ontario's current Health Minister has reportedly stated that she would not approve any new application. This approach endangers vulnerable and marginalized community members, and our communities as a whole.

5. Rights Respecting Solutions to Combat Homelessness Crisis

A recent report by the [Association of Municipalities of Ontario](#) states that there were over 81,500 people experiencing homelessness in Ontario, an increase of over 25% since 2022, and that without significant intervention, this number could triple by 2035.

³ Read [here](#) the Trans PULSE Canada Report "Health and Healthcare Access for Trans & Non-Binary People in Canada" (10 March 2020); Read [here](#) CCLA's intervention in *Ontario (Health Insurance Plan) v. K.S.*, 2024 ONSC 2061, a case that challenges Ontario's denial of funding for certain gender affirming surgeries for non-binary individuals.

⁴ *Canada (Attorney General) v. PHS Community Services Society*, 2011 SCC 44.

⁵ Read [here](#) the Centre on Drug Policy Evaluation's November 2024 report titled "Supervised Consumption Services in Ontario: Evidence and Recommendations".

⁶ [Bill 223](#), Safer Streets, Stronger Communities Act, 2024, SO 2024, c 27, Sch 4.

The [National Housing Strategy Act](#) (NHTSA) enshrines the right to housing in domestic law. The NHTSA recognizes that “the right to adequate housing is a fundamental human right affirmed in international law” and that “housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities”.

In a recent report, the [Federal Housing Advocate](#) has stated that all levels of governments have legal obligations to recognize and respect the right to adequate housing, protect against its violation, take positive measures and mobilize maximum available resources to ensure that everyone can enjoy this right without discrimination, and promote broad public awareness and understanding of the right to adequate housing.

Governments of all levels need to work together to find human rights-based solutions that respect the dignity and autonomy of encampment residents. The approach to combating homelessness should not be to override fundamental rights and freedoms, but rather to find meaningful long-term solutions that are rights-respecting.

6. Addressing the Crisis in Ontario Prisons

The conditions in Ontario prisons are dire. In 2022, the CCLA [wrote to the Solicitor General of Ontario](#) to highlight a sharp uptick in deaths in custody, highlighted in a report by the research group *Tracking In(Justice)*.⁷ In early 2023, the Ontario Chief Coroner’s Expert Panel on Deaths in Custody [published its report](#), which recognized a sharp rise of deaths in custody and noted an “in-custody reality that in its current state is increasingly both ineffective and unsafe”.⁸

In 2024, the Ontario Ombudsman’s [annual report](#) highlighted a 26% increase in correctional complaints and inquiries from the year prior.⁹ In some facilities, like the Toronto South Detention Centre (TSDC), judges have highlighted horrifying conditions which have not been addressed for years on end. The poor conditions at the TSDC have been called out in over one-hundred judicial decisions. As a [recent judgment](#) put it:

That these conditions have been and continue to be a result of staff shortages is inexplicable. I adopt the statements of my colleagues who have described the conditions as “unacceptable, shocking, deplorable, harsh, oppressive, degrading, disheartening, appalling, Dickensian, regressive and inexcusable.”¹⁰

In addition to violating the *Charter* and human rights of prisoners, 80% of whom are in jail awaiting trial, these conditions pose a serious risk to rehabilitation for those who are serving their sentences.¹¹

⁷ CCLA Letter to the Honourable Michael Kerzner, Solicitor General of Ontario, December 19, 2022 <ccla.org/wp-content/uploads/2022/12/2022-12-19-Letter-to-ON-SolGen-Deaths-in-Custody-Final.pdf>.

⁸ *An Obligation to Prevent: Report from the Ontario Chief Coroner’s Expert Panel on Deaths in Custody*, January 2023, at p. 1 <<https://files.ontario.ca/solgen-csdr-en-2023-05-05.pdf>>.

⁹ Ombudsman Ontario 2023-2024 Annual Report, at p. 28 <<https://www.ombudsman.on.ca/Media/ombudsman/ombudsman/resources/Annual%20Reports/2023-2024/Ombudsman-Ontario-2023-2024-Annual-Report-accessible-s.pdf>>

¹⁰ *R. v. Martinez-Reynosa*, 2024 ONSC 4737, at para. 69 <<https://canlii.ca/t/k6nh0>>.

¹¹ Paola Loriggio, Canadian Press, “Nearly 80% of people in Ontario jails awaiting bail or trial, new report finds”, February 26, 2024 <<https://www.cbc.ca/news/canada/toronto/report-bail-ontario-1.7125726>>.

To address the crisis in Ontario prisons, CCLA has called for the implementation of the recommendations from [*Independent Review of Ontario Corrections*](#) (2017) and for the government to call into force the [*Correctional Service Transformation Act*](#), which was passed in 2018. We have also called for meaningful responses to recommendations from Coroner's inquests into deaths in custody.