

April 8, 2025

To:

The Right Honourable Mark Carney, P.C.
Leader of the Liberal Party of Canada
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable Pierre Poilievre, P.C.
Leader of the Conservative Party of Canada
1139 Mill St.
Manotick, ON K4M 1A5

Jagmeet Singh
Leader of the New Democratic Party
4940 Kingsway
Burnaby, BC V5H 2E2

Elizabeth May and Jonathan Pedneault
Leaders of the Green Party of Canada
PO Box 997, Station B
Ottawa, ON K1P 5R1

Yves-François Blanchet
Leader of the Bloc Québécois
3750 Crémazie East Blvd., suite 402
Montréal, QC H2A 1B7

Dear Federal Political Party Leaders:

Re: Calling for a Public Consultation on the Notwithstanding Clause

Now more than ever, our country needs a federal government that will respect and uphold human rights and civil liberties. This starts by acknowledging that the recent growing use of the notwithstanding clause is a serious threat to our democracy, and showing leadership on this issue.

In recent years, provincial governments have increasingly used the *Charter's* notwithstanding clause to override the people of Canada's fundamental constitutional rights and freedoms. This is alarming. No democratic society can thrive without robust protection of these principles.

Today, more than 50 organizations, human rights advocates, and legal scholars are coming together to ask each federal political party leader to commit to holding a public consultation on the notwithstanding clause within six months of forming a new government. This consultation at the federal level could inspire provinces and territories to each engage in a similar exercise.

Context

Included in the *Charter* is a provision which most people would be surprised to discover: an override clause. When properly invoked, this notwithstanding clause—section 33 of the *Charter*—prevents courts from striking down laws despite serious *Charter* violations. This gives lawmakers the ability to disregard certain important rights and freedoms protected under the *Charter*, such as freedom of expression, freedom of religion, the right to life, and the right to be treated equally under the law.ⁱ

For nearly forty years following the adoption of the *Charter*, governments in Canada mostly refrained from using the notwithstanding clause.ⁱⁱ Alarmingly, this is no longer the case. In recent years, some provincial governments have used or proposed to use the clause to prevent education workers from striking;ⁱⁱⁱ ban provincial government employees from wearing religious symbols;^{iv} limit non-French speakers' ability to receive public services in other languages;^v prevent trans and non-binary youth from using their chosen names and pronouns in schools without parental consent;^{vi} and to set arbitrary, unfair limits on spending on advertising by organizations and individuals during the year before fixed date elections.^{vii}

These deeply concerning actions might very well be just the beginning, with various political leaders voicing an increasing willingness to use the notwithstanding clause to deprive people of their rights in a wide range of circumstances.^{viii} While everybody in Canada should be wary of normalizing the use of this dangerous clause, Canada's federal political party leaders have a civic and moral obligation to make concrete commitments to protect people's basic human rights and civil liberties.

Our Call

The undersigned civil society organizations, human rights advocates, and legal scholars are coming together to raise awareness about the dangers of the notwithstanding clause and combat the erosion of Canadians' rights and freedoms.

As a first step in our journey, in the context of the current federal election, we are asking each federal political party leader to acknowledge the existence of this crisis by committing to holding a public consultation on the future of the notwithstanding clause within six months of forming a new government.

This consultation should be meaningful, allowing all interested parties—particularly equity-deserving communities that have been disproportionately and egregiously targeted by the use of the notwithstanding clause—to share their perspective on this issue. The consultation should also be solutions-oriented, in that interested stakeholders should be invited to weigh-in on ways to address this crisis—be it through the repeal of the notwithstanding clause by constitutional amendment, the addition of safeguards limiting its use, or otherwise.

At a moment of so much uncertainty for Canada, one thing remains clear: our rights, freedoms, and democracy must be protected. Now is the time for our federal elected representatives to show the people of Canada that they will stand with them on this journey.

Signed:

Organizations:

1. Amnesty International Canada (English speaking)
2. Amnesty International Canadian (French-speaking)
3. Assembly of First Nations, 2SLGBTQIA+ Council
4. Black Legal Action Centre
5. Canadian Alliance to End Homelessness
6. Canadian Association of Refugee Lawyers
7. Canadian Civil Liberties Association
8. Centre For Free Expression, Toronto Metropolitan University
9. Charter Committee on Poverty Issues
10. Colour of Poverty - Colour of Change
11. Canadian Union of Public Employees
12. David Asper Centre for Constitutional Rights, University of Toronto
13. Democracy Watch
14. HIV & AIDS Legal Clinic Ontario (HALCO)
15. Ligue des droits et libertés
16. Mississauga Community Legal Services
17. National Council of Canadian Muslims
18. Ontario Coalition for the Rights of Homeless People
19. Ontario Council of Agencies Serving Immigrants (OCASI)
20. Open Media
21. Section 1
22. Social Rights Advocacy Centre
23. South Asian Bar Association of Toronto
24. South Asian Legal Clinic of Ontario
25. The 519 Church Street Community Centre
26. Waterloo Region Community Legal Services
27. Women's Legal Education & Action Fund (LEAF)

Individuals:

28. Natasha Bakht, Professor, Faculty of Law, University of Ottawa
29. Stéphane Beaulac, Professor, Faculty of Law, University of Montreal
30. Peter L. Biro, Founder and President, Section 1, Senior Fellow, Massey College
31. Michèle Biss, Executive Director, National Right to Housing Network
32. Suzanne Bouclin, Professor, Faculty of Law, University of Ottawa
33. Lise Brun, Postdoctoral Fellow, Faculty of Law, Laval University
34. Diana Chan McNally, Community Worker and Fellow, Maytree
35. François Crépeau, Professor, Faculty of Law, McGill University
36. Éloïse Décoste, Professor, Faculty of Law, Civil Law Section, University of Ottawa
37. Martha Jackman, Professor Emerita, Faculty of Law, University of Ottawa
38. Michael Lynk, Professor Emeritus, Faculty of Law, Western University
39. Frédéric Mégret, Chaire Hans & Tamar Oppenheimer in Public International Law, McGill University
40. Karine Millaire, Professor, Faculty of Law, University of Montreal
41. Vrinda Narain, Associate Professor, Faculty of Law, McGill University

42. Rory Nisan, City and Regional Councillor, Deputy Mayor with Portfolio, and Chair, Ontario Coalition for the Rights of Homeless Peoples
43. Lukas Oakley, County of Brant Councillor
44. Debra Parkes, Professor & Chair in Feminist Legal Studies, Peter A. Allard School of Law, University of British Columbia
45. Bruce Porter, Executive Director, Social Rights Advocacy Centre, Maytree Fellow
46. Marion Sandilands, Professor, Faculty of Law, University of Ottawa
47. Penelope Simons, Professor and Gordon F. Henderson Chair in Human Rights, Faculty of Law, University of Ottawa
48. Andrea Talarico, Professor, Faculty of Law, Civil Law Section, University of Ottawa
49. Pierre Thibault, Deputy Dean and Secretary, Faculty of Law, Civil Law Section, University of Ottawa
50. Christopher Waters, Professor, Faculty of Law, University of Windsor
51. Margot Young, Professor, Allard School of Law, University of British Columbia

ⁱ *Canadian Charter of Rights and Freedoms*, Schedule B to the Canada Act 1982 (UK), 1982, c. 11, s. 2 and 7-15.

ⁱⁱ Aside from Quebec, prior to 2021, the only provinces that enacted and enforced legislation invoking the notwithstanding clause are Saskatchewan (1 invocation, expired in 1991) and Alberta (1 invocation, expired in 2005). To date, the federal government has never invoked the notwithstanding clause. See Tsvi Kahana, "The Notwithstanding Clause in Canada: The First Forty Years" (2023) 60:1 Osgoode Hall L J 1, at pp. 49-59.

ⁱⁱⁱ [In 2022](#) Ontario pre-emptively used the notwithstanding clause to prohibit education workers from striking, even though courts have determined that freedom of association includes the right to strike and the right to collective bargaining. Many individuals, unions, and organizations raised the alarm, and following a wave of popular discontent, the Ontario government repealed this controversial bill.

^{iv} [In 2019](#) Quebec pre-emptively used the notwithstanding clause in Bill 21 to ban public sector workers such as teachers, government lawyers, and police officers, from wearing religious symbols. In [March 2025](#), Quebec tabled Bill 94, which pre-emptively uses the notwithstanding clause to expand Bill 21's ban and enact other rights-infringing measures.

^v [In 2022](#) Quebec pre-emptively used the notwithstanding clause to limit the use of English in the public service.

^{vi} [In 2023](#) Saskatchewan pre-emptively used the notwithstanding clause to ban transgender students from using their chosen names and pronouns in schools without formal parental permission.

^{vii} In 2021, Ontario imposed arbitrary, unfair limits on advertising by third parties (i.e. organizations, interest groups and individuals) for a full year prior to a fixed date election. This limit on criticism of the government was struck down by the Ontario Superior Court as an unreasonable and unjustifiable infringement on freedom of expression. [Also in 2021](#) the Government of Ontario used the notwithstanding clause in an attempt to maintain the restriction. [A few weeks ago](#), the Supreme Court of Canada struck down Ontario's arbitrary, unfair limits as an unconstitutional infringement of democratic rights, which cannot be overridden by the notwithstanding clause.

^{viii} [In May 2024](#) the leader of the official federal opposition party hinted that he would use the notwithstanding clause to override rights that ensure a person charged with an offence is not denied their liberty until they have their day in court and people do not face cruel and unusual punishment.

[In October 2024](#) the Ontario Premier called on Ontario's Big City Mayors to request in writing that the provincial government use the notwithstanding clause to legislate measures that will harm the rights and

freedoms of unhoused people in the province. In a subsequent letter dated [December 5, 2024](#), the Ontario Premier foreshadowed future use of the notwithstanding clause to override court decisions upholding the rights of unhoused people.

In [November 2024](#) the Quebec Premier stated that, if necessary, he was ready to use the notwithstanding clause to force doctors trained in Quebec universities to practice within the province's public system for a number of years.

In [December 2024](#), the Quebec Premier said that he wants to ban praying in public and that he was considering using the notwithstanding clause to do so.

In [December 2024](#), the Alberta Premier said that she would invoke the notwithstanding clause to override any court decision that finds Alberta's trio of laws targeting gender diverse youth unconstitutional.