

CANADIAN  
CIVIL LIBERTIES  
ASSOCIATION



ASSOCIATION  
CANADIENNE DES  
LIBERTES CIVILES

September 23, 2025

The Honorable Danielle Smith  
Office of the Premier  
307 Legislature Building  
10800 - 97 Avenue  
Edmonton, Alberta T5K 2B6

Via email: [premier@gov.ab.ca](mailto:premier@gov.ab.ca)

Dear Premier Smith:

**Re: Alberta Government's proposed use of the Notwithstanding Clause**

On December 4, 2024, the Canadian Civil Liberties Association (CCLA) wrote to you to express our deep concern about the misuse of the notwithstanding clause and the threat it poses to the fundamental rights and freedoms of everyone in Canada. That concern is even greater today as your government appears prepared to invoke the notwithstanding clause on three laws that directly impact the fundamental rights of trans and gender diverse people in Alberta—seemingly to avoid judicial accountability.

The Supreme Court of Canada has recognized that trans and gender diverse people are a marginalized group that face unique vulnerability to discrimination and exclusion ([\*Hansman v. Neufeld\*, 2023 SCC 14](#)). By shielding laws that target their rights from judicial review, your government risks deepening stigma, perpetuating inequality, and denying these Albertans the equal protection of the law to which they are entitled. The harms are not abstract. They directly threaten the safety, dignity, and well-being of trans and gender diverse people, who already experience barriers in health care, education, employment, and community life. Even more concerning, two of the three pieces of legislation your government proposes to immunize from judicial scrutiny directly target young people, who—because they cannot vote—lack the political recourse that is meant to act as a check and balance on governments who invoke the notwithstanding clause.

The notwithstanding clause was never intended to be used as a routine political tool or a way to avoid accountability. It was meant to be reserved for truly exceptional circumstances, and only as a last resort. The normalization of its use to immunize harmful legislation that targets marginalized communities undermines the rule of law and weakens the very foundation of our constitutional democracy.

The proposed use of the clause in Alberta risks setting a dangerous precedent for further erosions of rights at a time when political leaders across the country are showing increasing willingness to strip people of *Charter* protections. While all Canadians should be concerned by this trend, as Premier you have a particular obligation to safeguard, not diminish, the constitutional rights and freedoms of Albertans.

The CCLA is an independent, national, nongovernmental organization founded in 1964 with a mandate to defend civil liberties, human rights, and democratic freedoms for all people across Canada. Our work spans advocacy, research, and litigation on criminal justice, equality rights, privacy rights, and fundamental freedoms. As your government is aware, the rights that may be overridden by use of the notwithstanding clause include some of the most cherished protections in our *Canadian Charter of Rights and Freedoms*: freedom of expression, freedom of religion, the right to life and liberty, and the right to equality before the law.

A decision to suspend Charter protected rights and freedoms should never be taken lightly, particularly if the decision targets specific vulnerable groups. When governments are willing to so easily suspend rights of the vulnerable, the freedoms of all Canadians are put at grave risk. We strongly urge your government not to invoke the notwithstanding clause to shield the *Health Statutes Amendment Act, 2024*, the *Education Amendment Act, 2024*, and the *Fairness and Safety in Sport Act* from judicial scrutiny. These laws should be tested in the courts, as our constitutional framework requires.

Respect for civil liberties and human rights is the bedrock of Canadian democracy. Albertans, like all Canadians, value the robust protections enshrined in the *Charter*. We urge you to uphold those protections, refrain from invoking the notwithstanding clause, and allow the courts to fulfill their constitutional role.

Sincerely,

A handwritten signature in cursive script that reads "Howard Sapers".

Howard Sapers,  
Executive Director  
Canadian Civil Liberties Association