



Submission on Bill 1 ***Québec Constitution Act, 2025***

Canadian Civil Liberties Association

Anaïs Bussi res McNicoll – Director, Fundamental Freedoms Program
Howard Sapers, Executive Director

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Canadian Civil Liberties Association
<https://ccla.org>

Canadian Civil Liberties Association (CCLA)

The CCLA is an independent, non-partisan, non-governmental national organization founded in 1964 with a mandate to defend and promote civil liberties, human rights and democratic freedoms for all people across Canada. Our mission includes fighting against abuses of state power and defending the principles that underpin a free and democratic society.

Current context of erosion of the rule of law

Bill 1 – *Québec Constitution Act*, (“Bill 1”) is not a stand-alone government initiative. It is part of a series of centralizing and authoritarian government actions aimed at strengthening the powers of the legislative and executive branches of the state while weakening the countervailing powers of civil society and the courts. The CCLA shares the concerns raised by many civil society actors in Québec – notably the [Barreau du Québec](#) and a group of nearly [100 law professors](#) – about the imminent risk of an erosion of the rule of law in Québec.

The current government's disregard for the democratic process and human rights is evident in its frequent use of the (supposedly exceptional) gag order process to limit parliamentary debate, as well as its repeated use of exemption clauses to deprive the population of its fundamental rights and the protection of the courts.¹

The government's full-scale attack on Québec's democratic institutions has intensified in recent months. The government has introduced several legislative measures aimed at depriving trade unions, various civil society organizations and certain professionals of their ability to act as a counterweight to the will of the state.²

Added to this is the government's nationalist, identity-based approach, which is founded on a logic of exclusion and fear of the other. Through the notwithstanding clauses, the current government has passed several deeply discriminatory laws that stigmatize immigrants and members of some marginalized communities, particularly members of the Muslim community.³

The net effect of these government actions is to sow division, reduce spaces for protest, muzzle civil society and facilitate the government's violation of the fundamental rights of the population. The very pillars of the rule of law are at stake.

¹ Over the last few years, Québec lawmakers invoked exemption clauses in the *Act respecting French, the official and common language of Québec* (formally Bill 96); *Act respecting the laicity of the State* (RLRQ, c. I-0.3); *Act respecting integration into the Québec nation* (RLRQ, c. I-14.02) and *Act to, in particular, reinforce laicity in the education network and to amend various legislative provisions* (assented to on October 30, 2025). ² See in particular the *Act to give greater consideration to the needs of the population in the event of a strike or a lock-out* (assented to on May 30, 2025); the *Act mainly to establish collective responsibility with respect to improvement of access to medical services and to ensure continuity of provision of those services* (assented to on October 25, 2025); and Bill 3, *An Act to improve the transparency, governance and democratic process of various associations in the workplace*.

² See, in particular, the *Act to give greater consideration to the needs of the population in the event of a strike or lock-out* (sanctioned on May 30, 2025); the *An Act mainly to establish collective responsibility with respect to improvement of access to medical services and to ensure continuity of provision of those services* (sanctioned on October 25, 2025); and Bill 3, *An Act to improve the transparency, governance and democratic process of various associations in the workplace*.

³ *Act respecting the laicity of the State*; *An Act to, in particular, reinforce laicity in the education network and to amend various legislative provisions* and *Act respecting integration into the Québec nation*, supra note 1.

Political illegitimacy of Bill 1

The adoption of a constitution is a major legal act in the life of a community. This process must involve, upstream, the active participation of civil society and the entire population, including marginalized groups.⁴ However, Bill 1 was drafted behind closed doors, without prior consultation.

This shortcoming alone is fatal to its political legitimacy. Consultations conducted after the fact cannot remedy this fundamental flaw, as they will only address the content of Bill 1 rather than the general idea of a constitution, which should have been the result of a cross-party, non-partisan and diverse reflection.

Furthermore, a bill of this nature cannot be legitimately adopted by a simple majority vote of the National Assembly, as provided for in Bill 1. In the current context, this would amount to entrusting the political destiny of the Québec state to the current government, even though that government was supported by only about a quarter of the electorate in the 2022 elections. The government was not even mandated by its own voters to create such a constitution, as this project was not part of its election platform.

For these reasons, the government must withdraw Bill 1.

Overview of the main issues

Subject to this position, we will now provide an overview of the main substantive issues arising from Bill 1. This non-exhaustive summary aims to highlight the scope and seriousness of the structural changes to Québec society proposed by Bill 1, which also justify its rejection in its entirety.

A) Normalizing the use of the notwithstanding clause

Bill 1 incorporates the notwithstanding clause into the Constitution of Québec,⁶ even though this clause is already provided for in the Charter of Human Rights and Freedoms (the ‘Québec Charter’).⁷ This addition normalizes the use of this dangerous provision, which allows legislators to circumvent the fundamental rights of the population and deprive them of their recourse to the courts.

Furthermore, Bill 1 provides that a law invoking the notwithstanding clause is automatically “deemed to be compatible” with the Québec Constitution.⁸ This is the opposite of what a constitution should do, which is to guarantee the fundamental rights of the population and prevent any attempts to introduce an authoritarian regime.⁹ This approach also runs counter to what a government should aspire to, which is to legislate in accordance with rights and freedoms.¹⁰

⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), *Human rights and constitution making*, 2018, p. 16; *Guidance note of the Secretary-General on democracy setting out Sets out the UN framework for democracy based on universal principles, norms and standards* (April 2009), p. 4.

⁵ Official statistic available online at : <https://www.electionsquebec.qc.ca/en/results-and-statistics/general-election-results/2022-10-03/>.

⁶ BILL 1, Section II, *Act respecting the constitutional autonomy of Québec*, section 9.

⁷ RLRQ, c. C-12, section 52.

⁸ BILL 1, Section I, *Loi constitutionnelle de 2025 sur le Québec*, section 16, al. 2.

⁹ OHCHR, *Human rights and constitution making*, 2018, p. 8.

¹⁰ *Canada (Attorney General) v. Power*, 2024 CSC 26.

By basing its Constitution on the legislature's power to derogate from the rights of its population with impunity, the current government is betraying decades of Québec history. This province has a rich history in terms of human rights, having been a pioneer in this area in Canada by adopting the Québec Charter in 1975. Originally a tool reserved for exceptional cases, the Québec Charter's notwithstanding clause becomes, with Bill 1, an ordinary legislative instrument. However, there is nothing trivial about a government depriving the population of its rights. Rather, it is one of the characteristic signs of an authoritarian drift.

B) Silencing of countervailing powers

Bill 1 would allow Québec legislators to designate laws as protecting “the Québec nation as well as the constitutional autonomy and fundamental characteristics of Québec.”¹¹ The possibilities for legal challenges to any law (or provision) covered by this designation would then be limited. In fact, the hundred or so organizations listed in the appendix to Bill 1 would not be able to use any funds received from the government to challenge the constitutional validity of such a law or otherwise contribute to such a challenge (with some exceptions).¹²

In practical terms, this provision would limit the ability of bodies such as the Commission on Human Rights and Youth Rights, the Ombudsman, the Chief Electoral Officer, the Financial Markets Authority, the Council on the Status of Women, the Consumer Protection Office, the National Student Ombudsman, Santé Québec, CEGEPs and universities, municipalities and metropolitan communities, as well as professional orders, to contribute to challenges to the constitutionality of Québec laws.

This provision would also apply to any other categories of organizations determined by the government¹³ at its sole discretion. This opens the door for the government to potentially limit the scope of action of trade unions, collective rights advocacy groups, community organizations, and other civil society institutions.

This muzzling of civil society in the hope of shielding certain laws from the scrutiny of the courts is alarming. The Québec government is attacking the very foundations of our democracy, which require that the courts be able to play their role as guardians of the rights and freedoms of the population and of constitutional principles. For such protection to be effective, civil society organizations must have access to the courts in order to challenge government actions that are potentially arbitrary, abusive, discriminatory or otherwise infringe on human rights.

C) Attack on the legitimacy of the courts

Bill 1 provides for the creation of a ‘Constitutional Council’ responsible, specifically, for providing non-binding opinions on the interpretation of the Québec Constitution.¹⁴ However, under the principle of separation of powers, it is the courts—composed of judges who are guaranteed independence and impartiality vis-à-vis the government—that are responsible for interpreting the laws.

¹¹ Bill 1, Part II, *Act respecting the constitutional autonomy of Québec*, section 5.

¹² Bill 1, Part II, *Act respecting the constitutional autonomy of Québec*, section 4 and Schedule I.

¹³ Bill 1, Part II, *Act respecting the constitutional autonomy of Québec*, section 4.

¹⁴ Bill 1, Part III, *Québec Constitution Act*, section 2 and 3.

This manoeuvre can be seen as an attempt to delegitimize court decisions in the eyes of the public by opposing them with the opinions of a Constitutional Council whose members will be appointed by the National Assembly on the basis of biased criteria.¹⁵ This Council would have no real guarantee of independence from the executive and legislative branches and would not be required to demonstrate transparency to the public. On the contrary, its members would be required to render decisions without dissent¹⁶ and their deliberations would be kept secret for a period of 25 years.¹⁷

D) Constitutionalization of laws on laicity of the state and integration into the nation

Bill 1 incorporates into the Québec Constitution the current government's vision of secularism and national integration.¹⁸ These concepts, detailed in existing laws, are based on profoundly flawed and discriminatory conceptions of secularism and integration into society.¹⁹ The government is probably well aware of these shortcomings, since it has chosen to invoke the derogation clauses in an attempt to shield the laws in question from a judicial review. Laws and policies that violate human rights should not serve as the foundation of a nation.

E) Opposition of individual rights to 'collective rights'

Bill 1 constitutionalizes 'collective rights' which, according to the definition chosen by the government, include the right of the nation to protect and promote its existence, culture, language and distinct social values, and the right to have secular public institutions and services.²⁰ Bill 1 also amends the Québec Charter to require that it be interpreted in such a way as not to suppress or restrict the enjoyment of these 'collective rights'.²¹ These amendments could allow the government to attempt to justify flagrant violations of human rights in the name, for example, of "distinct social values" – a vague concept left entirely to the discretion of Québec legislators.

It goes without saying that civil liberties and human rights, however important they may be, can sometimes be limited. That is why the Québec Charter already provides for a process of reconciliation and balancing of these rights when they conflict with other rights or societal interests.²² However, the government's approach through Bill 1 is of a completely different order, as it encourages the courts to pit the 'collective rights' of a supposedly homogeneous majority group against individual rights, or even to give them precedence. This is in complete opposition to the very logic of charters of human rights and freedoms, which is to serve as a bulwark against the power of a state that claims to act in the name of the values or interests of a majority.

¹⁵ Members of this Council will inevitably be biased in their approach to human rights and freedom since Bill 1 provides that they would be selected "on the basis of their notable sensitivity and interest regarding the protection of the collective rights of the Québec nation as well as of the constitutional autonomy and fundamental characteristics of Québec." (BILL 1, Part III, *Québec Constitution Act*, section 6, al. 2).

¹⁶ Bill 1, Part III, *Québec Constitution Act*, section 4.

¹⁷ Bill 1, Part III, *Québec Constitution Act*, section 17.

¹⁸ Bill 1, section 22 et 30.

¹⁹ The CCLA is currently challenging the constitutionality of the *Act respecting the laicity of the State* before the Supreme Court of Canada. The following openletter summarizes our position on the laws in question: S. Arsénault, A. Bussi res McNicoll, S. Chebbi, J. Larochelle-Audet, P.-E. Rainville and A. Zaazaa, « Une attaque contre les droits de la personne et notre r seau public d ducation », *Le Devoir*, Nov. 4, 2025, en ligne au : <https://www.ledevoir.com/opinion/idees/930633/attaque-contre-droits-personne-notre-reseau-public-education>.

²⁰ Bill 1, Part I, *Québec Constitution Act*, section 7-15.

²¹ Bill 1, Part V, Other amendments, section 23.

²² *Québec Charter*, supra note 7, section 9.1 as currently drafted.

When the will of the majority alone becomes sufficient justification, minority populations often find themselves deprived of their rights, marginalized or persecuted. History offers many examples where the tyranny of the majority has led to profound injustices and violence against vulnerable groups. These are dramatic chapters in our history that led to the adoption of charters of fundamental rights and freedoms in Québec, Canada and elsewhere in the world.²³ As the saying goes, ‘Those who cannot remember the past are condemned to repeat it.’²⁴

F) Ranking of certain fundamental rights

Bill 1 stipulates that ‘in the event of a conflict between the exercise of the right to equality between women and men and the exercise of freedom of religion, the former shall prevail.’²⁵ Such a hierarchy of rights is, once again, contrary to the logic of charters, which require consideration of the context when reconciling or balancing seemingly conflicting fundamental rights.

Paradoxically, this hierarchy can marginalise certain women rather than protect them. When equality is selectively invoked to justify policies that stigmatize or target particular religious practices, the women concerned may be deprived of their autonomy and their ability to define their own emancipation. This approach, often referred to as token feminism, exploits feminist discourse without addressing the structural causes of inequality, and ultimately pits fundamental rights against each other rather than reconciling them.

Furthermore, this discourse, which focuses solely on the right to equality ‘between women and men’, ignores the existence and rights of 2SLGBTQIA+ communities and other marginalized communities. Such a framework based on gender binary excludes non-binary and gender-diverse individuals.

G) Weakening of abortion rights

By stipulating that the state must protect ‘women's freedom to have an abortion’²⁶, Bill 1 undermines the right to abortion, which is already protected by case law.²⁷

Legislating on this issue opens the door: since the Québec Constitution could be amended by a simple parliamentary majority, a future government could choose to restrict the right to abortion by amending this new section. The constitutional right to access abortion should not be restricted or weakened by the legislature.

²³ For example, the 1948 *Universal Declaration of Human Rights* was a direct response to the atrocities of World War II, particularly the Holocaust. See Amnesty International's publication “*The Universal Declaration of Human Rights*” online at: <https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/>

²⁴ Quote attributed to George Santayana, *The life of Reason*, 1905.

²⁵ Bill 1, Part V, section 21.

²⁶ Bill 1, Part 1, *Québec Constitution Act*, section 28.

²⁷ *R. v. Morgentaler*, [1988] 1 S. C. R. 30. *Tremblay v. Daigle*, [1989] 2 S. C. R. 530.

These issues are not new and have already been widely discussed in public and in the Québec Legislature in recent years.²⁸

Recommendations

The drafting of a constitution must be the result of prior consultations that are inclusive, pluralistic and detailed.

Such a text must seek to guarantee the fundamental rights of the population and to prevent any attempts to introduce an authoritarian regime.

Bill 1 does the opposite. It lacks political legitimacy and facilitates the authoritarian drift embarked upon by the Québec government.

This bill must be withdrawn by the government or, failing that, rejected in its entirety by the National Assembly.

²⁸ Louise Langevin and Christiane Pelchat, « Encore une atteinte au droit des femmes », *La Presse*, Oct. 13, 2025, online at : <https://www.lapresse.ca/dialogue/opinions/2025-10-13/projet-de-constitution/encore-une-atteinte-au-droit-des-femmes.php>.