

Calling on the Government of Quebec (Canada) to cease derogating from rights and freedoms and to take immediate measures to ensure strict oversight of the use of the notwithstanding clause

RECALLING that the FIDH is a federation comprised of 188 member organisations working to defend all civil, political, economic, social, and cultural rights,

RECALLING that Canada and the province of Quebec are bound by several international human rights instruments, including the two International Covenants,

RECALLING that the United Nations Human Rights Council, in its General Comment No. 29, and the International Covenant on Civil and Political Rights (ICCPR) unequivocally state that derogation from human rights is only possible in absolutely exceptional circumstances and under strict conditions,

CONSIDERING that the Quebec Charter of Human Rights and Freedoms, a quasi-constitutional instrument that forms the basis for the protection of rights in Quebec and that this year marks its 50th anniversary, and the current global political climate calls for better protection of rights and freedoms,

CONSIDERING that section 52 of the Quebec Charter contains a notwithstanding clause that allows the legislature to contravene a series of articles (including those on freedom of conscience, religion and association, the right to protest, the right to life, the right to equality, etc.) and that the very existence of the derogation clause is incongruous in that it considerably weakens the protection of rights and freedoms in Quebec,

CONSIDERING that the Quebec government has made use of the derogation clause on several occasions since 2019, through legislation that infringes on human rights, a significant democratic deficit, and in a local and global context marked by the rise of Islamophobia, systemic racism, identity-based nationalism, authoritarianism, and the weakening of human rights,

CALL ON the Government of Quebec to implement and comply with the following guidelines on the use of the derogation clause contained in the Quebec Charter,

- Any derogation must be absolutely exceptional, as limited in scope as possible, and temporary;
- Derogation from rights is only possible in cases of genuine emergency or exceptional public danger;
- The need for derogation must be clearly demonstrated and reviewed by the courts; and
- Rights deemed non-derogable under the ICCPR must be fully protected at all times.