

# Quebec government reinvokes “notwithstanding clause” to shield its chauvinist “secularism” law from court challenge

Hugo Maltais  
22 February 2024

Quebec’s right-wing, avowedly pro-big business Coalition Avenir Québec (CAQ) government has tabled legislation in the National Assembly renewing its use of the Canadian constitution’s anti-democratic “notwithstanding clause” to shield its discriminatory “state secularism” law—commonly known as Bill 21—from court challenge.

Bill 52 will ensure those provisions of Bill 21 that violate the democratic rights supposedly guaranteed in the Canadian constitution’s Charter of Rights and Freedoms, will remain in force for a further five years.

Bill 21 prohibits the wearing of religious symbols, including the hijab, Sikh turban and Jewish yarmulke, by public school teachers and government employees in “positions of authority.” It deprives fully-veiled Muslim women of the right to access essential public services such as health care. Justified in the name of “secularism,” Bill 21 also hypocritically authorizes the display of Catholic symbols, which are omnipresent in Quebec’s public spaces, on the pretext that they are part of Quebec’s “cultural heritage.”

When Bill 21 was passed in June 2019, the CAQ pre-emptively invoked the notwithstanding clause, because it knew full well that its legislation trampled on basic democratic rights and that its most contentious provisions would be struck down by the courts. Indeed, in April 2021, a Quebec Superior Court found that Bill 21’s ban on religious symbols violated the Charter’s guarantees of freedom of religion and expression and was having a “cruel” and “dehumanizing” impact on minorities, especially Muslim women. However, Justice Marc-André Blanchard nevertheless upheld the ban, ruling that the government’s invocation of the “notwithstanding clause” was “lawful.”

The 33rd and concluding section of Canada’s Charter of Rights and Freedoms, the “notwithstanding” clause grants Canada’s federal, provincial and territorial governments the power to pass laws that violate rights supposedly protected under the Charter, with the sole proviso that its use must be renewed by the requisite legislature every five years. Hence the need for the CAQ government to pass Bill 52 by next June.

In justifying the government’s suspension of Quebecers’ democratic rights, Bill 52’s sponsor, Jean-François Roberge, the CAQ Minister of the French Language and Minister responsible for Secularism, declared Bill 21 a “gesture of national affirmation” that

had forged a “kind of social consensus.” He added cynically that prior to the bill’s adoption, the “debate was fraught with verbal violence” and that “people [didn’t] feel safe.” In reality, it was Bill 21 that led to a marked increase in hate incidents against religious minorities and a feeling of insecurity among these populations, many of whom are immigrants and racialized.

The CAQ’s adoption of Bill 21, one of its first priorities on coming to power in October 2018, was the culmination of a decade-long agitation by the Quebec ruling class. In 2007, faced with a growing social crisis following the sweeping austerity measures imposed by successive Parti Québécois (PQ) and Parti Libéral du Québec (PLQ) governments, the ruling class created out of thin air a “controversy” over “reasonable accommodation”—that is, the supposedly excessive accommodations the Canadian Charter and the courts were forcing Quebec society to make to religious minorities.

Quebec nationalism, an ideological weapon used for decades by the French-speaking ruling elite to divide workers along ethno-linguistic lines, then took on a decidedly chauvinistic and xenophobic tinge. Since then, immigrants and religious minorities, especially Muslims, have been depicted by the political establishment and corporate media as a threat to the “Québécois way of life.”

Far from tempering this chauvinist campaign, the ruling class has intensified it in the five years since Bill 21’s adoption, with all immigrants increasingly targeted, regardless of their religion.

The political establishment created another controversy around Roxham Road, through which tens of thousands of migrants threatened with deportation from the US under Trump’s anti-immigrant witch hunt entered Canada to claim refugee status. Led by the CAQ and the pro-Quebec independence PQ, the entire establishment took to denouncing “illegal immigration,” echoing the xenophobic venom of the US Republican Party and pressing for a policy of mass deportations like that being implemented by Joe Biden’s Democratic Party administration.

The CAQ made immigration the central issue of its campaign for re-election in October 2022. Quebec Premier and CAQ head François Legault asserted that it would be “suicidal” for the “Quebec nation” to accept more immigrants, in addition to associating them with crime and violence. Immigration and Labour Minister Jean Boulet declared that “80 percent of immigrants don’t work,” a gross lie.

Last May, the *Journal de Montréal*, a right-wing tabloid owned by

the billionaire media mogul and former PQ leader Pierre-Karl Péladeau, published a hysterical dossier about a supposed “federalist plot,” overseen by Canadian Liberal Prime Minister Justin Trudeau, to destroy the “Quebec nation” through “massive” immigration.

Featuring far-right ideologue Mathieu-Bock Côté, the dossier presented a Quebec version of the fascist and anti-Semitic “Great replacement” theory, claiming the federal government was out to replace French-speaking Quebecers with a wave of English-speaking immigrants. Other portions of the voluminous dossier presented immigrants as the main, if not sole, source of many social problems, including the housing crisis.

Since then, this kind of demonization of immigrants, previously reserved for fascist groups such as La Meute or Atalante and a few far-right journalists and ideologues, has been taken up by the entire establishment. All major capitalist media outlets have published columns and editorials by supposedly respectable members of the bourgeois intelligentsia who uncritically repeat the fraudulent idea that immigrants are responsible for the housing crisis, the lack of specialized resources in schools and the broader impossibility of maintaining quality public services. This xenophobic incitement now occupies a central place in the discourse of the PQ, which is seeking to overtake the CAQ on the right with even more virulent anti-immigrant chauvinism.

In reality, the disastrous state of education, health care and public infrastructure is the result of the policies of the ruling class, above all the savage public service cuts they have implemented so as to channel even more resources into their already stuffed pockets, through tax cuts and billion-dollar subsidies to big business.

Moreover, massive population displacement is the result of the predatory actions of Canadian imperialism and its allies around the world, which have resulted in the destruction of entire societies through imperialist war, climate-change driven environmental devastation and the brutal economic restructuring diktats of the IMF and World Bank. Regions as diverse as the Middle East, Central Asia, Africa and Latin America have suffered this fate.

In its campaign to blame immigrants for the ills for which it is responsible, the ruling elite can count on the support of Québec Solidaire (QS), the party of Quebec’s pseudo-left.

From the outset, QS, which speaks for more affluent sections of the middle class, legitimized the ruling class’ chauvinist turn, calling its hysterical agitation over “reasonable accommodation” a “legitimate debate.” It even proposed its own version of the PQ’s chauvinist and discriminatory “Quebec Charter of Values” and came within a hair’s breadth of joining it in a formal election alliance in 2017.

QS later modified its stand, due to fear its alignment with an ever more pronounced Quebec chauvinism was dangerously undermining its credibility with left-wing minded workers and youth. It voted against Bill 21 and in the interceding years has on occasion reiterated its formal opposition to the sign-ban, although it has refused to mount any campaign against or join anti-Bill 21 protests.

Underscoring the fundamentally reactionary nature of Quebec nationalism, including its *indépendantiste* strain, QS first announced that it would support the CAQ’s Bill 52, its supposed opposition to the chauvinist religious sign ban notwithstanding. It justified this capitulation to the chauvinist agitation against immigrants and minorities, by claiming that it opposed “federal interference” in Quebec’s affairs and agreed with Legault and his CAQ that the Canadian Charter of Rights and Freedoms should not apply in Quebec because it was imposed unilaterally by the federal state.

After an outcry in its own ranks, QS announced that it would vote against Bill 52 unless the government agreed to subject Bill 21 to Quebec’s own Charter of Human Rights and Freedoms. This is a sham. The Quebec Charter is not enshrined in the constitution and can be permanently overridden at any time by a National Assembly vote. For good measure, the CAQ’s “secularism” law has included from the outset an exemption from the Quebec Charter that need never be renewed.

The increasing use of the notwithstanding clause is part of the sharp rightward turn of the entire political establishment in Canada.

The notwithstanding clause in the Canadian Charter is profoundly reactionary and anti-democratic, as well as contravening international law. Disturbingly unique in the world, it has often been cited with approval by the far-right Israeli government of Benjamin Netanyahu, which is currently waging a criminal and genocidal military campaign against the Palestinians in Gaza with the complicity of imperialist governments around the world, including that of Canada, and the entire Quebec elite, federalist and pro-independence.

As demonstrated by its use in October 2022 by Ontario’s Tory Premier, Doug Ford, to impose legislation criminalizing an impending strike by education workers, the primary target of the mechanism that allows for the overriding of Charter rights is the working class.

In Ukraine, Taiwan, and Gaza, Canadian imperialism is involved in wars and provocations that are part of a merciless struggle between the great powers for the conquest of markets, raw materials and spheres of influence.

These ruthless policies of war and austerity face enormous opposition among the population and can only be imposed by resorting to dictatorial forms of rule, alliances with the most reactionary political forces and the promotion of the far right.

This international trend finds expression in, among other things, the standing ovation given to a Nazi war criminal in the Canadian parliament. Further examples include French President Emmanuel Macron’s adoption of the anti-immigration policies of the far-right Rassemblement National, the German government’s implementation of key demands of the fascist Alternative for Germany, and the lack of consequences for Donald Trump and the other Republican leaders who took part in the failed January 6, 2021 coup.

The only social force capable of defending democratic rights in the face of the growing authoritarian and fascist threat is the international working class, mobilized in a political struggle against the profit system. The same crisis of the capitalist system that is driving the ruling classes to embrace war and dictatorship to safeguard their immense wealth is driving the working class to a historic struggle to assert its interests and transform society on the basis of an international socialist program.



To contact the WWSW and the  
Socialist Equality Party visit:

**[wsws.org/contact](https://wsws.org/contact)**