

Far-right Alberta government invokes “Notwithstanding Clause” for fourth time in two months, as onslaught on democratic rights accelerates across Canada

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Thumping their desks and shouting “Hear, hear!,” the legislators of Alberta’s governing far-right United Conservative Party (UCP) passed Bill 9 in the middle of the night on December 10 after using their majority to cut off debate and muzzle the opposition. The measure attacks the rights of transgender youth to receive appropriate medical care and participate in sporting activities and prevents medical professionals from providing them with certain treatments.

The manner of the bill’s passage was only fitting, as it tramples on basic democratic rights. Bill 9 invokes the Canadian constitution’s authoritarian “notwithstanding clause”—Section 33 of the Charter of Rights and Freedoms—to uphold the UCP government’s legal crusade against transgender youth.

Bill 9 shields three laws victimizing trans youth from constitutional and legal challenge, whether under Canada’s constitution, the Alberta Bill of Rights, or Alberta Human Rights Act. Its passage marks the fourth time in two months that Alberta Premier Danielle Smith has invoked the “notwithstanding clause,” which enables Canada’s federal, provincial and territorial governments to impose laws that violate fundamental constitutional rights supposedly guaranteed under the Charter of Rights and Freedoms.

In late October, the UCP government used the notwithstanding clause to illegalize a strike by 55,000 public school teachers and impose a government-dictated contract on them.

Till recently, the notwithstanding clause had almost never been used by governments, apart from Quebec’s. However, in recent years, as the Canadian ruling class has lurched ever further right, provoking mounting social opposition—above all from the working class—its deployment has been increasingly normalized. Indeed, hard-right and far-right political leaders, including Smith, Saskatchewan Premier Scott Moe, Ontario Premier Doug Ford and federal Conservative leader Pierre Poilievre, have vowed to bury once and for all any “taboo” surrounding its use.

Ford’s Tory government has thrice used the “notwithstanding clause,” most significantly in 2022 when it pre-emptively outlawed a strike by 55,000 poorly paid education support-staff workers. In 2023, Moe’s Saskatchewan Party government invoked the notwithstanding clause in response to a court ruling that paused implementation of its “pronoun law” targeting trans youth pending a determination of its constitutionality.

Quebec’s national-autonomist CAQ government has repeatedly

invoked Section 33 to shield chauvinist laws targeting immigrants and religious minorities and reinforcing French’s privileged status in the province’s public life, including Bill 21 which especially targets Muslim women.

Alberta’s newly adopted “Protecting Alberta’s Children Statutes Amendment Act” (Bill 9) stifles multiple lawsuits challenging the constitutionality of three anti-trans laws enacted in 2024—the Health Statutes Amendment Act, the Education Amendment Act and the Fairness and Safety in Sport Act.” These acts ban “gender affirming care” for trans youth under 16, prohibit transgender girls from participating as females in sport, and police the usage of trans youth’s pronouns and names in Alberta’s public schools.

The laws the Alberta government has enacted against trans youth constitute naked attacks on freedom of speech, association and expression, as well as the freedom of doctors to prescribe treatments for their patients based on science and their own conscience.

They constitute state-sanctioned discrimination against trans people in general, and as such legitimize right-wing agitation and violence against them.

The Alberta government’s attacks threaten working people’s lives. Trans youth are disproportionately at risk of suicide, with 82 percent reportedly having considered suicide, and 40 percent having actually attempted it. Parents of trans youth report that they are preparing to leave the province for the safety of their children.

Smith’s government has tried to justify the unjustifiable via appeals to pseudo-scientific hogwash and outright lies. Despite the fact that the Alberta Medical Association has declared that puberty blockers do not render those who take them infertile, Smith claimed that “children need to get of an age where they can understand if they’re going to make decisions that affect their ability to have children of their own one day...” Wallowing in medieval superstition, Smith, a far-right demagogue, has made that decision for them—and for their doctors!—based on her own bigotry and scientific illiteracy.

The *World Socialist Web Site* unequivocally condemns the state attack on transgender youth, who constitute an extremely vulnerable minority whose rights to self-expression, whether through the choice of their own names or participation in sport and to safe medical care must be defended by the working class as a whole.

But the Alberta government’s invocation of the notwithstanding clause under Bill 9 is not merely a question of trans rights, as

significant as they are. It is part of a broader drive by the entire ruling class towards authoritarian forms of rule. Canadian capitalism has the entire working class in its gun sights.

Through the scapegoating of vulnerable minorities, the ruling class seeks to divert social anger over mounting economic insecurity and divide the working class. The promotion of chauvinism and discrimination is also a means for it to politically mobilize the most reactionary and backward elements of the population.

With Bill 9, the UCP is throwing its fascistic base a meal of political red meat.

Smith and her UCP speak for the most ruthless section of the ruling class, including but not limited to Alberta's oil barons. On their behalf, her government is intensifying austerity, pushing for health care privatization and seeking to radically restrict if not scrap altogether equalization, the constitutionally mandated program under which Ottawa provides transfers to poorer provinces to ensure public and social services across the country meet a basic national standard.

Long identified with right-wing populism, Smith has become more "radical" in recent years as the ruling class in Canada and internationally has resurrected the far-right and reintegrated it into establishment politics. This is exemplified by Trump and his MAGA movement, but also the neo-Nazi AfD in Germany, Italy's Meloni and Marine Le Pen and the Rassemblement National in France.

Smith has courted Trump, flying to Washington and Mar-a-Lago to press for Alberta's full integration into his US imperialist "global energy dominance" strategy; and is openly fanning the far-right, Christian nationalist Alberta separatist movement. She was a staunch supporter of the fascist-instigated "Freedom" Convoy, which menacingly occupied downtown Ottawa at the beginning of 2022 with the aim of forcing the dropping of all remaining anti-COVID measures and the ousting of the Trudeau Liberal government. Her UCP government is systematically dismantling essential public health measures, in line with the demands of the anti-vaccination wing of the far-right.

Her government has fulminated against "out-of-control" immigration, blaming immigrants for the public healthcare and education crisis produced by decades of cuts and underfunding. In an ominous development, the UCP government is implementing a new driver's license system which singles out non-citizen drivers with an identifying mark on their license cards.

In this regard, the Carney government is not far behind. Just before the House of Commons rose for the holiday break this month, it approved a government bill that further restricts the right to asylum and beefs up border security so Canada can intensify its cooperation with Trump's anti-immigrant witch hunt.

In Canada as internationally, the ruling class's turn towards authoritarian forms of rule and cultivation of the far right is driven by ever-rising social inequality; its need to gut public spending to pay for an explosion in war budgets; and its fear that the upsurge of the class struggle will break out of the straightjacket imposed on it by the trade union bureaucracy.

Led by the Trudeau and Carney Liberal governments, the ruling class is moving to abolish workers' right to strike and negotiate collective agreements. On the basis of a fraudulent "reinterpretation" of Section 107 of the Canada Labour Code, Ottawa has arrogated the power to legalize strikes at will and used it over the past 16 months to break strikes by railway, port, Air Canada and postal workers among others. Quebec's CAQ has followed suit. Its Law 14 (Bill 89) gives the Quebec Labour Minister similar powers to unilaterally

illegalize worker job action, while greatly expanding the definition of "essential services" to limit public and private sector workers' right to strike.

The federal Liberal government and its provincial counterparts have systematically smeared and repressed opponents of Israel's imperialist-backed genocide of the Gaza Palestinians.

In the name of answering Trump's trade war and annexation threats, the Carney government and multiple provinces, including Ontario, Quebec, and British Columbia, have adopted or proposed laws giving them the power to suspend environmental and other regulations on major economic development projects. Not content with this, hidden deep inside the federal Liberal government's omnibus new budget bill, is legislation that would grant cabinet ministers the power to exempt any individual or company from any federal law—except the Criminal Code—for up to six years.

The notwithstanding clause is, constitutionally speaking, extremely unusual, a legal artifact which exists in no other democracy. It is essentially a "get out of jail free" card for any government that wishes to restrict the "freedom of conscience and religion, thought, belief, opinion, and expression, peaceful assembly, and association" set out in Section 1 of the Charter of Rights and Freedoms. The clause is considered a legislative model by none other than the genocidal fascist Israeli leader Benjamin Netanyahu, who covets a "Canadian solution" to override decisions by Israel's Supreme Court.

The Canadian state set up contains multiple other such anti-democratic escape hatches, in keeping with the reactionary political origins of the Canadian ruling class, which was always a bitter opponent of revolutionary progress. These include the so-called "reasonable limits" on basic democratic rights set out in Section 1 of the Canadian Constitution, and the sweeping "reserve powers" of the Crown, which the minority Harper Conservative government invoked in 2008 to shut down Parliament to stave off certain defeat. Even in times of class peace, every democratic feature of Canada's constitutional set up has a provisional character.

In all of their attacks on democracy, the ruling class and successive governments have relied on the political services of the trade union bureaucracy and the New Democratic Party to block working class opposition. The bureaucracy has suffocated and suppressed strikes such as the Canada Post and the Air Canada workers struggles, to name only the most recent. The social democratic NDP provides the capitalist ruling class with critical political support. It propped up the Trudeau government as it waged an imperialist proxy war against Russia in Ukraine and confined the anti-genocide movement to impotent moral appeals directed at the deaf ears of Canadian imperialism.

Workers must draw the necessary political conclusions and take up a struggle for their political independence from all factions of the bourgeoisie. The defence of democratic rights today must be led by a working class counteroffensive against capitalist austerity and war, and for the socialist transformation of socio-economic life.



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