

**BRIEF**

TABLED AT THE COMMITTEE ON INSTITUTIONS  
November 24, 2025

**Bill 1:  
A bill that threatens the  
balance of democracy**

As part of a general consultation on Bill 1, Québec Constitution Act, 2025



# Foreword

The Fédération interprofessionnelle de la santé du Québec-FIQ is a labour organization founded in 1987 that is dedicated to representing and defending the rights and interests of nearly 90,000 nursing and cardio-respiratory healthcare professionals. It represents the vast majority of nurses, licensed practical nurses, respiratory therapists and clinical perfusionists in health and social services institutions throughout Québec.

The FIQ is a feminist organization composed of nearly 90% women who are at once healthcare professionals, public and private network employees, and citizens who use these health services. It actively promotes and defends women's rights while also publicly denouncing iniquity.

A fervent defender of social gains, equality and social justice, the FIQ seeks to improve the working and practice conditions of its members, as well as the quality of care provided to the public. It is also a key pillar in defending and promoting Québec's public health network.

As first-hand witnesses of how the health system works every day, FIQ members have rich, diverse expertise thanks to their wide-ranging experiences with patients in the health and social services network.

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# Summary

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Bill 1 introduces major changes that raise serious concerns for the Fédération interprofessionnelle de la santé du Québec-FIQ. Far from strengthening democracy, this bill threatens the rule of law by weakening checks and balances, limiting access to the courts, and introducing vague concepts such as the 'collective rights of the Quebec nation,' which could restrict the rights of women, minorities, and Indigenous peoples.

Certain provisions, such as the 'parliamentary sovereignty provision', deprive the courts of their essential role of reviewing the legality and constitutionality of laws, thereby undermining the separation of powers. The creation of a non-judicial Constitutional Council, the strengthening of derogation clauses, and legislative amendments aimed at imposing an interpretation contrary to Quebec's tradition of respect for human rights and freedoms accentuate this risk. These measures could lead to significant setbacks in terms of fundamental rights, including the right to association, the right to strike, pay equity, and access to health care.

The FIQ is also concerned about the lack of recognition of the ancestral rights of First Nations, the Inuit and Métis, as well as the danger of including the right to voluntary termination of a pregnancy in the constitutional law, which could reopen debates and weaken a right that is already protected. Certain provisions also threaten federal healthcare funding and promote the privatization of the public network without any democratic debate.

The FIQ calls on the Committee to take action to protect fundamental rights, universal access to care and the integrity of our democratic system.

# Introduction

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The Fédération interprofessionnelle de la santé du Québec–FIQ is intervening today because it is our duty to take a position on this bill, which has devastating effects on the rule of law. As a feminist organization representing nearly 90,000 healthcare professionals, we are worried about the government's clear intentions to make significant changes to the governance and fundamental principles that ensure the survival of our liberal democracy. This bill weakens rather than strengthens the rights of women and minorities.

What's more, at a time when we are seeing the weakening of democracies, we are particularly concerned by the erosion of fundamental liberties and human rights, including the incessant attacks on the checks and balances that ensure the free nature of our society. Bill 1, which provides for, among other things, the prohibition and limitation of the right to challenge the constitutionality of a law applicable in Quebec in the courts, threatens the rule of law to such an extent that some perceive this document as a legislative coup d'état.<sup>1</sup> The project of drafting a constitution is certainly legitimate, but it requires extensive and serious consultations prior to its submission in order for such a societal project to have any legitimacy and reflect all members of the society it is supposed to represent.

Unfortunately, it must be noted that such consultations did not take place prior to the drafting of this constitution, which irreparably taints the process and cannot be redeemed by consultations aimed at obtaining retrospective approval for the vision of a single party. We must remain vigilant against the exploitation of the right to self-determination and the constitution for anti-democratic purposes, particularly when this jeopardizes our legal rights.

This bill is one of a series of bills that, in the name of the 'collective rights of the Quebec nation', muzzle the voice of citizens, a voice that is essential in a democracy. Bill 1 serves as a Trojan horse to dismantle, piece by piece, the countervailing powers of civil society, particularly unions, by weakening the only tools that enable them to compel the government to respect their rights, namely the courts and the charters of rights and freedoms. In short, the FIQ is concerned about the erosion of fundamental rights and freedoms, including collective rights such as freedom of association, as well as the exploitation of the right to self-determination for the benefit of a general right of the majority that does not take into account marginalized groups and weakens the rule of law that is supposed to protect minorities against the excesses of the majority.

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<sup>1</sup> PILON-LAROSE, Hugo. "Un 'coup d'État législatif, estime un professeur de droit,'" *La Presse*, [Online], [<https://www.lapresse.ca/actualites/politique/2025-10-15/projet-de-constitution-du-quebec/un-coup-d-etat-legislatif-estime-un-professeur-en-droit.php>] (viewed on November 19, 2025).

This brief is intended to formulate recommendations to the Committee on Institutions to protect the fundamental rights of Quebeckers, and more specifically human rights such as freedom of association, the rights of women, minorities and First Nations. Furthermore, the FIQ is making several recommendations to protect our democracy, preserve our rule of law, and participate in public policy discussions so that our society remains free and democratic.

# Democratic principles and hierarchy of laws in Quebec

## 4

As a liberal democracy, the Quebec nation is governed by the principles of the rule of law and the separation of powers. Under the rule of law, no one is above the law and it applies to everyone, including nation leaders, in order to prevent authoritarian leanings. To prevent the concentration of power in the hands of a single person or group, given the potential for abuse, governing power is divided into three separate branches: the legislative, executive, and judicial branches.

The state is therefore not based solely on the will of its leaders, but on the law. This has led to the establishment of the rule of law, where both the democratic rights of citizens and the fundamental rights of vulnerable individuals are protected. The legislative branch is composed of elected representatives who vote on laws, while the executive branch enforces these laws and issues regulations in accordance with the powers conferred upon it by law. Furthermore, under the principle of responsible government, members of the executive, such as ministers and the premier, sit in the National Assembly and are accountable to the province's elected representatives for their management of the government.

Unlike other political systems in which leaders are not accountable to anyone and do not face any checks and balances, in Quebec, the actions of ministers, the premier and the government are monitored by legislative power by way of the other elected officials of the National Assembly.

But what about the legislative branch's power to oversee the executive branch when the ruling party also controls the majority of seats in the National Assembly? And what about minority and marginalized groups who will never have enough numbers to benefit from a majority?

To counteract this potential tyranny of the majority to the detriment of the most disadvantaged and to avoid repeating historical atrocities committed in the name of protecting the nation, our society has established a hierarchy of laws that enshrines fundamental human rights and freedoms in the constitution or quasi-constitutional laws. These rights and freedoms are inspired by those recognized over generations, from the Magna Carta to the present day, but whose importance had to be reaffirmed in the wake of the atrocities of the Second World War, which led to the adoption of the *Universal Declaration of Human Rights* by the UN. This declaration aimed to ensure that certain human rights are universal and do not depend solely on the will of the majority.

Wanting to also protect such rights, in 1975, Quebec created the *Charter of Human Rights and Freedoms* (hereafter *Quebec Charter*), inspired by the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights* and, of course, the *Universal Declaration of Human Rights*. This charter applies both to relations



with the government and to private relations between Quebec citizens. Quebec also decided that the Quebec Charter would occupy the top of the legislative hierarchy in the province and that all other laws passed by the National Assembly must comply with it. However, since it is an ordinary law, despite its quasi-constitutional scope, the Quebec Charter can be amended by the legislature by a simple majority of the members of the National Assembly.

At the federal level, inspired by the Quebec Charter and global trends in rights and freedoms, the Canadian government incorporated a Charter of Rights and Freedoms into the Canadian Constitution in 1982, thereby incorporating most of the rights protected by the Quebec Charter. As an integral part of the Canadian Constitution, which sits at the top of the hierarchy of laws, all Canadian and Quebec laws must comply with the *Canadian Charter of Rights and Freedoms* (hereafter 'Canadian Charter').

The role of ensuring that the rights and freedoms conferred by the charters are respected thus falls to the judiciary. Indeed, one of the most important foundations of a liberal democracy is a judiciary that is impartial and independent of the legislative and executive branches of government.

This independence allows the courts to play their role as a counterweight to power, ensuring that the legislature respects the Constitution and fundamental principles of justice. It also allows the courts to exercise their power to oversee and review the legality of government decisions.

In Canada, this power of judicial oversight and review is conferred on the superior courts by the Canadian Constitution. This power is also confirmed by the *Code of Civil Procedure of Québec*,<sup>2</sup> which recognizes the Superior Court of Québec as the provincial court that may exercise this power, jointly with the Quebec Court of Appeal.

For many years, this rule of law has protected the fundamental rights of Quebecers while respecting the general well-being of Quebec citizens. This balance has enabled Quebec society to progress while respecting the rights and freedoms of marginalized and minority groups. This social solidarity and constant defence of human rights have led to significant advances in women's rights, pay equity, workers' rights, sexual diversity and the fight against discrimination.

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<sup>2</sup> Section 34, C.p.c.

However, Bill 1 upsets this balance by asserting the supremacy of the legislative branch over all other branches of our democratic system, thereby weakening the only branch that is completely independent of the executive and legislative branches: the judicial branch.

Moreover, by adding the undefined term ‘collective rights of the Quebec nation’<sup>3</sup> that would be ‘intrinsic and inalienable,’ when the Quebec Charter already protected the ‘general well-being of the citizens of Quebec,’ the bill introduces a new, undefined concept of collective rights, which could be used to further limit the fundamental rights already protected by the charter. Furthermore, the bill states that these new ‘collective rights’ must be interpreted broadly, which implies an even greater limitation of the scope of fundamental rights such as freedom of association or the right to equality for marginalized persons.

Such an addition runs counter to the very purpose of the *Charter of Rights and Freedoms*, which is to protect individuals from abuse by the state and the majority.

Indeed, the collective rights of the majority are already protected by the National Assembly, which can pass laws with a simple majority of elected members. Adding to this power only diminishes that of minorities and marginalized groups, who do not have the luxury of a legislative majority. This also applies to very large but still discriminated against and minority groups, such as women, who will see their rights assessed in light of the ‘collective rights of the nation.’ It would therefore be more difficult to succeed in legal action concerning pay equity or anti-discrimination, since the importance given to the majority is reinforced by this bill, while that of fundamental rights is diminished.

This could also have a significant impact on fundamental rights that are also collective, such as the freedom of association and the right to strike, which will have to be interpreted in light of the ‘collective rights of the nation.’

However, the current charters already offer protections for the general well-being of Quebecers by allowing for the limitation of fundamental rights if justified in a free and democratic society, i.e., if there is:

- ♦ A real and urgent objective;
- ♦ A rational connection between the measure and the objective sought;

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<sup>3</sup> Bill 1: Section 1 (Preamble, sec. 7 and 48 of the *Québec Constitution Act*, 2025), section 2 (Preamble of the *Act respecting the constitutional autonomy of Quebec*), section 3 (sec. 3 al. 2 and sec. 6 of the *Act respecting the conseil constitutionnel*), sections 20 and 25.

- ♦ Minimal infringement on the protected right;
- ♦ The measure is proportional.

These criteria are sufficient to ensure a balance between fundamental rights and other rights of citizens. Breaking this balance jeopardizes our rule of law and weakens our system of protection of rights and freedoms.

This bill is one of a series of bills passed in recent years aimed at eroding the fundamental rights of groups whose opinions are opposed to those of the government in power.

# Voluntary termination of pregnancy: a right to be protected

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As a labour organization representing nearly 90% women, the FIQ has always defended freedom of choice. Quebec women have fought over time to obtain the right to freely control their own bodies and make their own decisions about their reproductive health. The FIQ, as a feminist labour organization representing healthcare professionals, has fought alongside civil society organizations for women's right to voluntary termination of pregnancy (VTP), a major step forward for all women in Quebec.

However, the inclusion of section 29 as a founding principle in Bill 1 raises concerns. Even though the government has expressed its desire to 'protect women's freedom to voluntary termination of pregnancy,' this inclusion opens the door to abuses that could have the opposite effect. It is clear that once VTP is enshrined in the law, pro-life groups will attempt to define the term and may, among other things, challenge this right in court or seek to restrict it, in particular by limiting VTP to a few weeks.

As the Fédération du Québec pour le planning des naissances (FQPN) points out, this addition carries more risks of setbacks to abortion rights than advances.<sup>4</sup> In 2023, women's groups in Quebec mobilized around this and succeeded in getting then Minister of the Status of Women, Martine Biron, to back down, as she also wanted to legislate the right to abortion by including it in a bill.<sup>5</sup>

Considering that women's right to control their own bodies is protected by the *Civil Code of Québec* and by Supreme Court case law since the Tremblay v. Daigle ruling, and that VTP is no longer a criminal offence in Canada since the *Morgentaler ruling*, the FIQ recommends removing any mention of VTP from the bill so as not to reopen the legal debate. If the minister's wish is to allow women to have abortions according to their needs, he should focus his efforts on the access and availability of this care for all, including those living in remote areas. In this regard, we reiterate the comments made by Dr. Geneviève Bois, according to whom some regions still have no service points, or only one or two.<sup>6</sup> Government action should therefore be geared towards facilitating access for all, rather than including the right to abortion in

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<sup>4</sup> FQPN. *La FQPN exige le retrait de l'article sur l'avortement du projet de loi constitutionnelle*, [Online], [<https://fqpn.qc.ca/nouvelles/la-fqpn-exige-le-retrait-de-l'article-sur-l'avortement-du-projet-de-loi-constitutionnelle/>] (viewed on November 19, 2025).

<sup>5</sup> DUVAL, Véronique. « Le droit à l'avortement menacé s'il est enchâssé dans la constitution? », *Radio-Canada*, [Online], [<https://ici.radio-canada.ca/nouvelle/2199587/avortement-grossesse-sante-femmes-choix-loi>] (viewed on November 19, 2025).

<sup>6</sup> COLLÈGE DES MÉDECINS DU QUÉBEC. « Droit à l'avortement, ne baissions pas la garde! », [Online], [<https://www.cmq.org/fr/informer-sante/infocmq/soins/droit-avortement>] (viewed on November 19, 2025).

constitutional law, which would pave the way for a rollback of women's rights.

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**Recommendation 1****The FIQ recommends:**

- ♦ Removing section 29 of the *Québec Constitution Act, 2025* from Bill 1.

# Absence of Indigenous peoples and minority groups

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Upon reading the sections that form the founding principles of this bill, the FIQ was surprised to note the virtual absence of provisions concerning First Nations, Inuit and Métis peoples.<sup>7</sup> Need we remind you that all these people are part of Quebec? According to the Federation, the government has missed a great opportunity to make amends for past mistakes by consulting them adequately and clearly recognizing, for example, their ancestral rights, their rights as nations, their languages and their cultures.

Furthermore, section 23 of the bill's *Québec Constitution Act*, 2025 affirms that the territory of Quebec is indivisible, thereby denying First Nations the right to self-determination.

The Federation also deplores the fact that the rights and freedoms of minority groups (visible or ethnic) are weakened by the *Constitution Act*, even though they contribute to the advancement and richness of Quebec. In this regard, it should be remembered that without the contribution of these individuals, parts of Quebec society would not have been able to function during the COVID-19 pandemic. The rights of these groups, whether they have been established here for a long time or more recently, must be protected and strengthened in a project as important as the constitution of Quebec.

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## Recommendation 2

### The FIQ recommends:

- ♦ Holding extensive consultations with First Nations, Inuit and Métis peoples;
- ♦ Recognizing their ancestral rights and their right to self-determination.

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<sup>7</sup> ANDRÉ, Nadir. « Une constitution pour le Québec? L'affront de trop », *Radio-Canada*, [Online], [<https://ici.radio-canada.ca/espaces-autochtones/2199544/constitution-quebec-autochtones-nadir-andre>], (viewed on November 19, 2025).

# A law that threatens access to justice

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The *Act respecting the constitutional autonomy of Quebec* contains numerous provisions that are of concern to various civil society actors, as they significantly limit and impede their ability to take legal action to assert their rights. These provisions are likely to have disastrous consequences for the democratic system and create an imbalance that opens the door to authoritarian abuses by the state.

First, with regard to the introduction of a declaratory provision<sup>8</sup> stating that a law protects the Quebec nation and that its operability, constitutional applicability or validity cannot be challenged by any institution or organization under penalty of financial sanctions, we believe that this provision constitutes a significant departure from the norm. It is important to highlight that the writing of the text causes confusion regarding the application of this provision to certain organizations, due to the room for interpretation of the terms “or other sums derived from levies, taxes, duties or penalties collected under an Act of Quebec [...]”. Should we understand that union dues, which are levied in accordance with the Labour Code, would be covered by this provision? Or should we consider that the provision only applies to the list of organizations provided in the annex to the bill? The fact remains that the vagueness of this provision could lead to different applications, which is problematic, especially when it comes to a right as fundamental as the right to take legal action.

In the health sector, we have to deal with the fact that the employer is the government and that it is this same government that can pass laws governing our members’ working conditions. How, then, can we defend our members’ interests if a law or decree providing for working conditions is subject to this declaratory provision? How can we reconcile freedom of association and the right to collective bargaining with the government’s clear interest in protecting the ‘collective rights of the Quebec nation’? We believe it is essential that this declaration of protection of the nation be open to debate when its constitutional validity is challenged, especially when it conflicts with fundamental rights and freedoms protected by the charters.

Furthermore, we cannot ignore the fact that this provision, beyond the unjustified infringement of certain organizations’ right to take legal action, constitutes a clear form of intimidation against the directors and administrators of these organizations in their decision-making regarding a challenge to a provision or law covered by the declaratory provision and the threat of financial penalties. One can only criticize the numerous bills recently presented in the National Assembly that include unreasonable punitive and dissuasive provisions, such as certain sections of the *Act mainly to establish*

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<sup>8</sup> Section 5 of the *Act respecting the constitutional autonomy of Quebec* introduced by section 2 of Bill 1.

*collective responsibility with respect to improvement of access to medical services and to ensure continuity of provision of those services,*<sup>9</sup> or of Bill 3,<sup>10</sup> *An Act to improve the transparency, governance and democratic process of various associations in the workplace.*

This sweeping approach to protecting the Quebec nation, without the possibility of recourse to the courts, and the intimidation of administrators and directors through financial penalties, constitutes a real attack on the mechanisms of checks and balances and cannot be justified in a free and democratic society. The Barreau du Québec<sup>11</sup> has denounced this attack and we join our voice with theirs on this issue.

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### Recommendation 3

#### The FIQ recommends:

- ♦ Removing section 5 of the *Act respecting the constitutional autonomy of Quebec* from Bill 1.

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<sup>9</sup> Sections 141 to 163 and 173.

<sup>10</sup> Sections 7 and 9 of Bill 3, *An Act to improve the transparency, governance and democratic process of various associations in the workplace.*

<sup>11</sup> BARREAU DU QUÉBEC. Press release from November 13, 2025, [Online], [\[https://www.barreau.qc.ca/fr/salle-presse/communiqués-2025/barreau-craint-erosion-etat-droit-quebec/#:~:text=Montr%C3%A9a%2C%20le%2013%20novembre%202025,nuisibles%20%C3%A0%20notre%20r%C3%A9gime%20d%C3%A9mocratique.\]](https://www.barreau.qc.ca/fr/salle-presse/communiqués-2025/barreau-craint-erosion-etat-droit-quebec/#:~:text=Montr%C3%A9a%2C%20le%2013%20novembre%202025,nuisibles%20%C3%A0%20notre%20r%C3%A9gime%20d%C3%A9mocratique.)



# Parliamentary sovereignty provision: a denial of justice

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Another authoritarian move: section 9 of Chapter II of the bill<sup>12</sup> introduces a new extended derogation clause, called the ‘parliamentary sovereignty provision’, which prohibits any appeal for judicial review of a law when this provision is included in it. This measure thus removes from the courts their power to oversee and review the legality and constitutionality of laws, a power that is essential to the well-being of our democracy.

Unlike the derogation provision in the Canadian Charter, this clause does not set a maximum duration for the derogation of rights and freedoms, nor does it set a date by which the derogation must be renewed by the National Assembly.

Furthermore, unlike the derogation provisions already included in the Quebec Charter and the Canadian Charter, this new provision completely prohibits recourse to the courts, whereas the current provisions allow for such recourse and leave it to the courts to verify whether the conditions for applying the derogation clause have been met and, if necessary, to declare the law unconstitutional or inoperative.

Preventing citizens and civil society actors from ever going to court to challenge a law constitutes a major setback for rights and freedoms, unworthy of a free and democratic society that has long been the pride of Quebecers.

Such a prohibition on recourse to the courts constitutes a denial of justice that intentionally weakens the judiciary, violates the separation of powers, renders the defence of rights and freedoms protected by the Quebec Charter illusory, and jeopardizes the free and democratic character of Quebec society.

The primacy of law and the rule of law are the only bulwarks protecting Quebecers against the abuse of their rights. Consequently, our right to access the courts is fundamental and must remain inalienable.

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## Recommendation 4

### The FIQ recommends:

- ♦ Removing section 9 of the *Act respecting the constitutional autonomy of Quebec* from Bill 1.

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<sup>12</sup> Section 9 of the *Act respecting the constitutional autonomy of Quebec* introduced by section 2 of Bill 1.

# For a universal and accessible public network

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Bill 1 raises concerns for the Federation regarding the right to health and access to healthcare. In Quebec and Canada, the right to health is protected by the *Canada Health Act* and by laws such as the *Public Health Act*, the *Charter of Human Rights and Freedoms*, the *Act respecting prescription drug insurance*, the *Hospital Insurance Act*, and the *Act Respecting Health Services and Social Services*. Thus, the right to health is subject to indirect justiciability. The principles of public administration, universality, transferability, accessibility and comprehensiveness are derived from the *Canada Health Act*. These principles are what keep Quebec's public network intact, despite attacks from all sides, including from the Quebec government.

For Quebec, federal health funding is essential, not only because it is the main source of funding, but also because it guarantees the principles of free healthcare enshrined in the *Canada Health Act*. These principles are dear to the Federation, because Quebec's public healthcare system is essential to ensuring that the population has access to care based on their needs and not their ability to pay. Furthermore, for the FIQ, universal access to care in a strong public system is one of the means of moving toward a more just and equitable society.

Thus, provisions allowing the Quebec government to prohibit organizations from receiving federal funds, participating in communications or policy development activities of a federal institution, participating in federal parliamentary proceedings, participating in the development of federal regulations or any other situation flagged by the government, as well as suspending or terminating any agreement with a federal institution when it concerns a provincial jurisdiction, directly jeopardize the right to health of Quebecers and promote the acceleration of the privatization of the health and social services network, without parliamentary debate.

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## Recommendation 5

### The FIQ recommends:

- ♦ Removing section 17 of the *Act respecting the constitutional autonomy of Quebec* from Bill 1.

# Constitutional council: a threat to the rule of law

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The creation of a Constitutional Council in Bill 1, which is intended to be a non-judicial body responsible for advising the National Assembly on the interpretation of the constitution of Québec or on the consequences for Québec of a federal initiative, is modelled on the French Constitutional Council. However, the so-called 'hybrid' nature of Québec's legal tradition, marked by the dynamic between the civil law tradition and the common law tradition, sets us apart from the French system. The evolution of this dynamic has led to a very different approach and analysis of disputes involving fundamental rights in Québec compared to France.

One example is the differences in the legislative ordering of fundamental rights in France, which are reflected in a collection of successive legislative texts, in addition to the case law developed by three main courts (the Constitutional Council, the Council of State and the Court of Cassation).<sup>13</sup> In Canada and Québec, on the other hand, the existence of the Canadian Charter and the Québec Charter, as well as the unity ensured by the Supreme Court of Canada and the Québec Court of Appeal, guarantee stability and a simplification of the sources of interpretation of fundamental rights.

Entrusting the interpretation of the constitution and the charters to a body of the National Assembly, in our view, usurps the power currently entrusted to the courts to interpret these supra-legislative texts that enshrine fundamental rights. The nature of disputes concerning the interpretation of fundamental rights generally raises complex issues and requires in-depth factual and legal analysis in order to resolve them. What procedural guarantees, or even what scope of the opinion entrusted to the Constitutional Council, can civil society expect? Considering that Bill 1 provides that the deliberations of the Constitutional Council will be sealed for a period of 25 years, how will we be able to understand the reasoning behind these opinions?

Furthermore, the possible appointment of individuals with no legal training to interpret constitutional texts raises serious concerns about the nature of the opinions that will be issued and their legal value. Moreover, the requirement that members of the Constitutional Council be selected based on their sensitivity to the protection of the 'collective rights of the nation' and constitutional autonomy also raises questions about their impartiality and respect for human rights.

There is also the question of the impact of such an opinion if a decision rendered by the Supreme Court of Canada concerns a right protected by

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<sup>13</sup> DAVID, Gilles. *Les 25 ans de la Charte canadienne des droits et libertés – Le rôle du juge face aux droits fondamentaux garantis par des normes fondamentales : France-Canada, une vision croisée*, Éditions Yvon Blais, 2007, p.125-161.

both the Canadian Charter and the Quebec Charter: what precedence would this opinion have? The desire to preserve overall consistency between the various sources of fundamental rights, which have led to significant progress in human rights, particularly with regard to freedom of association, argues, in our view, for the courts to maintain their crucial role of overseeing the legislative interpretation of the charters and reviewing the constitutionality of laws.

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**Recommendation 6****The FIQ recommends:**

- ♦ Removing section 3 from Bill 1 (*Act respecting the conseil constitutionnel*).

# Legislative changes: a concerning setback

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The legislative amendments put forward in Bill 1 include a series of changes that reflect the government's mistrust of the courts or, through the addition of interpretive rules, disregard the unique nature of the Quebec legal system in favour of a tradition that is divorced from reality and does not correspond to our system.

In addition to the proposed amendments affecting the ability to bring a matter before the courts that would challenge the constitutionality of a law covered by the parliamentary sovereignty provision, the government is adding legislative criteria to the *Code of Civil Procedure* for granting a stay of application of a law<sup>14</sup> when its operability, constitutional applicability or validity is challenged. These amendments reveal, in our view, the government's lack of trust in the common law courts to review such a matter.

While it's true that the *Code of Civil Procedure* does not explicitly set out the conditions for obtaining a stay of application of a law, the courts know these criteria perfectly well and know how to show the necessary deference to the legislator. Recently, the Quebec Court of Appeal<sup>15</sup> looked into the applicable criteria for suspending a law during proceedings and reiterated that there is a presumption that the contested law was adopted for the public good and that it pursues a valid objective for the public interest. The Court of Appeal's reaffirmation of the criteria and analysis demonstrate, in our view, the importance the courts attribute to this issue and the significant burden of proof that litigants face when they request the suspension of legislative provisions. In this light, the proposed amendment is useless and only reinforces the government's unjustified mistrust in common law courts.

Moreover, by seeking to unilaterally amend the Canadian Constitution to enshrine only the civil law tradition of the state<sup>16</sup> and to amend the *Interpretation Act*<sup>17</sup> to stipulate that laws must be interpreted in accordance with this tradition, the bill seems to seek to sidestep current human rights case law and to encourage the courts to ignore these precedents in their interpretations of the Canadian and Quebec Charters of Rights and Freedoms. Such a narrow interpretation of the Quebec legal tradition could lead to significant setbacks in human rights and occasion the loss of hard-won gains in the courts, such as the right to strike (*Saskatchewan ruling*),<sup>18</sup>

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<sup>14</sup> Section 31, Bill 1.

<sup>15</sup> *Procureur général du Québec c. Gaspé Énergies inc.*, 2025 QCCA 629.

<sup>16</sup> Section 10, Bill 1.

<sup>17</sup> Sections 38 and 39, Bill 1.

<sup>18</sup> *Saskatchewan Federation of Labour c. Saskatchewan*, 2015 CSC 4.

the freedom of association (*Mounted Police ruling*),<sup>19</sup> the right to accommodation (disability), pay equity, equal access programs (women and minorities) and several other fundamental rights.

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**Recommendation 7****The FIQ recommends:**

- ♦ Removing sections 10, 38 and 39 of Bill 1.

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<sup>19</sup> *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 1 SCR.

# Conclusion

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The FIQ would like to thank the members of the Committee on Institutions for reviewing this brief and the recommendations therein. The Federation hopes that they will be taken into consideration by the members of the Committee in order to not violate the fundamental rights of Quebec citizens. It is the duty of elected officials to represent the interests of their constituents and to safeguard the common good by protecting the interests, and of course, the fundamental rights of all members of our society. This bill infringes upon your primary role as guardians of the integrity of our democratic institutions.

This brief aligns with the Federation's mission to represent the interests of its 90,000 members: nurses, licensed practical nurses, respiratory therapists and clinical perfusionists. Bill 1, as presented, contains highly concerning elements, especially for women and minorities. We cannot remain silent on what we see as a setback of fundamental rights and a shift toward authoritarianism.

# Recommendations

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## Recommendation 1

### The FIQ recommends:

- ♦ Removing section 29 of the *Québec Constitution Act, 2025* from Bill 1.

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## Recommendation 2

### The FIQ recommends:

- ♦ Holding extensive consultations with First Nations, Inuit and Métis peoples;
- ♦ Recognizing their ancestral rights and their right to self-determination.

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## Recommendation 3

### The FIQ recommends:

- ♦ Removing section 5 of the *Act respecting the constitutional autonomy of Quebec* from Bill 1.

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## Recommendation 4

### The FIQ recommends:

- ♦ Removing section 9 of the *Act respecting the constitutional autonomy of Quebec* from Bill 1.

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## Recommendation 5

### The FIQ recommends:

- ♦ Removing section 17 of the *Act respecting the constitutional autonomy of Quebec* from Bill 1.

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## Recommendation 6

### The FIQ recommends:

- ♦ Removing section 3 from Bill 1 (*Act respecting the conseil constitutionnel*).

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## Recommendation 7

### The FIQ recommends:

- ♦ Removing sections 10, 38 and 39 of Bill 1.