

Après 25 ans
LA CHARTE
QUÉBÉCOISE
des droits et libertés

Review of Recommendations

REVIEW OF RECOMMENDATIONS

CHAPTER 1 RIGHTS AND FREEDOMS

RECOMMENDATION 1

That the economic and social rights recognized in sections 39 to 48 of the Charter be reinforced in a triple approach:

- by adding a general provision, before section 39, stating that all legislation must be consistent with the essential content of economic and social rights;
- by including sections 39 to 48 in the sections of the Charter that take precedence over other legislation, as provided for in section 52;
- by bringing the precedence clause into force gradually, limited at first to subsequent legislation, and then extended to existing legislation.

RECOMMENDATION 2

That the right to a sufficient dwelling be explicitly recognized as a component of the right to social and financial measures that ensure an acceptable standard of living, guaranteed by section 45 of the Charter.

RECOMMENDATION 3

That the Charter recognize the right of every person to benefit from the programs, goods, services, facilities and conditions that will allow that person to enjoy the highest state of physical and mental health of which the person is capable.

RECOMMENDATION 4

That the Charter recognize the right to measures and programs designed to promote, among other things, the highest possible level of employment, access to employment and vocational training and insertion.

RECOMMENDATION 5

That section 46 of the Charter also recognize the right to conditions of employment that respect workers' dignity and psychological integrity.

RECOMMENDATION 6

That the right to education, including human rights education, be recognized by the Charter.

RECOMMENDATION 7

That section 41 of the Charter no longer impose a positive obligation on public schools concerning religious education.

RECOMMENDATION 8

That section 43 of the Charter also recognize the right of persons belonging to linguistic and religious minorities, with the other members of their group, to profess and practise their own religion and to use their own language.

RECOMMENDATION 9

That the right of families to support measures be recognized in the Charter.

RECOMMENDATION 10

That persons with disabilities be considered a target group within the meaning of the *Act respecting equal access to employment in public bodies*;

That section 86 of the Charter be amended to allow this recommendation to be implemented.

RECOMMENDATION 11

That the Charter prohibit public incitement of discrimination.

RECOMMENDATION 12

That the advisability of including the right to access to information as a fundamental right and freedom be considered.

RECOMMENDATION 13

That section 3 of the Charter explicitly recognize, as a part of the fundamental freedom of association, the right to organize unions and to be a member of a union to protect one's interests;

That the right, for legally accredited workers' associations, to negotiate conditions of employment and to strike, where applicable in a manner consistent with essential services, be recognized in the Chapter on economic and social rights.

RECOMMENDATION 14

That the Preamble of the Charter underline the existence, in Québec, of Native peoples with their own identity and specific rights;

That the Charter state that Québec recognizes, in exercising its constitutional competencies, the right of Native peoples to self-determination, and the obligation to define their specific rights in collaboration with the Native peoples.

CHAPTER 2

REMEDIES IN THE EVENT OF DISCRIMINATION OR EXPLOITATION

RECOMMENDATION 15

That subparagraph 2 of the first paragraph of section 77 of the Charter be repealed;

That subparagraph 4 of the second paragraph be amended to authorize the Commission to refuse or cease to act if the victim or complainant has, on the basis of the same facts, personally pursued another remedy.

RECOMMENDATION 16

That section 111 of the Charter be amended to indicate that the Human Rights Tribunal has jurisdiction in cases of discrimination or harassment, notwithstanding any inconsistent provision of another Act.

RECOMMENDATION 17

That section 111 of the Charter be amended by the addition of a paragraph stating that, notwithstanding sections 428 and 442 of the *Act respecting industrial accidents and occupational diseases*, the Tribunal may, in the areas under its jurisdiction, order the payment of moral damages and punitive damages.

RECOMMENDATION 18

That section 84 of the Charter allow a complainant to act personally before the Tribunal in cases where the Commission has ceased to act for the complainant.

CHAPTER 3

AUTONOMY OF THE COMMISSION

RECOMMENDATION 19

That the Commission des droits de la personne et des droits de la jeunesse be placed under the authority of the National Assembly of Québec as regards all aspects of its management, including the financial aspects.

CHAPTER 4

CONSTITUTIONALIZATION OF THE CHARTER

RECOMMENDATION 20

That a preliminary provision of the Charter state that the Charter is a fundamental law of a constitutional nature;

That section 52 state in positive terms that the Charter takes precedence over other legislation, subject to the possibility of derogation set out in that section.

RECOMMENDATION 21

That section 52 of the Charter authorize derogations from sections 1 to 48, without distinction, only to the extent that a derogation is required by the situation and that the derogation is explicitly provided for by law;

That no derogation be permitted from the sections of the Charter that correspond to the standards referred to in article 4, § 2 of the *International Covenant on Civil and Political Rights*.

RECOMMENDATION 22

That the Preamble of the Charter underline that Québec is founded on the primacy of law, the respect of democratic and social values, and the protection of the rights of minorities.

RECOMMENDATION 23

That the Preamble of the Charter state that the Charter is inspired by international legal instruments relating to human rights and freedoms, and in particular the *Universal Declaration of Human Rights*, the two international covenants, and the *Convention on the Rights of the Child*.

RECOMMENDATION 24

That any amendment to the provisions of Part I of the Charter (the current sections 1 to 48) be subject to the approval of two-thirds of the Members of the National Assembly.

RECOMMENDATION 25

That any amendment to the provisions of Part I of the Charter (the current sections 1 to 48) be submitted for general public consultation, held under the authority of the relevant Committee of the National Assembly.