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Chair: The Honourable Hedy Fry





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Wednesday, October 30, 2024

• (1635)

[English]

**The Vice-Chair (Mr. Kevin Waugh (Saskatoon—Grasswood, CPC)):** I will call this meeting to order and welcome everyone to meeting 135 of the House of Commons Standing Committee on Canadian Heritage.

I think we all know the protocol around here. All the questions come through the chair if you don't mind.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Wednesday, September 18, 2024, the committee shall commence its study on the protection of freedom of expression.

We're going to welcome our witnesses in a moment. We have one hour with the witnesses today until 5:30, but if you don't mind I would like to talk about yesterday because there was breaking news yesterday.

Committee members, I will update further as we will have the second hour of this meeting with committee business dealing with what happened in the House of Commons yesterday. It's in regard to the House order that was passed yesterday instructing this committee to return to the eighth report that the chair of the committee tabled in the House. The committee was instructed to return to study the bonuses and staff cuts that were made to the CBC and that the current CEO, Catherine Tait, and incoming CEO, who is Marie-Philippe Bouchard, as well as the minister and experts, shall appear before the heritage committee.

As you all know, we have the minister coming next Wednesday, so we'll talk about it in the second hour.

**Mr. Taleeb Noormohamed (Vancouver Granville, Lib.):** I have a point of order, Mr. Chair. There's only one hour scheduled for the meeting.

**The Vice-Chair (Mr. Kevin Waugh):** No, we actually have two hours scheduled for next Wednesday.

**Mr. Taleeb Noormohamed:** No, this one is an hour, and then there's still a Monday.

**The Vice-Chair (Mr. Kevin Waugh):** This one, yes. That's right, Mr. Noormohamed. I would like to set aside 10 or 15 minutes because of what happened in the House yesterday. We need to talk about what happened in the House as now we have been summoned by the House to have Catherine Tait come and the new CEO of CBC, along with expert witnesses.

I know we're only scheduled here for an hour, but as the chair, I think we do need to get our names into....

**Mr. Michael Coteau (Don Valley East, Lib.):** I have a point of order. Don't we have to get consent from the committee to do this? It can't just be the prerogative of the chair. We need to have a discussion and vote on it to change the agenda. Isn't that correct?

**The Vice-Chair (Mr. Kevin Waugh):** Thank you, Mr. Coteau. It was, as you know, kind of historic yesterday, what happened in the House of Commons, but it's an administrative issue that I would like to bring up after our one-hour meeting here today on freedom of expression. According to the—

**Mr. Michael Coteau:** There's a difference....

I'm sorry, Mr. Chair. I apologize.

**The Vice-Chair (Mr. Kevin Waugh):** No, go ahead.

**Mr. Michael Coteau:** There's a difference between what you want to bring up and what the agenda of the committee is. Unless we move a motion to adjust the agenda, I don't see this as a valid discussion point. We can always have this discussion at our next meeting.

**The Vice-Chair (Mr. Kevin Waugh):** I'm bringing it up because we have until December 17. We have a rigorous agenda. We have one week off as a constituency week coming up, and this has to be tabled with the current CBC president and the incoming one plus the minister. All this has to be done by December 17, so I think the clerk would like to have some direction on when we start this, plus there are the expert witnesses. We have three hours of expert witnesses and every party would like to submit on who is an expert witness.

**Mr. Michael Coteau:** If I have the floor, can I move that we deal with this on the 17th then?

**The Vice-Chair (Mr. Kevin Waugh):** The 17th of what?

**Mr. Michael Coteau:** You said—

**The Vice-Chair (Mr. Kevin Waugh):** Are you referring to this? This has to be done by December 17.

**Mr. Michael Coteau:** I apologize. Can we move to deal with this next week at our next meeting?

**The Vice-Chair (Mr. Kevin Waugh):** It's up to you. It's up to the committee.

I'll go to Mr. Noormohamed first, if you don't mind, Mr. Coteau, and then Mr. Kurek. Then we can begin our testimony here.

Go ahead, Mr. Noormohamed.

**Mr. Taleeb Noormohamed:** Thank you, Mr. Chair.

Perhaps I can propose the following. We have witnesses, and we have a study that needs to start today that Mr. Champoux put forward. We have these individuals who have given their time, and I think that we should get on with that.

My suggestion is this: Given that the notice of meeting was for an hour and, as a result, people may have made other arrangements for other things.... Look, we have the minister coming next week on the sixth, I believe.

**The Vice-Chair (Mr. Kevin Waugh):** Yes.

**Mr. Taleeb Noormohamed:** We have our meeting on Monday. My suggestion would be that, before we get into witnesses next week, we get this dealt with at the top of the meeting next week. It gives everybody time to think through how we actually deal with this. There are multiple schedules to be dealt with. There is an individual who is not yet in the employ of the CBC who has been called. There is someone who is, like, clearly on her way out whom we have called. We have a minister who is going on mat leave starting Monday, but she is coming for her appearance. If we can work together to figure out what this looks like before the next meeting, maybe we can just get to a good place on how this is all going to work. Then we can try not to litigate it all while we have witnesses here.

**The Vice-Chair (Mr. Kevin Waugh):** Next we have Mr. Kurek and then Ms. Gainey.

**Mr. Damien Kurek (Battle River—Crowfoot, CPC):** If I am correct, Mr. Chair, what was just suggested is exactly what you planned to deal with in the second hour—to have a brief discussion about the future. I would suggest that we get on with the witnesses.

**The Vice-Chair (Mr. Kevin Waugh):** Ms. Gainey, go ahead. The floor is yours.

**Ms. Anna Gainey (Notre-Dame-de-Grâce—Westmount, Lib.):** I agree with my colleagues that we pump this to next week and move ahead with the witnesses.

**The Vice-Chair (Mr. Kevin Waugh):** Ms. Ashton.

**Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP):** It's just my concern that we only have one hour with the witnesses today. They heroically came on very short notice, so I'm keen to move forward with the meeting and to discuss, at our earliest convenience, the details with respect to the motion that we passed in the House.

• (1640)

**The Vice-Chair (Mr. Kevin Waugh):** Thank you very much.

Saying that, then, we have one hour—until 5.30—with our witnesses today.

[*Translation*]

**Mr. Martin Champoux (Drummond, BQ):** Excuse me, Mr. Chair.

[*English*]

**The Vice-Chair (Mr. Kevin Waugh):** Mr. Champoux, go ahead, please.

[*Translation*]

**Mr. Martin Champoux:** We've been talking for a good 10 minutes already, and I think an hour with the witnesses we've got today will be short.

If the entire committee agrees, and to ensure that we have the full time with the witnesses, of course, can we ask them right now if they are available to stay for a full hour and go past 5:30 p.m.?

Is everybody okay with that?

[*English*]

**The Vice-Chair (Mr. Kevin Waugh):** We're fine.

How about you people? You're fine. Everybody's fine.

Are the Conservatives and Liberals fine to go to about 5:40 p.m., which would be an hour?

Thank you. We'll deal with this, then, on Monday. I just thought that I would get ahead of everybody, but I see that Monday is when we're going to talk about it.

Welcome, guests.

As an individual, we have Yipeng Ge, family doctor. Thank you for coming here today to talk about freedom of expression.

From the Canadian Constitution Foundation, we have Christine Van Geyn, litigation director. We also have with us, from the France-Québec collective research chair on contemporary issues of freedom of expression, Mathilde Barraband, co-chair; and Pierre Rainville, co-chair.

We'll get to you in a moment, but the procedure here is five minutes for each of the three groups.

Mathilde and Pierre, you can share your five minutes if you wish because you're one organization, and then we'll move on.

Mr. Ge, I will give you the floor for five minutes for your opening statement, please.

**Dr. Yipeng Ge (Family Doctor, As an Individual):** Thank you. Good afternoon.

My name is Yipeng Ge. I'm a family doctor currently practising in primary care and refugee health in Ottawa.

I completed medical school at the University of Ottawa and was awarded the Anne C. Amberg Prize, a convocation award for the best combination of academic accomplishment and sensitivity to community health issues.

I completed my master's of public health and health and social behaviour with a certificate in public health leadership from Harvard University. Also, as a scholar and practitioner of anti-racism and health equity, I was on the Canadian Institutes of Health Research anti-racism advisory committee, and I helped develop anti-racism education for the University of Ottawa's department of family medicine.

During my time at Harvard University, which was when I first visited Palestine, I deepened my learning on settler colonialism and bearing witness to apartheid and occupation as determinants of Palestinian health, as this has been my area of study here on Turtle Island related to indigenous health in Canada.

I was a resident in public health and preventive medicine at the University of Ottawa's faculty of medicine. I sat on faculty council, the highest governing committee for the faculty, and I was on the board of directors for the Canadian Medical Association last year.

I learned intimately this past year that the boundaries of freedom of expression in Canada have been severely limited as it pertains to speech in support of health and human rights for Palestinians and Palestine. My experience of institutional anti-Palestinian racism and limitations on our freedom of speech parallels the stories of many who have chosen to speak out about human rights violations in Palestine.

Anti-Palestinian racism is a form of racism and discrimination adjacent to Islamophobia and anti-Arab racism, but it is also distinct from both. It is a form of racism that seeks to silence, exclude, erase, stereotype and dehumanize Palestinians and their allies. This often results in severe sanctions and disciplinary actions that profoundly impact the lives of Palestinians and their allies, a practice that has been advised against by the United Nations Office of the High Commissioner for Human Rights. This is a freedom of expression issue.

Last year around this time, a family doctor and faculty member shared my social media posts and publicly mischaracterized them as anti-Semitic and inflammatory and sent them to the university and the Canadian Medical Association. He was someone who was neither a patient nor a direct colleague or supervisor of mine. My social media posts were from my personal accounts, and in no way was I trying to speak from any of my places of employment or affiliation. These posts were criticized as being inflammatory, racist and anti-Semitic simply because they advocated for Palestinians having the same human rights as everyone else, aligning with international law.

I met with senior leadership of the Canadian Medical Association, and my social media posts were criticized. I was pressured to put together a public apology and provide personal one-on-one apologies to certain people in high-ranking positions and who hold influence in the association. Soon after, I received a phone call from the university informing me of my immediate and indefinite suspension, citing a level-three breach of professionalism for my social media posts. A level-three professionalism breach means repeated instances of an individual's behaviour and conduct despite intervention, or a concern for the individual's clinical care or quality of care of services.

No prior conversations were held and no concerns were ever raised before regarding my social media posts or professionalism. Patient safety was raised as a concern. However, in my duties as a resident in public health, I was completing a rotation at the Public Health Agency of Canada without any individuals working under me whom I was responsible for supervising and also without direct patient contact. The university's professionalism subcommittee, which reviewed my case, recommended immediate reinstatement

without any disciplinary action. They suggested an apology be issued by the university, which they never gave. I feel deeply harmed by the university, which caused emotional and psychological distress and permanently altered my career path in public health.

As I sat on faculty council this past year, I witnessed multiple cases of medical students' social media posts being discussed as professionalism concerns, and it was clear that a fair process was not being followed. It was shared during these meetings that there were no clear bylaws or processes, and their legal counsel was creating the processes as they went. There were statements shared in these meetings that were rooted in anti-Palestinian racism and anti-Muslim and anti-Arab hate without any accountability.

The College of Physicians and Surgeons of Ontario has informed me of multiple complaints against me of a similar nature related to social media posts and not related to my clinical competency and conduct within the clinical setting. This is taking away time and resources from me, my legal counsel and, ultimately, the college itself in managing legitimate cases related to professional competence and conduct.

My purpose today is to ask the standing committee for support in holding institutions to account for overstepping in their policing of people's right to free speech and to recognize the appalling normalization of anti-Palestinian racism in educational institutions and places of employment, such as the University of Ottawa and the Canadian Medical Association. This is a non-partisan issue. There are solutions that are already being proposed, including Conservative private member's Bill C-257, an act to amend the Canadian Human Rights Act, protecting against discrimination based on political belief.

Last week, the Alberta premier, along with the justice minister, said that their government will review professional regulatory bodies such as the College of Physicians and Surgeons, which play the important role of regulating professional competence and conduct, and introduce legislation next year to limit how they can police their own members on their speech.

● (1645)

Thank you.

**The Vice-Chair (Mr. Kevin Waugh):** We'll now go to the Canadian Constitution Foundation. We have Christine Van Geyn, litigation director, on Zoom.

Christine, go ahead on your opening statement, please. You have five minutes.

**Ms. Christine Van Geyn (Litigation Director, Canadian Constitution Foundation):** Thank you for inviting me today.

I'm the litigation director at the CCF, which is a legal charity that fights for fundamental freedoms in Canada.

I am fascinated by the question proposed by the committee today, which is the means government should have at its disposal to ensure the exercise of freedom of expression. Frankly, the government does not need more means. The government needs to do less. We already have the right to freedom of expression guaranteed in paragraph 2(b) of the charter. Before the charter, we had the right to freedom of expression protected in the Constitution Act, 1867, which is similar in principle to that of the United Kingdom, whose unwritten constitution protects the right of public discussion.

We are not granted these rights to freedom of expression by our government. We possess them by virtue of being human beings. Throughout human history, it's government that has been the greatest threat to our right to free speech, whether it was the execution of Socrates for his public philosophy, the brutal Star Chamber of King Henry VII, which punished those who printed without a licence, or the attempted censorship of New York newsman Peter Zenger for his criticism of the American colonial government. Governments have tried to censor speech they don't like for as long as we have had governments.

It's hard for me to even know where to start on this question. Do I talk about the threat to freedom of the press, the problem of imprisoning people for words alone, the problem of using human rights tribunals to regulate art and comedy, or, as Dr. Ge brought up, professional regulators undermining the right of freedom of speech for so many Canadians in those professions? These are all real, live issues today, and the source of the problem is government.

Consider the Alberta press case, which involved a law that compelled newspapers to publish government rebuttals to criticism. That case was from 1937, so fears about so-called fake news or misinformation are not new. Even though the Supreme Court struck down that Alberta law, the silencing of the press continues today. For example, we at the CCF challenged an amendment to the Canadian Elections Act that ended up being struck down in 2019. That provision prohibited false statements about political candidates during an election period. It even captured innocent statements and mistakes, with fines of up to \$50,000 and five years in prison. We were successful in having it struck down.

While not censorship in the classic sense, millions of Canadians lost access to news because of this government's Online News Act, done in the name of saving the news industry. The act has backfired spectacularly, with Meta refusing to comply, then blocking news on its platforms. There's the Online Streaming Act brought in by this government, which put the CRTC in charge of regulating the content of companies like YouTube, Netflix and Spotify, including user-generated content. The free press is essential. It's an essential check on the authoritarian impulses of government. The actions of this government continue to undermine it.

In criminal law power, censorship by criminalizing words is nothing new, even though we're well aware of the problems with it. Consider Québécois Jehovah's Witness Aimé Boucher, who, in the 1940s, was convicted of seditious libel for accusing the Quebec government of being too close to the Catholic Church. That viewpoint was condemned at the time, but it's perhaps mainstream to-

day. Consider how expressing the idea that gay people should have equal rights was an unacceptable view 60 years ago. Thanks to the free speech of people who publicly advocated for change, we now have equal rights in Canada for the LGBTQ community. Free speech is important for those who are in minorities, whether it's a minority viewpoint or a minority with some immutable characteristic.

Free speech is how we define the contours of our other rights. It is not a value for the right or the left. It is a non-partisan right for all Canadians, yet this government continues to undermine it. One of the purposes of free expression is to allow for debate on even the most controversial topics, because vigorous debate is how we best settle our disagreements, including disagreements about who should lead government. Free debate on contentious issues can't happen if the people currently in government are allowed to outlaw opposing points of view. The right to express your words and ideas goes to the core of who we are as individuals.

The government doesn't need more means. It needs to stop trying to silence speech.

• (1650)

Thank you.

**The Vice-Chair (Mr. Kevin Waugh):** Thank you very much. You were right on time, Ms. Van Geyn.

We'll move now to the Chaire de recherche France-Québec.

Mr. Rainville, I think you're up first. You may share your time or you may not. You're free to do either. You have five minutes.

[*Translation*]

**Mr. Pierre Rainville (Co-Chair, Chaire de recherche France-Québec sur les enjeux contemporains de la liberté d'expression):** Thank you, Mr. Chair.

I would like to thank the members of the committee for inviting me to appear.

You're inviting us to speak to you about a very specific fundamental right. Freedom of expression is much more than a fundamental right. It's the bedrock of the vast majority of fundamental rights. There is no freedom of religion, for example, without freedom of speech.

It is appropriate to make an observation before formulating avenues to protect freedom of expression.

The first observation is that it's too easy to forget that angering or disturbing remarks fall specifically under freedom of expression. The Supreme Court of Canada has said that over and over again. The second observation is that freedom of expression is sometimes mistreated, including by federal regulators, as well as Parliament itself.

I'll give you some illustrations, starting with the Canadian Radio-television and Telecommunications Commission, or CRTC.

In 2020, the title of a book that may be considered offensive by some was mentioned on air on the Société Radio-Canada. However, there is nothing racist about this book. It's one of the books that left its mark on Quebec in the 1970s. However, the CRTC blamed Radio-Canada, and went so far as to require a written public apology from the Crown corporation. The Fédération professionnelle des journalistes du Québec, or FPJQ, was alarmed by this decision, as were a very large number of Radio-Canada journalists. The Federal Court of Appeal intervened and blamed the CRTC for ignoring freedom of expression and for underestimating the risks of self-censorship created by its own decision.

The Canadian Parliament isn't blameless either. Look at the brand new crime of Holocaust denial that was adopted in 2022.

It was rushed through, buried in a 450-page budget bill. The Standing Senate Committee on Legal and Constitutional Affairs apologized for doing things this way, as did the Canadian Bar Association, or CBA. The process didn't provide parliamentarians with the analytical framework they should have when a law infringes on freedom of expression. My point is simple. There need to be institutional safeguards, parliamentary safeguards, so that bills that impede freedom of expression aren't rushed through.

I can give another example, that of the current Bill C-63, which concerns online harms. I'll be explicit. This bill is valid and legitimate in a number of respects, but it contains provisions that undermine freedom of artistic creation and contravene the teachings of the Supreme Court of Canada. I can talk more about that if you wish. Surprisingly, that same bill prohibits counselling certain perfectly legal sexual activities. The infringement on freedom of expression seems glaring to me.

Considering the passage of federal legislation that would proclaim the importance of freedom of artistic expression, as well as journalistic expression, as other states have done, could be a solution. This legislation would also remind us that the mere act of offending another person is not a valid reason to silence speech.

• (1655)

**Mrs. Mathilde Barraband (Co-Chair, Chaire de recherche France-Québec sur les enjeux contemporains de la liberté d'expression):** Our research chair is working on a status report on freedom of expression by comparing France and Quebec. In particular, we're targeting three freedoms: freedom of religion, academic freedom and freedom of creation. I'm going to talk to you about freedom of creation.

There are 22 countries around the world that have enshrined freedom of artistic expression in their constitutions. Many other countries, such as France, have had legislation in place since 2016 to protect that particular term. Canada, for its part, hasn't yet deemed this specific protection useful.

If France and other countries have chosen to have greater protection for freedom of creation, it's because art is an expression that often challenges the standards of beauty, but also of good, and in this regard is disturbing. However, for that very reason, it can promote the democratic process, the search for the truth and contribute to personal growth, which are the great Canadian principles of protecting freedom of expression.

While the Supreme Court has recognized that artistic expression is at the heart of the relative values of freedom of expression, if Canadian parliaments sometimes vote motions in support of mistreated artists, we have to admit that this recognition and support are more timid here than in other countries, particularly in European bodies.

However, this protection has rarely been so necessary. In fact, for some time now, in Canada, as in Europe and the United States, a number of political groups have been using art controversies to advance their cause. Art is therefore at the centre of both a conservative cultural war and progressive struggles. The former attacks cultural productions that consider sexual and ethnic diversity. The latter uses famous works to draw attention to the climate emergency, for example, or denounce racism and sexism in art.

As confirmed by the field studies I conduct in Quebec's cultural community, the work of cultural institutions has become considerably complicated in the past few years, and self-censorship is becoming entrenched. Perhaps additional constitutional or legislative protection would help to address that. However, above all, Canada must develop a culture of freedom of artistic expression. To that end, more modest measures than a legislative initiative could be taken right now, which I would like to discuss.

[English]

**Mr. Kevin Waugh:** Thank you, Ms. Barraband.

How it works is the first round will be six minutes.

We'll start with the Conservative Party and Mr. Jivani, please.

**Mr. Jamil Jivani (Durham, CPC):** Thank you, Mr. Chair.

Certainly, this is a very important topic, and I appreciate the witnesses for being here.

I have some questions for Ms. Van Geyn, who I think gave an excellent set of opening remarks.

Ms. Van Geyn, I'd like to speak with you in particular about Justin Trudeau's censorship agenda, which has been implemented by the Liberal Party with help, certainly, from the NDP. When we talk about the censorship agenda, we're talking primarily about two pieces of legislation: Bill C-11 and Bill C-18.

I'm sure you're familiar with them, but just for the sake of being on the same page, Bill C-11 refers to Prime Minister Justin Trudeau and the federal bureaucracy gaining more control over what Canadians can access on streaming platforms online. Bill C-18 refers to Justin Trudeau and the federal bureaucracy having more control over the news that Canadians can see, which has limited access to news on platforms like Facebook and Instagram.

I'd like to start by asking you, Ms. Van Geyn, if you share the concerns of many Canadians, who are worried about Justin Trudeau's censorship agenda and Bill C-11 and Bill C-18.

• (1700)

**Ms. Christine Van Geyn:** I would add to that list Bill C-63, which has the potential to be one of the most censorious pieces of legislation that I have seen in a really long time. Bill C-63, the on-line harms act, would increase penalties for criminalized speech and for hate-motivated crimes to life in prison. Part of the concern around that is using these heightened penalties to overcharge criminal defendants and to create pressure for plea deals for lower-level offences when there is an argument that the Crown might make that there is a hate element. Even if it's not present, it can be charged, and this overcharging leads to pressure to plead out.

Another concern we have about Bill C-63 is that it would allow for someone who fears a future hate crime speech to request a judge to put conditions on the would-be speaker. Those could be things like an ankle monitor or even imprisonment, and this is for future speech that has not yet taken place. This is incredibly chilling.

Bill C-63 would also create a civil mechanism for people to complain to the Human Rights Commission about speech. It's a return of section 13 of the Canadian Human Rights Act, which was rightly repealed for dragging before the commission journalists and members of the clergy. There is no cost to bringing a complaint, but there's great cost to the person complained about. We have seen human rights tribunals bring before them comedians—that's in a Quebec context, though.

Giving this power to these commissions will chill expression. I did not have time in my five minutes to mention Bill C-63. I understand that there is a separate committee hearing that will address that, but I wanted to put on the record our serious concern about that.

With respect to the Online News Act and the Online Streaming Act, while perhaps not censorship in the most classic form, I do share the concerns of millions of Canadians who have lost access to news as a result of the Online News Act. I share the concerns of a lot of academics and of Canadian content creators about the regulation of user-generated content on social media platforms like YouTube. I'm a YouTube creator myself. I have one of the largest...or I think probably the largest YouTube channel about Canadian constitutional law, perhaps—

**Mr. Jamil Jivani:** If I could just ask a—

**Ms. Christine Van Geyn:** —and it will censor that.

**Mr. Jamil Jivani:** Ms. Van Geyn, if I could just ask a follow-up to that because the Trudeau Liberals very much like to misrepresent their censorship agenda as being solely focused on big corporations, but as you know, it does include—

**Mr. Taleeb Noormohamed:** I have a point of order, Mr. Chair.

While I do want to hear Mr. Jivani's question, he's making an assertion as to what our intention is, which, I think, you have ruled before as being not reasonable.

**Mr. Jamil Jivani:** You didn't let me finish the question, so you're getting ahead of yourself.

**Mr. Taleeb Noormohamed:** You didn't need to get there. You already said it.

**Mr. Jamil Jivani:** I know you're an eager guy.

If I could just ask a question to Ms. Van Geyn, you mentioned that user-generated content is included in Justin Trudeau's censorship agenda, which law professor Michael Geist has detailed in a series of blogs, explaining that it's not just a matter of focusing on corporations.

What is the importance of this censorship agenda including user-generated content?

**The Vice-Chair (Mr. Kevin Waugh):** Give a short answer of 20 seconds, please.

**Ms. Christine Van Geyn:** The effect is that it's the government putting its thumb on the scale of what content Canadians see, and that in itself is inherently censorious.

**The Vice-Chair (Mr. Kevin Waugh):** Thank you very much, Ms. Van Geyn and Mr. Jivani.

We'll move to the Liberals now for six minutes.

Ms. Dhillon, please go ahead for six minutes.

[*Translation*]

**Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.):** Thank you, Mr. Chair.

My first question is for Mrs. Barraband.

You talked about creative freedom and academic freedom. You also talked about the fact that other countries have incorporated this into their constitutions.

How do you think Canada could do the same?

**Mrs. Mathilde Barraband:** Adopting laws in support of freedom of artistic expression is a recommendation of the United Nations Educational, Scientific and Cultural Organization, or UNESCO. There are several parts to that. It provides for the protection of expression as such, so the production and dissemination of art, but it also pays attention to the status of artists and the conditions under which they practise.

I believe you've already produced a report on these issues in this committee.

In Quebec, there's an in-depth review of the act on the status of the artist.

For the time being, work remains to be done on the issue of artistic expression and, certainly, on the specificity of that expression, on the risk-taking it entails. We also have to try to paint a picture, since artists' assaults have been on the rise since 2018, for all kinds of reasons.

So I think we could draw inspiration, for example, from countries that have passed legislation to protect artistic expression, as France has done recently. That's one example.

• (1705)

**Ms. Anju Dhillon:** What kind of artistic expression is being protected? Can you give us an example of what is being done in France?

**Mrs. Mathilde Barraband:** I'm talking about all artistic expression: Anything that has an artistic purpose, not necessarily an artistic value. This applies equally to cinema, publishing houses, shows and museums. All art forms benefit from increased protection.

**Ms. Anju Dhillon:** Okay.

In your presentation, you mentioned the fact that art controversies are sometimes politicized. You touched on that a bit. I don't think you had a chance to delve into it.

Can you expand a bit on what you mean by that?

**Mrs. Mathilde Barraband:** Yes, of course.

This is a point that comes up often in the field studies I do with stakeholders in the cultural sector. I make a comparison between France and Quebec. That gives us a picture that's much broader than strictly what's going on in our country. Obviously, the connections to the rest of Canada as well are absolutely valuable and important.

Participants in my studies tell me that they're increasingly under pressure from their audience, but also from their patrons, those who fund them. However, there are political requirements that sometimes complicate their relationship with their audience.

I mentioned two completely different examples. I talked about the Conservative culture war. I also talked about progressive struggles. The people I'm interviewing don't necessarily have the same positioning with each other. They talk to me more clearly about self-censorship. I'm thinking, for example, of the pressure being put on libraries to cancel invitations for drag queens to come and do readings in libraries, requests for the removal of texts that talk about gender issues or issues of racism. In those cases, librarians are asking for protection so that they can continue to carry out the activities that are important to them. I'll leave it at that.

However, this time, there's a desire for self-regulation on other issues that people in the cultural sector are generally much more in favour of. Take, for example, the decolonization of art, the fight against discrimination in the art sector. In those cases, they will instead seek to regulate themselves and acquire tools to be able to react, let's say, to these various problems.

**Ms. Anju Dhillon:** Okay.

Thank you very much, Mrs. Barraband.

[*English*]

**The Vice-Chair (Mr. Kevin Waugh):** You actually have another 50 seconds. I forgot that the first round was six minutes.

Go ahead.

**Ms. Anju Dhillon:** Perfect.

[*Translation*]

Do you want to continue to comment on that, or are you just about done?

**Mrs. Mathilde Barraband:** I think I've covered everything.

Thank you.

**Ms. Anju Dhillon:** I found that very interesting.

If you're able to answer this question, could you please talk to us briefly about technology and freedom of expression?

• (1710)

**Mrs. Mathilde Barraband:** Since the relationship with art is my only specialty, I couldn't talk about anything else.

The connection between artificial intelligence and art is a growing concern in the art community. The issue of intellectual property is obviously very heckled by these issues. The possible replacement of a number of professions with artificial intelligence is also one of the concerns I hear from participants in my studies.

**Ms. Anju Dhillon:** Thank you very much, Mrs. Barraband.

[*English*]

**The Vice-Chair (Mr. Kevin Waugh):** Thank you to both of you.

We'll move to the Bloc and Mr. Champoux for six minutes.

[*Translation*]

**Mr. Martin Champoux:** Thank you, Mr. Chair.

I'd like to thank the witnesses for being with us today. I know that the deadline for responding to invitations was very short, and we're grateful to them for making themselves available to be here today.

Mr. Rainville and Mrs. Barraband, it's as if you read my notes before you gave your remarks. You've answered just about all of my questions in five minutes. I must admit I had a lot, but you were concise. You touched on a number of areas of interest that I wanted to discuss with you, but you also opened the door to many other questions.

In terms of artistic freedom and freedom of expression for creators and artists, it seems that we've been going through a kind of crisis for a few years. Let's talk, for example, about SLĀV and Kanata, works vilified by lobby groups that have invoked cultural appropriation, among other things. That's another issue.

How do we go about regulating artistic freedom, creative freedom, without impeding the freedom of expression of those who are affected or offended by the content?

How do we restore artists' confidence in this context so they can create freely? This is an issue.

You said earlier, in your remarks, that some artists have started censoring themselves because they don't want to face this kind of opprobrium.

**Mrs. Mathilde Barraband:** I find the cases of SLĀV and Kanata very interesting.

The SLĀV show was full of good intentions and was intended to be anti-racist. However, it was heckled by anti-racist groups, who criticized the absence of Black people in the show's cast to sing the songs of African-descent slaves. This implied that singing these songs by white people was problematic and that all the cast could therefore seem problematic in this respect.

What's interesting is that this case caused quite a stir in Quebec circles. There was talk of censorship. I still think it's important to remember that the protesters were exercising their freedom of expression.

I think it's important not to conflate censorship or state control with the exercise of freedom of expression, which may sometimes seem unpleasant to others. In this case, these reticent audiences obviously made the performances unpleasant, but there was no impediment to artistic expression. The problem is that the patrons decided to cancel the performances.

I think we have to look at the real responsibilities of the various players and make people, including patrons, aware of the importance of freedom of expression and the fact that they have a very great responsibility in that freedom. That is why I said earlier that I think it is essential to develop a culture of freedom of expression in general, and of the arts in particular.

Mr. Rainville, do you have anything to add?

**Mr. Pierre Rainville:** I think it's essential to recall a teaching made in categorical terms by the majority judges in *Ward v. Quebec*, a case handed down by the Supreme Court of Canada. The Supreme Court ruled to the majority that “a right not to be offended...has no place in a democratic society.”

I think this is an extremely salutary reminder at a time when people are often trying to impose their point of view.

Of course, there are pressure struggles, even in the artistic community. I was tempted to say “sadly”, but I think I'm going to strike out the word, because that's also normal.

However, we sometimes forget that freedom of expression is both the freedom to express oneself and the freedom to receive.

When a work is heckled and the organizers end up backtracking, the public is also deprived of the work. Therefore, the *Kanata* case and the *SLĀV* case are critical; they are symbolically clumsy. In my opinion, the consequences—this is an opinion that isn't binding on my co-chair and that we haven't talked about very specifically—were probably excessive. Again, freedom of expression includes being able to receive information.

• (1715)

**Mr. Martin Champoux:** The right not to be offended does not in fact exist. Do you think that it is nonetheless possible to establish a framework for freedom of expression?

We talked earlier about protecting the right to expression, freedom of artistic expression, for example. Do you think it is possible to establish a framework for freedom of expression through various measures, without someone standing up and complaining that the framework actually limits freedom of expression? We often hear an

argument that is more conservative, more to the right, which advocates complete openness and no regulation of those frameworks.

Do you think it's possible to arrive at some kind of consensus?

**Mr. Pierre Rainville:** The mood is not necessarily favourable to a consensus right now.

It is a risky exercise because, even if we are motivated by good will and want to promote freedom of artistic expression, the very fact of wanting to take legislative action could be very negatively perceived. Quebec has nonetheless been able to do so in the case of academic freedom. It did receive some criticism because its legislation did not fully uphold the breadth of that freedom.

It is not my place to make a judgment on that. The exercise is hypothetically risky, but it would probably make it possible to more firmly establish the importance of journalistic freedom on the one hand, and the distinctiveness of artistic creation on the other.

[English]

**The Vice-Chair (Mr. Kevin Waugh):** Thank you, Mr. Rainville.

We'll go the NDP and Niki Ashton for six minutes, please.

**Ms. Niki Ashton:** Thank you very much.

I'll begin my questions with you, Dr. Ge. It's clear that your story demonstrates society's limit of freedom of expression, especially when it comes to speaking up on Palestine. Looking at the horrors being inflicted on Palestinians in Gaza during the current onslaught by Israel, you called it “apartheid upon Palestinian people” and “settler colonialism”. Then a colleague publicly criticized you and the school suspended you, citing a breach of professional standards.

This didn't come from your patients. This didn't come from anyone you worked with directly. Your suspension meant that projects you were working on, including ones on behalf of the Public Health Agency of Canada, did not continue. This has had a direct negative impact on Canadians.

However, your suspension didn't penalize only you. It also punished the people who rely on you as a medical resident. Due to the fallout from your suspension, the residency program lost its program director and possible threats to its accreditation, the worst possible outcome.

Can you describe how your suspension has had a negative impact on critical work in health care, particularly public health, for Canadians?

**Dr. Yipeng Ge:** Thank you for the question.

Before I was suspended, I was working in public health and also appreciating the structural determinants of health, including the impacts of colonialism here, from Turtle Island to Palestine. When I think about the role that medicine as an institution has played, historically and ongoing, in things like justifying slavery, forced sterilization of indigenous women and nutritional experimentation on indigenous children, these are the realities we face in building trust with our patients who are the most vulnerable and the most structurally oppressed. When that is the work of trying to move anti-racism and health equity forward in this oppressive colonial structure of medicine within Canada, it becomes really challenging to do that work when we're faced with investigations and discipline as health care workers and as physicians working in this space.

On top of that, the suspension I experienced also had chilling effects on my colleagues and other learners and faculty within the institution but also across Canada. I know of a plastic surgeon who served with Médecins Sans Frontières, or MSF, in Gaza in December of last year, who returned to Ottawa to work. She wanted to speak about what she had seen in Gaza, but because she saw my suspension and the impacts of it on me and others—the silencing, the chilling effect of anti-Palestinian racism—she ended up not doing a grand rounds presentation with other colleagues.

This is the reality of freedom of expression for physicians who are simply wanting to call for an end to the genocide that is being supported by this country. We need to be able to criticize the actions of our country and criticize the actions of other countries in their genocidal colonial violence as it continues to this day.

• (1720)

**Ms. Niki Ashton:** Thank you, Dr. Ge.

You talked about the chilling effect and impacts on others. I just want to take it back a step. We know that freedom of expression is critical to a healthy democracy. It is seen as a fundamental right here in Canada, yet your experience proves that Canadians such as you are targeted for speaking out in favour of human rights, in favour of peace and in favour of international law.

You gave the example of this plastic surgeon. Have you connected with others? Have others come to you to speak about how speaking out about Palestine has had negative impacts on their livelihoods or their reputations? What have you heard from others, whether in the medical field or beyond?

**Dr. Yipeng Ge:** Because of my experience, I've had many folks in the medical profession and also in other sectors, including in education, reach out to me to express the levels of silencing and discipline that they have been facing. I've also heard it from public servants and diplomats and people who work within these institutions, who do not feel like they can voice any dissent or any criticism of the Canadian policies related to what's happening and unfolding in Gaza.

When this is the reality, it becomes impossible to find a path forward for peace and justice for Palestinians in the region.

I think it's also really important to recognize that the ways in which it manifests really represent bullying, harassment and intimidation from colleagues who just want to suppress any speech in support of human rights and dignities for Palestine and Palestinians.

**Ms. Niki Ashton:** Thank you, Dr. Ge.

With the remaining moments that I have, I'm wondering if you can share with us what politicians can do to protect the voices of people like yourself, who are speaking out and calling for action to end genocide, for human rights and for peace and justice.

**Dr. Yipeng Ge:** There was the Conservative private member's bill that I mentioned earlier. Also, I think there's a role for policy-makers and parliamentarians here to defend the right to free speech, so that we don't fully descend into a fascist government, like what we're seeing in Israel.

To be able to protect our free speech and to be able to criticize and find constructive ways forward, so we recentre human rights, people and care and dignity, are the utmost things we can do.

Thank you.

**The Vice-Chair (Mr. Kevin Waugh):** Thank you very much, Ms. Ashton.

We'll move to the second round with the Conservative Party and Mr. Gourde.

[*Translation*]

**Mr. Jacques Gourde (Lévis—Lotbinière, CPC):** Thank you, Mr. Chair.

I want to thank all of the witnesses.

My first question is for Mr. Rainville.

Bills C-11, C-18 and C-63, among others, attempt to establish a framework for freedom of expression in Canada. The line between what is possible and acceptable and what is not is nonetheless very thin.

Where do you draw the line?

**Mr. Pierre Rainville:** Very fortunately, the Supreme Court did draw some lines in the sand. Bill C-63, for example, which I have looked over quite a bit, is in many ways faithful to the Supreme Court's rulings over the past 15 years.

The definition of hate speech is no broader than what the Supreme Court allows in terms of protecting freedom of expression. It is true that it updates section 13 of the Canadian Human Rights Act, which was repealed in 2013. The Supreme Court had nonetheless considered that provision valid. It is really another aspect of the bill that bothers me and that has gone undetected, so to speak, because the goal is very noble. It is the bill's definition of the sexual victimization of children. Let me give you two examples.

First, the bill does not include the defences provided in the Criminal Code. This is not criminal law, to be sure, but there is a defence related to artistic creation that applies to all forms of expression. In Bill C-63, however, that defence is for visual representation, photographs and images, but very strangely, not for written expression. So there is variable protection for creative freedom or artistic freedom that requires a person to publish a photograph. Then artistic expression is protected all of a sudden. In the case of purely written expression, it is not.

I do not want to get into examples that are too specific, but I think the next one is telling. The bill prohibits written material that promotes sexual relations that are legal. For example, the bill would make it illegal to promote online a sexual relationship between someone who is 17 and a half and someone aged 20, who is thus of the age of majority. That is very surprising to me if not to say explosive. Once again, I don't want the bill to be thrown into the trash, that's not what I am saying, but we have not identified certain limits or exceptions to freedom of expression that are nonetheless significant.

• (1725)

**Mr. Jacques Gourde:** Thank you, Mr. Rainville.

What do you think about the idea of giving the CRTC greater powers through legislation to control content on television, radio or digital platforms?

**Mr. Pierre Rainville:** I gave you the example of a decision made by the Federal Court of Appeal last year. It admonished the CRTC, albeit very diplomatically, because, in its majority decision, the members said nothing about freedom of expression, and they actually required written apologies from the national broadcaster. A friend of the court was named to defend the CRTC's position. That friend of the court said it was obvious that the members had considered it because the dissenting members, for their part, made a big deal of it.

The Federal Court of Appeal replied that it was indeed shocking that the members had not mentioned it whereas the dissenting members, for their part, were concerned about the negative impact on journalistic freedom and independence. I think that any legislative measure should emphasize enshrining journalistic independence, which of course should not go unchecked either. Certain guidelines must be balanced, to be sure, but I think the CRTC should be required in its decisions to give priority to freedom of expression, freedom of the press and journalistic independence. That is not always the case, however.

**Mr. Jacques Gourde:** In Canada, we have foreign interference that seeks to intimidate Canadians, to direct them, which limits their freedom of expression.

Please begin your reply. If you don't have time to finish, you may send it to the committee in writing because it could be lengthy.

**Mr. Pierre Rainville:** I will be as succinct as possible.

In its decision in the Zundel case in 1992, the Supreme Court invalidated the crime of disseminating fake news. Various people think that the legislator cannot take action as a result of that decision. I think that is misguided.

Let me give you an example. France has enacted very balanced legislation. It is innovative. I am referring to an electoral law that prohibits the mass dissemination of fake news. It does not pertain to exaggerations or mere opinions, but rather what can be objectively verified as fake news, such as something from a foreign state that is likely to affect the outcome of an election. So it is possible. The French Constitutional Council validated this and provided guidelines for interpretation.

[English]

**The Vice-Chair (Mr. Kevin Waugh):** Thank you, Mr. Rainville.

We're going to move for five minutes to Mr. Noormohamed from the Liberal Party.

You have five minutes, please.

**Mr. Taleeb Noormohamed:** Thank you, Mr. Chair.

I want to start by thanking all of the witnesses for being here.

I'd like to start with Ms. Van Geyn.

Could you take a moment to clarify for me something I want to make sure I heard correctly?

When you were talking about Bill C-63, did you say that the law was too tough on hate speech?

**Ms. Christine Van Geyn:** Yes, I think that the issue is with stat-utizing the definition, which is an inherently subjective definition. I think there's an issue with the ability to add a new penalty when there's another offence committed to basically overcharge defendants.

I can give you an example.

• (1730)

**Mr. Taleeb Noormohamed:** No, that's fine.

What I want to dig into is this: What would you say to members of the Jewish community or the Muslim community who right now are seeing incredible spikes in anti-Semitism and Islamophobia, which are resulting in violent physical assaults on people and institutions?

The argument many of them make is that hate speech leads to these things, these types of actions. Would you agree with that?

**Ms. Christine Van Geyn:** Violence is, of course, criminalized already. I think there's an issue with all kinds of things like bail conditions and repeat violent offenders not being put in prison. Please, criminalize violence. Put people who commit violent acts—

**Mr. Taleeb Noormohamed:** Do you believe that there is a correlation between incitement and hate speech and people's responses, or do you think that people act independently of those two things?

**Ms. Christine Van Geyn:** Incitement to violence is also criminalized. We take no issue with incitement to violence.

**Mr. Taleeb Noormohamed:** Okay. I appreciate very much your speaking about the importance of freedom.

Do you believe in freedom of expression as being beyond just words?

- Ms. Christine Van Geyn:** Of course.
- Mr. Taleeb Noormohamed:** Do you think that a woman should be able to wear a niqab?
- Ms. Christine Van Geyn:** Of course I do.
- Mr. Taleeb Noormohamed:** Do you think that it was inappropriate for the Conservative government, when Stephen Harper was prime minister, to put forward a niqab ban on women?
- Ms. Christine Van Geyn:** I don't have a comment on that. I don't. I'm not familiar with—
- Mr. Taleeb Noormohamed:** I'm asking you.... Okay. You're not familiar with the proposed niqab ban.
- Ms. Christine Van Geyn:** We do not think governments should ban religious clothing of any kind.
- Mr. Taleeb Noormohamed:** You do not think that the government should ever ban religious clothing. Is that correct?
- Ms. Christine Van Geyn:** I do not think they should. The Quebec government is doing that now.
- Mr. Taleeb Noormohamed:** Do you believe in a women's right to choose?
- Ms. Christine Van Geyn:** Of course I do.
- Mr. Taleeb Noormohamed:** Do you think...? Is it of concern...?
- Ms. Christine Van Geyn:** Do you mean to choose how to act with health care?
- Mr. Taleeb Noormohamed:** To choose whether or not she can get an abortion.
- Ms. Christine Van Geyn:** Yes. That's my personal viewpoint.
- Mr. Taleeb Noormohamed:** Fantastic.
- Ms. Christine Van Geyn:** I believe in that right.
- Mr. Taleeb Noormohamed:** Does it concern you that members of the Conservative Party are seeking to legislate eliminating or taking away a woman's right to choose?
- Ms. Christine Van Geyn:** I'm not sure what you're referring to.
- Mr. Taleeb Noormohamed:** I'm asking you specifically, if a Conservative—
- Ms. Christine Van Geyn:** [*Inaudible—Editor*] talking about abortion right now.
- Mr. Taleeb Noormohamed:** I'm asking if you believe in that freedom.
- Ms. Christine Van Geyn:** I'm just not positive what the connection is.
- Mr. Taleeb Noormohamed:** I'm asking if you believe in that freedom.
- Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC):** Mr. Speaker, I have a point of order. What's the relevance to this?
- Mr. Taleeb Noormohamed:** It's freedom of expression. Expression takes different forms.
- I've asked the question, and as you well know—
- Mr. Joël Godin:** Yes, but you're hounding her now. That's the point.
- Mr. Taleeb Noormohamed:** Now you're concerned. Okay. That's great.
- Let's—
- Ms. Christine Van Geyn:** I don't feel hounded. I just don't understand—
- Mr. Taleeb Noormohamed:** Okay. Let me ask the question differently—
- Ms. Christine Van Geyn:** I believe people have the right to express their views on abortion.
- Mr. Taleeb Noormohamed:** Okay. Do you believe people have the right to legislate whether or not a woman has the right to choose?
- Ms. Christine Van Geyn:** Now you're talking about parliamentary sovereignty issues, which are well beyond the scope of.... Parliament can legislate all kinds of things, and then they're put in check by the Supreme Court.
- I really don't view legislation as.... I mean, Parliament is sovereign—
- Mr. Taleeb Noormohamed:** If Parliament decided to do certain things and pass certain laws, that would be sovereign. That would be the law. That's what we should all adhere to, and there should be no opposition to that. Is that what you're saying?
- Ms. Christine Van Geyn:** I'm a little confused by the line of questioning. Parliament can legislate. Legislation is subject to our Constitution, which can then be reviewed by the—
- Mr. Taleeb Noormohamed:** Okay. We can get more into this later.
- Were you concerned when the former premier of New Brunswick, who recently transitioned into being the former premier, and Premier Moe in Nova Scotia were trying to put restrictions on a child's right to use the pronouns they want to use?
- Ms. Christine Van Geyn:** That's an issue we haven't taken a position on at the CCF.
- Mr. Taleeb Noormohamed:** I'm asking your opinion, though.
- Ms. Christine Van Geyn:** I'm here speaking as a representative of an organization. I'm not going to give you my opinion on that particular issue, which is a live issue—
- Mr. Taleeb Noormohamed:** Okay. My final question to you—
- The Vice-Chair (Mr. Kevin Waugh):** You're at five minutes and 10 seconds, so I have to move on.
- We'll go to Mr. Champoux of the Bloc for two and a half minutes.
- [*Translation*]
- Mr. Martin Champoux:** Thank you. Two and a half minutes go by very quickly.

Mr. Rainville and Mrs. Barraband, you talked earlier about Bill C-63 and its shortcomings. Regarding hate speech, do you think we need regulations in line with what the Criminal Code already provides for civic life, for example? Do you think that might infringe on freedom of expression or freedoms of expression, since it is an umbrella term?

• (1735)

**Mr. Pierre Rainville:** Sometimes we have to be reassured. The bill carefully repeats the exact wording of the guidelines set out by the Supreme Court, namely that discrediting, vexing and offending do not constitute hate speech. It is very helpful to see that in black and white in a bill as opposed to something in a ruling. So it would be both in the Criminal Code and in the Canadian Human Rights Act. I think that is very helpful.

On the other hand, the scope of the financial penalties set out in the bill is worrisome. I find them really excessive. Before the bill goes to a vote, I think some parameters need to be set.

**Mr. Martin Champoux:** We certainly agree that the bill has many weaknesses, but we mustn't throw the baby out with the bathwater. The bill needs some work; it needs a clearer framework.

**Mr. Pierre Rainville:** I agree.

**Mr. Martin Champoux:** We were talking earlier about artistic freedom and academic freedom. We are talking about all kinds of freedom of expression.

In the Criminal Code, there is a religious exception that allows individuals to say things that can be extremely violent and extremely hateful. Those individuals can do so with impunity because of the protection of religious beliefs. Do you think that exceeds what we should tolerate in terms of freedom of expression?

That leads me draw to a parallel with artistic freedom. I wonder how far we can go in protecting artistic freedom. We know that extremely violent things can be said under the guise of artistic freedom.

How can we navigate those areas while respecting individuals' beliefs?

[*English*]

**The Vice-Chair (Mr. Kevin Waugh):** You have 10 seconds left.

[*Translation*]

**Mr. Martin Champoux:** My apologies, my question was long.

**Mr. Pierre Rainville:** As to the Criminal Code provision, it is clearly an attempt to reconcile freedom of religion with freedom of expression. It is an old provision. The difficulty is that this provision can be invoked even though it has already been demonstrated that the person in question wanted to fuel hatred towards a community.

That proof is required when using that defence.

[*English*]

**The Vice-Chair (Mr. Kevin Waugh):** Thank you, Mr. Rainville.

I'm going to move to Niki Ashton of the NDP for two and a half minutes.

**Ms. Niki Ashton:** My question is for Dr. Ge.

In the 1970s, provisions were added to the Criminal Code that prohibited the promotion of genocide and the incitement of hatred towards identifiable groups. The Harper Conservatives worked hard to remove a number of these protections, but the Supreme Court has been clear that the promotion of hate propaganda doesn't contribute and, in fact, "distort[s] or limit[s] the robust and free exchange of ideas by its tendency to silence the voice of its target group."

When the Conservative leader describes Israel's expanding its bombing campaign as a "gift" to the world, or when the Liberal Prime Minister sends weapons that could be used for what the ICJ considers a plausible genocide, are these not escalations? Are these not acts of hate?

If we're going to talk about the role of government vis-à-vis freedom of expression and the need to protect freedom of expression but take a clear stand against hate, can we not talk about this wilful incitement of hate by two of the most powerful political figures in Canada at this time?

**Dr. Yipeng Ge:** Yes, I couldn't agree more. These are examples of not only manufactured consent for genocide but also explicit monetary and material support for genocide.

There should most certainly be guardrails for the freedom of expression around manufacturing consent for genocide, as per these two examples that you have given. I would argue that to incite such...to commend the genocidal colonial violence that Israel is committing and to allow that to extend beyond Palestine into Lebanon and into multiple other countries in the region is entirely unbecoming of a Canadian politician.

With regard to the other Canadian politician you mentioned, who is materially aiding Israel in its genocidal campaign against Palestinians.... They most certainly need to be held accountable in both freedom of expression limitations and setting appropriate guardrails, but there also must be accountability around the actual, literal funding and support for a genocide that is unfolding before our eyes and that is before the courts, including the International Court of Justice.

**Ms. Niki Ashton:** Thank you so much, Dr. Ge.

I want to take the opportunity to thank you for coming to our committee and for sharing your strength and courage. You speak on behalf of many, and I hope that this committee will take seriously what you've shared with us about how people are paying the price for freedom of expression in our country right now, and for speaking up for human rights, peace and justice.

Thank you.

• (1740)

**The Vice-Chair (Mr. Kevin Waugh):** Thank you, Ms. Ashton.

I'll make an editorial decision. Because we started late, in the final round with the Conservatives and Liberals, we'll go for four minutes each.

Mr. Kurek, you have four minutes.

**Mr. Damien Kurek:** Thank you very much, Mr. Chair.

I appreciate our witnesses being here, although I do find it astounding that the NDP and Dr. Ge just suggested that somehow the Leader of the Opposition was guilty of a criminal offence for standing up for Jews' having the right to their own state.

Ms. Van Geyn, Bill C-11—

**Ms. Niki Ashton:** I have a point of order.

I think we need to be accurate. Nobody said such a thing. The quote that I shared was with respect to Israel's bombing. Let the record show exactly what was said rather than Conservative interpretations.

**The Vice-Chair (Mr. Kevin Waugh):** Okay.

We'll move on, Mr. Kurek.

**Mr. Damien Kurek:** Canadians can judge for themselves.

Ms. Van Geyn, when it comes to Bill C-11, do you see it in conflict with the basic freedoms that Canadians are guaranteed in the Charter of Rights and Freedoms?

**Ms. Christine Van Geyn:** I do have issues with Bill C-11, particularly the ability of the CRTC to regulate user-generated content. That, I think, is the biggest concern. The analogy that a lot of us who are online content creators, Canadians, have given is this: If a bookstore is ordered by the government to put certain books in the window and certain books at the back, would we view that as a censorious government act?

That is the analogy that a lot of us in that ecosystem have been using with regard to what the Bill C-11 CRTC power to put its thumb on the algorithm is doing.

**Mr. Damien Kurek:** It's been described largely as backdoor censorship, the Justin Trudeau and Liberal censorship agenda. They're not telling people that they can't believe something, but they're restricting, through technological means—algorithms—the content that's available.

Would you agree with that?

**Ms. Christine Van Geyn:** Yes, I think that you could describe it as backdoor censorship. It's not censorship in the classic form, but it's a big problem.

**Mr. Damien Kurek:** Thank you for that.

I'm curious about Bill C-18. Again, do you see Bill C-18 as being in conflict with the Charter of Rights and Freedoms and the freedoms guaranteed for Canadians in it?

**Ms. Christine Van Geyn:** It depends on how the regulations are going to be interpreted with respect to the Online News Act. It's not censorship in the classic form that we think of, but depending on how it's operationalized, there could be a charter case to be made against that particular piece of legislation.

**Mr. Damien Kurek:** Did you find it problematic that, as a result of Bill C-18, news content on some of the most used social media apps in the country was eliminated, restricting Canadians' ability to see what was happening in the world?

**Ms. Christine Van Geyn:** Yes. This was in direct response to government action. Meta took the action of blocking news on

Canadian versions of their platforms, including Facebook and Instagram. Millions of Canadians were accessing news that way.

It actually undermines the ability of the free press to function because of the loss of clicks, which is how some of their revenue was being generated. Sharing news is not a threat to the news industry.

**Mr. Damien Kurek:** We have Bill C-11 and Bill C-18, and I know you mentioned Bill C-63 as well—direct threats to Canadians and the freedoms that Canadians are guaranteed through the Charter of Rights and Freedoms. That certainly seems like a censorship agenda to me that needs to be fought against.

Thank you very much to the witnesses for coming today.

**The Vice-Chair (Mr. Kevin Waugh):** Thank you, Mr. Kurek.

For the final four minutes, we welcome Mrs. Shanahan from the Liberal Party.

Go ahead.

**Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.):** Normally I'd be very happy to be asking my questions, but Mr. Noor-mohamed was on such a roll, I am ceding my time to him.

**The Vice-Chair (Mr. Kevin Waugh):** He has less than four minutes...about 3:50 now.

Go ahead.

**Mr. Taleeb Noormohamed:** Thank you, Mr. Chair.

Ms. Van Geyn, you and I were having a good conversation, so I'd like to go back to that if we could.

Should there be limits to freedom of speech?

• (1745)

**Ms. Christine Van Geyn:** We're a civil liberties organization, so we believe in very broad protections for freedom of expression.

**Mr. Taleeb Noormohamed:** Should I be able to describe Black people using the N-word?

**Ms. Christine Van Geyn:** I don't think that you should describe Black people using the N-word.

**Mr. Taleeb Noormohamed:** Should I be allowed to?

**Ms. Christine Van Geyn:** The current law permits you to do that.

**Mr. Taleeb Noormohamed:** Okay—

**Ms. Christine Van Geyn:** That is a statement of the law right now—

**Mr. Taleeb Noormohamed:** Do you consider that hate speech?

**Ms. Christine Van Geyn:** I would never talk that way, and I don't think you would either.

**Mr. Taleeb Noormohamed:** I certainly would not.

My question to you, though, is this. If we have very broad limits for what people can say or not say, do we not start to see that there becomes a risk to other people's safety and security?

For example, if somebody were to say that all Muslims are terrorists and we need to worry about them, all Jews support genocide so we should be worried about that, all Chinese people are complicit with the CCP or nonsense statements like that—which can start to undermine people's safety and security—do you think that we should limit that or do you think that's okay?

**Ms. Christine Van Geyn:** That's not limited, currently, under the law, even under hate speech law. The current hate speech law would not prohibit statements like that, as odious as they are.

**Mr. Taleeb Noormohamed:** That's actually not true, though. That's simply untrue.

**Ms. Christine Van Geyn:** No, it's not untrue.

**Mr. Taleeb Noormohamed:** It's not. Okay, so just to go back—

**Ms. Christine Van Geyn:** It would be incitement of hatred, which is a much higher threshold than what you're describing, as terrible as the speech that you're describing is. You and I would never speak that way—

**Mr. Taleeb Noormohamed:** Your position is that it should be permitted.

**Ms. Christine Van Geyn:** That's not even [*Inaudible—Editor*] the government is proposing doing.

**Mr. Taleeb Noormohamed:** My question to you is this: Should that type of speech be permitted? Is it okay to say those things?

**Ms. Christine Van Geyn:** It is not okay to say those things, but it is legal to say those things in Canada.

**Mr. Taleeb Noormohamed:** Let's move on to a topic we didn't get to. I only have a couple of minutes left.

One of the challenges we have seen recently is with gender-affirming care and what kids, young people and others who are not children are seeing when it comes to their rights and their freedom of expression.

Do you agree or disagree with Conservative politicians who continue to push rhetoric and limit freedom of expression for transpeople?

**Ms. Christine Van Geyn:** Are you asking me if politicians should be able to make statements on what type of medical care or...?

**Mr. Taleeb Noormohamed:** Should politicians be able to regulate what type of medical care, or what type of freedom people have to express their identity?

**Ms. Christine Van Geyn:** That's not a freedom of expression issue. That's not an issue—

**Mr. Taleeb Noormohamed:** Freedom of expression, when it comes to trans rights, is excluded. Is that what you're saying?

**Ms. Christine Van Geyn:** That's not what I'm saying.

**Mr. Taleeb Noormohamed:** Should politicians be in a position to regulate the freedom of trans people or prevent the LGBTQ2S community from expressing who they are and seeking care and treatment to be able to be who they wish to be or who they are?

**Ms. Christine Van Geyn:** Is that happening? Can you give me the example?

**Mr. Taleeb Noormohamed:** Yes, absolutely. There have been positions in the Conservative Party, including at their last convention, to seek to ban children from accessing gender-affirming care. Do you agree or disagree with that?

**Ms. Christine Van Geyn:** I maintain that this is not an expression issue. Depending on what you mean by gender-affirming care, there's a broad spectrum of what that could include. It could include surgery. It could include pronoun use. It could include pharmaceutical interventions.

**The Vice-Chair (Mr. Kevin Waugh):** Thank you very much, Ms. Van Geyn.

**Ms. Christine Van Geyn:** Surgery is not a freedom of expression issue. There could be a section 15 claim and that you can litigate.

**The Vice-Chair (Mr. Kevin Waugh):** Thank you very much. We're at the four minute-plus.

Thank you, Mr. Noormohamed.

Thank you to the guests.

Ms. Van Geyn, thank you, and thank you to Mr. Ge along with Ms. Barraband.

Thank you for coming today, Mr. Rainville.

I want to thank each and every one of you.

Is the committee in agreement that we'll adjourn this meeting?

**Some hon. members:** Agreed.

**The Chair:** Thank you.







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