



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

Standing Committee on Canadian Heritage

EVIDENCE

NUMBER 147

Wednesday, December 11, 2024

Chair: The Honourable Hedy Fry



Standing Committee on Canadian Heritage

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• (1635)

[*Translation*]

The Vice-Chair (Mr. Martin Champoux (Drummond, BQ)): I call this meeting to order.

Welcome to meeting number 147 of the Standing Committee on Canadian Heritage.

Before we begin, I would like to ask all in-person participants to read the guidelines written on the updated cards on the table in front of them. These measures are in place to help prevent audio feedback incidents and to protect the health and safety of interpreters and participants.

You will also notice a QR code on the card that links to a short awareness video. However, dear friends, it's a bit late to go and watch a video, because we've started.

Today's meeting is taking place in a hybrid format.

I would like to remind all participants of a few important points. First, as usual, before speaking, all participants should wait until they are recognized by the chair. For members participating in person and via Zoom, please raise your hand and wait until you are recognized by the chair. The clerk and I will do the best we can to manage the order in which people have indicated their intention to speak.

We can confirm that all witnesses have completed the required connection tests in advance of the meeting.

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

I would like to begin by welcoming the two witnesses who are with us today: the Honourable Kristopher David Wells, senator from Alberta, and Jacques Marcoux, director of research and analytics at the Canadian Centre for Child Protection, who is participating in the meeting by videoconference.

Before I go to you, Senator Wells, I want to ask the committee something. I would like us to talk about the drafting instructions we'll have to give the analysts for the report on this study. I think we all noticed that today's meeting was shortened to one hour to allow us to hear from the witnesses who were invited and who confirmed their attendance today. I would move, and I believe I would get general agreement, that the drafting instructions for the report be emailed to the analysts. Is there any opposition to that? That's how we did it with the previous study on CBC/Radio-Canada.

I see that everyone is in agreement.

I talked to the analysts a little earlier, and we agreed that the drafting instructions should be sent out by Friday at 4 p.m. eastern time, end of day. Is that okay with everyone?

I see no opposition, so I think we can start hearing the witnesses' opening remarks. We will begin with Senator Kristopher David Wells.

Mr. Wells, you have the floor for five minutes. Towards the end of your five minutes, I will give you a signal. You will then have about 30 seconds to finish your remarks.

• (1640)

[*English*]

Hon. Kristopher David Wells (Senator, Alberta, Non-affiliated) : Dear colleagues, thank you for the opportunity to speak with you today as part of your study examining the protection of freedom of expression in Canadian society. I have been following your deliberations with great interest.

In my brief time with you today, I would like to share a recent illustrative case study that highlights many of the issues you have been studying with respect to the rights and responsibilities related to freedom of expression, the impacts of discrimination and its consequences for community safety, well-being and inclusion.

This case study highlights the concerning and increasing rise in hatred directed towards the 2SLGBTQIA+ community and the City of Calgary's Safe and Inclusive Access Bylaw, passed in 2023, which is designed to create safe and inclusive access to city libraries and recreational facilities. These have become frequent targets for anti-2SLGBTQIA+ protests against drag queen or "rainbow storytime" events and gender-inclusiveness. The City of Calgary's general manager of community services indicated that 21 planned protests targeted the Calgary community, with a dozen focused on public libraries and recreational facilities. Several planned events at these locations had to be cancelled out of concern for participants' safety.

The main focus of the City of Calgary's bylaw stipulates that a person may not engage in protest activities on publicly accessible property within 100 metres of an entrance to a recreation facility or library, and may not impede or attempt to impede access to or from an entrance. This prohibition is in force one hour before and one hour after normal operational hours, or at differing hours for special events.

The legality of this bylaw was very recently challenged in the Alberta Court of Justice in response to a bylaw infraction ticket issued to an accused on April 15, 2023. He had engaged in a protest at the Calgary Public Library's "reading with royalty" drag story-time event and was found to be within 100 metres of the library entrance. The accused used a bullhorn to amplify his voice and displayed a sign stating that "transgenders are perverts". He had previously stated that such events are used to groom, exploit and traffic children. The accused also admitted to conducting similar protests at other libraries but had been deemed to be outside the 100-metre no-protest zone and was not charged with a bylaw infraction in those instances.

In the accused's statement of defence, he makes several claims as to the legal authority and validity of the city bylaw, which include his belief that the bylaw violates subsection 2(a), subsection 2(b), subsection 2(c) and section 7 of the charter. The city conceded that the bylaw violated subsection 2(a) and subsection 2(b) but denied any violation of subsection 2(c) or section 7.

Because of my limited time here with you today, I will focus my comments on whether the bylaw was found to be in violation of subsection 2(b) and the accused's freedom of expression.

Ultimately, the court found that the bylaw did violate subsection 2(b) but was saved under section 1 as a reasonable limitation on the accused's freedom of expression, based on similar legal precedents, such as exclusion zones or bubble zones established to support access to abortion services. These were ruled to be legal by the Supreme Court of British Columbia, and twice more by the B.C. Court of Appeal.

At this point, I should identify that before I was appointed to the Senate of Canada, the City of Calgary tenured me to produce an expert report in my capacity as the Canada research chair for the public understanding of sexual and gender minority youth. As summarized in the court decision, my expert report provided evidence that exposure to anti-2SLGBTQIA+ speech, signage, messaging, etc. outside public facilities such as libraries and recreational facilities and pools can have the following detrimental impacts: increased hypervigilance and minority stress; compromised mental and physical health; invalidation of 2SLGBTQIA+ identities and communities; contribution to post-traumatic stress and other negative coping mechanisms; distrust of law enforcement, government and civic institutions; avoidance of public spaces, recreation, community facilities, programs, events and support due to fears of anticipatory prejudice, violence, intimidation and discrimination; and (g) an erosion of a sense of belonging, community connectedness and social cohesion.

• (1645)

On November 26, 2024, the Honourable Justice Barley stated in his decision that the City of Calgary's Safe and Inclusive Access

Bylaw addresses "a valid and important social issue" and that the community could suffer "significant psychological harm" if subjected to protesters objecting to their sexual orientation, gender identity or gender expression.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Senator, your time is up, but if you want to wrap up, I'll give you another 10 seconds.

[English]

Hon. Kristopher David Wells : Sure. Thank you. It's always amazing how quickly time goes when you're the witness, as opposed to being on the committee.

Ultimately, what they found was that the bylaw was a reasonable limitation on freedom of expression because of its potential for reducing harm and the opportunity for conflict and escalation at these events.

I'd be happy to answer questions related to that.

Thank you.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Thank you very much, Senator.

Next, from the Canadian Centre for Child Protection, we have Jacques Marcoux, director of research and analytics.

Mr. Marcoux, welcome to the Standing Committee on Canadian Heritage. I'll turn the floor over to you. You have five minutes for your opening remarks.

[English]

Mr. Jacques Marcoux (Director of research and analytics, Canadian Centre for Child Protection): Good afternoon, and thank you for the invitation to participate in this study.

My name is Jacques Marcoux. I'm the director of research with the Canadian Centre for Child Protection. We are a registered charity that has been operating for nearly 40 years. We operate Cyber-tip.ca, which is Canada's national tip line for the public reporting of online child sexual abuse and exploitation. When you read in the news about the thousands of online sextortion and luring cases across the country, in many of those cases, we were the first point of contact for these kids.

I also want to note that our organization is viewed internationally as a world leader in the discovery, identification and the issuance of take-down notices for child sexual abuse material all across the Internet. We do this through the deployment of a number of technological tools built by our organization over the years. It's a platform we call Project Arachnid. Just for a sense of scale for the committee, on any given day, we issue anywhere between 2,000 to 20,000 take-down notices to hundreds of online service providers across dozens of countries.

We have, quite frankly, seen it all, so I want to really emphasize that the perspective I'm here to share today is really grounded in this reality that thousands of Canadians experience online, and this isn't hypothetical and it isn't philosophical; this is real, and it happens on mainstream services that all of us use.

With that said, it may not be clear exactly how our work connects to freedom of expression, so I want to provide a couple of examples.

First, it's important to know that in our space, we especially focus on expression in the form of images and videos. This includes expression that is criminal but also expression that is often referred to as "lawful but awful". This, for example, can include images of kids in highly sexualized poses or even the spread of images or information that's used to doxx them.

We proactively seek the removal of this content online, and we routinely encounter resistance and even outright denials from online services. We also know, from our work with survivors who are on the receiving end of this so-called expression, that it has an incredibly chilling effect on their ability to participate in online life. In fact, part of the services and supports we provide to these individuals is assistance to help them dramatically limit their online footprint for the sake of their personal safety on the Internet. We also work with victims who spend their lives trying to stop the spread of images of their abuse or their personal information across the Internet.

Consider that the person who has disseminated this content essentially does this with zero friction in the exercise of their expression, and it's often done anonymously. With a few clicks, that content of these victims goes online, and it can be downloaded thousands of times with potentially infinite online reach. For the victims, it's just a minefield of barriers, and they are often asked by service providers to "prove it" or to provide ID in order to get anything taken down. When they go to police, what they often discover is that there's little that can be done, and sometimes that's because the content is technically lawful.

These challenges, as you can imagine, are exactly why we as an organization support online safety-type regulations, measures that ensure that the systems themselves that act as these vehicles for our expression have obligations to, for example, anticipate and plan and especially design their services in ways that limit predictable harms and foster healthy environments. It's simply not enough to act once the harm is done.

Some examples of ways that operators can protect and enhance free expression include really basic concepts like providing users with reporting tools; blocking bots that artificially amplify what I'll

call inauthentic expression; eliminating problematic algorithmic incentives; and, of course, having stringent rules for the swift removal of illegal content, such as child sexual abuse imagery. This list could go on and on, but I think it's important to recognize that a lot of the core principles behind this list are simply borrowed from all the other industries in Canada that are subject to regulation.

If I can leave you with one core thought, it's this: The digital spaces we all use to express ourselves are very often undeservedly characterized as altruistic public squares of free expression, when in reality these environments are commercial entities, and they're designed to drive engagement and traffic at all cost with little regard for the public interest or the rights of users.

● (1650)

For the government, a decision to not intervene is, in and of itself, an action that has a dramatic impact on free expression. The alternative to intervention is simply to roll the dice and hope that foreign companies voluntarily prioritize the rights of Canadians over their objectives, which may be commercial, political or otherwise.

Thank you.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Thank you very much, Mr. Marcoux.

We will now begin the first round of questions.

I suggest we do what we've done at other meetings where we've had the same number of witnesses. I suggest we have two rounds of questions. In the first round, each party will have the floor for six minutes.

We're going to start with the Conservatives.

Mr. Kurek, you have the floor for six minutes. Go ahead.

[English]

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Mr. Chair.

Just to note, I have a question and then I'll be passing my time over to Mr. Jivani.

Mr. Wells, do you know three individuals by the names of Pam Davidson, Erika Barootes, and Mykhailo Martyniuk?

Hon. Kristopher David Wells: Do you mean personally?

Mr. Damien Kurek: Do you know who they are?

Hon. Kristopher David Wells: I know they're Albertans.

Mr. Damien Kurek: Do you know the positions they hold?

Hon. Kristopher David Wells: I do not.

Mr. Damien Kurek: They were elected as senators-in-waiting in the province of Alberta.

Do you acknowledge that Albertans have a history and a tradition under various federal governments of being appointed, honouring the democratic will of Albertans, by prime ministers? They have appointed democratically elected senators to the Senate of Canada.

Hon. Kristopher David Wells: I'm not quite sure how that relates to my testimony here today or the topic of the committee, but—

Mr. Jamil Jivani (Durham, CPC): It's the freedom of expression of the Alberta—

Mr. Damien Kurek: With respect, I think it speaks very well—

Hon. Hedy Fry (Vancouver Centre, Lib.): I have a point of order.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Dr. Fry, you have a point of order.

[English]

Hon. Hedy Fry: Chair, this is actually a point of order because that question has nothing to do with the freedom of expression study we're doing right now.

[Translation]

The Vice-Chair (Mr. Martin Champoux): I hear you, Dr. Fry, but, as you often say when you are in the chair, we do have some leeway. I'm going to let Mr. Kurek finish his introduction in the hope that he'll get to the topic at hand.

Mr. Kurek, I'll remind you to keep your questions relevant to the topic at hand.

[English]

Mr. Damien Kurek: Thank you, Mr. Chair.

I would note that Ms. Fry just referenced that Albertans shouldn't be free to express their democratic will and who represents them in Canada's Senate—

Mr. Taleeb Noormohamed (Vancouver Granville, Lib.): I have a point of order, Mr. Chair.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Mr.—

[English]

Mr. Damien Kurek: I would simply say, Mr. Chair, that when it comes to the will of Albertans—

[Translation]

The Vice-Chair (Mr. Martin Champoux): Mr. Kurek, there are quite a few points of order.

Mr. Noormohamed, you're first, then it will be Dr. Fry's turn.

Mr. Taleeb Noormohamed: Mr. Chair, someone has clearly decided to turn this into theatre of the absurd. We're here to talk about a serious issue.

It is not acceptable for one committee member to speak on another's behalf, let alone to misrepresent them. Simply put, he can't

put words in her mouth. That is not how we generally do things at this committee.

• (1655)

The Vice-Chair (Mr. Martin Champoux): Mr. Kurek, I would ask you to keep your questions relevant to our study, which is on freedom of expression.

[English]

Mr. Damien Kurek: Thank you very much, Mr. Chair. I appreciate—

Hon. Hedy Fry: Mr. Chair, I have a point of—

[Translation]

The Vice-Chair (Mr. Martin Champoux): Excuse me, Mr. Kurek, but Dr. Fry has a point of order as well.

Dr. Fry.

[English]

Hon. Hedy Fry: My question of privilege is that the honourable member has attributed things to me that I never said. I would like him to apologize for putting words in my mouth and misrepresenting my statements.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Mr. Kurek, you've heard Dr. Fry's request. Do—

[English]

Mr. Damien Kurek: Thank you.

On the point of order, Mr. Chair, Dr. Fry said this was not related to this ongoing study on freedom of expression. I would submit to you, Mr. Chair, with all due respect, that the ability of Albertans to express their democratic will by electing senators is absolutely in line with freedom of expression and the assured ability that specifically Albertans have to exercise that freedom of expression.

If she didn't mean that, then I am happy to retract it, but her suggesting that this is somehow not relevant to the study, I would suggest, emphasizes the exact point I was making.

Hon. Hedy Fry: Mr. Chair, I would like to respond [*Inaudible—Editor*]—

[Translation]

The Vice-Chair (Mr. Martin Champoux): Dr. Fry, please wait until I recognize you. Thank you.

Dr. Fry, you have the floor.

[English]

Hon. Hedy Fry: On a question of privilege, Mr. Chair, the ability to interpret what someone said despite the fact that I never used the language the member attributed to me is really unfair. It's totally the kind of thing we've come to expect from the Conservative Party. They actually misrepresent what people say. They treat others with total disrespect—

[Translation]

The Vice-Chair (Mr. Martin Champoux): Dr. Fry, I think we're getting into debate. I'm going to call everybody to order.

Mr. Kurek clearly said that if he misinterpreted what you said, he would withdraw what he said.

If you don't mind, we'll go back to Mr. Kurek.

Mr. Kurek, I will remind you, though, to stick to the topic of the study and Senator Wells's testimony, his speech and his remarks.

You have about four minutes left.

[English]

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

Mr. Wells was asked to appear here not simply as an expert in his previous field of work but as a senator, so it directly relates to relevance and highlights the fake appointment process and the fake reforms that Prime Minister Justin Trudeau has brought forward to the Senate. They truly are not only fake in terms of what they were said to accomplish, but directly relate to taking away the ability of Albertans to express themselves freely and to have their representatives do the work that Albertans expect them to do in our Senate.

Mr. Chair, I will cede my time to Mr. Jivani.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Mr. Jivani, you have the floor for three minutes.

[English]

Mr. Jamil Jivani: Thank you, Mr. Chair.

I'd like to direct some questions to Mr. Marcoux.

First off, Mr. Marcoux, are you familiar with Bill C-412, which is being considered in relation to a lot of the issues that you raised in your opening statement today?

Mr. Jacques Marcoux: Yes, I am.

Mr. Jamil Jivani: Certainly I think a lot of the issues you raised, sir, are concerns shared by many of us.

One of the points of debate between Bill C-63 and Bill C-412 is whether the existing laws and frameworks in our country can be updated and strengthened to respond to your concerns. This is a primary objective of Bill C-412, compared to Bill C-63, which is focused largely on building a \$200-million bureaucracy and asking the Canadian public to trust that bureaucracy to accomplish the objectives that I believe you are sincerely interested in.

I'm wondering if you could comment on whether you believe Bill C-412 is an adequate response to many of your concerns, and, if not, why you would prefer Bill C-63's highly bureaucratic, longer-term response to issues that people are looking for urgent action on.

• (1700)

Mr. Jacques Marcoux: Thanks for the question.

We've been calling for government regulation in the social media and tech space for years. When we look at the landscape of what other countries are doing, certainly we can pick and choose components of what's going on in Australia, the U.K., the EU and the U.S. and cobble together what we think would be an ideal piece of legis-

lation. There are also components within Bill C-412 that are very interesting.

The thing, though—and I addressed this in my opening remarks—is that there's a perception that we have the required laws on the books currently. Oftentimes, people will point to the Criminal Code and say that a lot of these things are illegal, but what we see when we deal with kids is that a lot of the harm doesn't necessarily reach a criminal threshold. Even if it did, our strategy can't be to wait until the crime has occurred and then try to respond. I think, ideally—and this is how we treat a lot of areas in Canadian society—we should anticipate what those harms are at the system level and try to get ahead of them so that they don't happen in the first place—

Mr. Jamil Jivani: Mr. Marcoux, we're low on time, and I do hope you'll get to continue your thoughts in future questions.

What I would just leave you with, though, is I still think that the current Liberal government and the supporters of Bill C-63 have yet to make a convincing argument to the majority of the public that a \$200-million bureaucracy is the appropriate response to your concerns. I think that's a challenge we put forward to them, and they regularly continue to fail to meet it.

Thank you.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Thank you, Mr. Jivani.

We will now go to the Liberal Party and a regular member of the committee.

Dr. Fry, you have the floor for six minutes.

[English]

Hon. Hedy Fry: Thank you very much, Chair, and welcome to the chair, Mr. Champoux.

I want to thank the witnesses for coming and I would like to thank them for taking the time to discuss the broad framework of freedom of expression, which is more than freedom of speech.

My last colleague asked a question about Bill C-63, and I want to go back to that question in a way that says I know the Conservatives do not approve of Bill C-63. They call it a "\$200 million censorship bureaucracy", but the bottom line is that the Criminal Code changes are not enough to stop this kind of online harm. We know, in fact, that taking down the harmful content, which can stay online for years afterwards, is something the Conservatives also oppose and disapprove of.

Can you elaborate on why it's necessary to do more than the Criminal Code and why it is necessary to remove offensive content online, as Bill C-63 proposes to do?

Mr. Jacques Marcoux: The space that we work in is a challenging one, in that a lot of the content we look at is fundamentally illegal, or the spaces we go looking for it are perhaps illegal for others to research. There's actually quite a narrow group of people in the world who have done a deep dive into these spaces and have a really good understanding of what's happening. I think that if average Canadians—or any Canadians, for that matter—were to wrap their heads around the things that we see and the way that online spaces are weaponized against kids, it would be incredibly shocking, and it would set off alarm bells for just about everyone.

I keep circling back to this notion of lawful but harmful, and this is a really sticky, murky and challenging space for us. When we issue takedown notices for content that is unambiguously illegal, like child sexual abuse, we get pretty good compliance from major service providers. We get really bad compliance, sometimes, from service providers located in eastern Europe or somewhere in eastern Asia.

With the harmful and abusive content that we call “lawful but awful”, there is a lot of push-back, so you can't necessarily go to a police officer and say, “This happened to me,” because the content itself doesn't necessarily rise to the mandate of a police officer or even the justice system, so you need other mechanisms in place.

• (1705)

Hon. Hedy Fry: Thank you, Mr. Marcoux.

I have very little time to ask my questions, so I'm trying to get another one in. This question is for Senator Wells.

Senator, I think we are well aware that governments are trying to prevent the freedom of expression of LGBTQ people, especially transvestites and trans persons, to use their pronouns and present themselves as they truly are.

What kind of harm happens to LGBTQ communities, drag queens and trans children especially, when they are forbidden from expressing themselves? What are the physical and psychological harms that occur to them?

Hon. Kristopher David Wells: Thank you for the question. I'm glad we have an opportunity to talk about the harms directed towards the 2SLGBTQ+ community.

We can talk about the impacts of mental health distress but also what it fundamentally means to be denied the right to identity and bodily autonomy. Impacts often turn to negative coping mechanisms. We know we have increased rates of depression and anxiety and negative coping mechanisms like turning to drugs and alcohol, and increased suicidal ideation as well.

We know, for example, that gender affirmation, whether that happens at home, in your faith community, at school or through the health care system, helps to improve mental health and well-being and makes you feel part of the community around you.

Hon. Hedy Fry: I have one last question. Mr. Chair, do I have time?

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): You have a minute and a half left.

[*English*]

Hon. Hedy Fry: Thank you.

I want to ask if denying, for instance, trans children the access to puberty inhibitors is a denial of the right to health care—

Hon. Kristopher David Wells: Fundamentally—

Hon. Hedy Fry: Is it a denial of the right to autonomy of the person?

Hon. Kristopher David Wells: It's fundamentally a violation of their human rights and their right to self-expression, to freedom of expression. Access to gender-affirmative care is a human right and is an important part of our health care system.

Hon. Hedy Fry: We know that physicians have said that in fact it is very scientifically appropriate and clinically appropriate to give hormone replacement therapy to these kids. If you deny them by law, what are you doing to their charter rights?

Hon. Kristopher David Wells: You're absolutely violating their charter rights. There is a strong consensus in Canada by all medical associations and many professional associations that gender-affirmative health care is medically necessary, is evidence-based and is the right of individuals to receive and of physicians to provide.

Hon. Hedy Fry: Thank you very much, Senator, and thank you very much, Chair, for allowing me to finish my questions.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Dr. Fry, you had two seconds left. Congratulations on being so precise.

Normally, it would be the Bloc Québécois' turn to ask questions, meaning me. However, since I'm in the chair today, I'm going to reserve a few minutes to ask a few questions after the other parties take their turn.

It is now the New Democratic Party's turn.

Ms. Ashton, you have the floor for six minutes.

[*English*]

Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP): Hello, and thank you very much to our witnesses for joining us here today.

Senator Wells, we recently had a witness, Fae Johnstone, appear before this committee to discuss what we in the NDP view at the reasonable limits to freedom of expression, which is when it bleeds over into hate speech. During her presentation, she talked about the organized hate campaign she has had to deal with, which included publishing her personal information, aggressive harassment by pretend journalists at Rebel News, and the pile-on led by far-right hatemongers.

She asked in this committee, “What happens in a country where, instead of bringing people together, we normalize division and difference, with even the leader of Canada’s Conservative Party, Pierre Poilievre, fanning the flames of conspiracy...?”

My question to you is what happens when that happens?

Hon. Kristopher David Wells: Well, I think it sends a message that people are not welcome within their communities, that they should be afraid or have to deny who they are to be able to access publicly available services and supports. Ultimately, it sends a message that Canada is not a welcoming and inclusive country.

• (1710)

Ms. Niki Ashton: Thank you for sharing that.

I want to focus a bit on the Alberta experience because you certainly allude to it, and many of us are very concerned about what’s happening there. We’ve seen in Alberta how dangerous it can be when hatemongers who want to play politics with people’s lives get into power. The reality is that if you’re willing to demonize an entire community to garner votes, you have no business representing anyone.

The Premier of Alberta, Danielle Smith, has made demonizing the trans community a core part of her governing agenda. It is one of the most backwards and hateful government agendas we’ve seen in a long time. Many Albertans are watching Danielle Smith and feeling scared for their future. Trans children already face discrimination. They don’t need a premier to pile onto it or leaders like Pierre Poilievre to back them into it.

As a previous witness to this committee, Fae Johnstone, eloquently said, “We need moral leadership from our politicians, from our political party leaders, to actually choose to unite Canadians, to protect these fundamental rights”. Can you describe how Premier Danielle Smith, with the full support of leaders like Pierre Poilievre, is demonizing trans youth, and what that means for children and families in your province?

Hon. Kristopher David Wells: Well, first, I would say that the three bills that passed in Alberta targeting the 2SLGBT community—in particular, youth—are unprecedented and represent a dangerous trend that we’re seeing in Canada. A lot of this is being imported from the far right in the United States and countries like Russia and their “don’t say gay” laws.

It’s very disturbing. It’s caused extreme distress and concern in the community, and I think that’s why you’ve seen immediate court challenges being issued. Fundamentally, these laws are in violation of the Canadian Charter of Rights and Freedoms and of human rights grounds that exist in every province and territory in this country. That includes sexual orientation, gender identity and gender expression. We would expect that government policy would help and support young people, not hurt them.

Ms. Niki Ashton: Obviously, the goal of this study is to come up with recommendations to government in terms of dealing with the threats to freedom of expression. As I said, for us in the NDP, what’s critical is to put a stop to hate, including anti-trans hate. I’m wondering whether you have some clear recommendations to make to the federal government on this front.

Hon. Kristopher David Wells: There’s the example that I provided from the City of Calgary, the Safe and Inclusive Access By-law. The City of Vaughan also has a very strong bylaw that protects what’s called “social infrastructure”—so hospitals, schools, libraries, recreational facilities—from protest. I think this is, as the courts have also agreed, a very reasonable limitation on the freedom of expression by still allowing people to express even hateful or awful views, but also protecting citizens in accessing public spaces and services, just like everyone else.

My recommendation would be for this committee to look at scaling up those efforts of those bylaws as a best practice and encouraging more municipalities to enact them.

Also, provincial governments do have the power, and certainly the federal government also has the power, to enact this kind of safe access, safe infrastructure laws and legislation.

Ms. Niki Ashton: Thank you for sharing that.

Quickly, do you think we need stronger federal laws when it comes to anti-trans hate in particular?

Hon. Kristopher David Wells: I do, absolutely, and in particular the hate crimes provisions that are in Bill C-63. I understand that the minister is considering splitting that bill. I really believe that those hate crimes provisions, which all law enforcement widely supports, need to be in the bill and will help combat hate in this country by having stronger legislation in the Criminal Code.

[Translation]

The Vice-Chair (Mr. Martin Champoux): You have 30 seconds left.

[English]

Ms. Niki Ashton: Thank you very much for what you’ve shared, and I’m looking forward to a second round.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Thank you very much, Ms. Ashton.

Mr. Marcoux, I want to ask you a question about young people’s exposure to harmful content online.

I am the father of two young teenagers, and I see how much the content they consume on social media and online in general influences the way they speak and behave. Some content is relatively harmless, but some of it is hard-core and extremely harmful, and that has deeply undesirable effects. There are all kinds of ways to prevent that. Australia has opted for a heavy-handed approach: banning social media for young people under the age of 16. They clearly want to do something definitive, but there are a lot of questions about implementing that policy.

What measures do you think could be taken in Canada? We need realistic measures that will help us prevent young people—especially teenagers, who are so impressionable—from accessing harmful content. I'm not just talking about violent or sexual content; I'm also talking about influences that can be deeply detrimental to their development and their attitude in general.

• (1715)

Mr. Jacques Marcoux: Thank you for your question, Mr. Champoux.

[*English*]

I'm happy you brought up the example of Australia. Australia set the tone with age 16, which is beyond what most countries are doing. If you think of that, it's actually a response due to the exasperation felt by families, regulators, government and everyone in protecting kids online. In the context where online service providers haven't really shown an interest to step up to the plate, to do what's right and to prioritize kids, what other option do governments like Australia or our own government have? If we had a situation in which the industry was taking this issue seriously and was taking appropriate steps, or wouldn't fight, tooth and nail, every attempt to be subject to reasonable regulation, then we wouldn't be in this situation. If it were....

I think I'll just end there.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Thank you, but I'm still not hearing any proposals or suggestions for measures we can take. Basically, we still need to make the digital giants, the platforms, do their part. In a way, they are key to restricting access, controlling content and prosecuting offenders, if necessary. I think they're the problem because of their resistance to regulation.

[*English*]

Mr. Jacques Marcoux: Well, fundamentally that's what Bill C-63, in principle, aims to do: It's to establish regulations on the system itself and to impose duties of care onto those companies. Something like age verification, potentially, which has been supported by some parties, would allow websites and platforms to provide age-appropriate experiences to kids. That would be one example of something that could be done.

Bill C-63 is an example of the government trying to establish a systems approach. It's a approach similar to what's happening in the U.K. already, and in Australia and in the EU.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Thank you very much, Mr. Marcoux.

We will now begin the second round of questions, starting with the Conservatives.

Mr. Jivani, you have the floor for five minutes.

[*English*]

Mr. Jamil Jivani: Thank you, Mr. Chair.

Mr. Marcoux, I have another question for you.

Just to give you some context, for the last couple of meetings, we've heard some rather bizarre ideas from Ms. Fry, today suggesting that freedom of expression is irrelevant to democracy and suggesting in our last meeting that freedom of expression is irrelevant to the expansion of the federal bureaucracy and the administrative state.

I want to focus on that because I think it's important that we speak to the concerns of Canadians. It sounds to me, Mr. Marcoux, that you are concerned about—

Hon. Hedy Fry: I have a question of privilege, Mr. Chair.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Dr. Fry, is this a point of order or a point of privilege?

[*English*]

Mr. Jamil Jivani: Oh, that was a little longer than I expected.

Hon. Hedy Fry: It's a question of privilege. Thank you very much.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Go ahead.

[*English*]

Hon. Hedy Fry: I am prepared to have the Conservatives disagree with what I say and do. I have not, for the last few meetings.... I was chairing. I was not asking questions of people.

Mr. Damien Kurek: I have a point of order.

Hon. Hedy Fry: Please get a sense that I am being misquoted here and misrepresented. My privilege as a parliamentarian has been sullied and I would like the member to apologize for misinterpreting and misspeaking about everything I've said so far today.

Thank you.

• (1720)

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Mr. Jivani—

[*English*]

Mr. Damien Kurek: I have a point of order.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Mr. Jivani, Dr. Fry is making a point. You've interpreted her words loosely, because—

[*English*]

Mr. Jamil Jivani: No, I'm not going to be apologizing.

Maybe Ms. Fry forgot, but these are recorded meetings, so there's video of her saying the outrageous things that I made reference to. She could go back and look at the video if she'd like. I don't have the memory of a goldfish. I remember what happened on Monday.

Okay, if I can go back now, Mr. Marcoux—

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Mr. Jivani, we're going to pause there.

Before you continue with your time, I'm going to suspend the meeting for a few minutes to confer with the clerk.

• (1720) _____ (Pause) _____

• (1720)

The Vice-Chair (Mr. Martin Champoux): We will resume where we left off with Mr. Jivani.

Mr. Jivani, we aren't able to review what was previously said—

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): Mr. Chair, I have a point of order.

The Vice-Chair (Mr. Martin Champoux): Would you please let me finish?

We will resume the meeting, and I would ask you to pay attention to your interpretation of what other committee members are saying.

We'll get to the rest of your time, Mr. Jivani.

Mr. Godin, you have a point of order.

Mr. Joël Godin: Thank you, Mr. Chair.

I'm not a regular member of this committee, but I heard the usual chair say that my colleague is a liar. We can review that segment. It was said a few minutes ago, unless the interpretation wasn't accurate. I think it's unacceptable—

The Vice-Chair (Mr. Martin Champoux): I didn't hear anyone say anything about a lie.

That is verging on debate, and I just ruled on that. At this time, we can't go back and listen to what was said.

Mr. Joël Godin: Mr. Chair, I'll finish what I wanted to say.

I think it's important to make sure that nobody is calling anyone else a liar.

The Vice-Chair (Mr. Martin Champoux): You're right, and I would remind everyone to use respectful language with their colleagues.

[*English*]

Mr. Taleeb Noormohamed: I have a point of order—

Mr. Damien Kurek: I have a point of order—

Hon. Hedy Fry: I have a point of order—

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): We have a point of order from Mr. Kurek and a point of order from Dr. Fry.

Mr. Kurek, you have the floor.

[*English*]

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

I would just note that there have been a number of times when the regular chair occupant—

Hon. Hedy Fry: I have a point of order.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Dr. Fry, Mr. Kurek is raising a point of order. I would ask you to wait a bit, please.

[*English*]

Mr. Damien Kurek: Thank you, and with respect, I am speaking on a point of order, Dr. Fry.

With respect, Chair, the regular chair occupant has, on a number of occasions over a number of meetings, in some cases interrupted questions posed by the Conservative members of this committee, which is ironic when we're talking about a study on freedom of expression.

Certainly I believe the direction that Mr. Jivani was taking is fully within the bounds of the discussion that we are having, and if some members—

• (1725)

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Mr. Kurek, that is debate, not a point of order.

[*English*]

Mr. Damien Kurek: —are unhappy with that, they are certainly welcome to use their time to intervene in that regard.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Mr. Kurek, that is debate. I have taken note of that.

Dr. Fry, did you want to speak to this point of order?

[*English*]

Hon. Hedy Fry: Thank you very much, Mr. Chair.

I would comment on it, but that would be debate. I would comment on my ability as a chair to intervene when I think a line of questioning to a witness is disrespectful; it's my duty to make sure that intervention happens.

I would like to point out that Mr. Jivani mentioned what went on at a meeting that was in camera, and he's just breached the rules of in camera by doing so.

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Thank you, Dr. Fry.

Mr. Jivani, I would remind you that, yes, the meeting on Monday was in camera, and what was discussed there—

[English]

Mr. Jamil Jivani: It was my mistake, actually. It happened last Wednesday when Ms. Fry suggested that our public witness, Bruce Parly, was making irrelevant comments in a discussion about the administrative state. That was last Wednesday, not on Monday. I did not address anything that was in camera.

I appreciate that Ms. Fry wants to play a game here, but we're telling the truth about what she's been doing as chair of this committee. That's my point.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Mr. Jivani, I'm going to stop you right there. This has become a debate on this issue. Every intervention so far has been more akin to debate than a point of order.

Mr. Jivani, you have the floor. You have four minutes and 40 seconds left.

[English]

Mr. Jamil Jivani: Thank you, Mr. Chair.

Mr. Marcoux, finally I get to ask you my question. I apologize for the delay.

Let's go back to the concerns that many Canadians have about the creation of a massive bureaucracy through Bill C-63. I'd be curious if other Canadians who share your concerns, your objectives concerning the protection of children.... Do you appreciate why they are not favourable toward Bill C-63's expansion of the bureaucracy? Do you see why there are concerns about that posing a threat to freedom of expression in our country? Would you be able to find common ground with Canadians who share your concerns related to the protection of children online but do not appreciate the way that Bill C-63 proposes to go about it?

Mr. Jacques Marcoux: As an organization, our concern is what is effective: what an effective bill or law looks like or what effective regulation looks like. The details as to whether or not it's appropriately funded, whether it's the right structure or whether it's best to hand this over to the CRTC aren't really things that we're interested in weighing in on. What we want to see is a law that provides a system-wide safety net to kids and, quite frankly, any Canadian who uses these services. We want to see this to be rolled out and be effective. We want to also catch up to the same protections that other kids in other countries currently have. That's really our chief concern at this time.

Mr. Jamil Jivani: Thank you for that answer, Mr. Marcoux.

I'd like to cede the rest of my time to my colleague Mr. Kurek.

Mr. Damien Kurek: Thank you very much.

Mr. Marcoux, you're not in the room here, but we have an Amber alert that just rang, and I certainly pray that the child is found soon, safely and quickly.

It speaks to how live of an issue protecting kids is. I spent some time at the justice committee discussing Bill C-270, a bill that would help with ensuring that there's that accountability for the distribution of non-consensual explicit material and would ensure that it is taken down and that there would be responsibility for both

those who would share it and the companies that in some cases make it just incredibly difficult for victims. There are heartbreaking stories, and I shared some of that testimony during my time at the justice committee.

Here we are discussing freedom of expression. We have an Amber alert, which highlights how this is such a live issue. I'm wondering if you can comment specifically on Bill C-270 with regard to making sure that when it comes to protecting kids, there is accountability for those who would share explicit material without consent—whether it be children or adults, maybe intimate partners or the like—and ensuring that there's accountability for both those who would share and the companies that have profited in many cases off that material.

● (1730)

Mr. Jacques Marcoux: Mr. Kurek, just so I'm clear, isn't Bill C-270 Mr. Viersen's private member's bill?

Mr. Damien Kurek: Yes.

Mr. Jacques Marcoux: I'm not incredibly familiar with the details of the bill, but I do know the broad strokes of the bill. I think it is fundamentally a good example of working upstream and integrating a systems approach to protecting people online. You impose obligations on service providers or anyone who wants to make content available to the general public, especially higher-risk content like adult pornography.

A lot of those measures—as I said, I'm not speaking specifically, just generically—are fundamentally things that we as an organization agree are good approaches. These are things like ensuring that any video that's put online, especially on a pornography site, is consensual: The person not only consented to being recorded in the first place but also consented to it being distributed, and then also continued to provide consent for that to be distributed, including from all the co-actors in the video, to ensure that everyone within the actual content provided their consent.

I think those are fundamentally great ideas.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Thank you very much, Mr. Kurek.

It's been over five minutes now.

It's the Liberals' turn. I'll go to Mr. Noormohamed for five minutes, please.

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

[English]

Senator, we began this conversation with a conversation about the Senate. I think it's important to take a minute or two at the top to correct the record on some of the misleading information that was provided.

As most Canadians with knowledge of the Constitution know, senators are appointed by the Governor General on the recommendation of the Prime Minister. Bert Brown, Ted Morton, Cliff Breitzkreuz, Link Byfield and Mike Shaikh were all elected by Alberta voters. They were not appointed to the Senate by Stephen Harper. He appointed 59 senators, some of whom ended up in jail and some of whom ended up with all kinds of other questionable records of their own.

Senator, have you ever been accused of any wrongdoing since your appointment to the Senate?

Hon. Kristopher David Wells: Certainly not. I can say, as someone new to the Senate, what remarkable colleagues I have, who come from all walks of life. They bring their lived and professional experience to bear on issues that matter the most to Canadians. They work closely, of course, with the House of Commons to pass legislation that will meaningfully impact and improve the lives of Canadians.

Mr. Taleeb Noormohamed: Do you belong to a political party?

Hon. Kristopher David Wells: I do not. I currently sit as a non-affiliated senator.

Mr. Taleeb Noormohamed: Are there any political parties represented in the Senate?

Hon. Kristopher David Wells: I believe there's only one.

Mr. Taleeb Noormohamed: What is that?

Hon. Kristopher David Wells: I believe that is the Conservative Party, which sits with the Conservative caucus.

Mr. Taleeb Noormohamed: Just to confirm, unelected Conservative senators sit in the Conservative caucus along with Conservative colleagues in this room.

Hon. Kristopher David Wells: I believe that to be the case.

Mr. Taleeb Noormohamed: I see.

Do you sit in any political caucuses with other parties in the House of Commons?

Hon. Kristopher David Wells: I do not. There are none.

Mr. Taleeb Noormohamed: Okay.

I think it's important for those who are watching this to understand that the only party that is actively engaged in partisan politics in the Senate with unelected senators is in fact the Conservative Party.

With that now on the record, Senator, you spoke about the importance of making sure that kids have the ability to feel safe in their communities and their schools. I've asked this of other witnesses, and I wonder if you might take a minute to answer.

A lot of folks on the right are triggered by the use of pronouns. I certainly don't give a damn what somebody's pronouns are. As long as I understand what they are, I'll use them. I don't particularly care one way or the other. Why do you think the right is so triggered by people's use of pronouns?

Hon. Kristopher David Wells: I think when people are triggered, it says more about themselves and their own beliefs than the individuals who just simply want to be respected for who they are and how they identify. It comes down to good Canadian values

about common decency and respect for your neighbour and respect for your community.

Mr. Taleeb Noormohamed: You're from Alberta. It's a province that prides itself in talking about freedom. Every time I've gone to Alberta, I've been struck by the incredibly kind, wonderful people I've had the chance to interact with, from all political stripes. They all are very keen on personal freedom. Why is it, then, that there are these right-wing elements that are so triggered or so opposed to the expression of personal freedoms by members of the LGBT community?

• (1735)

Hon. Kristopher David Wells: It's a great question.

You know, I was born and raised in Alberta. I chose to stay and work in Alberta and I'm proud to represent Albertans, including those from the 2SLGBTQ+ community who are proud Albertans, and all they want is to be respected and have the same rights, freedoms and privileges as anyone else in this country. It's very perplexing why it's freedom for me but not freedom for thee.

Mr. Taleeb Noormohamed: That's an interesting point, this freedom for me but not for thee, and we've heard a lot of this.

The thing that I really wonder if you could spend a little bit of time on—I don't know how much time we have left, probably another minute or so—is exactly this question about the notion of freedom and the freedom of expression.

How do you reconcile this notion that Conservatives—small-c conservatives perhaps less so, but certainly big-C Conservatives—these days in your home province and perhaps other places have taken on some of the most vulnerable in our communities, young people who are dealing with identity issues and with sexual orientation issues?

Why do you think that is? Do you think it's because they're an easy target? It certainly doesn't align with the values of “love thy neighbour”, so why do you think that is?

Hon. Kristopher David Wells: I think we've seen, around the world in countries like Russia and in certain states in the United States where these people become political targets, that it distracts from the real, important issues to Canadians, like being able to afford food, worrying about housing or worrying about the kind of job that you're able to have or retain. These become distractions, unfortunately, that are aided and abetted by unregulated social media and algorithms that seek to divide Canadians, and when we're divided, we're at our most vulnerable to foreign interference and foreign governments and agents.

This is a clear strategy to sow dissent and to rip apart the very fabric of our democracy and the diversity, multiculturalism and pluralism that are the hallmarks of our country, which every Canadian should be proud that we have in this country.

[Translation]

The Vice-Chair (Mr. Martin Champoux): Thank you, Senator Wells.

Mr. Noormohamed, your time is up.

Ms. Ashton, you have the floor for two and a half minutes.

Ms. Niki Ashton: Thank you.

[*English*]

First of all, before I begin, I just want to clarify something.

As many have raised the issue of the Senate, I just want to put on the record, since this has clearly become an issue of discussion in our committee, that I'm proud of the NDP position that doesn't support an unelected Senate at all, and I think that would be a solution to most of our problems. If we're going to talk about strengthening democracy, there's a lot to focus on, and fighting for the Senate isn't one of those things.

Moving on to questions, Monsieur Marcoux, the point of what we're doing here is to come up with recommendations. There's been a fair bit of focus around legislation, but I want to get into one issue that we also raised in the discussion around online harms that we had a few months ago, and that is the issue of gender-based violence.

A lot of the talk around child exploitation really points to the very deep issues we face as a society with respect to gender-based violence. We know that gender-based violence is on the rise. We are seeing an epidemic of femicides across the country, and we know that for young women online, the online realm poses immense risk and danger.

I wonder if you could speak to how important it is to have a federally funded strategy to end gender-based violence, not just online but in general. To what extent do we need to take gender-based violence seriously as a way of also taking online harms and the online safety of our children seriously?

Mr. Jacques Marcoux: Thank you for your question.

I am going to stay in the online lane, if I may. That's really our area of expertise.

You're right: There is definitely a gender-based violence component to the online harm space. The majority of child sexual abuse material that we see is often young girls and women, and even young adults at times, with non-consensual intimate image distribution.

There has been a bit of a hiccup in that trend recently: Online sextortion has flipped that notion on its head, in that it's almost entirely boys, for a number of reasons. It is primarily because the motivation isn't sexually driven but financially driven. Boys are falling prey to these sexual conversations online, and then they're being

extorted. That is a more recent nuance. Absolutely, this is a gender-based violence component.

It's also marginalized groups that tend to be overrepresented in online harm, so I think it's really important that we have these systems in place, these comprehensive approaches to tackling these issues before they become crimes or before there is harm that happens.

Multiple times over the last hour, I've echoed this notion of a systems approach whereby we anticipate harms. At this point, after 20 years of social media, it's pretty easy to anticipate harms. We know what the tactics are. We know where the harms are and where the pitfalls are. Now it's just a matter of ensuring that those who control these digital environments are actually acting on this information.

• (1740)

[*Translation*]

The Vice-Chair (Mr. Martin Champoux): Thank you, Mr. Marcoux.

Ms. Ashton, we've gone way over time, but I wanted to let Mr. Marcoux finish his answer.

Mr. Marcoux and Senator Wells, thank you very much for the insight you have shared with us today through your remarks and your answers to our questions, which aren't always easy to answer.

This was the last hour of our study on freedom of expression.

I want to take a moment to thank all my colleagues for being so kind and understanding with me. This study was very important to me, and I have to say you were all very collaborative. You helped me make sure that we were able to achieve our goal, which was to complete this study before the holiday break. I'm sincerely grateful to you all.

I also want to thank the entire team, the analysts, who will have another wonderful report to write over the holidays. What a nice way to spend Christmas.

I also want to thank our clerk, the always-indispensable Ms. Widmer.

I'm infinitely grateful to you.

If no one has anything else to add to the agenda, I move to adjourn the meeting.

Happy holidays.

The meeting is adjourned.

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