

Josh Dehaas
Litigation Director (Interim)
Canadian Constitution Foundation
jdehaas@theccf.ca



Remarks to the Standing Committee on Procedure and House Affairs as they study the Current State of Civic Resilience in Canada

April 21, 2026

Good morning. My name is Josh Dehaas. I'm the Interim Litigation Director of the Canadian Constitution Foundation. The CCF is a legal charity that defends Canadians' rights and freedoms through public education, communications and public interest litigation.

Over the past few years, our biggest focus has become freedom of speech.

Today, I want to talk about how the erosion of freedom of speech in Canada is harming civic resilience – and also offer five specific ideas for how Parliament can reverse this erosion.

But first, I want to offer a very brief lesson on freedom of expression. We all know that we have a *Charter* right to free speech, but do we really know what that means or why it matters?

The concept is actually simple. Free expression is the idea that governments do not get to decide what people can and cannot say – that is what ideas we may or may not express. While it's acceptable to put limits on harmful forms of expression like nuisance noise or to prevent immediate *physical* consequences like violence, a truly free country does not censor ideas.

The CCF is doing its best to educate the public about this ancient freedom with our free high school coursepacks for civics teachers, our Not Reserving Judgment podcast, our *Free Expression in Canada* book, and our free expression course available at TheCCF.ca/learn.

But so many of us still fail to understand that freedom of expression is *the* oil that keeps the democratic engine chugging along.

As the Supreme Court has recognized, it is only when all of us are allowed to express our ideas freely, no matter how unpopular, distasteful or contrary to the mainstream, that we're able to get to the truth of matters and govern ourselves as a democracy.

Free speech is a necessary component of progress because, throughout history, the majority viewpoint has so often turned out to be wrong:

- Galileo was persecuted for saying the earth revolves around the sun;
- Mahatma Gandhi was jailed for advocating against British colonial rule;

Josh Dehaas
Litigation Director (Interim)
Canadian Constitution Foundation
jdehaas@theccf.ca



- Gays and lesbians were fired from government jobs for arguing for gay rights.

The reality is, when governments censor, they risk holding back progress for all.

Freedom of expression is also an essential component of human dignity. When people are told by their democratic institutions to be quiet, they no longer feel that they have an equal right to participate in the conversation. This leads to frustration, anger, distrust and political polarization.

Censorship of information related to COVID-19 is part of what led to the frustration we saw during the Freedom Convoy.

Censorship of social media is part of the reason so many people believe there's a secret cabal controlling them through the World Economic Forum.

If governments, including this one, were to re-commit to freedom of speech, people with minority viewpoints could be welcomed back into the fold and we could build a more united country.

So, in that spirit, here are five things that this government can do to restore freedom of speech in Canada.

First, the government should repeal the *Online News Act*, which has backfired spectacularly. The *Online News Act* has caused quality mainstream news stories to disappear from Facebook and Instagram, which is where so many Canadians would prefer to get their news. The result is that organizations such as my own can't post news or op-eds published in quality newspapers, while dangerous demagogues can spread fact-free video commentary and AI-generated slop with abandon.

Second, governments should repeal section 319(2.1) of the *Criminal Code*, which threatens imprisonment for the promotion of antisemitism by condoning, denying or downplaying the Holocaust, and Parliament should resist calls to ban condoning, denying, downplaying or justifying the Indian residential school system. Of course intentionally condoning, denying or downplaying the Holocaust or the horrors of the residential school system causes emotional pain. But punishing speech because it is emotionally harmful is unconstitutional. As Justice Beverly McLachlin warned in her dissent in the 1990 *Keegstra* case, hate speech restrictions chill an enormous amount of valuable speech without actually stopping hate. In fact, these laws may

Josh Dehaas
Litigation Director (Interim)
Canadian Constitution Foundation
jdehaas@theccf.ca



make hatred spread *faster* because they trigger conspiratorial thinking and turn monsters into martyrs.

Third, if the Senate amends Bill C-9 to restore the good-faith religious speech defence, the House of Commons should accept that amendment. Removing this exemption has caused religious people across the country to fear persecution for expressing faith-based beliefs.

Fourth, Parliament should say no to the *Online Harms Act* once and for all. While we can debate what age limit is appropriate to access social media, all previous versions of this act would have given federal regulators control over the speech that adults see online. Most concerning is the proposal to create a Digital Safety Commission to block content that foments hatred. This will only lead to censorship of ideas. Australia's eSafety Commission has very quickly turned into an Orwellian thought police. Canada need not go down this divisive, dangerous path.

Finally, Parliamentarians should resist attempts to censor expression by regulating the speech that generative artificial intelligence programs are allowed to express. Regulating the speech of AI platforms is only one step removed from censoring the ideas that artificial intelligence has been trained on: human-created expression. Censoring AI is really not much different from telling a newspaper what they may and may not print. In fact, this may be the biggest threat to free expression in the near future.

Thank you for your time today. I would be happy to answer any questions.