

## **Committee for the Status of Women and Human Rights (CSWHR)**

**December 2020/January 2021**

### **SWHR Issues of Note**

(Note: Information appearing below may have been taken verbatim from sources. The author in no way intends these to represent original work.)

#### **1. Child Marriages Reported in Rural Areas in Canada McGill University Study Confirms**

Canada is at the forefront of global efforts to end child marriage abroad. Yet this practice remains legal and persists across the country. In Canada, more than 3,600 marriage certificates were issued to children, usually girls, under the age of 18 between 2000 and 2018, according to a new study from researchers at McGill University. In recent years, an increasing number of child marriages have been common-law unions.

"The persistence of this practice within Canada highlights some of the inherent challenges to fully eradicating child marriage and reveals an important inconsistency between Canada's domestic laws and its global policies" says co-author Shelley Clark, James McGill Professor of Sociology at McGill University. The next steps will be to examine the mental health consequences of child marriage in Canada and to investigate motivations for the practice

85% of the marriage licences to children were issued to girls under 18 who were marrying much older men (definition of child marriage). UN has called for the end of child marriages by 2030. Child marriages are a globally recognised form of gender inequality.

The study reported that an increasing number of child marriages in recent years in Canada have been informal, common-law unions.

The researchers added that this makes it more challenging to determine the exact number of child marriages across Canada, and whether concerns about "social or legal consequences have led to changes in reporting behaviours."

Researchers say informal child unions, such as common-law, can be "just as harmful as formal marriages" as they often provide less social, legal and economic protection, according to the study.

<https://www.ctvnews.ca/canada/child-marriage-persists-across-canada-rural-communities-study-finds-1.5261016>

<https://www.mcgill.ca/newsroom/channels/news/child-marriage-legal-and-persists-across-canada-327554>

#### **2. Curfews/Lockdowns Violate Charter Rights?**

Curfews breach several Charter provisions. Section 2 protects the freedom to assemble and associate. Section 7 protects the right not to be deprived of liberty “except in accordance with the principles of fundamental justice.” Section 15 guarantees equality under the law.

Concerning pandemic restrictions, courts will agree that governments have a valid objective in trying to address viral spread. However, governments defending curfews must provide evidence to the court that the use of curfews will actually impact viral spread in order to ensure a curfew rule can survive.

By acting contrary to the Charter, and overzealously enforcing curfews, provinces risk losing support for public health measures. With recent reports about public officials travelling while Canadians were asked to stay home and cancel Christmas, those proposing curfews risk being perceived as hypocritical while also telling the public that measures are necessary because they cannot be trusted. This is hardly a recipe for political success.

All Canadians who cherish freedom, equality, or equity should oppose the overbearing and unconstitutional encroachment into their lives that curfews present. Provinces adopting such harsh measures also risk losing public support for their entire suite of responses aimed at reducing the pandemic’s impact. Curfews have the potential to make a bad situation much worse.

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While many rights are violated by these government acts in response to COVID, the *Charter* has something called the limitation clause in section 1. This allows governments to justify infringements of certain rights. The courts have developed a test to determine whether a limit on our rights is justified. The law must serve a pressing and substantial objective, it must be rationally connected to that objective, the law must minimally impair the right, and there must be proportionality between the limit on our right and the benefit gained.

Controlling the spread of COVID is an important objective, and it is an objective that itself engages our *Charter* rights, including the right to life and security. When balancing competing fundamental rights, courts will show considerable deference to government attempts to craft proportionate responses, and minimal impairment does not require perfection.

However even with wide leeway from the courts, some government action may be taking things too far. It may not be minimally impairing to have multiple restrictions heaped on top of one another. Why close stores when requiring masks, sanitation, and limiting entry would achieve the same goal? Why limit travel between provinces when quarantine is required?

Moreover, limits to our rights cannot be arbitrary, unfair or based on irrational considerations. And many government actions are now treading into irrational and arbitrary territory. Why close theatres when everyone faces the same direction in a large room, doesn’t talk, is masked, and in the absence of evidence of spread in theatres? Such a measure seems more about political optics than science and public health.

But legal arguments aside, the government needs to provide a rationale to the public for their measures. Very little information has been disclosed about where transmission takes place, yet limits have been imposed on gatherings and businesses shut. Even if the government COVID measures were to survive a *Charter* challenge, they may lose public support if they don't provide evidence now.

<https://theccf.ca/are-government-responses-to-covid-breaching-charter-rights/>

<https://torontosun.com/opinion/columnists/opinion-heres-how-curfews-violate-charter-rights>

### 3. Ethical Issues in Vaccine Rollout

Some hospitals and health systems are offering COVID-19 vaccines to staff who don't interact with patients, including administrators and researchers, as thousands of front-line workers and long-term care residents wait for their turn to be inoculated.

With a limited supply of vaccines expected for the months to come, each province in the country has established ethical guidelines to ensure available doses are directed toward those most at risk. In Ontario, for example, the first phase of the vaccine rollout is meant to target health care workers and essential caregivers in hospitals, long-term care homes and other settings where seniors gather – followed by other essential caregivers, long-term care and retirement home residents, and First Nations.

Some hospitals say they've been forced to look outside these groups in order not to waste doses. Storage challenges have also limited distribution as the provinces ramp up their inoculation programs. Some regions have yet to see a single dose administered to high-risk populations, while several Toronto hospitals are planning to open up vaccination clinics to more staff this week.

Giving doses to lower-priority groups such as administrative and out-patient staff could constitute a "very serious ethical violation" that merits an investigation, said Kerry Bowman, a bioethicist at the University of Toronto.

"We with great work developed national consensus as to phase one of the ethical distribution of COVID-19 vaccines," Dr. Bowman said. "That was pretty clear: The vulnerability was long-term care, senior citizens, Indigenous communities, etcetera.

As of Jan. 7, Canada has received 548,950 doses of the Pfizer/BioNTech and Moderna vaccines.

Vaccine availability is one struggle – the University Health Network (UHN) expected to receive 3,000 doses to administer this weekend, which didn't show up – but their short shelf life is also putting health care systems in tough positions.

Pfizer-BioNTech's vaccine must be used within six hours of being thawed and prepared, sometimes leaving hospitals to scramble to find arms to jab when there are extra doses in thawed vials or if preregistered staff don't show up.

One such surplus scramble happened on the weekend, as Newmarket's Southlake Regional Health Centre offered UHN additional Pfizer-BioNTech vaccines doses for staff.

Christine Sorensen, president of the BC Nurses' Union, said it is "extremely disappointing and concerning" to hear from members across the province about people who do not meet the priority criteria being vaccinated.

Ms. Sorensen, who has run mass immunization clinics for more than 30 years as a public-health nurse, also believes poor planning is to blame: "You always have more people ready to have the vaccine that are in the priority group, in case you have cancellations. And then you prioritize those people for the next clinic, so you always have a rolling group of people ready."

As parts of Canada struggle to give the vaccine to the right people, others haven't gotten it at all. A spokesperson for Niagara Region Public Health said Sunday that it hadn't gotten any doses at all, though Ontario's Ministry of Health said it should receive shipments early next week.

<https://www.theglobeandmail.com/canada/article-non-front-line-staff-at-uhn-michael-garron-among-ontario-hospital/>

#### **4. Awareness of Terrorist/Hate Groups on the Rise in Canada**

Canadian authorities are collecting information about the far-right Proud Boys group as part of a possible terrorist designation, the federal Liberal government said Sunday as it faced calls to ban the organization over its role in last week's U.S. Capitol attack.

Public Safety Minister Bill Blair's office stopped short of saying when — or even if — the Proud Boys would actually be added to Canada's national list of terrorist organizations, which includes such groups as al-Qaeda, Hezbollah and ISIS.

Blair spokesperson Mary-Liz Power instead specifically named it as one of the "ideologically motivated" extremist groups that are being closely watched as Ottawa looks to counter the threat posed by white supremacists and other far-right organizations.

"Our national security and law enforcement agencies are very actively engaged in monitoring the activities of these groups and gathering the evidence required to support a determination of listing as a terrorist organization," Power said in an email.

Founded by Canadian Gavin McInnes, the Proud Boys are a far-right group that is unapologetically misogynist and increasingly linked to white supremacy and hate. It was later banned by Facebook and Instagram in October 2018 for violating their hate policies.

The group first made headlines in Canada when several self-identified members in the Royal Canadian Navy disrupted an Indigenous protest in Halifax in 2017, and it has since grown its international profile and membership.

<https://www.cbc.ca/news/politics/canada-proud-boys-terrorist-group-1.5868073>

#### **5. Concurrent Rise in Far Right Groups and Affiliation**

What does the term "far-right" mean? Hofmann starts by explaining what it doesn't mean.

"Far-right does not mean people who have conservative values, who have completely law-abiding views — we're allowed and encouraged to have divergent political views in Canada," he said.

Instead, he said, it's "the fringe of the fringe of the fringe," people who take conservative ideologies to the extreme and gravitate toward acts of violence of the sort that unfolded in Washington this week.

"It's a distinction that's very, very important," Hofmann said.

Like any political or fringe movement, the objectives of far-right groups vary.

It can be, as was the case in the U.S. Capitol this week, trying to bring about political change — "in their case, stopping what they incorrectly see as a stolen election," Hofmann said.

### **Why the recent sudden growth in extremism?**

According to Hofmann, 2016 was a watershed moment, "an absolutely pivotal moment for extremism across the globe."

That happens to be the year Trump was elected president of the United States. That was a key factor, Hofmann said, but not the only one.

"Trump's normalization and encouragement of far-right actors was part of it, but we also see in South America [President Jair] Bolsonaro in Brazil, members of far-right groups and neo-Nazi groups getting seats in Parliament in Europe and Greece," he said.

"This is a global phenomenon, where world leaders have legitimized these types of views. The climate for sharing these ideas has become more acceptable, which has caused these individuals to come out of the woodwork."

A chapter of the international paramilitary group the Three Percenters, which is new to Canada, has established chapters in New Brunswick and in Nova Scotia.

The European-Finnish anti-immigration group Soldiers of Odin has set up a chapter here as well.

The Ku Klux Klan has also had a presence in New Brunswick since the 1920s and was actively attempting to recruit as recently as 2017, in Fredericton, Hofmann said.

Only two groups were "homegrown," formed in New Brunswick and run by New Brunswickers, Hofmann said.

They are the Northern Guard, with chapters in Saint John, Sussex and Moncton, and the all-female Northern Maidens in Saint John.

### **Far Right Groups in Canada/Ontario**

A report released Friday on Canadian involvement in right-wing extremism online should serve as a "wake-up call" about the widespread nature of the movement and highlights a growing shift toward the use of less regulated platforms, says an expert on the phenomenon.

The [research](#), led by the U.K.-based Institute for Strategic Dialogue (ISD) think-tank, identified more than 6,600 online channels — pages, accounts or groups — where Canadians were involved in spreading white supremacist, misogynistic or other radical views.

On some forums, Canadians were found to be "highly active," even more, on average, than users in the U.S. and Britain.

On one particular message board called "politically incorrect" on the fringe site 4Chan, researchers found Canadian users created 1,636,558 posts, representing 5.71 per cent of posts from all countries.

The study suggests when the numbers were averaged out using each country's "estimated internet-using population," Canada was shown to be producing more content than anywhere else.

Barbara Perry, director of Ontario Tech University's Centre on Hate, Bias and Extremism, called the Canadian tally "really disconcerting."

Not all the online chatter is illegal — much of it is covered by the Canadian Charter of Rights and Freedoms — but the authors still consider it "problematic."

The study highlights the online roots of such groups, classifying incels as being part of the wider "manosphere" movement marked by "overt and extreme misogyny."

Social media is "hugely important in the way these groups and individuals communicate, spread propaganda and target minority communities," Davey said.

The paper identifies the "Three Percenters" as an Islamophobic armed militia group and "the epitome of this more militant arm of the movement." The Alberta chapter's Twitter and Facebook pages remained publicly available on Thursday, with fewer than 150 followers on Twitter and more than 4,500 on Facebook.

A Facebook search on Thursday for another group, the Canadian Defence League — identified as part of the anti-Muslim movement — returned a page with more than 1,800 "likes." The group describes itself as "fighting back against high Muslim immigration levels."

<https://www.cbc.ca/news/technology/canadian-right-wing-extremism-online-1.5617710>

<https://www.cbc.ca/news/canada/new-brunswick/extremist-far-right-groups-nb-1.5866689>

### **Three Percenters are Canada's 'most dangerous' extremist group, say some experts**

Mack Lamoureux of the news site Vice [first reported last spring](#) that the Three Percenters had established a chapter in Alberta. Nearly a year later, CBC's [The Weekly](#) has uncovered details about the

group's growing membership, including a newly established chapter in Ontario and members spanning every province.

The Three Percenters' private Facebook groups reveal the Alberta chapter has nearly 3,000 members, although the Vice report estimates only 150 to 200 are active. The Ontario group, formed in fall 2017, has more than 600 members, although it's unclear how many are active.

Like their American counterparts, the Canadian Three Percenters say on Facebook that they are armed and ready to defend themselves against the government, should it turn tyrannical. They call themselves a patriot group whose members include "military ... ex-military ... first responders ... police members ... every day labourers and business owners."

Section 70 of the Code prohibits assemblies of persons — without lawful authority — for the purpose of:

- Training or holding drills;
- Being trained or drilled in the use of arms;
- Practising military exercises.

Perry says Islamophobia is the ideology that underpins the Three Percenters.

"The Alberta group is actively training to defend Canada from what they see as the inevitable invasion by Muslims," she said.

Radicalization expert Fiset says resources within the police should be shifted away from investigating homegrown Islamic terrorism and put toward far-right groups like the Three Percenters — although he admits that could be a catch-22.

"It's a self-fulfilling prophecy, almost daring the authorities to act against them so they can call them tyrannical," he said. "It's a high probability that if the authorities move against one of these Three Percent groups, they will feel legitimized by this act. On the other hand, if the authorities do nothing, they are allowing a situation to endure."

<https://www.cbc.ca/news/canada/three-percenters-canada-1.4647199>

## 6. Freedom of Speech versus Hate Speech/Inciting Hate

German Chancellor [Angela Merkel](#) has reservations about the way President [Donald Trump's](#) Twitter account was suspended, her spokesman said, adding that legislators, not private companies, should decide on any necessary curbs to free expression.

The intervention by Steffen Seibert, her chief spokesman, reflects concern in Berlin and much of Europe at the power giant social media platforms like Twitter and Facebook have to shape public discourse.

<https://globalnews.ca/news/7569278/angela-merkel-trump-twitter-ban/>

Nearly a century after free speech became the unambiguous law of the USA, it is nonetheless losing its sway over public opinion. Today, many people who claim to support freedom of expression regularly turn around to suppress the views of others. In her Constitution Day lecture at Princeton University last September, anthropology professor Carolyn Rouse called free speech a political illusion, a baseless ruse to enable people to “say whatever they want, in any context, with no social, economic, legal, or political repercussions.” There are, Rouse said, varieties of speech, and not all of them should be deemed deserving of the protections of freedom. What, then, serves to sort out the speech that does form the speech that does not deserve the shield of the First Amendment? Rouse’s answer is *culture*: “culture is what helps us determine the appropriateness of speech by balancing our rights as enshrined in the Constitution with understandings of context.” And by culture, Rouse means *her* vision of culture. A climate-change skeptic, she explained, has no right to make “claims about climate change, as if all the science discovered over the last X-number of centuries were irrelevant.”

<https://www.city-journal.org/free-speech-crisis>

The USA First Amendment protects individuals from government censorship. Social media platforms are private companies, and can censor what people post on their websites as they see fit. But given their growing role in public discourse, it’s important to ask ourselves—what exactly are their censorship policies? How do they compare to each other, and to the First Amendment’s protections? Please refer to this website for commentary:

<https://www.freedomforuminstitute.org/first-amendment-center/primers/free-expression-on-social-media/>

Editorial – Financial Times

Please note that I have requested permission to copy this article but at the time of writing have not received it.

How quickly, in a crisis, the unthinkable can become reality. If it might have seemed fanciful a week ago that a US president could incite insurrection or face a second impeachment in a single term, so, too, would the prospect of social media platforms barring the “leader of the free world”. The bans by Twitter, Facebook and Instagram on President Donald Trump raise profound issues — of freedom of speech, and the precedents they may set for less free societies. While the “permanent” nature of Twitter’s suspension is questionable, however, not acting would have created even bigger risks. In the exceptional circumstances of America today, platform companies were right to suspend Mr Trump’s access at least until the end of his presidential term. The president has glorified violence and egged on a challenge to US institutions that left five dead. Critics are right to say the move came cynically late. The president has repeatedly flouted the platforms’ user rules. Had the platforms acted earlier to remove offending presidential posts selectively, the need for tougher actions might have been averted. Police had good reason for concern, moreover, that the president’s supporters were using both mainstream and more niche platforms to plot further violence. That justifies moves by Apple, Google and Amazon to restrict access to Parler, the “alt-tech” Twitter alternative beloved of the radical right. These are, without doubt, complex ethical issues. German chancellor Angela Merkel criticised Twitter’s indefinite suspension of Mr Trump as a breach of the “fundamental right to free speech”. Alexei Navalny, the Russian anti-corruption blogger, said it could be “exploited by the enemies of freedom of speech around the world”. Yet America’s ability to promote democracy and political freedoms elsewhere collapses if it



cannot defend its own. While some question why US enemies retain Twitter access while Mr Trump is barred, the president has unique power to undermine American democracy, should he so choose. It is misleading to suggest Mr Trump has been “silenced” when he retains access to the powerful US presidential pulpit. Free speech, moreover, cannot be wholly untrammelled. Liberals should be wary of their own arguments being misused to undermine what they believe in. Constraints are legitimate on hate speech and online incitement. Though the cultural context is very different, Ms Merkel notes the US would be better to follow Germany in passing laws restricting such behaviour than leaving it to social media platforms to devise and police their own rules. Such legal restraints in the US might run into First Amendment problems. Yet recent days highlight above all the need for debate on the limits of American free speech and the power of the tech companies. Clearer regulation must be a priority for the incoming Biden administration and for Congress. That may not mean repealing Section 230 of the Communications Decency Act, which gives internet companies immunity for user-generated content on their sites. But it should at least be reformed, with exemptions extended to cover, for example, incitement to violence or terrorist propaganda. A more effective redress mechanism is needed. What cannot be overlooked, either, is the responsibility of conventional TV outlets such as Rupert Murdoch’s Fox News, which has enabled Mr Trump for too long, and according to one study has been more influential in spreading false beliefs than social media. The UK, which has given approval for a Murdoch-owned “opinionated” news channel, should pay careful heed.

<https://www.ft.com/content/7a8bff77-66c6-4d44-ac8d-b995a8e8072e>

## **7. Human Rights Watch**

Human Rights Watch published their World Report 2021. To review the document, go to:

<https://www.hrw.org/world-report/2021>

Select Canada and see our foibles and follies for the last year.

## **8. Ontario Human Rights Commission has been very active in December**

[Letter to the Toronto Police Service on TPS consultation with the OHRC about race-based data collection](#)

December 22, 2020

[Letter to universities and colleges on racism and other human rights concerns](#)

December 18, 2020

[Letter to the Minister of Municipal Affairs and Housing on the importance of accessible housing](#)

December 14, 2020

[Letter to retired General Rick Hillier on human rights principles and considerations for coronavirus vaccine distribution](#)

December 10, 2020

[Letter to Facebook on enforcing safeguards to prevent discriminatory housing, employment and credit ad targeting in Canada](#)

December 7, 2020

[Letter to Minister of Health to follow-up on critical care triage protocol](#)

December 7, 2020

[OHRC working to address anti-Indigenous racism in lacrosse](#)

December 1, 2020