



**Public Inquiry Into Foreign Interference in Federal  
Electoral Processes and Democratic Institutions**

**Enquête publique sur l'ingérence étrangère dans les  
processus électoraux et les institutions démocratiques  
fédéraux**

**Public Hearing**

**Audience publique**

**Commissioner / Commissaire  
The Honourable / L'honorable  
Marie-Josée Hogue**

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## **II Appearances / Comparutions**

Commission Lead Counsel / Procureure en chef de la commission	Shantona Chaudhury
Commission Counsel / Avocat(e)s de la commission	Gordon Cameron Erin Dann Matthew Ferguson Hubert Forget Leila Ghahhary Benjamin Herrera Howard Krongold Hannah Lazare Jean-Philippe MacKay Kate McGrann Emily McBain-Ashfield Hamza Mohamadhossen Lynda Morgan Siobhan Morris Annie-Claude Poirier Gabriel Poliquin Natalia Rodriguez Guillaume Rondeau Nicolas Saint-Amour Daniel Sheppard Maia Tsurumi
Commission Research Council / Conseil de la recherche de la commission	Geneviève Cartier Nomi Claire Lazar Lori Turnbull Leah West
Commission Senior Policy Advisors / Conseillers principaux en politiques de la commission	Paul Cavalluzzo Danielle Côté

### III

## Appearances / Comparutions

Commission Staff / Personnel de la commission	Annie Desgagné Casper Donovan Hélène Laurendeau Michael Tansey
Ukrainian Canadian Congress	Donald Bayne Jon Doody
Government of Canada	Gregory Tzemenakis Barney Brucker
Office of the Commissioner of Canada Elections	Christina Maheux Luc Boucher Sébastien Lafrance Nancy Miles Sujit Nirman
Human Rights Coalition	David Matas Sarah Teich
Russian Canadian Democratic Alliance	Mark Power Guillaume Sirois
Michael Chan	John Chapman Andy Chan
Han Dong	Mark Polley Emily Young Jeffrey Wang
Michael Chong	Gib van Ert Fraser Harland

## IV Appearances / Comparutions

Jenny Kwan

Sujit Choudhry

Mani Kakkar

Churchill Society

Malliha Wilson

The Pillar Society

Daniel Stanton

Democracy Watch

Wade Poziomka

Nick Papageorge

Canada's NDP

Lucy Watson

Conservative Party of Canada

Nando De Luca

Chinese Canadian Concern Group on  
The Chinese Communist Party's  
Human Rights Violations

Neil Chantler

David Wheaton

Erin O'Toole

Thomas W. Jarmyn

Preston Lim

Senator Yuen Pau Woo

Yuen Pau Woo

Sikh Coalition

Balpreet Singh

Prabjot Singh

Bloc Québécois

Mathieu Desquilbet

Iranian Canadian Congress

Dimitri Lascaris

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Ottawa, Ontario

--- L'audience débute le lundi 21 octobre 2024 à 9 h 01

--- The hearing begins Monday, October 21, 2024 at 9:01 a.m.

**COMMISSAIRE HOGUE:** ... qui nous écoutent en webvidéo, alors bienvenue à tout le monde. Certains étaient probablement avec nous dans les dernières semaines, d'autres se joignent peut-être à nous ce matin.

Alors, this morning we begin the policy phase of our work with a view to eventually formulating recommendations to better protect our democratic processes. In order to benefit from as any points of view as possible, we have opted for a roundtable format with the participation of experts who have already given thought to the issues that will be under discussion.

Some come from the academic world, while others are practitioners who have worked for many years in a relevant sector, and each roundtable will be monitored by a member of the Research Council. As such, we'll benefit from the input of nearly 40 experts who will take part in seven roundtables with five or seven experts per roundtable.

We will hold two roundtables per day on Monday, Tuesday and Wednesday, and last one on Thursday morning.

Each roundtable will last more or less three hours and a half. The first two hours will be spent moving through the question already identified and then there will be a 30-minute break during which Commission counsel and the moderator will look into the new questions received from the

parties. They will identify those that are the most relevant and useful and will be asked -- they will be asking the -- in the last hour discussed.

I may also ask questions at any time during each roundtable as well as the lead counsel.

The topic and the question to be addressed at each of these roundtables have been determined in collaboration with the participants, and I want to thank them for their help.

Our first roundtable this morning is entitled "Building Democratic Resilience Amid Value Conflict", and will be moderated by Nomi Claire Lazar, who is a professor in the graduate School of Public International Affairs at the University of Ottawa.

We have also with us -- actually, two are on the screen and three are with us in the room. I would like to thank them as well, as well as Ms. Lazar, for taking part to this first roundtable, and I will leave it to Ms. Lazar to introduce the panellists more -- at more length.

So Ms. Lazar, you have the floor.

**--- ROUNDTABLE : BUILDING DEMOCRATIC RESILIENCE AMID VALUE  
CONFLICT / TABLE RONDE: RENFORCER LA RÉSILIENCE DÉMOCRATIQUE  
DANS UN CONTEXTE DE CONFLIT DE VALEURS :**

**--- PANEL MODERATED BY/PANEL ANIMÉ PAR DR. NOMI CLAIRE LAZAR:**

**DR. NOMI CLAIRE LAZAR:** Merci, Madame la Commissaire.

Bonjour, Panélistes, et membres du public.

Cette semaine, nous organisons sept tables

1 rondes au cours desquelles des experts aborderont des  
2 questions qui se débattront des options de mesures politiques  
3 pour lutter contre l'ingérence étrangère.

4 En plus des mesures de gouvernance et  
5 juridiques visant à dissuader et punir l'ingérence étrangère,  
6 les tables rondes examineront des mesures de résilience pour  
7 réduire la perméabilité des institutions canadiennes et  
8 renforcer la capacité des individus, des entreprises, et des  
9 communautés à résister aux tentatives d'ingérence étrangère.

10 This first roundtable will introduce some  
11 themes and challenges for building democratic resiliency amid  
12 ambiguities and value conflicts. Our theme stems from the  
13 following observations.

14 For elections to serve their intended  
15 purpose, eligible participants, and only eligible  
16 participants, must choose a representative through a trusted  
17 process which is free, fair and well informed. It is partly  
18 because foreign interference can impact freedom, fairness and  
19 the information environment of elections and trust in that  
20 process that foreign interference is a cause for concern.  
21 But foreign interference is a complex problem, and an  
22 effective strategy cannot be limited to legal tools to  
23 detect, deter and punish because foreign interference can be  
24 ambiguous, making a precise legal definition challenging.

25 Modes of foreign interference may shift shape  
26 to evade the boundaries of law, evidence of foreign  
27 interference gathered in intelligence contexts is difficult  
28 to use in court, and foreign interference can be difficult to



1 prosecute when interferers act from abroad, and even where  
2 legal violations are detected, competing political pressures  
3 and incentives may complicate responses.

4 These factors make democratic resilience  
5 critical so we can repel and not just deter foreign  
6 interference.

7 Typically, whole-of-society approaches that  
8 aim to build resilience include raising public awareness,  
9 building community capacity to support those targeted and to  
10 detect and counter mis- and disinformation, and encouraging a  
11 robust Canada-based media to support a healthy information  
12 environment and, finally, reducing exposure of people deemed  
13 vulnerable to foreign interventions.

14 Pourtant, nombreux de ces mécanismes de  
15 renforcement de la résilience pourraient eux-mêmes avoir un  
16 impact négatif sur la démocratie. Par exemple, les efforts  
17 visant à protéger l'environnement de l'information peuvent  
18 risquer de limiter l'accès aux diverses perspectives qui  
19 enrichissent cet environnement. Les efforts visant à soutenir  
20 les médias fiables basés au Canada... les médias fiables basés  
21 au Canada peuvent donner lieu à des allégations selon  
22 lesquelles ces médias sont partiels.

23 Efforts to call out instances of foreign  
24 interference may also raise suspicion in and toward Canada's  
25 diasporas, and raising civic awareness about the dangers of  
26 foreign interference may contribute to a loss of confidence  
27 in the very democratic institutions we hope to protect.

28 Furthermore, ambiguity around what counts as

1 interference, the so-called "Grey Zone", can make civic  
2 education challenging. Not only what counts as interference  
3 but what counts as foreign can pose challenges as interests,  
4 ideas, funds and strategies flow across borders for diverse  
5 political reasons and in opaque ways. So resilience may  
6 depend precariously on clarity around the idea of foreign  
7 interference.

8 So our panellists today will raise these  
9 challenges and consider how insights from neighbouring fields  
10 of law, policy and practice may inform a fair and effective  
11 approach. These themes will also carry over into subsequent  
12 panels over the coming days.

13 So we will have five speakers today. The  
14 first speaker, Professor of Philosophy Quassim Cassam from  
15 the University of Warwick, followed by Hoi Kong, who is Right  
16 Honourable Beverley McLachlin Professor of Constitutional Law  
17 at the University of British Columbia, followed by  
18 Distinguished University Professor Richard Moon from the  
19 University of Windsor. Then we will hear from Mr. Stephen  
20 Maher, who is a journalist, and finish off last, but  
21 certainly not least, with Professor Dr. Tanja Börzel, who  
22 directs the Contestations of the Liberal Script Cluster of  
23 Excellence at the Freie Universitaet in Berlin in Germany.

24 So I'll now invite Professor Cassam to start  
25 us off.

26 **--- PRESENTATION BY/PRÉSENTATION PAR DR. QUASSIM CASSAM :**

27 **DR. QUASSIM CASSAM:** Thank you very much.

28 So I want to begin with what I believe to be

1 an obvious point, which is that we can't develop strategies  
2 for building resilience to foreign interference if we don't  
3 have an accurate definition of foreign interference, or at  
4 least an accurate description.

5 So in my remarks, I just want to reflect on  
6 some of the challenges of defining foreign interference,  
7 which I'll abbreviate as FI.

8 When we defined a term like foreign  
9 interference, we may have a mental picture of what it is. So  
10 for example, we might imagine a scenario in which a person  
11 acting under the direction of a foreign power engages in  
12 clandestine, coercive or corrupt operations for the purpose  
13 of benefiting the interests of that foreign power.

14 So that would be an example of what you might  
15 call traditional foreign interference, and indeed, a recent  
16 CSIS public report uses that label and gives many examples of  
17 traditional foreign interference.

18 A satisfactory definition of FI must, of  
19 course, cover traditional foreign interference, but it also  
20 faces the challenge of covering many less traditional forms  
21 of foreign interference such as foreign-led disinformation  
22 campaigns on social media.

23 I think it's helpful to think of definitions  
24 as analogous to fishing nets. We want our fishing nets to  
25 catch the fish we want to catch and not catch the fish we  
26 don't want to catch. In the same way, we want our definition  
27 of foreign interference to latch onto genuine cases of FI but  
28 not to catch what is not foreign interference.

1                   So if you have that picture of foreign  
2 interference, then there are a couple of ways in which a  
3 definition of FI can go wrong.

4                   One possibility is the definition is too  
5 broad. It classifies as foreign interference activities  
6 which should not be so classified. So for example, think  
7 about the legitimate influence activities of foreign  
8 diplomats. We don't want a definition of foreign  
9 interference to cover those sorts of activities. If they do,  
10 then these activities would be false positives of the  
11 definition.

12                  Another way in which a definition of foreign  
13 interference can go wrong is if it fails to classify as  
14 foreign interference what it should classify as foreign  
15 interference. So those sorts of cases would be false  
16 negatives for the definition.

17                  So these are two ways in which the definition  
18 can go wrong. It can be too broad, that is to say, give us  
19 false positives. It can be too narrow, that is to say,  
20 generate false negatives. And a perfect definition would  
21 presumably be one that generates neither false positives nor  
22 false negatives.

23                  Maybe a perfect definition is like a fishing  
24 net that catches exactly the right fish and nothing else.

25                  I have a couple of observations about that  
26 ideal of perfection. The first is that it's simply not  
27 realistic. Very few terms have perfect definitions. That's  
28 one lesson of the philosophy of definition. And certainly

1 the sheer complexity and variety of foreign interference  
2 techniques entail that any definition of FI is bound to  
3 generate false positives and false negatives. They're just  
4 unavoidable.

5 My second observation is that this may not  
6 matter as much as we think it does. Our objective, after  
7 all, should be to frame a good enough definition of foreign  
8 interference, an approximately correct definition rather than  
9 a perfect definition.

10 And what I mean by "good enough definition"  
11 is a definition that is easy to understand so the public can  
12 understand what foreign interference is, and it covers both  
13 traditional foreign interference and non-traditional foreign  
14 interference, It won't generate harmful false positives or  
15 false negatives, and it will be practically useful for legal  
16 and national security purposes.

17 The point I'm trying to make here is that  
18 definitions are not academic exercises, certainly definitions  
19 of terms like "foreign interference". They're not academic  
20 exercises. We need to think of them as useable by the people  
21 who need them.

22 So bearing these points in mind, I now want  
23 to turn to this Commission's own initial report dated 3rd of  
24 May, 2024 and to its characterization of foreign  
25 interference.

26 So at one point, the initial report describes  
27 foreign interference as follows:

28 "...clandestine and deceptive or

1 personally threatening activities by  
2 a foreign state or those acting on  
3 its behalf which are detrimental to  
4 the interests of Canada."

5 So I'll read that again:

6 "...clandestine and deceptive or  
7 personally threatening activities by  
8 a foreign state or those acting on  
9 its behalf which are detrimental to  
10 the interests of Canada."

11 So my question is whether that definition  
12 generates problematic false positives or false negatives, and  
13 I think it's helpful to have an example, so here's one. And  
14 I should emphasize this example is completely fictional.

15 So imagine a person called Boris. Boris has  
16 moved to Canada from the country of Ruritania, and he's  
17 engaged in personally threatening Canadian citizens who are  
18 publicly critical of the government of Ruritania. However,  
19 and this is the key point, he has no connection with the  
20 government of Ruritania or its foreign intelligence services.  
21 He's acting entirely on his own initiative. He is self-  
22 appointed.

23 Nevertheless, he's acting on behalf of  
24 Ruritania in the sense that he intends his actions to benefit  
25 Ruritania. It's possible to act on someone else's behalf  
26 without their knowledge.

27 And let's suppose also that his actions harm  
28 Canadian interests.

1                   So is this foreign interference?

2                   Arguably, yes, at least according to the  
3                   account of foreign interference given in the initial report.  
4                   Specifically, it's a case of what might be called contactless  
5                   foreign interference.

6                   So in this case, Boris is engaging in  
7                   detrimental and personally threatening activities on behalf  
8                   of a foreign state with which he has no contact, hence the  
9                   label contactless foreign interference.

10                  So one question is whether that's a false  
11                  positive per the definition of foreign interference in the  
12                  initial report and, if so, does it matter.

13                  So in traditional FI, the agent of foreign  
14                  interference has a substantial connection with a foreign  
15                  power. He's a foreign state actor who is employed by foreign  
16                  power, is funded by it or acts at its behest; not merely on  
17                  its behalf, but at its behest.

18                  If, in my example, Boris has no substantial  
19                  connection with Ruritania and Ruritania has no knowledge of  
20                  what he's up to, then I think it's arguable that it should  
21                  not be classified as foreign interference and it's a false  
22                  positive for any definition that implies otherwise.

23                  Now, faced by a case like this, one response  
24                  would be to say that they don't really matter, so this would  
25                  be the response that says it's really up to the authorities  
26                  to decide whether or not to pursue or to prosecute someone  
27                  like Boris. And they have the discretion not to do so.

28                  The fact that someone can be held accountable

1 for foreign interference does not mean that they should be  
2 held accountable, at least in these sorts of cases. I think  
3 there's something to be said for that approach, but I prefer  
4 a different one.

5 I think we could simplify and clarify matters  
6 by explicitly requiring that when a person is said to be  
7 acting on behalf of a foreign power, it's not enough that  
8 he's acting with the intention of benefiting the foreign  
9 power. He must also have a substantial connection with that  
10 power. And I'm going to call that the "substantial  
11 connection condition", SCC.

12 So the person must have a substantial  
13 connection with the foreign power on behalf of which they're  
14 acting in order for it to be foreign interference. And I  
15 think a person satisfies this condition, they have a  
16 substantial connection, only if their conduct is directed,  
17 funded or supervised by a foreign power.

18 So if this version of the substantial  
19 connection condition is adopted, then it would mean, for  
20 example, that a Canadian resident who secretly spreads  
21 disinformation about Russia with the intention of benefiting  
22 the government of Ukraine is not guilty of foreign  
23 interference unless he's directed, funded or supervised by  
24 the government of Ukraine or any of its agencies.

25 Now, in a recent lecture in London, Jonathan  
26 Hall, who is the UK's independent reviewer of state threat  
27 legislation, drew attention to one of the potential drawbacks  
28 of this demanding condition on foreign interference. The



1 drawback is that it can be hard to prove that someone is  
2 funded or supervised by a foreign power.

3 And here, we see the tension between the  
4 accuracy of a definition of foreign interference and its  
5 practicality, and we may have to decide which we think is  
6 more important.

7 Before closing, I want to comment briefly on  
8 the issue of false negatives in relation to the idea that  
9 foreign interference is clandestine, deceptive or personally  
10 threatening.

11 So imagine a foreign media organization,  
12 perhaps like *Russia Today*, that makes no attempt to disguise  
13 itself and spreads disinformation that is plainly designed to  
14 benefit a particular candidate in an overseas election. Now,  
15 that would surely be foreign interference even though it's  
16 not clandestine, personally threatening or deceptive as to  
17 the identity of the spreader of disinformation. We know  
18 perfectly well who it is.

19 So this looks like a false negative, and it  
20 looks like a case of foreign interference, of genuine foreign  
21 interference, that's not covered by the definition, and yet  
22 it's an extremely important form of foreign interference.

23 Now, of course, the fact that a definition of  
24 foreign interference generates false positives and false  
25 negatives may not be a decisive objection to it. Maybe it  
26 can be dealt with by sharpening the definition, maybe along  
27 the lines that I've been suggesting, or alternatively, by  
28 just living with it. One might take the view that some false

1 positives and false negatives don't matter because they  
2 aren't seriously harmful. Maybe what we should be focusing  
3 on is simply the question whether the definition is  
4 practically useful.

5 And I think this again is an important  
6 discussion and we need to be very clear about the potential  
7 harms, if any, of false positives or false negatives.

8 Now, in my view, the definition of foreign  
9 interference suggested by this Commission in its May 2024  
10 Interim Report can be improved, and indeed should be.  
11 However, we also need to be realistic and remember that  
12 definitions, like, fishing nets, can be imperfect, but good  
13 enough.

14 I think the challenge we face is to balance  
15 the natural desire for a perfect definition of foreign  
16 interference with a need for a definition that can be used in  
17 practice to detect, deter, and punish the most salient forms  
18 of foreign interference that we face today. And I think it's  
19 essential that we collectively rise to this challenge.

20 Thank you very much.

21 **DR. NOMI CLAIRE LAZAR:** Thank you, Professor  
22 Cassam.

23 We will now turn to Professor Hoi Kong, who  
24 is Rt. Hon. Beverley McLachlin Professor of Constitutional  
25 Law at the University of British Columbia.

26 **--- PRESENTATION BY/PRÉSENTATION PAR MR. HOI KONG:**

27 **MR. HOI KONG:** Thank you so much. And thank  
28 you to the Commission and the Commissioner for the invitation

1 to present as part of this roundtable.

2 In my remarks, I will address two issues and  
3 make two recommendations with respect to each of these  
4 issues. The first issue, which has been raised already by my  
5 colleague, Professor Cassam, is related to the problem of  
6 definition of foreign interference, and in particular, in  
7 electoral processes.

8 Now, in my remarks, I will focus in  
9 particular on interference that takes the form of  
10 disinformation. That is, information that is knowingly false  
11 and spread for the purposes of achieving specific ends.  
12 Because I'm addressing this subset of interference, foreign  
13 interference, I'll address a second set of issues. The  
14 second set of issues relates to the regulation of speech  
15 during elections and the challenges that that kind of  
16 regulation raises. And I know that my colleague, Professor  
17 Moon, will also address that question.

18 So two questions: the definition of foreign  
19 interference, and the challenges raised by regulating speech  
20 during elections.

21 So let me start with a point of disagreement,  
22 I think, between me and my colleague.

23 So Professor Cassam said that we need  
24 definitions in order to have effective strategies for  
25 countering foreign interference. And we've already heard  
26 that framing a definition of foreign interference is  
27 incredibly challenging for the problem -- because it gives  
28 rise to problems of overbreadth and under-inclusiveness.

1           So I want to suggest that we don't need a  
2 definition of foreign interference to address the problem of  
3 foreign interference. Instead I suggest we need to first  
4 define what is the purpose of regulating foreign  
5 interference? And then we need to specify particular  
6 activities that can be regulated in order to advance that  
7 purpose.

8           So let's turn to the purpose of regulating  
9 foreign interference. Now, I think generally what we can say  
10 is that foreign interference in electoral processes  
11 undermines the capacity of a policy to achieve and exercise  
12 self-determination.

13           So through elections in democracies, citizens  
14 make free and informed choices about how they will be  
15 governed. The problem of foreign interference is, at least  
16 in the electoral context, is that it undermines this ability  
17 to make free and informed choices.

18           So the point of regulating foreign  
19 interference is to protect this capacity of a policy and its  
20 members and only its members to participate in this exercise  
21 of self-determination. That's the purpose of regulating  
22 foreign interference.

23           So what kind of activities should we regulate  
24 in light of this purpose?

25           I want to suggest that there are two general  
26 kinds of categories that we would want to regulate.

27           First, there are activities that interfere  
28 with free and informed choice, irrespective of the identity

1 of the person doing the interference.

2 So we have examples of this in the  
3 legislation in the *Canada's Election Act*. So for example, in  
4 section 92, there's a prohibition on making false statements  
5 about a candidate's withdrawal. That manifestly -- that kind  
6 of statement manifestly interferes with an elector's ability  
7 to make a free and informed choice.

8 And I note that's objectional interference  
9 irrespective of the identity of the person engaged in that  
10 interference. That could be a Canadian citizen or it could  
11 be a foreign actor. So that's the first category of activity  
12 to regulate in order to achieve the purposes of regulating  
13 foreign interference.

14 Let's assess now a second category of  
15 activities to be regulated.

16 The second category of activities to be  
17 regulated specifically target the foreignness of the actor.  
18 So an example in the *Canada Elections Act* is in 287.4(1).  
19 And in that provision, we have a prohibition on undue  
20 influence by a foreign actor. And undue influence is defined  
21 as any expense to directly promote or oppose a candidate, a  
22 registered party, or a leader of a registered party.

23 Now, that kind of activity specifically  
24 targets the foreignness of the actor because, of course, a  
25 Canadian citizen could expend, under the limits set by the  
26 law, could engage in expenses to support or oppose a  
27 candidate, a party, or a leader of a party. That kind of  
28 category, right, targets specifically the foreignness of the

1 actor.

2 Okay. So this is the first point I wanted to  
3 make; right? The first point I want to make is that we do  
4 not need a definition of foreign interference. What we need  
5 is the purposes of regulating foreign interference; an idea  
6 of core activities and two specific types of core activities  
7 that we want to regulate in order to achieve those purposes.

8 And that leads me to my first recommendation.  
9 I suggest that the Commission not spend an inordinate amount  
10 of time trying to offer a definition of foreign interference.  
11 Instead, I suggest that the Commission look to the purposes  
12 for which we regulate foreign interference and identify  
13 activities that advance those purposes. And as I say, the  
14 core purpose is to protect the ability of a policy and its  
15 members and only its member to engage in a specific exercise  
16 of self-determination, and that is the free and informed  
17 choice exercised during an election. That's my first point.  
18 My first point and my first recommendation.

19 Let me turn now to my second issue, which is  
20 the challenges around regulating speech during elections.  
21 Right, so if we want to regulate disinformation, we want to  
22 regulate inaccurate speech. And I want to say that in the  
23 regulation of the content of speech, there are a couple of  
24 challenges; right?

25 So consider one set of challenges that  
26 relates to why people speak during an election. So some  
27 kinds of speech during an election campaign are the kind of  
28 expressions we can think of as just having a purely

1 expressive function, a rhetorical function. There is no  
2 intent specifically to make a factual claim.

3           There's a second kind of speech, which is  
4 grounded in facts, right, and which, if accurate, would  
5 inform elector's choices about the options available to them.

6           So there are two kinds of expression in  
7 election campaigns, and the risk of regulating the content of  
8 expression is that you inadvertently regulate expressive  
9 expression, right, taking it to be an instance of regulation  
10 and intent to inform. That's one challenge of regulating the  
11 content of speech during elections. It's overbroad -- you  
12 run the risk of overbroad regulation and targeting speech  
13 that does not purport to make accurate statements of fact.

14           Let me turn now to a second challenge of  
15 regulating speech during elections. Now, imagine a situation  
16 in which an authority identifies a speech during an election,  
17 right? Labels it as false. And that labelling has an impact  
18 on the outcome of the election. Of course it's always  
19 difficult to trace the causal links, but let's assume this to  
20 be the case. Or these give rise to a perception that there  
21 was an effect on the outcome of an election.

22           Now, imagine further that in our  
23 hypothetical, after the election it becomes clear that the  
24 authority made an error, right? So this gives rise to the  
25 second kind of problem that arises with regulated content of  
26 speech during an election. It's a problem I call error and  
27 backlash. The authority makes an error, it is subsequently  
28 revealed, and the legitimacy and the authority of that actor,

1       that actor of the state, is put into question. And by  
2       extension, the electoral system itself is put into question.

3               So we have challenges of speech during  
4       elections. There are two kinds of challenges; challenges of  
5       over-regulation, writing expressive speech as if it were  
6       speech that intends to convey content, accurate information;  
7       and second, the problem of error and backlash which has the  
8       potential to undermine the legitimacy or call into question  
9       the legitimacy of the electoral system itself.

10              That brings me to my second recommendation.  
11       And my second recommendation is to say if we are to regulate  
12       speech, the content of speech for its truth value; that is,  
13       if we want to prohibit false speech, we should draw the range  
14       of speech that is prohibited very narrowly, right? So we  
15       have examples of this, again, in the legislation, right? So  
16       I gave one example about -- from section 92 about the false  
17       statements of withdrawal, right? There are other provisions  
18       that speak to impersonating the Chief Electoral Officer,  
19       right? Or statements that specifically misrepresent a  
20       candidate's citizenship or profession, right?

21              So these are narrowly drawn instances of  
22       inaccurate speech. And I think that that narrowness is a  
23       virtue, because it reduces the risk that the kind of speech  
24       that is prohibited and that would give rise to sanctions  
25       would either give rise to a category error, an error that  
26       characterizes, that punishes speech that is expressive as if  
27       it were about facts, and it also reduces the risk of error  
28       and backlash. It is pretty easy to establish whether someone



1 has made a false statement about a candidate's citizenship.

2 So to conclude, these are two general  
3 problems that arise in the regulation of foreign interference  
4 in electoral process. The first problem is a problem of  
5 definition. I suggest that that it is a non-problem. We  
6 should not aim at clear and perfect definitions, we should  
7 regulate in light of purposes of regulation of foreign  
8 interference, and we should specify conduct. And as I said,  
9 those are two general ranges of conduct.

10 Second, the regulation of election speech.  
11 Because there are risks of regulating election speech, in  
12 particular the problem of overbreadth and the problem of  
13 error and backlash, any regulation of election speech should  
14 be drawn -- especially prohibitions, should be drawn narrowly  
15 and carefully to avoid those risks.

16 I'd now -- those are my remarks, and I turn  
17 the floor over to the Chair.

18 **DR. NOMI CLAIRE LAZAR:** Thank you very much,  
19 Professor Kong. I'll now turn the floor over to Professor  
20 Richard Moon, who is Distinguished University Professor of  
21 Law at the University of Windsor.

22 **MR. RICHARD MOON:** That's okay.

23 **DR. NOMI CLAIRE LAZAR:** Thank you.

24 **--- PRESENTATION BY/PRÉSENTATION PAR MR. RICHARD MOON:**

25 **MR. RICHARD MOON:** Well, thank you, and thank  
26 you to the Commission for this invitation to participate in  
27 its important work.

28 I guess I should not be so surprised that

1 Professor Kong and I have significant overlap in our remarks,  
2 and I'm happy that significant agreement in our remarks. But  
3 I will start in, and I think you'll recognize the ways in  
4 which we're in agreement.

5 So when foreign intervention in politics  
6 takes the form of speech or expression -- and I tend to use  
7 these terms interchangeably -- intervention that, for  
8 example, takes the form of disinformation, and disinformation  
9 that may spread online during election campaigns in  
10 particular, any attempt to regulate it raises issues under  
11 the *Charter* of freedom of expression.

12 Section 2(b) -- and I know most of you will  
13 be entirely familiar with this, so I apologize for that, but  
14 section 2(b) protects, among other things, the individual's  
15 freedom of expression. And the Court has defined expression  
16 very broadly as any act that's intended to convey a message  
17 or convey meaning.

18 The freedom of expression, like other rights  
19 in the *Charter*, can of course be subject to limits, provided  
20 these limits, in the language of section 1, are reasonable  
21 and demonstrably justified in a free and democratic society.  
22 And in a case called *Oakes, Regina and Oakes*, the Supreme  
23 Court of Canada set out a multipart test for determining  
24 whether or not a particular limit on the right was justified.  
25 All right.

26 The free expression right under section 2(b)  
27 extends to everyone, as it said, whether or not they are  
28 citizen or ordinarily resident in Canada. And, as well, the

1 right is not just a right of the speaker, it's a right of the  
2 audience, the potential audience.

3 Now, disinformation, we have come to now  
4 recognize, is a rather significant problem. It spreads  
5 quickly and widely on social media platforms of different  
6 kinds, and it is a concern, whether or not its source is  
7 foreign or domestic. Foreign actors may have particular  
8 motivation for spreading false news, certainly non-state  
9 foreign actors sometimes are engaged in spreading foreign  
10 news simply as a source of personal revenue. But foreign  
11 actors of different kinds may seek to affect voting behaviour  
12 or to shape public opinion on certain policies or issues, or  
13 they may simply want to sow confusion and encourage distrust  
14 in political and other institutions such as the traditional  
15 media.

16 It is not, at least ordinarily, the role of  
17 the state to censor speech that it considers to be false. As  
18 early defenders of the right to free speech, such as John  
19 Stuart Mill, argued there are too many costs and too many  
20 risks to leaving it to the state to decide what community  
21 members should be allowed to hear. The censor may get it  
22 wrong; they may be attempted to suppress speech with which  
23 they disagree, and of course, within any so-called false  
24 statement there may in fact be a grain of truth. And  
25 following Mill's argument most importantly, perhaps,  
26 citizens, if they are to develop the capacity to make  
27 judgments, to distinguish truth from falsity or wisdom from  
28 foolishness, they must be allowed to hear and assess

1 different views.

2                   Speech that is judged to be untrue, then,  
3 should be restricted only in very limited situations, when  
4 the ability of the audience to assess the merits of the  
5 speech is limited or when more speech -- I put that in  
6 quotation marks, when more "Speech" is likely to be not an  
7 effective response. Situations like this under our current  
8 law include defamatory speech, false statements about  
9 someone's reputation, or false advertising.

10                  Now, of course, disinformation or deceit is  
11 different when the speaker knows that what they're saying is  
12 untrue. When their purpose is to mislead the audience,  
13 there's a good argument that their speech should not be  
14 protected under the free speech right. Deceit undermines the  
15 communicative relationship. The liar, the promoter of  
16 disinformation, seeks to deceive or manipulate his or her  
17 audience. Lying also undermines general trust in  
18 communication.

19                  The problem, though, is that it can be  
20 difficult to determine not just when speech is untrue, but  
21 also when the speaker is lying, when the speech amounts to  
22 disinformation. There is always a risk that we will decide  
23 that a speaker is lying when we think the speech is false, or  
24 plainly false, as we might say. And of course,  
25 disinformation is often reposted, spread, by individuals who  
26 believe it to be true.

27                  Even greater caution is needed when  
28 attempting to regulate political or election campaign speech

1 that may include false claims or disinformation. Political  
2 speech is said to lie at the core of our commitment to free  
3 speech. It is also said that it is also speech that state  
4 authorities may sometimes be tempted to suppress for  
5 political reasons, for partisan reasons. It is this reason -  
6 - it is for this reason that the principal form of campaign  
7 speech regulation has, in fact, spending limits, limits on  
8 the amount of speech, amount of money that can be spent in  
9 support of speech, but, more generally, on the amount of  
10 speech rather than on its content. Because spending ceilings  
11 do not target the content of political expression they are  
12 understood as representing a less troubling form of  
13 restriction on expression than one that is, in fact, based on  
14 content.

15 Now the justification for spending limits on  
16 candidates, parties and so-called third parties during an  
17 election campaign is said to -- the justification is said to  
18 be to ensure that the voices of some do not drown out the  
19 voices of others, but there is an awful lot buried in this  
20 metaphor of drowning out. If spending inequality -- and I  
21 can't make this case here, but I think it's fairly plain --  
22 if spending inequality are differences in the amount of  
23 advertising put out by different candidates, if that's unfair  
24 or distorts the democratic process, it is because campaign  
25 communication has increasingly come to resemble commercial  
26 advertising. This is why message petition matters so much.  
27 Spending difference matter because most campaign speech  
28 treats voters as consumers of images rather than as citizens

1 who must make decisions about public issues. Campaign ads  
2 rely on soundbites, slogans, and short visual clips. They  
3 emphasize image and impact rather than idea and persuasion.  
4 And it's worth noting, as my colleague Professor Hoi pointed  
5 out, in the definition of undue influence by a foreign actor,  
6 it doesn't include speech that involved the expression of an  
7 opinion about or about the outcome of an election, the  
8 desired outcome of an election, or even about the merits of a  
9 particular candidate. Our concern about foreign interference  
10 then seems to be limited either to disinformation or also  
11 image-based advertising that, again, is most powerful or  
12 effective when we have significant spending or spending  
13 inequalities.

14 Now, the harms of speech, disinformation,  
15 hate speech, and other forms of harmful speech have certainly  
16 become much greater online. Hate speech and disinformation,  
17 for example, spread quickly and widely through different  
18 networks. As well, the manipulative potential of advertising  
19 has become far greater. Drawing on personal data gathered by  
20 search engines and platforms, political and commercial  
21 advertisers can now micro target their ads, tailoring them to  
22 the fears and biases of particular individuals, and they are  
23 able to do so, at least until recently, outside of public  
24 general view.

25 At the same time, traditional forms of legal  
26 regulations seem less able to address these harms. They are  
27 simply too slow and too cumbersome. And we've seen a  
28 recognition of the limits of these traditional forms of

1 regulation, with the introduction of the Online Harms Bill,  
2 which recognizes that any form of regulation of hate speech,  
3 for example, requires the involvement of platforms, the  
4 placing of a duty on these platforms to design their systems  
5 in such a way as to limit the posting and spread of unlawful  
6 material. But online -- the Online Harms Bill does not  
7 address disinformation and instead focuses on unlawful forms  
8 of speech such as hate speech and child pornography. And  
9 this decision is understandable given the challenges and  
10 risks in seeking to regulate false speech and disinformation  
11 in particular.

12 The law currently restricts particular forms  
13 of disinformation during an election campaign, and Professor  
14 Hoi gave some examples of this restricting false claims about  
15 a candidate's qualifications, birthplace, education, and so  
16 forth. Experience may, in fact, reveal other kinds of false  
17 claims about candidates and parties that generate but mislead  
18 voters and have an impact on voter behaviour, and we need to  
19 think about what those might be and maybe expand the list to  
20 some extent, but I agree with Professor Kong that our focus  
21 should be on specific types of or forms of disinformation  
22 rather than a more general attempt to regulate disinformation  
23 within the context of an election.

24 A commitment -- another step, I should add  
25 too, has been to include election ads in online registries  
26 so, in fact, others can know what parties and candidates are,  
27 in fact, saying to potential voters, although the recipients  
28 of these ads may not, in fact, know, you know, what other ads

1 are saying and so forth. Another step then may be to  
2 preclude political advertisers from making use of user data  
3 when designing and distributing their ads. In other words,  
4 to limit the ability of micro target -- of supporters to  
5 micro target their ads in ways that play to the very  
6 particular fears and biases of individual voters.

7 A commitment to free speech means that the  
8 audience, members of the community should be left to decide  
9 for themselves whether they agree or disagree with what  
10 others may say to them. It's up to the audience to decide  
11 the merits of the speech, whether they think it's true or  
12 false. Underlying this commitment to freedom of expression  
13 is a belief that humans are substantially rational beings,  
14 capable of evaluating factual and other claims, and an  
15 assumption that public discourse is open to a wide range of  
16 competing views that may be assessed by the audience.

17 The claim that bad speech should not be  
18 censored but instead answered by better speech depends on  
19 both of these assumptions, the reasonableness of human  
20 judgment and the availability of competing perspectives. We  
21 know that these assumptions about the audience's agency,  
22 judgment, which underly the protection of speech may not  
23 always hold and, indeed, never hold perfectly. But now in  
24 the online world, false and misleading claims are unimpeded  
25 by media filters and spread quickly and widely to individuals  
26 who are often not in a position to assess their reliability  
27 or the trustworthiness of their source, and indeed, may have  
28 been encouraged by partisan actors to distrust traditional



1 sources of information. As a consequence, disinformation has  
2 become a much larger and much more serious problem for public  
3 discourse, but we have to be very thoughtful and careful  
4 about how we respond to it. Thank you.

5 **DR. NOMI CLAIRE LAZAR:** Thank you very much,  
6 Professor Moon. We'll now turn to Mr. Stephen Maher.

7 **--- PRESENTATION BY/PRÉSENTATION PAR MR. STEPHEN MAHER:**

8 **MR. STEPHEN MAHER:** Thank you very much.  
9 It's a pleasure for me to be here.

10 I'd like to use my time to discuss two issues  
11 that I think are important to developing a greater democratic  
12 resilience to resist foreign interference, rules around  
13 participation in nomination and leadership contests, and the  
14 proactive disclosure of financial information about  
15 elections.

16 I've been working as a journalist since 1989  
17 and for many years have taken a keen interest in electoral  
18 wrongdoing, to the point that it's kind of a hobby for me to  
19 keep track of it. I started out being motivated by a sense  
20 of righteous indignation at cheating in the election system,  
21 and that's given way over time to something more like an  
22 anthropological sense of detachment because excitability is  
23 not a good quality in an investigative journalist. I have  
24 long-established confidential sources with insight into  
25 what's going on behind the scenes in our political system,  
26 and I've been closely following the foreign interference  
27 story and writing commentary on it, typically, informed by  
28 confidential sources in the political system and the

1 intelligence community.

2 This year I published a book, *The Prince: The*  
3 *Turbulent Reign of Justin Trudeau*. To research it, I spoke  
4 at length with senior officials and other sources, groping to  
5 have a -- develop an understanding of the interplay between  
6 foreign interference, international relations and diaspora  
7 politics. The last decade has been a period of great and  
8 growing difficulty in our relationship with China and India  
9 in particular, and I wanted to understand why. I came to  
10 believe that diaspora politics is preventing Canada from  
11 pursuing its national interest in these relationships. I was  
12 informed of that by people who have been involved at the  
13 highest levels in the Government of Canada, off the record.

14 I believe the most important relationship --  
15 or most important controversies in our relationship with  
16 India, for example, ought to be the export of chickpeas, not  
17 the politics around regional separatism, and that's not the  
18 case now. I'm not convinced that a change of government  
19 alone will end the problems we face because the forces that  
20 act on this government will act on future governments as  
21 well.

22 I think this is an important problem for  
23 Canada, not existential, but serious, and it is distorting  
24 our policy making processes and there are things we ought to  
25 do to reduce it to make our economy -- our democracy more  
26 resilient and safeguard our independence.

27 To deal with this, we have to talk about  
28 diaspora politics. New Canadians are enthusiastic

1 participants in nomination and leadership contests, which is  
2 their right, and something in which Canadians can take pride.  
3 One of the reasons so many people want to come here is  
4 because of our open political system, freedoms guaranteed by  
5 the *Charter of Rights and Freedoms*. The system depends on  
6 volunteers, people show up to meetings, canvas, pound signs,  
7 and that has a great positive value, this kind of  
8 participation.

9                   Nomination and leadership contests, however,  
10 as the Commissioner has noted, are a gateway to foreign  
11 interference.

12                   I talked to a long-time organizer this week  
13 who told me that there are likely more non-citizens than  
14 citizens participating in nomination contests in the Liberal  
15 Party of Canada. That may not be true. I don't believe the  
16 Liberal Party of Canada would be able to tell you one way or  
17 another.

18                   We're talking about a grey zone here.  
19 Participants in diaspora politics, it's normal that they're  
20 often more interested in events in their home countries than  
21 in Canada. Yann Martel described Canada as "The greatest  
22 hotel on earth." It should not surprise us that guests in  
23 this hotel are often preoccupied by events in their home  
24 countries.

25                   We have a higher percentage of foreign-born  
26 citizens in Canada than in most countries, and the percentage  
27 of foreign-born citizens and non-citizens who are active in  
28 nomination races and leadership contests is much higher

1 still. This gives them outsized influence over our politics  
2 and opens the door to foreign interference.

3 I believe that in a sense, we have a flashing  
4 neon "open" sign over these contests now and we are inviting  
5 foreign interference.

6 I want to talk briefly about the political  
7 economy of nomination contests. To understand them, you have  
8 to think about the tremendous drive motivating the  
9 participants.

10 Some years ago it was credibly alleged that  
11 one would-be candidate for a provincial party paid a bribe of  
12 more than \$10,000 for the opportunity to win the nomination  
13 in an unwinnable riding. You are dealing -- you are not  
14 dealing with *homo economicus*. You are dealing with -- you  
15 are not dealing with *homo economicus*, rational actors  
16 rationally pursuing rational ends, but with people who are  
17 often driven by vaulting ambition and a desire for status.

18 Imagine a car dealer in a big city who wants  
19 to be a member of Parliament. You've spent many years making  
20 money and doing good works in the community, you're well  
21 regarded, and you dream of a life in politics. The incumbent  
22 MP retires, opening up a nomination contest. Like many  
23 ridings in Canada, the outcome is all but assured. Whoever  
24 wins that nomination will be the next member of Parliament.  
25 You are vetted by the Party, you're approved, and you have a  
26 good chance of winning, depending on whether you can get more  
27 people to a nomination meeting than your opponents. This is  
28 a fork in the path of your life. If you win, you will

1 proceed to the life you dreamed of as a politician and  
2 perhaps end up at the right-hand of the Prime Minister. If  
3 you lose, you're back at the car lot.

4 If a proxy for a foreign power offers to line  
5 up a few hundred votes for you, you will likely win. Foreign  
6 students, members of a religious community. This is the kind  
7 of position that people find themselves in.

8 There's often money, sometimes cash,  
9 sometimes a second bank account used to pay for the off-book  
10 expenses for organizers who sometimes pay for memberships.  
11 Sometimes organizers are put on the payroll of a company that  
12 supports a candidate. Organizers are highly motivated to win  
13 because there's no second prize in these contests. They're  
14 often ruthless and they do not have to account for themselves  
15 publicly.

16 I should say that I am aware that many of the  
17 people -- or most of the people who are engaged in this kind  
18 of work are honourable, and honest, and regard cheating as  
19 not only undesirable, but dangerous to them, and they don't  
20 want to do it. But it is happening, and I believe that this  
21 is the avenue through which we're seeing foreign  
22 interference.

23 And I think -- so the one key step that I  
24 think is necessary or helpful to cutting down on this is just  
25 eliminating voting by non-citizens and young people. Voting  
26 should be confined -- voting in these contests should be  
27 confined to people who are eligible to vote in the subsequent  
28 election.

1           I want to point out that I've come to suspect  
2   that foreign actors are motivated not just by a desire to  
3   exert influence over our politics, but by the fear that if  
4   they do not, others will. If it gets harder, if we are able  
5   to greatly limit it by limiting voting by non-citizens, for  
6   example, that may take down the "open" sign that is  
7   motivating foreign actors to participate.

8           The big parties, through their  
9   representatives in the House of Commons get to decide on the  
10   legislation that governs these contests. They are jealous of  
11   their power over these processes. They want to approve who  
12   they like, disqualify who they like, sometimes by setting  
13   nomination cut-off dates retroactive so that they get the  
14   money without having to allow people they don't want to win.

15          I don't like a lot of these practices. I  
16   find them somewhat sleezy, but it doesn't jeopardize the  
17   national interest, and that's the traditional promise of  
18   political parties. I don't think it's wise to interfere with  
19   that. But I believe it is possible to ask them to stop non-  
20   citizens from voting. I'm not sure that it would be easy to  
21   change, because the parties get to decide, and if one party  
22   excludes non-citizens from participating, they will be giving  
23   up an advantage, they can't act in unison, but they might  
24   agree to legislate a limit.

25          The other thing I want to talk about is  
26   greater transparency, which may cut down on foreign  
27   interference and other skullduggery.

28          I want to discuss the crucial role of

1       journalists in covering foreign interference and other  
2       electoral cheating.

3               Journalistic scrutiny, imperfect though it  
4       may be, is a vital part of a resilient information eco-  
5       system.

6               I would point out that this Inquiry appears  
7       to have come about because of journalistic scrutiny.  
8       Investigative journalism can play a crucial role in closing  
9       the gap between the official reality and the ground truth by  
10      bringing facts to light that officials and politicians are  
11      forced to confront.

12              I think one important example in this story  
13      was a story in *The Globe and Mail* that revealed that there  
14      had been threats to a family member of a respected  
15      parliamentarian and that he -- the Government of Canada had  
16      somehow not managed to make him aware of that.

17              So I talk about this to emphasize the  
18      importance of investigative journalism.

19              I should add it varies in quality. The  
20      Commissioner, who has access to secret material, will have a  
21      better sense than I do as to which stories in this whole  
22      business have been accurate and which have not been accurate.

23              I will point out though that inaccurate  
24      stories, although they can be difficult and damaging to  
25      individuals and institutions, also play a role in  
26      highlighting an important issue, because they provoke  
27      responses like a pool ball -- a cue ball hitting a rack of  
28      balls on a pool table. They set forces in motion.

1 As Albert Camus said:

2 "La presse libre peut sans doute être  
3 bonne ou mauvaise, mais assurément,  
4 sans la liberté, elle ne sera jamais  
5 autre chose que mauvaise"

6 A free press is ultimately the most important  
7 safeguard of our democracy, but the business of journalism is  
8 struggling. Journalistic organizations are becoming weaker  
9 and poorer. Changes to the advertising business are part of  
10 the problem, but research also shows that a significant  
11 percentage of Canadians and citizens in similar countries are  
12 turning away from the mainstream media, paying more attention  
13 to partisan and activist media that may include  
14 disinformation.

15 Mainstream media still has a significant  
16 audience and investigative journalism remains vitally  
17 important. It is difficult, best handled by experienced  
18 journalists working with good editors and lawyers.

19 Unfortunately, few of the journalists now  
20 doing this work have roots in the multi-cultural communities  
21 where greater scrutiny is warranted. They may feel squeamish  
22 about reporting on it, as if they are sniffy about newcomers  
23 participating.

24 Because of business issues, there are fewer  
25 teams capable of doing in-depth investigative work and normal  
26 beat reporting than there were, and there will likely be  
27 fewer still in the future.

28 This is worrisome because journalists are



1 often the people who uncover cheating by domestic or foreign  
2 actors, or make the public aware of it when it was uncovered  
3 by investigators.

4 In practice, I have come to believe that  
5 official investigators and journalists often off one another,  
6 not through collusion, but one process aiding another.

7 Do not expect cheaters to be forthcoming  
8 about it. Don't expect Party officials to help journalists  
9 or investigators to uncover cheating. In my experience, they  
10 are as likely to attack the journalists and investigators  
11 trying to uncover wrongdoing as to help them. They may be  
12 dishonest, and they will almost certainly be secretive. I  
13 expect this behaviour may become more common as effective  
14 polarization increases.

15 A growing number of Canadians hold hostile  
16 feelings not just for politicians they oppose, but also for  
17 supporters of other Parties. In this environment, partisans  
18 fear the other Parties and long for victory. I believe this  
19 will increase the likelihood of cheating and make it harder  
20 for journalists and investigators to uncover it.

21 This dynamic, the watchdog function of  
22 journalism, is imperilled, but because the nature of  
23 appropriate government funding for journalism is the subject  
24 of a healthy partisan debate, I don't think it's appropriate  
25 for an inquiry to propose funding journalism. I do think,  
26 though, that more robust rules around proactive disclosure  
27 can be helpful.

28 I don't think it's -- I have time at the

1 moment to get into the details, which are sort of the work  
2 for specialists, but it's very helpful to create official  
3 records that journalists and others can examine. Who are the  
4 organizers? How much are they being paid? Have they signed  
5 contracts stipulating that they will act in an ethical  
6 manner? Can we see those contracts? Can we see the  
7 receipts? When can we see them?

8           The Parties can rightly say that bureaucratic  
9 requirements should not be so strict as to discourage  
10 participation, which is a virtuous and necessary part of  
11 politics. That is no doubt correct, but merely publicly  
12 reporting the movement of money should not be an  
13 insurmountable barrier.

14           Laying out a more complete record of money  
15 spent helps keep everyone honest. Memories change, people  
16 find ways to prevaricate, documents are eternal and  
17 unchanging. Giving journalists access to more documents will  
18 be of great assistance.

19           When I was doing investigative work on  
20 electoral wrongdoing, I spent many long hours poring over  
21 databases maintained by Elections Canada, examining documents  
22 and receipts, combining tiny scraps in the public record with  
23 reporting with confidential sources. If you increase  
24 proactive disclosure, you will increase the scrutiny on the  
25 system, which helps keep everyone honest.

26           The origin of this kind of public disclosure  
27 of electoral financing is in the United States at the time of  
28 the Watergate scandal. Public scandals help to lead to

1 reforms that increase accountability and transparency. I  
2 hope that will be the case in this instance as well.

3 Thank you very much.

4 **DR. NOMI CLAIRE LAZAR:** Thank you, Mr. Maher.

5 We will now turn to Professor Dr. Tanja  
6 Börzel from the Freie Universitaet in Berlin, Germany.

7 **--- PRESENTATION BY/PRÉSENTATION PAR DR. TANJA BÖRZEL:**

8 **DR. TANJA BÖRZEL:** Thank you very much. And  
9 I really deeply regret that I can't be with you to  
10 participate remotely.

11 My colleagues focused on regulating foreign  
12 interference and its perils, and I pretty much share all  
13 their concerns and have not much to add, so what I will do  
14 instead is I will adopt a more society-centred approach to  
15 foreign interference and democratic resilience building. And  
16 that, I think, is appropriate because, after all, I am a  
17 social scientist.

18 So a society-centred approach would, first of  
19 all, not only focus on hostile states as sort of, you know,  
20 those who interfere from abroad in democratic elections, but  
21 also on non-state actors. This is just a remark I wanted to  
22 sort of use as a preface to what I really want to focus on in  
23 my remaining 14 minutes and 15 seconds. But I think you're  
24 all aware that it's not only hostile states such as Russia or  
25 China, but also non-state actors, terrorist networks, for  
26 instance, or intellectual circles, think tanks that actually  
27 can significantly undermine the integrity of democratic  
28 institutions and processes.

1                   And what I would like to do from a society-  
2                   centred approach is to talk about certain threats that  
3                   emanate from foreign interference that have not received as  
4                   much attention as those my esteemed colleagues already talked  
5                   about, and these threats pertain to attempts of foreign  
6                   agents to fuel what I call polarization. I'll come back to  
7                   that in a minute, but before, I would like to briefly share  
8                   my definition of democratic resilience.

9                   We talked a lot about what foreign  
10                  interference is. We haven't really clarified what we might  
11                  mean by democratic resilience.

12                 And so -- and again, there are many  
13                 definitions, and I find one definition particularly helpful  
14                 that does not reduce democratic resilience to simply  
15                 resisting, but actually to the capacity to adapt, right. And  
16                 so it's also -- it's not static. It is about adaptation to  
17                 external threats by not compromising fundamental democratic  
18                 principles and values. And I think my colleagues have  
19                 already elaborated on the kind of ambivalence of democratic  
20                 resilient building mechanisms in terms of compromising  
21                 certain democratic values we seek to protect, after all,  
22                 against foreign intervention.

23                 So coming back to the type of foreign  
24                 intervention -- interference I would like to focus on, and  
25                 that differs from a lot that has been talked about and also  
26                 that is the main focus in the main report of the Commission  
27                 so far, and it pertains to attempts of foreign actors, both  
28                 state and non-state, to undermine the trust of Canadian

1 citizens, on the one hand, in government, in their  
2 government, and on the other hand, in each other.

3 So it is about strategies by which foreign  
4 agents fuel mutual dislike and hostility, particular between  
5 social groups and political groups, and that is in the  
6 literature I come from refer to as polarizations.

7 Citizens increasingly take extreme views  
8 towards controversial issues such as migration and also  
9 towards groups who do not share their own views. Now, why is  
10 polarization a threat to democracy?

11 Polarization has a profound effect on our  
12 everyday life and also social life, from choosing our friends  
13 and partners to deciding where to live, in which province, in  
14 which part of the city, which clubs to join, even which bars  
15 and pubs to frequent, right. And there is a tendency that  
16 people withdraw from groups in which others do not share  
17 their own views and opinions.

18 So by doing this, polarization undermines the  
19 willingness of citizens to compromise. It makes them more  
20 inclined to accept violations of democratic freedoms of those  
21 who do not share their own views and opinions.

22 So overall, polarization threatens the social  
23 cohesion of democracies, and foreign agents have been very  
24 apt in manipulating and fueling this kind of polarization  
25 pretty much using the same strategies my colleagues already  
26 talked about. They denounce certain positions on critical  
27 policy issues as morally wrong, right, e.g. on social media,  
28 but also in community newsletters. People are told that

1       whatever stance you might have on migration, you know, if you  
2       take a different view, this is actually not only a political  
3       disagreement, but actually a moral issue, which turns them  
4       from political rivals into enemies that can be and should be  
5       excluded, if not prosecuted.

6               And the second strategy the foreign agents  
7       pursue is they align political and social identities, so  
8       essentially arguing if you belong to a particular ethnic or  
9       sexual minority, you must not vote or you must only vote for  
10      a particular political Party so that social identities become  
11      aligned with political identifies, which then makes it very  
12      difficult to have a kind of differentiated discussion about  
13      different, even controversial, policy issues.

14             Now, to address this threat of polarization  
15      fueled by foreign agents, a whole government approach is not  
16      enough. It needs to be complemented, I would argue, by a  
17      whole of society approach focusing on trust of citizens in  
18      their government institutions, but also in each other as the  
19      backbone of democratic resilience, right.

20             So then protecting democratic institutional  
21      processes from foreign interference is then not only about  
22      regulating and strengthening the capacity of security and  
23      intelligence agencies to detect and deter and to punish for  
24      foreign interferences, it should also involve the  
25      strengthening of the resilience of democratic societies, and  
26      this resilience very much rests on political and social  
27      trust, as I just learned. The good news is that Canada is a  
28      high trust society still. If you look at OACD data it shows

1 that trust both of Canadians in their government  
2 institutions, but also in each other is quite high in  
3 international comparison. So that's good news. You have  
4 something you can draw on in strengthening the resilience of  
5 the Canadian society. And some of the strategies you have  
6 identified in your report are also conducive to strengthening  
7 trust of citizens in government institutions and in each  
8 other, or to prevent, put it that way, foreign agents from  
9 undermining this trust.

10                   However, there are, as we already heard,  
11 these resilience building strategies are ambivalent; right?  
12 They can also negatively effect democracy. So my  
13 recommendation would be to think about not only to exercise  
14 restraint, as my colleagues have already argued, but also, to  
15 think about more -- I wouldn't say positive strategies, but  
16 strategies that actually focus on strengthening the  
17 resilience rather than detecting, deterring and punishing  
18 foreign interference. So, you see, the approach turns a  
19 little bit around the perspective and focuses on  
20 strengthening the capacity of Canadian citizens to resist  
21 these attempts.

22                   And just to conclude with two pretty general  
23 recommendations, but I've been an exchange student to Canada  
24 some time ago, and I was always impressed by the strong  
25 narrative of Canada being a multicultural society, right, of  
26 the three frowning peoples, and of many other racial and  
27 ethnic groups, and I think this is a positive narrative that  
28 is very conducive to preventing polarization attempts. And a

1 second strategy is to encourage cross-party dialogues,  
2 particularly on critical issues, including abortion,  
3 migration, and, arguably, foreign interference. So to make  
4 very clear that you can have different views on these issues,  
5 irrespective of which social group you belong to.

6 In sum, democracies requires not only strong  
7 democratic institutions, but also, a democratic culture in  
8 which -- so with citizens being willing to respectfully  
9 disagree, and which compromise through deliberation and  
10 majority voting. And for this, citizens have to have trust  
11 in their government institutions, in democratic institutions,  
12 as well as in each other. And it's this trust which hostile  
13 foreign agents try to destroy and which I think, you know,  
14 strategies should try to protect and strengthen. Thank you  
15 very much.

16 --- OPEN DISCUSSION/DISCUSSION OUVERTE:

17 **DR. NOMI CLAIRE LAZAR:** Thank you very much.  
18 I will now ask whether any of my esteemed colleagues would  
19 like to reply to anything they have heard or add anything or  
20 pose questions to one another.

21 Professor Kong?

22 **MR. HOI KONG:** Could I do an erratum? I  
23 cited to 287.4. I meant 282.4 That's just terrible  
24 handwriting.

25 **DR. NOMI CLAIRE LAZAR:** Okay. Thank you.  
26 No? Any responses? Okay. Go ahead,  
27 Professor Cassam.

28 **DR. QUASSIM CASSAM:** Just a couple of quick



1 observations about the issue, whether we need a definition or  
2 not. I think one question is whether foreign interference is  
3 to be an offence or is an offence or not. So thinking about  
4 the UK, there's a new criminal offence of foreign  
5 interference, and that means that a definition is absolutely  
6 necessary. And, of course, because it's a complex matter,  
7 the definition that's offered in the UK is an extremely  
8 complex definition, but we need one if we are to treat it as  
9 an offence.

10 The other observation is just about the idea  
11 of the core purpose of regulating foreign interference. So,  
12 certainly, we might think of issues like interference in the  
13 elections and disinformation, but I think it's worth noting  
14 that, actually, it's quite problematic to talk about the core  
15 purpose of regulating it because there are actually many,  
16 many purposes of -- for regulating foreign interference. So,  
17 for example, there's interference in elections, but there's  
18 also attempts by agents of foreign states to intimidate  
19 members of diaspora communities, for example, and there are  
20 many other forms that foreign interference could take.

21 So we can talk about -- you know, we can talk  
22 about foreign interference in the context of elections and in  
23 the context of social media, but there's also in the --  
24 foreign interference in the context of national security and  
25 many other matters as well. So I'm slightly skeptical about  
26 the idea of the purpose of regulating it, but in any case, I  
27 think we -- I'm not persuaded that we don't need at least a  
28 working definition of what it is that we're talking about

1 here when we talk about foreign interference. Not a clear  
2 and perfect definition, but as I was emphasizing, a good  
3 enough working definition. Thank you.

4 **DR. NOMI CLAIRE LAZAR:** Professor Kong, do  
5 you want to reply?

6 **MR. HOI KONG:** Sure. So just on the question  
7 of the core purpose, I specified core purpose of foreign  
8 interference in electoral processes. That's why I identified  
9 a specific purpose. On the question of foreign interference  
10 as an offence, of course, if you're going to define an  
11 offence with respect to a term, you need to define the term.  
12 My point is that you don't need to define an offence as  
13 foreign interference. You can identify a bunch of instances  
14 of foreign interference and specify what interests you're  
15 trying to protect and what conduct you're targeting. So,  
16 yes, if you define an offence as foreign interference,  
17 there's -- you probably need some working definition. I just  
18 don't think you need to do that.

19 **DR. NOMI CLAIRE LAZAR:** Others?

20 Well, in that case, I will invite the  
21 Commissioner to pose any questions you might have at this  
22 juncture.

23 **COMMISSIONER HOGUE:** I have a few, actually.  
24 I'm not sure to whom I should ask the question, so it's going  
25 to be directed to all of you, and those that thinks they may  
26 have something to say, I invite you to do so.

27 One thing that in my mind is puzzling is how  
28 do we cope with disinformation, especially disinformation

1 online. And I'm going to be very honest, I'm not the most  
2 familiar one. I'm not using social media at all, but my  
3 understanding is that it's becoming more and more and more  
4 difficult even for those that are well informed to detect  
5 what is sometimes false information, or even worse,  
6 completely fake news. And I listen at what you -- especially  
7 what you said, Mr. Moon, about, you know, the risk of -- and  
8 I think you said the same thing, the risk of having a too  
9 important impact on the freedom of speech. What I'm  
10 wondering, are we naïve if we want to protect the freedom of  
11 speech at all cost, or is there a way of finding an  
12 equilibrium between both, especially given what is going on  
13 on the social media?

14 **MR. RICHARD MOON:** Well, I agree entirely. I  
15 consider disinformation to be a huge problem, and, in fact,  
16 I've sort of made the claim that it may be a much greater  
17 threat to public discourse than censorship. You know, we --  
18 our focus when we talk about free speech is always on state  
19 or even, if we adopt a broad understanding of free speech,  
20 private censorship. But if anything, there is so much  
21 information available out there, although it circulates  
22 through networks, and so some have greater access to some  
23 views, and facts, we'll put it in that way or factual claims,  
24 and other networks may be circulating other ideas, but, you  
25 know, I'm somewhat pessimistic about our ability to regulate  
26 or control disinformation. I would love if there were some  
27 simple or straightforward way to identify claims that were  
28 untrue and were motivated -- and the speaker knew were

1       untrue, then, yeah, I don't think such claims, as I mentioned  
2       in my remarks, should be protected under free speech. I  
3       think they undermine the communicative relationship and the  
4       communicative project more generally.

5               So the real question is, you know, do we have  
6       the ability to identify claims that are false and are known  
7       to be false by the person who originates them. And there  
8       certainly are -- and I believe, you know, Meta, social media  
9       companies believe they can identify some things, certain  
10      kinds of deep fakes and so forth, you know, falsely generated  
11      images of different kinds. And for the most part, as I  
12      understand it, their strategy has been to simply flag these  
13      claims or this disinformation and to direct the viewer to  
14      perhaps other sources.

15             They also have a power which is a troubling  
16      power because it is not so different from censorship, and  
17      that is simply to suppress the, I don't know, the presence of  
18      certain posts. But, you know, others -- there's so much  
19      stuff online that we rely on automated means and the various  
20      platforms rely on automated means for identifying speech that  
21      is harmful. That's already difficult.

22             I don't have a good sense, and again, you  
23      know, my grey hair indicates my limited grasp of, you know,  
24      contemporary technologies, of how easy it is going to be to  
25      identify this kind of disinformation.

26             But you may be right that we inevitably will  
27      have to put in systems that have certain false positives,  
28      false negatives, you know, et cetera, that don't get

1 everything they should get and get some stuff that they  
2 shouldn't get. And that may be the inevitable -- that may be  
3 inevitable if we're going to both protect free speech, while  
4 at the same time dealing with this massive problem of  
5 disinformation.

6 I'm sorry, I rambled bit there, but hopefully  
7 something came out.

8 **COMMISSIONER HOGUE:** Mr. Kong?

9 **MR. HOI KONG:** So I think there are a couple  
10 of challenges in regulation in this area. So I think one set  
11 of challenges is about what's effective regulation.

12 So there's literature about fact checking,  
13 and it's not clear that -- and to pick up on the remarks of  
14 Professor Börzel, it's not clear that fact checking actually  
15 helps, for example; right? Especially if you have hardened  
16 partisan preferences and you're a motivated -- you're engaged  
17 in motivated reasoning.

18 So I think one set of questions is about if  
19 we're going to regulate, what is effective regulation that's  
20 actually going to resolve the problem of disinformation? So  
21 that's one, I think, general problem; right? And it's not  
22 clear to me that prohibitions backed with penalties are  
23 necessarily the best way of addressing that kind of issue,  
24 those kinds of questions of effectiveness; right?

25 So you can imagine a range of regulatory  
26 instruments. So one set of instruments can be focused on  
27 civic education. And we have those initiatives in Canada,  
28 teaching people digital literacy; right? Making people aware

1 of their own biases and their risks of falling prey to  
2 disinformation; right?

3 So that's one kind of regulation; right?  
4 It's about education, rather than coercive regulation.

5 Second kind of regulation could be  
6 commitments and principle by social media companies; right?  
7 Guided -- and this also exists in Canada; right? To commit  
8 to acting on disinformation.

9 Now, of course, there's all the problems of  
10 enforcement and the profit motive; right? But I think that  
11 kind of cooperative regulatory instrument is also another  
12 possibility.

13 So I want to be clear, I'm not against  
14 regulation as such for freedom of expression, for freedom of  
15 expression reasons. I want to say that there are risks of  
16 regulation, in particular prohibitions, back to penalties,  
17 and I think we should consider the full range of regulatory  
18 instruments with an eye to the effectiveness of those  
19 instruments.

20 **DR. NOMI CLAIRE LAZAR:** I see the hands of  
21 Professor Cassam and Mr. Maher.

22 So Professor Cassam?

23 **DR. QUASSIM CASSAM:** Yes, I just wanted to  
24 comment briefly on this issue of disinformation versus  
25 misinformation. I mean, so the thought is that, you know,  
26 perhaps what we should be trying to regulate are cases of  
27 people knowingly and intentionally spreading falsehoods. So  
28 it's not just the fact that someone says something that's

1 false that's the problem. It's the fact that they knowingly  
2 and intentionally circulate falsehoods.

3 And I think -- although I completely see the  
4 attractions of that, I mean the problem is that it can be  
5 very hard to determine what the person themselves actually  
6 believes. I mean, if you think about conspiracy theorists or  
7 people who were making comments about President Obama's place  
8 of birth, I mean one question that we often faced at that  
9 time was do these people really believe it? Do they really  
10 think this is true or not? And that can be an extremely  
11 difficult question to determine. And certainly when people  
12 start, you know, retweeting other people's observations  
13 around such matters, the question of what they do or don't in  
14 fact believe becomes even more problematic.

15 So the line between disinformation and good  
16 faith misinformation is clear enough in theory, but actually  
17 quite a difficult one to draw in practice.

18 **DR. NOMI CLAIRE LAZAR:** Mr. Maher?

19 **MR. STEPHEN MAHER:** Thank you. It is a  
20 difficult line to draw. I think that it may be helpful  
21 though to consider whether there are some disinformation  
22 where the lines are easy to draw.

23 I was speaking with a family friend in his  
24 80s yesterday who asked me about Jagmeet Singh, had seen an  
25 article saying that his speech recently was interrupted by  
26 people from the Bank of Canada. He sincerely believed this.

27 There is this -- some kind of a commercial  
28 advertisement that we're seeing on newspaper websites that

1 sometimes uses is Jagmeet Singh, sometimes Pierre Poilievre,  
2 for some financial product, I'm not sure what it is, but it's  
3 reaching tens of thousands of people and convincing them of  
4 events that are not true. So there ought to be some kind of  
5 very low-level test where you can get rid of a lot of this  
6 stuff easily, I would think, and then there's other things  
7 where it is harder to draw the lines.

8 I would -- one concept I want to bring up  
9 that I've found useful at the time of the revelations of  
10 Russian interference in the 2016 election is dark  
11 advertising. When we are -- normally, with traditional  
12 print, or television, or radio advertising, we are aware of  
13 what our neighbours are learning, what messages are being  
14 sent to them.

15 With targeted online misinformation, actors  
16 are able to send messages to micro-targeted groups secretly  
17 using comparatively small amounts of money, reaching large  
18 numbers of people with divisive messages often having to do  
19 with identity issues. In the 2016 case, it was often African  
20 American communities being delivered messages linking Hillary  
21 Clinton to tough on crime messages.

22 I find that a problem worth thinking about.  
23 How do we detect micro-targeted dark advertising where the  
24 recipients may not, and are likely not, aware of who the  
25 actual message is coming from? I think it's worth thinking  
26 about.

27 **DR. NOMI CLAIRE LAZAR:** Professor Börzel?

28 **DR. TANJA BÖRZEL:** Yes, thank you. Very



1 briefly, again, when we talk about how do we actually cope  
2 with disinformation, I think there's kind of two approaches.  
3 There's the state-centred approach that looks at regulation.  
4 So you can ask how do we identify false claims? How do we  
5 detect particular messages? And who is "we" here? I mean,  
6 how about thinking a little bit about the recipients of those  
7 messages and ask how can we strengthen their capacity to, you  
8 know, to identify false claims? How do we strengthen their  
9 capacity to detect these targeted divisive messages?

10 So I guess I just want to emphasize, state  
11 regulation is super important, but there are also strategies  
12 that strengthen the capacity of citizens, right, to cope with  
13 this. And so raise the awareness of citizens that such  
14 things are going on. Educate them on what we call critical  
15 media literacy; right? I mean, I think these are super  
16 important issues that we should not overlook.

17 **DR. NOMI CLAIRE LAZAR:** I'll just add there,  
18 before handing the floor back to the Commissioner, that one  
19 of our panellists this afternoon, Professor Morgan, pointed  
20 out to me that during the Cold War, all of the propaganda  
21 from the Soviet Union was widely available and widely  
22 circulated and that just to emphasize Professor Börzel's  
23 point, there was an expectation and an assumption that  
24 society was able to handle that.

25 So it might be worth thinking about this  
26 shift where it's not that we suddenly have certain kinds of  
27 information coming at us that is potentially destructive, but  
28 rather that the issue lies more with the permeability and

1 resilience of society in terms of how to handle that  
2 information.

3 Commissioner, did you want to move on or do  
4 you want to ---

5 **COMMISSIONER HOGUE:** No, we'll move on.

6 **DR. NOMI CLAIRE LAZAR:** Okay.

7 **COMMISSIONER HOGUE:** I know that we'll have  
8 another opportunity ---

9 **DR. NOMI CLAIRE LAZAR:** Correct.

10 **COMMISSIONER HOGUE:** --- to discuss  
11 disinformation, but it's clearly food for thought.

12 The next question I have is I listened  
13 carefully to what Professor Kong and Professor Cassam said  
14 about having a definition or looking at the purpose of  
15 something, of an activity. The question I have is, what can  
16 we do with an activity that in itself can be a very  
17 legitimate activity, but at the same time, be an illegitimate  
18 activity depending on the purpose because it's almost  
19 impossible to know what is the real purpose behind something  
20 like -- and I'm going to give you an example. We -- there  
21 have been a lot of comments about gathering information about  
22 a potential candidate or about an MP. And, again, some said,  
23 you know, gathering information in itself is not something  
24 that is problematic, but if you're gathering the same  
25 information with a view to threaten, for example, family  
26 members of this candidate, or this MPs, it becomes something  
27 much more objectionable. What can we do vis-à-vis these type  
28 of conduct? Because if it's done by a foreign agent or a

1 foreign state, clearly, this is something that we should  
2 prevent or try to prevent, but how can we identify and make  
3 the distinction between these two situations, because it's  
4 the same conduct that is concerned.

5 **MR. HOI KONG:** It's a great question. So I  
6 think one way of thinking about it might be what is the  
7 probability that this on its face legitimate conduct will  
8 lead to illegitimate conduct; right? And so you may say that  
9 you're going to prohibit that conduct of gathering  
10 information as a prophylactic against subsequent misuse, you  
11 know? And so that's an assessment, I think, on the  
12 probability of that's how it's going to be used. And if it's  
13 a foreign actor, we might also think that, actually, that  
14 activity in and of itself is a problem, right, because we  
15 think that maybe that's the kind of activity that should be  
16 limited to Canadian citizens. So the example I had of undue  
17 influence, right, expenditures to strongly oppose or support  
18 a candidate. In and of itself, that's not a problem. It's a  
19 problem because of the identity of the actor.

20 So I think there are two possibilities. One  
21 is to think of the measure as prophylactic, and, therefore,  
22 prohibit it if we think that there's high risk that's it's  
23 going to be misused. And second, to ask if there's anything  
24 about the foreignness of the actor engaging in this activity  
25 that makes this activity that is otherwise legitimate  
26 illegitimate.

27 **DR. NOMI CLAIRE LAZAR:** Professor Cassam?

28 **MR. QUASSAM CASSAM:** Yes, I think it's a

1 great question that the Commissioner is asking. So one issue  
2 I think is how do we distinguish between foreign intervention  
3 and foreign influence. So a lot of the activities that are  
4 undertaken by the foreign embassies are information gathering  
5 activities. A foreign embassy might attempt to gather  
6 information about the voting records of MPs, for example, and  
7 that seems to be a legitimate activity for a foreign embassy,  
8 and there are various ways in which they might even seek to  
9 influence political debate in Canada. And, again, that is  
10 not in and of itself problematic.

11 So if one is then going to say, well, look,  
12 there are -- that's fine, but there are other activities that  
13 are undertaken by foreign embassies that cross the line  
14 between foreign influence and foreign interference, we need  
15 then to have some idea of what that line is. I mean, so we  
16 need to have some clarity about how to draw the line between  
17 these two things. And, of course, one can acknowledge the  
18 existence of grey areas, but one does need to have some  
19 conception of how somebody goes over the line. And I think  
20 it's not so much that they're doing the same thing in both  
21 cases that's the issue. It's just in the one case  
22 information is gathered for the purposes of exercising  
23 legitimate influence, and in the other case, it's gathered  
24 for the purpose of, for example, coercing legislators or  
25 using corrupt measures to influence them.

26 So I think we're sort of now getting back to  
27 this whole issue of the need for some general conception of  
28 what we're talking about when we're talking about foreign

1 interference. In the absence of that, it's going to be very,  
2 very hard to draw a line between influence and interference.

3 **DR. NOMI CLAIRE LAZAR:** Professor Moon?

4 **MR. RICHARD MOON:** Yeah, sure. I mean, I'm  
5 just trying to think a little bit about why something would  
6 be -- a particular action or behaviour would be acceptable  
7 for a resident or a citizen of the country but not for a  
8 foreign actor. And, you know, there aren't many things we  
9 can come up with which would think, you know, if it would be  
10 wrong for someone living in the country to do this just as it  
11 would be wrong for someone outside the country to do it. And  
12 Professor Kong again I think in his remarks pointed to one of  
13 the ways -- one of the kinds of activities that we say, no, a  
14 foreign actor can't do it while a domestic actor can, and it  
15 does have to do with the expenditure of money in the context  
16 of an election campaign.

17 And, again, why should that be so? And I  
18 really do think that it stems from, to some extent, our  
19 ambivalence about the expenditure of money in the context of  
20 election campaign. That if election campaigns were simply  
21 about politicians and parties putting forward their platforms  
22 for the, you know, potential voters to be assessing, we might  
23 not be concerned whether that speech was supported from  
24 outside or inside the country. The problem is that that  
25 speech generally is not of that form. It's generally very  
26 much in the form of lifestyle advertising, image-based,  
27 slogan-based communication.

28 And so I think that within the scope of our

1 own jurisdiction, when talking about domestic actors, we say,  
2 okay, our response to that is we can't get into regulating  
3 exactly what people say, so we'll just limit how much they  
4 can spend on it. But it is our ambivalence about the  
5 character of that speech, which is what leads us to say, and  
6 foreign actors shouldn't be able to do it at all. And so I  
7 do think that, ordinarily, I'm not sure about how significant  
8 the distinction is between a foreign actor doing it and a  
9 domestic actor doing it, except in these very particular  
10 situations where we feel ambivalent about the activity in the  
11 first place.

12 **DR. NOMI CLAIRE LAZAR:** Commissioner, did you  
13 want to follow up?

14 **COMMISSIONER HOGUE:** Yeah, I have many  
15 questions actually. I --

16 **DR. NOMI CLAIRE LAZAR:** We have time.

17 **COMMISSIONER HOGUE:** -- don't know if we'll  
18 have the week for, for that.

19 Another thing that I find difficult to cope  
20 with is privacy. We are very, very -- we want to protect our  
21 privacy, and I think it's very a high value in the Canadian  
22 society. What we see is that foreign states or foreign  
23 actors -- let's say foreign actors are using new means of  
24 communicating with Canadian citizens. Sometimes something  
25 that can be labelled as being a private conversation or  
26 private forum is becoming much more a public forum, given the  
27 number of citizen that are involved into the -- this forum  
28 and this discussion. Is it something that we should be worry

1 about, how to -- and I'm not suggesting at all that we should  
2 look at everything that people are saying amongst themselves.  
3 It's not my proposition at all, but I'm just trying to figure  
4 out how can we cope with this new way of communicating with  
5 the Canadian citizens? Again, it's on various social  
6 platforms, but what should we do in that respect? Because if  
7 it becomes, like, they can say anything they want and we have  
8 no way of knowing what is going on, it may become also  
9 problem so ---

10 **DR. NOMI CLAIRE LAZAR:** Professor Kong, do  
11 you want to start?

12 **MR. HOI KONG:** Sure. I'll try. So I think  
13 it might be helpful to think about what kinds of privacy  
14 interests we're talking about. And so some kinds of privacy  
15 interests you might say are about control over your personal  
16 information; right? And so in those -- in the internet  
17 context, right, the ability of social media to gather  
18 information about you, right, that might be a problem because  
19 we think that's an invasion of the information that you  
20 should hold exclusively. So that's one kind of privacy  
21 interest that's engaged, and that might be a particular  
22 problem that might require disclosure in the social media  
23 context if that information gets used by foreign actors for  
24 nefarious purposes; right? So that's one kind of privacy  
25 interest.

26 The second privacy interest that I think  
27 you're identifying, which is this idea that there are certain  
28 modes of communication that happen through online means,

1 right, that may be harmful, right? And the question is do we  
2 characterize that as private or public speech.

3 I think maybe rather than thinking about the  
4 characterization it might be helpful to think about why we  
5 would want to regulate that kind of speech, right? So  
6 imagine that you have speech that is notionally private but  
7 gives rise to -- you know, is like a conspiracy to cause a  
8 crime, right? I don't think the characterization of it as  
9 private speech particularly matters. The concern there is  
10 how that speech might affect public interests. Similar you  
11 might say if you have a notionally private communication  
12 online that has the risk of being disclosed publicly, right?  
13 So you can imagine any kinds of photographs taken of  
14 individuals in violation of their privacy interests that is  
15 shared in a private network, but there's nonetheless the risk  
16 of public exposure, right? There again I think there's a  
17 public interest in regulation.

18 So generally speaking, I think, I'm not sure  
19 that the characterization of the communication as private or  
20 public should be determinative; I think it's the public  
21 interest in regulating that speech, and I think there are  
22 different kinds of privacy interests that are engaged in this  
23 context. Some of them are about protecting one's data, for  
24 instance, and that, I think, is particularly relevant in this  
25 context because of the risks that were identified around  
26 micro-targeting.

27 **MR. RICHARD MOON:** I don't know if I have  
28 much useful, you know, to add. But I do think about



1 something like a hate speech regulation in which there is  
2 every reason to think that the spread of hatred through  
3 smaller, narrower networks of different kinds is as dangerous  
4 as when it's spoken to a much larger audience. And yet we  
5 make a choice in regulating to confine it -- confine the  
6 restriction, the criminal restriction in particular, which we  
7 have in place now, to that which is other than in private  
8 conversation; that is, has a publicness to it. And I don't  
9 know whether that is really about the harm is greater or not,  
10 or whether it is simply a judgment that there are privacy  
11 interests, and we have to trade those off with our concern  
12 about the spread of hatred in the community. The same thing,  
13 perhaps, may be said about conspiracy theories or  
14 disinformation as well.

15 **COMMISSIONER HOGUE:** Thank you.

16 In the context of the electoral process we  
17 know that, to a certain extent, time is of the essence. And  
18 as such, someone who is subject to, let's say, it could be  
19 disinformation, it could be just misinformation; it can be on  
20 the social media, it can be media, it could be in various  
21 forums, actually, that that may happen. Have you ever think  
22 about the idea of having a neutral organization where someone  
23 will be able to go if there's these type of concerns and  
24 these type of activities going on? A neutral organization,  
25 or -- I heard about something in France that is doing that  
26 type of work, you know, looking at what has been said and  
27 sometimes correcting things, just making sure that the facts  
28 are straight.

1                   Again, the risk is to become the truth-teller,  
2                   and it's in my mind probably a risk that we have to keep in  
3                   mind all the time, but what about a neutral organization in  
4                   charge of doing something like that during electoral  
5                   campaign?

6                   **DR. NOMI CLAIRE LAZAR:** Professor Börzel?

7                   **DR. TANJA BÖRZEL:** Yeah, I just want to  
8                   mention that the European Union has actually such a neutral  
9                   institution, which actually monitors, you know, national  
10                  public media for disinformation campaigns and then it's a  
11                  fact-checker, so to speak, right? And then correct the  
12                  facts.

13                  But it is an ambivalent issue because for  
14                  some member states that are very sensitive when it comes to  
15                  their national sovereignty, right, they must be very careful  
16                  as not seeing -- being a foreign agent interfering, right?

17                  But, I mean, there are institutions out there  
18                  that do exactly what you are -- I think what you are  
19                  suggesting. So it may be worthwhile having -- taking a  
20                  closer look at the European Union. They have actually  
21                  invested quite substantial resources in that. I don't know  
22                  what they call it, an agency -- I'm not sure, but you could  
23                  certainly look into that.

24                  **DR. NOMI CLAIRE LAZAR:** Singapore as well has  
25                  both -- might be worth looking at because it does have such  
26                  an agency. And in addition, although some people might  
27                  question whether anything is really neutral in Singapore, as  
28                  well as a very active public education campaign that is run

1 through schools and libraries, et cetera, to build civic  
2 capacity around mis-and disinformation. So that might be  
3 worth a look.

4 Professor Cassam?

5 **DR. QUASSIM CASSAM:** Yes. I think that for a  
6 neutral organization or neutral, as it were, fact-checker to  
7 be effective, not only would it actually have to be neutral,  
8 it would have to be perceived as neutral. And the problem is  
9 that, going back to Professor Börzel's earlier remarks, I  
10 mean, if you are operating in the context of very, very high  
11 degree of polarization, the chances of this neutral body's  
12 neutrality being accepted by all sides, I think, are  
13 practically nil.

14 I mean, imagine a few years ago an  
15 organization, the US that declared that President Obama  
16 really was born in America, "And this is our neutral  
17 judgment". I mean, I don't think that would have had much  
18 impact on people who thought otherwise in that context. And  
19 I think that the Singapore example is actually also really  
20 helpful because I think what it really points to is that  
21 these sorts of mechanisms may be very effective in countries  
22 or systems where there's, you know, a high degree of unity,  
23 they're not effective in highly divided -- highly divided  
24 along ideological partisan lines societies.

25 So I think my own view is that they're not --  
26 this sort of measure isn't really going to be very useful in  
27 the context in which we are now operating in many Western  
28 countries.

1                   **DR. NOMI CLAIRE LAZAR:** Professor Moon?

2                   **MR. RICHARD MOON:** Yeah, I want to agree with  
3 that, and say once we imagined that the media, the  
4 traditional media could play such a role. And it isn't just  
5 that we are polarized, part of that process of polarization  
6 is that partisan actors have worked very hard to discredit in  
7 the minds of those who may be sympathetic to their views,  
8 discredit the trustworthiness of what many of us thought were  
9 traditional, reliable sources of information or expertise, or  
10 whatever it might be.

11                   That also potentially spreads to or creates  
12 problems even for, you know, the answer of education because  
13 if you have people who are already persuaded that they should  
14 be sceptical of the authorities of traditional media of  
15 expertise, then it is really hard to penetrate that and turn  
16 that around. I hate to be so pessimistic.

17                   **DR. NOMI CLAIRE LAZAR:** Mr. Maher?

18                   **MR. STEPHEN MAHER:** I feel I should speak for  
19 my Libertarian-minded colleagues in the newspaper business  
20 and suggest that any suggestion like that would be greeted by  
21 them as being an affront and an attempt to create an official  
22 reality which would be counterproductive, and I agree with  
23 Professor Cassam's observation about the limited utility in  
24 such a polarized society.

25                   **COMMISSIONER HOGUE:** And it will be also your  
26 view even if we think about, for example, an organization  
27 where the people will be completely known as being  
28 independent and neutral? Because I can easily understand

1       that those that are -- the journalists, for example, are  
2       playing, to a certain extent, such a role. But I'm not sure  
3       if they are viewed anymore as being completely neutral and  
4       independent. And I don't want to offend anyone in saying  
5       that, but I think it's a reality that people are much more  
6       sceptical than they were in the past vis-à-vis what they read  
7       in the newspapers.

8               So do you think there will be something to  
9       gain from having people completely independent and neutral  
10      doing something like that?

11             **MR. STEPHEN MAHER:** I find it hard to imagine  
12      that such an organization would be able to play a helpful  
13      role because any sort of official reality that they agreed on  
14      would be the subject of contention. You know, if you think  
15      about something -- right now there are people strenuously  
16      objecting to the idea of a law around residential school  
17      denialism and saying this is rightly the subject of public  
18      discussion, so that's -- if that's not beyond dispute, then  
19      what would be beyond dispute? What could the -- an  
20      organization like that assert that would be useful, if you  
21      know what I mean.

22             **DR. NOMI CLAIRE LAZAR:** Professor Cassam?

23             **DR. QUASSIM CASSAM:** Yes. No, I agree with  
24      that. I mean, I think it's helpful to think back to the  
25      pandemic. I mean, that was a case where, you know, you might  
26      have thought that we could hope that, you know, a body of  
27      august medical experts with no political ax to grind, they  
28      would have been in the position to make these, as it were,

1 neutral factual pronouncements about vaccines and masks and  
2 so on, but they weren't -- I mean, the statements of these  
3 sorts of bodies were not accepted by vaccine sceptics and  
4 mask sceptics. They weren't accepted as neutral.

5               You know, even if they were neutral and even  
6 if everything they said was true, they were not perceived in  
7 that light by the people that we might be most -- you know,  
8 we might be most concerned about. And I think this just goes  
9 back to kind of two fundamental themes here.

10              I mean, one is the breakdown of trust in  
11 highly polarized societies and the other is, again, going  
12 back to something that Professor Börzel said, which is that,  
13 you know, we have to look at not just the supply of this sort  
14 of misinformation. We also need to look at the receptivity  
15 to it. And if people are receptive to the idea that these  
16 neutral bodies are really not neutral, if they're receptive  
17 to that idea and they don't trust these bodies, it's going to  
18 be very difficult to combat that simply by insisting that  
19 they -- well, they really are neutral.

20              **COMMISSIONER HOGUE:** Your light was on.

21              **MR. RICHARD MOON:** Yeah, I don't have much to  
22 add.

23              Certainly fact checking is really, really  
24 important. I'm just sceptical that a -- some kind of  
25 appointed body that is -- you know, that may, in fact, be  
26 neutral will be perceived as such by the people for whom it  
27 really does matter.

28              **COMMISSIONER HOGUE:** And since we have Mr.

1 Maher with us, a question I have is also what can we do -- we  
2 heard during the various testimonies that were given at the  
3 audience that one easy way for a foreign country to  
4 disseminate information that will be -- disinformation or  
5 misinformation that doesn't -- it's not necessarily  
6 important, is to do it through the medias that are published  
7 in the foreign language because, very often, that's the only  
8 newspapers that some members of the community will read. So  
9 it's very difficult for others to counter the information  
10 that can be disseminated in these newspapers because, you  
11 know, if you have a newspaper published only, let's say, in  
12 French or in English and nobody in this community can  
13 understand the French or the English language, then they are  
14 limited to what they can read in the newspapers that are  
15 published in this foreign language.

16 What can be done in that respect for making  
17 sure that we do not have groups that are limited in terms of  
18 the sources of information they have access to? Should it be  
19 done by, I will say, the main players in the field that  
20 should make sure to find a way of informing these communities  
21 or do you have any ideas in that respect, or...?

22 **MR. STEPHEN MAHER:** I wish I had more ideas  
23 about this. I have observed this that, you know -- I've, for  
24 instance, interviewed Kenny Chiu about the WeChat  
25 disinformation in his riding. And looking at it from  
26 outside, you think, well, this is horrible that this is  
27 happening, but I'm not sure that it's hugely different in  
28 degree than all kinds of disinformation about vaccines or all

1 kinds of things that are going in our society, and we have to  
2 sort of hope that people will find ways to separate good  
3 information from bad information and know that they won't  
4 always.

5 But I'd be interested in hearing from people  
6 who are in new Canadian media organizations. I know that  
7 it's -- that a lot of them are doing good work and providing  
8 journalistic scrutiny all the time in their communities and,  
9 in a sense, maybe we have to put our faith in those  
10 journalists.

11 **DR. NOMI CLAIRE LAZAR:** Any last questions,  
12 Commissioner, before we break?

13 **COMMISSIONER HOGUE:** No, I think I'm good.

14 **DR. NOMI CLAIRE LAZAR:** Okay. Well, then, we  
15 will now take our break for 30 minutes in order to gather  
16 questions from the parties with standing.

17 **COMMISSIONER HOGUE:** Thank you.

18 So 30 minutes.

19 --- Upon recessing at 10:56 a.m./

20 --- La séance est suspendue à 10 h 56

21 --- Upon resuming at 11:37 a.m./

22 --- La séance est reprise à 11 h 37

23 **COMMISSIONER HOGUE:** Ms. Lazar, it's for you.

24 **DR. NOMI CLAIRE LAZAR:** Thank you very much,  
25 Commissioner.

26 All right. We've now had a chance to look at  
27 some of the questions that have come in for the panel's  
28 consideration. So we are going to start by addressing a



1 question to Professor Börzel, who is -- oh, yeah, I'm just  
2 wondering if we have lost the Zoom connection here?

3 **DR. TANJA BÖRZEL:** I can see and hear you.

4 **DR. NOMI CLAIRE LAZAR:** You can see -- oh,  
5 there you are. Wonderful. Okay. So the first question that  
6 we have in fact amalgamates several questions that have come  
7 in from different participants who are wondering if you might  
8 have some concrete examples from various jurisdictions about  
9 how to build democratic resilience?

10 **DR. TANJA BÖRZEL:** This is, of course, a huge  
11 question, and I really want to be short here. And drawing  
12 very much on my experience with the European Union, but also  
13 with the U.S., those are the two areas I'm working on.

14 So let me give you the general strategy and  
15 then try to come up with a concrete example for each.

16 So the first point, and it's already  
17 mentioned in the Commissioner's initial report, is  
18 essentially make citizens aware of what foreign interference  
19 is about. What is the purpose; right? What is it aiming at?  
20 What does it try to do? So educate citizens about these  
21 threats and activities. And here, very important is already  
22 -- is sort of at the educational institutions; right?  
23 Schools and universities, where you start educating -- we  
24 start educating our students in what we call critical media  
25 competence. They learn how to critically evaluate what we  
26 call truth claims, statements about how the world is; right?  
27 And so that they are able to critically question. That's  
28 what science is about. Critical inquiry; right? That they

1 have this critical mind, because we want our citizens to be  
2 critical and not believe everything the government or foreign  
3 agents say.

4 So this competence of critical inquiry,  
5 particularly when it comes to social media, how do -- you  
6 know, how do you use ChatGPT, for instance? How do you deal  
7 with Wikipedia? Where do you get your information from? I  
8 think this is a very important strategy in educating  
9 citizens. That is my first point. My second point is -- and  
10 that relates more to the government. We've talked a lot  
11 about government regulating foreign interference to, you  
12 know, to detect and deter and to also punish these  
13 activities. And I think it is super important to strengthen  
14 people's, citizen's trust in these government measures by  
15 being transparent and also inclusive. You know, make not  
16 only citizens aware of the dangers, but also explain to  
17 citizens how you -- how the government actually means to  
18 address these dangers. What are the specific regulations?  
19 What kind of institutions has the government set up to deal  
20 with specific threats? That is very much a sort of a public  
21 information campaign.

22 And finally, and this is something I think is  
23 the most challenging one is to sort of make citizens sort of  
24 resilient against attempts to sow mutual dislike, hostility,  
25 create societal division; right? And again, I think this is  
26 very much about awareness raising. Use examples of agents,  
27 domestic or foreign, that deliberately try to sow division  
28 between social groups that polarize; right? They try to push

1 people to extreme positions and always showing there is not  
2 only black and white. There's a lot of grey in between. And  
3 again, here, I believe academia, science, schools,  
4 universities have a very important role to play, not only in  
5 the classroom, but also in public debates by trying --  
6 particularly when it comes to controversial issues, to sort  
7 of make evidence-based, differentiated arguments, right, and  
8 not try to push people towards taking extreme positions.

9 This is not easy, but I think it is something  
10 that we as citizens, as scientists have a great  
11 responsibility in. And here I will end with being a  
12 scientist myself, I have -- I see the tendency of science  
13 itself contributing to polarization and undermining the trust  
14 in science by not distinguishing between being -- giving a  
15 scientific statement and being, you know, an advocate for a  
16 particular political decision or position. And I think I  
17 stop here.

18 DR. NOMI CLAIRE LAZAR: Thank you very much.  
19 Do any of our other panellists want to step in on this  
20 question?

21 All right. Then we'll move to the next  
22 question. So we -- oh, sorry?

23 COMMISSIONER HOGUE: Can you just speak a bit  
24 more slowly?

25 DR. NOMI CLAIRE LAZAR: Slowly, yes.

26 COMMISSIONER HOGUE: I think it's the  
27 interpreters that are asking for that.

28 DR. NOMI CLAIRE LAZAR: Apologies. I should

1 know better.

2 **COMMISSIONER HOGUE:** That's fine.

3 **DR. NOMI CLAIRE LAZAR:** Okay. So we'll then  
4 move to our next question. So we have been asked to address  
5 what strategies can be implemented to counter foreign  
6 interference but also encourage participation in our  
7 democracy? And on that question, I'll invite Professor  
8 Cassam to begin.

9 **DR. QUASSIM CASSAM:** Thank you very much. So  
10 just a bit of background here, I mean, it seems to me that a  
11 key issue is whether the erosion of trust and confidence that  
12 we are allegedly facing now is the result of foreign  
13 interference or is it rather that foreign interference is  
14 exploiting a kind of pre-existing erosion of trust and  
15 confidence in democratic institutions. So I think that's a  
16 really fundamental question.

17 So, I mean, one way to think about it is to  
18 think of the body politic as something like a human body,  
19 which has different levels of resistance. And you could  
20 think of foreign interference as a kind of virus, and you are  
21 more likely to succumb to the virus if your levels of  
22 resistance are low. So kind of, like, the crucial point is  
23 to have high levels of resistance to foreign interference and  
24 not to buy into the idea that the erosion of trust and  
25 confidence in democratic institutions is entirely caused by  
26 foreign interference. I mean, it seems to me there are much  
27 deeper factors here that are at play, which are then  
28 exploited by malign of foreign actors.

1                   So I think in terms of practical strategies,  
2   I kind of have two suggestions, I mean, one of which is more  
3   reflective and the other is more practical. So starting off  
4   with the kind of more reflective end of the spectrum, I think  
5   that actually what is needed is to have a period of serious  
6   reflection about when and why trust in democratic  
7   institutions really kicked in. I mean, it hasn't just -- it  
8   didn't just happen at the point at which, you know, foreign  
9   actors started to interest themselves in our affairs. I  
10   mean, this erosion of trust in democratic institutions has  
11   much deeper roots. And I think what's needed is a period of  
12   kind of serious reflection about why and how this has  
13   happened.

14                   But then in terms of a kind of practical  
15   measure, here, I, in a way, want to just build on what  
16   Professor Börzel said, which is that the response has got to  
17   be partly educational. I mean, I think we need an electorate  
18   that is educated in, for example, critical thinking. And the  
19   way to educate in critical thinking is not just to teach  
20   courses on critical thinking, but, actually, for example, to  
21   -- you know, to ensure that, you know, students study the  
22   humanities where critical thinking is actually integral to  
23   what they study. So there's that dimension.

24                   And then there's another sort of educational  
25   dimension which is more -- I mean, much more controversial, I  
26   think, but I'll mention it anyway. So in the UK, there was  
27   considerable concern 15 years ago about the political  
28   radicalization of certain communities in the UK, and their

1 vulnerability to certain kinds of malign political influences  
2 originating overseas. And the government imposed a duty on  
3 public institutions in the UK to actively promote values such  
4 as democracy, and free speech, freedom of religion, and the  
5 rule of law. And this was known as the prevent duty in the  
6 UK and it's very, very controversial. But I do think it  
7 addresses one thing that's kind of really, really important,  
8 which is that these questions that we're discussing are  
9 really questions of values. They're questions about what are  
10 people's values? I mean, do they -- are our values such as  
11 to make us more vulnerable to certain kinds of malign  
12 interference from foreign actors or not. And I think that  
13 unless people are actually, as it were, committed at some  
14 deep level to the democratic system, committed at some deep  
15 level to the rule of law and free speech and freedom of  
16 religion and so on, unless they're actually committed to  
17 these values, they are going to be, I think, more vulnerable  
18 to foreign actors promoting alternative visions of the good  
19 life. So I think we, you know, we need to address this --  
20 you know, these issues at this sort of really, really  
21 fundamental level and think about what sorts of values are  
22 our citizens being brought up to believe in, and to endorse,  
23 and to employ in their own thinking.

24 So I think it's a sort of twin tract  
25 strategy. One is, you know, the promotion of democratic, or,  
26 if you'd like, Canadian values, whatever they are, but  
27 presumably they're democratic values, and the other is to  
28 promote education in thinking skills, the sorts of critical

1 thinking skills that are needed to, you know, to distinguish  
2 between genuine information, for example, and disinformation.

3 So I think those are the practical measures,  
4 but I do want to say that they need to be underpinned by much  
5 deeper reflection on what made us vulnerable in the first  
6 place to foreign interference. I don't think that foreign  
7 interference is the fundamental cause of the so-called crisis  
8 of trust in democracy. I think it -- foreign interference  
9 just exploited what was already a burgeoning crisis of trust,  
10 and we need to think very hard about when and why and how  
11 this crisis of trust actually began.

12 **DR. NOMI CLAIRE LAZAR:** Thank you very much,  
13 Professor Cassam. We'll now turn to Mr. Mayer -- Mr. Maher,  
14 I apologize, to address the question of how the media can  
15 best play a role in terms of supporting efforts to counter  
16 foreign interference. And along with that question goes the  
17 -- an additional question. So given the decreasing level of  
18 confidence that the public has in the media, are there ways  
19 that the media itself can engender further trust in order to  
20 play those roles in countering foreign interference?

21 **MR. STEPHEN MAHER:** So I think the most  
22 important thing that the media can take from this moment of  
23 failing trust, the most important thing the media can do is  
24 be aware of the limits of its influence and focus on  
25 providing accurate information that's unbiased.

26 We are in an era of declining trust in the  
27 news. I'm looking at the 2024 Digital News Report on Canada,  
28 which shows that somewhere around 40 percent of Canadians

1 agree with the statement "I think you can trust news most of  
2 the time." That number has gone down significantly in the  
3 last decade.

4 Making the situation challenging is that the  
5 people who are least likely to -- who are most suspicious are  
6 least likely to pay attention to the news media. So the  
7 people who are most skeptical about the news media, who might  
8 be most prone to conspiracy theories, are the least likely to  
9 pay attention to the news media. So I think it's incumbent  
10 upon people in the media to be humble about the extent of  
11 their influence. I often find that critics of the media will  
12 say no wonder people believe so many foolish things. The  
13 media isn't correcting the record all the time.

14 It's important to take note of the fact that  
15 many of the people who may believe foolish things are not  
16 paying attention to the media. And if you become -- if the  
17 media becomes doctrinaire and seems to be propagandistic,  
18 then you run the risk of further losing the trust of viewers.

19 I want to quickly reference a paper from  
20 Rasmus Kleis Nielsen at the time of the 2024 Digital News  
21 Report in *Zeit Online*. I thought there was a quote that  
22 caught my attention at that time.

23 "...journalism still has a strong  
24 connection with older, affluent,  
25 highly educated, politically moderate  
26 people. But it is losing touch with  
27 much of the rest of the public. It  
28 is at ever-greater risk of being for



1                   the privileged few, not for the  
2                   many."

3                   So this is -- we see a continued weakening of  
4                   the media, in a sense, in Canada of a downward spiral, in  
5                   that the models are starved of money, because they're starved  
6                   of money, the quality of the work diminishes, and there's  
7                   more money in alternative sources of information,  
8                   disinformation, and activist media.

9                   I often think that it might be useful to have  
10                  a bit of a historical perspective. We are in -- we appear to  
11                  be at the end of an era of broadsheet newspaper dominance  
12                  that was heavily influenced by wire service reporting, where  
13                  we say, "Well, we have two views of the world from one  
14                  political party and another political party and we're going  
15                  to give you, according to a formula, a boiled down version of  
16                  the news." That's what most of us who are now alive have  
17                  grown up with.

18                  That was not always the case. There used to  
19                  be -- I'm from Nova Scotia. There used to be five daily  
20                  newspapers in Halifax, each reflecting a different partisan  
21                  or religious view of the world.

22                  We appear to be reverting to a somewhat less  
23                  orderly and more diverse media environment so that our -- the  
24                  sense of arriving on an official version of the news that's  
25                  shared by everyone, I think we can maybe just accept that  
26                  that's not the world that we're going to be living in any  
27                  longer.

28                  I'm somewhat worried about what's going to

1       happen to the mainstream media as the quality diminishes and  
2       the money is gone, but there's new things happening and we  
3       have to hope that people will want to know the truth and seek  
4       it out.

5                   **DR. NOMI CLAIRE LAZAR:**   If I could just  
6       briefly follow up on that?  So if, hypothetically we hope, it  
7       were the case that the mainstream media can't save itself, or  
8       that we can't save it, you sort of alluded to the fact that  
9       these things aren't static to begin with, that the way in  
10      which people get and process information can shift over time  
11      with these different media sources.  Do you have any ideas  
12      about how -- or what might take the place of the mainstream  
13      media, given the -- given society as it is, rather than as it  
14      might be?  So something realistic that could take on that  
15      role that you are playing right now?  I hope that's clear  
16      enough.

17                   **MR. STEPHEN MAHER:**  Well I'm encouraged by  
18      some of the foundation models, *The Narwhal*, for example, but  
19      there's different more partisan or ideological media  
20      organizations on the left and the right that are doing  
21      original reporting that I think add value, certainly, to the  
22      people who agree with them.

23                   I also think that there's business-based  
24      subscription models, like *allNova Scotia*, *The Logic*, that  
25      they appear to have found a business model.  But it's not a  
26      sort of media for everyone.  It tends to just be reaching  
27      people in the business community and driven by that.

28                   I personally believe that public broadcasting

1 is very helpful and very useful, but that's a subject of  
2 partisan debate and there's deep profound disagreement about  
3 that in Canada. So it's kind of -- we have to take our cues  
4 from the politicians on that, I suppose.

5 **DR. NOMI CLAIRE LAZAR:** Thanks very much.

6 Do any other panellists want to jump in here?

7 Okay. Then we will move to the next  
8 question.

9 So does the panel agree that by seeking  
10 freedom of expression and avoiding censorship, we might harm  
11 freedom of expression by allowing thousands of bots, for  
12 example, to flood the online space and take over the  
13 conversation?

14 So I'm going to address this question in the  
15 first instance to Professor Moon.

16 **MR. RICHARD MOON:** And my answer is yes, we  
17 should be concerned about that. We should be concerned about  
18 disinformation spread through bots and so forth. I mean, as  
19 I said in my remarks in my answer to the Commissioner, yeah,  
20 public discourse is severely damaged by disinformation and it  
21 may be a much larger problem than censorship at this point.

22 So the challenge again is how do you regulate  
23 it? How do you bring it under control in some way? And  
24 there's a judgement about what the costs and risks are to,  
25 like, an open political discourse. So others may be in a  
26 better position to make assessments or judgements about, you  
27 know, the strategies, techniques that governments and social  
28 media platforms can adopt. And so I -- you know, I don't

1 have any simple answer to this. You know, as I say, I don't  
2 think disinformation itself should count as protected speech,  
3 but the whole question is how do we identify it? How do we  
4 determine what counts as disinformation and what are the  
5 risks involved when we make those sorts of determinations to  
6 free speech?

7 So I think we need to think about different  
8 strategies to bring disinformation under control. And to  
9 this point, you know, both Professor Kong and I were talking  
10 about focusing at least within the context of an election  
11 campaign on very particular kinds of claims that may  
12 circulate, claims that, you know, are verifiable in some way  
13 and can more easily be identified and brought under control.

14 But in terms of larger strategies, yeah, I  
15 would like to think there could be ways to identify  
16 disinformation.

17 And I guess part of the question, as I  
18 understand it then, was about anonymous sources of different  
19 kinds. And again, sure, I think focusing on the source may  
20 be a valuable thing to do. Again, others who will be  
21 participating in subsequent panels are probably in a better  
22 position than I am to talk about and consider how realistic,  
23 how practical trying to identify that is online. It's not  
24 really within my expertise.

25 **DR. NOMI CLAIRE LAZAR:** Thank you very much.  
26 Does anyone else want to jump in here? Professor Kong?

27 **MR. HOI KONG:** Sure. So I think that maybe  
28 one way of thinking about the problems of bots and the

1 problem of automatically generated things that just flood the  
2 marketplace of ideas is to think by analogy, as you said  
3 earlier, to something like spending. The reason spending is  
4 a problem is because it gives greater voice to one set of  
5 people who have the capacity to flood the marketplace of  
6 ideas.

7 So I think that doctrinally speaking, there's  
8 at least a possibility of making that kind of argument.

9 I think the more difficult question is how do  
10 you effectively regulate that kind of activity? And I think  
11 that's a matter of technological capacity and other issues  
12 that I think may be developed over time and then once we have  
13 an idea of how to effectively regulate these things, then we  
14 can decide whether the state has a role. But I think that  
15 the general concern expressed in the question is a concern  
16 about freedom of expression being undermined by permitting  
17 certain kinds of speech to flood the marketplace of ideas.  
18 And I think that's a concern that we already have within  
19 constitutional law and that we've already addressed in some  
20 respect. The question is, can we extend that set of  
21 analytical tools to this phenomenon and can we do it -- can  
22 we regulate effectively?

23 **DR. NOMI CLAIRE LAZAR:** Thank you. I think  
24 it's worth pointing out before we turn to Professor Cassam  
25 that this notion of having the technology to regulate things  
26 like bots, it might be actually a space in which the  
27 government might intervene, because of course the platforms  
28 themselves, given the business model, don't have any

1 incentive to develop those tools. So you know, if the  
2 problem is ineffective technology, then perhaps changing the  
3 incentive structure around the development of those  
4 technologies could be one mechanism that might be helpful  
5 there.

6 So Professor Cassam? We can't hear you. I  
7 think you're muted.

8 **DR. QUASSIM CASSAM:** Sorry. Just a quick  
9 observation about the idea of regulating disinformation. So  
10 as one of the previous speakers just said, the key challenge  
11 is how do you identify what counts as disinformation? So if  
12 you look at the definition of disinformation, so mostly it's  
13 defined in terms of false or misleading information with the  
14 intent to mislead or the intent to deceive.

15 So clearly, I mean, a key challenge is going  
16 to be how do you identify or establish the intent to deceive,  
17 rather than somebody just believing something outlandish?

18 And if you think about trying to design a  
19 kind of -- an algorithm or something that's actually going to  
20 screen out or control disinformation, I mean, the most  
21 straightforward way of doing it is just going to be -- to  
22 tackle misinformation; right? And to try and deal with that,  
23 on the assumption that at least some of that is going to be  
24 disinformation.

25 But that's also going to result in genuine  
26 misinformation that isn't disinformation being screened out  
27 as well. And then there are going to be concerns about  
28 freedom of expression and so on.

1                   So I think if we're talking about  
2   disinformation, we're really thinking about something where,  
3   you know, the key to this phenomenon is a kind of malign  
4   intent. I think we really need to take seriously the  
5   practical difficulties of distinguishing cases where, for  
6   example, someone promoting a conspiracy theory about, you  
7   know, Sandy Hook or something like that, you know, cases  
8   where they have -- you know, they have this malign intent,  
9   which makes it disinformation, versus cases where they, you  
10   know, generally believe what they're saying and there's no  
11   intention to deceive. And that's a -- it's a theoretical --  
12   theoretically reasonably clear distinction, but a very hard  
13   distinction to implement in practice.

14                   **DR. NOMI CLAIRE LAZAR:** Thank you.

15                   **COMMISSIONER HOGUE:** I have a question on  
16   this.

17                   **DR. NOMI CLAIRE LAZAR:** Yeah, please go  
18   ahead.

19                   **COMMISSIONER HOGUE:** Do you believe it's  
20   easier to identify the intent when it's coming from a foreign  
21   actor? Like, a foreign state?

22                   **DR. QUASSIM CASSAM:** I think -- sorry, if  
23   that's addressed to me, yes. I mean, I think that it is  
24   easier in those cases, particularly where we can identify a  
25   clear rationale for disinformation. I mean, so a question  
26   that you might ask in these cases is why would they be doing  
27   this? And if you can think of a way in which the promotion  
28   of misinformation promotes or advances the political agenda

1 of a hostile foreign power, then I think it's a reasonable  
2 hypothesis that they're doing this intentionally. In other  
3 words, that it's disinformation.

4 But if you're talking about, you know,  
5 disinformation as a broader problem, and thinking just about  
6 Canadian citizens and what they tweet about or make comments  
7 about on social media, I mean, in those cases, I think it is  
8 much harder to be sure what one's dealing with.

9 **COMMISSIONER HOGUE:** Thank you.

10 **DR. NOMI CLAIRE LAZAR:** All right. We will  
11 then move in a moment to the fifth and last question.

12 I did just want to flag the interesting  
13 potential distinction between the idea of a person directly  
14 promoting disinformation and the use of a bot or of bots,  
15 which may have interesting parallels, as Professor Moon  
16 pointed out, to the amplifying capacity of money.

17 And so it might be -- or was that Professor  
18 Kong? Apologies.

19 So there may be some room in there that helps  
20 us get around this -- you know, this necessity to identify  
21 the intention, if we think about bots in that specific way.  
22 So that -- I do think that that's worth further thought.

23 So we'll now turn to the fifth question. So  
24 this question pertains to Canada's plan to protect democracy.  
25 As part of this plan, there is what is known as the Panel of  
26 Five, civil servants whose -- one of whose roles is to raise  
27 the alarm, shall we say, if it comes to their attention that  
28 there is a credible -- or credible evidence of an instance of



1 foreign interference.

2 So we have a couple of questions about the  
3 Panel of Five. One of them is whether it might be a good  
4 idea for the Panel of Five to address Canadians before there  
5 is an emergency, imaging a situation in which Canadians do  
6 not know who this Panel of Five are or what it is that they  
7 do, should we hear from them about foreign interference  
8 before there is a particularly fraught situation?

9 And the second part of that question is  
10 whether -- you know, whether these are the right body, the  
11 right people to be speaking in the first place, given their  
12 role as public servants.

13 So on those two questions, I am going to  
14 invite first Professor Kong, and then Professor Maher to  
15 address the questions. Go ahead.

16 **MR. HOI KONG:** Great. So I think this  
17 question raises issues that are related to the Commissioner's  
18 earlier question about neutral entrusted bodies. And so I  
19 think that a good -- it's a good idea for these kinds of  
20 bodies to explain why they are entrusted with these  
21 functions.

22 And so you might imagine the Panel explaining  
23 why they have particular expertise or access to expertise in  
24 assessing risk. You might say -- you know, explain why they  
25 and really only government can have access to the kinds of  
26 sensitive information that's necessary to make the kind of  
27 determination as to whether or not there should be a public  
28 announcement.

1                   But I think almost as important as those two  
2 things, explaining why a particular body is able to do  
3 something and why they're the preferred body to do something  
4 is to explain the process of decision-making.

5                   So in particular, for the Panel of Five,  
6 right, when they have to explain what the considerations that  
7 they are taking into consideration, when they decide whether  
8 or not to make this kind of announcement of a critical  
9 incident, right, it might be helpful for them to explain well  
10 how do they give weight to the relevant factors? That is,  
11 the degree to which the incident undermines Canadians'  
12 abilities of a free and fair election, the potential of the  
13 incident to undermine the credibility of the election, and  
14 the degree of confidence officials have in the intelligence  
15 or information.

16                  So I think it might be helpful to explain how  
17 they would apply these criteria, what weights do they give to  
18 these additional factors, and what the justification is for  
19 any kind of threshold they set? So one of these factors has  
20 a threshold built into it, the degree of confidence officials  
21 have in intelligence or the information, what determines the  
22 threshold they set, what is the threshold? Is it beyond a  
23 reasonable doubt? Is it on a balance of probabilities?

24                  And so I think that these kinds of bodies are  
25 in a good position to counter kind of radical skepticism  
26 about expertise and institutions by explaining, as  
27 transparently as they can, the criteria by which they assess  
28 confidential information, even if they can't disclose the

1 nature and the confidential information, the nature of that  
2 information or the confidential information itself.

3 **DR. NOMI CLAIRE LAZAR:** Thank you.

4 Mr. Maher?

5 **MR. STEPHEN MAHER:** I think this idea likely  
6 has some merit, that if I was still a member of the  
7 Parliamentary Press Gallery, I would find a presentation from  
8 the Panel to be interesting. But I think it's also fair to  
9 expect members of the opposition and the media to be somewhat  
10 skeptical of a panel of public servants. And this kind of  
11 goes back to the discussion earlier about having a neutral  
12 body opining about various matters.

13 There's some question, I think, in the minds  
14 of members of the Opposition and the media about whether  
15 public servants are neutral, or are they not, in fact,  
16 serving at the pleasure of the Prime Minister.

17 One key report was written by a public  
18 servant who had previously played a role in the Trudeau  
19 Foundation named after the father of our current Prime  
20 Minister, and where there was a significant amount of money  
21 from Chinese state-linked entities. To my way of seeing  
22 things, the Opposition is justified in being somewhat  
23 sceptical about that kind of thing, particularly where you  
24 have a largely Western Canadian based Opposition Party that  
25 is sceptical of self-dealing by Laurentian elites.

26 And this is -- it seems to me we ought to  
27 take that kind of view of the world seriously if we want to  
28 have an institution that is trusted by members of the

1 Opposition who may have good reason to be suspicious of  
2 Laurentian institutions about opining about a matter that  
3 goes to the legitimacy at the heart of our democratic  
4 process.

5 And so I thought, when I earlier examined in  
6 a journalistic way this organization, that it ought to have  
7 somebody who was truly at arm's length from the government.  
8 I understand that the CEO of Elections Canada would not  
9 perhaps be appropriate because of their role later in the  
10 electoral process, and I can see the wisdom of that. But  
11 having a former CEO of Elections Canada play an advisory  
12 role, I think that the idea of having some representation on  
13 that organization who are not part of the mechanics of  
14 government and answering to the Prime Minister might help to  
15 establish greater legitimacy.

16 **DR. NOMI CLAIRE LAZAR:** Thank you.

17 Do any of the other panellists want to step  
18 in here?

19 In that -- oh, go ahead.

20 **MR. HOI KONG:** Can I just follow up?

21 So I think that's a -- I think that's really  
22 important. I think that's a really important comment. And I  
23 think that part of the introduction of something like a Panel  
24 of Five might be to say, look, here are the range of possible  
25 options for dealing with this problem. Each of them has  
26 costs and benefits, and we've landed on this one for these  
27 reasons, right.

28 I think that kind of clear reasoning about

1       why you choose a particular institution and why you choose a  
2       particular process can help to at least -- if you can't  
3       answer the scepticism or the criticism, you can at least say  
4       we consider all the relevant factors, including the ones that  
5       you quite legitimately raise.

6                   **DR. NOMI CLAIRE LAZAR:** Commissioner?

7                   **COMMISSIONER HOGUE:** No, I'm okay.

8                   **DR. NOMI CLAIRE LAZAR:** Well, then, in that  
9       case, unless any of the panellists have a final note they  
10      would like to insert in the record, then I will hand it back  
11      to you to ---

12                   **COMMISSIONER HOGUE:** Yes, just to thank you  
13      all. It was very, very instructive. I think we have a lot  
14      of work to do, that being said, and think about all these  
15      issues, but I'm quite confident we'll succeed in at least  
16      having some good ideas, being enlightened by all of those  
17      that have accepted to come this week and share with us some  
18      of their ideas.

19                   So thank you very much for coming, and we'll  
20      come back at 1:30.

21                   Yes, 1:30.

22      --- Upon recessing at 12:14 a.m./

23      --- La séance est suspendue à 12 h 14

24      --- Upon resuming at 1:30 p.m.

25      --- La séance est reprise à 13 h 30

26                   **COMMISSAIRE HOGUE:** Bon après-midi à tous et  
27      bienvenue à notre seconde table ronde qui s'intitule  
28      « Perspectives diplomatiques sur la 'zone grise' de

1 l'intervention étrangère », et soyez sans crainte, je vais  
2 vous laisser faire une belle présentation de nos panélistes.

3 So the roundtable this afternoon is entitled  
4 "Diplomatic Perspectives on the Foreign Intervention 'Grey  
5 Zone'".

6 Alors, nous avons comme vous le constatez, je  
7 pense qu'on n'a personne, hein, sur le... sur l'écran cet  
8 après-midi? Non. Tout le monde est en présence.

9 Alors, nous avons cet après-midi cinq  
10 panélistes que madame Lazar vous présentera, la professeure  
11 Lazar vous présentera plus adéquatement que je ne le fais  
12 maintenant. Simplement pour les identifier alors on a... je  
13 vais commencer à partir de la droite, Alex, and I hope I'm  
14 going to pronounce it correctly, Himelfarb. Good. Who is a  
15 former Clerk of the Privy Council as well as a former  
16 ambassador.

17 The other one his right is Henri-Paul  
18 Normandin, qui est aussi un ancien ambassadeur et maintenant  
19 membre de l'Institut d'études internationales de Montréal  
20 affilié à l'UQAM, hein, si je ne fais pas erreur.

21 Daniel Jean, bonjour. Ancien conseiller du  
22 premier ministre en matière de sécurité nationale et de  
23 renseignement et ancien sous-ministre d'Affaires mondiales  
24 Canada.

25 Madame Leahy, Anne Leahy qui est une ancienne  
26 ambassadrice, et Alex... non, pardon, monsieur Morgan, Michael  
27 Morgan, qui est associate professor of history at  
28 l'Université of North Carolina. So it's now for you to

1 introduce them in a better way than I did.

2 --- ROUNDTABLE : DIPLOMATIC PERSPECTIVES ON THE FOREIGN

3 INTERVENTION 'GREY ZONE' / TABLE RONDE: PERSPECTIVES

4 DIPLOMATIQUES SUR LA « ZONE GRISE » DE L'INTERVENTION

5 ÉTRANGÈRE :

6 --- PANEL MODERATED BY/PANEL ANIMÉ PAR DR. NOMI CLAIRE LAZAR:

7 DR. NOMI CLAIRE LAZAR: I think you did an  
8 excellent job, Commissioner.

9 Bon après-midi, Madame la Commissaire,  
10 Panélistes, et membres du public.

11 Lors de la table ronde de ce matin, nos  
12 experts ont abordé la complexité du problème de l'ingérence  
13 étrangère soulignant à la fois les conflits de valeurs et les  
14 problèmes de définition.

15 Cet après-midi, nous nous pencherons sur un  
16 aspect spécifique de cette complexité : la zone grise des  
17 pratiques étrangères acceptables.

18 In her initial report, Commissioner Hogue  
19 mentions common concerns about distinguishing foreign  
20 influence, understood as legitimate or acceptable behaviour  
21 from foreign interference understood as problematic.  
22 Influence may become interference, the report notes, when it  
23 is clandestine, deceptive, or personally threatening. Yet  
24 the report also notes that this distinction can be difficult  
25 to draw. Indeed, many reports and observers have described a  
26 substantial grey zone of ambiguous behaviours that deeply  
27 concern members of some areas of government, while striking  
28 others as business as usual for diplomacy.

1                    Cette ambiguïté peut engendrer au moins trois  
2                    difficultés potentielles.

3                    Premièrement, l'ambiguïté rend plus difficile  
4                    l'identification claire d'un comportement politique  
5                    inapproprié tout en risquant d'entraver les efforts  
6                    politiques ou diplomatiques légitimes.

7                    Deuxièmement, les désaccords entre les  
8                    différentes composantes du gouvernement sur ce qui constitue  
9                    un comportement préoccupant ou illégal peuvent entraver la  
10                    capacité d'un gouvernement à prendre des mesures appropriées  
11                    en temps utile.

12                    Et troisièmement, l'ambiguïté peut contribuer  
13                    à la confusion du public, ce qui peut réduire la probabilité  
14                    que les citoyens reconnaissent les interventions étrangères  
15                    potentiellement préoccupantes, ce qui, à son tour, peut  
16                    conduire à un manque de confiance dans nos institutions.

17                    Yet those ambiguities, some of our panellists  
18                    will note this afternoon, may also be critically important to  
19                    Canada's undertakings abroad. Any attempt at fully defining  
20                    or legalizing the grey zone would have to manage genuine, not  
21                    just semantic ambiguities. For example, could any definition  
22                    capture the contextual complexities of diplomacy? If it  
23                    turns out definitions cannot be made specific enough to be  
24                    workable while remaining abstract enough to capture real  
25                    ambiguities, are there other ways to guide citizens and  
26                    officials?

27                    So with these questions in mind, we will now  
28                    turn to our first panellist, Professor Michael Morgan, who is



1       associate professor and a scholar of the history of diplomacy  
2       at the University of North Carolina.

3       **--- PRESENTATION BY/PRÉSENTATION PAR DR. MICHAEL MORGAN:**

4                       **DR. MICHAEL MORGAN:**   Alors, bonjour, Madame  
5       la Commissaire. C'est un honneur de vous adresser cet après-  
6       midi.

7                       Chers collègues, Mesdames et Messieurs, as a  
8       historian, the first point that I'd like to make is that  
9       Canadians should not be surprised by the foreign interference  
10      that we've seen in recent years, because this is simply the  
11      latest example of a very old phenomenon. Canada and other  
12      Liberal democracies have plenty of experience dealing with  
13      foreign interference and dealing with the grey zone between  
14      foreign interference and foreign influence.

15                      As we heard from some of the speakers this  
16      morning, the concept of interference is difficult to define.  
17      There's a wide grey zone between influence, which we are  
18      willing to accept, and interference, which we're not.

19                      I'd like to make two main arguments this  
20      afternoon. First, it's misguided to try to draw a sharp  
21      distinction between influence and interference, not just for  
22      conceptual or legal reasons, but also for practical ones that  
23      are rooted in the way that diplomacy and state craft work.  
24      Authoritarian states themselves, like Russia, like China,  
25      don't necessarily pay much attention to the distinction  
26      between influence and interference when they plan their  
27      activities. They use whichever tools, legal, or illegal,  
28      overt, or covert that they think will be most useful in

1 pursuing their objectives.

2 At the beginning of the Cold War the American  
3 diplomat George Kennan described this wide spectrum of action  
4 as "political warfare". This included, as Kennan put it, the  
5 employment of all the means at a nation's command, short of  
6 war, to achieve its national objectives. For the Soviet  
7 Union, he said, and here he was speaking in the mid-1940s, no  
8 holds are barred. There are no rules of the game. They can  
9 do anything that they think is in their interests and their  
10 choice is limited by only one thing, and that is their own  
11 estimate of the consequences to themselves.

12 Political warfare obviously stands at odds  
13 with many of the norms of international relations. It  
14 violates the UN Charter's commitment to non-interference. It  
15 violates the 1961 Vienna Convention, whose article 41 obliges  
16 diplomats not to interfere in the internal affairs of their  
17 host states. It violates the United Nations 1970 Declaration  
18 on Friendly Relations Between States, which stipulates that  
19 no state may "intervene, directly or indirectly, for any  
20 reason whatever in the internal or external affairs of any  
21 state."

22 And yet -- and this is my second argument --  
23 foreign interference can sometimes be a useful tool that  
24 serves Liberal democratic purposes. It can be sometimes in  
25 Canada's interest to preserve the grey zone rather than try  
26 to eliminate it. There are some practices that we may  
27 welcome when friendly states engage in them, and yet we may  
28 object to those same practices when they're undertaken by

1 unfriendly states.

2           Despite the prohibitions that I mentioned a  
3 moment ago in the UN Charter and so on, Western governments  
4 faced political warfare throughout the Cold War. Let me give  
5 you some examples. At one end of the spectrum of legality,  
6 Soviet diplomat's practiced traditional, open, peaceful,  
7 state to state diplomacy. Communist newspapers and  
8 broadcasters like Pravda and Radio Moscow, among others,  
9 disseminated pro-Soviet versions of events and tried to bring  
10 Western audiences, including in Canada, around to Moscow's  
11 point of view.

12           Towards the grey zone, the Soviet Communist  
13 Party liaised with, and advised, and sometimes funded  
14 Communist parties in Western states. Some Western  
15 legislatures, including in Canada, included elected members  
16 who were Communists and worked, to varying degrees, with  
17 Moscow. The Soviet government also supported and funded  
18 Western NGOs that presented themselves as grassroots groups  
19 but that often followed Moscow's line and tried to promote  
20 Soviet policies. Soviet and Eastern European intelligence  
21 agencies launched disinformation campaigns targeting Western  
22 countries. For example, spreading the false rumour that HIV,  
23 the virus that causes Aids, had been created by the American  
24 government as part of a biological warfare program. This was  
25 obviously a false rumour that Western officials worked  
26 vigorously to debunk. And, of course, the Soviets also  
27 recruited Western officials to spy for them.

28           Now Canada was on the receiving end of these

1 efforts for decades. Most dramatically, the defection of  
2 Igor Gouzenko from the Soviet embassy here in Ottawa revealed  
3 that the USSR had built espionage networks in Canada, in the  
4 United States and in Britain. Representatives of the  
5 Canadian Communist Party travelled to Moscow to meet the  
6 senior Soviet officials. Canadian citizens could read Soviet  
7 newspapers, listen to Soviet radio broadcasts. And these  
8 overt and covert efforts attempted to sway Canadian public  
9 opinion and Canadian politics, but it's worth emphasizing  
10 that their impact was marginal. What this examples -- or  
11 these examples suggest is that Canada can successfully resist  
12 attempts at foreign interference.

13               During the Cold War, Western governments  
14 themselves engaged in forms of political warfare. The  
15 strategy of containment, which Canada supported, which was  
16 crucial to NATO, tried to bring about the ultimate collapse  
17 of the Soviet political system by blocking the expansion of  
18 its influence. And it used diplomatic and political and  
19 economic and military tools to achieve that goal.

20               Western officials, including Canadian  
21 diplomats, pressed Soviet and other Eastern European  
22 officials to change their domestic practices, to change their  
23 laws. They demanded that the USSR and its allies relax state  
24 censorship and stop preventing their citizens from traveling  
25 abroad.

26               Western governments reasoned that if they  
27 could cajole communist governments to loosen their domestic  
28 restrictions on which state-control depended, they could

1 erode the foundations of communisms.

2 Western diplomats offered support to Soviet  
3 and Eastern European dissidents, both overtly and covertly.

4 Western diplomats sometimes sheltered people  
5 who were trying to flee their countries, such as the  
6 Pentecostal Christians, the so-called Siberian Seven who took  
7 refuge in the American Embassy in Moscow in the late 1970s  
8 and early 1980s, or the East Germans, who crowded the West  
9 German Embassy in Prague in the summer of 1989.

10 West broadcasters beamed television and radio  
11 signals into the Communist Bloc, trying to bring uncensored  
12 news to the Bloc's citizens. Some of these broadcasters,  
13 like the BBC or Deutsche Welle operated openly as parts of  
14 Western governments. Others, like Radio Free Europe and  
15 Radio Liberty operated -- were ostensibly independent, but  
16 operated in covert cooperation with the CIA.

17 The Soviets and their allies denounced these  
18 Western efforts as "ideological subversion". And one could  
19 make a pretty strong case that in fact these were attempts at  
20 ideological subversion. They also denounced them as  
21 violations of their sovereignty, which was more debateable  
22 and Western governments took issue with that claim.

23 Western political warfare against foreign  
24 adversaries didn't end with the Cold War. I'll give you a  
25 couple of examples.

26 During the Obama Administration, the American  
27 Government built a version of Twitter for the citizens of  
28 Cuba which aimed to circumvent Cuban state censorship and to

1 foster a dissident movement there.

2 In 2013, the Canadian Government sponsored a  
3 global dialogue on the future of Iran, which had similar  
4 goals *vis-a-vis* Tehran.

5 Now, these were both peaceful efforts, and  
6 they were certainly in line with liberal democratic values,  
7 but one could reasonably describe them as foreign influence.

8 Western governments have also intervened, you  
9 may say interfered, in the domestic affairs of fellow liberal  
10 democracies. For decades during the Cold War, the CIA  
11 secretly funded centrist political parties in Italy and in  
12 Japan.

13 Other efforts at interference have been more  
14 open. One could argue, for example, that in 1967 when French  
15 President Charles de Gaulle visited Montreal and declared  
16 from the balcony of the l'hôtel de ville, "Vive le Québec  
17 libre", he was intervening, interfering in an illegitimate  
18 way in Canadian domestic politics.

19 Some of the greatest achievements of Canadian  
20 diplomacy also sit squarely in this grey zone between  
21 influence and interference.

22 In the 1980s, the Canadian Ambassador to  
23 Washington, Allan Gotlieb, lobbied American Senators and  
24 Members of Congress, especially on trade policy. This might  
25 have been construed by Americans as a violation of the Vienna  
26 Convention, which requires that:

27 "...all official business [...] shall be  
28 conducted with or through the

1 Ministry of Foreign Affairs."

2 Not through legislators.

3 But there's no denying that Gotlieb's  
4 approach was successful. And in fact, it provided a  
5 blueprint that Canadian diplomacy subsequently followed with  
6 great success in dealing with Washington, including more  
7 recently during the Trump Administration when the Canadian  
8 Government launched a full-court press to save NAFTA, working  
9 with American politicians at the federal, and state, and  
10 local levels to build support for continued free trade.

11 It's also worth noting that from time to  
12 time, Canadian politicians have also invited foreign  
13 influence in Canadian domestic politics.

14 During the 1995 Quebec Referendum campaign,  
15 for example, with the encouragement of the Chrétien  
16 Government, U.S. President Bill Clinton spoke out twice in  
17 favour of Canadian national unity.

18 And during the 2021 Federal Election, some  
19 leading federal politicians sought and received the  
20 endorsements of American politicians like Barack Obama and  
21 Senator Bernie Sanders.

22 Now, it's debateable whether these examples  
23 count as foreign interference, but they do indicate that some  
24 Canadian leaders in certain circumstances welcome foreign  
25 involvement in our domestic politics when it's in line with  
26 either their political goals or the Canadian national  
27 interest.

28 So what do these examples tell us about how

1 the Canadian Government could think or should think about  
2 foreign interference today? I'd highlight five main points.

3 First, we can use the Grey Zone to our  
4 advantage.

5 Second, if the government were to launch a  
6 diplomatic initiative to rally international support to ban  
7 foreign interference, it's unlikely to succeed if it's a  
8 stand-alone initiative. As the example of Western policy  
9 during the Cold War suggests, it's most likely to work if  
10 it's part of an integrated wide-ranging strategy that spans  
11 the spectrum of activities, not just -- instead of just  
12 concentrating on one treaty or one element of policy.

13 Third, regardless of what recommendations  
14 this Commission makes, or what actions the Government of  
15 Canada takes, it's likely that foreign powers will continue  
16 to look for ways to intervene and to interfere in our  
17 political system and to undermine it. The states whose  
18 interference we're most concerned about would be unlikely, I  
19 think, to respect the content of any new treaty because  
20 they're already violating long-standing rules on that  
21 subject.

22 This doesn't mean that the government should  
23 do nothing to the contrary, but it does mean that the  
24 government must operate on the assumption that it will not  
25 single handedly persuade foreign governments to desist.

26 Fourth, the openness of our society makes it  
27 easy for foreign governments, adversarial governments, to  
28 target us. This means that the government must strengthen



1 Canada's resilience to political warfare. And the core  
2 challenge there, I would suggest, is addressing the crisis of  
3 legitimacy that Canada and many other Western governments are  
4 currently facing in their domestic politics. That means  
5 rebuilding citizens' trust in our democratic system,  
6 rebuilding faith in the *Constitution*, strengthening national  
7 unity, shoring up social cohesion, reinvigorating public  
8 belief in the Canadian political project. This is a gigantic  
9 task.

10 But finally, and this is my fifth point,  
11 history offers plenty of examples of ways to handle and not  
12 to handle this challenge. So there's great wisdom in looking  
13 to the past to look for solutions for the future.

14 Thank you.

15 **COMMISSIONER HOGUE:** Thank you very much.

16 **DR. NOMI CLAIRE LAZAR:** Thank you. We'll now  
17 turn the floor over to Anne Leahy.

18 **--- PRESENTATION BY/PRÉSENTATION PAR MME ANNE LEAHY :**

19 **Mme ANNE LEAHY:** Merci, Madame la  
20 Commissaire, chers collègues.

21 J'ai une présentation complètement  
22 différente. Elle reflète mon expérience comme responsable  
23 pour les Affaires internes en URRS au creux de la guerre  
24 froide, en 80-82, ayant été déclarée moi-même *persona non*  
25 *grata* en 88, et ayant été ambassadrice en Russie à la fin des  
26 années 90.

27 Je souhaite montrer comment notre présence  
28 diplomatique à travers nos ambassades et autres missions

1 contribuent à la défense de nos institutions démocratiques.

2 J'aimerais attirer l'attention de la  
3 Commission sur la pertinence de plusieurs recommandations du  
4 rapport du Comité du Sénat sur le service extérieur du Canada  
5 déposé en 2023. Le gouvernement peut faire d'une pierre deux  
6 coups en renforçant considérablement nos capacités  
7 diplomatiques, ce qui contribuera directement à l'atteinte  
8 des objectifs de la Commission.

9 La diplomatie est un outil parmi d'autres à  
10 la disposition du chef de l'État. Ce n'est pas un concept  
11 portemanteau. Elle caractérise en premier lieu la conduite  
12 des relations entre les États représentés par des agents  
13 diplomatiques selon les règles des conventions de Vienne pour  
14 les relations diplomatiques ou consulaires.

15 La diplomatie s'exerce dans le contexte des  
16 responsabilités de l'État, encadrée par le droit  
17 international, en particulier le principe de non-ingérence,  
18 qui est le corolaire de l'égalité et de souveraineté des  
19 États et du principe de l'autodétermination des peuples.

20 Le respect de ces principes peut parfois les  
21 mettre en contradiction, selon les impératifs nationaux, et  
22 mener à justifier l'extraterritorialité des lois, ce qui est  
23 en soi une forme d'ingérence. Nous avons toujours cette zone  
24 grise.

25 Affaires mondiales est le ministère mandaté  
26 où réside l'expertise professionnelle en la matière et dont  
27 la crédibilité interministérielle repose en dernière analyse  
28 sur la qualité de sa présence sur le terrain. Nos alliés

1 nous reprochent, avec raison, notre faible présence  
2 diplomatique à l'étranger. Et cela finit par entacher notre  
3 crédibilité.

4 En quoi consiste l'avantage sur le terrain?  
5 Regardons rapidement des éléments qui sont apparemment  
6 disparates et qui sont bien couverts ces jours-ci. L'Inde,  
7 la Chine et l'Iran, qui poursuivent séparément et parfois en  
8 collusion leurs intérêts nationaux et supranationaux, et ce,  
9 en sol canadien. Leurs intérêts convergent avec ceux de la  
10 Russie dans sa guerre de reconquête de l'Ukraine, ainsi  
11 qu'avec des conflits en terre sainte.

12 D'autres conflits en Afrique nous concernent  
13 en vertu de leur diaspora établie au Canada. Et ce qui se  
14 passe en Afrique, par exemple, l'implication des groupes  
15 armés qui exploitent ces ressources naturelles pour soutenir  
16 la guerre russe en Ukraine, nous affecte également.

17 Dans nos ambassades, diverses agences et  
18 ministères dans le domaine de la sécurité et de renseignement  
19 sont représentés. Et ils participent de façon collégiale aux  
20 affaires de l'ambassade. Cela permet d'avoir déjà dans nos  
21 missions diplomatiques une discussion bien renseignée et  
22 enrichie des différentes compétences et approches sur des  
23 sujets complexes, discussions dont les résultats... les  
24 résultats, pardon, alimenteront l'apport des Affaires  
25 mondiales dans les instances à la centrale.

26 Affaires mondiales fait ainsi bénéficier la  
27 communauté de la sécurité et de renseignement à Ottawa d'un  
28 point de vue de l'extérieur qui est élargi, qui reflète la

1       réalité sur le terrain et qui est situé dans le contexte des  
2       relations entre États.

3                   J'aimerais parler de trois articles de la  
4       convention ou des conventions de Vienne. Alors, les  
5       principes qui font de ces conventions sont le respect de la  
6       souveraineté de l'État, la non-ingérence dans les affaires de  
7       l'État et, ce qui est très important, la réciprocité.

8                   L'Article 41 stipule les privilèges et  
9       immunités et les devoirs et responsabilités des envoyés d'un  
10      État accrédités dans un pays hôte et aussi des pays hôtes  
11      envers eux. Les diplomates canadiens sont tenus de respecter  
12      l'Article 41, et nous sommes également tenus de respecter des  
13      codes d'éthique et de conduite qui s'appliquent d'ailleurs  
14      aux fonctionnaires à travers la fonction publique, mais  
15      également spécifiquement pour des envoyés à l'étranger, et  
16      encore plus spécifiquement pour des chefs de mission.

17                  En plus, les anciens politiciens, des  
18      parlementaires qui ont terminé et qui se retrouvent dans le  
19      service diplomatique, sont tenus de suivre la directive de  
20      2015 pour un gouvernement ouvert et responsable. Les  
21      représentants étrangers dument accrédités, s'ils ne sont pas  
22      régis par des codes d'éthique nationaux, ont l'obligation de  
23      respecter les lois du pays hôte.

24                  Alors, un geste peut-il être légal et  
25      illégitime? On peut regarder l'individu. On peut regarder  
26      l'État. Quand un diplomate étranger cherche à établir une  
27      relation avec une personne d'intérêt au Canada, cette  
28      personne doit se demander ce qui la rend intéressante, à

1 moins que ce soit public ou évident. Elle doit surtout se  
2 dire que le diplomate considère possiblement comme étant  
3 légitime dans sa propre culture un comportement qui ne  
4 correspond pas à des coutumes qui sont acceptables au Canada.

5 Pour un geste qui enfreindrait nos lois, le  
6 diplomate jouit d'une immunité des lois canadiennes. Il  
7 serait dans une sorte de légalité. Ce même geste pourrait  
8 être vu par les Canadiens comme n'étant pas légitime parce  
9 que contraire aux normes culturelles et éthiques de notre  
10 société.

11 Les activités d'un État peuvent être légales  
12 mais non légitimes. Par exemple, utiliser des médias  
13 officiels comme *RT*, *Russia Today*, pour animer des campagnes  
14 de désinformation qui contribuent à fausser le résultat d'une  
15 consultation populaire ou alimenter des courants de haine  
16 raciale.

17 L'Article 9 traite de l'expulsion des  
18 diplomates. Aussi étrange que ça puisse paraître, il y a des  
19 règles à suivre. C'est l'article que l'Inde aurait enfreint.  
20 En 2023, en voulant retirer les privilèges et immunités aux  
21 22 diplomates canadiens qui ont éventuellement été expulsés,  
22 mais les retirer sans d'abord informer le Canada qu'elle les  
23 déclarait indésirables, les rendant ainsi vulnérables à des  
24 représailles.

25 L'Article 3 de la convention décrit les  
26 fonctions d'une mission diplomatique. Rapidement, la  
27 représentation, la protection des intérêts, la négociation,  
28 l'information et la promotion des relations et l'accès

1 consulaire. On voit pourquoi il est essentiel de maintenir  
2 une présence diplomatique, surtout en période de tension.

3 C'est ici qu'on trouve aussi la réponse à ce  
4 qui distingue un diplomate d'un espion. Le diplomate ne doit  
5 pas agir de façon clandestine, malgré ce qu'a dit mon  
6 collègue. S'informer par tous les moyens illicites des  
7 conditions et de l'évolution des événements dans l'État  
8 accréditaire et faire rapport à ce sujet au gouvernement de  
9 l'État accréditant sont très spécifiquement une des tâches du  
10 diplomate. Mais voici une zone grise.

11 Agir ouvertement n'est pas sans risque pour  
12 le diplomate et les citoyens locaux. Plus le pays est  
13 autoritaire, plus il y a une surveillance et plus la ligne  
14 entre ce qui est permis et n'est pas permis est flou et  
15 délibérément mal défini.

16 Selon la qualité des relations entre deux  
17 pays, le pays hôte peut exprimer son déplaisir en étant plus  
18 ou moins tolérant de la nature des contacts qu'entretiennent  
19 les diplomates de ce pays. En plus, je dirais que la  
20 détention de nos anciens diplomates en Chine récemment a  
21 montré qu'il y a de la confusion chez les Canadiens  
22 concernant la nature des activités du diplomate. Il est  
23 important, je crois, de la dissiper pour ne pas confondre le  
24 travail clandestin du travail d'un diplomate qui fonctionne  
25 de façon ouverte.

26 Faut-il mettre à jour les conventions de  
27 Vienne? Ça paraît tellement évident, ça a 60 ans  
28 d'existence. À mon avis, il y a plus à perdre qu'à gagner en

1 s'engageant dans une mise à jour de ces accords. L'intérêt  
2 commun de tous les États, quel que soit leur importance, est  
3 que les règles s'appliquent à tous. Le principe de  
4 réciprocité est fondamental, même pour les superpuissances.  
5 Ce sont les États qui appliquent la convention et en  
6 demeurent les protagonistes, même avec l'apparition de  
7 *proxies* ou d'acteurs non étatiques.

8 Le comportement des puissances est fondé sur  
9 le rapport de force et ne changerait pas à cause d'une mise à  
10 jour des conventions. Elles sont d'ailleurs rédigées de  
11 sorte qu'elles tiennent compte des évolutions technologiques.  
12 Le risque de creuser les différences l'emporterait sur la  
13 volonté de réaffirmer la validité des principes juridiques  
14 qui les sous-tendent.

15 J'aimerais vous donner une échelle de mesure  
16 diplomatique, allant de la plus minime à la plus sévère, qui  
17 sont à la disposition d'un gouvernement pour faire connaître  
18 son déplaisir ou pour répondre à des gestes malveillants  
19 entre États.

20 Alors, un État peut être très lent dans  
21 l'approbation des visas du personnel diplomatique, peut  
22 refuser d'approuver des visas du personnel diplomatique, peut  
23 être très lent ou ne pas approuver le visa pour  
24 l'accréditation d'un chef de mission et d'un chef de mission  
25 militaire. Le gouvernement peut refuser d'accorder  
26 l'agrément à un chef de mission proposé. Le gouvernement  
27 peut également retirer, demander que soit retiré le personnel  
28 engagé localement dans une mission étrangère.

1                   Le gouvernement peut déclarer *persona non*  
2 *grata* du personnel qui a déjà été approuvé pour venir chez  
3 lui mais qui est pas encore en poste. Le gouvernement peut  
4 expulser le personnel qui est en poste. Peut également  
5 demander une coupure temporaire dans le nombre de postes  
6 diplomatiques qui est permis à la mission. Peut expulser du  
7 personnel et faire une coupure dans le contingent. Peut  
8 finalement fermer un consulat des bureaux d'ambassade.

9                   Rapidement, si j'ai encore quelques secondes.  
10 Exercer son influence est dans la nature des relations entre  
11 États. Son objectif, sa transparence, les moyens et le  
12 moment choisi, la durée dans le temps, le degré de  
13 concertation entre acteurs et dans le temps sont des critères  
14 qui nous permettent de décider si une telle action est  
15 bénigne, ambivalente, nocive ou hostile à nos valeurs,  
16 intérêts, et intégrité des institutions.

17                  J'ai remarqué dans le rapport de monsieur  
18 Johnson de mai 2023 une référence fort intéressante qui est  
19 celle d'une experte australienne qui utilise non pas le  
20 concept des zones mais le concept du continuum pour aller de  
21 l'influence à l'ingérence. Elle compare les facteurs  
22 identifiant les zones grises dans l'espace militaire et dans  
23 le domaine civil et pose des seuils, seuils juridiques, du  
24 déni plausible pour passer de l'influence à l'interférence.  
25 Parce que l'influence en soi n'est pas... tant qu'elle n'est  
26 pas hostile, n'est pas, je dirais, l'objet qui nous intéresse  
27 ici, qui est carrément, je dirais, l'ingérence plutôt que  
28 l'interférence.



1                   Alors, on peut argumenter à propos des  
2 balises, des lignes directrices ou des critères qui sont  
3 ajustables, mais ce qu'il faut avant tout, ce sont des  
4 ressources humaines. Les compétences et les budgets pour des  
5 ressources humaines et ce que j'appelle des capacités  
6 synaptiques, soit l'expérience et les connaissances pour  
7 faire des liens entre des événements et avec des sources de  
8 renseignement de toutes sortes.

9                   J'ajouterai ici que les moyens technologiques  
10 dont nous disposons, plus sont-ils avancés, plus la  
11 vérification humaine, *the reality check* humain, prend de la  
12 valeur.

13                   Le plus important dans tout ça, c'est  
14 certainement la crédibilité de l'analyse du risque politique  
15 sur laquelle repose bien sûr la prise de décision politique.

16                   Quand je me suis jointe aux Affaires  
17 extérieures, la règle sine qua non concernant l'accès aux  
18 renseignements sensibles était qu'il se faisait uniquement  
19 sur une base de stricte nécessité, le fameux *need-to-know*  
20 *basis*. Le partage de ces renseignements ne doit se faire que  
21 si strictement nécessaire dans un cadre précis,  
22 indépendamment du statut ou de l'importance du lecteur  
23 potentiel et indépendamment du niveau de sa cote sécuritaire,  
24 qui doit exister bien sûr, même si ce niveau est adéquat pour  
25 le document en question.

26                   Nos cotes de sécurité devaient être mises à  
27 jour constamment et renouvelées, enquête complète, à tous les  
28 cinq ans. C'est une sage pratique.

1 Et on a abordé tout à l'heure la résilience  
2 de la société, civile et politique. Il y a bien sûr toutes  
3 sortes de recommandations qui ont déjà été faites, que j'ai  
4 pas besoin de reprendre ici, mais j'aime bien le slogan que  
5 j'entends, on peut pas l'éviter quand on prend le métro à  
6 Toronto, « if you see something, say something ».

7 Mais pour agir de telle sorte, il faut savoir  
8 pourquoi. Il faut être motivé de le faire. Il faut  
9 comprendre qu'une non-action de notre part peut en fait être  
10 nocive non seulement pour soi-même, sa famille, ou son  
11 entourage, mais pour la sécurité nationale.

12 On l'a dit tout à l'heure, le Canada ne peut  
13 pas agir seul, vraiment, sur la scène internationale. Il  
14 faut agir en concertation. Et si on laisse tomber notre  
15 côté, comme on dit en anglais, mauvais anglicisme, nos alliés  
16 vont en souffrir, ils vont nous le reprocher, et on aura un  
17 peu plus de difficulté à rétablir une crédibilité.

18 Et donc, il faut être conscient, dans ce  
19 domaine, que c'est pas seulement nous-même qui sont en jeu,  
20 mais il y a la réputation du pays vis-à-vis ses alliés qui  
21 est également à prendre en compte.

22 Alors, je crois que je vais terminer ici.  
23 Merci.

24 **Dre NOMI CLAIRE LAZAR:** Merci.

25 Monsieur Jean?

26 **--- PRESENTATION BY/PRÉSENTATION PAR M. DANIEL JEAN :**

27 **M. DANIEL JEAN:** Merci.

28 Madame la Commissaire, je remercie la

1 Commission pour l'invitation. Ça fait plaisir de participer  
2 avec vous.

3 Le sujet spécifique du panel d'aujourd'hui  
4 m'interpelle particulièrement parce que j'ai navigué dans ces  
5 deux mondes durant ma carrière de plus de 35 ans de service.

6 Mes nombreuses affectations à l'étranger  
7 comme diplomate, en particulier mon affectation de cinq  
8 années à Washington, où on travaille d'arrachepied à protéger  
9 et avancer les intérêts du Canada, comme Michael l'a décrit  
10 tout à l'heure, mes responsabilités comme sous-ministre des  
11 Affaires étrangères pendant trois ans, mon rôle de conseiller  
12 à la sécurité nationale pendant deux ans m'ont amené à  
13 examiner ces enjeux et travailler de près avec mes collègues  
14 des communautés de la sécurité nationale et également des  
15 affaires internationales pour mieux cerner ce continuum ou  
16 cette ligne entre l'influence comme pratique diplomatique  
17 normale, dans le contexte de promouvoir l'intérêt d'un pays,  
18 versus des pratiques clandestines et déceptives de s'ingérer  
19 dans les affaires internes ou même violer les lois du pays  
20 hôte.

21 Avant d'adresser plus directement l'enjeu qui  
22 nous intéresse aujourd'hui, je crois qu'il est important de  
23 souligner que tout ce débat sur l'ingérence étrangère et les  
24 présents travaux de la Commission ont mis en lumière le  
25 manque de sensibilisation des Canadiens à la sécurité  
26 nationale et à cet enjeu particulier qu'est l'ingérence  
27 étrangère, qui n'est pas nouveau, comme Michael le disait.

28 À titre d'illustration, avant l'élection de

1 2015, quand le ministère des Affaires étrangères a émis une  
2 note diplomatique rappelant aux missions diplomatiques  
3 étrangères présentes au Canada de ne pas s'ingérer dans les  
4 questions électorales, en conformité avec la Convention de  
5 Vienne, il y a eu très peu de réaction, sauf quelques anciens  
6 diplomates retraités qui ont décrit la mesure comme impolie  
7 dans un article médiatique. Comme de raison, ils ne savaient  
8 peut-être qu'il y avait un petit peu de fumée et on voulait  
9 peut-être faire de la prévention.

10 En 2016, lorsque GRU russe, le groupe  
11 d'espions russes, ce même groupe qui, quelques mois plus  
12 tard, dans l'élection de 2016, a conduit une ingérence dans  
13 l'élection américaine, ce même groupe-là a fait... conduit  
14 l'attaque cyber sur l'Agence antidopage internationale à  
15 Montréal et son partenaire canadien, le Centre canadien sur  
16 l'éthique dans les sports, révélant publiquement  
17 l'information médicale confidentielle d'athlètes olympiques,  
18 dont des Canadiens, dans le cadre d'une campagne de  
19 désinformation en représailles pour les sanctions du  
20 gouvernement olympique contre la Russie.

21 Pas un seul média canadien n'a initialement  
22 couvert l'évènement, malgré que le *New York Times*, *The*  
23 *Guardian* et bien d'autres médias étrangers l'ont fait. Je  
24 parle de culture et de sécurité nationale.

25 Le débat qui a suivi les fuites d'information  
26 classifiée qui a mené à la présente Commission d'enquête a  
27 initialement mis énormément d'attention sur le risque  
28 d'ingérence étrangère dans le processus électoral. Je ne

1       veux en aucun cas minimiser l'importance de maintenir  
2       l'intégrité de nos démocraties, tant durant les élections  
3       qu'entre les élections. Je pense qu'on s'entend pour dire  
4       que la démocratie, c'est plus large que juste les élections.

5               Toutefois, au moment où on se parle  
6       aujourd'hui, il y a présentement deux procédures au criminel  
7       engagées au Canada. L'une impliquant un membre actif de la  
8       GRC et l'autre un de ces membres retraités allégués d'avoir  
9       fourni de l'information sensible à deux pays étrangers, la  
10      Chine et le Rwanda, des pays critiqués publiquement pour leur  
11      suivi et l'intimidation des membres de la diaspora étranger  
12      par des organismes de droits humains reconnus, et nous sommes  
13      au cœur d'une crise diplomatique avec l'Inde avec des  
14      allégations sérieuses de parrainage via des tiers, d'actes  
15      criminels allant de l'intimidation à l'extorsion, jusqu'au  
16      meurtre.

17             Essayons de mieux comprendre la tension avec  
18      les intérêts de sécurité nationale et de relations  
19      étrangères. Et je pense que Michael et Anne nous ont déjà  
20      bien aidés.

21             Tout d'abord, la définition de la *Loi sur le*  
22      *Service canadien de renseignement* rend ça très clair que ça  
23      doit être des activités qui touchent le Canada ou ses rôles  
24      et sont préjudiciables, et qu'elle doit être fait de manière  
25      clandestine, trompeuse, ou doivent comporter des menaces  
26      contre quiconque.

27             La référence pertinente, l'Article 41, que  
28      Anne a mentionné tout à l'heure, sur la conduite des

1 relations diplomatiques indique que sans préjudice de leur  
2 privilèges et immunités, toutes les personnes qui bénéficient  
3 des ces privilèges et immunités ont le devoir de respecter  
4 les lois et ils ont également le devoir de ne pas s'immiscer  
5 dans les affaires internes de l'État. Ça, c'est les deux  
6 paramètres.

7 **Me SHANTONA CHAUDHURY:** Pardon. Je veux pas  
8 interrompre, mais on a eu une requête de la part des  
9 interprètes si on peut ralentir un petit peu.

10 **M. DANIEL JEAN:** Avec plaisir.

11 **Me SHANTONA CHAUDHURY:** Merci.

12 **M. DANIEL JEAN:** Il y a très peu de débat  
13 entre les institutions concernées sur ce qu'on peut  
14 considérer comme des activités de représentation diplomatique  
15 normales versus ce que serait des cas flagrants d'ingérence  
16 étrangère.

17 Le défi se situe bien entendu au niveau de  
18 ces zones grises dont on discute. Mon expérience me laisse  
19 croire que la meilleure manière de gérer cette saine tension  
20 autour des zones grises sont des échanges francs et réguliers  
21 sur des cas précis entre les organismes concernés, parce que  
22 c'est un continuum, comme ce que la chercheuse australienne a  
23 décrit.

24 Cet exercice peut également informer  
25 l'analyse des options de prévention, de dissuasion, ou de  
26 mesures plus musclées si elles sont nécessaires ou possibles.  
27 Parce que souvent, les services ne voudront pas qu'on prenne  
28 action.

1                   À titre d'exemple, en 2017, lorsque j'étais  
2           conseiller à la sécurité nationale et au renseignement, je  
3           voulais mieux sensibiliser le Premier ministre et le  
4           gouvernement sur des préoccupations croissantes du SCRS sur  
5           certaines activités pouvant s'apparenter à de l'ingérence  
6           étrangère. Toutefois, les activités décrites dans les  
7           rapports du SCRS comportaient un mélange d'activités  
8           diplomatiques normales, d'influence, et d'autres actions  
9           pouvant être jugées comme plus préoccupantes.

10                   J'ai soulevé le besoin de mieux cerner les  
11           exemples crédibles avec le directeur du SCRS. Il a suggéré,  
12           je pense que c'était une excellente suggestion, qu'on fasse  
13           une rencontre entre les analystes de renseignement des  
14           menaces en question et le conseiller à la politique étrangère  
15           et à la défense du Premier ministre, un de mes collègues, et  
16           moi-même. Cette rencontre nous a mutuellement permis de  
17           mieux cerner ces zones grises et d'améliorer la qualité et la  
18           crédibilité du renseignement sur les activités les plus  
19           préoccupantes qui pourraient constituer une menace.

20                   Nous avons également profité de rencontres  
21           subséquentes interagences avec des intervenants pertinents  
22           des différents ministères et agences, pour regarder des cas  
23           comme ça et voir comment la menace se manifeste avec des cas  
24           précis et explorer les options, ce qu'on a besoin, pour  
25           l'accomplir.

26                   I think it would be very difficult to develop  
27           a more precise definition than the one in the *CSIS Act* that  
28           could eliminate these grey areas, and we must recognize that

1 some degree of ambiguity can be helpful in the choice of  
2 actions if necessary and possible that a state can take. For  
3 example, a Grey Zone that represents barely smoke and a  
4 limited impact could be countered through better awareness of  
5 the population or the relevant actors or groups that are  
6 targeted or a démarche to the diplomatic mission that may be  
7 involved.

8 Something that would amount to bigger  
9 interference could lead to more serious measures, going from  
10 a possible threat reduction, possibly charges or sanctions if  
11 the laws have been violated, or, if it's a diplomat that are  
12 involved, diplomatic measures.

13 With regards to the possibility of amending  
14 the Vienna Convention to try to identify more clearly the red  
15 lines that states should not cross, it would be a substantial  
16 effort that is not without risk. After all, the Convention  
17 continues to serve relatively well its objective in general,  
18 and even if such amendments could be made, as Michael has  
19 mentioned, it would be unlikely that we would be either  
20 ratified or complied by the states that are the most  
21 susceptible to enter in the behaviour that we wish to deter.

22 However, I believe that Canada could inspire  
23 itself from the leadership that it has demonstrated in the  
24 elaboration of an initial endorsement -- initially 60 states,  
25 there's now 78 states -- of the declarations against  
26 arbitrary detention in state-to-state relations launched in  
27 February 2021. It could consider rallying a critical mass of  
28 likely minded states to design a declaration that could,



1       relying on existing principles that guide diplomatic  
2       relations, describe unacceptable foreign interference  
3       behaviours by states that should be deterred. In fact, the  
4       declaration against arbitrary detention relies on the  
5       existing principles of international instruments, namely, the  
6       Universal Declaration of Human Rights, the International  
7       Covenant on Civil and Political Rights, and the Vienna  
8       Convention on Consular Relations.

9               Building on the unendorsed commitment of  
10       likely-minded states, the initiative through a partnership a  
11       bit like what is currently pursued in state-sponsored cyber  
12       attacks consider collective attribution and common  
13       complementary sanctions when a state crosses the line. Such  
14       an initiative could likely draw interest.

15              The analysis of foreign interference trends  
16       in other countries, particularly when it comes to the  
17       intimidation of diasporas, shows that the targeted  
18       communities vary between states, depending on the source of  
19       their immigration. It would also build on the leadership  
20       that Canada exercised in the establishment of the G7 Rapid  
21       Response Mechanism at the 2018 G7 summit in Charlebois, a  
22       measure designed to strengthen the coordination between G7  
23       countries to identify and respond to diverse and evolving  
24       threats in democracy.

25              Let's take a good study of what was a very  
26       good comprehensive response by a state. The management of  
27       the United Kingdom response to the serious extra-territorial  
28       transgression that was the chemical poisoning by Russian

1 agents of the Skripals, father and daughter, is one of the  
2 best case studies in terms of responses in recent history.

3 We have to remember that when they were  
4 informed first, some members of the Opposition in Parliament  
5 expressed scepticism when Prime Minister May initially  
6 attributed the chemical agent poisoning attack to Russia. A  
7 fast forensic identification of the chemical agent and of the  
8 suspects and a comprehensive engagement, rallied rapidly the  
9 international community, including Canada, in joining on the  
10 attribution and concerted efforts to sanction Russia.

11 This concerted attention even led Russia to  
12 make a mistake, compromising themselves even more when some  
13 of their agents were arrested by the Netherlands law  
14 enforcement authorities trying to bring technical tools to  
15 attempt to spy on the ongoing investigation by the  
16 organization for the prohibition of chemical weapons in The  
17 Hague.

18 Of course, it's easier to act when the  
19 culprits are countries like Russia, who are already in the  
20 penalty box, but we've encountered these same concerns and  
21 the same responses by some states of not rocking the boat  
22 with China in 2017 in the context of the efforts that we had  
23 started on economic security, trying to prevent sensitive  
24 technology.

25 For a country like Canada, favouring a  
26 concerted approach with many countries is more likely to have  
27 a greater effect and protect the risk of unilateral  
28 retaliation. With regards to deter interference by foreign

1 states in Canada, the upcoming creation of a foreign agents  
2 registry in the context of C-70 will bring more transparency,  
3 a bit like existing measures on lobbying, on the activities  
4 of intermediates that represent foreign countries in Canada.  
5 As for illicit activities of foreign diplomats or their  
6 proxies that would operate in the shadow of the foreign  
7 agents registry, it's critical that public institutions, for  
8 example, parliamentarians, be more aware of the threat  
9 through regular updates on the threats and tactics used.

10 These institutions should also consider  
11 updating their relevant code of conduct to adapt to the  
12 threat.

13 As for political Parties, given that unlike  
14 other countries, for example Australia, it appears that  
15 nomination process in Canada will not be subject to the new  
16 legislations and that political Parties that express a desire  
17 to self-regulating themselves, it would be both in the public  
18 and their own interests to adopt transparent rules of conduct  
19 in this area that can reassure Canadians *vis-a-vis* some of  
20 the concerns identified in this regard. And I would argue  
21 that this paragraph relates very much to what you said about  
22 restoring trust.

23 Allow me once again thank you for the  
24 invitation, and I look forward to exchange with my fellow  
25 panellists and the representatives of the Commission.

26 Merci.

27 **COMMISSAIRE HOGUE:** Merci beaucoup.

28 **Dre NOMI CLAIRE LAZAR:** Merci, Monsieur Jean.

1 Et maintenant, Monsieur Normandin.

2 **M. HENRI-PAUL NORMANDIN:** Madame la  
3 Commissaire, chers collègues, mesdames et messieurs, bonjour.

4 Merci bien... est-ce que le son est là? Merci  
5 bien, dans un premier temps, de nous avoir invité à cette  
6 table pour parler de diplomatie et d'ingérence. Et, comme ça  
7 a été souligné à plusieurs reprises, il existe en effet une  
8 zone grise, ou ce que j'appellerais une zone d'ombre, pour  
9 faire la différence entre les deux.

10 Et l'objet de ma présentation sera justement  
11 de tenter de jeter un peu de lumière sur cette zone d'ombre  
12 sans pour autant prétendre qu'on peut en arriver à un endroit  
13 ou une situation où on a une ligne claire entre les deux.

14 Si on peut avoir l'appui des techniciens pour  
15 partir ceci. Ça fonctionnait tantôt.

16 **M. DANIEL JEAN:** C'est l'ingérence.

17 (RIRES/LAUGHTER)

18 **M. HENRI-PAUL NORMANDIN:** Voilà, voilà. Il y  
19 a de l'interférence.

20 **COMMISSAIRE HOGUE:** On va espérer que c'est  
21 plutôt la pile.

22 **M. HENRI-PAUL NORMANDIN:** Voilà.

23 **COMMISSAIRE HOGUE:** Voilà.

24 --- PRESENTATION BY/PRÉSENTATION PAR M. HENRI-PAUL  
25 NORMANDIN :

26 **M. HENRI-PAUL NORMANDIN:** Alors, dans un  
27 premier temps, je pense que si on veut faire la distinction,  
28 la première chose qu'il y a lieu de faire, c'est de définir

1 ce dont on parle. La diplomatie et l'ingérence. En matière  
2 d'ingérence, il y a évidemment plusieurs définitions. En  
3 fait, on va y revenir. En matière de diplomatie, il y a très  
4 peu sur le sujet.

5 Alors, plus spécifiquement, l'objectif de ma  
6 présentation, ce sera de tenter de formuler une définition  
7 utile de la diplomatie de l'ingérence. Ensuite, de présenter  
8 un outil pour tenter de faire la distinction entre les deux.  
9 Et, ensuite, je terminerai avec quelques recommandations.

10 Mais d'abord, quelques mots sur l'influence.  
11 Selon moi, le mot influence est utilisé un peu à tort et à  
12 travers. C'est-à-dire que, parfois, on utilise influence  
13 dans le sens de synonyme d'ingérence. Et à l'opposé,  
14 parfois, on utilise le terme influence comme voulant dire  
15 « ça, c'est légitime, c'est de la diplomatie, et ensuite, il  
16 y a quelque chose d'autre de différent qui s'appelle  
17 l'ingérence ».

18 Selon moi, l'influence est au cœur des deux.  
19 Il y a de l'influence qui est légitime et acceptable, c'est  
20 notamment par les voies de la diplomatie, aussi de façon plus  
21 générale par le *soft power*, mais il y a aussi de l'ingérence  
22 qui est... de l'influence, pardon, qui est illégitime et  
23 inacceptable. Et ça, ça constitue de l'ingérence.

24 Alors, ma première suggestion, c'est que  
25 quand on utilise le mot influence, il ne faut pas l'utiliser  
26 comme synonyme de l'un ou de l'autre, mais plutôt le voir  
27 comme étant au cœur des deux notions.

28 Ce qui m'amène à la définition de la

1 diplomatie. Aussi surprenant que ça puisse paraître, depuis  
2 le temps qu'on pratique de la diplomatie, il n'existe pas une  
3 définition universellement acceptée de ce qu'est la  
4 diplomatie. Si vous regardez la littérature, vous allez  
5 trouver plusieurs définitions différentes, mais il n'y en a  
6 pas une qui fait autorité.

7                   Alors, j'ai tenté, en m'inspirant de  
8 différentes définitions et aussi de mon expérience  
9 personnelle comme diplomate d'en venir à une définition de la  
10 diplomatie, et c'est celle que vous voyez au tableau  
11 présentement. Et je la lis :

12                   « La diplomatie comprend l'ensemble  
13 des moyens pacifiques et légitimes  
14 déployés par le gouvernement pour  
15 promouvoir ses objectifs et défendre  
16 ses intérêts sur la scène  
17 internationale, en tentant  
18 d'influencer les positions, [les]  
19 décisions et [les] actions d'autres  
20 intervenants. »

21                   J'attire votre attention sur deux choses en  
22 cette définition. Premièrement, il y a l'utilisation du mot  
23 « influence ». Oui, la diplomatie vise à influencer. Et  
24 d'autre part, bien sûr, la notion de la diplomatie, ben,  
25 c'est là pour promouvoir des objectifs et des intérêts.

26                   Quelques notes complémentaires sur la... cette  
27 définition de la diplomatie. Première chose, on... la plupart  
28 du temps, quand on parle de diplomatie, on fait référence aux

1 gouvernements nationaux, mais il y a aussi des gouvernements  
2 d'autres niveaux, comme les villes, les provinces, qui  
3 peuvent faire de la diplomatie.

4           Ensuite, les moyens utilisés se doivent  
5 d'être légitimes, transparents, pacifiques, comme le  
6 dialogue, comme la persuasion, et cetera.

7           Et ensuite, comme vous l'avez souligné dans  
8 votre rapport, Madame la Commissaire, la diplomatie peut  
9 aussi être... être agressive. Alors, exercer des pressions,  
10 même la coercition, par exemple, l'utilisation de sanctions  
11 économiques ou de droits de douane, par exemple, ça peut être  
12 un instrument de la diplomatie.

13           Alors donc, la diplomatie, c'est un  
14 instrument privilégié pour mettre en œuvre la politique  
15 étrangère d'un gouvernement, bien sûr, mais ce n'est pas le  
16 seul mécanisme d'influence.

17           Ce qui nous amène à l'ingérence. Et avant  
18 d'en venir à une définition, quelques constats et remarques.

19           Le premier, c'est que si je demande au  
20 Gouvernement du Canada quelle est la définition de  
21 l'ingérence, je n'aurai pas une réponse, je vais avoir  
22 plusieurs réponses, parce que l'ingérence est définie et  
23 expliquée de façons différentes dans plusieurs lois et  
24 plusieurs documents.

25           Il y a une certaine cohérence, quand même, à  
26 tout cela. Et je reconnais aussi que c'est utile, parce que  
27 si on veut, par exemple, pour les fins de la *Loi électorale*  
28 ou pour les fins du renseignement, je comprends très bien

1 qu'on puisse définir l'ingérence et l'expliquer de façon un  
2 peu différente. Mais c'est quand même un peu surprenant que  
3 le Gouvernement du Canada nulle part n'ait dit « notre  
4 définition de l'ingérence, c'est celle-ci ».

5 Deuxième constat, la définition qui est le  
6 plus souvent utilisée, c'est celle que l'on retrouve à la *Loi*  
7 *sur le SCRS*. Or, c'est un peu, je dirais, incongru que cette  
8 définition, en fait, n'inclut même pas le mot « ingérence ».  
9 Alors, c'est un peu inhabituel, quand même.

10 Autre observation dans un autre domaine, la  
11 Convention de Vienne. On en a beaucoup parlé un peu plus tôt  
12 ce matin. Elle postule le principe fondamental d'interdire  
13 l'ingérence. Donc, elle est fondamentale, mais elle ne  
14 définit pas ce qu'est l'ingérence. Alors, pour essayer de  
15 comprendre ce qu'est l'ingérence versus la diplomatie, la  
16 Convention de Vienne, dans les faits, est presque... est d'une  
17 utilité limitée.

18 Le troisième point que je ferais, et ça,  
19 c'est un peu fondamental à tout le reste de mon  
20 argumentation, c'est que si on veut tenter de définir ce qui  
21 est d'expliquer ou de faire la différence entre ce qui est de  
22 la diplomatie et de l'ingérence, je pense que c'est très  
23 utile de faire la distinction entre l'action et l'intention.  
24 Et je vais y revenir en plus grand détail. Mais ça m'amène à  
25 formuler la définition générique suivante de l'ingérence.

26 J'utilise le terme « générique » parce que je  
27 veux pas dire par là qu'il faut mettre de côté toutes les  
28 définitions qu'on utilise, incluant celle du SCRS. Mais je



1 pense que ce serait utile d'avoir une définition plus  
2 générique qui, notamment, fait cette distinction entre action  
3 et intention.

4 Alors, je vous la lis, et vous l'avez ici en  
5 français et en anglais :

6 « Constitue de l'ingérence le fait,  
7 pour un pays, une entité étrangère ou  
8 un intermédiaire, de chercher à  
9 exercer une influence induite dans un  
10 autre pays, soit (i) par le biais  
11 d'actions illégitimes, et/ou (ii) par  
12 le biais d'actions porteuses d'une  
13 intention malveillante, le plus  
14 souvent de manière clandestine. »

15 Vous allez retrouver certains des éléments  
16 que l'on retrouve ailleurs, comme la notion d'agir de façon  
17 clandestine, mais j'attire votre attention sur deux choses.  
18 D'abord, le mot « influence » est encore utilisé ici, mais on  
19 l'a qualifié. Influence induite. Et deuxièmement, la  
20 définition, justement, fait la distinction entre action et  
21 intention.

22 Ce qui m'amène à présenter ce qui se suit.  
23 J'ai tenté d'élaborer un outil, une grille d'analyse, en  
24 fait, qui nous permettrait... qui nous aiderait plutôt à  
25 essayer de faire cette distinction entre les eux. J'ai donc  
26 décortiqué un peu tout ça, action, intention. Et ça va  
27 donner ce qui suit.

28 Tout d'abord, au niveau des actions. Vous

1       avez deux colonnes ici, une à gauche, une à droite. La  
2       colonne de gauche présente ce que je concevrais se situe dans  
3       la zone d'actions légitimes qui ressortent de la diplomatie.

4               Alors, vous avez une liste ici. Je ne vais  
5       pas tout lire. Simplement quelques-unes. Établir des  
6       relations, ça va de soi. Obtenir des informations, oui, ça  
7       fait partie de la diplomatie. Faire un plaidoyer,  
8       évidemment. Informer des conséquences légitimes d'une prise  
9       de décision par le gouvernement hôte. Tout ça, à prime  
10      abord, ce sont des actions légitimes, sauf si elles  
11      conjuguées avec une intention illégitime. Et je vais y venir  
12      dans un instant.

13             Mais avant, on va regarder la colonne de  
14      droite, ce que j'appelle la zone illégitime. Des actions qui  
15      constituent de l'ingérence. En commençant tout en haut par  
16      dissimuler son identité et ses intentions, et ça, ça rejoint  
17      beaucoup la définition actuelle qui parle d'activités  
18      trompeuses. Dès qu'on entre dans cette zone-là de dissimuler  
19      notre identité et nos intentions, je pense qu'on est en zone  
20      d'ingérence.

21             Encore une fois, ici, il y a toute une liste.  
22      Je ne vais pas tout lire, mais des activités comme  
23      désinformer, user de menaces et d'intimidation contre des  
24      individus, et la toute dernière en bas, faire des activités  
25      illégalles. Bref, dès qu'on fait des activités de ce type-là,  
26      selon moi, on est en zone illégitime d'ingérence.

27             Ce qui m'amène aux intentions, par la suite.  
28      Encore une fois, dans la colonne de gauche, des actions... des

1 intentions, pardon, qui à prime abord sont dans la zone  
2 légitime de la diplomatie, par exemple, évidemment, avancer  
3 des objectifs et des intérêts, atténuer les critiques, oui,  
4 et même faire changer des politiques et des décisions du  
5 gouvernement hôte, oui, à prime abord, c'est une action  
6 légitime en matière de diplomatie, sauf si ces intentions-là  
7 sont appuyées par des actions illégitimes qu'on vient de voir  
8 il y a quelques instants.

9 Et dans la colonne de droite, la zone  
10 illégitime, les intentions malveillantes qui constituent de  
11 l'ingérence. Encore une fois, toute une liste ici, je ne  
12 vais tout lire; je vais en mentionner simplement quelques-  
13 unes. Saper la cohésion sociale. On parle beaucoup, par  
14 exemple, des États étrangers qui encouragent la polarisation.  
15 Contrer l'exercice de droits et libertés, s'immiscer dans des  
16 processus démocratiques, réprimer la dissidence ou les  
17 critiques. Tout ça, ce sont des intentions malveillantes  
18 qui, selon moi, entrent dans la zone de l'ingérence.

19 Alors, bref, je pense que si on veut analyser  
20 une situation pour voir si c'est de la diplomatie ou de  
21 l'ingérence, dans un premier temps, il faut décortiquer  
22 action et intention, et il y a trois à quatre figures.

23 Si on est en présence d'une action légitime  
24 avec une intention légitime, on est en zone diplomatique. Si  
25 on est en présence d'une action malveillante du type que j'ai  
26 présenté, on est dans le domaine de l'ingérence.

27 Et dernier cas, si on a - et le plus  
28 difficile, souvent - si on a une action qui, à prime abord, a

1 l'air légitime, mais qui est animée d'une intention  
2 malveillante, telle que décrite ici, je pense que là, on est  
3 encore une fois en zone d'ingérence.

4 Alors, bref, il faut décortiquer action et  
5 intention, légitime et illégitime, pour par la suite regarder  
6 ça comme un tout. Et c'est ça, je pense, qui va nous  
7 permettre d'identifier dans quelle zone on se trouve.

8 Alors, c'est essentiellement ce que je  
9 voulais partager avec vous. Je conclus sur deux brèves  
10 recommandations.

11 La première, c'est que le Gouvernement du  
12 Canada, je pense, aurait avantage à énoncer une définition de  
13 la diplomatie et de l'ingérence, définition générique. Je ne  
14 suggère pas du tout que ces définitions soient à des fins  
15 juridiques, mais elle peut servir à des fins plus politiques,  
16 d'organisation interne, et de communication. Surtout en  
17 matière de diplomatie, on a jamais tenté de définir ce  
18 qu'était la diplomatie et de l'expliquer. En matière  
19 d'ingérence, encore une fois, je pense que ce serait utile  
20 d'avoir quelque chose qui fait la distinction entre action et  
21 intention.

22 Et, la deuxième et dernière recommandation,  
23 mais ça, je pense qu'il y en a beaucoup d'autres qui l'ont  
24 fait et qui vont le faire, c'est que je pense que le  
25 Gouvernement du Canada doit développer des outils  
26 d'information, de formation, d'éducation à l'intention de  
27 différents publics pour expliquer qu'est-ce qui est légitime  
28 et acceptable de ce qui est illégitime et inacceptable.

1                   Alors, voilà, Madame la Commissaire, ce que  
2                   je voulais vous présenter aujourd'hui.

3                   **COMMISSAIRE HOGUE:** Merci beaucoup.

4                   **DR. NOMI CLAIRE LAZAR:** Merci. And now if we  
5                   could hear from Dr. Himelfarb?

6                   **--- PRESENTATION BY/PRÉSENTATION PAR DR. ALEX HIMELFARB:**

7                   **DR. ALEX HIMELFARB:** Thank you. And thanks  
8                   to the Commission for the invitation.

9                   There's a particular challenge and advantage  
10                  in going last, and mostly all of the good stuff has been  
11                  said, so I'm just going to highlight a few of the themes with  
12                  which I agree, and ignore the themes with which I don't.

13                  And I think it's pretty clear that we are not  
14                  going to be able to define away the Grey Zone, that there  
15                  will be a Grey Zone. We've always lived with it. We'll  
16                  continue to live with it. That's not to say that it's not  
17                  advantageous to renew our understanding of the principles  
18                  that underpin the Vienna Convention, or even to understand  
19                  more deeply the continuum between legitimate influence and  
20                  interference, but we're not going to find a consensus about  
21                  that that holds up for a variety of reasons. As Michael  
22                  said, some countries will simply ignore the distinction and  
23                  have no interest in maintaining it. But there will be --  
24                  even those like-minded countries may well disagree by virtue  
25                  of cultural differences and differences in circumstances  
26                  about just how hard and when to draw the line. And every  
27                  country will try to guard its capacity to influence, to  
28                  exercise influence, and won't want it to be unreasonably

1 contained. So we're going to live with the Grey Zone.

2 And it's really useful -- I really enjoyed  
3 all the presentations, but I really enjoyed the history. A  
4 reminder that this isn't new, that we have lived with this,  
5 that we have managed with it in the past. And interference  
6 is something we know it when we see it, but only if we're  
7 looking. And so the greater awareness we have of it now is  
8 actually a very positive thing.

9 Notwithstanding the value of the history, the  
10 world of influence and interference has changed, and I think  
11 it has changed in a couple of ways that have also affected  
12 diplomacy. Two things I would highlight: the change in the  
13 information and communications technology, the information  
14 ecosystem is different; and the proliferation of non-state  
15 actors in the influence business.

16 And those things, I think, have changed the  
17 dynamic of the ways in which to interpret the Vienna  
18 Convention.

19 With respect to, for example, the new  
20 information environment within which we live, in, I think it  
21 was 2016, the Oxford Dictionary coined the word -- or named  
22 the word of the year "post-truth". "Post-truth" was the word  
23 of the year.

24 Just a few years later, the Webster  
25 Dictionary said the word of the year was "gaslighting".  
26 There's a great understanding that we are living in a  
27 different information environment. That also means that the  
28 ways in which influence is exercised and interference occurs

1 have also changed.

2           So -- I'll give the example I led a panel on  
3 misinformation in science and health and the -- we were going  
4 to stay away from anything political, anything terribly  
5 controversial, but this was right in the midst of the COVID  
6 pandemic, when we were looking at the controversies around  
7 vaccinations, and masking, and distancing. What we found was  
8 that there was an awful lot of disinformation, deliberate  
9 disinformation, much of it foreign driven, that on the face  
10 of it has nothing to do with elections or politics, but in  
11 the end, has everything to do with elections and politics,  
12 that we discovered that disinformation got intertwined with  
13 issues of identity and ideology, that it became exploitable  
14 for political purposes.

15           This was happening quite independent of the  
16 writ period, long before elections, but is an indirect way of  
17 influencing elections, and certainly of influencing and  
18 undermining democracy.

19           I mean it's, I think, instructive that Sweden  
20 developed an institute similar to what you were recommending  
21 we do for education and promotion of some of the values that  
22 underpin the difference between influence and interference.  
23 They created an agency called the Psychological Defence  
24 Agency. And they look at interference that is material, that  
25 is really consequential, malign in their interpretation of  
26 malign.

27           And election interference is a subset of  
28 that, because they understand that the impact on elections

1 doesn't happen during the writ period and can happen  
2 indirectly and in very subtle ways. And so they look at the  
3 interference on democracy writ large, including  
4 disinformation, with elections as a subset of that, and  
5 there's more intense and specific set of guidelines during  
6 the writ period. But that's just one piece of a larger  
7 puzzle.

8           So I think the other thing that this changed  
9 environment of multiple actors and information environment  
10 has done is it has blurred the line between foreign and  
11 domestic.

12           And one of the things that we have seen just  
13 recently is at least allegations that foreign interests that  
14 are trying to influence or interfere in our democracy use  
15 domestic influencers. And it's not just that these domestic  
16 influencers are puppeteering foreign lines or speaking  
17 points, it's that in fact the foreign influencers -- the  
18 foreign interests are amplifying domestic messaging.

19           So the flow is not one way. The flow isn't  
20 from foreign to domestic. The flow is two ways. And it  
21 suggests that the Grey Zone has become even greyer and that  
22 the line of foreign influence versus domestic influence, pre-  
23 election influence versus election influence, is blurrier  
24 than ever. And what that suggests to me is that any  
25 comprehensive strategy is going to have to look at this as a  
26 layered issue, that it's going to have to look at the issue  
27 of foreign influence on our democracy that includes but isn't  
28 solely about elections.



1           Then electoral influence, influence that is  
2 much more direct on the institution of elections, and  
3 disinformation whether, in fact, it's foreign or not,  
4 whatever the source, because, quite frankly, very often we  
5 don't know the source or we don't know the source with  
6 absolute confidence.

7           And that suggests, I think, two other broad  
8 strategic issues for consideration. One of them is what  
9 almost everyone around this table said, is no country's going  
10 to deal with this alone, and working with like-minded  
11 countries to find some shared framework for how to approach  
12 it, but also some processes like the G7 has for concretely  
13 tackling misinformation, for example. That working with  
14 like-minded countries is a really important element of this,  
15 but the more demanding one, and I'm going to end where  
16 Michael as well ended, and that is trust building, social  
17 trust and political trust. That what we need to do if we are  
18 truly going to increase democratic resilience and truly  
19 address our vulnerability to interference, we are going to  
20 have to -- and so when we build the institutions, they have  
21 to be institutions that win trust.

22           They have to be seen as free from political  
23 influence. They have to be seen as institutions of people  
24 who have come to distrust government and public institutions  
25 can learn to trust. And all of our remedies have to have in  
26 them, I believe, the commitment to rebuild two kinds of  
27 trust, social trust, because so many of our interventions can  
28 actually exacerbate differences between diaspora communities

1 and other communities, so we have to build social trust in a  
2 way that doesn't damage already damaged social cohesion, and  
3 we have to build political trust and ensure that our  
4 institutions are transparent and engage the community and are  
5 built with the community.

6 And I'll stop there.

7 **--- OPEN DISCUSSION/DISCUSSION OUVERTE:**

8 **DR. NOMI CLAIRE LAZAR:** Thank you very much.

9 We would now like to offer the panellists an  
10 opportunity to respond to one another.

11 Okay. You're like my graduate seminars, the  
12 silence.

13 Go ahead, Professor Morgan.

14 **COMMISSIONER HOGUE:** Usually there's one  
15 starts.

16 **DR. NOMI CLAIRE LAZAR:** And there he is.

17 **DR. MICHAEL MORGAN:** Thanks very much.  
18 Thanks to my colleagues for fascinating presentations.

19 I'd like raise or come back to a couple of  
20 points, one raised by Henri-Paul, Mr. Normandin, and one by  
21 Dr. Himelfarb.

22 So Mr. Normandin, in your presentation, you  
23 emphasized the importance of distinguishing between  
24 legitimate and illegitimate activities. And you suggested  
25 that the government should seek to craft a definition of  
26 diplomacy and interference that I assume would turn on that  
27 distinction between legitimate and illegitimate activities.

28 The difficulty with that approach, to my

1 mind, in thinking about the international situation, is that  
2 different states have different concepts of legitimacy, and  
3 so actions that Canada and other liberal democracies might  
4 regard as quite properly legitimate like defending the human  
5 rights of persecuted minorities in other countries, standing  
6 up for the Tibetans, let's say, in China, or the Uyghurs,  
7 arguing for the preservation of liberal democracy in Taiwan,  
8 the government in Beijing would insist those are illegitimate  
9 actions.

10 So then that raises a difficulty with the  
11 idea of the government stipulating a clear definition because  
12 if the government simply says we endorse everything that's  
13 legitimate and reject everything that's illegitimate, that  
14 would simply invite the Chinese or the Russians or the  
15 Iranians to criticize the defence of human rights and liberal  
16 democratic values as illegitimate, which in turn could raise  
17 domestic dissent within Canada about the Government of  
18 Canada's own policies and increase distrust, damage the  
19 legitimacy of our own institutions.

20 So I wonder if -- as much as I appreciate the  
21 grid that you put before, if it's not simply a way of dodging  
22 the underlying problem.

23 And for Dr. Himelfarb, I think we agree that  
24 rebuilding trust, political trust and social trust, is  
25 crucial, and this is a question that I've been wrestling  
26 with. I think it's easy to say that in principle, it's easy  
27 to say that in the abstract, but I've been struggling myself  
28 to devise or to propose, to think of concrete ways of doing

1       that, and certainly to think of ways of doing that that could  
2       be achieved on any reasonable time horizon because when I  
3       think of rebuilding political trust, that strikes me as a  
4       generational project, not simply a matter for one piece of  
5       legislation.

6                   **Dre NOMI CLAIRE LAZAR:** Monsieur Normandin,  
7       pouvez-vous répondre?

8                   **MR. HENRI-PAUL NORMANDIN:** Yes, thank you.  
9       Michael, two things. First of all, once  
10      again, the definitions that I was proposing, I was not  
11      proposing that they be legal definitions. It's more of a  
12      political statement. That's the first thing.

13                   Second thing is that I'm suggesting this for  
14      Canada's purposes, and I can only simply entirely agree with  
15      you that different countries will have different -- a  
16      different understanding of what is legitimate and what is  
17      illegitimate. It's a fact.

18                   And that's why, interestingly enough, I think  
19      there is a consensus around this table that trying to reopen  
20      or add something to the Vienna Convention is unlikely to lead  
21      us to anything that would be useful precisely because of  
22      that. There will be differences of points of views, and  
23      we'll never get there.

24                   So that's what I'm suggesting. I'm  
25      suggesting this for Canadian purposes, acknowledging that it  
26      has its limits just like any definition has its limits. It  
27      cannot cover all the -- tous les... toutes les espèces de cas.

28                   But I would like to rechallenge you and, at

1 the end, when you were saying putting this in the definition  
2 or such a definition is a way to dodge the issue, how does it  
3 dodge the issue? I think you can say that it's  
4 unsatisfactory as an attempt to address the issue, but it  
5 certainly doesn't dodge the issue. It attempts to address it  
6 head on.

7 **DR. MICHAEL MORGAN:** I take your point, but I  
8 would say that it dodges the issue insofar as any definition  
9 that simply says we endorse legitimate practices and disown  
10 illegitimate practices leaves open the question of what is  
11 legitimate. And we may say we endorse practices that are in  
12 line with the *Charter* or in line with liberal democracy, in  
13 line with Canadian values, but there again, that leaves huge  
14 questions in the same way that, if you look at American  
15 practices through the Cold War, there are plenty of cases in  
16 American foreign policy -- and I'm not endorsing any of them;  
17 I'm simply listing them -- where the government, either  
18 overtly or covertly, pursued policies for democratic ends  
19 using means that were sometimes less than democratic, like  
20 covertly funding non-Communist political parties like the  
21 Christian Democrats in Italy, for example.

22 So I think the Grey Zone -- and perhaps we  
23 are agreeing violently with each other. The Grey Zone seems  
24 to be inescapable.

25 **DR. NOMI CLAIRE LAZAR:** Madame Leahy?

26 **MS. ANNE LEAHY:** Yes, two points.

27 The United States also funded Solidarność  
28 that led to the fall of the Communist Party in Portland. Was

1       that legitimate or illegitimate? It was on our side.

2               See, you don't get out of that argument.

3               Legitimate also, to Henri-Paul's point --  
4       legitimate in the context of a given culture, let's say in  
5       Canada -- that's the example I use -- we should know what's  
6       legitimate, what's acceptable or not. You know, beating your  
7       husband when you come back because you're frustrated at the  
8       end of the day, that's neither legal nor legitimate, right.  
9       Maybe it is elsewhere, but in Canada, anyway, if foreign  
10      diplomat starts doing that, that's a case for going back  
11      home.

12              Then there is the international community,  
13      international law. The question of state sovereignty being  
14      eroded by the principle of the duty to intervene, this whole  
15      exercise like by Lloyd Axworthy at the turn of the century,  
16      the 21st century, that we were very enthusiastic, we, a  
17      certain international community. But it reached a point  
18      where it didn't go any further because if you made a poll  
19      today, you would find dozens of countries who don't agree  
20      with the encroachment of the principle of state sovereignty.

21              So what we consider legitimate  
22      internationally, there is no consensus, so that's why we're  
23      getting, I think, in more -- on more dangerous or fragile  
24      ground if we go beyond trying to deal with what's an  
25      understanding in Canada. This is where we want foreign  
26      diplomats, or spies, or other agents of influence to be well  
27      aware of what's acceptable and legal here and what will get  
28      them into trouble if not.

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DR. ALEX HIMELFARB: I agree with you,

Michael, entirely that not only is it befuddling, but it's at least generational, the issue of rebuilding trust, the issue of building social trust, cohesion, and trust in our institutions. It took us generations to screw it up and it's going to take us generations to screw it back on.

But -- and there's no question that the agenda goes well beyond what this Commission could hope to address. But the Commission should at least recognize that it's a huge constraint in anything it does. So, at minimum, it shouldn't make things worse. Err on the side of transparency, for example. Err on the side of engagement. Err on the side of anything that strengthens people's trust in the institutions that are built and recommended. So at least don't make things worse.

In the longer term, the solutions are questions of fundamental public policy. There's a good literature that says more equal societies are more trusting societies. There's a huge literature that says more inclusive societies are more trusting societies. We could look at what Finland's doing in its education system on preparing people for a world of misinformation, how you build the education system. Those are obviously far beyond the mandate of this Commission, but there is no solution without addressing those issues, in my view.

**DR. NOMI CLAIRE LAZAR:** Thank you.

1 Mr. Jean?

2 **MR. DANIEL JEAN:** My comment is on this issue  
3 of trust, and in particular on the -- sorry, I thought they  
4 were automatic. Particularly, that comment that Alex made  
5 that state sponsored may amplify messages that may actually  
6 feed into distrust and undermine cohesion. I'll use the two  
7 practical, recent practical examples that I've referred to  
8 that were very much about that and talk about the importance  
9 of knowing our vulnerabilities as a country and our  
10 vulnerabilities -- our biggest vulnerability may not be  
11 election.

12 So, for example when the Russians made the  
13 attack on the medical files of the WADA, what they wanted was  
14 to basically show that some athletes, so, for example, Simon  
15 [sic] Biles, one of the most decorated athlete, takes a  
16 focus-enhancing drug. And you're a gymnast, so that may give  
17 you an advantage. So their narrative that they were playing  
18 into their propaganda machine was that, obviously, you have  
19 your way of cheating. You've created -- you, the West,  
20 you've created your own way of cheating. Of course, what  
21 they did not say is she was taking that medication ever since  
22 she was a child because she was diagnosed. There were other  
23 medical files that were released.

24 If you compare it, same group, same people,  
25 in fact, the indictment in the U.S. target some of the same  
26 GRU officials. In the U.S., what they did is they basically  
27 showed the divisions between Clinton and Sanders to try to  
28 undermine the Democratic Party. Our reaction looking at it



1 here in Canada was to right away focus a lot of attention on  
2 our elections. And I'm not saying it's not important, that  
3 we should not focus this, but many of us who were looking at  
4 this actually felt that in Canada we had areas of  
5 vulnerability that were probably much bigger. Quebec  
6 identity, for example, Western alienation. Would be a lot  
7 easier to do state-sponsored operations like they've done on  
8 WADA on the U.S. election in using these amplifiers to  
9 undermine this issue or trust them. And, in fact, when the  
10 pandemic occur, at the time I was retired, but on  
11 conversations with former colleagues we saw some of this  
12 trying to create this distrust on vaccines and on some of the  
13 medical responses. So my point on this is you need to be  
14 aware of it; you need to know where your vulnerabilities are,  
15 and you got to make sure that your prevention and your tools,  
16 you're well equipped to be able to deal with this, on top of  
17 whatever you're going to do on elections and other democratic  
18 process.

19 **DR. NOMI CLAIRE LAZAR:** Thank you.

20 Dr. Himelfarb?

21 **DR. ALEX HIMELFARB:** Dr. Himelfarb. Yeah, I  
22 want to get back to this discussion in particular. One of  
23 the challenges for Western democracies is that their strength  
24 is their vulnerability. Our commitment to freedom of speech,  
25 our commitment to open dialogue is our vulnerability. And  
26 whatever solutions we have, we have to protect that  
27 vulnerability. We can't do it at the expense of our  
28 fundamental values, but that creates a particular dilemma

1 because a lot of the amplification of messages happens  
2 through social media, personal messaging apps and social  
3 media. And we have had a huge reluctance, understandable,  
4 even commendable reluctance to legislate, regulate those  
5 mediums.

6 At the same time, they are, in many ways,  
7 public utilities. And I think we have to start examining our  
8 reluctance, and to do it in a way that respects freedom of  
9 speech, and there are ways of doing that. So, for example,  
10 to demand much greater transparency from social media, to --  
11 and one of the advantages of demanding transparency from  
12 social media on the use of bots, or on their algorithms and  
13 the logic of their algorithms, and what monitoring they do  
14 and with what results, one of the advantages of transparency  
15 is that we will learn a lot. We will actually learn a lot  
16 about how these tools are being used against us. That's not  
17 a bad place to start. But I think we have -- and it's  
18 related, Michael, to your question on trust building. I  
19 think it's going to be very hard to build trust without  
20 addressing social media because people live now in these  
21 self-affirming bubbles. They only hear what is within their  
22 virtual platoons. And we have to find ways of opening up and  
23 addressing that.

24 **DR. NOMI CLAIRE LAZAR:** Professor Morgan?

25 **DR. MICHAEL MORGAN:** That's an excellent  
26 point. Fundamentally, there is an asymmetry between Western  
27 liberal democracies, the authoritarian countries that are  
28 seeking to damage our political systems. Broadly speaking,

1 it's the difference between open societies and closed ones.  
2 This is a -- this was at the root of the Cold War. This is  
3 something that is an old phenomenon. And what I would  
4 suggest, again, drawing on that history, is that it's  
5 possible to regard open societies, that openness, not simply  
6 as a vulnerability and not simply to respond to this problem  
7 defensively, but actually to begin to see that openness as a  
8 source of strength in dealing with authoritarian societies.  
9 I think that was crucial to -- to put it very crudely,  
10 crucial to the Western success in the Cold War, turning that  
11 openness into a source of strength rather than simply  
12 treating it as a source of weakness. And the asymmetry by  
13 the -- let's say the 1970s or the 1980s, that asymmetry  
14 tipped the balance in favour of the West in dealing with the  
15 Soviet Union and I think contributed through groups like  
16 Solidarity to the outcome that we saw in 1989, 1991.

17 **Dre NOMI CLAIRE LAZAR:** Monsieur Normandin?

18 **M. HENRI-PAUL NORMANDIN:** Sur la question de  
19 la désinformation par le biais des médias sociaux, un ajout.  
20 C'est effectivement une situation très délicate et très  
21 difficile. Selon moi, les États étrangers ou leurs  
22 représentants qui fabriquent de la désinformation ou qui  
23 créent des trolls qui vont reproduire cette désinformation,  
24 là, on est clairement dans un cas d'ingérence. Est-ce qu'on  
25 est capable d'intervenir? Ça, c'est une autre question, mais  
26 là, on est clairement dans un cas d'ingérence. Par contre, si  
27 des citoyens ou des citoyennes canadiens reprennent cette  
28 désinformation et, sans être complices et sans intention

1 malicieuse, reproduisent cette désinformation, ça, on ne peut  
2 pas toucher. Alors, c'est extrêmement difficile. Parce  
3 qu'allez donc savoir qui sont derrière ces trolls et tout,  
4 c'est difficile.

5 Mais pour moi, le principe, si on crée de la...  
6 un État étranger crée de la désinformation et utilise des  
7 trolls pour propager, cet État étranger commet de  
8 l'ingérence.

9 **Dre NOMI CLAIRE LAZAR:** Madame Leahy?

10 **Mme ANNE LEAHY:** Oui, est-ce que je peux  
11 rajouter? Oui, on peut faire quelque chose si c'est repris  
12 par des influenceurs, comme on dit « *wittingly, semi-*  
13 *wittingly or unwittingly* », et ça, c'est la résilience  
14 civile. Et si on regarde l'organigramme des Affaires  
15 étrangères... – excusez-moi, je suis une vieille – les Affaires  
16 mondiales, vous verrez qu'on a des unités qui n'existent... qui  
17 n'auraient même pas pu exister il y a dix ans, qui sont... il y  
18 a des groupes entiers qui travaillent avec des contreparties  
19 dans d'autres ministères amis, si on veut, mais des... pour  
20 déconstruire les slogans, déconstruire les... pardon, les  
21 campagnes d'information. On a des campagnes d'éducation  
22 civique, comment vous méfier, et cetera.

23 Donc, oui, on peut faire quelque chose. On  
24 peut certainement pas les prendre et les mettre en prison,  
25 mais on peut leur faire comprendre... c'était le point... un des  
26 points que je faisais pour les leaders politiques et leur  
27 personnel exonéré, qui sont souvent les premières personnes  
28 qui sont approchées dans ces choses-là, mais leur faire

1 comprendre le pourquoi qu'il faut... il faut se méfier. Et  
2 comment on le fait. Puis ça, on commence à le faire. Et de  
3 façon concertée. Donc, on peut faire quelque chose.

4 **Dre NOMI CLAIRE LAZAR:** Il y a des autres?

5 Any other questions or comments for the  
6 moment?

7 In that case, Commissioner, shall we take our  
8 break?

9 **COMMISSIONER HOGUE:** I think we'll take the  
10 break. We'll look at the questions that -- what I've  
11 received from the participants. I myself have quite a lot of  
12 questions, honestly. So -- but we'll take the break right  
13 now. I think it will be more convenient to do that this way.  
14 And the break is -- will be a bit longer because we need to  
15 canvass all the questions, and so for about 30 minutes.

16 So we should be back around 3:35. Thank you.

17 --- Upon recessing at 3:03 p.m.

18 --- La séance est suspendue à 15h03

19 --- Upon resuming at 3:47 p.m.

20 --- La séance est reprise à 15h47

21 **DR. NOMI CLAIRE LAZAR:** Welcome back  
22 everyone. So we're going to begin with a question for Daniel  
23 Jean.

24 What is GAC's general -- or sorry, I should  
25 say Global Affairs Canada's general toolkit to counter  
26 foreign interference and how does that toolkit shift in the  
27 lead up to and during the writ period? And then as a follow  
28 up, is there more that Global Affairs can do to enhance

1 understanding among missions, regarding what is and what is  
2 not acceptable for diplomatic missions in Canada?

3 **MR. DANIEL JEAN:** So as we've discussed this  
4 morning, as a start, giving general awareness to diplomatic  
5 missions that are headed to Canada that we expect them to  
6 respect Article 41 of the Vienna Convention. It's a good  
7 probably general awareness refresher, reminder of issuing a  
8 diplomatic note.

9 We did that in 2015, was probably in recent  
10 history one of the first times we did it because we felt  
11 there was some smoke. Not a lot of fire, but some smoke, and  
12 we needed to remind and put people on notice. That's the  
13 first step.

14 Then since that time have been a lot of  
15 things happening in Canada, in the U.S. and elsewhere in  
16 Europe with regards to elections. So -- as our conversation  
17 this morning has shown, there is probably a need to go a  
18 little further and define a little bit what are the red lines  
19 that should not be crossed. What are the behaviours that  
20 should not be acceptable.

21 So it may be a good idea, and I understand  
22 the Deputy Minister of Foreign Affairs, Mr. Morrison, has  
23 mentioned that in previous testimony of developing some  
24 materials, some briefing tools, some conversations with  
25 missions, still in general, of what are the expectations both  
26 in during a writ, and also outside writ.

27 Now, at one point you've got to go from the  
28 more general to the more specific when you see behaviours

1       that are repeated behaviours by missions, I think you have to  
2       start using the -- more in the sequence of tools that Anne  
3       described well in her presentation, you have to start having  
4       conversations, having demarche, maybe more formal demarche,  
5       reminding them what is acceptable, not acceptable.

6               And at some point, and as you've also seen,  
7       and I mentioned that in our presentation, GAC has also  
8       developed some tools in the context of the G7 work, which is  
9       rapid response mechanism where they're monitoring some of the  
10      information that is going -- attempts that could be going in  
11      terms of trying to undermine elections or democracy.

12             Now, if you get to a point where clearly, and  
13      we're talking about really the missions that are the most  
14      problematic, where it's a repeated behaviour, you've got an  
15      issue, you're going to have that conversation -- GAC is going  
16      to have a conversation with the departments in the security  
17      intelligence and they're going to have to decide what kinds  
18      of measures are appropriate given the behaviours.

19             People have a tendency to go very rapidly to  
20      one of the most extreme measures which is PNG. Yes, it's a  
21      possible measure. You also have to decide when you're going  
22      to apply these measures. Like, for example, like I refer to  
23      the case study of the Skripals, when we PNG four Russian  
24      diplomats in the context of the Skripals, in the press  
25      release the government was very clear that they had been  
26      engaged in disinformation campaigns being present in Canada.

27             That did not mean that we PNG them when we  
28      started to have concerns about this. That means that we

1 built information and when there was an opportunity and a  
2 good timing in terms of imposing a consequence to Russia, we  
3 were able to come up with this. So I think that's very  
4 important.

5 The reason why I'm saying got to be careful  
6 not to jump to PNG very quickly is consistent with what Anne  
7 said this morning. In most missions abroad we are usually,  
8 from a number perspective, underrepresented compared to many  
9 of these countries that are more problematic. So if you go  
10 into the number games, at some point you're going to lose.  
11 So you've got to find in your toolkit some other means that  
12 may be a way to impose consequences.

13 It also speaks about the need to work --  
14 Michael also talked about that, I spoke about that -- the  
15 need to work with friendly states, allies to try to apply  
16 consequences that are not just one country, but more, because  
17 it's got more impact and also less risk for retaliation.

18 **DR. NOMI CLAIRE LAZAR:** Thank you very much.  
19 Would anyone else like to step in there? All right. So  
20 we'll move to our next question. Is there a mechanism within  
21 government to modulate the different perspectives among  
22 departments when it comes to intelligence and accusations of  
23 -- or allegations of foreign interference? So how do we  
24 modulate the different perspectives among departments to get  
25 the best outcomes? And I'm going to address that question in  
26 the first instance to Dr. Himelfarb.

27 **DR. ALEX HIMELFARB:** Thanks.

28 First of all, it's probably well to emphasize



1       that we are going to always have different perspectives about  
2       what constitutes interference, about the level of risk and  
3       the nature of the risk. And that comes from the different  
4       functions of the agencies and departments involved.

5               So you would expect for example, a security  
6       agency to be more concerned about false negatives and missing  
7       a risk. You'd expect foreign affairs ambassadors or  
8       diplomats to be more concerned about false positives that  
9       might damage the relationship with the country or might harm  
10      a diaspora community. You would think that the enforcement  
11      agencies would be looking at it from the perspective of what  
12      meets the standards of legal evidence and would have yet a  
13      different perspective.

14             That's all to the good as long as those  
15      perspectives are integrated for the decision-makers. I think  
16      as Anne said in her presentation, at the level of the mission  
17      every head of mission has that around their table. They have  
18      the security, the law enforcement, the foreign policy, and  
19      their job it to integrate it at the receiving country level.

20             In Canada before advice goes to the decision-  
21      makers, it is integrated at PCO, at the Privy Council Office,  
22      by the National Security Advisor. That's the role of the  
23      National Security Advisor. Now, you know, I wasn't there in  
24      PCO in the late 1800s and so I'm not sure how rigorous that  
25      process is today, and it's always worth making sure that that  
26      process is fed in from all of the key elements.

27             But there's also a public-facing element of  
28      integrating this for determining government's wide action and

1 for communication to the public about risks and their own  
2 responsibilities. And we do have a committee of deputies  
3 that currently does that work, but one of the things that  
4 would be very worthwhile to look at is the extent to which we  
5 could build on that mechanism in a way that would maximize  
6 public trust and ensure that the integration of that is seen  
7 as in the public interest.

8 **DR. NOMI CLAIRE LAZAR:** Would anyone else  
9 like to jump in there? Monsieur Jean?

10 **M. DANIEL JEAN:** Tout d'abord, je suis tout à  
11 fait d'accord avec le docteur Himelfarb que les divergences  
12 sont normales, ils sont utiles, et ils viennent des mandats  
13 différents que les agences ont. Et, qu'en fait, ces  
14 tensions-là... et je l'ai vu dans les autres... dans les  
15 procédures que la Commission a eues, ces tensions-là,  
16 plusieurs l'ont dit, sont *healthy*. Il y a un aspect qui est  
17 bon qu'il y ait ces tensions-là.

18 C'est important, comme de raison, qu'il y ait  
19 un espace et une opportunité pour ces différents intervenants  
20 d'être capables de discuter et de sous-peser les intérêts de  
21 la sécurité nationale, les intérêts de politique étrangère.  
22 Souvent, il y a d'autres intérêts, intérêts économiques en  
23 jeu. Et, effectivement, normalement, ça se fait, ça, à  
24 travers le rôle de PCO.

25 Le rôle traditionnel de PCO, c'est trois  
26 rôles, avis indépendant au Premier ministre; le deuxième,  
27 c'est soutenir la structure de Cabinet, les discussions de  
28 Cabinet sur les enjeux, dans le cas de la sécurité nationale,

1 c'est ça; et le *convening role*, qui est vraiment le rôle  
2 justement d'amener une coordination des discussions pour  
3 qu'il y ait une cohérence, une approche coordonnée tant au  
4 niveau des développements des politiques qu'au niveau des  
5 opérations.

6 Dans le modèle de Westminster, où on est, le  
7 rôle du *National Security Advisor*, c'est le miroir de PCO.  
8 Il n'a pas les autorités pour prendre les actions, mais il a  
9 l'autorité morale d'amener, avec son *convening role*, ces  
10 discussions-là sur les cohérences sur les actions. Et c'est  
11 le rôle qu'il joue et, normalement, la personne qui est dans  
12 le rôle de conseiller national est un haut fonctionnaire  
13 sénior, souvent qui a travaillé très près avec les  
14 fonctionnaires dont on parle, tant au niveau de la sécurité  
15 que des questions internationales, qui est respecté et qui  
16 est capable d'apporter assez de valeur ajoutée au discours  
17 pour être capable, justement, de jouer ce rôle-là.

18 Mon expérience, c'est que ce rôle-là se joue  
19 très, très bien. Maintenant, quand on arrive à la phase dont  
20 Alex a parlé tout à l'heure, qui est la phase beaucoup plus  
21 publique, que ce soit par exemple dans le contexte d'avoir  
22 créé le Panel de cinq, dans le contexte des élections ou si  
23 des déclarations publiques doivent se faire, je pense que  
24 c'est très difficile, ce que l'expérience récente nous  
25 montre, c'est que c'est très difficile pour des  
26 fonctionnaires compte tenu de leur désir de respecter leur  
27 non-partisanerie de jouer ce rôle-là.

28 Alors, je pense que Alex pose une bonne

1 question que... quand vient le temps... sur l'aspect plus public,  
2 probablement il y a une question qui se pose si on a les  
3 bonnes structures en place.

4 Ça m'amène à un commentaire, parce que c'est  
5 une question qui a été soulevée à la Commission  
6 régulièrement, est-ce qu'on devrait mettre le rôle du  
7 conseiller de la sécurité nationale dans la *Loi*. J'ai eu  
8 cette question-là au moins 10 fois lors de comparutions au  
9 Parlement, dans des conférences. Je n'ai aucune objection,  
10 mais à la fin de la journée, ce que vous allez avoir, ça va  
11 être une définition qui va être très, très près de ce que je  
12 vous ai dit, qui est le miroir de ce qu'est le rôle du  
13 Conseil privé.

14 Maintenant, ce qui est vraiment important, si  
15 vous voulez avoir un *modus operandi* qui va s'assurer que ces  
16 discussions-là franches et honnêtes, avec la tension qui  
17 s'exprime, amène le meilleur renseignement et guide les  
18 meilleures actions possibles du Premier ministre, il est  
19 extrêmement important que vous ayez la bonne personne qui est  
20 respectée de ces collègues-là et qui va avoir l'oreille du  
21 Premier ministre. Et ça, c'est pas quelque chose qu'on peut  
22 mettre dans une loi.

23 **COMMISSAIRE HOGUE:** J'ai une question, moi.  
24 Je pense ce serait pour Monsieur Jean.

25 Est-ce que, selon vous, compte tenu des rôles  
26 que vous avez joués, est-ce que, selon vous, le fait de  
27 questionner et de même mettre à l'épreuve, dans certains cas,  
28 les analyses provenant des agences de sécurité ou les

1 conclusions qui... provenant des agences de sécurité est  
2 quelque chose de sain, ou est-ce que, selon vous, on devrait  
3 plutôt s'en remettre à l'expertise des agences de sécurité  
4 lorsqu'ils font une analyse et mettent des conclusions ou des  
5 recommandations?

6 **M. DANIEL JEAN:** Question très, très bonne.  
7 Et question, effectivement, très, très saine. C'est-à-dire  
8 qu'il y a un continuum. Le renseignement est indépendant, la  
9 collecte, l'analyse, les conclusions à laquelle ils viennent  
10 sont indépendantes, mais ça veut pas dire que ça devrait se  
11 faire en un *vacuum* par rapport aux auditoires qui vont  
12 recevoir ce renseignement-là.

13 De la même façon que le renseignement, lui,  
14 il est... on a dit en anglais « policy neutral », neutre par  
15 rapport aux politiques ou au développement. Il les informe,  
16 mais les gens qui font du renseignement ne devraient pas dire  
17 ce que devraient être les politiques publiques ou ce que  
18 devraient être les opérations à prendre.

19 Maintenant, le problème qu'on a dans la...  
20 l'exercice de ces fonctions-là, c'est que pendant longtemps,  
21 on a fait ça de façon très séquentielle, justement, sans  
22 qu'il y ait ces échanges-là. Ces échanges-là, ils sont  
23 essentiels. Je vais vous donner un exemple précis.

24 Pendant plusieurs années, nos services de  
25 renseignement parlaient d'une compagnie canadienne très  
26 importante qui aurait été victime d'une menace étrangère en  
27 termes de sécurité économique. Et le jour où on a finalement  
28 eu la conversation avec cette compagnie-là en question, la

1 compagnie a dit « oui, on a des problèmes avec ce pays-là,  
2 mais c'est pas du tout ceux que vous avez relaté, et que  
3 maintenant plusieurs académiques relatent dans leurs papiers,  
4 c'est une légende urbaine. La vraie problématique qu'on a,  
5 c'est ça. »

6 Et, de manière intéressante, moi, je disais  
7 la problématique qu'ils avaient, c'était pas tellement une  
8 problématique, c'était plus une problématique de politique  
9 commerciale. Et les outils étaient pas dans la boîte à  
10 outils au niveau de sécurité et renseignement, ils étaient  
11 dans la... les démarches qu'on peut faire auprès de  
12 l'Organisation mondiale du commerce. Donc, ça ne peut pas  
13 s'opérer dans un *vacuum*. C'est un des problèmes fondamental.

14 Et à titre d'illustration, Madame la  
15 Commissaire, si vous me permettez, ça va me permettre  
16 d'enlever certaines remarques mercredi, c'est intéressant que  
17 dans ce que... les travaux que vous avez faits à date, tant de  
18 personnes ont vu exactement les mêmes rapports de  
19 renseignement et arrivent à des interprétations différentes.  
20 Alors, je fais allusion, bien entendu, au rapport du Comité  
21 des parlementaires et la lecture par certains politiciens,  
22 mais surtout, le Service qui est revenu il y a quelques jours  
23 pour donner son interprétation qui a des nuances par rapport  
24 à la compréhension que le Comité des parlementaires en a.

25 Ça, pour moi, ça représente le besoin  
26 d'améliorer le niveau de maturité de nos rapports de  
27 renseignements, que nos gens de renseignement comprennent que  
28 dans la nouvelle réalité mondiale dans laquelle on est, leurs

1 rapports ne sont plus juste pour un auditoire interne, mais  
2 vont être utilisés pour des actions ou des utilisations  
3 politiques qui ont des conséquences. Et il doit avoir une  
4 imputabilité.

5 Des rapports de renseignements, ça l'a divers  
6 degrés de fiabilité. Si vous avez intercepté une  
7 conversation, c'est la quasi-certitude. Si c'est petit Jo  
8 qui a dit que son frère a dit, c'est une pas mal plus basse  
9 probabilité. Ces rapports-là doivent vraiment être beaucoup  
10 plus étoffés, documentés. Et d'avoir ces conversations-là  
11 aiderait beaucoup.

12 Donc, absolument. C'est un continuum, ça  
13 devrait pas être vu, mais le continuum devrait être vu où  
14 l'intelligence, le renseignement demeure *policy-neutral*, et  
15 ce n'est pas aux acteurs ou aux auditoires à dicter ce que le  
16 renseignement devrait être, mais en ayant ces échanges-là, le  
17 renseignement devient meilleur, nos actions, nos politiques  
18 deviennent meilleures.

19 **COMMISSAIRE HOGUE:** Une question... une autre  
20 question qui découle de cela. Et ça peut... peut-être qu'il y  
21 a d'autres personnes qui voudront aussi y répondre, mais est-  
22 ce que, selon vous, on sait que dans les rapports des agences  
23 de sécurité, ils indiquent effectivement ce qu'ils perçoivent  
24 être la fiabilité, alors, est-ce que c'est une source... bon.

25 Est-ce que, selon vous, ce mécanisme-là, tel  
26 qu'il est actuellement utilisé, est suffisant pour bien  
27 communiquer... là, c'est moi qui s'exprime pas bien.

28 Est-ce que cette échelle-là qui est utilisée

1       actuellement, selon vous, est suffisante dans le nouveau  
2       monde dans lequel on vit, où il y a toutes sortes  
3       d'impératifs pour vraiment permettre aux récipiendaires de  
4       l'information d'être en mesure d'évaluer la fiabilité de  
5       l'information qui leur est transmise? Ou est-ce qu'il y  
6       aurait lieu de raffiner ou d'ajouter?

7                   **M. DANIEL JEAN:** Il y a probablement lieu  
8       d'affiner, de peaufiner certains de ces outils-là, et puis  
9       moi, si je donne... puis ça m'arrive de donner des  
10      présentations aux gens du Renseignement, c'est certain que je  
11      vais leur dire qu'ils devraient regarder ce qui s'est passé  
12      dans le contexte de la Commission puis comment le nombre de  
13      personnes qui ont lu les mêmes rapports de renseignement sont  
14      arrivées à des conclusions différentes, comme une leçon pour  
15      eux dans la rédaction de ces rapports-là pour qu'ils  
16      comprennent qu'ils doivent... une clarté qu'ils puissent... et  
17      dans cette clarté-là, les degrés de fiabilité demeurent  
18      extrêmement importants.

19                   Dans les premières semaines du débat, la  
20      docteure Calvin a fait un cadeau dans sa lettre ouverte au  
21      *Globe and Mail* quand elle a défini qu'est-ce qu'est le  
22      renseignement puis qu'est-ce qu'est l'évidence, et de ne pas  
23      confondre les deux.

24                   Je reviens à ce que j'ai dit tout à l'heure.  
25      Si vous avez un intercept d'une communication écrite ou d'une  
26      communication verbale où vous entendez la personne qui le  
27      dit, vous avez pas mal une certitude. Mais lorsque c'est basé  
28      sur une source, ce qu'un ancien conseiller à la Sécurité



1 nationale des fois disait, « un *gossip* sophistiqué », ben, il  
2 faut que ce soit vraiment défini comme tel, et ça, il y a  
3 énormément de progrès à faire. Ça n'empêche pas que les gens  
4 qui font ce travail-là sont des professionnels avec qui j'ai  
5 adoré travailler, mais leur culture, la façon dont ils  
6 travaillent doivent être adaptées pour le monde comme il est  
7 maintenant.

8 **COMMISSAIRE HOGUE:** Ça m'amène à une autre  
9 question qui découle aussi de ça. On est tous un peu formatés  
10 en fonction de la formation qu'on a, l'expérience qu'on a, le  
11 domaine dans lequel on travaille, et on a tous, dans chacun  
12 de nos domaines, on a tous un jargon qu'on utilise, et on  
13 peut voir que c'est le cas ou également au niveau, par  
14 exemple, des agences de sécurité.

15 Est-ce que, selon vous, l'utilisation d'une  
16 terminologie particulière est aussi un élément qui peut  
17 rendre un peu plus difficile la communication entre les  
18 différentes parties prenantes?

19 **M. DANIEL JEAN:** OK. Alors, vous avez utilisé  
20 deux choses que j'aime : « domaine » et « jargon ». Je vais  
21 commencer par « domaine ».

22 De plus en plus, les joyaux de la Couronne ne  
23 sont plus avec le gouvernement, ils ne sont plus dans la  
24 Couronne. Les technologies sensibles de nos secteurs privés,  
25 les recherches dans nos... contrôler les citoyens à travers la  
26 désinformation, c'est toutes des choses qui sont à  
27 l'extérieur du gouvernement. Mais on a encore une culture au  
28 niveau sécurité et renseignement qui a été bâtie pour

1 l'ancien domaine, l'ancien système où les bijoux de la  
2 Couronne étaient à l'intérieur.

3 Pourquoi je dis ça? Parce que c'est pour ça  
4 qu'on a un « *inside baseball* » langage, hein? On a un langage  
5 qui est « *inside baseball* » parce que pendant longtemps ç'a  
6 été ça. Il faut changer ça. Il faut, dans la façon dont on  
7 recrute, qu'on forme, qu'on encourage, qu'on récompense le  
8 bon travail au niveau sécurité et renseignement, ça apprend à  
9 ces gens-là qu'un de leur devoir fondamental de nos jours,  
10 c'est non seulement informer le gouvernement, les  
11 politiciens, c'est informer le secteur privé, c'est informer  
12 nos populations et tout ça, et que pour faire ça, leur  
13 langage doit changer. Et il y a certaines zones de confort à  
14 rester à l'intérieur du « *inside baseball* ».

15 Et je vous ai parlé de plein d'exemples  
16 aujourd'hui puis j'ai jamais eu à dire si cette information-  
17 là est classifiée. J'ai été chercher toute cette information-  
18 là de l'information ouverte. C'est tout basé sur de  
19 l'information ouverte.

20 Il y a une certaine réticence des fois à... OK,  
21 je prendrai pas mon information classifiée, mais il y a assez  
22 d'information de la menace qui existe pour être capable  
23 d'avoir une conversation avec quelqu'un qui n'a pas les cotes  
24 de sécurité pour lui donner une bonne lecture de la menace,  
25 des tactiques qui sont utilisées puis comment il devrait se  
26 protéger. OK? Et ça va être d'autant plus important parce que  
27 maintenant, avec C-70, le SCRS va avoir l'autorité de faire  
28 ça. Avant, ils étaient un petit peu muselés, mais maintenant

1 ils vont avoir l'autorité de le faire. Donc, ce changement  
2 culturel là, il doit s'opérer.

3 **COMMISSAIRE HOGUE:** Merci.

4 **DR. NOMI CLAIRE LAZAR:** Would anyone else  
5 like to jump in? Go ahead.

6 **DR. ALEX HIMELFARB:** Yeah, I just might add,  
7 the -- first of all, the intelligence has always been  
8 challenged. It's -- I mean, that is the nature of the PCO  
9 role, so it's always been challenged. It needs to be  
10 challenged. That is not a criticism of the intelligence  
11 agency. It is a recognition that that information isn't  
12 always mature and isn't always contextualized. And it isn't,  
13 as well, a recipe for action. It is policy neutral. It's  
14 very much the same tension that scientists often have when  
15 they do science in government, that they're uncomfortable  
16 that policy doesn't reflect their science. But the science  
17 is the basis, and the policy is a much more complex decision-  
18 making. So it is challenged.

19 But I think the future is to develop actually  
20 new kinds of instruments, new agencies, agencies that work  
21 with all of the organizations and agencies in Canada, all  
22 levels of government, public and private sector. And  
23 countries have been doing this. Countries have deliberately  
24 created these institutions whose job it is to integrate all  
25 of the various inputs and to deal with the public and build  
26 trust with the public. And those institutions, those  
27 agencies, as they've done in Sweden, as they've done in  
28 France, those agencies are actually more effective at

1 changing culture of these other agencies involved than any  
2 lecture would ever be because they are, in fact, educational  
3 in that sense. They deal with each of these agencies and the  
4 agencies suddenly recognize a very different kind of mandate  
5 than they had up to that point. So there's --  
6 internationally there are a number of examples, Australia,  
7 France, Sweden, where such agencies have been developed with  
8 the sole purpose of integration -- challenge integration, and  
9 finding ways to deal with public and all of the affected  
10 citizens, organizations and levels of government to increase  
11 their resilience.

12 **COMMISSIONER HOGUE:** Thank you.

13 **DR. NOMI CLAIRE LAZAR:** Okay. So we'll move  
14 to the next question. This is a question for M. Normandin.  
15 You've referred to intent being an important element to  
16 determine whether an activity constitutes interference or  
17 else just a legitimate influence, so legitimate versus  
18 illegitimate influence. How can you determine and consider  
19 what the intent is?

20 **M. HENRI-PAUL NORMANDIN:** Le défi de  
21 déterminer l'intention est difficile, en effet. La seule  
22 réponse que je peux donner, c'est qu'on essaie de déterminer  
23 l'intention à partir des éléments d'information que nous  
24 pouvons avoir, et parfois y'en a pas d'éléments  
25 d'information, parfois il peut y en avoir plusieurs. Je vais  
26 donner des exemples.

27 Par exemple, l'expérience passée de la part  
28 d'un pays. J'hésite un peu d'utiliser le terme anglais, mais

1 le « pattern », si je peux le dire ainsi. Par exemple, si un  
2 État étranger a l'habitude de collecter, d'obtenir de  
3 l'information de nature personnelle à propos d'individus, et  
4 qu'on a vu dans le passé que lorsque l'État étranger a obtenu  
5 de telles informations, par la suite il y a eu des menaces à  
6 cette personne ou à sa famille. Alors ,je pense qu'on peut  
7 présumer que si ce même État étranger est encore en train de  
8 solliciter de l'information d'une autre personne, information  
9 de nature privée, c'est fort probable que l'intention, c'est  
10 une intention malveillante et d'effecteur de l'ingérence. Ça,  
11 c'est un premier exemple.

12 Un deuxième. Par exemple, si un État étranger  
13 envoie régulièrement de ses agents dans des réunions de  
14 groupes communautaires – parlons de la diaspora, par exemple  
15 –, et qu'on a constaté que, par hasard, lorsque cet agent  
16 étranger va dans des réunions de la diaspora, tout d'un coup  
17 on constate que par la suite, la position ou les actions de  
18 ce groupe communautaire changent. Alors, on peut présumer que  
19 s'il envoie à nouveau un agent dans de telles réunions, c'est  
20 parce que l'intention est de faire de l'ingérence.

21 Une autre pratique, par exemple. Si un État  
22 étranger rencontre régulièrement une personne, qu'il lui  
23 téléphone régulièrement, et que cette personne-là est  
24 toujours seule par opposition d'être... que ce soit une réunion  
25 de groupe, ah! je pense que ça soulève des soupçons et peut-  
26 être que, là, on a des éléments d'intention qui vont nous  
27 porter à croire qu'il y aura ingérence.

28 Dernier exemple. Il y a des pays qui, dans

1 leurs documents, parfois confidentiels, mais même parfois  
2 publics, énoncent presque ouvertement leur intention de  
3 réprimer l'opinion critique, de contrôler notamment la  
4 diaspora. Il y a des pays que c'est presque explicite dans  
5 leurs documents. Alors, quand on regarde ces publications et  
6 qu'on regarde le comportement d'un État on peut dire, ah,  
7 dans ces cas-ci, effectivement, on peut voir que c'est un  
8 élément de l'intention.

9                   Alors donc, c'est un ensemble d'éléments et  
10 d'informations qui nous permettent de déterminer ou non. Je  
11 ne dis pas que c'est facile, mais c'est la première chose.

12                   La deuxième chose que je tiens à souligner,  
13 les juristes dans la salle auront probablement constaté que  
14 lorsque je tente de faire la distinction entre l'action et  
15 l'intention, c'est un peu un parallèle avec le monde  
16 criminel, c'est-à-dire que pour déterminer s'il y a une  
17 infraction criminelle, dans le *Code criminel* canadien, on  
18 regarde l'action, ce qu'on appelle en latin l'*actus reus*, et  
19 on regarde aussi l'intention, le *mens rea*. Et c'est  
20 seulement... règle générale, c'est seulement si on a les deux  
21 qu'on va avoir une infraction criminelle.

22                   Donc, j'ai fait un peu ce parallèle, mais  
23 avec deux nuances fort importantes. La première, c'est que  
24 l'ingérence, c'est d'abord et avant tout un phénomène  
25 politique. On peut décider que l'ingérence ou certains  
26 éléments de l'ingérence sont aussi des infractions  
27 administratives au criminel, mai d'abord et avant tout, c'est  
28 un phénomène politique.

1 Ce qui m'amène à la deuxième nuance fort  
2 importante. En droit criminel, le standard est très élevé  
3 pour qu'on détermine s'il s'agit d'un acte criminel ou non.  
4 Le standard, c'est qu'il faut qu'il y ait de la preuve hors  
5 de tout doute raisonnable. Or, en matière d'ingérence  
6 étrangère, phénomène politique, le standard n'est pas  
7 semblable. Il ne faut pas essayer d'avoir de la preuve hors  
8 de tout doute raisonnable avant de conclure qu'on est en  
9 présence d'ingérence. Je pense qu'à partir du moment où on a  
10 un ensemble d'éléments qui nous permettent de porter un  
11 jugement que c'est probablement une intention malveillante et  
12 de l'ingérence, donc, je pense qu'on peut conclure à  
13 l'ingérence.

14 Alors donc, je répète que je fais ce  
15 parallèle avec le droit criminel avec ces deux nuances fort  
16 importantes.

17 **COMMISSAIRE HOGUE:** J'ai juste une petite  
18 question, ensuite on va revenir à vous, mais je veux être  
19 sûre de...

20 **M. HENRI-PAUL NORMANDIN:** Oui.

21 **COMMISSAIRE HOGUE:** ...de ne pas la manquer  
22 celle-là.

23 Vous dites on n'a pas besoin d'avoir un  
24 standard hors de tout doute raisonnable avant de conclure à  
25 l'ingérence, est-ce que, si on regarde ça d'un point de vue  
26 diplomatie, on est en mesure ou il est légitime pour le  
27 Canada d'intervenir auprès d'un État étranger ou de ses  
28 représentants sur le territoire canadien pour les aviser

1 qu'on ne tolérera pas, par exemple, certains agissements,  
2 même si on n'a pas atteint une conviction, je ne dirais même  
3 pas hors de tout doute raisonnable, mais une conviction assez  
4 certaine? À partir d'où peut-on se sentir à l'aise  
5 d'intervenir auprès d'un État étranger?

6 **M. HENRI-PAUL NORMANDIN:** Ma réponse claire à  
7 votre question juste un peu précédemment, c'est oui. On peut  
8 se permettre d'intervenir auprès d'un État étranger pour  
9 dire, « attention ici, nous, on constate des choses avec... que  
10 nous jugeons inacceptables et qui constituent de  
11 l'ingérence », et je pense qu'on peut le faire à partir du  
12 moment où on croit sincèrement que nous avons suffisamment  
13 d'éléments d'information qui nous permettent d'en arriver à  
14 ce jugement. Alors donc, oui, je pense qu'on devrait, qu'on  
15 doit et qu'on a la possibilité de le faire.

16 Et j'ajouterais aussi d'ailleurs que... parce  
17 que si on ne le fait pas, on va toujours être en retard par  
18 rapport à ce qui se passe.

19 Mais j'ajouterais aussi que dans la... la  
20 Convention de Vienne nous permet d'expulser des diplomates  
21 par exemple, et c'est un peu une mesure extrême, mais ça nous  
22 permet d'expulser des diplomates sans même avoir à expliquer  
23 le pourquoi. On n'est pas obligés d'expliquer pourquoi on  
24 expulse un diplomate. En pratique, on peut choisir de le  
25 faire. Ça, c'est un choix qu'on peut faire, mais on n'est pas  
26 obligés de le faire.

27 Alors, définitivement, oui, je pense qu'on  
28 peut intervenir à partir du moment où on a suffisamment



1 d'éléments qui nous permettent de conclure qu'on est en  
2 présence d'ingérence.

3 **M. DANIEL JEAN:** Si vous me permettez sur  
4 votre question, la nature de l'intervention va dépendre de  
5 comment sérieux est le comportement et l'impact. Alors, ça  
6 peut être juste une...

7 **COMMISSAIRE HOGUE:** Et le niveau de  
8 conviction.

9 **M. DANIEL JEAN:** ...démarche diplomatique, alors  
10 que si c'est vraiment quelque chose sérieux puis qu'il y a  
11 pas mal de feux avec de la fumée, ça va peut-être être une  
12 atténuation de la menace où, là, on va aller plus loin  
13 qu'avoir une conversation.

14 **COMMISSAIRE HOGUE:** Alors, le remède peut  
15 dépendre...

16 **M. DANIEL JEAN:** Tout à fait.

17 **COMMISSAIRE HOGUE:** ...un, de la sévérité de  
18 l'acte reproché, et aussi du niveau de conviction qu'on a,  
19 par exemple si c'est une question d'intention, du niveau de  
20 conviction qu'on a.

21 **M. DANIEL JEAN:** Tout à fait.

22 **M. HENRI-PAUL NORMANDIN:** Tout à fait.  
23 Entièrement d'accord.

24 **Dre NOMI CLAIRE LAZAR:** Madame Leahy?

25 **Mme ANNE LEAHY:** Oui. Je voudrais compliquer  
26 vos questions.

27 **COMMISSAIRE HOGUE:** Sont déjà assez  
28 compliquées.

1                   **Mme ANNE LEAHY:** En faisant le parallèle avec  
2 le droit criminel, parce qu'on ne l'a pas fait ici  
3 ostensiblement, en tout cas pendant notre section, les États  
4 n'utilisent pas leurs diplomates qu'ils veulent protéger, ils  
5 ne veulent pas être déclarés *persona non grata*, ils utilisent  
6 des faire-valoir, si je peux dire, et souvent les réseaux  
7 criminels. Et là, je crois qu'il y a peut-être une  
8 possibilité d'en faire plus de ce côté-là en termes de marier  
9 le contexte, qui vient du renseignement et aussi informé par  
10 les relations diplomatiques, bien sûr, mais faire l'arrimage  
11 entre des comportements de réseaux criminels et ce qu'on peut  
12 détecter comme étant peut-être une campagne d'intimidation.  
13 Par exemple, de le faire assez tôt, et pour pouvoir accumuler  
14 la preuve, parce que justement la barre est plus haute dans  
15 le criminel.

16                   Et puis ç'a été, n'est-ce pas – je m'adresse  
17 aux spécialistes en sécurité –, le problème a été souvent  
18 qu'on savait ce qui se passait, mais on n'avait pas la preuve  
19 qui serait assez forte pour résister à la cour. N'est-ce pas?

20                   Alors, c'est peut-être là où on a une  
21 possibilité de s'améliorer, si je peux dire.

22                   **DR. NOMI CLAIRE LAZAR:** Dr. Himelfarb?

23                   **DR. ALEX HIMELFARB:** I was going to just  
24 reinforce something that Daniel said, which is just  
25 intervention has, in diplomatic terms, has a continuum of  
26 meanings. You can intervene when you think maybe there's  
27 some smoke, and you say to your counterpart, "I think there's  
28 maybe some smoke, and the smoke is making it hard to breathe,

1       so anything you could do would be helpful." And then when  
2       it's something stronger, the intervention is stronger.

3               So of course we intervene all the time with  
4       partial information. We intervene early to make sure that  
5       things don't become unmanageable.

6               There's another kind of intervention as well;  
7       we can often intervene to equip targets to be more resistant  
8       to a suspected problem. We don't need to know for certain,  
9       we just need to give -- and we do it, we give the possible  
10      target early warning so that they're equipped to manage it,  
11      so that they know their own obligations and their own risks  
12      and vulnerabilities. We don't need any kind of huge standard  
13      of proof.

14              Just as I'm talking and my mouth keeps going,  
15      I just also want to add just one comment on intent. For my  
16      money, it's not a place I would spend a lot of my energy. If  
17      the behaviour is secretive and contrary to our values and  
18      interests, and consequential, that's good enough for me. I  
19      don't know that we need to spend an awful lot of time on the  
20      malignancy of the intent. That ends up becoming -- it tends  
21      to become just a political and values argument.

22              **DR. NOMI CLAIRE LAZAR:** Quelqu'un d'autre?

23              All right, then. Madam Commissioner, I'll  
24      turn it back over to you, if you have further questions for  
25      the panellists?

26              **COMMISSIONER HOGUE:** Yes, I have a few.

27              **DR. NOMI CLAIRE LAZAR:** I thought you might.

28              **COMMISSIONER HOGUE:** Let me -- I have one for

1 Professor Morgan.

2           You mentioned that foreign interference is  
3 not a new phenomenon. We know, however, because we have all  
4 noticed that the leaks that took place in 2023, gave rise to  
5 a lot of comments and reactions. Can you explain why, in  
6 your mind, based on history, why in this case the reaction  
7 was of such a magnitude, if foreign interference is not a new  
8 phenomenon?

9           **DR. MICHAEL MORGAN:** It's an excellent  
10 question. I would suggest there may be two reasons. One has  
11 to do with simply how long it's been since Canada understood  
12 itself to be involved in an international political struggle.  
13 In other words, it's been a long time since the Cold War  
14 ended. I think during the Cold War, most, probably all  
15 Canadian officials and most Canadian citizens would have  
16 understood that the Soviets, the Chinese, the Cubans,  
17 whoever, had an interest in interfering in Canadian politics,  
18 and undermining the Canadian political system and undermining  
19 confidence in that political system. That was no secret.  
20 And so many people operated on that assumption. They  
21 wouldn't have been surprised by foreign interference.

22           It's been a long time since that took place,  
23 or since the Cold War ended. I think we are catching up to  
24 the new reality, but it takes time to catch up to that  
25 reality. And, obviously, this Inquiry is part of that  
26 process of catching up.

27           The second factor that I would point to --  
28 and this is more ambiguous, it's harder to pin down. This

1 may be a fact about Canadian political culture, which is that  
2 many Canadians, either explicitly or implicitly, tend to  
3 assume that international conflict happens to other  
4 countries, it happens somewhere else, that Canada is a safe  
5 place. We're far removed from difficult regions of the  
6 world. We have a largely peaceful domestic history. And so  
7 this is not a problem that really affects us, and so there's  
8 not as much of a need to take it seriously. I don't think  
9 that that's an accurate view of the world. I don't think  
10 it's been an accurate view of the world. You know, the  
11 phrase from the inter war period that Canada's a fireproof  
12 house wasn't true at the time, it's not true now. But  
13 political culture, again, may be slow to catch up with that  
14 reality. I think Canadian officials, especially those  
15 involved in diplomacy and security, have never had any  
16 illusions about the reality. But as a matter of political  
17 culture, the way that Canadians talk about debate,  
18 international affairs, there has sometimes been, again,  
19 either implicitly or explicitly a belief that we are somehow  
20 immune from those currents of geopolitics or those currents  
21 of history. And so, again, part of what's happening right  
22 now in public debate is that we are losing our illusions,  
23 catching up with reality.

24 **COMMISSIONER HOGUE:** Thank you. Anyone wants  
25 to comment?

26 **DR. ALEX HIMELFARB:** I agree with everything  
27 Michael just said. I think that's really accurate. But I  
28 would just add two things. In an era of distrust of our

1 public institutions, this feeds into the sense that  
2 governments aren't up to the task, and so there's a ready  
3 audience to be angry with government. This feeds that. Add  
4 to that a polarized political environment, these issues  
5 become hot political buttons. You know, when people leak  
6 these kinds of things, they leak knowing that they're leaking  
7 it into an environment where these will become issues. And  
8 so, yes, I think we've lived a false comfort in Canada that  
9 it's good to be awakened from, but I also think that this  
10 feeds into a climate of distrust in public institutions, or  
11 the capacity of public institutions and a very polarized  
12 political environment.

13 **MR. DANIEL JEAN:** I'm going to add to this.  
14 First of all, echo both comments on the environment. That's  
15 what I mean by national security culture, which also means  
16 that we usually react when there's a crisis, and information  
17 comes up like this.

18 Let's take the parallel with Australia. In  
19 2017, Australia is deep into foreign interference, much more  
20 serious than anything we've discussed so far in the  
21 Commission here. But they're seized with it; still secret.  
22 They bring John Garnaut, the lawyer, who's a sinologist, a  
23 journalist. They bring him in. They give him full  
24 classification and he works a little bit like that challenge  
25 we were talking about, he works with ASIO, which is  
26 equivalent of CSIS, in trying to develop the body of  
27 evidence, so where is it that we've been infiltrated by  
28 China. All that is public, so I can talk about that.

1           The -- this comes with a number of reforms  
2       that Australia did after that. Ideally, when government  
3       works well, it should happen this way, because when it comes  
4       out because people are disabused and leak information -- and  
5       I cannot support people leaking information. There are other  
6       ways, in my view, to make your point. But when it comes like  
7       that in a culture where we have no national security culture,  
8       it becomes very, very active, and, in fact, so much of the  
9       attention at the beginning of the debate was not on the right  
10      threat when it comes to foreign interference because the more  
11      we see what is the actual threat, it's not so much our  
12      elections. Our democracy in general, yes, in some other  
13      areas like the silencing of diaspora.

14           **DR. NOMI CLAIRE LAZAR:** Do you have further  
15      questions, Commissioner?

16           **COMMISSIONER HOGUE:** Yes. A very broad  
17      question. Many witnesses that came -- that testified in  
18      front of this Commission, and I guess the same thing will be  
19      said by many experts that will come this week, have said that  
20      a good portion of the work will be to educate the Canadian.  
21      Do you have any -- to educate on many aspect of foreign  
22      interference. Do you have any suggestions to make as to how  
23      we can do that, educating the population on foreign  
24      interference? I know it's a very broad question, but I want  
25      to give you the opportunity to give me some ideas, if you  
26      have some. It seems to be key.

27           **M. HENRI-PAUL NORMANDIN:** Pas de recette  
28      magique, mais deux éléments qui m'apparaissent importants, je

1       pense, mais d'une part, sur ces sites d'information publics,  
2       le gouvernement canadien devrait expliquer ces phénomènes. Il  
3       le fait dans une certaine mesure, mais c'est peut-être pas  
4       tout à fait satisfaisant et suffisamment utile pour des gens  
5       de différents groupes ou le grand public de bien comprendre  
6       ce dont il s'agit.

7               Alors, simplement dans ces sites  
8       d'information publics, je pense que le gouvernement devrait  
9       faire un effort d'améliorer les choses et d'expliquer peut-  
10      être certains phénomènes plus à fond.

11             Et deuxièmement, je pense que ça prend des  
12      outils ciblés pour différents publics. Par exemple, je pense  
13      que les parlementaires ont besoin de briefings particuliers.  
14      Le monde universitaire dans lequel j'œuvre un peu est assez...  
15      a beaucoup de difficultés à composer avec ces enjeux  
16      d'ingérence étrangère. Je pense que les différents services  
17      gouvernementaux canadiens devraient être à leur disposition  
18      pour des rencontres pour leur expliquer ce qui fonctionne, ce  
19      qui ne fonctionne pas et tout. Alors, je pense que ça prend  
20      aussi des outils ciblés à différents publics.

21             **DR. ALEX HIMELFARB:** I too have no panacea,  
22      but I will just say just two or three things that are kind of  
23      cautions. Number one, I think historical context would be  
24      really helpful. I found Michael's intervention really  
25      helpful. It says to people we're not in a crisis. We have a  
26      serious issue that we have to take seriously, but we're not  
27      in a crisis, and I think that's really important.

28             The second thing related to that is I would



1 not overhype this thing. The last thing we need is a  
2 Commission that actually fuels more distrust in our democracy  
3 and our electoral system. Of course we have to take it  
4 seriously. We've always had to take it seriously, but we  
5 shouldn't overhype it, and I think that's really important.  
6 We should be reassuring people that there are mechanisms that  
7 protect our democracy and that our job is to make them more  
8 robust.

9 And then the third piece is I think education  
10 has to be part of what you recommend, that the institutions  
11 that you recommend, if indeed you do recommend institutions,  
12 should have as part of their mandate education public  
13 information, that you can't do it all as a Commission, but  
14 you can actually make sure it's done.

15 **DR. NOMI CLAIRE LAZAR:** Mme Leahy?

16 **Mme ANNE LEAHY:** Moi, je... il y a des embûches  
17 comme dit Alex, mais je miserais beaucoup sur la  
18 transparence. Je ferais un parallèle avec la décision qui  
19 était quand même assez extraordinaire que les Américains ont  
20 prise dans la communauté du renseignement de rendre publique  
21 de l'information qui était hyper sensible : l'invasion s'en  
22 vient, elle va se faire le mois prochain, croyez-nous, c'est  
23 arrivé. Ça ne serait pas arrivé il y a trois, quatre ans,  
24 mais faisons-le sans rentrer dans une façon qui va exacerber  
25 le débat de la liberté d'expression sur les campus versus ce  
26 que le gouvernement vous dit de bien ou mauvais, faire  
27 comprendre, donner les faits, qu'est-ce qui se passe au  
28 Canada, puis si les gens ne croient pas, ils peuvent toujours

1 aller voir des représentants de telle ou telle diaspora qui  
2 vont leur expliquer comment ça se passe, mais rendre ça  
3 public. Puis non pas sur les sites... les plus ennuyants au  
4 monde, c'est le gouvernement du Canada. Alors, j'irais  
5 ailleurs que là, je prendrais des cours, mais, bref, la  
6 matière, et puis ensuite j'expliquerais, pourquoi c'est  
7 important.

8 Vous croyez qu'un discours sur la Chine,  
9 c'est on va avoir moins de relations économiques, et ça, ça  
10 va nous faire directement parce que les droits de l'homme ou  
11 de la personne aux fins fonds, dans 1 000 kilomètres d'ici,  
12 on... c'est beau en théorie, mais ça ne m'affecte pas. Non,  
13 non, non. L'ingérence étrangère, ça affecte des enfants qui  
14 vont à l'école, ça affecte des enfants qui jouent dans le  
15 parc parce qu'il va y avoir peut-être des règlements de  
16 compte entre bandes criminalisées qui s'adonnent à être des  
17 substituts ou des groupes manipulés par un État, et cetera,  
18 et cetera. Montrez le lien direct, comment ça t'affecte, toi.  
19 C'est pas des gens là-bas, c'est ben beau les droits de la  
20 personne, mais ça t'affecte ici.

21 Alors, le compromis, *the trade-off*, c'est pas  
22 uniquement, tu sais, dans l'argent qu'une compagnie peut  
23 faire au... mais ça peut t'affecter personnellement. Donc, ça,  
24 c'est à peu près pour tout le monde, ça, que ça soit dans le  
25 monde civil, sportif ou politique. Mais moi, je miserais... je  
26 la rendrais publique, l'information, puis je dirais : « Voici  
27 ce qui se passe. » Comme Michael a dit, on était... c'est vrai  
28 qu'on était plus sensible du temps de la Guerre froide.

1 Y'avait des annonces partout, y'avait... ah! ressusciter Radio-  
2 Canada International, ça serait une autre mesure.

3 J'ai remarqué que certaines... dans les  
4 commentaires, certaines diasporas – puis ils ont raison –  
5 disent que la meilleure défense, c'est aussi l'attaque. Donc,  
6 il faut pas seulement contrer tout le temps, mais aller à  
7 l'offensive. Pourquoi le Canada est si bien? Pourquoi est-ce  
8 que les forces hostiles veulent diviser notre société? Y'en a  
9 parce qu'ils veulent nos ressources naturelles, y'en a  
10 d'autres parce que c'est un combat idéologique, mais on a  
11 quelque chose de bon s'ils viennent nous attaquer. Qu'est-ce  
12 que c'est? Le savez-vous?

13 Voilà des idées.

14 **DR. NOMI CLAIRE LAZAR:** Professor Morgan?

15 **DR. MICHAEL MORGAN:** I agree entirely with  
16 what my colleagues have said. I would add a couple of  
17 points.

18 Thinking historically, the Cold War offers  
19 good lessons in both what not to do and what to do. And  
20 here, it's necessary to strike a balance, because as Dr.  
21 Himelfarb suggested, it's important not to create the  
22 impression that we're in a crisis because that can then  
23 generate overreaction and make the political situation worse.

24 What we want to avoid, I think, is a repeat  
25 of the McCarthyism of the 1950s in the United States. That's  
26 dangerous. On the other hand, in the 1950s there were  
27 communist attempts to infiltrate the American government.  
28 And we do face threats today, so the challenge is to find

1       that balance between taking the threat seriously, but on the  
2       other hand, not exaggerating it, not creating a sense of  
3       immediate emergency.

4               The second point that I think also emerges  
5       from this history is that we need to make clear to the  
6       Canadian Government, to the Canadian public -- we have to  
7       take steps to deal with this foreign interference, but also -  
8       - and here it's a question of balance -- we need to be  
9       realistic that this is not a phenomenon that we can hope to  
10      eliminate. And the idea that we can squash it and get rid of  
11      it for all time, I think that in itself is probably  
12      dangerous, because it could lead to overzealousness,  
13      overreaction.

14             In other words, this is a phenomenon that we  
15      can deal with, we can live with, but we need to -- we need to  
16      accept that it's almost a permanent fact of life in  
17      international politics.

18             And then the final point I would make is that  
19      Canadians have to understand that foreign interference is not  
20      a standalone threat or standalone policy on the part of  
21      foreign governments. Illegitimate, illegal actions are  
22      simply one tool in their toolbox, in a very large toolbox,  
23      one piece of an integrated grand strategy which seeks to  
24      undermine liberal democracy and the legitimacy of Canadian  
25      political institutions, and our social trust, and so on.

26             So there are plenty of things I think  
27      Canadians need to understand that may be legal, that may be  
28      overt, but are nonetheless dangerous. So in other words, to

1 address this problem we can't simply say we're going to  
2 target the covert, illegal behaviour and then the problem is  
3 solved. This a much broader struggle, and I think to Madam  
4 Leahy's point, we need to make clear the advantages of the  
5 Canadian system; why -- what the claims to legitimacy of this  
6 country are, what the claims to legitimacy of liberal  
7 democracy are; why those matter and why those are worth  
8 defending. Not in a jingoistic way, but in a truly  
9 democratic way.

10 **DR. NOMI CLAIRE LAZAR:** Monsieur Normandin?

11 **M. HENRI-PAUL NORMANDIN:** Sur un point très  
12 précis, je suis tout à fait d'accord avec ce que vous avez  
13 mentionné sur un point très précis : la question d'agir  
14 ouvertement. Et dans ma définition de l'ingérence, j'ai  
15 terminé en disant « le plus souvent clandestinement », mais  
16 effectivement, ce n'est pas toujours clandestin. Et là, ça,  
17 je pense que c'est un point important et ça distingue un peu  
18 plusieurs des définitions qu'utilise le gouvernement canadien  
19 où l'élément clandestin semble une nécessité absolue pour  
20 conclure à l'ingérence. Or, certaines activités ne sont pas  
21 nécessairement clandestines, mais peuvent être de l'ingérence  
22 étrangère quand même.

23 **COMMISSAIRE HOGUE:** Une autre question qui  
24 découle, je pense, de tout cela, si on veut éduquer, puis je  
25 veux pas que le terme « éduquer » soit mal perçu là, je ne  
26 prétends pas que les gens ne sont pas éduqués, mais  
27 honnêtement, c'est, je pense, très opaque toute cette  
28 question-là d'ingérence étrangère. Alors, ça commence à

1 l'être moins pour moi après un an, mais je veux dire, c'est  
2 une... il y a peu de gens qui sont familiers avec ce qu'est  
3 l'ingérence étrangère.

4 Alors, si on veut tenter d'éduquer la  
5 population sur ce qu'est l'ingérence étrangère et comment  
6 s'en prémunir ou du moins diminuer les conséquences qu'elle  
7 peut avoir, est-ce qu'il n'est pas nécessaire de faire ça en  
8 même temps qu'on a des... qu'on entreprend des démarches ou des  
9 programmes d'éducation pour aussi renforcer ou augmenter la  
10 confiance dans nos institutions? Parce que j'ai de la  
11 difficulté à voir comment on peut penser avoir du succès à  
12 éduquer les gens sur l'ingérence étrangère si la méfiance,  
13 qui semble se manifester chez... du moins chez certains,  
14 demeure. On risque de faire face à un mur.

15 Je sais pas si à cet égard-là, vous avez...  
16 vous avez des idées à partager ou... vous voyez, c'est très  
17 ouvert, mes questions, mais ça me semble un nœud assez  
18 important à dénouer.

19 **Mme ANNE LEAHY:** Juste deux petites choses qui  
20 me rentrent tout de suite à l'esprit, ça serait... quand on  
21 parle de la... du Canada comme étant quelque chose qui est très  
22 rare dans le monde finalement et puis que ça vaut la peine de  
23 le préserver, ça va avoir beaucoup plus de crédibilité s'il y  
24 a un accord qui est transpartisan. Ça, c'est clair. Alors, le  
25 fait que tout le monde pense pas la même chose sur tout, mais  
26 est d'accord qu'il faut... qu'il faille se prémunir puis  
27 préserver, ça, c'est déjà... il faut travailler là-dessus.

28 Mais il y a une autre chose aussi, c'est que

1 ça marche à tous les niveaux. S'il y a une confiance au  
2 niveau des associations de hockey dans les grandes villes,  
3 une confiance... à l'école, on apprend tous à peu près les  
4 mêmes valeurs, ensuite si dans les... pour les élections  
5 municipales, si on se comporte avec un minimum de civilité  
6 qu'il faudrait reconquérir parce qu'on sait que c'est une  
7 bonne chose de pouvoir élire nos élus municipaux, on peut  
8 travailler comme ça puis finalement s'il y a encore... parce  
9 qu'on le sent bien, s'il y a encore un inconfort au niveau  
10 fédéral au point de vue politique, venant de la base, ça va  
11 peut-être agir pour, disons, tempérer ces différences-là.

12                   Moi, je crois qu'il faut vraiment, quand on  
13 parle de Équipe Canada surtout, il faut vraiment partir de la  
14 base et puis agir sur tous les paliers, mais le plus près des  
15 gens possible, et en montant, je crois que c'est l'approche  
16 qui est le plus... parce que ça va avoir un effet boule de  
17 neige.

18                   **COMMISSAIRE HOGUE:** Ça va percoler.

19                   **Mme ANNE LEAHY:** Oui, exact.

20                   **COMMISSAIRE HOGUE:** Vers le haut.

21                   **M. DANIEL JEAN:** Le seul commentaire que je  
22 ferais là-dessus en bâtissant sur ce que les gens ont dit,  
23 oui, les deux... faire les deux de front en parallèle, il faut  
24 trouver une façon de vulgariser le message. On a besoin d'un...  
25 vous allez comprendre ce que je veux dire, on a besoin d'Un  
26 Pierre-Yves McSween de l'ingérence étrangère.

27                   Vous comprenez ce que je veux dire? Si vous  
28 avez jamais vu la capsule de Pierre-Yves McSween sur qu'est-

1 ce qu'est l'évasion fiscale, comment on peut amener un  
2 message, un peu comme l'AMF fait sur les crimes financiers et  
3 les choses... ils le font très bien, je pense, pour  
4 l'auditoire. Donc, il faut que le message soit vulgarisé,  
5 adapté à l'auditoire. Mais comme le gouvernement n'est pas  
6 toujours crédible, on a parlé beaucoup de confiance, il faut  
7 trouver des tiers parties qui, eux, vont être plus crédibles  
8 avec ces communautés-là pour porter le message.

9 **DR. NOMI CLAIRE LAZAR:** Any last questions,  
10 Commissioner?

11 **COMMISSIONER HOGUE:** I think there's a  
12 comment.

13 **DR. NOMI CLAIRE LAZAR:** Oh, sorry.

14 **DR. ALEX HIMELFARB:** Just to add to that, I  
15 mean, we all know that trust is more easily broken than  
16 built, and so we're talking about a generational issue, a big  
17 societal issue. But we also know that when we have multiple  
18 partners, unlikely partners, speaking in one voice, they're  
19 much more likely to be believed.

20 So if we had, say, levels of government  
21 working together to send a message, Canadians will believe it  
22 more. If you had municipal, provincial, and federal people  
23 on a panel discussing this, it would be more believed. If  
24 you have private sector, voluntary sector, and government  
25 officials together speaking with one voice it may be less  
26 likely in this moment to have this across political parties,  
27 but you could certainly have it across jurisdictions.

28 And then I would add to that, one of the



1 reasons for cooperating with like-minded countries is what  
2 we've seen with the India incident, when other countries join  
3 on and speak, share our values, and reinforce those values,  
4 Canadians are more likely to believe it. So you're talking  
5 about intergovernmental, within Canada, intergovernmental  
6 among like-minded, and across sectors. I think that's the  
7 way to communicate in an environment of distrust.

8 **DR. MICHAEL MORGAN:** I would cite one further  
9 example that reinforces this point about the value of  
10 bringing together Canadians who are normally on opposite  
11 sides of issues to speak with one voice. I think of the  
12 Bouchard-Taylor Commission in Quebec, which I think was  
13 powerful precisely because the two chairs of that Commission  
14 had fundamentally different views about the place of Quebec  
15 in Canada. So bringing together unlikely allies can be a  
16 powerful tool in building trust, to make clear to Canadians  
17 that this is a nonpartisan or cross-partisan question.

18 **DR. NOMI CLAIRE LAZAR:** Anything further,  
19 Commissioner?

20 **COMMISSIONER HOGUE:** No, thank you.

21 **DR. NOMI CLAIRE LAZAR:** All right, then.

22 **COMMISSIONER HOGUE:** Thank you very, very  
23 much. Again, I'm repeating myself, but it was very, very,  
24 useful and I really appreciate the time you have taken and  
25 how you have shared your experience with us. For me it's  
26 invaluable, so thank you very much.

27 **M. HENRI-PAUL NORMANDIN:** Merci à vous.

28 **COMMISSIONER HOGUE:** So we will resume

1 tomorrow at 9:00. Thank you

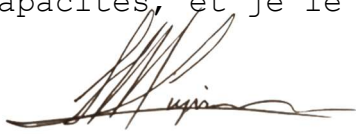
2 --- Upon adjourning at 4:47 p.m.

3 --- L'audience est ajournée à 16 h 47

4  
5 **C E R T I F I C A T I O N**

6  
7 I, Sandrine Marineau-Lupien, a certified court reporter,  
8 hereby certify the foregoing pages to be an accurate  
9 transcription of my notes/records to the best of my skill and  
10 ability, and I so swear.

11  
12 Je, Sandrine Marineau-Lupien, une sténographe officielle,  
13 certifie que les pages ci-hauts sont une transcription  
14 conforme de mes notes/enregistrements au meilleur de mes  
15 capacités, et je le jure.

16   
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18 Sandrine Marineau-Lupien  
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