



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

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

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Ottawa, Ontario

--- The hearing begins Tuesday, October 22, 2024 at 9:02 a.m.

COMMISSIONER HOGUE: So the roundtable this morning is entitled « Désinformation, espace numérique et processus démocratiques », or, said otherwise, "Disinformation, Digital Space and Democratic Processes", and we have seven guests this morning.

We have Mr. Kolga, we have Mrs. Ghai Bajaj, who is just over there, Heidi Tworek. We have Emily Laidlaw, Chris Tenove, Vivek Krishnamurthy, and Elizabeth Dubois. And the table will be moderated by Professor Lori Turnbull, who is a Professor in the Faculty of Management at Dalhousie University, and also senior advisor at the Institute for Public Policy and Governance.

So the floor is yours.

--- ROUNDTABLE: DISINFORMATION, DIGITAL SPACE AND DEMOCRATIC PROCESSES:

--- PANEL MODERATED BY DR. LORI TURNBULL:

DR. LORI TURNBULL: Thank you very much. Thank you very much, Commissioner, and good morning, everyone. Thank you so much for being with us this morning.

I want to welcome first all of our participants this morning. We're really happy to have you. We're very grateful to have your expertise on this very important topic.

So I'm going to take just a moment. The Commissioner has already introduced the panelists this morning, so I'm going to just take a moment to introduce the

1 topic and then I'll go right to the panelists.

2 So the panel is called "Disinformation,
3 Digital Space and Democratic Processes". So disinformation
4 and misinformation refer to falsely verifiable claims, in the
5 latter case, shared without intent to deceive, and in the
6 former, with intention to deceive and mislead.

7 A third category, malinformation, refers to
8 information that stems from truth but is exaggerated or used
9 out of context in order to mislead and cause potential harm.
10 The acronym MDM is used to capture misinformation,
11 disinformation and malinformation.

12 So regardless of intent, MDM is potentially
13 harmful in many ways, including in reducing trust in
14 institutions and the media, breaking down social cohesion and
15 undermining the integrity of democratic processes. For this
16 reason, some states may leverage MDM for the purpose of
17 foreign interference.

18 MDM is not a new phenomenon. States
19 disseminated lies and propaganda long before the rise of
20 social media. However, social media platforms and the
21 digital ecosystem in general have considerably increased the
22 spread and impact of MDM. This explains why MDM on the one
23 hand and social media on the other are often discussed and
24 addressed simultaneously. More recently, advances in
25 generative AI tools have added another layer to the
26 discussion.

27 So this morning, we are going to hear from
28 seven panelists who are going to address various aspects of

1 this topic and I think we'll probably hear some of them speak
2 to some of the same topics, so you will hear concepts being
3 talked about more than once, but I think that's going to be
4 very helpful to us because these are extremely complex
5 matters.

6 And so we are a hybrid session this morning,
7 and so we're going to start with Heidi Tworek, who is
8 available to us on the screen.

9 **COMMISSIONER HOGUE:** Ms. Turnbull, before you
10 start, I will invite you just to, for the benefit of those
11 that are following our work, just to explain who the
12 panelists are.

13 I named them, but I did not mention anything
14 about their expertise or where they are coming from.

15 **DR. LORI TURNBULL:** So I can do that. And I
16 just didn't want to repeat you, Commissioner, but ---

17 **COMMISSIONER HOGUE:** I understand.

18 **DR. LORI TURNBULL:** --- I totally get your
19 point.

20 So what I'm -- okay. I will do that. I will
21 start right now.

22 So Heidi Tworek is the Canada Research Chair
23 and Professor of International History and Public Policy at
24 the University of Ottawa. And again, she's online.

25 Emily Laidlaw is Canada Research Chair in
26 Cyber Security Law, Associate Professor, University of
27 Calgary.

28 Chris Tenove is Assistant Director, Centre

1 for the Study of Democratic Institutions at the University of
2 British Columbia.

3 Vivek Krishnamurthy, Associate Professor,
4 University of Colorado Law School.

5 Elizabeth Dubois, Associate Professor and
6 University Research Chair in Politics, Communication and
7 Technology at the University of Ottawa.

8 Marcus Kolga, investigative journalist and
9 senior Fellow at the Macdonald-Laurier Institute.

10 And Shelly Ghai Bajaj, Post-Doctor Fellow at
11 the University of Waterloo.

12 And there are seven of you, but I think I've
13 got everybody.

14 **COMMISSIONER HOGUE:** I think you did.

15 **DR. LORI TURNBULL:** Okay. So just -- so to
16 keep an order in mind, too, we are going to go to Heidi and
17 then, after that, we'll come to Chris, so just putting you on
18 notice.

19 Okay. Heidi, please.

20 **--- PRESENTATION BY DR. HEIDI TWOREK:**

21 **DR. HEIDI TWOREK:** Thank you.

22 There was an impending election. One
23 candidate opposed war with Russia and another would support
24 one. Russia spent large sums of money to bolster support for
25 the anti-war candidate. You might think I'm describing a
26 current or recent election. I'm actually talking about
27 Poland Lithuania in 1697, which elected its kings
28 democratically.

1 In that case, the Russia-backed candidate
2 won, but only after many more shenanigans that I can describe
3 in questions should you desire. A deep history lesson.

4 So foreign interference in elections is as
5 old as elections themselves, but the specific role of
6 information has changed quite dramatically over time. The
7 past offers no simple solutions, but it helps to parse out
8 what is unprecedented and requires new policies.

9 Thank you so much to the Inquiry for the
10 invitation to appear before you today to consider these
11 questions. I'm Professor of History and Public Policy and a
12 Canada Research Chair at the University of British Columbia,
13 not the University of Ottawa, where I direct the Centre for
14 the Study of Democratic Institutions, or CSDI.

15 At CSDI, we aim to understand the past,
16 analyze the present, and train for the future.

17 My own research focuses on the history and
18 policy of communications, particularly on how new
19 communications technologies affect democracy. Now,
20 historians know that humans are often quite terrible about
21 predicting the future. But I will wager one certainty.
22 Information will remain a key tool of foreign interference.
23 The question then is how best to contain it while upholding
24 democratic values. So today I will briefly explore the
25 history of foreign information flows before considering how
26 new communications technologies have affected this
27 phenomenon. I'll explain what is new about digital media
28 before closing with policy recommendations.

1 First the history. The turning point in
2 state interventions came during World War I. States became
3 much more involved in domestic and foreign information
4 management during the war. That also generated interest in
5 interfering in foreign information environments to achieve
6 political and economic aims. This interest was accelerated
7 and bolstered by two developments. The first was the then
8 new communications technology of radio. For the first time a
9 technology could convey information across borders without
10 any physical equipment. And second, governments invested in
11 radio networks outside of their domestic space, such as BBC
12 Empire in the 1930s or the US Voice of America during World
13 War II.

14 Attempts to intervene in foreign information
15 environments overly and covertly became a crucial part of the
16 Cold War. From 1946 to 2000, the United States and Soviet
17 Union intervened in around 11 per cent of all national
18 executive elections around the world. Information played a
19 key role as part of what was called active measures. And you
20 can perhaps see the thick book on the shelves behind me by
21 Thomas Rid all about active measures by the U.S. and Soviet
22 Union. After a lull in the 1990s, states and state actors
23 have reinvested in using information as a form of influence
24 and interference.

25 Now this history may sound fixed, but I do
26 not want you to imagine that we know everything. In fact, it
27 took 75 years to uncover that many of the photographs from
28 Nazi Germany the Americans saw in Time and Life magazine

1 during World War II were actually photographed by SS Nazi
2 officers and sent to the Associated Press via neutral
3 Portugal. Or I overturned a century of historical
4 assumptions that barely any German information was spread in
5 the United States from 1914 to 1917 by actually showing there
6 was a huge amount sent through a news agency and through
7 radio technology. And this was an attempt to try to keep the
8 United States neutral during World War I but ultimately ended
9 up failing as the U.S. entered the war in 1917. So covert
10 networks and contracts can stay hidden for decades because
11 protagonists have incentives to conceal.

12 Now uncovering dynamics like this may keep
13 historians like me in business, but it also reminds us to be
14 humble about how much we really know about contemporary
15 information flows.

16 So how did new communications technologies
17 affect this phenomenon? I'd like to emphasize that new
18 technologies do not automatically facilitate interference.
19 Often though, new communications technologies are used by
20 rising or challenging powers to leverage lesser resources and
21 bolster their international status. In the early 20th
22 century, for example, the British Empire felt comparatively
23 secure in its worldwide network of submarine cables and
24 established technology. By contrast, the rising power of
25 Germany invested in the new technology of radio to try to
26 bypass what was British-dominated networks, because Germany
27 feared that if Britain controlled cables, it could censor
28 information flow. It invested in a worldwide wireless

1 network to counter these problems.

2 Despite defeat in World War I, the switch
3 democracy, Germany continued to invest in radio for
4 geopolitical purposes. And ironically, the Nazis would coopt
5 these technological networks when they came to power to
6 spread their racist content around the world, but none of
7 this was preordained. Rather than blame new communications
8 technologies, we should understand how and why others use
9 them as a tool. Germany turned to radio in the early 20th
10 century to solve problems in international relations, just as
11 Britain felt little need to invest in newer communications
12 technologies, and similar situations exist today.

13 Informational interference is an
14 international relations problem. States often turn to
15 information as a cheap form of interference, and as the cost
16 continues to drop, the incentives to invest in information
17 grow. Such history reminds us that technological
18 infrastructure can be used to spread very different kinds of
19 content. So while content obviously matters, there are other
20 ways to address networks of foreign interference. Camille
21 François, for example, has suggested the ABC framework,
22 looking at actors, behaviour and content. So actors and
23 behaviour could be problematic even if the content is not.

24 The history suggests at least two other
25 factors. Infrastructures I've described as one and the
26 second is finance. Financial interference can take many
27 modes. To name just three examples, offering information for
28 free, paying to promote posts on platforms, or paying

1 domestic actors off platform to spread information online.
2 New communications technologies often offer new ways to
3 finance information operations, but the methods of tracking
4 financial flows generally already exist.

5 Now I've talked a lot about the historical
6 parallels and precedents, but I don't want to give the
7 impression that there is nothing new about our current
8 situation. So I would see at least five major developments
9 that are new. First, considerably lower barrier to entry to
10 spreading and disseminating and producing information.
11 Second, substantially greater financial incentives to produce
12 information, whether through ads, selling products or other
13 forms of online influencing. Third, more individualized
14 targeting due to formal granular data. Fourth, a
15 proliferation of private spaces online such as messaging apps.
16 And fifth and finally, the rapid disappearance of online
17 material. There is link rot, there is the disappearance of
18 websites, and there is the inaccessibility to platforms.
19 This can make it hard to understand what happened last week,
20 let alone last decade. Findings of the historical sort I
21 outline become nearly impossible in an environment controlled
22 mostly by private companies who have little incentive to
23 store data for the long term or make it accessible to
24 researchers.

25 So any policy approach thus needs to consider
26 three questions. First, what are pre-existing problems for
27 which we already have policies in place? Second, how do we
28 enforce enforcing -- how to enforce existing policies more

1 stringently? And, third, for new issues, what new policies
2 are necessary? So those are the three recommendations, but
3 I'm happy to discuss more during questions.

4 First and broadest, informational
5 interference cannot be addressed through information alone.
6 Media support and media literacy will not suffice on their
7 own because much information interference arises from issues
8 within international relations and diplomacy. What is needed
9 is better analysis and understanding of when states turn to
10 informational interference and why.

11 Second, financial flows require more
12 attention, whether through FINTRAC or the Financial Action
13 Task Force. More enforcement of existing rules and greater
14 international coordination could go a very long way.

15 Third, developing and enforcing transparency
16 rules for platforms will help researchers to identify and
17 understand more about the prevalence and effects of
18 information operations, and Bill C-63 goes some way towards
19 this. So transparency will enable more Canada-specific
20 research on susceptibility to foreign interference and
21 effects, including a more differentiated look at a wide range
22 of communities.

23 So in conclusion, it remains tremendously
24 difficult to measure the exact effects of particular pieces
25 of information on individuals. What sometimes matters more
26 than how it may affect voters is how politicians think it
27 affects voters and thus the measures that they might enact.
28 Any measures need to be considered in the long term -- the

1 historian might say the very long term -- and in light of how
2 to preserve broader democratic values like freedom of
3 expression.

4 Foreign interference is not going anywhere,
5 but the path shows very clearly that its importance can
6 change over time. So I suggest that we can both diminish
7 this problem and diminish it democratically. I look forward
8 to the further recommendations by my fellow panelists on how
9 we achieve those goals. Thank you very much.

10 **COMMISSIONER HOGUE:** Thank you.

11 **DR. LORI TURNBULL:** Thank you very much.

12 Thank you very much, Professor Tworek. We're going to come
13 to Dr. Tenove now.

14 **--- PRESENTATION BY DR. CHRIS TENOVE:**

15 **DR. CHRIS TENOVE:** Great, thank you. And
16 thank you to the Commissioner and the Commission staff and to
17 all the participants for inviting me to contribute to this
18 very important process. So I'm Chris Tenove. I'm an
19 instructor and research associate at the School of Public
20 Policy and Global Affairs at the University of British
21 Columbia, and the assistant director of the Centre for the
22 Study of Democratic Institutions.

23 My research focuses on tech regulation,
24 disinformation in elections, and the online abuse of
25 politicians and journalists. The technologies, policies and
26 politics in this area are rapidly evolving and complex, and
27 there's a continuous race between the development of malign
28 online tactics and responses to them. For instance, even

1 five years ago, we might not have expected that state aligned
2 actors would use generative AI models to create fake versions
3 of news sites or even documentaries for information
4 operations, but now they do.

5 Rather than focus on specific tactics or
6 policy responses in these introductory remarks, I will make
7 three broad interventions. First, I want to clarify the
8 democratic goods at risk from information operations, and I
9 propose three categories of potential harms.

10 Information operations can first, reduce the
11 free, full, and informed participation of citizens. Second,
12 undermine fair competition among contestants for elected
13 office. And third compromise the functional capacity of
14 democratic institutions such as election management bodies.
15 Information operations can potentially cause near term sharp
16 harms to these goods. And in aggregate, along with other
17 factors, they can contribute to long term changes in our
18 information systems in our societies which put these goods at
19 risk.

20 I'm purposefully using the term information
21 operations rather than mis, dis, and mal information.
22 Information operations involve coordinated or complementary
23 actions including, but not necessarily limited to
24 communications. This choice of term relates to my second
25 intervention which is if we want to identify and respond to
26 foreign interference via information operations, we should
27 focus on coordinated activities rather than individual pieces
28 of content, and we should pay particular attention to whether

1 they involve elements of coercion, maligned funding, or
2 deception.

3 Coercion is the use of threats or violence to
4 undermine people's ability to participate, compete for
5 office, or enact the rules in democratic institutions.
6 Canadian politicians as we at CSDI and other researchers have
7 found, face increasing threats and abuse online and offline.

8 We lack rigorous data about this in Canada,
9 but a comparative figure to give some context is in a 2024
10 report by the Brennan Center in the United States, which
11 found that 43 percent of state legislators had faced a
12 violent threat during their term in office and the preceding
13 campaign, much of it via social media. It's unclear how
14 frequently these threats come from foreign --- when made via
15 social media platforms, email, or other communications where
16 it's easy to disguise one's identity.

17 To give a figure that might provide some
18 insight on how often these are of foreign origin, in a recent
19 survey I did of 95 Canadian journalists, 15 percent said they
20 had faced threats or reputational attacks that they believe
21 originated from foreign actors. And that study on
22 journalists also illustrated that harms are not limited to
23 exposure to physical violence, 63 percent said the threats
24 and reputational attacks caused harm to their mental health;
25 43 percent said they seriously contemplated quitting
26 journalism as a result of them. And I'd add that in that
27 study these harms were disproportionately experienced by
28 women journalists.

1 A second element in addition to coercion, is
2 maligned funding. This is the illegal or illegitimate use of
3 money or other resources to amplify or silence views and
4 voices, and Heidi also touched on this. For instance, the
5 Commission has already heard about the recent U.S. indictment
6 of two Russian nationals accused of covertly directing funds
7 that were ultimately funneled to influencers based in the
8 U.S. and Canada.

9 And many jurisdictions have struggled to
10 ensure that social media platforms do not accept funds for
11 political advertising that contravenes the law or intent of
12 campaign financing regulations. And this has become much
13 more difficult, because actors can amplify content using
14 networks of fake accounts or other techniques and achieve the
15 goals of advertising or paying for promotion, without money
16 transfers.

17 The third element is deception, which
18 involves misrepresentation about who is communicating, or how
19 communication is being done, possibly in addition to
20 misleading or false content. For instance, Meta's policy on
21 coordinated, inauthentic behavior captures some of these
22 factors. It includes the use of fake accounts or other
23 deceptive techniques that are used to promote content or
24 evade the platform's terms of service. Meta has taken many
25 actions against coordinated inauthentic behaviour, a number
26 of them that involve foreign actors engaged in it.

27 Also, as this Commission has heard,
28 generative AI is used to create images or audio of people

1 doing or saying things that did not happen. But as noted at
2 the beginning, we also see the impersonation of websites or
3 documents of organizations, including news media, but also
4 electoral bodies, scientific institutions, and others.

5 I'll conclude with several policy
6 implications that arise from an emphasis on information
7 operations and these elements of coercion, maligned funding,
8 and deception.

9 First, if a foreign actor is involved in
10 information operations that involve these elements, we can
11 consider it to be foreign interference rather than legitimate
12 influence. However, communication that includes these
13 elements may be harmful to democratic process is regardless
14 of whether they are pursued by foreign or domestic actors,
15 and thus, policy to address -- policies to address them
16 regardless of their source, may fortify democratic goods.

17 That's important to consider when we
18 contemplate benefits of social media platform governance that
19 may not focus on foreign interference per say, such as the
20 proposed *Online Harms Act* currently before Parliament, which
21 I'm sure we'll be talking about.

22 A second policy comment. Multiple sectors
23 need to be involved in identifying, mitigating, and pursuing
24 accountability for information operations. These include
25 journalists and independent researchers, social media
26 platforms, and other digital services, and government
27 agencies. Each sector has different capabilities and
28 limitations.

1 When it comes to identifying information
2 operations journalists and independent researchers can often
3 bring probable cases to light. They frequently struggle
4 however do identify core coordination, or surreptitious
5 funding, or other forms of deception. Those challenges are
6 exacerbated by the decline in access to platform data that
7 journalists and independent researchers currently experience.

8 Social media platforms can provide
9 appropriate data to enable those investigations, and
10 additionally platforms are in a much better position to
11 identify inauthentic accounts and coordination, as well as
12 patterns and violations of their own terms of service.

13 Government actors, particularly those engaged
14 in human and signal intelligence, may have critical insights
15 needed to identify a nexus between communication and maligned
16 offline activities or threat actors. So a critical policy
17 issue is to structure information sharing among these sectors
18 to ensure it is both effective and rights protecting.

19 An element of this is touched on in the
20 recent Bill C-70 which provides the authority for CSIS to
21 share information with private entities, including social
22 media platforms. But we need to clarify -- or carefully
23 consider how that information sharing should occur and when
24 or how it should influence platform behavior.

25 When it comes to mitigation of information
26 operations, we should remember it is not limited to exposing
27 falsehoods or providing back checks or counter messaging.
28 Mitigation also includes mechanisms such as security support

1 for targets of coercion from lot enforcement, but also from
2 employers and others. Platforms' own policies on harassment,
3 inauthentic accounts, deceptive synthetic content, etcetera,
4 are also key to mitigation, and we need regulation to
5 encourage the ongoing improvement and fair implementation of
6 these platform policies in ways that fortify freedom of
7 expression.

8 Accountability for information operations can
9 partly be achieved through naming and shaming by journalists
10 and independent researchers. It also requires accountability
11 mechanisms by platforms and technology companies to deter
12 violations of their own policies and limit recidivism. And
13 it requires clear legal standards and capable government
14 enforcement.

15 So those are just a sketch of some of the key
16 policy issues and I look forward to further discussion of
17 them. Thank you.

18 **COMMISSIONER HOGUE:** Thank you.

19 **DR. LORI TURNBULL:** Thank you very much,
20 Professor Tenove. We're going to come to Professor Dubois.

21 **--- PRESENTATION BY DR. ELIZABETH DUBOIS:**

22 **DR. ELIZABETH DUBOIS:** Hello. Thank you.
23 And thank you to the Commissioner and staff, and everyone
24 here for the opportunity to contribute to this really
25 important discussion.

26 I am Elizabeth Dubois, an Associate Professor
27 and Research Chair in politics communication and technology
28 at the University of Ottawa, where I also run the Pol Comm

1 Tech Lab and I am a member of the Centre for Law Technology
2 and Society. And for the past decade, I have been focused on
3 trying to understand how technologies are integrated into
4 political campaigning, trying to understand how politicians,
5 journalists, civil society members and others make use of new
6 technologies as they try and advance their campaigns and,
7 within that, I have done studies on political bots, which was
8 the early version of AI we were afraid of in 2015.

9 I have looked at echo chambers and filter
10 bubbles. I've also explored online harassment and hate of
11 political journalists and, more recently, have been looking
12 at social media influencers and how they're emerging as new
13 powerful actors.

14 And all of these different things have, in
15 one way or another, ended up touching on disinformation and,
16 more often than not, foreign interference as well. And that
17 is because the tools and tactics that are used domestically
18 often get used in foreign contexts in very similar ways,
19 which brings me to my first point, that this is not so much
20 about the technology or the particular components of our
21 digital ecosystem, but the ways in which those tools and
22 technologies are used and integrated and how they're changing
23 and shaping different relationships among these political
24 actors.

25 So in my opening remarks today, I want to
26 talk a little bit about what our current digital media
27 ecosystem looks like. I think very often we try and focus on
28 particular tools, particular pieces of disinformation or

1 particular actors, and the reality is, we need to be thinking
2 about how those are all related to one another.

3 So in our current media ecosystem, we do have
4 social media, which get talked about a lot in the context of
5 disinformation and foreign interference. We've got a wide
6 variety of different tools in that social media bucket, but
7 we also have instant messaging tools and private and semi-
8 private spaces, things like Discord, Telegram, Patrion.
9 These are all becoming more and more integrated into our
10 information ecosystems.

11 And we also need to remember that this online
12 ecosystem is not completely divorced from our offline
13 ecosystem. In fact, information often flows on and offline
14 and back on and back off repeatedly. And it's the flow of
15 information through that system that I think is most
16 important for us to be thinking about when we're trying to
17 understand the risks and the ways to deal with foreign
18 interference and disinformation.

19 Beyond the online/offline divide, I want to
20 reiterate that there is this private/public divide. Often,
21 we are really tempted to think what we need to do is look
22 only at what is happening in the public spaces because we are
23 trying to rightly protect people's privacy. And there is a
24 really important role for private spaces, but we also know
25 that a large amount of disinformation content flows through
26 semi-private or completely private spaces, and that presents
27 unique challenges if we're trying to understand how
28 information flows through this complex network.

1 Now, I've spent a few minutes trying to talk
2 about this network to kind of sketch out what that looks
3 like. Now what I want to do is talk about why I think using
4 that framework to understand our information system is so
5 important.

6 So the first reason is because information
7 does not stay wherever it is placed in our environment. You
8 don't have information that only gets posted to Facebook. It
9 gets posted to Facebook and then it gets posted across a
10 variety of other social media, it gets chatted in a WhatsApp
11 group, it gets talked about in face-to-face communication.

12 We have a wide array of places that
13 information can travel and the systems that we rely on to
14 curate and control our information to help us deal with the
15 fact that there is far more information than any individual
16 can consume on their own. Those systems, they dictate what
17 information is likely to come up on our feeds or present as
18 most important, and they are controlled by important
19 political actors.

20 So in this case, there are political -- or
21 it's not political, sorry. Platforms, technology platforms,
22 that make a lot of decisions about what information is and is
23 not able to gain prominence. There are choices about which
24 content gets made prominent based on the location of the
25 creator of that content. There are choices that get made
26 about what advertising is allowed to be spent in an election
27 when it is paid for in a particular currency as examples.

28 The role of platforms extends beyond this, of

1 course, but I point to just a few examples here.

2 Beyond that, we also have some basic human
3 tendencies that influence the way this information flows.
4 Humans tend towards sharing information that is sensational
5 and emotional. Things that shock us are things we are more
6 likely to talk about across this wide network that we are
7 part of, and that's important because foreign actors
8 understand that these technology platforms, paired with these
9 social and psychological tendencies of humans, create a space
10 in which they can manipulate that situation to get
11 information to flow widely through that system.

12 So they know that information is not going to
13 stay just on Facebook when they've inserted that there. They
14 know that they can actually expect the content to flow much
15 more broadly.

16 And so what's happening in those situations
17 is foreign actors are able to start distancing themselves
18 from the content. They've made the initial placement, but
19 then that content flows through multiple steps across a bunch
20 of different platforms on and offline, private and public,
21 and we end up with a really hard job to try and trace that
22 content. We also end up not really being able to trace the
23 flow of funds spent to place that content and we end up with
24 content that initially was foreign supported looking very
25 domestic because it has been integrated into legitimate
26 domestic political conversations.

27 Notably, when foreign actors are placing
28 content in this ecosystem, understanding that it is going to

1 be spread and develop a flow that may not be completely
2 controlled, they are also understanding that that content is
3 going to show up for a given person's feed in multiple
4 different places, right. So the idea of capitalizing on this
5 networked media ecosystem we have really relies on this
6 assumption that we're going to get that information visible
7 to people in a bunch of different ways, and that capitalizes
8 on the fact that humans tend to believe things that they see
9 repeatedly, and so this makes the disinformation all that
10 more powerful.

11 And within all of this, we also know that in
12 the context of an election, only the highest-level threats
13 get called out. Only the things that seem most likely to be
14 a risk to the integrity of our election get called out. But
15 most of what I've just described is actually quite low-level
16 threats, each on their own.

17 What I've just described is a situation where
18 foreign interference can be used to create an environment
19 that is not trustworthy in and of itself. It can be used to
20 create an information environment where nobody knows what to
21 trust or who to trust, and the risk is that people will pull
22 out and become less engaged, less trusting or, worse, become
23 extremely distrustful of our elections, whether that is
24 founded or not.

25 Before moving on to a couple of notes on what
26 I think we can do to address this reality, I also want to
27 mention that we do know that foreign interference and
28 disinformation do disproportionately target marginalized

1 communities and, in particular, diaspora communities.

2 There's quite a lot of evidence to support that.

3 I want to also note that disinformation
4 campaigns online also often target tightknit communities,
5 regardless of whether they are marginalized or a diaspora.
6 Those tightknit communities can be very easy to get messages
7 actively flowing through because they are often communities
8 that are hyper-engaged and are using things like reaction
9 videos and collaborations to try and build up continued
10 community support. And so what we see in those situations,
11 for example, extremist content, conspiracy theory content,
12 these communities form and they start sharing the same
13 messages over and over.

14 So in my last couple of minutes, I want to
15 point to three things that I think are important next steps.

16 One is on the point of media and digital
17 literacy. There's plenty of evidence to suggest that
18 certainly pre-bunking and debunking are needed, but they are
19 nowhere near sufficient.

20 Ultimately, what we need from media and
21 digital literacy is an electorate that feels capable of
22 assessing and navigating this complex media ecosystem. The
23 ecosystem is not getting simpler. That's not really an
24 option, but developing better understandings of it might be.
25 Platforms need to certainly take steps towards self-
26 regulation, but self-regulation is, of course, not sufficient
27 either. We know, and have seen, in recent years that
28 platforms can drastically change their approaches with little

1 notice, and if that were to happen in the middle of a
2 Canadian election, that would be particularly problematic
3 because we wouldn't have the capacity to quickly address a
4 sudden influx of disinformation, as an example.

5 And then finally, in terms of communication
6 from the government to the public, I already mentioned
7 briefly the idea that our very high threshold leaves,
8 potentially, quite a lot of low level but often harmful
9 disinformation being shared, and I think we need to develop
10 better approaches to dealing specifically with those kinds of
11 threats which are not going to meet that high threshold but
12 are nevertheless important.

13 This is, of course, a very quick overview of
14 quite a lot of different things. I'm looking forward to the
15 discussion period. Thank you.

16 **COMMISSIONER HOGUE:** Thank you.

17 **DR. LORI TURNBULL:** Thank you, Dr. Dubois.

18 We're now going to come to Professor
19 Krishnamurthy. And just as a heads-up, to Professor Laidlaw
20 after that.

21 **--- PRESENTATION BY MR. VIVEK KRISHNAMURTHY:**

22 **MR. VIVEK KRISHNAMURTHY:** Thank you very
23 much, Madam Commissioner, Commission staff. It is an honour
24 to be here today and to be standing on the shoulders of such
25 wonderful colleagues.

26 My name is Vivek Krishnamurthy; I teach at
27 the University of Colorado Law School, and I work on the
28 intersection of technology and human rights, writ large.

1 So what I'd like to do in this presentation,
2 because we're talking about social media, this is a top 10
3 list of the challenges that are involved and taking action
4 against MDM, especially in a foreign interference context,
5 and provide an orientation to some of the tools that we have
6 and some of the trade-offs that exist, with the hope of
7 informing public policy decisions. And the TL;DR, to use
8 another tech term, "Too long; didn't read," is that there are
9 no simple solutions here, which is unfortunate. There's no
10 switch that we can turn, no simple law we can pass. I know
11 that my colleague, Emily Laidlaw, will talk about some of the
12 legal options.

13 All right. So let's start on the top 10
14 list, a minute per item, so here we go.

15 First challenge, adjudicating the truth.
16 This is really hard, right? If an element of what is
17 disinformation or misinformation is falsity, we need to be
18 able to determine that. And that's really hard.

19 Madam Commissioner, you're a judge and you
20 know that the judicial system takes years to get to the truth
21 of the matter. The half life of social media content is
22 about six hours. That's the window that we have if we're
23 going to look at the content and say, true/false, and do
24 something about it.

25 And sometimes the truth is just unknowable.
26 So we think about a distribution of content; there are some
27 things that are going to be obviously true, some things are
28 going to be obviously false, but a lot of things will fall in

1 the middle. So that raises a first question of what do we
2 do? But wait; there's more.

3 Number 2, which is how do we determine
4 intent, right? And intent is key in our law in many areas,
5 including in the law of expression, right? If the intent is
6 to defraud someone, that's one thing. If it's to make a
7 joke, it's another. And the precise same words or expression
8 could be used for different intent, depending on context. So
9 we need to make contextual determinations, and that too is
10 extremely difficult, right? We do that with a certain -- and
11 again, you can think about this in terms of distribution.
12 Some things are going to be very obviously intended to
13 deceive, other things maybe not. So let me give you a
14 current example.

15 There are these memes circulating in the US
16 election context of Donald Trump riding a lion. That's
17 clearly false; he's not riding a lion, he never has. It's
18 generative AI that's delivered this. Is that disinformation?
19 Misinformation? Is it analogy? A simile? Political
20 expression? What do we do with it? So there are a lot of
21 judgments that need to be made.

22 So I told you about the time horizon. Let's
23 talk about scale; this is number 3 on my list.

24 Every second -- every second, one hour of
25 video content is uploaded to YouTube. Every second there are
26 55,000 pieces of content being posted to Facebook; that's
27 four billion pieces of content a day. We don't have many
28 systems in society that need to make decisions at that kind

1 of scale, and that is an enormous problem. And if you think
2 about any large system of decision-making, you're going to
3 have type 1 and type 2 errors; false positives and false
4 negatives. Now, in the law of free expression, like in a lot
5 of other legal bodies, we think that a false positive is much
6 worse than a false negative. It is much worse that an
7 innocent person goes to jail than 100 guilty people go free.
8 Which is why free expression law provides a wide ambit for
9 expression, even outside the core of things that are, you
10 know, related to the search for truth or political
11 expression; you name it, right?

12 So we're going to have errors in these
13 systems. And think about this; a 1 percent error rate by
14 Facebook in its systems, right, means 40 million errors a
15 day, when you're talking about four billion pieces of
16 content, right? And there can be a lot of harm in that
17 relatively small error rate. Okay. So then the question is,
18 you've identified this stuff, and you've also attributed
19 foreignness, if that is something that we're interested in in
20 this context, what do you do, and how do you decide what to
21 do?

22 So a decade ago people talked about this in
23 terms of binary decisions. "Oh, it violates our policy or
24 the law. We take it down. It doesn't, we leave it up."
25 It's a bit more subtle now, right? We have a lot of
26 different kinds of tools in the tool bag. We can demonetize
27 content and say, "You can't make money based on this
28 content." We can down-rank it in the algorithm and say,

1 "We're not going to take it off but we're just going to give
2 it less exposure." We could deplatform someone and say,
3 "This is too far, you're off this platform." Right? We can
4 label it; we can factcheck it. And I think what we're
5 learning is that we do need different interventions in
6 different circumstances, but we don't often know what's
7 effective.

8 So sometimes -- there is some research that
9 shows that, you know, factchecking sounds like really simple
10 interventions that would always work. It doesn't always.
11 Sometimes it has the perverse effect of circulating the
12 underlying lie even more, right? It seemed like a good idea
13 to deplatform Donald Trump after the January 6 events in the
14 United States, but as a second order of consequence we got
15 more and more social media networks that don't follow any
16 rules as a result of that. So thinking about those -- and a
17 classic example, you know, that is familiar to you is the
18 instruction, "The jury shall disregard that statement."
19 Nothing brings more attention to a statement than that
20 instruction from the judge.

21 Okay. Next challenge; how do we decide what
22 content we should surface for adjudication? Do we have
23 platforms scan everything that's posted on a platform? Do we
24 demand that by law -- we just made a choice here, the
25 government made a choice in the *Online Harms Act* not to do
26 that, not to require affirmative scanning. Do we have a
27 flagging system, trusted flagging? And how do we do this
28 fast enough given that, again, it's the initial exposure to

1 the thing that's also misleading that often does the harm,
2 right? And the correctives are not very great, so -- and
3 there are trade-offs there; fears of surveillance, of
4 targeting minority communities, privacy risks, et cetera.

5 Next, number 6, measurement issues. How do
6 we know that any of this stuff works? So I had a professor
7 who said, "I went to law school because, you know, lawyers
8 don't like math," but here comes some math, right?

9 In order to assess the performance of a
10 system, we need to be able to assign a numerator and a
11 denominator, right, to say, you know, this is 96 percent
12 effective. So the numerator is simple; how many pieces of
13 content are being acted upon. And we can look at that
14 content, maybe, and see if those calls are correct. But the
15 denominator, right; what is the actual percentage of stuff on
16 a platform that falls below that, you know, legal threshold,
17 or whatever threshold we set? It's unknowable because of the
18 scale, right? Because of the costs that are involved in
19 trying to assess that, right? So we don't have good ways of
20 trying to measure the effectiveness of these interventions,
21 right? We have some data happening, there's some research
22 happening, lots of smart social scientists are working on it,
23 but it's very difficult, right? So policy intervention has
24 to grapple with that uncertainty. Okay.

25 So then what are the tools that we have,
26 right? I talked about the interventions in terms of the
27 choices that can be made, but the tools that we have to do
28 this all rely on automation, right? Because of the scale,

1 the only way that we can grapple with this problem is using
2 automated systems. Automated systems make mistakes, so we're
3 talking about algorithmic content moderation, but also to
4 build on points of my colleagues, platforms increasingly have
5 detected -- spent resources on detecting patterns of
6 behaviour, right. This is the ABC framework of Camille
7 François that Heidi Tworek spoke about in her remarks, and
8 Chris alluded to this, too, about coordinated in authentic
9 behaviour.

10 Well, we don't look at the content itself,
11 but the networks and the what computer scientists would call
12 signals that suggest that something bad is happening, that
13 this is an influence operation at work, and then we disrupt
14 that operation. But that, too, is hard.

15 There is always a great deal of evolution
16 happening.

17 Okay. So very quickly because I see that my
18 time is running very short, what should governments do?

19 I don't have an easy answer for you. I do
20 think that what we've heard from a number of my colleagues
21 about transparency is really important, and here's my -- I'm
22 going to -- my last point is that this is becoming really
23 hard because it's becoming politicized, right. Populists
24 around the world seem to think that large platforms are after
25 them and, therefore, platforms are disinvesting in this
26 because it's becoming politically hot for them to engage in
27 this kind of supervision.

28 And then I think there's a point about

1 encrypted messaging also being an important -- increasingly
2 important tool for political communication, and that
3 compounds a lot of these problems because we have no
4 visibility into what's being said. The only thing we can see
5 are the patterns of communication, and we have to use that to
6 detect malign actors, and that is a very hard problem.

7 Thank you.

8 **COMMISSIONER HOGUE:** Thank you.

9 **DR. LORI TURNBULL:** Thank you very much,
10 Professor Krishnamurthy.

11 We are going to come to Professor Laidlaw.

12 **--- PRESENTATION BY DR. EMILY LAIDLAW:**

13 **DR. EMILY LAIDLAW:** Thank you. Thank you,
14 Commissioner and staff, for the invitation today.

15 My name is Emily Laidlaw. I am a Canada
16 Research Chair, an Associate Professor in the Faculty of Law
17 at the University of Calgary.

18 With my time, I will discuss the role of law
19 in addressing mis and disinformation online.

20 This is a challenging area to regulate for a
21 variety of reasons, as has been noted so far.

22 The information ecosystem is complex. At a
23 content level, we're dealing with billions of pieces of
24 content, all kinds of different kinds flowing in multiple
25 directions across the globe all at once, and almost always
26 through privately owned companies. And at a consumer
27 protection level, these are data driven business, meaning
28 these businesses exist to collect, use and disclose

1 information for financial gain and push content to their
2 users to keep them active on their sites.

3 Regulators and courts generally lack insight
4 into their business models and data practices, which is why
5 the mention of transparency by my colleagues is so important.

6 So state-backed disinformation campaigns are
7 difficult to combat because they exploit precisely the way
8 that social media was designed to be used. States have teams
9 of people that are creating content, use AI-generated
10 content, spread their messages through bots, and the key
11 thing is that it eventually seeds to humans who believe it to
12 be true, and then amplify it further. That's why individuals
13 and institutions with influence are often the targets of
14 disinformation campaigns such as media, journalists and
15 politicians.

16 In law, most mis and disinformation is legal.
17 Jokes, memes, videos that distort the truth, sow distrust or
18 generate hate fall into that category lawful but awful. So
19 that leaves governments with two options, one, laws that
20 target narrow and specific types of disinformation such as
21 false claims about voting locations during elections, and,
22 two, laws that target the underbelly of disinformation. And
23 by this I mean laws that put aside concern about individual
24 pieces of content, which are more likely to raise free
25 expression concerns, and, instead, focus on consumer
26 protection aimed at the business model itself.

27 So here's the legal environment in brief.
28 There are currently two types of laws that address

1 disinformation on social media.

2 First are laws that hold individuals
3 criminally or civilly responsible for communicating certain
4 types of false statements. So for example, a broad crime of
5 spreading false news was held to be unconstitutional by the
6 Supreme Court in the early 1990s. However, narrower criminal
7 laws that have an element of falsity are constitutional, such
8 as hate propaganda, criminal defamation and fraud.

9 Several civil causes of action are about
10 falsity, such as defamation or false light, which are about
11 spreading lies that impact reputation. There are other laws.
12 You know, competition law prohibits false or misleading
13 representations or deceptive business practices. Several
14 election laws prohibit, for example, intentionally sharing
15 false information about a candidate with the intention of
16 affecting election results, for example, false biographical
17 information.

18 Importantly, many disinformation campaigns
19 are not just about false information. And my colleague,
20 Chris Tenove, he spoke about this. So rather, fake accounts
21 might be created to harass high profile individuals and shame
22 them into silence. Accounts are hacked and private photos or
23 videos are shared for the same goal of public shaming and
24 social upheaval. So an individual could be charged with
25 misuse of a computer program or harassment.

26 The challenge with all of these laws is that
27 they depend on identifying an individual or individuals who
28 are the bad actor, and they're not often easy to identify or

1 find, and the content itself might be spread by a bot, so --
2 even if there's a human behind it.

3 So all of these laws that I'm talking about
4 are about individual to individual harm, but the real harm
5 might be from the mob pile on, or the harm might not be to an
6 individual at all. Indeed, the heart of our concerns about
7 disinformation are the democratic threats posed by
8 interference with our ability to freely form thoughts and
9 opinions, which none of these laws address.

10 Current laws are narrow and only address a
11 small piece of the problem, but there's good reason for this.
12 The right to freedom of expression is fundamental. Any
13 restriction on the right should be narrowly construed, and so
14 it's only in exceptional circumstances that individuals
15 should be legally responsible for the intentional spreading
16 of false information, and even rarer for the things that we
17 believe to be true.

18 These laws all miss the core mischief, which
19 brings me to the second type of law that addresses
20 disinformation, and that is social media regulation.

21 And this is a short story. Unlike several
22 other jurisdictions, Canada has no comprehensive federal law
23 to regulate platforms. Provincially, Quebec has a law
24 requiring that platforms act when they obtain knowledge they
25 are hosting illicit content.

26 If we divide this into the two categories I
27 mentioned earlier, so content level laws and consumer
28 protection laws, at a content level, platforms have duties in

1 the areas of defamation and copyright, and parties can get
2 court orders to take down certain types of criminal content.

3 At a consumer protection level, Canada's
4 private sector privacy laws and competition law indirectly
5 can address the wider impacts of disinformation to the extent
6 that disinformation is driven by collecting and using data
7 and corporate power. That's all.

8 So were does that leave us? For the most
9 part, we rely on corporate self-governance. There is
10 significant pressure on platforms to act, and that has
11 created fatigue in the industry, as you can never win with
12 the government, the public or the advertisers. They have to
13 make judgment calls as we saw with the spread of, for
14 example, COVID mis and disinformation. And I think Professor
15 Krishnamurthy went into detail about what these platforms do.

16 Many platforms have what is best described as
17 national security teams addressing everything from foreign
18 policy to crisis response. In addition, each platform is
19 different, and some choose to do nothing at all, or can be
20 selective in what they do. So this creates an environment of
21 uncertainty in an area that -- and about something that
22 monumentally impacts democracy.

23 So I am solutions oriented. Where do we go
24 from here?

25 First, Canada needs to strengthen our laws to
26 regulate the business model of social media. One of the most
27 important pieces of legislation that can impact
28 disinformation is Bill C-63, although I want to be clear, the

1 Bill does not address disinformation directly.

2 Professors Krishnamurthy, Tworek and I were
3 on the expert group that advised the government on the
4 development of this law, and the view of many in the group
5 was that disinformation is one of the greatest threats that
6 we face, but, nevertheless, should not be addressed directly
7 in the law.

8 So why discuss the Bill? The Bill would
9 impose a duty to act responsibly on social media to mitigate
10 the risks associated with certain categories of content, some
11 of which are the building blocks of disinformation campaigns,
12 hate propaganda, violent extremism and terrorism and
13 incitement to violence. This is admittedly narrow, but I
14 think that a Bill that targets disinformation broadly, or at
15 least too broadly, risks being unconstitutional.

16 I should note that other jurisdictions have
17 taken on disinformation directly. So Europe's *Digital*
18 *Services Act*, for example, requires that large platforms
19 mitigate the risks to civic discourse and elections. So the
20 focus is not on content removal but about mitigating the
21 systemic risks of harm. The EU recently published guidelines
22 on what this means in practice.

23 The other crucial Bill I want to flag is Bill
24 C-27, which proposes long overdue amendments to our private
25 sector privacy laws and introduces a new AI Act. These laws
26 are important complements to online harms legislation because
27 it addresses the data and AI underbelly of these business
28 models.

1 I have just two short paragraphs left. I
2 know I'm at time. I do want to emphasize I'm not advocating
3 that these Bills should be adopted without amendments. My
4 point is that these types of laws are key to target the
5 underlying structure of social media that creates the
6 information environment we are in and should be a priority of
7 government.

8 My last point I want to make is that this law
9 is really only a small part of the solution here. I'm sure
10 we'll talk today about how we need a whole of society
11 approach for law. I think this means we need to slot into
12 other non-legal strategies. Law can be a way to incentivize
13 non-legal solutions, and I'll give you one example and then
14 close.

15 It would be too risky for the Online Harms
16 Bill to directly regulate disinformation; however, the
17 Commissioner, the Digital Safety Commissioner could be tasked
18 with an education role in the area of disinformation and
19 working with civil society actors. So these are the more
20 creative ways that law can be used to incentivise
21 accountability in this space.

22 Thank you and I look forward to discussion.

23 **DR. LORI TURNBULL:** Thank you very much.

24 We're going to come to Mr. Kolga.

25 **--- PRESENTATION BY MR. MARCUS KOLGA:**

26 **MR. MARCUS KOLGA:** Thank you, Commissioner
27 Hogue and staff, for this opportunity to participate in this
28 important roundtable alongside such distinguished experts,

1 and thank you to all of you for your great interventions and
2 your ongoing work to defending our democracy and safeguarding
3 free expression.

4 For over 15 years I've been monitoring and
5 writing about foreign information operations and
6 transnational repression, starting with Russia's 2007 effort
7 to destabilize Estonia's democracy through historical
8 manipulation, incitement of riots and state-sponsored cyber
9 attacks. I'm not an academic. I am a researcher, a
10 journalist and a human rights activist who's had the
11 privilege of advocating for and working with some of the most
12 courageous, prodemocracy leaders of our time, including Boris
13 Nemtsov, who was murdered nearly 10 years ago for his
14 opposition to Vladimir Putin. I also led Canada's campaign
15 for Magnitsky sanctions, working with Bill Browder, former
16 Justice Minister Irwin Cotler, and Senator Raynell
17 Andreychuk, which earned me a place as one of the first
18 Canadians named to the Kremlin's sanction's list in 2022.

19 My knowledge and experience are based on
20 nearly two decades of observing Kremlin influence operations
21 both here at home and abroad. For my work, I've been a
22 target of Kremlin transnational repression including a series
23 of death threats. Through my advocacy for vulnerable
24 Canadian communities, Ukrainians, Uyghurs, Tibetans,
25 Hongkongers, Taiwanese, Iranian Russian, Baltic and Russian
26 activists, I've developed deep concerns about their safety
27 and their freedom to express themselves safely in Canada, and
28 this is what I'm going to speak to you about today, the

1 activists, the journalists, and, indeed, entire communities
2 that are the targets of these tactics, and the urgent need to
3 establish a protective framework against foreign information
4 and influence operations and transnational repression.

5 This inquiry has heard about the threat of
6 Chinese government information and influence operations
7 targeting MPs, like Michael Chong, Kenny Chiu, and Jenny Kwan
8 for their criticism of Beijing's human rights abuses and
9 efforts to hold the regime to account. Regrettably, the
10 Kremlin's well-documented targeting of Deputy Prime Minister
11 Chrystia Freeland and MP James Bezan and other officials who
12 have been critical of the Putin regime have largely escaped
13 our scrutiny. However, their effects are evident in our
14 democratic processes, our media, and in the incitement of
15 anger and hatred by Russian state media and its proxies,
16 which has led to physical threats and acts of vandalism
17 against Canadians of Ukrainian heritage.

18 From elected officials to ordinary Canadians
19 who seek to express solidarity with victims of human rights
20 abuses, Canadians and our democracy are under threat from
21 foreign authoritarian regimes not just during elections, but
22 yearround.

23 Now I'd like to propose a framework aimed at
24 safeguarding vulnerable Canadians through protective
25 measures, deterrence and the disruption of foreign influence
26 operations addressing both immediate and long-term threats to
27 our democracy. I'll focus on four key areas.

28 First, measures to protect vulnerable groups

1 and individuals and prevent transnational repression; second,
2 measures that we can take to deter the perpetrators; third,
3 how we can disrupt these operations; and fourth, the need to
4 support and rehabilitate the victims of transnational
5 repression.

6 Now first, protective measures for vulnerable
7 groups and individuals. Preventative education and awareness
8 are key to combating transnational repression. Empowerment
9 begins with knowledge. Canada should develop and promote
10 education and awareness programs specifically designed to
11 counter TNR. These initiatives should include tailored
12 communications materials, regular seminars, and workshops for
13 journalists, activists and dissidents to help them identify
14 potential risks and equip them with strategies to mitigate
15 threats.

16 To address persistent and growing cyber
17 threats, we must promote enhanced digital security for
18 vulnerable communities. Cyber attacks have become a primary
19 tool for authoritarian regimes to monitor, intimidate and
20 disrupt the activities of their targets. To defend against
21 this, vulnerable Canadians need to be equipped with the
22 skills and resources to protect themselves from hacking and
23 other cyber threats. This includes comprehensive cyber
24 security training to help them recognize phishing attempts,
25 prevent malware installations, and understand evolving
26 digital threats.

27 To enhance personal and the personal legal
28 safety of victims of transnational repression, a centralized

1 national hotline dedicated to recording such incidents could
2 be established. This hotline should guarantee the
3 confidentiality of those who are calling it, provide a rapid
4 response to reported threats, coordinate with law enforcement
5 and intelligence agencies nationally to ensure thorough
6 investigations and appropriate actions. Additionally, free
7 legal service should be made available to vulnerable
8 activists and communities. This support would help them
9 address threats, including coordinated defamation,
10 disinformation and harassment campaigns orchestrated by
11 foreign entities.

12 Second, we must adopt measures to deter the
13 perpetrators. The effective implementation and enforcement
14 of Bill C-70 and related legislation are crucial. The
15 comprehensive implementation and eventual enforcement of
16 *Canada's Foreign Influence Transparency and Accountability*
17 *Act, FITAA* under C-70 by the new Commissioner is vital for
18 deterring foreign influence operations and transnational
19 repression. Currently, *FITAA* primarily targets elections and
20 government policy, but its scope should be expanded to
21 directly address foreign influence activities beyond
22 government-related processes, meaning efforts to coerce and
23 intimidate civil society actors and vulnerable communities.

24 Public accountability and exposure are
25 critical tools for both disrupting and deterring these
26 operations because transparency serves as a powerful
27 deterrent. Publicly identifying and condemning foreign
28 actors and their collaborators reinforces accountability. By

1 collaborating with investigative journalists and civil
2 society organizations to document and expose transnational
3 repression, we bring these activities to light and attract
4 the attention of law enforcement. This approach also raises
5 public awareness, educating Canadians about the nature and
6 scope of these threats. Increasing awareness and
7 consistently exposing perpetrators will further deter future
8 acts ---

9 **DR. LORI TURNBULL:** Sorry, Professor Kolga,
10 we've had a request to slow down a little ---

11 **MR. MARCUS KOLGA:** Yes ---

12 **DR. LORI TURNBULL:** --- bit for the
13 interpreters.

14 **MR. MARCUS KOLGA:** Yeah. Third, and perhaps
15 most importantly, we must develop and implement strategies to
16 identify, disrupt and terminate ongoing TNR operations. This
17 includes greater intelligence and law enforcement cooperation
18 specifically enhancing coordination between CSIS, CSE, RCMP
19 and local law enforcement. By coordinating resources and
20 expertise these agencies can work together along with
21 community groups and civil society to identify and disrupt
22 the activities of networks engaging in these operations.
23 This should include the establishment of a specialized task
24 force focussed on identifying and disrupting such operations.
25 Sending perpetrators a message that Canada will hold them to
26 account for their actions and it -- this will also contribute
27 to future deterrence. We should also foster and support the
28 development of community-based interventions involving civil

1 society and community organizations in response to TNR.

2 Community-based rapid response teams could
3 include community leaders, legal experts, media and
4 psychological counsellors to provide rapid support for
5 victims and to work with law enforcement and intelligence
6 agencies to quickly expose perpetrators and limit
7 psychological and reputational damage. This includes
8 community reporting mechanisms like those set up by the
9 Ukrainian Canadian Congress over the past two years that
10 allow community members to report incidents of harassment,
11 physical violence and vandalism directed at community
12 members.

13 The application of diplomatic pressure, both
14 unilaterally and multilaterally on states and entities in
15 transnational repression cases is essential. Again, the
16 rapid, coordinated exposure and disruption of these
17 operations and their collaborators are crucial to stopping
18 and deterring them. This includes the application of
19 Magnitsky sanctions on entities and individual perpetrators.
20 Canada has already taken a leadership role in sanctioning
21 Russian-state media entities and think tanks for their role
22 in supporting Kremlin information and TNR operations in
23 Canada. Canada should also now be enforcing those sanctions.

24 Global Affairs Rapid Response Mechanism has
25 also effectively exposed foreign authoritarian narratives and
26 tactics over the past three years, and they've coordinated
27 this work with our allies. However, the RRM is limited by a
28 small team of just eight analysts, restricting its capacity

1 to merely exposing foreign information operations. In
2 comparison, France has over 80 personnel dedicated to this
3 effort. Canada could adopt a similar model to Sweden's
4 National Agency for Psychological Defence, which was quickly
5 established in 2022 to defend Sweden against foreign
6 influence operations and cognitive warfare, and it employs
7 nearly 70 specialists. We should also be coordinating
8 sanctions among our allies and targeting perpetrators and
9 collaborators.

10 Fourth and finally, we must develop measures
11 to support and rehabilitate the victims of TNR. Among these
12 measures is psychological support. Victims of TNR often
13 endure severe psychological trauma. The threats and
14 harassment they face can disrupt workplaces and family
15 dynamics. Defamation campaigns can result in social
16 ostracization, loss of income and job insecurity. It is
17 essential to provide access to specialized mental health
18 counselling and therapy. Establishing and supporting peer
19 networks can help victims connect with others who have faced
20 similar repression fostering mutual support and resilience.

21 As we've heard during this Inquiry and well
22 before it, the threats posed by foreign authoritarian regimes
23 through transnational repression are real. Today I present a
24 brief overview of a comprehensive framework that my
25 colleagues and I will publish in the coming weeks, featuring
26 a kill chain to help governments, law enforcement and civil
27 society assess threats and implement tactics to disrupt and
28 stop such operations. We do need to move forward with

1 urgency and determination. The safety of our citizens and
2 the integrity of our democratic principles depend on the
3 actions that we take now. Thank you.

4 **COMMISSIONER HOGUE:** Thank you.

5 **DR. LORI TURNBULL:** Thank you very much.

6 And, Dr. Ghai Bajaj, please.

7 **--- PRESENTATION BY DR. SHELLY GHAI BAJAJ:**

8 **DR. SHELLY GHAI BAJAJ:** Hello, everyone. I'd
9 like to begin by thanking the Commission for inviting me to
10 participate today and to my fellow distinguished co-
11 panelists. I'm Shelly Ghai Bajaj. I have a PhD in Political
12 Science from the Department of Political Science at the
13 University of Toronto, and I'm currently a post-doctoral
14 fellow at the University of Waterloo and the Balsillie School
15 of International Affairs.

16 And today my remarks are grounded in
17 empirical and comparative research that focuses on the spread
18 of disinformation within racialized ethnocultural diasporas
19 within Canada. And our research focuses on three
20 ethnocultural diasporas, the heir of the Chinese and South-
21 Asian diasporas in Canada.

22 Our research also focuses on these
23 undertheorized private digital spaces. So we really focus on
24 these private, direct messaging apps, which are often
25 encrypted. I also speak about the research as a -- in
26 collective terms as an "our" because I have a very small but
27 might research team that works with me, but I would also like
28 to acknowledge the hundreds of focus-group participants who

1 shared their stories with us, as well as our survey
2 participants who took time to answer our detailed questions.

3 And there are three points that I would like
4 to use to kind of structure today's talk. The first is that
5 the spread of disinformation does not occur in a vacuum. And
6 the second is that mis and disinformation is not a universal
7 experience. And the third is that our policy responses must
8 consider these factors and cultivate social resilience and
9 capacity through building trust.

10 So before I get into the differential
11 experiences of disinformation, I'd like to zoom out a little
12 bit and paint a bit of a backdrop to provide some background
13 and context regarding how disinformation spreads. As Heidi
14 pointed out, this is not a new phenomenon, but there are new
15 dimensions to the spread of disinformation. The information
16 space is growing as an operational domain for a variety and
17 wide range of threat actors. It's also diversifying in terms
18 of the technological landscape, so the scale, scope and speed
19 for disinformation transfer and spread is rapid and it
20 reaches far beyond domestic borders. There are new tools
21 available, such as digital automation, data harvesting and
22 mining, predictive analytics, bot and troll networks, and, of
23 course, the introduction of new generative AI technologies.
24 And these all have function to kind of scale up the spread of
25 disinformation.

26 There's also a diversification of the social
27 media and digital platforms on which disinformation spreads.
28 Even within three years of studying disinformation, we see

1 actors. The role of big tech, for example, as well as
2 content and troll farms and networks, hacking collectives,
3 lone wolves, cyber troops and extreme mobilized idealogues
4 with a healthy dose of keyboard courage. So this is a really
5 kind of unwieldy space with a wide range of actors.

6 And the way we've kind of conceptualized it
7 in our research to make sense of this, and it's very much a
8 conceptual exercise, but it's one that also has what we
9 believe are implications for policy, is we've kind of parsed
10 out the spread of disinformation along direct pathways and
11 indirect pathways. So the direct pathways have been
12 discussed in several of my colleagues' comments already.
13 These information operations, coordinated disinformation
14 campaigns, foreign information manipulation through the use
15 of techniques like astroturfing, for example, the spread of
16 computational propaganda, which relies on these technological
17 boosts to amplify the spread.

18 But there are also indirect pathways, and
19 these tend to be overlooked, undertheorized and harder to
20 capture and measure empirically. And here we discuss the
21 spread of everyday disinformation, that everyday transfer,
22 that slow drip of problematic and disordered digital
23 information between and beyond election cycles.

24 Another kind of indirect pathway of
25 disinformation spread is that the spaces themselves are
26 inherently transnational, and they defy our understanding of
27 hard borders. Individuals now belong to multiple
28 intersecting and overlapping information environments. Of

1 course, disinformation also spreads in interpersonal
2 conversations and discussions, both online and offline. And
3 there's that movement that Elizabeth pointed out of digital
4 information that crossed platform boundaries. So it moves
5 through different digital spaces. This has often been called
6 kind of a cascading logic of mis and disinformation spread.

7 And this is important because it becomes
8 increasingly difficult and sometimes impossible to determine
9 the origins, intent and attribute responsibility for
10 interference to a single actor. And all of this is occurring
11 against a much wider backdrop of a growing democratic trust
12 deficit.

13 So the question becomes, is disinformation a
14 symptom of a larger issue of declining levels of trust and
15 confidence in political institutions, processes and small "l"
16 liberal democratic norms and values. So that's kind of the
17 context and the background of how disinformation spreads.

18 The second point I would like to highlight
19 are the differential experiences and impacts of
20 disinformation, and this is especially important to
21 understand in diverse and plural liberal democracies like
22 Canada. And this is kind of why our research really
23 highlights and focuses on the experience of ethnocultural
24 diaspora.

25 And there are a few points to highlight when
26 we consider these distinct experiences and impacts. First,
27 there are differences in the digital spaces that they use.
28 Ethnocultural diasporas use closed and private digital

1 spaces, specifically private and encrypted chat and direct
2 messaging apps at a higher rate than Canadian averages. This
3 highlights the diversity of these communities' information
4 environments. And as I mentioned, these spaces are also
5 inherently transnational. In our own survey, we found 80 per
6 cent of our respondents indicated that they belong to groups
7 that are international in terms of their composition.

8 And there are also differential impacts for
9 the spread of disinformation for these communities. And
10 these kind of manifest in two distinct ways. One is at the
11 individual level. Individuals indicated that they are simply
12 exhausted from the amount and the sheer volume of
13 disinformation that they encounter in a wide range of digital
14 spaces. At times, the labour of disinformation, correction,
15 encountering can feel burdened, cumbersome and exhausting.
16 There are also cultural dynamics to consider, especially when
17 deciding when to engage and counter mis and disinformation
18 that is shared.

19 But there are also stories of digital agency,
20 which I think is a source of optimism that we can return to
21 in hopefully the question-and-answer period. And there are
22 also collective and group level impacts. Ethnocultural
23 diasporas face a double-edged sword of disinformation. They
24 have disinformation circulating within their communities, but
25 also disinformation that targets their communities. So all
26 diasporas across the board have reported incidences of hate,
27 discrimination stigmatization, marginalization and sometimes
28 a threat to their physical safety or security, as well as the

1 safety of loved ones.

2 And it's not just disinformation from home
3 countries, but also far right anti-immigrant, xenophobic and
4 racist narratives that spill over from information
5 environments from the U.S. or from other foreign state
6 actors. And all of this should inform our approaches to
7 countering and mitigating the threat and harms of
8 disinformation.

9 And here I'll just kind of list a few bullet
10 points since I'm running out of time, but really, the best
11 defence is a strong offence. And I think it's important to
12 think beyond legal and regulatory frameworks as well as
13 technological responses, especially when we're talking about
14 these private digital spaces. There's a need to kind of
15 think about our solutions as also having a dual purpose of
16 building trust and resiliency in the long term.

17 Engaging civil society organisations.
18 They're often trusted intermediaries with these communities.
19 Focusing on digital media literacy, but also thinking of
20 other forms of literacy, for example, information literacy.
21 That's often considered in comparative research as one of the
22 more robust forms of literacies to counter disinformation.
23 And there's also the need to promote digital agency in these
24 spaces because they are private, so the best way may be to
25 empower individual users encountering disinformation in these
26 private and encrypted applications. Also, there's an
27 opportunity for Canada to leverage our rich third-language
28 diversity for information sources, especially for these

1 communities.

2 And I hope to address any outstanding
3 questions in the ---

4 **COMMISSIONER HOGUE:** Thank you.

5 **DR. LORI TURNBULL:** Thank you. Thank you
6 very much, and thank you, everyone. This has been a very
7 rich panel. We are moving toward a break, after which we'll
8 come back and take some questions and answers. But I wonder
9 if I can offer now just very briefly to everyone if you want
10 to make a quick response to anything that you've heard from
11 your colleagues on the panel, just while it's fresh in your
12 mind. And you can just wave in my general direction if you
13 want to do that.

14 Okay. That's just fine.

15 **COMMISSIONER HOGUE:** So we'll take the break.
16 More or less 30 minutes, because we have to go through all
17 the questions, so it can be a bit more than 30 minutes, or a
18 bit less, but stay around and we'll come back.

19 **DR. LORI TURNBULL:** Thank you, everyone.

20 **COMMISSIONER HOGUE:** Thank you.

21 --- Upon recessing at 10:26 a.m.

22 --- Upon resuming at 11:12 a.m.

23 **DR. LORI TURNBULL:** Welcome back, everyone.
24 Thank you very much, and thank you again to all of the
25 presentation -- for all of the presentations.

26 We've all learned a lot. I know my head is
27 very full and sore, and so I think that's a good point to say
28 we're going to turn this into a question-and-answer session.

1 So before -- I've got a list of questions
2 that I'm going to direct to one or two of you, but -- as we
3 go through, and we'll see how many we get through in the time
4 that we have. But before we do that, I just want to come to
5 the Commissioner to ask whether there are any questions you'd
6 like to put forward right now.

7 **COMMISSIONER HOGUE:** No, I think start with
8 the questions you have and we'll see at the end.

9 **--- OPEN DISCUSSION:**

10 **DR. LORI TURNBULL:** Okay. So I'm going to
11 put this one in the general direction of Mr. Kolga and
12 Professor Tworek.

13 Are there international models for countering
14 MDM that might be adapted to Canadian needs, and could you
15 give us perhaps pros and cons of the European approach to
16 something like the regulation of *Russia Today*?

17 So perhaps I could start with Mr. Kolga on
18 that one.

19 **MR. MARCUS KOLGA:** Sure. I think there are
20 several jurisdictions that we can look to that are doing this
21 work rather successfully. I'll start with Finland, and I
22 think a lot of people have talked about Finland as a model in
23 the past in terms of building long-term sort of generational
24 resilience against foreign disinformation, primarily Russian
25 disinformation.

26 And the way that the Finns are doing this is
27 by ensuring that future -- all future generations of Finns
28 have the digital media literacy skills, the critical thinking

1 skills to put into -- as part of their resources when --
2 their cognitive resources when they are going about their
3 everyday lives. And they do this not just by developing a
4 single course for a single year for students -- in a single
5 year for students, but this is something that is built into
6 the entire Finnish school curriculum.

7 So from kindergarten to the time students
8 graduate, every single subject that is taught to Finnish
9 students has a component of media literacy built into it.

10 So they understand, the Finns understand that
11 this isn't a problem -- it's not a new problem, it's not one
12 that is going away tomorrow, but it is something -- the
13 threat of disinformation to our societies and our democracies
14 is persistent and it's growing, and so they've taken this
15 approach. And it's something that I think that we should
16 definitely be looking at.

17 The Swedes, understanding the growing threat
18 back in, I think it was, 2018 or 2019, took the decision to
19 stand up the Swedish Psychological Defence Agency. This is
20 an independent agency within the Swedish government that is
21 staffed by nearly -- I think it's nearly 70 people. It was
22 established in January of 2022.

23 Its job is to coordinate Sweden's response to
24 foreign disinformation, both monitoring, exposing those
25 operations, but also coordinating among the Swedish military,
26 intelligence and law enforcement as well. And it's important
27 that it's -- that we underscore the fact that it is an
28 independent agency from government. And so it's well funded,

1 well resourced.

2 And by all accounts, speaking to colleagues
3 in Sweden, it is doing this work very, very effectively.

4 I would also suggest looking at Estonia.
5 Estonia has been dealing with Russian information operations
6 now for nearly 100 years. It has been, again, a persistent
7 threat in that country, to that nation.

8 One of the things that they do very well is
9 that they, rather courageously, exposed the domestic and
10 foreign collaborators, the individuals and groups that work
11 with Russia to try and undermine Estonia's democracy. And of
12 course, that sort of transparency does lead to, number one,
13 deterrence in the future, and, I think, long-term resilience.

14 Finally, I'd say Taiwan is a jurisdiction
15 that we should be looking to who has been -- the Taiwanese
16 have been doing this very effectively. It's worked very
17 effectively for the past decade or so given the growing
18 threat of Chinese disinformation targeting Taiwan.

19 They have a system in place that -- and
20 incredible coordination between civil society and government
21 whereby when Chinese disinformation is detected in the
22 Taiwanese information space, civil society is alerted. Civil
23 society then alerts government, the affected government,
24 whether it's an individual, a Minister or an agency. That
25 unit within government is then required to quickly respond
26 within two hours to that alert, that disinformation that's
27 being targeted against them, and respond with -- you know, it
28 could be a meme or something like that.

1 But Taiwan is doing this very effectively as
2 well. It's another jurisdiction that we could be looking to.

3 **DR. LORI TURNBULL:** Thank you very much.

4 I'm going to come as well to Professor Tworek
5 on this question.

6 **DR. HEIDI TWOREK:** Yeah. Thank you so much.

7 **DR. LORI TURNBULL:** And just to remind you,
8 international examples.

9 **DR. HEIDI TWOREK:** Yes. So obviously, we've
10 just had a whole host of them, so let me just extrapolate a
11 couple of other things.

12 I think one is to say that these kinds of
13 international examples show us that this isn't just about
14 taking down or removing material, it's actually about putting
15 material out there in a more positive way. So, for example,
16 in Taiwan during COVID that followed a philosophy known as
17 humour over rumour. So rather than worrying about
18 necessarily taking down a lot of information, it was to give
19 out how to counter it, but doing it in a way that was fun, so
20 using the Zhong Tai [*phonetic*] dog to talk about how many
21 spaces of distance you should have between yourself and the
22 next person.

23 So I guess the point of that is that this can
24 be fun as well as sort of more leaden, looking at specific
25 examples, and that's what we see from places like Taiwan.

26 So that also leads to the question of what we
27 might think of as more active media literacy. So we do have
28 examples, for example, in the UK where there's a small non-

1 profit which goes into schools and instead of just teaching
2 students media literacy, it gets them to actually produce
3 news articles, and what they've shown is that that can be
4 really helpful in countering cynicism.

5 One of the potential downsides of teaching
6 people media criticism is it leads to more general cynicism
7 of all media sources, whereas if we get people to actively
8 create material they see that there are choices about what
9 material you include and what you don't, and that doesn't
10 mean that it's not objective, that just means that it's the
11 kind of choice you have to make because of space constraints,
12 for example.

13 So I think we can then look at those kinds of
14 non-profit efforts that are more active in terms of creating
15 materials also in places like the UK, just to see about more
16 grassroots civil society organizations that we could be
17 encouraging as well.

18 Finally I would just say that one of the
19 other reasons to look at international examples is not just
20 to see the positive, but also to see some of the tactics that
21 are being used elsewhere. Many of the things that we just
22 described that are happening in Canada have happened in many
23 other countries, actually sometimes quite some years before.
24 And so that's another reason to have international monitoring
25 and scanning is to understand what's happening elsewhere and
26 to try and put systems in place long before it comes to
27 Canada.

28 **DR. LORI TURNBULL:** Okay, thank you very

1 much.

2 I'm going to pick up on something that Mr.
3 Kolga said in his remarks when he was talking about the role
4 of civil society. And I'm going to push this question to Dr.
5 Ghai Bajaj, if I can.

6 Can we expand the conversation we're having
7 on the role of government to include the role of civil
8 society as well?

9 **DR. SHELLY GHAI BAJAJ:** Right. So I'm a big
10 proponent of the view that the challenge of disinformation
11 requires a very multidimensional response, in terms of policy
12 and that whole-of-society approach. We often talk about
13 whole of society, but the details are often lacking in terms
14 of how we actually flesh out these whole-of-society
15 approaches.

16 In our own research, which again, focuses on
17 racialized ethnocultural diasporas, the role of civil society
18 organizations is key. These organizations still retain a
19 higher level of trust among these communities, and the kind
20 of key underlying theme of much of what I'm saying today is
21 the issue of trust.

22 They're also organizations that are often a
23 first or early point of contact for newcomer communities,
24 helping them to connect to resources in destination
25 countries. So, again, these actors have a high degree of
26 trust.

27 Also in our research approach, we adopted an
28 engaged kind of methodology of partnering with the community

1 organizations to understand the spread of disinformation
2 within these communities. What we were very kind of happy to
3 see is that these organizations are already doing a lot of
4 the work of countering disinformation within these
5 communities. They're also much more acutely aware of the
6 threats and harms that face their communities because, again,
7 these organizations are based on representation from members
8 with lived experiences in these communities.

9 They're also very much aware of the kind of
10 platforms that their community uses, they're aware of home
11 country dynamics, events, and the kind of political
12 inflection points that may trigger a surge of mis-,
13 disinformation activity within our communities. And in our
14 own research we also found that sometimes these community
15 organizations actually, in partnership with government
16 initiatives, effectively counter mis- and disinformation in
17 very concrete ways.

18 One example that comes to mind is the issue
19 of COVID vaccines. There was a government program which
20 provided funding for community organizations to educate their
21 membership on the benefits and potential drawbacks of
22 vaccines. What some of these community organizations did is
23 they brought in medical experts from within their
24 communities, and members who could communicate in the third
25 language, and they held Zoom sessions with their membership
26 where individuals were able to ask a trusted expert about
27 vaccines. And some organizations actually tracked uptake in
28 vaccines after these kind of sessions.

1 So this is just one concrete example, a small
2 example, of how we could potentially leverage these
3 organizations and bring them in as equal partners and trusted
4 intermediaries.

5 **DR. LORI TURNBULL:** Thank you very much.
6 That's really interesting.

7 In our conversations before this panel, we
8 all were talking about sort of whole-of-society approaches to
9 how to manage this. So I think that's kind of where we're
10 getting now, is what different kind of roles can government
11 and non-government can play.

12 I'm going to put a question to Professor
13 Laidlaw, and sort of in keeping with this theme, and I'm
14 thinking about the difficulties in trying to regulate, or
15 regulate or not deal with entities that are not confined to
16 Canada. And so how do we deal with something like TikTok,
17 WeChat? Like, what is the approach for a country like Canada
18 to take in that case?

19 **DR. SHELLY GHAI BAJAJ:** Yes. And I would say
20 that in the area of tech regulation this has always been a
21 challenge that most of the -- most of the companies in this
22 sphere are not Canadian based. I would -- I tend to be less
23 worried about it, partly because ultimately Canada can pass
24 the laws that it passes, and there might be difficulty in
25 enforcing it but, for example, TikTok has offices here,
26 right? And so there is capacity to be able to enforce some
27 of these laws against some of these companies.

28 Often just the act of some investigation by a

1 regulatory body, for example, the Privacy Commissioner
2 federally, and even provincially, have investigated companies
3 that are not located in Canada but their activities impact
4 Canadians. And I've made findings that the company has
5 failed to comply with Canadian law, and it's that active --
6 it's essentially naming and shaming the companies for
7 behaviour. Some of the companies ignore the recommendations
8 of these regulators, but many have fallen in line just
9 because.

10 And so it is always going to be an ongoing
11 issue in this area. I think that the way forward is that
12 we're increasingly seeing international standardization and
13 international coherence in this particular area. We're a far
14 way off from achieving it at the moment, but for example, in
15 the area of online harms you have a global network of online
16 harms regulators now that are kind of working together to
17 find commonality and alignment.

18 And so that doesn't deal entirely with
19 enforcement but it does address the issue that if we can
20 globally land on the same page, we are, you know, a few steps
21 forward and at least setting standards.

22 **DR. LORI TURNBULL:** Okay, thank you very
23 much.

24 I'm going to put one question to Professor
25 Krishnamurthy, and then I'm going to switch gears a little
26 bit.

27 I wonder if you could speak generally about
28 what role online anonymity plays in disinformation.

1 **MR. VIVEK KRISHNAMURTHY:** Sure. Thank you
2 for that question.

3 All right. So let's start with the law,
4 right, which is that the law of free expression recognizes a
5 right to speak anonymously, and it's extremely important in a
6 lot of contexts, right? And not just to speak, it's to seek
7 information anonymously. When you think about all kinds of
8 vulnerable people who do not want to be tracked when they
9 access information in a building like this one about
10 something sensitive, right? Anonymous political expression
11 has been key to the history of democracy in many countries,
12 including here, right? But like all things, it's a double-
13 edged sword, right? There are pros and cons to that, and
14 certainly anonymity plays a role. And I think there's
15 several challenges that anonymity poses, right? One is
16 attribution, right? It would be much easier if we knew
17 exactly who was saying what, and then we can say, "Oh, this
18 is foreign, right? Let's regulate that differently than
19 domestic," to the extent that's something we want to think
20 about.

21 My own view is that trying to regulate
22 anonymity online is a really dangerous thing to do in a
23 democracy. It's one of those cures that's probably worse
24 than the underlying disease. And I'd just like to sort of
25 turn this a bit into a question of what's at stake, which is
26 that we're acting in an international environment, and I
27 think it's really important for us to choose means that are
28 consistent with our values, and in choosing means to think

1 about the collateral consequences. So I do a lot of work
2 with NGOs in the global south, right? Where there's a trend
3 of taking a law that seems perfectly fine in a democracy,
4 right, where there's rule of law and we can count on the
5 public service, and in an authoritarian context it is really,
6 really repressive, right? Because of the level of discretion
7 that it leaves. So that's something else that we have to be
8 extraordinarily careful about in how we move in this space,
9 is that there are collateral consequences for democracy
10 abroad as well.

11 **DR. CHRIS TENOVE:** I just want to kind of add
12 a couple points to that, and maybe I don't know if it's a
13 slight difference of opinion. One I think that would go
14 along with what Vivek has said is that, some people are very
15 happy to have anti social activity attributed to them. And a
16 fair number of research has shown that just the introduction
17 of anonymity does not guarantee that people will avoid that
18 activity.

19 Another important point, I think, is to
20 distinguish anonymity from unaccountability, because we can
21 maintain people's ability to be anonymous, so free of harms
22 of having things linked to their identity, while still
23 ensuring that their use of digital services for instance, is
24 held accountable. So violation of terms of service,
25 violations of the laws of financing, a range of things can be
26 attributed to those accounts and action taken. And so, I
27 think, thinking about accountability it's important and it
28 doesn't need to line up with this anonymity issue.

1 **DR. LORI TURNBULL:** Thank you for that. That
2 is very interesting. I'm making so many notes I lost track
3 of what I was doing.

4 Okay. I'm going to kind of change a little
5 bit in terms of the focus, and I'm going to come to Professor
6 Dubois with a question.

7 I think we should go a few rounds on the
8 concept of the writ period, the election period, and the
9 difference between what we do in elections and that specific
10 period that is defined as the writ period, how we treat
11 things differently during that campaign period versus
12 ordinary time which is increasingly filled with campaign
13 material.

14 **DR. ELIZABETH DUBOIS:** Thank you. Yes.

15 So the being in an election or not in an
16 election has historically been really important because we
17 accept greater limits on what kind of speech we're allowed,
18 how much money we're allowed to spend on politics, how much
19 advertising is allowed to be done. We accept a lot more
20 restrictions in an election period than outside of one.

21 But what we've seen over decades, and this
22 predates social media and all of the fears of disinformation
23 in online context we've been talking about today so far,
24 we've seen a tendency towards what academics often call the
25 permanent campaign. And so, it's not to say that campaigning
26 looks the exact same year-round, but it does speak to the
27 fact that political parties and often third-party actors as
28 well, are actively in some form of campaign mode regardless

1 of whether that election period has formally begun.

2 We've seen some adjustments in the election
3 laws to kind of address the idea of okay, we can have a pre
4 writ period when it comes to political advertising for
5 example. And I think disinformation and foreign interference
6 is one area where we do really need to consider whether or
7 not there are enough differences to say we should be treating
8 them in one way in an election and in another way outside of
9 an election.

10 So for example, we're thinking about
11 disinformation campaigns, the ones that are most effective
12 across social media are often the ones that plug into
13 existing networks of actors, existing accounts that have been
14 created. Often if we're thinking for example of influencer
15 campaigns accounts that have been for years pouring resources
16 and energy into building up audiences, building up knowledge
17 of those audiences, and then maybe this information only gets
18 paid for at a particular point. But it's built up and made
19 use of all of those resources that were poured into it well
20 before an election campaign, well before the specific piece
21 of this information that caught our attention shows up on
22 anyone's feed.

23 **DR. LORI TURNBULL:** Yes, please, Professor
24 Laidlaw, go ahead.

25 **DR. EMILY LAIDLAW:** Yeah, thank you. And I
26 just want to build off of what Professor Dubois was saying,
27 because some of us are working on some projects on elections
28 and disinformation. And some recent work I was doing, I was

1 examining how you think of the election an election period in
2 law.

3 And the way I was approaching it was that a
4 lot of what happens is a form of slow violence and it's this,
5 as Dr. Ghai Bajaj was saying, it's the drip, drip, that
6 happens over a long period of time where the election itself
7 is just one inflection point. And so, if we're looking at
8 particular solutions, it's a distraction to just look at the
9 period of the election.

10 I mean there can be specific steps that can
11 be taken, but we've already seen that put in place in law by
12 saying, oh well, there shouldn't be false information
13 communicated about a candidate or a location. But that
14 doesn't address the underlying harm that we're talking about,
15 so it requires that whole of society approach to protect the
16 very specific arena of democratic elections.

17 **DR. LORI TURNBULL:** While I have got you can
18 I ask you specifically -- and then I see other hands. But
19 while I've got you, is there a role specifically for the CRTC
20 here?

21 **DR. EMILY LAIDLAW:** Let me push it more
22 broadly and say is there a role of government. And the
23 answer is, yes absolutely, we need government to lead in this
24 particular area. I think that what we're imagining is both,
25 discussion here about some commissioner body that leads in
26 bringing to life this whole of society solution to
27 disinformation, but there is also a role for regulators.
28 That's fine.

1 Is it the CRTC? I would say no. And the
2 reason I say that is that CRTC is a broadcasting regulator,
3 but social media is just fundamentally different than
4 broadcasting or any traditional media. And we've talked a
5 bit about that today about this is the creation of these
6 platforms that have been in a space that, you know, in terms
7 of internet governance it was about the free flow of
8 information and it has been global.

9 So the regulatory strategies have always been
10 a little bit different here. And when social media came to
11 prominence, we were always talking about companies that play
12 this gatekeeping or intermediary role that are about
13 facilitating often in the communication of others. So that's
14 a vastly different beast than the idea of a broadcaster that
15 selects the stories that they want to run, the prominence
16 they're going to have, the control that they have.

17 None of that is present in the area of social
18 media. We're talking about tech policy and human rights, and
19 we're talking about AI regulation and privacy regulation. It
20 is all of this together. So this is about tech policy and
21 that's its own beast. And so, I do think we need some sort
22 of body that takes a look at this, but it's not the CRTC.

23 **DR. LORI TURNBULL:** Okay. Thank you very
24 much.

25 I'm going to come to Dr. Ghai Bajaj.

26 **DR. GHAI BAJAJ:** I would just like to add to
27 what Dr. Dubois and Dr. Laidlaw we're mentioning. There's
28 also the element that foreign threat actors actively utilized

1 the period between elections to sometimes trial balloon
2 narratives, issues, topics, and themes, to see -- to kind of
3 prime individuals at that micro level, but also to see kind
4 of what narrative can stick. I like to think of it, kind of
5 as a Netflix strategy of disinformation content. You create,
6 create, create, and see what tracks. And then by the time
7 the election period ramps up there are narratives circulating
8 already within our communities, up within our society, that
9 end up being more salient and resonating with voters.

10 There are examples, for example, of Russian -
11 - the Russians using sub-Reddit threads trial balloon, as
12 well as infiltrating Facebook groups that are mom groups to
13 circulate anti vaccine disinformation. And a team of
14 researchers in the U.S. actually tracked COVID related this
15 information to the early narrative circulating in these
16 Facebook groups. So there is a lot of work to be done in
17 understanding that these -- the time and kind of clear
18 demarcations between elections and everyday context no longer
19 exists.

20 **DR. LORI TURNBULL:** Thank you very much. Mr.
21 Kolga.

22 **MR. MARCUS KOLGA:** Just picking up on that
23 and Professor Dubois' point about the permanent campaign.
24 Russia has been in a permanent campaign of disinformation
25 against Canadians for nearly 80 years.

26 We know this because a Royal Commission
27 investigated Russian information influence operations in this
28 country then, after a GRU Colonel operating at the Soviet

1 Embassy here in Ottawa, Igor Gouzenko, walked out of the
2 Embassy with a suitcase full of documents. And those
3 documents identified nearly two dozen Canadians, elected
4 officials, journalists, academics, others who were acting as
5 collaborators, as agents of the Russian government.

6 So they have been doing this work already for
7 nearly 100 years in this country.

8 And we know now from a recently released FBI
9 affidavit that they are continuing this work, not just in
10 Canada, but in the western world. This is not -- you know,
11 they may be throttling up and dethrottling between elections
12 in various different countries, but it is a constant
13 campaign. And that campaign in the western world and Canada
14 as well, as this FBI affidavit clearly indicates, is the
15 monitoring of our information spaces, of our political
16 environment to identify the most polarizing and divisive
17 issues of the day and then to whether, you know, create
18 disinformation, false information, to exacerbate those
19 divisions or even to create conflicts using those divisions.

20 This is what Russia is doing, not just in
21 elections, but all the time. And again, there's an FBI
22 released on September 4th of this year, that clearly
23 indicates that.

24 So you know, I think that idea that Russia or
25 China or Iran or any other adversaries are waiting around for
26 a writ period to start acting is a bit antiquated and makes
27 us vulnerable to their attacks.

28 **DR. LORI TURNBULL:** Okay. I -- oh, sorry.

1 Yes, please go ahead.

2 **DR. ELIZABETH DUBOIS:** I agree with so much
3 of what's been said, but I also do want to kind of push back
4 a little bit because there are differences with writ periods
5 and, in particular, the potential for disinformation that is
6 specific as a threat to a particular election. The closer we
7 get to election day, the more risky that is, the more
8 threatening that is.

9 And so I'm not -- I'm not saying that we need
10 to just think of election period or not election period, but
11 I do think we need to think about that really vulnerable time
12 right before an election day, right before the electorate
13 goes to make their decision because the closer we get to E-
14 day, the less time we have to correct disinformation or to
15 identify or to call it out in some way.

16 And so -- and maybe we'll get to this later
17 in the Q&A. There are definitely roles for government in
18 that particular period that I would say should be different
19 from a general time period.

20 **DR. LORI TURNBULL:** Okay. I'm going to make
21 sure that we come back to that point.

22 Yes, please.

23 **MR. VIVEK KRISHNAMURTHY:** So I'd just like to
24 surface a larger issue that I think is underneath this
25 conversation, which is, what's our decision space for dealing
26 with this set of challenges, right. Is it based on a writ
27 versus non-writ period or do we think bigger? Do we think
28 about how the setup of our institutions, which date back to

1 the 19th century, don't fundamentally work in a 21st century
2 information environment, right, where we've gone from
3 relative scarcity and high-cost production and distribution
4 of information to practically zero cost, right.

5 So I think we should be having much broader
6 conversations. Should we have an election in every riding,
7 you know, on a rotating basis, a constant period, which
8 makes us perhaps more or less susceptible? I haven't thought
9 about that idea, but it's the kind of thing that we should
10 think about.

11 I think, right, is that there's also a crisis
12 of democracy in general. People don't feel that systems are
13 working for them, and that makes us vulnerable to various
14 kinds of domestic and foreign malign influence, right. So I
15 think a much broader institutional conversation has to be
16 something on the agenda, which I know is beyond the scope of
17 this Commission, but it's something we need to do as a
18 society.

19 **DR. LORI TURNBULL:** Thank you.

20 I think that's a really interesting broad
21 point. If I could put you on the spot for a moment, do you
22 have a specific example of that that you're thinking about in
23 terms of in the foreign interference context? Is there a
24 specific aspect of our governance that makes us -- that is
25 antiquated in some way that makes us ill equipped to deal
26 with this challenge?

27 **MR. VIVEK KRISHNAMURTHY:** So I think looking
28 at our sort of democratic system, we have a series of

1 extremely high-stakes events, right, where the benefit of
2 interfering, right, with a relatively small investment can
3 pay huge dividends, right.

4 So I know the Commission's thinking about
5 nomination contests, right, and we've historically treated
6 them as private party affairs. Should we do that when
7 they're extraordinarily susceptible to being influenced,
8 right? That's just one example of the kind of institutional
9 reform that we might need to consider, right.

10 How does the electoral system work, you know?
11 It's something that we've talked about time and again in this
12 country provincially and federally, but I think a first pass
13 opposed system is particularly susceptible to manipulation
14 because, especially with our party structure, right, very
15 small shifts in the electorate can create majorities or
16 minorities, right. Is that something we should think about
17 as a form of inoculating ourselves to malign influence and
18 making the quality of democracy better over time?

19 So I think these are all larger conversations
20 that are related to this.

21 **DR. LORI TURNBULL:** Okay. Thank you.

22 Thank you very much. Okay.

23 I'm going to come to something that Professor
24 Dubois mentioned, and I'm going to open it up. I'm going to
25 start with Professor Dubois, if that's okay, and then I will
26 open it up to everybody else.

27 Thinking about what -- those specific things
28 that perhaps are appropriate to be done during a writ period

1 by government as opposed to other times and as part of this,
2 thinking, too, about what -- is there anything that could be
3 done to help people, especially in that electoral context,
4 that are targeted by disinformation, which is one of those
5 key vulnerabilities, I think, that does present itself, as
6 you say, and there's not -- perhaps not enough time to figure
7 out how to course correct and reveal what's really going on?

8 **DR. ELIZABETH DUBOIS:** Yeah. So I think that
9 there's a wide variety of different things.

10 I'm going to focus particularly on the
11 critical election incident public protocol and the panel.
12 And so the idea with that panel is this is a group that is
13 going to be able to determine if some incident, some threat
14 is a great enough threat to the integrity of the election
15 that it needs to be made public or some other group of people
16 need to be made aware of it.

17 And what we know about how that panel works
18 is that they have quite a high threshold for what should be
19 made public, and I think that in the context of an election,
20 as we get close to an election, it is important to have a
21 really finely tuned measure for what is a sufficient enough
22 threat. I don't think that the level of the threat is the
23 only thing. We need to think about how certain you are in
24 the threat.

25 We also need to think about how the public is
26 likely to respond to it if it is made public, but also if it
27 isn't made public and they later learn about it. And those
28 are things that are not always, from what I understand, fully

1 mapped out.

2 I think what we do know is that there needs
3 to be greater information given to people who are specific
4 targets in an election campaign, so politicians, for example,
5 who are targeted and don't even know they're targeted in a
6 campaign. That, I think, is something that is a relatively
7 easy correction.

8 Then I think there also needs to be a
9 requirement of a reporting after each election on what came
10 up but did not get made public.

11 And now, obviously, there will be things like
12 national security concerns that cannot be made fully public,
13 but some level of reporting back to the public on how they
14 did their job and why they did their job in that way I think
15 will build trust in a system that has a real lack of
16 transparency in it.

17 And then finally, I think we need to have an
18 additional process that is looking at those slow drip ideas
19 that what I've thought of and called like low-level ideas
20 that are consistent, that we know are happening, that are
21 never -- and often by design, not going to reach the high
22 threshold level, right.

23 These foreign actors are intentionally
24 keeping it low level so it doesn't get caught up. And so
25 there needs to be a different process or an additional
26 process that is designed to do that, and what exactly that
27 looks like, there's a variety of options, but I'll leave it
28 to others to contribute.

1 **DR. LORI TURNBULL:** Thank you very much.

2 Thank you.

3 I'm going to go to Professor Tworek.

4 **DR. HEIDI TWOREK:** Yeah, thank you so much.

5 I just wanted to build on what Professor
6 Dubois said and draw on some research that I did with Dr.
7 Tenove about online hate and harassment of political
8 candidates during the 2019 federal election.

9 So one of the things that we found, I think,
10 is the ways in which online harassment and abuse can overlap
11 with disinformation, and that can often reach a height during
12 an election campaign. But part of the reason that this is
13 important is not just because of the effects on the
14 candidates, but also because of what it does to their ability
15 to campaign.

16 If you have staff members who are spending
17 most of their time dealing with online threats and
18 harassment, you have less time to be out there doing the
19 proactive job of actually campaigning. So this can be a very
20 effective tool to draw resources away from actually doing the
21 act of what you're supposed to be doing during election
22 campaigns. So there are a whole host of things that one can
23 do to try to address that, but I just want to make sure that
24 that's a point on the table that sometimes online abuse,
25 harassment and threats can be a form of disinformation
26 campaign and we need to pay attention to that.

27 And I'd underline that one of the reasons we
28 need to pay attention to that, because if we want to have

1 people who are nominated or who are elected, who look
2 anything like the diversity of Canadian society, we do need
3 to pay attention to this because we also see in some of the
4 research that people who work on campaigns and are thinking
5 about maybe becoming elected officials are somewhat
6 discouraged by seeing what happens to people who look like
7 them or come from their backgrounds and receive these kinds
8 of threat. So it's a much broader question than also about
9 the quality of our democracy and who actually represents
10 Canadians.

11 **MS. LEILA GHAAHARY:** Could we just ask
12 candidates to slow down, please, when they're speaking?
13 Thank you.

14 **COMMISSIONER HOGUE:** I have a question
15 flowing from what has been said. Can you -- and it's
16 addressed to any of you -- can you think about a mechanism to
17 help the candidates that are running if they are the subject
18 of disinformation? We have heard a few witnesses in this
19 Commission complaining about what they went through, and
20 actually explaining all the consequences of what they went
21 through, and I'm wondering whether this is something that
22 should be addressed, and if so, what can be done?

23 **DR. CHRIS TENOVE:** I'll put a first -- oh,
24 Chris Tenove speaking -- a first few items on the table. On
25 the one hand, we do need what Professor Dubois mentioned
26 about when it's unknown, who the source is, or whether this
27 type of campaign against someone is happening. So that kind
28 of information is important. There are really important

1 rules for the political parties themselves to take on in
2 terms of providing adequate support and clear guidelines for
3 support to all of their candidates and staff. We heard in
4 interviews that that was not always the case. There can also
5 and should also be public commitments by parties not to have
6 them or their staff or those working with campaigns
7 contribute to and amplify abuse. And then there are
8 additional issues around the attention and quality of
9 investigation action by law enforcement, which from our
10 research suggests that in some areas it's quite good. People
11 who belong in other geographic areas might not have access to
12 law enforcement with the capabilities to understand what's
13 going on and intervene.

14 **DR. EMILY LAIDLAW:** And I think -- I'm Emily
15 Laidlaw and I'm going to complement quite a bit of what
16 Professor Tenove is saying. You know, I've done a -- quite a
17 bit of work, the research I've done on legal solutions to
18 online harassment, in particular during elections, and it --
19 I have to say, there aren't good answers and easy answers to
20 this. If we had a magic wand, we would have used it by now
21 to solve this problem. And so if we think of the different
22 mechanisms that are available, you know, the one mentioned
23 was a better understanding and training of law enforcement to
24 take seriously the concerns about very individual and
25 specific threats because often this does -- you know, this is
26 criminal activity. The challenge is that sometimes it is
27 particular individuals that have, say if it's on social
28 media, a huge number of followers, and so they have a large

1 voice and influence. And so they essentially are just
2 setting out the mob to attack individuals. And so the
3 conversations I've had with elected officials is that it's
4 just this steady stream of content that, you know, creates a
5 perpetual state of fear.

6 So the one answer that we have is -- at least
7 on the social media front, is better solutions through social
8 media to either, you know, be able to intercept and slow down
9 viral attacks, you know, and this is where they're assessing
10 certain patterns of behaviour. Maybe there needs to be
11 heightened attention by social media during the writ period,
12 during elections that they know that this is happening more
13 actively during that time, easier avenues to make complaints,
14 very clear policies to deal with harassment, taking into
15 account the specific kind of -- the intersectional issues
16 that often make particular people greater targets than
17 others.

18 So there are also organizations that are
19 trying to help candidates navigate this space. I can't think
20 of the name of the individual's organization right now, but
21 he's out of B.C. and we were on a panel together, and that is
22 specifically what he does is he works with candidates who
23 might be vulnerable to help them build their own resilience
24 and sense of power and knowledge about how to navigate this
25 so.

26 **COMMISSIONER HOGUE:** I have another question.
27 Some that testified in front of the Commission expressed the
28 idea that disinformation campaigns usually do not have a big

1 impact on the way voters are voting. Do you have any
2 comments about that, any knowledge that you would like to
3 share with us or ---

4 **DR. SHELLY GHAI BAJAJ:** So this has been an
5 issue that's been discussed in academic research, especially
6 in the space of disinformation. How much does disinformation
7 actually impact electoral outcomes? And there's a division
8 in terms of some -- there's some proponents that say it does,
9 and there's others that say, actually, it does not. But I
10 think it's more useful to think about how disinformation
11 works along a causal chain and the mechanisms that may
12 connect it to the outcome. It's also useful to kind of
13 broaden and widen the outcomes we link to disinformation. So
14 it may not affect a specific election outcome, but it may
15 erode social cohesion, it may increase polarization and
16 radicalization. It could just pollute the information
17 environment and make it so noisy that it becomes harder to
18 make a clear-eyed decision at the voting booth. So there's a
19 wider range of impacts of disinformation beyond just
20 elections. And if we think about the mechanisms that connect
21 disinformation and democracy, there are a lot of different
22 kind of intervening steps that we have to think about when
23 we're talking about building resiliency and countering
24 disinformation as well.

25 **DR. CHRIS TENOVE:** Yeah, and I think building
26 on that, I think this relates to another issue that was
27 flagged in the initial report from the Commission about the
28 belief by members of the panel five that the information

1 system was self cleansing in certain cases. Self cleansing,
2 from building on this discussion, would mean that there was
3 sufficient exposure and reaction to information that it
4 wouldn't be having, say, a measurable effect upon voting
5 outcomes.

6 There are a few reasons why that's -- that is
7 a kind of problematic term because we never see things fully
8 cleanse from an information environment and it's not
9 happening on its own, on itself. It's different groups are
10 actively doing things to limit the impacts. But I think it's
11 helpful to think about some -- a few additional elements.
12 One is that kind of building on previous comments, the issue
13 is not only whether disinformation shapes public opinion,
14 which then changes voting outcome. As Professor Tworek was
15 describing, there are also those direct impacts on the
16 ability of candidates and parties to be able to campaign,
17 including through, you know, threats, and also, these
18 violations of financing expectations that we have around
19 undue influence about which views are amplified or not.

20 I think there are certain types of things
21 where the information system is particularly unlikely to be
22 able to correct itself without some form of government
23 intervention. And so that could be -- first of all, that
24 kind of self-cleansing concept doesn't address the specific
25 harms around coercion, malign, financing and so forth. It
26 doesn't work in information ecosystems that might not get
27 access to this broader information. So if you're targeting
28 groups, say, on WeChat especially that are not English or

1 French language speaking, there will be little possibility
2 for that self-correction to extend to that space.

3 It doesn't necessarily work, and Professor
4 Dubois mentioned this, in those critical periods where you
5 need a really prompt response because it's on the eve of
6 election. And we have seen foreign actors engage
7 specifically in major operations right before elections
8 happen, particularly in blackout periods in some countries
9 where there isn't possible news media response.

10 And the last thing I'd say is in terms of
11 identifying the coordinated activities, the nexus between
12 online or communicative activities and offline activities or
13 threat actors, that those can be very hard for actors, let's
14 say journalists, independent researchers and others, to even
15 know are involved. And so those are circumstances, too,
16 where we might need government interventions.

17 And just to briefly mention, we -- a case
18 that was discussed earlier was the *Buffalo Chronicle* case
19 back in the 2019 election. And there was a very interesting
20 debate, some of which -- about how government was deciding
21 whether to intervene there.

22 One of the things that worked in that
23 scenario was, first of all, that Facebook was willing to look
24 at enforcement of its policies and address things, which we
25 don't necessarily know if all platforms will have those
26 policies and be willing to address them, so if they're not,
27 that would be another failure of self-correction. And also,
28 a small number of journalists with exceptional data access

1 and skills intervened and illuminated a lot about what was
2 happening. And BuzzFeed News, one of those, is no longer
3 around.

4 So we were relying on a very few number of
5 actors. We need to know -- think about what that capacity is
6 in civil society and news media to be able to participate in
7 those activities to self-correct.

8 **DR. LORI TURNBULL:** Thank you.

9 Professor Dubois.

10 **DR. ELIZABETH DUBOIS:** I would like to kind
11 of like one-up what both of my previous colleagues have just
12 said. I agree wholeheartedly.

13 I also just want to really call out that
14 sometimes when we're thinking about disinformation, we are
15 thinking only about the disinformation that convinces
16 somebody of an untruth or to have a different opinion or to
17 have a different behaviour, but very often the goal of these
18 kinds of campaigns are actually to silence people, to push
19 them out, to make them feel less welcome in their political
20 environment, to make them feel less relevant in their
21 political environment, to make them feel like they can't
22 trust their information environment whatsoever. And then a
23 lack of trust in your information environment does bleed into
24 a lack of trust in your political structures, the electoral
25 system.

26 And so there are these really important
27 knock-on effects that don't come from being convinced by the
28 disinformation, but do come from the disinformation being

1 very present in your day-to-day life.

2 **DR. SHELLY GHAI BAJAJ:** And just to piggyback
3 on what Dr. Dubois said, if the question is about the erosion
4 of trust, then perhaps the way we should think about the
5 question is just a slight shift in perception, and ask the
6 question instead of how do we counter disinformation threats,
7 maybe perhaps reframe the question as, how do we build more
8 trust.

9 **DR. LORI TURNBULL:** Could you answer that?

10 **COMMISSIONER HOGUE:** Yes, please, keep going.

11 **DR. SHELLY GHAI BAJAJ:** Well, as a
12 qualitative researcher, my first suggestion is touch grass,
13 talk to people, talk to communities because, as I said, they
14 have their own stories and experiences with disinformation.
15 Learn where the trust gaps are.

16 There are some sub-populations that are more
17 vulnerable to disinformation and more susceptible to
18 believing disinformation, and this doesn't just apply to
19 ethnocultural diasporas. There's also research, especially
20 from researchers in the U.S., that study ideological
21 predispositions towards disinformation susceptibility.

22 So understanding where these trust gaps are
23 happening within our diverse society is a necessary first
24 step to addressing the trust deficit.

25 **MR. VIVEK KRISHNAMURTHY:** This has been such
26 a rich conversation, and I'd like to tie some of what's been
27 discussed by the last few speakers to free expression theory
28 in law.

1 One of the underpinnings of the law of free
2 expression is, of course, this idea of a marketplace of
3 ideas, right, and that if we provide a wide latitude for
4 expression, the best ideas will eventually win, the truth
5 will come out.

6 I think we can think about a lot of what
7 we're discussing in terms of market failures in that
8 marketplace, and that has to do -- you know, we could look at
9 individual instances of disinformation or we could think
10 about the structure of these markets, right, of the
11 platforms, of the broadcasters, of the different sort of
12 media of communication and the different kinds of
13 intermediation that we have.

14 So that leads to sort of a bigger question
15 of, you know, rather than, oh, this particular piece of
16 disinformation's having this impact on this community, what
17 kinds of structures do we want to promote that improve the
18 information ecosystem in general, right. And this becomes a
19 conversation about design, right. How do we design these
20 systems? What are the kinds of values that we want
21 incorporated in them? What should they prioritize or not?

22 And those are actually much easier to
23 regulate constitutionally than the expression itself, right,
24 which is why I think the expert panel here in Canada and a
25 lot of international regulators have thought deeply about the
26 structure of platforms and structural interventions that
27 could improve situations.

28 So that's one thing I wanted to say.

1 The second concern that I have about the
2 conversation we're having is that we're fighting the last
3 war. What we see retrospectively is by no means what's going
4 to happen prospectively, right. There's extraordinarily high
5 rewards if you can figure out how to hack the current
6 ecosystem, right, to get your way.

7 So given those powerful incentives, right, we
8 kind of almost need to A-team and B-team this, right, and
9 think very carefully about what are the vulnerabilities,
10 systemically, that threat actors are going to exploit in the
11 next environment, right, or the coming environment, and
12 address those. And that's not, I think, just a standard, oh,
13 let's regulate and then innovate in that.

14 We are going to need, you know, a sort of --
15 a system of sort of continuous iteration, right, between
16 regulators, civil society, platforms, technologists, you name
17 it, to sort of keep adapting to what's a changing ecosystem.

18 **DR. LORI TURNBULL:** I have Professor Laidlaw
19 and then Mr. Kolga, please.

20 **DR. EMILY LAIDLAW:** Thank you.

21 And I mean, this is a great opportunity, I
22 think, to follow Professor Krishnamurthy about some of the
23 legal challenges and trying to work this out. And I want to
24 tease out his comments and build on it about that design
25 aspect, that what we're seeing in Europe and the UK, we're
26 seeing this in Australia, at least in the area of social
27 media regulation, is this shift to, okay, if we try to play
28 the whack-a-mole game of individual pieces of content, first

1 you're raising issues about freedom of expression. It's also
2 not going to be that effective, so we're looking at these
3 design-based mechanisms, you know, the design of social media
4 itself, which can include, you know, how the algorithms push
5 certain content, but also how do you structure your content
6 moderation systems.

7 Do you have an ability to complain about
8 content right during a live stream? When you complain, do
9 you hear back from someone? Fine, right.

10 But we're still dealing with the question of
11 what's included in that category, and can you broadly include
12 disinformation? And this is a very controversial issue.

13 I will say that, you know, for example, Bill
14 C-63, besides -- well, put aside the child safety component
15 here. Everything else is just straight criminal content.
16 And despite that, some of the polarization and lack of trust
17 that we're seeing widely in our society has made that
18 incredibly controversial, just the idea that criminal
19 content, criminal activity would be concluded in scope just
20 to deal with the design.

21 So then when you layer on top of that
22 something like disinformation, I think that -- you know, my
23 perspective is, in an ideal world where you have an
24 independent body that is taking on these issues in a
25 thoughtful way, absolutely we should have disinformation
26 included within scope, assuming that it's not involving
27 content removal, but it's looking at these other -- like it
28 could be a mechanism for that whole of society approach of

1 saying what are the different things that we could do here
2 that could help improve that environment.

3 But the problem is, the second you put a body
4 in place, it becomes a source of focus of that lack of trust
5 and lack of social resiliency. The European approach, what
6 they've included is election processes and civic discourse,
7 and their guidelines were recently published and state that
8 during an election period there need to be, essentially,
9 special factors, special mechanisms in place to deal with
10 those particular issues.

11 What was interesting to me is the capacity
12 for companies. So for example, they don't mention the
13 different elections, it's all elections. And I thought,
14 well, what are we going to do here? It is going to be
15 schoolboard elections? I've had conversations with First
16 Nations communities about some of the particular
17 vulnerabilities there and challenges they're having. So are
18 we going to have this, in particular, First Nations elections
19 and their communities? Like, how specific is this?

20 So we are facing, with billions of pieces of
21 content and a variety of elections, there is a very practical
22 question of what's achievable.

23 And I don't want to go on, I'll say one last
24 thing, which is I have wrestled with the notion of civic
25 discourse as being an idea here, because we all know what it
26 is. Again, in an ideal world we know what it is, but we
27 always have to think about how this can be weaponized and how
28 that might be used to clamp down. Some very strict

1 disinformation laws in more repressive countries have become
2 tools for the government to shut down expression that they
3 just don't like. And so that risk is very real, and we
4 should be aware of it when we're thinking of legal
5 mechanisms.

6 **DR. LORI TURNBULL:** Thank you very much.
7 Mr. Kolga?

8 **MR. MARCUS KOLGA:** I'm just going to briefly
9 go back to the original question, which was about impact on
10 elections.

11 What I think we need to do is broaden our
12 scope of where we're looking for that impact. It's not just
13 elections. We should be looking at the impact on our policy,
14 on our media, on our understanding, our information
15 environment. Because we know from documents; again, this FBI
16 affidavit that was released a couple of months ago, we know
17 that, for instance, Russia's primary objective in its
18 information interference operations is to affect policy. I
19 mean, elections are a part of that, but it's that
20 manipulation of our policy and of our public opinion on
21 important issues; that's what they're targeting, and that's
22 where we should be looking for impact.

23 **DR. LORI TURNBULL:** Okay, thank you.

24 All right, I've got a little bit of time
25 left. I'm just going to shift gears a little bit -- not
26 really. I'm going to come to Dr. Ghai Bajaj for a follow-up
27 question on something that you've raised a couple of times,
28 but I just want to give you a moment to expand on it.

1 The question is how can Canada's diaspora
2 communities be best supported to protect themselves against
3 misinformation, disinformation, these things we're talking
4 about?

5 **DR. SHELLY GHAI BAJAJ:** Thanks for the
6 question.

7 I've spent the better part of my last few
8 years thinking about this. I also think this is one area
9 that makes Canada a bit more unique than some of our European
10 counterparts when it comes to tackling mis- and
11 disinformation. And so while I think there's value in
12 extracting kind of lessons from comparisons with other
13 European countries, I think it's also very necessary to
14 recognize the limitations of how much we can draw from those
15 comparative lessons, because many European countries, like
16 Finland and Estonia, are incredibly homogenous, and they're
17 also unitary states as well, so they don't have that federal,
18 regional diversity either.

19 So this may be, actually though, an
20 opportunity for Canada to be a leader as well in how it
21 approaches building resilience among and within diverse
22 communities. And I think that we need to think about this as
23 kind of a -- in a step kind of approach process type of way.

24 As a first step, I think it's fundamental to
25 understand the kind of unique attributes of the
26 disinformation experience for these communities because
27 there's also a lack -- this is a new -- relatively new area
28 of research, recognizing that there's a difference in the way

1 disinformation spreads within these communities, and then
2 there's also a difference on the impact side of things. And
3 the way we kind of think about it in our work, is that these
4 communities face almost overlapping and nested
5 vulnerabilities to disinformation because there's
6 disinformation that they're tackling within their communities
7 that they're aware of. There's also disinformation against
8 their communities, and that can be foreign from home
9 countries, but it can also be domestic here. And in our
10 responses, and hopefully move towards empowering these
11 communities, we also have to acknowledge a long and
12 problematic history of many of these communities being overly
13 securitized and historically surveilled. And this also
14 shapes their opinions and preferences on what they see as
15 legitimate and acceptable government interventions and
16 government responses within their communities.

17 One finding from our focus group across
18 communities when we asked the question and posed the question
19 of how -- what do you think is the best way to deal with and
20 approach disinformation within your communities is, "Let us
21 handle it, hands off, we'll deal with it. We are aware of
22 the problem; we know what's circulating." And there's a real
23 hesitation, and I think that, again, goes back to the issue
24 of trust.

25 So in any of our responses with these
26 communities we have to kind of use trust as an organizing
27 framework. And there are a few concrete ways we can do this.
28 We can, again, partner with civil society intermediaries, as

1 well as other trusted intermediaries, like researchers. One
2 of the kind of first things when we talked about -- when we
3 opened our focus group discussions was, "How do you feel
4 about this research topic?" And many times participants
5 shared, "Thank you for asking us about these topics, because
6 we're struggling with this within our communities."

7 So, again, there's also a space for
8 researchers to play this role, and Canada has an opportunity
9 to build research capacity in terms of connecting with
10 ethnocultural diasporas and understanding the experience.

11 And then also there's an issue of third
12 language -- the third-language diversity that exists within
13 Canada. So much mis- and disinformation experienced within
14 these communities occurs in third languages. So there's also
15 an opportunity for us to leverage that diversity and -- in
16 our responses, in our counter-messaging, in our pre-bunking,
17 because debunking is found to be less effective. So, again,
18 building trust, reaching these communities in their preferred
19 mediums as well as their preferred modes of communication can
20 go a long way. And sometimes treating these communities as
21 equal partners, not as tools to help us fight disinformation.
22 I think that's also a widespread feeling among these
23 communities, that they're very much aware, they're very much
24 willing to talk about it. They're already doing a lot of the
25 tough work at the grassroots level, so how can we empower
26 them through institutions, through intermediaries, and
27 through also through outputs as well and building that trust.

28 **DR. LORI TURNBULL:** Thank you very much for

1 that.

2 I'm going to put a question to everybody, and
3 some of you have talked about this, kind of alluded to it in
4 some of your other comments, but I think it might be a good
5 question to pose together in the end, as we get close to that
6 kind of last couple of moments here. So I'm going to ask for
7 your assessment of the role of a national counter-
8 interference coordinator that could be placed in Public
9 Safety. What are your reactions to that? Do you see a
10 potential role for a coordinator like this; not really?

11 **COMMISSIONER HOGUE:** Vis-à-vis the
12 disinformation.

13 **DR. LORI TURNBULL:** Yes, please.

14 **MR. VIVEK KRISHNAMURTHY:** I'm happy to take a
15 stab at that.

16 Sure, why not, sounds good. But I think that
17 that misses the issue, right? It sounds like a reactive
18 solution, right? And we can talk about the institutional
19 setup and response to what's happening in real time, but I
20 think we have to shift the focus of the conversation, right,
21 to thinking much more holistically about the design of
22 information systems, how information moves in modern society,
23 and what we should do about that.

24 So it's a small intervention and, sure, let's
25 improve efficiency and coordination and have a central point
26 of contact, all great, right? But I think that misses the
27 point.

28 **MR. MARCUS KOLGA:** Well, as someone who's

1 operating in civil society, I would say that that would be
2 extremely welcome. It's something that some of us have been
3 calling for for quite some time because people like myself,
4 others, are on the frontlines trying to push back on these
5 information operations. So having a national coordinator
6 that's working with us, with law enforcement, with
7 government, with institutions like the RRM, and possibly
8 creating a domestic institution like RRM that looks at
9 domestic disinformation is something that is desperately
10 needed and one that, again, should be modelled after the
11 Swedish Psychological Defence Agency.

12 **DR. EMILY LAIDLAW:** I land somewhere in the
13 middle where I would say it really just depends on what the
14 role is. And I think that the blueprint you gave of the
15 Finish model, I think gives us an idea of what the
16 coordinator could do. But that's not what I imagine a
17 coordinator is. Like, a coordinator seems to me to be
18 somebody that is kind of linking across different sectors,
19 when what we actually need is a body that is leading on
20 addressing these issues, that has a -- and that's properly
21 funded and can push funds out to support communities with the
22 resources that they need that could develop and work with
23 social media in developing codes of practice.

24 I mean, the EU got where they did with the
25 Digital Services Act after having worked tirelessly with
26 industry to develop a code of practice, so it used its soft
27 mechanisms first.

28 So some sort of body that has that soft role,

1 I think, could be beneficial. I will say that I wouldn't
2 dissuade you from doing something like that. I do worry that
3 there was an attempt to do something like that in the United
4 States and I think, what, it lasted for a month and the
5 individual put in charge was destroyed. And it might be
6 great now; I shouldn't overstate it. But it's -- it will
7 become a target, and so there has to be a very clear
8 understanding of the risks associated with that.

9 I will say, too, is that -- and, again, I'm
10 always talking about this from just a legal and a tech policy
11 perspective, we're in desperate need of leadership when it
12 comes to tech policy, and this is all about the information
13 ecosystem. Some explorations about how to deal with this,
14 for example, in other jurisdictions have been, you need a
15 body that more broadly has a leadership role on just tech
16 policy, to be able to connect saying, "This is an issue that
17 is both competition concern and a privacy concern and an
18 online harms concern."

19 So I know that this is broader than what
20 you're talking about when it comes to disinformation, but I
21 think that this is more broadly about how do you look at the
22 information economy and the fact that this cuts across all
23 these different areas, and have somebody with the knowledge
24 and expertise, a body, that can have oversight of that and
25 have an in with the different organizations and groups to be
26 able to push this forward.

27 **MR. VIVEK KRISHNAMURTHY:** Very quick
28 intervention, just on the scale of what may be required,

1 which is that the UK enacted an Online Safety Act. OFCOM,
2 which is the British CRTC, hired, I believe, about 400 people
3 from the private sector, paying them tech company salaries,
4 to be able to have the expertise to start to implement this
5 legislation and to understand the systems, right? So I know
6 Mr. Kolga talked about 80 people in the Swedish agency, 70 in
7 the French one. But, you know, we're talking about serious
8 investments if we're serious about dealing with this
9 challenge.

10 **DR. LORI TURNBULL:** Thank you.

11 Professor Tenove, please go ahead.

12 **DR. CHRIS TENOVE:** Yeah. Two sort of
13 different points around this, one is that a national counter-
14 foreign intelligence coordinator at public Safety might be
15 able to help coordinate and deal with some of these issues.
16 Again, identifying information operations and getting them to
17 either government bodies, or also thinking about information
18 sharing, I think we have to -- and this is from CSIS but also
19 other parties. I think we have to really think through the
20 framework for information sharing. It has been heavily
21 politicized and the subject of court cases in the United
22 States. And we need a clear framework that, on the one hand,
23 does not shut down that communication, and on the other hand
24 does not facilitate kind of a *quid pro quo* or undue influence
25 by government actors over private actors when sharing it.

26 And then a very different point I want to
27 make is in addition to being interested in improving the
28 capacity for government monitoring identification of

1 information operations and responses to them, we really do
2 need to think about how to strengthen broader civil society
3 components of it. Some of which were addressed. I think an
4 important contribution is how do we support bodies outside of
5 government to have adequate access to data insight into the
6 information environment, and also the kind of human capacity,
7 ability to pay for people to do this.

8 We have, you know, one approach that has been
9 pursued, it has been discussed by the Commission already is
10 government support for the Media Ecosystem Observatory, and
11 they help facilitate a lot of really productive forms of
12 research and action. And so I think that's a good example.
13 But we, I think, should think about how to kind of diversify,
14 continue to diversify the forms of things that can build up
15 that civil society capacity.

16 **DR. LORI TURNBULL:** Thank you very much. I'm
17 going to go to Professor Tworek, please.

18 **DR. HEIDI TWOREK:** Yeah, thank you.

19 I mainly had put my hand up initially to
20 underscore what Professor Krishnamurthy said about the scale
21 of what is required, and also the extent of expertise. So I
22 just underscore that and would have used exactly the same
23 examples, that a single person will be very limited, and even
24 a dozen people will be quite limited, given the scale of what
25 might be required.

26 The second thing is the question of whether
27 this will deal with the point that Dr. Tenove and I raised
28 about the line financing and where that will sit. Does that

1 -- is that the case, for example, where more enforcement of
2 policies we already have with regard to something like
3 FINTRAC would be just as useful as creating something new?
4 So going back to the question in my testimony of when do we
5 need to have more enforcement of policies we already have on
6 the books, versus the temptation to create something new.

7 And then third, to talk about the broader
8 ecosystem, I think we need to bear in mind again the
9 incentives within this ecosystem which are also for a whole
10 host of non-state foreign actors as well to potentially
11 engage in disinformation. There's obviously the infamous
12 example of the Macedonians in the 2016 US election who began
13 with a fake post about people supporting Hillary Clinton and
14 they switched then to, you know, the Pope supports Donald
15 Trump. Why did they do that? Not for political reasons but
16 because they were making more money through it. And so we
17 need to, I think, think about those ecosystemic incentives,
18 and that won't necessarily be addressed by such a
19 coordinator.

20 **DR. LORI TURNBULL:** Thank you. Thank you
21 very much.

22 Did a hand just go up that I missed? No,
23 okay.

24 Okay, so we're really down to our last couple
25 of minutes, and so before we wrap up, I just want to come to
26 the Commissioner to ask if there's anything you wanted to
27 follow up on?

28 **COMMISSIONER HOGUE:** No, I think I need to

1 absorb.

2 **DR. LORI TURNBULL:** The last three minutes.

3 **COMMISSIONER HOGUE:** I need to absorb
4 everything that has been said, honestly.

5 **DR. LORI TURNBULL:** Are there any absolutely
6 last-minute pleas for something that you really wish you had
7 said that you didn't?

8 **DR. CHRIS TENOVE:** Maybe one broad remark.

9 I just want to highlight -- I have already at
10 various points said the social media platforms have a number
11 of adverbial policies in effect. And they're not necessarily
12 sufficient, they're not always appropriately enforced, but we
13 have an assumption that that will continue; that in
14 particular, these major US-based platforms are going to be
15 willing partners, willing to do things often voluntarily to
16 help protect Canadian democracy. And I think we do see some
17 changes in specific major platforms, as well as a
18 proliferation of smaller platforms where we can't have that
19 assumption. And so figuring out how we can backstop our
20 expectations and maybe even sometimes our past productive
21 relationships with harder regulatory measures is something we
22 need to consider, because we've been saying that this is an
23 ecosystem that's continually changing, and thinking about
24 very different potential behaviour, not only by, say, TikTok
25 and WeChat and others, but also by US-based platforms is
26 something that we need to contemplate.

27 **DR. LORI TURNBULL:** Thank you.

28 And I'm going to come to Professor Dubois,

1 please.

2 **DR. ELIZABETH DUBOIS:** Thank you.

3 Your comment, Professor Tenove, made me think
4 of the other kinds of companies that we haven't really called
5 out. So we've talked about social media platforms quite a
6 lot. We need to expand that to include all of these other
7 online spaces that are not necessarily social media
8 platforms.

9 I also want to call out, in the last few
10 minutes, the AI black box that we haven't discussed. There
11 are a lot of companies creating AI tools that are being
12 integrated into disinformation campaigns, and we need to be
13 thinking about how that is governed and what that looks like
14 in this ecosystem of different actors.

15 We already know that deep fakes have been
16 around for quite a while. We've seen examples of those test
17 balloons for astroturfing campaigns using generative AI
18 tools. I think we should expect conversational agents and
19 very smart chat bots to start entering the game as well. And
20 so thinking about the companies creating those tools, I
21 think, is also really essential.

22 **DR. LORI TURNBULL:** Thank you.

23 I'm going to give the last quick word to
24 Professor Krishnaworthy, please.

25 **MR. VIVEK KRISHNAMURTHY:** By goodness, a lot
26 of pressure there.

27 Okay, so I think a big takeaway for me is
28 that we need policy and social innovation that happens at the

1 speed of technical and threat innovation. So that means we
2 have to rethink how we do this. And something that strikes
3 me as really important, is creating public policy that
4 encourages innovation and experimentation in responses.

5 We don't really know what to do. We don't
6 know what's effective. We don't know the denominator or the
7 numerator, right? So we need to gather that information, not
8 just to for transparency, but trying different approaches.

9 **DR. LORI TURNBULL:** On that note I want to
10 thank everybody very much for the rich presentations this
11 morning. It's been a fascinating discussion. Thank you.

12 Thank you very much.

13 **COMMISSIONER HOGUE:** Yes, thank you very,
14 very much. It has been fascinating. I think it would be
15 possible to go on for -- probably for days, honestly. But I
16 really, really appreciate your generosity and you sharing
17 your knowledge.

18 So thank you very much.

19 --- Upon recessing at 12:30 p.m.

20 --- Upon resuming at 1:31 p.m.

21 **COMMISSIONER HOGUE:** So good afternoon, all.

22 We will start a new round and this afternoon
23 the title of the roundtable is "Electoral Integrity:
24 Nomination Contests and Leadership Contests", or, said
25 otherwise, "Intégrité électorale: Courses à l'investiture et
26 courses à la direction", certains diraient "courses à la
27 chefferie".

28 We have five guests this afternoon. I give

1 them -- I give you their names quickly. Professor Turnbull
2 will introduce them better.

3 There's Laura Stephen on Zoom; we have André
4 Blais. André Blais is just on my left; Marc Mayrand, also on
5 my left, in the middle. The other one on Zoom is Ken Carty,
6 I think.

7 It's Carty, hein? That's the way we pronounce
8 it?

9 And the last one is Mike Pal.

10 So, Ms. Turnbull, it's for you.

11 **--- ROUNDTABLE: ELECTORAL INTEGRITY: NOMINATION CONTEST AND**
12 **LEADERSHIP CONTESTS:**

13 **--- PANEL MODERATED BY DR. LORI TURNBULL:**

14 **DR. LORI TURNBULL:** Thank you. Thank you very
15 much, Commissioner, and good afternoon, everyone.

16 Welcome to our session. Thank you so much to
17 the panelists who are joining us today to share their
18 expertise on the topic of leadership contests and nomination
19 contests.

20 So I'm going to introduce everyone and I'm
21 going to introduce the topic very briefly, and then we'll
22 turn it over to the panelists to give 10, 15 minutes of
23 opening remarks. And so here we go.

24 So I am Lori Turnbull. I'm a Professor at
25 Dalhousie. I'm also a member of the Research Council for the
26 Commission.

27 Matthew Ferguson is going to co-moderate this
28 panel with me, and he is Commission counsel.

1 And just to kind of go around the room again,
2 and we are in a hybrid panel today, so on Zoom, Laura
3 Stephenson is a Professor at the University of Western
4 Ontario.

5 André Blais, in the room, is a Professor
6 Emeritus, University de Montréal.

7 Also in the room, Marc Mayrand, former Chief
8 Electoral Officer of Canada.

9 On Zoom, Ken Carty, Professor Emeritus,
10 University of British Columbia.

11 And in the room with us, Michael Pal,
12 Associate Professor at the Faculty of Law at the University
13 of Ottawa.

14 So welcome, everyone, and just a couple of
15 minutes on -- to set up our topic.

16 Nomination contests are one process by which
17 political Parties may choose the candidates who will
18 represent them in each riding in a General Election. These
19 processes can be thought of as the first step in an election.

20 Each political party has its own rules to
21 govern nominations processes, and these rules are enforceable
22 by the party rather than by Elections Canada. They are not
23 enshrined in law.

24 Elections Canada's role in nominations
25 processes is to monitor the flow of money to nomination
26 contestants through contributions which are regulated by the
27 Canada Elections Act.

28 So in her interim report, Commissioner Marie-

1 Josée Hogue writes that nomination contests can be gateways
2 for foreign states who wish to interfere in our democratic
3 processes. Nomination contests may be vulnerable to foreign
4 interference for various reasons. Potential factors might
5 include rules around membership and voting, voting
6 procedures, proof of citizenship and residency requirements,
7 or consistency of rules enforcement. And leadership contests
8 may face the same vulnerabilities for similar or perhaps
9 different reasons.

10 So we talked in advance as a panel about who
11 would go first, and we've got a kind of order to this. And
12 so we're going to start on Zoom with Professor Carty, and the
13 floor is yours.

14 **--- PRESENTATION BY DR. KENNETH CARTY:**

15 **DR. KENNETH CARTY:** Thank you.

16 Good morning, everyone. My name is Ken
17 Carty, and I'm a retired Professor of Political Science at
18 University of British Columbia. Much of my academic work
19 focused on the organization and operation of political
20 Parties, both here in Canada and in many other western
21 democracies.

22 With respect to questions of the candidate
23 nomination and leadership selection processes, my research
24 has taken me to observe large numbers of both in federal and
25 provincial Parties and from one end of this country to the
26 other.

27 Let me start by simply observing that no two
28 of these many events ever seemed alike. Each reflected the

1 political imperatives and incentives of the moment and the
2 many different, varied faces of Canadian political life. The
3 great variation in these processes and events reflect the
4 basic realities faced by our political Parties as they seek
5 to get themselves elected.

6 Now, here I want to be clear that I'm talking
7 about the wider party and its members across the country, not
8 the parliamentary caucus, which operates at a very different
9 level of our political system. Connections between the two
10 are often tenuous, and I would leave any comments about them
11 for subsequent questions.

12 Now, our political Parties are not typical
13 organizations, not ones that have a clearly-defined structure
14 or a regular pattern of internal authority relationships that
15 govern their decision-making. They're better described as an
16 almost shapeless network of semi-independent local
17 associations that provide a base for the electoral activities
18 of interested citizens. They're volatile and variable
19 memberships are made up of amateur volunteers whose temporal
20 commitments to them are limited and varied.

21 At their heart, party organizations in the
22 constituency grassroots are essentially electoral machines
23 designed to vacuum up votes in elections.

24 Invariably, the formal structure is a
25 reflection of the incentives provided by our first pass at
26 the post-electoral system. Most of what they do is shaped
27 and governed by that reality. And though the Parties have
28 altered the form and presentation of their machinery over

1 time, they've not fundamentally changed its basic nature and
2 tasks.

3 The Parties establish or sometimes simply
4 recognize local associations in each electoral district in
5 order to meet their central imperatives, that is, to nominate
6 candidates and to conduct constituency level campaigns on
7 their behalf.

8 Until recently, these associations and their
9 activities were unregulated. They're now registered at
10 Elections Canada for financial reporting purposes, but I
11 think that their essential nature has altered very little.

12 The Parties' overall framework can be best
13 described as a network of local partisan franchises. Each
14 constituency, interested citizens and activists, come
15 together in a local association to conduct the Parties' local
16 affairs, and it's true that, in general, the Parties are
17 quite agnostic about and therefore open to those who can join
18 and participate in their affairs. As a consequence, the
19 nature, strength and resources available to any constituency
20 party association is largely a reflection of the interests
21 and activities of those locals who are willing to become
22 involved.

23 This means that there's an enormous variation
24 in the presence and in the capacities of any Parties' local
25 associations. In some districts, the association may have an
26 active membership, with over 1,000 names on its register and
27 considerable funds in its bank account. In other districts,
28 the party may have only the most nominal presence, with no

1 regular officers or members and no funds at its disposal.

2 And in the same way, there can be great
3 variation in the nature of the members and their particular
4 policy or community interests that bring them into political
5 activity. Local associations in some places may be dominated
6 by a homogenous group determined to advance some specific
7 cause, but they may also just reflect the wide range of
8 interests that give life to their individual community. And
9 it means, of course, that a party's association, even in
10 neighbouring constituencies, may be very different creatures.

11 Given that the primary focus of the party
12 organization is electoral, the principal task and power of
13 these local associations has long been the identification and
14 selection of a local candidate, and then the preparation and
15 conduct of the constituency level campaign to be mounted on
16 his or her behalf.

17 Historically, the nomination of candidates
18 was done in public meetings with the local association
19 members coming and voting for the individual they preferred,
20 and this continues to be the normal practice.

21 Now, national party organizations, or the
22 leadership core of them, are known to try to informally
23 manipulate or even directly interfere with this prerogative,
24 and they do it sometimes. However, such interference runs
25 against the norms defining the rights to local party members.
26 And to the extent and place it occurs, they could often
27 generate considerable internal organizational conflict that
28 disrupts the nomination process and then the subsequent

1 campaign.

2 My point here is that one of the party's most
3 critical parts in the electoral process, that of nominating
4 its candidates, is largely governed and managed by informal,
5 open associations run by amateur volunteers. With no real or
6 even effective restraints on participation, it's relatively
7 easy for anyone interested in influencing the selection of
8 candidates and, therefore, a potential Member of Parliament,
9 to simply join the association and turn up at a nomination
10 meeting to vote.

11 Better still, if one has a particular agenda
12 or a preferred candidate, it's simply a matter of recruiting
13 many like-minded friends or community members to do likewise.

14 The addition of a block of new instant
15 members, instant participants, once described as partisan
16 tourists by Joe Clark, has the ability to determine a
17 nomination decision and, in so doing, the penetration of
18 these instant members can overturn the plans or expectations
19 of the existing association or even the national party
20 organizers trying to oversee the process.

21 Now, this process has meant that there's a
22 pretty regular pattern to the membership of local
23 constituency associations. Membership numbers typically
24 grow, often by a large percentage, during an election year,
25 precisely in order to facilitate individuals' participation
26 in the nomination process, and it then often falls, often
27 quite dramatically, in subsequent years as the participants
28 see no further reason for maintaining a membership.

1 Very often, those who stay active are those
2 who supported the eventual nominee. Those leaving are those
3 who backed a different would-be candidate.

4 So in this way, an association's membership
5 varies across electoral cycles, and it often comes to reflect
6 the personal supporters of candidates, especially those who
7 become members of Parliament.

8 This general portrait of fluid local
9 associations whose nomination processes are easily penetrable
10 ought to be modified by a recognition that nominations are
11 not contested in the majority of the major Parties' local
12 constituency associations. Many of the local associations
13 find themselves in non-competitive in their riding, and so
14 are unlikely or unable to attract good candidates or members
15 to an association nomination meeting. Others may be
16 dominated by incumbents who found ways to ensure their
17 unchallenged reselection.

18 This said, the very uncertainty that
19 characterizes such an open process makes it always possible
20 for election planning to be upstaged at the nomination level.
21 However, recent scholarship suggests that a bigger issue may
22 be the growing difficulty Canadian Parties are experiencing
23 in attracting strong candidates.

24 The franchise-like structure of our party
25 organization also has observable consequences for the
26 leadership selection process. Canadian Parties, we remember,
27 were the first in the Westminster Parliamentary world to
28 involve their members in leadership selections over 100 years

1 ago. The evolution of the classic leadership convention
2 system saw each constituency association sending a set of
3 elected delegates to a national convention and, as in the
4 case for nominations, this stimulated membership increases,
5 as individuals and groups flooded into an association in
6 order to participate.

7 In fact, membership increases were almost
8 always larger in leadership selection years than in general
9 election years for major Parties, and this was because all
10 electoral district associations local constituency Parties
11 were entitled to send delegates, and so weak as well as
12 strong associations saw their memberships increase. Indeed,
13 the teams of leadership candidates often targeted weak
14 associations, as they proved easier to penetrate by signing
15 up instant members and so capture the delegate positions.

16 Parties' decisions to move to all-member
17 voting for leadership selection has modified that dynamic in
18 recent years. However, there remains an organizational
19 propensity to weight membership votes in terms of the
20 constituency map to ensure that all parts of the country are
21 represented, so this still provides a limited window for
22 groups seeking to influence the outcome by flooding an
23 association's membership.

24 Now, let me just finish these short remarks
25 by suggesting the challenge of regulating these processes is
26 rooted in the extraordinary variation that exists in a system
27 of fluid organizational units populated by rather transient
28 volunteers that continually recreate themselves to meet the

1 demands of a shifting electoral cycle. This implies that any
2 significant regulation will involve transforming the
3 essential nature of Canadian party organization and life as
4 we know it.

5 Thank you.

6 **DR. LORI TURNBULL:** Thank you very much,
7 Professor Carty.

8 We're going to go to Mr. Mayrand, please.

9 **--- PRESENTATION BY MR. MARC MAYRAND:**

10 **MR. MARC MAYRAND:** Thank you.

11 **MR. MATTHEW FERGUSON:** [No interpretation]

12 **MR. MARC MAYRAND:** I start again. I'm Marc
13 Mayrand. I was invited to this roundtable as a former Chief
14 Electoral Officer of Canada where I was for about 10 years.

15 For purposes of our discussion, we've divided
16 up the tasks of certain aspects of today's topic. In my
17 case, I will deal with the legal regime surrounding
18 nomination and leadership contests and, in so doing, I will
19 identify briefly some vulnerabilities that I think of when I
20 look at this legal regime, and I will try to suggest some
21 possible solutions.

22
23 D'abord, the statutory regime. First of all,
24 political Parties are not required to register. They could
25 exist quite outside of the statutory regime. In that case,
26 they will not be recognized, their names won't be on ballots
27 and their candidates are called independent, but that is a
28 possibility. That's all I'm saying.

1 To be able to register and to be recognized
2 as a party, they have to meet a series of conditions. One
3 might wonder why you want to register as a party. There are
4 some material benefits.

5 First of all, you can get tax receipts for
6 contributions that will be received by the party. Also,
7 there's a reimbursement of 50 percent of their electoral
8 expenses after an election. That's not a small benefit.

9 Also, their name will be written on the
10 ballot next to the candidate. And another significant
11 benefit for registered Parties is to have access to the list
12 of electors that Elections Canada has.

13 Another benefit to being registered, which is
14 more or less current because of how media are evolving, but
15 under the Act, the Parties are allowed privileged air time
16 during the election period. It could be free or paid, but it
17 is a benefit that other non-registered Parties will not have.

18 Parties are borne, they evolve, and Mr. Carty
19 showed it. Everything is very fluid, the life of a political
20 party. They disappear, they merge, they are born again.
21 It's recognized under the law and, currently, there are 18
22 federally registered Parties, five of which have candidates
23 that are elected and sit at the House of Commons, but this
24 number varies constantly.

25 To be able to be recognized and registered
26 with Elections Canada, they have to meet some conditions.
27 They are quite basic. I would tell you that every time that
28 Parliament tried to restrict or to impose standards on

1 political Parties, the Supreme Court was very reticent to
2 recognize measures that would restrain the registration of
3 political Parties.

4 At some point, to be able to be a party, you
5 needed a certain number of members through the country, and
6 the Supreme Court decided that it was against the *Charter of*
7 *Rights*. So today, what remains after all this debate is that
8 to become a registered party, first of all, you have to have
9 a mission of being involved in political affairs. It's a
10 statement that is made by a party in a specific form. You
11 have to endorse at least one candidate and be able to support
12 him or her during the election. Third requirement is to have
13 at least 250 members who are voters, Canadian citizens of 18
14 years of -- or more.

15 If those conditions are met with some
16 governance issues, protection policy on privacy, the
17 requirement to have a financial agent, an account -- a
18 verifying agent, the party will be registered as soon as a
19 candidate runs in an election and will benefit from all the
20 advantages that we talked about earlier.

21 Those conditions have to be renewed every
22 three years, so Parties evolve quickly. So every three
23 years, they have to renew their registration with conditions
24 with Elections Canada.

25 Once registered or recognized, Parties have
26 to follow a very strict financial -- very strict final
27 regulations with some rules on expenses, contributions, and
28 it is a transparent system. With AI, there will be fantastic

1 analysis on funding of political Parties and expenses. Those
2 transparency rules, those restrictions, in my opinion, should
3 give confidence to Canadians that foreign interference will
4 not go through finances.

5 You will not see in Canada a billionaire
6 buying his presidency. You won't see -- as we've seen in the
7 past for leadership contests, people who had invested from
8 their own funds, which was illegal -- even if you're in the
9 leadership race, you cannot invest more than what the Act
10 allows. And this was confirmed by the Supreme Court several
11 times.

12 Outside of financial regulations, there are
13 some governance rules, the presence of some officers, some
14 members in leadership, but they are free to operate as they
15 will. Even in leadership contests and nomination contests,
16 the only requirement is that it be announced to Elections
17 Canada, but Elections Canada has no role to play in those
18 contests except for financial issues.

19 Generally, Parties set up who can be their
20 members, what are their rights, who can be in the nomination
21 or the leadership contest, and under which conditions these
22 candidates can be eligible. They will determine if, yes or
23 no, there would be a leadership contest in a riding and they
24 will decide if there will be a leadership contest and how
25 long because there are some amounts that have to be tabled by
26 participants and it discourages participation sometimes.

27 So Parties are in charge of deciding how
28 their leadership and nomination contests work. They

1 determine who votes, the dates of those events, when it
2 starts, when it ends, the nominations, and how they will
3 vote.

4 In some leadership contests, some Parties
5 have used preferential balloting, transferred votes which was
6 completely unknown in the Canadian system. They can also use
7 electronic voting. They have the choice to decide what
8 voting mode they have and what technologies they will use to
9 vote.

10 They will also decide how they will resolve
11 disputes. They will make declarations or confidentiality
12 declarations for the members, and the people renounce any
13 external recourse.

14 The private nature is reflected in the fact
15 that disputes are resolved internally, but other than
16 financially, there is no external surveillance, there's no
17 external control. But tribunals really rarely intervene in
18 internal party issues.

19 So except for the financial issues, Parties
20 are master of their destiny. That's the party culture. When
21 there's changes that are being thought of, you have to keep
22 that in mind.

23 The system has vulnerabilities. I think that
24 there are foreign interference risks that are possible, but
25 even looking that, you must not lose sight that the fact that
26 not all entities present the same level of risk.

27 Even within political Parties, Mr. Carty said
28 it earlier, local associations, riding associations, are not

1 all equal entities. If you think about regulation for
2 Parties, you have to keep in mind the diversity that exists
3 between political entities, between Parties and within
4 Parties, within the associations themselves.

5 It's nevertheless possible to look at a few
6 risks or vulnerabilities that I have in mind. First of all,
7 the issue of money. Could that be a factor in the leadership
8 race or the nomination contest?

9 Yes. It's a contest, but it's regulated.
10 It's an issue, but it's regulated. It's very transparent.

11 During a leadership race, in the last month
12 of the leadership race, each candidate has to publish, give a
13 report of funds given or expenses, and it is on Elections
14 Canada's site. So you can see how their finances evolve.

15 So on this side, I don't really see too many
16 risks. I think Canadians can trust their system about this.
17 For sure we always have to bear in mind that there are
18 emerging issues and we have to be ready to react quickly and
19 change the course if necessary to face those issues.

20 One of the risks that exposes Parties and
21 local associations to foreign interference, I believe, is the
22 issue of membership. In general in Canada, most Parties have
23 as a rule that you need to be 14 or older to be -- to support
24 the party and, in some cases, pay some membership dues.
25 That's all that's required. And membership in general gives
26 voting rights to the member.

27 This will bring up some issues in terms of
28 interference, but also, philosophically, would it be normal

1 that some people who cannot vote in an election can still
2 determine who the candidates will be for that same election.
3 I'm just throwing the question. It could be a source of
4 debate.

5 But we could consider some scenarios from
6 what we understand of what happened during the last elections
7 where a foreign entity could try to influence, take control
8 of a local association. In the case of a leadership race,
9 well, it's starting to be pretty ambitious and tricky to hide
10 that, but let's say it wouldn't be impossible. But in local
11 races, it is completely conceivable that a foreign entity
12 would support the membership of an important number of
13 participants who could, indeed, sway the results one way or
14 the other in the leadership race.

15 So would restricting membership be a solution
16 to that problem? I'm not sure. Would restricting the right
17 of vote in those events would be a solution? Maybe.

18 Another vulnerability is on the technological
19 side. We didn't talk about it as much, but it's still very
20 much there. It's a constant threat. We see it in the U.S.
21 Presidential campaign that's ongoing where some foreign
22 entities have targeted the websites of these electoral
23 candidates, so it's an omnipresent risk. And I would say
24 that I believe it is amplified by the fact that more and more
25 Parties, for good reasons, wish to use electronic voting to
26 choose their leadership candidate. However, the electronic
27 vote is, by nature, susceptible to be manipulated.

28 I cannot tell you what the solution would be

1 to that issue, but I believe that we would have to think, on
2 the one hand, it's very much an innovation from Parties to
3 use new technologies for voting but, on the other hand, how
4 to make sure that the risks that are linked to those
5 technologies are well managed also.

6 And I must say that in Canada in electoral
7 organizations, to my knowledge, there isn't a single
8 organization in Canada that encourages, at this point,
9 electronic voting.

10 So I'm told to go a bit faster, so I will
11 keep the potential solutions for later during discussions.

12 **COMMISSIONER HOGUE:** Yes, we'll have time to
13 discuss that. I do want to hear that.

14 **DR. LORI TURNBULL:** Thank you so much.
15 Professor Pal.

16 **--- PRESENTATION BY MR. MICHAEL PAL:**

17 **MR. MICHAEL PAL:** Thank you very much,
18 Commissioner, and to the Research Council and Commission
19 counsel for having me here. My name is Michael Pal. I'm a
20 law professor down the street at the University of Ottawa,
21 and I work on election law and Canadian and comparative
22 constitutional law.

23 So my remarks today, it's good to go after
24 Mr. Mayrand, will focus mainly on the legal regulation of
25 political Parties, and in particular how foreign
26 interference, I think, affects how we should consider the
27 legal regulation of nomination contests. And so a fair
28 amount of my remarks, I think, will touch on campaign finance

1 and political finance. That tends to be where the Act is
2 most robust at this moment, but there's more to be done.

3 So four main points I hope to make in my
4 opening remarks.

5 The first is about the general legal
6 framework applicable to Parties. We have a combination of
7 self-regulation and a legal statutory framework that, to some
8 extent, reflects public values that has evolved over time to
9 encompass more and more aspects of political Parties.

10 And so I know there's been a number of
11 proposals. I haven't followed every single minute of the
12 testimony to date, but proposals about external entities or
13 Elections Canada running nomination and leadership contests.
14 I would not be in favour of that for reasons that I'll
15 explain. I think the better option is to preserve self-
16 regulation but update the legal statutory framework to
17 account for the realities of foreign interference.

18 Second, I'll just speak briefly to values.
19 If we are going to amend the Canada Elections Act, what
20 values should animate those potential reforms?

21 We've got it in the title of our panel today,
22 electoral integrity, so that is one. Not a surprise.

23 I would also add the egalitarian model of
24 elections, which, as M. Mayrand mentioned, has been endorsed
25 many times by the Supreme Court of Canada, and I think is an
26 important guide for us here.

27 Third, I will provide some areas where I
28 think the Commission could consider proposing reforms to the

1 statute and some specifics around that.

2 And then fourth, if I have the time, one or
3 two comments about the role of the *Charter of Rights and*
4 *Freedoms* because a number of these proposals sort of directly
5 or indirectly end up restricting freedom of association or
6 freedom of political expression, so I thought I could add
7 something there on the *Charter*.

8 So turning to the legal regulation of
9 political Parties, I agree very much with the accounts given
10 by colleagues on the panel today. I would simply add that,
11 traditionally in the common law, political Parties were
12 unincorporated associations, much like trade unions, and so -
13 - and we still have a lot in the system that's a result of
14 that heritage.

15 Sort of very long story short, it became
16 untenable over time to continue to view political Parties
17 that way because they play such an essential role in our
18 electoral democracy as conduits to the exercise of state
19 power. And so we have arrived at a place similar to trade
20 unions where they are private entities, but very tightly
21 regulated according to the statutory framework. Federally,
22 obviously, that's the Canada Elections Act.

23 And I agree with my colleagues, the main
24 decisions remain private decisions of Parties to make about
25 who to nominate, who should be a leader. Essentially,
26 they're internal operations.

27 Where the legislative framework has evolved
28 is to try to address certain areas where it was deemed in the

1 public interest that these should not be purely private
2 decisions. Those rules involve political financing, also a
3 number of transparency measures like reporting and disclosure
4 obligations, various enforcement rules and so on. So we've
5 had an evolution in the way that the legal system has
6 approached Parties.

7 And so where we've arrived is a balance
8 between self-regulation, have not had pure self-regulation
9 for a long time, but neither did we have 100 percent
10 intervention by the state or by the legislature more
11 specifically.

12 And so nomination and leadership contests
13 reflect this balance as they are currently regulated, where
14 they are primarily for Parties as internal matters, but there
15 are robust rules particularly around reporting and political
16 financing, as M. Mayrand set out.

17 And so I think that this moment that the
18 Commission has gives us a chance to consider, in light of
19 foreign interference and what the Commission has learned,
20 whether we have still the right balance between private
21 regulation and public regulation -- private self-regulation
22 and public regulation.

23 We could imagine that if there is
24 interference in a party, okay, one of the risks is to the
25 party members themselves. They may suffer harm if there's
26 interference from a malicious actor. What foreign
27 interference suggests to us is there are risks not just to
28 the party members and the party itself, but to the broader

1 democratic system, potentially, and to the confidence of
2 voters in the electoral process. So what that indicates to
3 me is a need to update the current balance to deal with those
4 challenges.

5 Turning over the regulation of nomination or
6 leadership contests to an external entity such as Elections
7 Canada or some other body, I think, is problematic because it
8 undermines the ability of Parties to administer their own
9 internal affairs, so we should update to deal with the
10 reality of foreign interference, but without disregarding
11 that history legitimate private regulation by Parties of
12 their own internal matters.

13 So turning to the next issue around values,
14 okay. So if we are to update the legislative framework, how
15 should we go about thinking about that in general terms?

16 The title of our panel today involves
17 electoral or election integrity, okay. Colleagues in
18 political science will be very familiar with that term. We
19 used to talk more about free and fair elections. Now
20 electoral integrity has become the probably leading concept.
21 I'm happy to hear if my colleagues disagree with that.

22 Most academic definitions of electoral
23 integrity talk about global or international norms and
24 standards, okay. Professor Pippa Norris has a definition
25 that I think is probably the most widely used, so I would
26 suggest that indicates in proposing reforms, global standards
27 about what electoral integrity means should be top of mind.

28 Electoral integrity as a concept has also

1 very much been concerned with the entire electoral cycle, so
2 not simply the day of voting, but the entire process that
3 leads up to that, the actions of the electoral management
4 body, the actions of the Parties, and so on.

5 Second value -- much more we could say about
6 that, but for the sake of time I'll turn to the second value.
7 Second value is the egalitarian model of elections.

8 And so many rules that apply to political
9 Parties indirectly or directly restrict freedom of political
10 expression of individuals or freedom of association or
11 potentially even the right to vote. The Supreme Court has,
12 in a series of cases, upheld restrictions that it viewed as
13 furthering egalitarian politics.

14 And I think there's at least two different
15 senses -- or egalitarian regulation of politics, excuse me.
16 Two different senses of egalitarianism that the Court has
17 applied.

18 One is that there should be a level playing
19 field, okay. So there shouldn't be a different set of
20 regulations for small Parties or large Parties or nomination
21 contestants likely to win versus those who don't have much of
22 a chance, right. All regulated entities should be on a level
23 playing field.

24 The second is that large disparities in
25 access to resources or wealth can corrupt the political
26 process, and that's why we have rules like spending limits
27 and contribution limits. And so I think the egalitarian
28 model and the level playing field and being attuned to

1 disproportionate influence from those with access to
2 resources should be kept in mind as we think about potential
3 updates to the regulatory regime.

4 So third issue, how might we actually update
5 the regime. And so there's a number of different areas I
6 would suggest we should consider.

7 The first is around eligibility to stand as a
8 candidate and also as a nomination contestant. We have a
9 very open approach to who can stand as a candidate generally.
10 There are a number of new offences, especially since the
11 *Election Modernization Act* and recent legislative changes,
12 and maybe that will come out of the recommendations of this
13 Commission.

14 So one thing to consider is whether the
15 statute should prohibit individuals convicted of various
16 foreign interference offences from standing as nomination
17 contestants or candidates even if the party would otherwise
18 want to approve them to stand in that process.

19 Second area is around campaign finance, and
20 in particular contributions. I agree with M. Mayrand that we
21 have a relatively robust regime on contributions. Where
22 there has traditionally been a concern for domestic
23 malfeasance or foreign has been around non-monetary
24 contributions. The contributions can be in the form of cash
25 or its equivalent, or they can be contributions of goods and
26 services that should be accounted for at their fair market
27 value.

28 And so it seems likely to me that that is a

1 vulnerable area for foreign interference, potentially, to
2 occur, and I believe there's been some evidence to that fact
3 to date.

4 One way of addressing that is having those
5 who make non-monetary contributions assert their citizenship
6 in making the non-monetary contributions and the reporting or
7 to have the candidates or the electoral -- nomination
8 contestants, excuse me, or the electoral districts
9 association have to take some affirmative steps to ensure
10 that non-monetary contributions are only from those who are
11 eligible to make them.

12 The other area around contributions that I
13 would highlight for you is on the amount that can be
14 contributed, \$1,750 or \$25 -- goes up by \$25 every year.
15 That's the same amount for nomination contests as it is for
16 candidates. The spending limit imposed on nomination
17 contestants is much lower than it is in a general election.
18 I think it's 1/20th, according to statute, so it's about
19 \$25,000, \$24,000 in many ridings. But the amount one can
20 contribute is the same.

21 So the risk of a small number of individuals
22 who may not be eligible to make monetary contributions is
23 exacerbated in the nomination contest context because the
24 money goes a lot further because the amount that can be spent
25 is much less, okay. So we might consider whether it should
26 be the same maximum contribution limit for nomination
27 contests as for the general election contest for candidates.

28 Next point is around reporting and

1 disclosure. Leadership candidates do have to make reporting
2 -- do have to report during campaigns in an instantaneous
3 fashion for some of their reporting. Nomination contests
4 generally have to file robust reporting 30 days after the
5 selection date, so that is after the contest is over.

6 So voters and potentially the electoral
7 management body or those who would enforce the law do not
8 necessarily have access to the same information that is
9 transparent for leadership contestants.

10 That's partly, I think, historically because
11 we don't know when nomination contests occur. Some people
12 are appointed, some contests are long, some are short. But
13 it means there is less transparency around what is happening
14 because of the rules on reporting.

15 Next area is around the regulation of what we
16 call third parties, meaning interest groups or individuals
17 rather than small political Parties.

18 When I go to speak to my colleagues around
19 the world, the area of Canadian election law they're most
20 interested in is our regime around third-party spending in
21 federal elections. Much stricter than our comparable -- many
22 of our comparable democracies like Australia or New Zealand.

23 The third-party regime that applies in the
24 regulated pre-writ period federally when there's a statutory
25 election or in the campaign period does not apply to
26 nomination contests unless, potentially, they happen to fall
27 during the regulated pre-writ period. And so that opens the
28 door to malicious actors of various different kinds to engage

1 in third-party -- what would be third-party spending during
2 the writ or pre-writ period.

3 I'm almost at time, so just a final point on
4 the *Charter*.

5 Many of the reforms that might be considered
6 would have an impact on the *Charter*. I would simply say that
7 elections and nomination contests are supposed to be for
8 those who are within the jurisdiction and it would certainly,
9 to me, be a reasonable limit or pressing its substantial
10 purpose, at least, to try to restrict the role of foreign
11 intervention in nomination contests in particular.

12 So with that, I'll conclude my remarks, and
13 look forward to the discussion and questions. Thank you.

14 **DR. LORI TURNBULL:** Thank you. Thank you
15 very much.

16 We're going to go to Professor Blais.

17 **--- PRESENTATION BY DR. ANDRÉ BLAIS:**

18 **DR. ANDRÉ BLAIS:** Hello. My name is André
19 Blais. I'm Professor Emeritus at the Political Science
20 Department of the University of Montreal.

21 I will give my reflections on the rules that
22 were implemented by the different Canadian political Parties
23 to choose local candidates. I would also say a word about
24 the selection of the heads of Parties.

25 These reflections are inspired by my personal
26 conception of democracy, but, of course, I am also mindful of
27 the risks that current practices pose in terms of foreign
28 interference and the Canadian electoral process.

1 Let's start with the selection of local
2 candidates. Let me indicate how I think this selection
3 should be made according to my conception of representative
4 democracy.

5 The first question is, who chooses. And I'd
6 here like to make a contrast between the central party or the
7 local association. I believe the answer here is pretty easy.
8 It should be a combination of both.

9 A candidate will represent the riding if
10 elected and the local association should have a voice. The
11 candidate will carry the label of the national party, and the
12 national party should also have its say. The simplest and
13 most logical solution, in my opinion, is to let the local
14 association choose a candidate, but to give the central party
15 a right of veto to ensure that the party's candidate meets
16 certain criteria that are considered fundamental.

17 Should this rule be imposed on all Parties?
18 No. No, because there is room for debate about the
19 respective roles of the central and local branches in the
20 selection of candidates, and I believe that we should leave
21 it up to the Parties to decide which procedure they consider
22 most appropriate.

23 My reading of the current situation is that
24 the central office plays a much more important role than the
25 local one, but I'm ready to live with my opinions.
26 Personally, I believe that we should give more power to the
27 local level. It remains to be seen whether it is realistic.

28 As Professor Carty points out, several local

1 associations are practically non-existent. Their
2 preponderance at the central level also has an advantage in
3 terms of the risk of foreign interference. It can be assumed
4 that it is easier for a foreign group or government to
5 control or manipulate the process at the local level than at
6 the national level, which has more resources and an interest
7 in ensuring that the party's reputation is not tarnished. It
8 is probably for this reason that the foreign interference
9 attempts that we have heard most about seem to have been at
10 the local level.

11 While it is up to each party to define the
12 procedure for selecting candidates and, in particular, the
13 respective roles of the central and local branches in the
14 process, it seems essential to me that this procedure be
15 clear, transparent and established in advance rather than
16 decided on a circumstantial basis according to the interests
17 of the moment. Should such transparency be imposed, I am
18 hesitant to propose new regulations.

19 It is here that the media could play a
20 crucial role. If Parties know that their candidate selection
21 process will be scrutinized by the media based on criteria
22 such as transparency, they will be more inclined to adopt
23 more democratic rules.

24 If we accept that there is room for both
25 levels here, the local and the national, in the selection of
26 local candidates and that, at the local level, this implies a
27 vote of the party members, the question arises as to who has
28 the right to vote, to choose the local candidate. I will

1 leave aside the thorny question of how long a person must
2 have been a member to have the right to vote.

3 I will tackle the more important question,
4 that is, that I believe that the situation is different when
5 it comes to deciding who has the right to vote. My position
6 is that only people who are Canadian citizens and who are 18
7 years of age or older, that is, who have the right to vote in
8 federal parliamentary elections, should have the right to
9 vote in local candidate elections. It is the principle of
10 coherence, democratic coherence, that should prevail here.

11 I do not see how one can justify that certain
12 people would be competent enough to vote in one case but not
13 in the other. I believe that there is a fairly broad
14 consensus on this in the population as a whole. I therefore
15 propose to require Parties to give the right to vote in
16 elections to nominate their local candidates only to those
17 who have the right to vote in Canadian legislative elections.

18 I would like to point out that this would not
19 prevent Parties from being more inclusive in terms of their
20 membership. The rule would only apply to elections for the
21 selection of the local candidate and for the selection of the
22 leader. It would be easy to apply. It would put an end to
23 abusive foreign interference practices that have made
24 headlines and garnered widespread disapproval.

25 I understand that we want to encourage the
26 participation of as many people as possible in the electoral
27 process. I would personally be in favour of granting the
28 right to vote to 16 years of age, but it seems logical to me

1 to apply the same inclusion/exclusion rules for all federal
2 elections, including those related to the selection of local
3 candidates.

4 Finally, a word about the selection process
5 for the party leaders. I would apply the same logic. I
6 would invite Parties to be transparent in their rules, but I
7 would not adopt any coercive regulation, leaving, instead,
8 the media the task of scrutinizing the procedures and their
9 implementation. However, I would impose here a requirement
10 that only those who are eligible to vote in federal elections
11 be given the right to vote.

12 When looking at the Canadian electoral
13 process, all attention is generally focused on legislative
14 elections in which all Canadian citizens are asked to express
15 their preferences. It should not be forgotten that these
16 elections are preceded by other elections in which the
17 members of different Parties choose their candidates in the
18 different ridings as well as their leader. These final
19 elections set out the options between which Canadian citizens
20 will be able to choose in the general election. In short,
21 the process of nominating candidates is an essential
22 component of representative democracy.

23 The current appointment process seems to me
24 to be deficient in several aspects. As I explained in the
25 beginning, I would like to see a better balance in the powers
26 given to the local assemblies and the national executives.
27 In fact, the national level plays a preponderance role,
28 calling into question the principle of local democracy.

1 Procedures are often modified according to the interests of
2 the moment and, in recent years, we have seen some clear
3 cases of foreign interference in the process.

4 Faced with such a situation, one is tempted
5 to propose new regulation to fill the existing gaps. This
6 momentum must be resisted, however, partly because there is
7 no consensus on what constitutes a democratic practice and
8 partly because any reform is likely to have perverse effects,
9 as Professor Stephenson will probably point out.

10 Essentially, I am not proposing to further
11 regulate the appointment process. However, I would like the
12 media to play a more active role in the critical evaluation
13 of the procedures put in place by various Parties and maybe
14 the Commission can contribute to remind the media that they
15 will have a critical role to play.

16 There is, however, one exception. I believe
17 that democratic coherence requires that only those who have
18 the right to vote in parliamentary elections should have the
19 right in nomination contests. This requirement would have
20 the advantage of reducing the risk of foreign interference, a
21 small and simply, easy-to-apply regulation.

22 Thank you very much.

23 **DR. LORI TURNBULL:** Thank you very much,
24 Professor Blais.

25 And now we are going to come to Professor
26 Stephenson on Zoom.

27 **--- PRESENTATION BY DR. LAURA STEPHENSON:**

28 **DR. LAURA STEPHENSON:** Thank you very much.

1 I'm very happy to be able to join you today,
2 even if remotely.

3 My name is Laura Stephenson. I'm Professor
4 and Chair in the Department of Political Science at the
5 University of Western Ontario. I'm also the Co-Director of
6 the Consortium on Electoral Democracy, which has administered
7 the Canadian Election Study since 2019, and runs annual
8 public opinion surveys in Canada. My research focuses on
9 political behaviour and related institutions at all levels of
10 government.

11 In reflecting about what I wanted to say
12 today, two things stood out to me. First, it is obvious that
13 there are some avenues that foreign actors can use to
14 interfere in Canadian elections. There are points in the
15 processes followed by Parties to choose the candidates that
16 they put forward in election campaigns that are particularly
17 vulnerable.

18 There's no question that the rules each party
19 follows for their own nomination and leadership contests are
20 susceptible to manipulation by non-citizens or malicious
21 actors who want to make an impact on Canadian elections.

22 For some, it may seem like a simple solution
23 is to clean up these processes, so to speak, with additional
24 regulations for both nomination and leadership contests.
25 Professor Blais has suggested a specific reform of voting
26 eligibility. In a country where every citizen is guaranteed
27 the right to vote, it could seem like an easy choice to
28 prevent anyone ineligible to vote in an election from having

1 input into who stands for that election. After all, they
2 cannot even vote for them yet.

3 However, the second thing that is obvious to
4 me is that any sort of additional regulation in party
5 nomination and leadership contests can have unintended
6 negative impacts on political engagement. The reality is
7 that current levels of political engagement in Canadian
8 political processes are not very robust. In the last
9 election, less than 63 percent of eligible citizens voted.
10 It wasn't so long ago that turn out fell below 60 percent.
11 And the vast majority of Canadians are not a member of any
12 political party.

13 It is in this context that we need to be
14 aware that any steps taken to shape the rules of parties and
15 limit engagement in nomination or leadership processes can
16 have serious and potentially negative consequences.

17 Careful consideration of how and why people
18 are motivated to become involved in the electoral process in
19 Canada is therefore warranted.

20 There are two aspects to this point that I
21 would like to make. First, we need to recognize the
22 constraints experienced by parties and why the status quo
23 serves their interests. Professor Carty has explained many
24 of these so I will only briefly revisit those that are
25 relevant.

26 Ultimately, the goal of a party is to get its
27 members elected to direct, or in some cases change, policy.
28 In Canada we elect individual MPs to represent the interests

1 of their local constituents. So, this means that
2 understanding a community, and recruiting candidates from
3 within it, is an important part of the electoral process.
4 Electoral district associations, or EDAs, are designed to
5 take on this task. In most cases, EDAs are made up of loyal
6 activists who support the party. But the reality is that the
7 number of members in each EDA varies widely and is often not
8 high, and many are very poorly resourced. Many EDAs do not
9 even hold nomination contests because only one candidate
10 emerges.

11 In ridings where a party is historically
12 unpopular, there is a dual challenge; finding someone willing
13 to be a candidate can be hard, but finding people to support
14 them, who are willing to campaign on their behalf, is even
15 harder.

16 Nomination and leadership campaigns are
17 pivotal moments for EDAs because the opportunity to vote in
18 such contests attracts members to the parties. Parties not
19 only want this -- the dues, the enthusiasm, the momentum --
20 but they need members. Strong local campaigns need
21 volunteers and donations. For example, door knocking is a
22 resource-intensive task, and personal campaign contact is
23 known to help get votes.

24 So how does a party get those ever-necessary
25 volunteers? By welcoming pretty much anyone and everyone who
26 wants to get involved in the party. Attracting members
27 through nomination and leadership contests is something
28 parties rely upon for their central mission: to win

1 elections. Getting enough people involved, however that
2 might happen, can make the difference between winning or
3 losing a parliamentary seat.

4 To that end, it makes sense that the current
5 rules the parties in Canada follow are very inclusive.
6 Although the voting age is 18, the main parties do not
7 restrict their membership to that age, nor do they have
8 citizenship requirements. They also vary in terms of how
9 long someone must be a member before voting in a nomination
10 contest, as few as 2 days.

11 Even to be a candidate, membership length
12 rules vary widely. This inclusivity likely reflects the two
13 realities I've just stated: that a local candidate is meant
14 to be drawn from and representative of the local
15 constituency; and that parties both benefit from and depend
16 upon having more supporters.

17 The second consideration on this point is
18 that at the citizen level, inclusivity in the party
19 nomination and leadership processes has implications for
20 political engagement and representation. The consequences of
21 signing up members to take part in a nomination or leadership
22 process goes beyond increasing community representation in an
23 EDA. It also means that the entire electoral process is
24 accessible for interested people to get involved. This is
25 vitally important if we want those who are involved in
26 politics to represent the diversity of Canadian society, not
27 just the established elites or traditional interests.

28 If nomination and leadership contests do not

1 allow people to come forward and build their candidacies by
2 attracting new party members, then there is a real risk of a
3 party becoming staid and irrelevant for the community it is
4 meant to serve. If parties did not have volunteers, the
5 types of campaigns they would be able to run would be very
6 different from what we are familiar with.

7 Although I am not sure where I stand on
8 Professor Blais' suggestion to restrict nomination and
9 leadership contest vote eligibility, I do know that such a
10 restriction could be discouraging to future voters; those who
11 have yet to come of age and those who are not yet citizens.
12 Both groups are potential voters whose future engagement in
13 Canadian democracy is uncertain.

14 We know from research that one's sense of
15 duty is a significant factor in electoral participation. We
16 also know, from the documented decline in both duty and
17 engagement in younger generations, that duty is not something
18 that can be easily manipulated. Other levers are needed to
19 motivate people to get involved in politics. Feeling like
20 one can make a difference, or having a sense of efficacy,
21 provides an important incentive to get involved. The
22 excitement that one feels from being part of a nomination or
23 leadership contest, contributing to a key stage of the
24 democratic process, can be pivotal for someone in terms of
25 political socialization. And such an experience with the
26 electoral process can carry forward to shape how one sees
27 politics and how relevant they judge it to be for themselves.
28 When it comes time that a person is eligible to vote,

1 socialization experiences become invaluable.

2 Given what we know about trends in turnout
3 across generations, and given that Canada is a society of
4 immigrants, this point cannot be ignored.

5 Consider as an example this scenario. A
6 family moves to a riding where they become part of a large
7 ethnic community. They are excited to be in Canada, but
8 unfamiliar with the political system. Nominations for being
9 a candidate in the next election are opened by a major party.
10 One of the community members decides to run for office, but
11 they are realistic, they know it will be an uphill battle
12 against the incumbent. They know that recruiting supporters
13 will be vital not just for the nomination contest, but also
14 their campaign. So, they gather supporters and build
15 momentum and sign up new members for the party so that they
16 can vote in the nomination contest to help them win. These
17 new party members are enthusiastic people who likely have not
18 yet been involved in party politics, either because they were
19 never interested before or because they were, or are,
20 ineligible to vote. And now they can be part of making
21 something happen that would benefit their community. Their
22 enthusiasm is likely to be a stepping stone to future
23 engagement, building a sense of community and efficacy that
24 can carry forward.

25 If, on the other hand, nomination and
26 leadership contest rules are tightened and become more
27 restrictive, the likelihood of an EDA even attracting a
28 community-based candidate with new ideas and enthusiasm to

1 get involved fades. And all those potentially efficacious
2 new party members will not get to experience party politics
3 firsthand and will not generate enthusiasm for the political
4 process.

5 So, to sum up, my caution is that the more
6 restrictive nomination and leadership contests become, the
7 more the inclusivity and accessibility of our democratic
8 process is weakened. Two things should be considered.

9 First, the vulnerability of the current
10 system of nomination and leadership contests and the ability
11 of our parties to function effectively if they cannot rely on
12 a pool of supporters who want to help, presents a conundrum.

13 Second, the risk of alienating and losing the
14 chance to integrate current and future voters is significant.
15 Both have implications for representation and the quality of
16 democratic inputs that in turn are important for Canadian
17 democracy writ large.

18 Thank you.

19 **COMMISSIONER HOGUE:** Thank you.

20 **DR. LORI TURNBULL:** Thank you very much,
21 Professor Stephenson, and thank you to all for the
22 presentations.

23 We are going to move toward a break before we
24 get into a question-and-answer period, but just briefly, I
25 will ask if there is any panelist who wants to quickly
26 respond to anything that another panelist presented?

27 Okay.

28 **COMMISSIONER HOGUE:** Everyone is smiling.

1 **DR. LORI TURNBULL:** Everyone is smiling.
2 That's good enough for me. So we are going to take -- we
3 will take a break, and then we will come back for questions
4 and answers.

5 **COMMISSIONER HOGUE:** The break will be for
6 about 30 minutes.

7 --- Upon recessing at 2:42 p.m.

8 --- Upon resuming at 3:21 p.m.

9 **COMMISSIONER HOGUE:** I realize I should have
10 introduced Me Ferguson, Matthew Ferguson. He is Commission
11 counsel.

12 Sorry, I forgot.

13 **MR. MATTHEW FERGUSON:** That's okay,
14 Commissioner. Thank you.

15 **COMMISSIONER HOGUE:** So you can go ahead, one
16 of you.

17 --- OPEN DISCUSSION:

18 **DR. LORI TURNBULL:** Just checking, Ken, to
19 make sure you're with us? There he is. Perfect.

20 **MR. MATTHEW FERGUSON:** I just have a general
21 reminder for -- to ask everyone to speak slowly for the
22 benefit of the interpreters.

23 **COMMISSIONER HOGUE:** [No interpretation]

24 **MR. MATTHEW FERGUSON:** Professor Pal, we have
25 a question with respect to -- maybe get some comments on the
26 Bill C-70 amendments on nomination contests, and specifically
27 on the influencing political or government processes that
28 makes it an offence now for every person -- this is section

1 20.4:

2 "Every person commits an indictable
3 offence who, at the direction of, or
4 in association with, a foreign
5 entity, engages in surreptitious or
6 deceptive conduct with the intent to
7 influence a political or governmental
8 process, educational governance, the
9 performance of a duty in relation to
10 such a process or such governance or
11 the exercise of a democratic right in
12 Canada."

13 And can you speak a bit to the application of
14 that provision to a nomination contest?

15 **MR. MICHAEL PAL:** Okay. Thank you very much.
16 So 20.4, recent amendment, on its face, does apply to
17 nomination contests. So it is applicable there.

18 The questions that I have about it, so it
19 discusses engaging -- pardon me, it points to engaging in
20 surreptitious or deceptive conduct with the intent to
21 influence.

22 And so the question I have is how does that
23 tie in to other provisions in the Canada Election Act related
24 to collusion, or other prohibited activities? It may be that
25 surreptitious or deceptive conduct is a relatively narrow
26 phrase in relation to the types of malfeasance that we might
27 consider to be undesirable and that we might want to prohibit
28 in a nomination contest. So it does apply to nomination

1 contests. I think that's clear. I know that was perhaps
2 part of the question. It may be that it's narrower than I
3 might have hoped it would be in the lead up to the provision
4 being put into the statute.

5 **MR. MATTHEW FERGUSON:** Does anyone want to
6 comment or respond?

7 **DR. LORI TURNBULL:** Okay. Thank you. So I'm
8 going to try to pitch a question around what we might be able
9 to do with respect to security vetting, security clearance
10 for people who are involved in political parties, because
11 there are a number of different ways we could go about these
12 types of things, and what we're really talking about is, and
13 we're going to get to this theme in a little bit too, but how
14 parties are doing their work, whether they are public or
15 private, they're both -- if they -- if we can make changes to
16 some of the ways that they do their work, how would we do
17 that? Would the parties want to do that? Will they be
18 engaged in these sorts of things?

19 And so I wonder if I could come to Mr.
20 Mayrand on this first, about the possibility of, and the
21 capacity for us to even do this, even if this was an option,
22 is there value in normalizing security clearance for party
23 leaders? Is there value in thinking about perhaps some kind
24 of broad security vetting for people who are candidates?
25 Would this help people to have more trust in the system?

26 And I'll open this question to everybody.
27 I'm just going to start with Mr. Mayrand.

28 **MR. MARC MAYRAND:** Well surely it would

1 increase ---

2 **MR. MATTHEW FERGUSON:** [No interpretation]

3 **MR. MARC MAYRAND:** --- public confidence.

4 Sorry. The general public trusts in the processes. They
5 will be an issue of capacity and the level of clearance that
6 you would be looking for, but it seems to me that parties
7 already do a fair bit of scrutinizing for their candidates,
8 especially at leadership, but even for elections candidates.
9 They would probably be welcoming something like that if it
10 can be done confidentiality and privately between the party
11 and the candidate and the authority responsible to provide
12 the clearance, or verify the clearance.

13 **DR. LORI TURNBULL:** Okay. Thank you.

14 **MR. MARC MAYRAND:** Oh, one thing is the
15 timing. In the issue of capacity, you may have thousands of
16 nomination contestants. You will definitely have around
17 1,500/1,800 candidates to the election. You will only have
18 380, I'm not sure how many more, you've got a few more this
19 time around, who will be elected.

20 So one thing to consider, if it's not already
21 done, I'm surprised, would be to establish security clearance
22 for anybody that sits in the House of Commons. If it's not
23 already the case, it seems to be it should be happening.

24 So again, depending on the capacity of
25 course, it's -- the smaller the pool of appointees who get
26 vetted the later you are in the process. And if you find out
27 there is an issue just before sitting in the House, what do
28 you do? You cancel the election? What do you -- so you have

1 to think those things through.

2 **DR. LORI TURNBULL:** Okay. Any other panelist
3 want to comment on that?

4 **DR. ANDRÉ BLAIS:** It just seems to me
5 extraordinarily complicated. I mean, I don't -- I can't see
6 how this could be done. I might be wrong, but this looks
7 very complicated; no?

8 **MR. MARC MAYRAND:** The agencies are doing
9 thousands -- oh, sorry. They do it for thousands and
10 thousands of people every year. It's doable. I'm not saying
11 it's simple, it's easy, but it is doable. It's feasible.

12 **DR. LORI TURNBULL:** Oh, sorry, does one of
13 the online -- Laura or Ken -- sorry, Professor Stephenson,
14 Professor Carty, we know each other, do you have anything you
15 wanted -- do you want to weigh in on this one?

16 **DR. KENNETH CARTY:** Well I think the idea
17 that you might try and vet, for security or other purposes,
18 people who want to be candidates would be extraordinarily
19 difficult. We're talking about probably 12 or 1,500 people
20 across the country, many in remote communities, who -- or
21 only at late stages in the game have decided to become
22 involved. Whether we've got that capacity, I don't know, but
23 certainly to kind of do it in time then to allow the parties
24 to respond. You know, if you come in and vet during the writ
25 period and you find something and then you tell the party,
26 does the party then have time to respond to that kind of
27 information?

28 So, I think that given the unpredictability

1 of the process and the fact that elections can happen at any
2 time, it would be an extraordinarily difficult thing to do if
3 you're going to go beyond anything like Mr. Mayrand's
4 suggestion that perhaps MP or elected people might at some
5 point get some kind of clearance. But for the nomination, I
6 think it's -- it's likely to be unrealistic unless we change
7 the very character of the way parties operate.

8 **COMMISSIONER HOGUE:** But if I may, it raises
9 the question of, if someone is elected by the population, it
10 can be difficult from a -- if we look at the legitimacy of
11 the decision, it can be difficult to expel someone or to
12 decide that this person cannot play the role. I don't know
13 if you have any comment about that, but it's -- after the
14 fact, it seems to me to be difficult.

15 **MR. MARC MAYRAND:** (Inaudible - No
16 microphone)

17 **COMMISSIONER HOGUE:** Yeah.

18 **MR. MARC MAYRAND:** Now, what are the issues,
19 of course, that are raised by the verification. Personally,
20 I think Canadians would appreciate that there's some
21 validation of the characters and abilities of people that
22 represent them. It's -- hiding it from them so that they
23 find it later on by accident, I don't know if it's any
24 better.

25 My own view is that we should be proactive
26 about those matters, if we're really concerned. I think we
27 need to be proactive. And, yes, it's a -- could be a tough
28 role, and there's a lot of discussion that takes place before

1 this is set up, but I think it would be -- it would give
2 everyone second thoughts before cooperating with foreign
3 entities. Knowing that, oops, that -- anyway. It's a bit
4 forceful, but ---

5 **COMMISSIONER HOGUE:** No, no. It's what we --
6 what I'm looking for to get, you know, different point of
7 view and if anyone has anything to say in that respect?

8 **DR. LAURA STEPHENSON:** I would actually -- if
9 I can provide a comment on that. One of the things that
10 Professor Turnbull raised was the idea of whether parties
11 would be interested in making these changes. And the one
12 thing I would say is that I think parties are deeply
13 embarrassed when they have their candidates found out to be
14 X, Y or Z, right? Something is problematic or we know of
15 situations where leaders have to change their mind about
16 their -- allowing nominated candidates, et cetera.

17 So I think in this case, we might actually be
18 able to think that you'd have party agreement that nominated
19 candidates could be vetted. Yes, I agree with Professor
20 Carty that this might make the process a bit longer and could
21 change things, but in the interest of everybody, I guess, not
22 being embarrassed, especially by, of course, the media, which
23 plays that watchdog role, I think this would be one change
24 that could have traction.

25 **DR. LORI TURNBULL:** Thank you very much,
26 Professor Stephenson. We're going to go to Professor Pal.

27 **MR. MICHAEL PAL:** I guess I have a different
28 view. We have to take the issue of foreign interference very

1 seriously, but if there is vetting, whether it's feasible or
2 not, if it happens, there's an enormous amount of power in
3 the hands of those who are doing the vetting. And so, maybe
4 this is my -- the constitutional lawyer in me speaking, but
5 people have a fundamental right to participate, to stand as
6 candidates, and nomination contests ties in directly to that.
7 So, I would be quite concerned about the long-term impacts of
8 having a process like that that restricted potentially who
9 was going to be able to stand as a candidate.

10 **DR. LORI TURNBULL:** Can I just come back to
11 you, Professor Pal, on something about that? Because that
12 was my first inclination too when we were speaking about
13 that, I thought, "How will this stand up to a *Charter*
14 challenge if this sort of acts like some sort of restriction
15 on who could hold public office and who couldn't." There's a
16 clear -- to me anyway -- conflict there.

17 However, if we're realistic about it, parties
18 restrict who can hold public office all the time. And I
19 would say that's one of their primary functions. And so, you
20 know, not because it's necessarily good, but that's what they
21 do. They are a filter. And so, I wonder -- and this kind of
22 speaks to something that Professor Carty raised as well, how
23 -- how much we can, you know, how big we can think in terms
24 of what sorts of changes, potentially, we could consider?

25 **MR. MICHAEL PAL:** I agree, certainly parties
26 do engage in very extensive vetting processes, especially in
27 the social media era, greenlight committees and the like in
28 different parties.

1 I guess the theoretical justification for
2 that is they need to have candidates that reflect the actual
3 policy program and direction of the party. So, there's some
4 legitimacy in them picking candidates that survive vetting,
5 but also fit within the party as a somewhat unified entity,
6 all its actual decentralizations assumed.

7 But it's just a different -- that's the party
8 self-regulating, as opposed to an external entity that might
9 have different interests, different values, different
10 evaluations of the evidence, different risk tolerances, and
11 all those sorts of things. So, it introduces an external
12 element that decreases the ability of parties to manage
13 themselves.

14 **DR. LORI TURNBULL:** I think that's very
15 useful, thank you. I take a lot from that distinction about
16 parties self-regulating and there -- but still deciding who's
17 going to be in a position to contest an office versus an
18 external regulation. Anyway.

19 Do you want to? Okay. Yes, please.

20 (Inaudible - No microphone)

21 **MR. MARC MAYRAND:** And provincial parties
22 verify criminal records to third parties.

23 **DR. LORI TURNBULL:** Oh, yes.

24 **MR. MARC MAYRAND:** So -- and in this context
25 also, I would suggest it's up to the party to take advantage
26 of the service, as opposed to imposing it on the party. I
27 assume it would be in their self-interest to request such
28 vetting.

1 **COMMISSIONER HOGUE:** It would be optional?
2 It would be for the party to ask for the vetting?

3 **MR. MARC MAYRAND:** Yes, in a sense. It's up
4 to the party. Part of the checking process, they should have
5 this tool available to them. And if they don't use it, they
6 run the risk of -- in the public impact.

7 There will be political consequences if they
8 didn't use a service such as this one and there -- in the
9 end, there is an issue.

10 I think -- well, I think that there's a way
11 to address these issues with political Parties. Political
12 Parties, in my mind, fall victim to those interference
13 problems. They're not instruments. They are victims. And
14 as victims, it's in their interest to find solutions to
15 prevent those situations from happening again.

16 I think it's the best way to present it to
17 the Parties. If we tell them, "No, from now on, this is --
18 this is, and that's it, and we're deciding who your
19 candidates are", no, of course, it's not acceptable. But I
20 believe -- well, I think that it's in the interest if I had a
21 party -- if I had a political party, I'd like to know who my
22 candidates really are.

23 **MR. MATTHEW FERGUSON:** Do you have anything
24 to add, Professeur Blais?

25 **Dr ANDRÉ BLAIS:** I fully agree that it would
26 be in their interest, but I'm very sceptical on the way that
27 it would be done concretely. If it's done at the very
28 beginning of the process, there's too many candidates for

1 every party. I don't know how it could be done. If it's
2 done after the election, how would be invalidate who chose --
3 who was chosen by the voters. It doesn't seem very
4 legitimate either. I see how it's in the party's interest,
5 but I don't see how, in the concrete, it could be applied.

6 **DR. LORI TURNBULL:** Okay. Thank you
7 everyone. Thank you very much.

8 I wanted to come back to Professor Carty on
9 some of the comments that he made in his opening remarks when
10 we were talking about the organization of parties and the
11 realities around not all EDAs are going to be the same. Some
12 are going to be very robust, have huge membership, quite a
13 bit of resources, they're well organized, they're in a
14 position to stand up a competitive nomination process every
15 time if that's what needs to happen. And then there are
16 others where -- probably where the party is less competitive,
17 where the local riding association is not as robust in its
18 own organization. And so then I was thinking about, you
19 know, in that context of what you were saying, again, getting
20 back to what the purpose of Parties are -- is -- are, what
21 the -- the tensions between the private functions of a party
22 and the public functions of a party and how that leads to
23 perhaps different ways of organizing and regulating and
24 perhaps innovating what Parties are doing. So I wondered if
25 you could just say a little bit more about that?

26 **DR. KENNETH CARTY:** Sure. And I think a good
27 deal of our conversation to this point has reflected the
28 conception that we've had in this country of Parties as

1 private organizations. Professor Pal made that point very
2 clearly and helpfully, I think. And they've evolved in that
3 way, and they've evolved as these open, inclusive,
4 participatory organizations that did the sorts of things that
5 Laura talked about, you know, in response to the
6 circumstances that they found themselves in, at different
7 times, in different places, with different electorates.

8 A competing kind of conception of a political
9 party as a private organization, however, is the idea that
10 maybe they -- we want to think about them as public
11 utilities. They're the public utility that delivers
12 democracy, in the way that the hydro company's the public
13 utility that delivers us electricity. And we -- and they
14 have a kind of monopolistic position -- well, they're all
15 oligopolies as opposed to strict monopolies, but we think
16 that public utilities, because of their privilege position
17 and they're all oligopolistic or monopolistic position, need
18 to be regulated by it. But if we think of political Parties
19 as the public utilities that deliver democracy, then that
20 opens us up I think to thinking about how we might regulate
21 them in different kinds of ways, and regulating at least some
22 of their kinds of activities in advance of what they do or in
23 retrospect when they behaved in particular kinds of ways.

24 And, of course, we focus a lot on the
25 nomination and leadership contest because that's where we see
26 them as most -- in the most active form in the model of
27 political Parties that we have in this country. If we had
28 much more regulated conception of Parties, we might think

1 about the nomination process or the identification process of
2 candidates in a different way. We would probably think of it
3 very differently if we had a different electoral system. I
4 mean, in some sense, the dynamic of our Parties is given by
5 the fact that they have to find individual candidates in
6 individual geographically defined communities. And most
7 other electoral systems produce very different obligations
8 for political Parties.

9 So we're in the kind of context that we're
10 in, and so we need to think about if we're going to maintain
11 the first past the post system, and apparently we are,
12 despite claims in recent elections, then we have to recognize
13 that we're going to have this kind of rather decentralized
14 process of finding candidates to run a very decentralized
15 fragmenting kind of electoral process. Our Parties have
16 evolved to do that about as efficiently as they can. If we
17 think that they don't do it very well, then we have to think
18 about why that is.

19 It's clear that nomination processes are
20 often taken over by groups, rarely by foreign actors, but
21 there certainly have been some in recent elections, but
22 they're as often taken over by people with ideological
23 agendas, or group agendas, or of all -- community agendas of
24 all kinds. But we accept that as part of a decentralized,
25 single member representative process. And so I think that
26 this discussion has to be rooted in a kind of recognition of
27 what our Parties are. And if we want to regulate their
28 activities, we're going to change what they are. I think

1 that would be my basic point.

2 **MR. MATTHEW FERGUSON:** Professor Stephenson,
3 we see you nodding on. Do you want to address any comments
4 following those comments by Professor Carty?

5 **DR. LAURA STEPHENSON:** Sure. I -- you know,
6 obviously, I agree with a lot of what has been said, but I
7 was actually just thinking of the exact point as -- that
8 Professor Carty made, that, you know, if an EDA or a
9 nomination process could be taken over by the interests of a
10 group, I mean, that's kind of what we want Parties to have
11 that ability to do that, right, because it's local interests
12 as was accurately said; right? It's a first past the post
13 contest. We want constituency representation. Therefore,
14 you want the people who are nominated to represent the
15 constituency in which they live. And we need that to be able
16 to be dynamic, right, because constituencies aren't static.
17 They change. Populations change, interest change, et cetera.
18 So anything that would prevent that kind of organization to
19 let's call it refresh or renew a party, in fact, would go
20 against the very nature of what we hope them to do.

21 So I fully agree with Professor Carty, and I
22 don't know how to allow for these processes to exist without
23 -- in the current environment of concerns about foreign
24 interference. Like, this is where I'm seeing a little bit of
25 a conundrum, because we need things to be open so that it's
26 open to change and less regulated at the same time as we want
27 to be concerned about, you know, what are the interests that
28 are going to be popping up, and how are they mobilized, and

1 how are they supported, et cetera so. Sorry.

2 **DR. KENNETH CARTY:** Well, and as Laura points
3 out, this is not about a new process. One remembers in the -
4 - well, I guess the 1980s that a number of liberal
5 associations in Saskatchewan were taken over by groups that
6 were fundamentally opposed to providing any kind of abortion
7 services. And the Liberal party had to decide whether those
8 candidates and those associations kind of fit within what
9 they were trying to do. And so there was this, you know,
10 back and forth tension. This led them back to, of course,
11 the increasing use of a leader's veto that produces then lots
12 of conflict. Mr. Chrétien was very active in using that veto
13 over local associations, recognizing the cost that it posed
14 for the representative capacity of the party to incorporate
15 or to exclude particular groups. And that's, of course, the
16 very point that Professor Blais was making about this tension
17 between the national interest of a party, if there is such a
18 thing, and the local interests of the representative members
19 of the party.

20 So we do have, in fact, this uneven
21 compromise. When leaders step in to veto candidates that
22 have been chosen, very often the entire association executive
23 just resigns. You've seen examples of that. Other times
24 they kind of shake their heads and just accept it. So, but
25 these are political compromises that are made in the kind of
26 ongoing active debates of the day. And Parties have found
27 ways to deal with that.

28 **MR. MATTHEW FERGUSON:** [No interpretation]

1 **DR. ANDRÉ BLAIS:** Yes. Perhaps one point I
2 think I fail to convey in my presentation is that in order
3 for there be some regulation, I think there have to be
4 recognition of a problem. I think it's there. And also,
5 there has to be sort of a consensus on the value. And this
6 is why I sort of argue only for one kind of regulation in the
7 regulation of who votes in this nomination contest. My
8 assumption is that the public, you know, is largely on the
9 side of my suggestion, I guess. That it sort of makes sense
10 most people that is the same electorate that should
11 participate in the general election and also in the
12 nomination contest. And so I think there is room for
13 regulation when there is some consensus among the public
14 about the existence of a problem and about a value that is
15 deemed to be important and shared by most Canadians.

16 **COMMISSIONER HOGUE:** Mr. Blais, when you're
17 saying that there should be a consensus with the public, are
18 you basing this on something in particular that you might
19 have in mind or is it -- are you just speaking from
20 experience?

21 **DR. ANDRÉ BLAIS:** I'm a public opinion
22 specialist. I've never seen any polls on that.

23 My impression from what I know of public
24 opinion is that it's the case. I'm thinking that the
25 Commission could make a survey, so it's my intuition from
26 what I know and from the fact that, from everybody that I've
27 spoken to on that, I've seen many people saying that it's
28 just simple logic. Many people have said that. And I've

1 heard nobody say, no, no, it has -- it makes absolutely no
2 sense.

3 **COMMISSIONER HOGUE:** Yes. I was just
4 interested in knowing what you know.

5 **DR. LORI TURNBULL:** Okay. Thank you. Thank
6 you, everyone.

7 I'm going to come to Professor Stephenson
8 with a question just on the basis of some of her opening
9 comments. When we were talking about the importance of
10 keeping political parties open, keeping democracy open, and
11 this I think goes hand in hand with Professor Carty's comment
12 -- Professor Carty's comments about parties as public
13 utilities that are bringing us democracy.

14 And so, if that's the case and we rely on
15 parties to be able to breathe life into democracy and local
16 areas, and to provide people with opportunities to
17 participate, to get informed. Because we know this. We know
18 that parties do perform those functions, and we just have to
19 look at the turnout in a municipal election to realize that
20 parties are really important when it comes to mobilizing the
21 vote, getting people out there, getting people involved. And
22 this is really important work.

23 But if we were to -- if Professor Blais is
24 right, and Canadians by in large would be onside with the
25 kind of change that would see us bring into sync the
26 membership requirements and criteria, and voting criteria.
27 So in order to participate in a nomination contest, you have
28 to be an eligible voter. If we made that kind of change, do

1 you see a problem that would be created for riding
2 associations and political parties more broadly as agents of
3 inclusion and participation? Like, would there be an issue?
4 Are there other ways that parties could mobilize and include
5 people? I just wonder if you could comment on that?

6 **DR. LAURA STEPHENSON:** Sure. And thanks for
7 the question.

8 I mean, I guess two points. So Professor
9 Blais has suggested that we restrict voting in these contests
10 to 18, but he's also in favour of 16 year olds voting as
11 well. And I think that, and a lot of the research about
12 lowering the voting age in general, I think actually supports
13 the idea that we do know that when people are socialized into
14 politics at a younger age, when they are given the
15 opportunity to talk politics, experience it themselves in the
16 household, etcetera, then they are more involved.

17 And so, the rationale behind what I was
18 saying is that any further restrictions kind of make it the
19 purview of people at a different stage of life, right? And
20 that is a challenging stage to get people involved, and
21 that's what I think we see now in terms of turnout trends as
22 they are.

23 The other issue that you've raised, and it's
24 a very good one, and I've been trying to think this out.
25 Does it have to be voting; right? Could we restrict the
26 voting and still have people involved in other ways? So in
27 theory, I think that would be a great way of kind of squaring
28 the circle. I'm not positive that everyone would agree,

1 public opinion would be as strong as Professor Blais
2 suggests. But at the same time, I think there is some logic
3 to that idea of changing votes.

4 But the issue to me would be then How our
5 party is going to be mobilizing people and how are candidates
6 going to be mobilizing people? And who are those that are
7 going to be targeted and brought into the political system?
8 And even amongst candidates, right, who are they going to be
9 looking to to build their coalitions and get their support
10 bases?

11 And I think all of this would change because
12 we're necessarily changing the impact on that ultimate end
13 goal, right? Which you know, for parties obviously is
14 winning the vote, for candidates it is winning the nomination
15 or the leadership contest. And any time we make those
16 changes it's going to affect who in fact are getting targeted
17 in the general public. And you know, I think that things
18 change a little more in areas maybe more quickly than we
19 often think about when we just think about the traditional
20 voting population.

21 And so, you know, removing the ability to
22 bring others into play I think is something that's a little
23 more difficult to think about.

24 **DR. LORI TURNBULL:** Thank you. Do any other
25 panelists want to respond to that?

26 **DR. KENNETH CARTY:** Well, I must say I'm not
27 entirely convinced by Professor Blais. The reality is that
28 for generations now parties have been open to people who were

1 14, or 15 depending on the local association's rules, because
2 they did vary from local association to local association.
3 In fact, they often included a certain percentage of people
4 who lived outside the district and who wanted to be involved
5 or had been in the past and now had moved.

6 And so that long history suggests that maybe
7 there isn't really a problem for the parties. There's a kind
8 of logical niceness, or kind of a cartesian neatness to
9 Professor Blais' argument, but I'm not convinced that it's a
10 problem.

11 **COMMISSIONER HOGUE:** If I may, we're focusing
12 on the age. What about the citizenship requirement? Do you
13 see any disadvantage in setting the bar at 18?

14 **MR. MATTHEW FERGUSON:** That question was
15 directed to you Professor Carty?

16 **COMMISSIONER HOGUE:** Or to any of the ---

17 **DR. KENNETH CARTY:** Well, I guess the
18 question is, you know, do we need any of these kinds of bars?
19 I think the parties have in the past basically decided that
20 they didn't, although I know some parties have for instance
21 limits on the number of people who live outside the district
22 who can participate. But you know, they have managed to
23 decide for themselves what bars were appropriate.

24 One party has a rule that you have to --
25 you're not allowed to belong to other parties. Other parties
26 don't have that rule, they are open and flexible. And to the
27 extent we want them to encourage people to participate in
28 their local associations and be involved, if we're going to

1 have this kind of local open nomination in the district
2 system which is driven by our electoral system, we're going
3 to have parties as the kind of organizations they are then it
4 maybe is appropriate to let them decide who can participate.
5 Because there's not a lot of evidence that there's a problem,
6 that would be my view.

7 **DR. ANDRÉ BLAIS:** I still debate with my good
8 friends, good colleagues and friends. I think a fair
9 assumption is that people were completely unaware of these
10 party rules and then they all suddenly see that there are
11 buses of foreign students coming into the examination
12 contest, very few people think this is good.

13 **DR. KENNETH CARTY:** But they think busses
14 coming from old people's homes, and of elderly Canadian
15 citizens are good?

16 **DR. ANDRÉ BLAIS:** If they have the right to
17 vote, yes.

18 **DR. LORI TURNBULL:** Okay. I'm going to
19 propose that we do a little bit of a back to the future theme
20 where I'm going to ask a couple of questions, one I think I'm
21 going to direct at Professor Pal.

22 We've talked a little bit about the role of
23 the courts in -- I used the word regulation kind of, of
24 political parties. And through various court cases there
25 have been decisions made about what sorts of parameters
26 political parties need to work with, and we know that's been
27 a huge part of how political finance regime -- the political
28 finance regime has developed. There have also been court

1 cases talking about the value of party competition, the
2 thresholds to be met for parties to be able to be registered,
3 all those sorts of things.

4 So I wonder if I can start with Professor Pal
5 and then anybody else who wants to jump in as well, if you
6 can talk about how the role and again the regulation of
7 political parties has evolved through the Court system?

8 **MR. MICHAEL PAL:** Okay. Thank you very much
9 for that.

10 I'd say there's maybe three groups of
11 relevant cases. The first are around this egalitarian model
12 of elections that I mentioned in my opening statement,
13 especially spending. So there's a case called *Libman* and a
14 case called *Harper*, which really together stand for the
15 proposition that it can be constitutionally acceptable for a
16 legislature to restrict spending by third parties if the
17 amount still allows meaningful participation. But the goal
18 of the legislation is to achieve a more level playing field
19 so those with resources cannot drown out -- that's the
20 language the Court uses -- cannot drown out those without
21 resources.

22 So that idea of the egalitarian model goes
23 mainly to spending limits, but you could also apply it to
24 contribution limits, although I wouldn't -- the Supreme Court
25 has not yet to date done that directly, but you can draw the
26 connection there. There is a case called *Bryan*, the Court
27 talked about informational equality as another component of
28 the egalitarian model. Mr. Mayrand knows that case very

1 well.

2 So those cases suggest if the means are
3 proportionate to the goal, it is unacceptable purpose for
4 Legislature to reduce the role of money in politics to have a
5 level playing field. So that's one set of cases that's
6 applicable to most of the potential reforms that relate to
7 money in nomination and leadership contests.

8 There's another line of cases, the main case
9 being *Figueroa*, which essentially stands, in my view, for the
10 proposition that statutes cannot discriminate between
11 political parties based on how likely they are to win
12 political power or to wield political power. So struck down
13 rules requiring parties to field 50 candidates or more in
14 order to be registered and struck down a whole host of
15 financial rules that were very harmful to small political
16 parties.

17 The other set of cases just raised by the
18 last part of your question there, and this ties into the
19 earlier discussion of parties as private entities, there are
20 some cases where dissatisfied individuals, sometimes in
21 nomination or leadership contests, sometimes in the context
22 of party mergers, have sought review by the courts, sometimes
23 judicial review with public law remedies, sometimes private
24 law remedies where the allegation is the party has not
25 followed its own constitution or bylaws.

26 More complicated to say what the state of the
27 law is there. I think generally most people are of the view
28 that public law remedies tend not to be available, but there

1 could be private law remedies in certain circumstances.

2 Where that's directly relevant here is if a
3 candidate -- a nomination contestant or leadership contestant
4 is of the view that there was foreign interference in the
5 competition, it may be that their recourse is only within the
6 party and not to the Courts if the Courts are taking a
7 restrictive view about their involvement in intra-party
8 disputes, for the very good reason that Courts don't want to
9 be involved in picking candidates if they can avoid it.

10 So one thing that the Commission might
11 consider is whether it's appropriate to clarify the role of
12 the courts in some way if a candidate who is dissatisfied or
13 a nomination contestant who is dissatisfied wants to seek a
14 remedy there.

15 **DR. LORI TURNBULL:** Thank you very much. I
16 want to pose a kind of similar, "Let's look back a little
17 bit" question, but this time not so much about the courts,
18 but about the parties themselves and how they've changed,
19 because they have changed. And I think I might take us just
20 for a moment away from the focus on the nomination contests
21 to leadership contests.

22 We've changed a lot in terms of how we choose
23 leaders now in political parties. It used to be all kinds of
24 people who were party-faithful, I put a little caveat on
25 that, and I'm mindful of Professor Carty's comments in the
26 opening. People come into a big arena floor and they choose
27 between candidates, you know, and when the least popular
28 person is dropped off, then you see the parties literally

1 pick up the signs of the other candidates and move to support
2 them. And this was a big, you know, kind of ruckus,
3 enthusiastic, you know, thing that parties did.

4 Now we don't do that. There are no more
5 delegated conventions anymore for any of the federal parties
6 that I know of, and they've all moved to a one member, one
7 vote model, which really brings this issue of membership into
8 the forefront, because now we -- the members at large are
9 choosing the leaders. It's not the people that are going as
10 chosen as delegates by their constituencies.

11 So I am going to start with Professor Carty
12 on this one. Can we talk about how we ended up doing that
13 and what you think the implications are in terms of
14 leadership contests and vulnerability to foreign
15 interference?

16 **DR. KENNETH CARTY:** It was a slow process and
17 when some of the smaller parties started choosing leaders by
18 every member vote, then other -- it was portrayed as somehow
19 more democratic, because the old convention process looked
20 like it was a brokered convention in which increasingly
21 candidates were flooding weak local associations and taking
22 them over and sending delegates. The advantage of those
23 conventions was that the people who spent three or four days
24 together got to know one another and they built a kind of
25 consensus and a kind of shared understanding of the exercise
26 engaged in.

27 Now there's no shared involvement in the
28 process. One signs up or is signed up or doesn't even have

1 to do that, because the most recent Liberal leadership
2 convention, you didn't even have to be a member of the
3 Liberal party. You simply had to indicate in some vague way
4 that you were a supporter and wanted to vote, and so you were
5 allowed to vote. And they've essentially moved away from
6 that.

7 So the country's dominant governing party is
8 now, for all intents and purposes, says it doesn't really
9 believe in members, doesn't really believe in membership.
10 Quite where that leaves us is not at all clear. It certainly
11 leaves a leader that's not responsible to the membership, or
12 to his caucus, or to anyone else in any kind of formal way
13 and a process that doesn't seem to have much structure to it.

14 Whether that's open to foreign interference,
15 I think probably not as likely as the old delegate selection
16 convention process, partly because of the increasingly
17 regulated character of the financial side of the leadership
18 processes. Those never used to be regulated in the old
19 convention system. They are now much more clearly regulated
20 and registered. So I suspect that in those terms there's
21 probably less opportunity for foreign interference than there
22 might well have been as recently as the 1980s, when the
23 conventions were in full swing.

24 **DR. LORI TURNBULL:** Any other panel member
25 want to comment on that?

26 **DR. ANDRÉ BLAIS:** I'm not sure exactly what
27 to think of this. In a way now, foreign interference could
28 be easier in a way, because I suppose that if a foreign

1 government wanted to mobilize 10,000 persons to vote in an
2 election for the leader, that would be possible; no?

3 **DR. KENNETH CARTY:** Yes, you know, it would
4 be possible, and they might have some marginal impact, but
5 the scale and the number of people who now can be mobilized
6 across the -- because there's no limit on it. When the
7 Liberals chose their last leader, who is the current
8 incumbent, anybody in the country could have voted if they
9 wanted to. There was a potential electorate of the size of
10 the population because they said all you had to do was
11 indicate you wanted to be a supporter and they'd send you a
12 slip so you could vote.

13 So I think the sheer scale of a leadership
14 process in a major national party now is such that while some
15 foreign interest might be able to mobilize thousands, they
16 might well -- that might well become obvious just by the
17 sheer scale, and they might well be buried in the size of the
18 enterprise, not -- much more easily hidden in the old
19 convention system, I think.

20 **DR. LORI TURNBULL:** Okay. Thank you. Thank
21 you very much for that.

22 I'm going to ask a question -- I'm going to
23 ask one question I think of everybody. I might start with
24 Professor Blais. We talked a little bit about how there used
25 to be a kind of sense that political parties would develop a
26 consensus among them, even if it was informal, before there
27 was a change in how political parties do things.

28 So and I can think, as an example, in 2008,

1 when there was a suggestion that the per vote subsidy be
2 removed, the parties who were not included in that
3 conversation got very angry and said, you know, "This is a
4 break in convention. This is not how we do things. We don't
5 have some parties make decisions for everybody."

6 I wonder if you could comment, and I'm going
7 to come to everybody on this, whether -- because I'm thinking
8 about if a change is going to come in the regulation of
9 political parties and the governance of political parties,
10 whether formal or informal -- sorry, I'm speaking too fast --
11 where will that change come from? And I'm wondering if we
12 think political parties are still working in that kind of
13 assumption of a consensus? And to build on that, why would
14 political parties who are in the Legislature as members
15 change anything that seems to have gotten them elected in the
16 first place, and does -- do those kinds of changes have to
17 come from elsewhere?

18 **DR. ANDRÉ BLAIS:** It's an important and tough
19 question. I guess my first reaction was I'm too young to
20 really answer that question, but I think -- I don't think
21 it's quite compelling. So the first election I really
22 studied very, very intensely was the 1988 Canadian election,
23 and I can tell you that it was intense. It was very
24 conflictual, the free trade election. So I'm not sure that
25 anytime in history there have been a real consensus among
26 Parties among many things. So I'm not convinced that things
27 have changed that much except for one thing. I think it's
28 the role of negativity in politics in general, and it's not

1 only Canada.

2 Basically, now there's a lot of evidence
3 that, you know, politics is more polarized everywhere, that
4 the discourse is that much more negative, conflictual and so
5 on. So that makes it a bit more difficult probably to reach
6 a consensus, except in some situations. And I think there
7 are some circumstances where there are sort of seems to me
8 some real problems that people agree on and there are at
9 least some solutions that seem to make sense. And then it
10 will be very difficult for Parties to attack them, or to --
11 not to accept them. They might not like them, but they will
12 not probably sort of be willing to go along with them. These
13 are probably exceptional circumstances. It's always been
14 exceptional, probably, but I think it's still possible. And
15 perhaps Mr. Mayrand might talk about this because he's been,
16 I guess, in charge of trying to get some common agreement
17 among Parties.

18 **MR. MARC MAYRAND:** Yeah, it's certainly not a
19 given. They have to see a self interest in what's being
20 proposed. They have to see that the problem is common enough
21 and the solution is broad enough to include everyone. If
22 they see it's a problem for their competitor, they'll be
23 gladly posing any changes. So it's human nature or it's
24 political nature or should I say partisan nature.

25 That being said, there's a fair bit -- there
26 has been episode of consensus and agreement. And we have to
27 be careful, a consensus doesn't mean unanimity, but most
28 changes to the Canada Electoral Act historically, I believe,

1 have been endorsed by more -- the majority of Parties
2 represented in the House. We can double check that, but I'm
3 pretty sure. There's a few example that come to my mind
4 where it did not, and it was very acrimonious between the
5 party and the tendency is that it erodes confidence. Because
6 when that happens, public see that the Parties or members in
7 the House are looking at their self interest, not necessarily
8 at the public good.

9 So we need to keep that in mind, but again, I
10 wouldn't -- I think consensus is possible, especially on
11 these matters that we've been discussing today. I don't see
12 that there's any self interest in any Parties to object
13 strenuously to some basic changes, common sense changes to
14 help mitigate, prevent and curtail foreign interference.

15 **DR. LORI TURNBULL:** Professor Pal, do you
16 want to comment?

17 **MR. MICHAEL PAL:** So one of the major
18 legislative changes we've had in Parliament on election law,
19 we had the recent amendments around a foreign agent registry
20 in the section 20.4 and the first question we answered in
21 this session. We had the *Election Modernization Act* 2018.
22 Before that, there was the *Fair Representation Act*, which
23 added more seats to the House. Before that, there was the
24 *Fair Elections Act*. So I have a hard time looking back on
25 those debates and seeing consensus running through most of
26 them. So maybe it existed at one time, but I think it's at
27 least not a given. Maybe there can be consensus, they can
28 agree, but I think it's not something we should assume. The

1 *Figueroa* case I mentioned a little bit earlier, those were
2 amendments to the *Elections Act* that clearly favoured the
3 larger party. So the smaller Parties certainly didn't --
4 weren't part of the consensus that those were good ideas. It
5 was impossible for them to function as viable Parties with
6 those rules.

7 So I would certainly like to think the
8 Parties have a common goal of upholding the public interest
9 and preventing malicious foreign interference. I think
10 that's separate from whether there is a default assumption
11 that major Canada Elections Act changes require consensus or
12 always have consensus. So that's the way I think about it.

13 **DR. LORI TURNBULL:** Okay. Thank you.

14 Professor Stephenson?

15 **DR. LAURA STEPHENSON:** I think I take the
16 view of Professor Pal. I mean, I guess, in my mind I think
17 about obviously head of the Parties are operating recently.
18 I mean, even the disagreement about who gets clearance to
19 learn information, but also, going back to things like gender
20 parity amongst candidates and, you know, things that I think
21 the Parties commit to saying is a value they care about but
22 can't come to agreement on, and certainly all the electoral
23 reform debates as well. So I think any small advantage that
24 can be perceived for a party to do things the way they always
25 have, and I think in this case, for all the reasons we've
26 discussed about how party organizations work in action
27 elections on the ground in constituencies, I don't think we
28 would have consensus moving forward.

1 **DR. LORI TURNBULL:** Thank you.

2 And, Professor Carty?

3 **DR. KENNETH CARTY:** I'm generally sympathetic
4 to the points that Mr. Mayrand made. I'm a little older than
5 André, so I remember the financial reforms that came out of
6 the studies in the 1960s that were implemented in the 1970s,
7 that had changes to the ballot structure, to all that
8 process. All that happened because the Parties were able to
9 generate some kind of consensus. And so I do think that big
10 changes do require a recognition that there is a problem in
11 the system, that there is a way to move forward and generate
12 some kind of consensus. Most of the financial regulation
13 stuff that we have reflect a pretty broad consensus that this
14 is an appropriate way to go about. Lots of minor little
15 questions or disputes in recent years have led to no change.
16 But I think you can get change if -- and there was a
17 widespread perception that change is much more likely to be
18 successful and legitimate if it reflects a kind of consensus
19 in the House of Commons amongst the working politicians that
20 it's appropriate.

21 **DR. LORI TURNBULL:** Okay. Thank you. Thank
22 you very much, everyone. While we're on the Zoom with
23 Professor Stephenson and Professor Carty, I wanted to ask you
24 both, and then I'll open it to everyone else, if you have
25 particular recommendations with respect to the foreign
26 interference issue, whether for leadership nominations or
27 things that are, you know, other matters more broadly
28 connected to political Parties, I wonder if you can comment

1 on that?

2 **DR. LAURA STEPHENSON:** Unfortunately, I don't
3 have recommendations, and I've been trying to think about
4 this, but even in the earlier discussion that occurred when
5 people were talking about, you know, the delegated
6 conventions of the past, I mean, the ability for foreign
7 actors to have an influence I think is -- it's very
8 pervasive. And I say this for a couple of reasons. And I
9 would also point out that M. Mayrand's point about regulating
10 finances is very well taken. And I do think that in terms of
11 money, I think there are ways to put regulations in place at
12 various stages that are very effective and bring transparency
13 and some confidence. But the way we live today in today's
14 society, right, anything can evoke influence; right? And we
15 know this from, you know, social media, for example. We know
16 this -- the ways of transferring enough money to rent the
17 bus. What if it doesn't have foreign students? What if they
18 are actually just Canadian students but they have been
19 mobilized in a specific manner. I mean, I think that there
20 are so many different avenues that it's almost impossible to
21 police all of them.

22 And so, is -- I actually don't have any good
23 recommendations on this point. Although, I would say that
24 should the parties agree upon the problem and the importance
25 of the problem, then commitments the parties make publicly,
26 ideally, would then, I think, empower the media to a
27 different extent to hold them accountable to those promises.
28 So, it would be a lot more self-regulating in ways that they

1 would be trying to discourage any types of activities that
2 might occur.

3 **DR. KENNETH CARTY:** Well, rather like Laura,
4 I don't have any particular specific recommendations. And
5 indeed, I'm -- I'm a little anxious about some of this
6 discussion. You know, I lived in the most Asian city in the
7 world that's not in Asia. And there are big swaths of
8 electoral districts that are dominated by other ethnic
9 groups, a number of them Asian. And there's been a lot of
10 talk that there has been strong ethnic politics engaged in
11 the nomination and even the election of candidates here and
12 that, you know, some foreign interests are behind the
13 opposition to a particular candidate or not.

14 Distinguishing between, you know, the
15 legitimate collective interest of particular communities in
16 these districts as opposed to whatever support or
17 encouragement they may or may not get from outside is a very
18 difficult and tricky kind of thing. And I think that it's
19 very easy for us to say, "Oh well, it's the Chinese
20 government trying to influence what happens in Richmond."
21 When in fact, there are viable, legitimate, active, engaged
22 community groups with particular policy interests that are
23 pursuing it and favour this candidate or that candidate and
24 engaged in elections. And we risk kind of tarring them with
25 a kind of brush that's both undesirable and potentially
26 dangerous to the health of democratic debate in this country.

27 So, I just think that we just need to be a
28 little bit careful and understand the kind of country this is

1 and the kind of democracy that is required in this most
2 plural and open place.

3 **DR. LORI TURNBULL:** Thank you. Thank you
4 very much.

5 Professor Pal, did you want to put anything
6 on the recommendations list that you haven't said already?

7 **MR. MICHAEL PAL:** I made a number of
8 recommendations in my opening statement, so I would stand by
9 those.

10 **DR. LORI TURNBULL:** Yeah.

11 **MR. MICHAEL PAL:** The only other additional
12 one, which is one that's sometimes been discussed in
13 Parliament, ties in a little bit to your
14 disinformation/misinformation discussion from this morning.
15 It was not just something that's punitive to political
16 parties that might actually help them. And so, one of the
17 things we worry about is interference with computers,
18 hacking, targeting of membership lists. It's sort of
19 malicious actors trying to stop political parties from
20 operating in the way they should.

21 Cybersecurity is very expensive, as every
22 sophisticated institution in Canada knows, and is having to
23 spend lots of money on. We reimburse political parties for a
24 bunch of their different kinds of expenses. I take very much
25 Professor Carty's comments in mind with the nature of
26 different nomination riding associations, and some have more
27 resources, some don't.

28 So, one proposal that I have -- I thought has

1 some merit, is to provide reimbursement to political parties
2 for money they spend on cybersecurity measures, which
3 generally helps them, but also with the particular issue of
4 foreign interference, and making sure that the process is as
5 clean as possible.

6 There are private entities, they're very
7 diverse, but all of them face the challenge of spending money
8 to ensure that their IT infrastructure, essentially, is as
9 good as it could be. And that might be some -- one
10 particular area where public funds could be used to assist
11 them when they've already made the expense.

12 **DR. LORI TURNBULL:** Thank you very much.

13 Mr. Mayrand?

14 **MR. MARC MAYRAND:** Maybe one thing, because I
15 feel that sometimes we get away from foreign interference,
16 and we haven't really discussed what is foreign interference
17 and what is troubling us at this point. I guess we all have
18 a sense, but I'm not sure we share that sense altogether.

19 There would be maybe one or two things that I
20 would see as more preventive than anything else, or -- as
21 opposed to try to cure something that's happened. And it
22 would be for political party. I think political parties
23 should have a forum where they can consult privately without
24 risk of things coming out, but where they could consult
25 government authorities regarding political -- not political,
26 but risk of interference.

27 I think that's one thing that's really
28 missing. We're all looking at hypothesis. We have bits of

1 facts here, bits of facts there. But nobody really knows
2 what is exactly the risk, whether the risks are the same to
3 all political parties, whether there's intelligence that
4 suggests that some parties should be more careful about this
5 and that situation or -- and maybe factor geography and this.

6 And that's something that, from what I've
7 read, political parties don't really have right now. So,
8 they read the paper, they get the things, they get very
9 general briefing, but nothing that is actionable.

10 So, what I'm saying here is that there should
11 be -- we should encourage more exchange of information
12 between the intelligence community and the political parties.
13 And political parties should be able to bring an issue to --
14 not sure which agency it would be, maybe the new commissioner
15 that will be appointed for the registry là -- but where they
16 could bring an issue or concern that they have, something
17 that they have identified in their organization, bring that
18 to the -- whichever authority and seek advice on how to best
19 deal with it.

20 And be able to do it in full confidence. Of
21 course, the nature of the business is competition, so it has
22 to -- they have to be assured that it would be in all
23 confidence, that it will not become a fire piece for the
24 campaign.

25 I think something like that may be helpful.
26 More helpful than anything else, because -- and again, it's
27 built on the assumption that parties want to avoid the
28 problem, they don't want to be part of the problem. So, that

1 would be my suggestion on this.

2 **DR. LORI TURNBULL:** Thank you. And Professor
3 Blais.

4 **DR. ANDRÉ BLAIS:** I made one specific
5 suggestion. I haven't changed my mind on this, yet. I just
6 want to raise another point about which I'm not sure exactly
7 what to do. It's the role of the media.

8 I think the media play a crucial role in all
9 of this. I assume that parties are really concerned about
10 media report about potential interference. This is very bad
11 news. They want to avoid that as much as possible. It seems
12 to me that it's important that the media are able to follow
13 the nomination process, to understand it, to understand the
14 risks and so on. So, I'll just want to underline the fact
15 that, in my view, the media play a very crucial role.

16 I'm not sure exactly whether there's anything
17 to be done to help the media play that role. Perhaps -- I
18 don't see anything specific, but I just want to insist on the
19 fact that the media are absolutely crucial in this. When
20 there are problems, scandals, or whatever, there are reports
21 by the media, the parties have to respond to it. And if
22 there is anything to be done to help the media play a crucial
23 role in that respect, that would be great. But I don't have
24 a specific solution for this.

25 **DR. LORI TURNBULL:** Thank you very much.
26 Commissioner?

27 **COMMISSIONER HOGUE:** No, thank you. We have
28 covered quite a lot of ---

1 **DR. LORI TURNBULL:** Yeah, I think so too.

2 All right.

3 Thank you so much to all the panelists. We
4 really appreciate the time that you've taken to share your
5 expertise with us today. And I will turn things back to the
6 Commissioner.

7 **COMMISSIONER HOGUE:** So, thank you very much
8 for coming. It was very useful. And I think we have a lot
9 of work ahead of us, but the input you provided us with is
10 going to be very, very important in the context of what we
11 have to do. So, I really appreciate the time you took for
12 coming and the sharing of your experience and expertise.
13 Thank you.

14 **DR. LORI TURNBULL:** Thank you, Professors
15 Carty and Stephenson. Thank you for dialing in.

16 **DR. LAURA STEPHENSON:** Thank you.

17 --- Upon adjourning at 4:29 p.m.

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C E R T I F I C A T I O N

I, Sandrine Marineau-Lupien, a certified court reporter,
hereby certify the foregoing pages to be an accurate
transcription of my notes/records to the best of my skill and
ability, and I so swear.



Sandrine Marineau-Lupien