

CJFE'S REPORT CARD 2014-15

Free expression is under threat, and Canadians are finally taking notice

THIS HAS BEEN a terrible year for free expression in Canada. Our right to know has never been more threatened. Years of government neglect and political interference have left our Access to Information system an antiquated, ineffective shell of what it is supposed to be. When combined with our total lack of effective protection for whistleblowers and a pervasive culture of secrecy in Ottawa, we are left with a perfect storm buffeting the strength of our democracy.

Canadians have less access to crucial public information than ever before. Our government is not only preventing the release of public data, but it is cutting funding for research that doesn't support its economic agenda. It's also muzzling federal scientists—regardless of what they're studying. The Canada Revenue Agency has been turned into an attack dog, corrupting its purpose to chill free speech by auditing charities our government sees as threatening.

As our access to information declines, the government's access into our personal lives has grown exponentially. If you use a file sharing service, surveillance agencies know. If you email government officials, those communications are stored, tracked and likely shared. Your cellphone can be used to monitor where you've been, whom you've spoken with and when—without you even knowing you've been a target of surveillance. What else does the government monitor? Without any meaningful oversight of government security agencies, we just don't know.

As these problems weaken democratic institutions, journalists also find themselves under attack. Abroad, Canadian Ali Mustafa was killed in Syria, Mohamed Fahmy was imprisoned in Egypt, and Kathy Gannon was shot and nearly killed in Afghanistan. In Canada, slashed budgets mean fewer staff jobs and more reporters freelancing. With limited resources, freelancers struggle to pursue the big stories, and they are easy targets for frivolous and expensive lawsuits.

Despite giving lip service to openness, transparency and protecting Canadian journalists abroad, there has been little government effort in these areas. However, there is hope. Canadians have rallied to bring these issues into the spotlight. We have pushed the government to bring Mohamed Fahmy home. Our recent public opinion poll (see p. 6) shows that the majority of Canadians want our government to be more open, want federal scientists to have the ability to speak publicly about their research, and want more transparency around digital surveillance practices.

Free expression is under attack in Canada, but as our report card and accompanying poll show, Canadians are finally fighting back.

FREEDOM OF EXPRESSION FOR FEDERAL SCIENTISTS
Federal scientists, whom journalists used to be able to directly reach for comment, are no longer allowed to speak freely to the public or media. In a 2013 survey, 90 per cent of federal scientists said they do not feel like they're allowed to speak freely about their work, while 71 per cent said politicians are interfering in the policy-making process. Federal research libraries have been defunded and closed down, and the information they contained now sits in landfills. The government has also killed funding for 198 research projects around Canada. Cuts and muzzling are having a huge impact on the information Canadians get; media coverage of climate change issues has declined by more than 80 per cent since 2007, according to an Environment Canada document leaked to the *Montreal Gazette*. Organizations such as Evidence for Democracy, Scientists for the Right to Know and CJFE are fighting back, but the government shows little interest in change.

Read Michael Rennie's article, "All Quiet on the Science Front," on p. 34.

F Access to information
Yet again, Canada's crippled Access to Information system has earned a failing grade. Despite consistent calls for reform, the government has

refused change, and the system is failing Canadians. Complaints have grown a whopping 30 per cent from 2013 to 2014 (2,081 complaints last year, up from 1,465), and many departments are failing to meet

the 30-day deadline required by law to respond to requests. In one shameful example, more than 200 requests for information surrounding the deadly Lac-Mégantic rail disaster were met with delays of 300 to 365

days beyond the 30-day limit—delays that federal Information Commissioner Suzanne Legault labelled as "not valid." Worse, the commissioner's own department, which unfortunately has

minimal enforcement powers, is facing funding cuts at a time when its workload is growing dramatically.
For more information, turn to Dean Beeby's article, "Looking for Answers," on p. 20.

F **Anti-terror legislation and digital surveillance practices**

The federal government is giving itself greater powers to spy, seize and interfere with the lives of Canadians, while also rolling back our privacy and personal freedoms. It has already allowed the Canadian Security Intelligence Service (CSIS) and Communications Security Establishment (CSE)

to run roughshod over Charter rights with their surveillance practices, and it has refused to enact any meaningful oversight of the agencies. Worse, it is pushing several bills through Parliament (including C-51, labelled “Canada’s Patriot Act” by Edward Snowden) without allowing any meaningful debate. Bill C-51 would give government agencies an unprecedented ability to share any and all information

they have about Canadian citizens, enormously expand Canada’s digital surveillance regime, and give CSIS—a civilian intelligence-gathering agency—the power to interfere with a broad swath of “threats” to Canada’s infrastructure and economy. Could a protestor be arrested for peacefully opposing a new pipeline? Could a journalist be prosecuted for quoting a video from ISIS? These

are possibilities under the new legislation. Without any meaningful oversight of the agencies our government is empowering, these new bills are ripe for abuse.

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For more on these topics, turn to David Christopher’s article, “True Free Expression Requires Privacy,” on p. 7 and Paula Todd’s article, “Bill C-51: A Whole New Kind of Terror,” on p. 10.

D+ **CANADIAN MEDIA OUTLETS’ PROTECTION OF FREELANCERS**

As budgets shrink and the number of salaried journalism jobs decline, more and more reporters are turning to freelance work. Without the resources of a large media organization behind them, however, these freelancers (whose pay rates have been stagnant or falling since the 1970s) are often left vulnerable to extremely costly lawsuits. In some instances, freelancers are covered by a media outlet’s insurance policy, but this is an exception more than the rule. If a story results in a lawsuit, that suit usually targets a freelancer directly and leaves the publication or broadcaster out completely. This stacks the deck in favour of the litigious and deep-pocketed. As Quebec is the only province in Canada with legislation to protect against frivolous libel lawsuits, it’s easy for any person or organization with the cash to sue reporters to shut them up.

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For more on this topic, see Tim Alamenciak’s article, “Risky Business,” on p. 30.

D **GOVERNMENT ADVOCACY FOR CANADIANS ABROAD**

Are you a Canadian journalist heading abroad? If so, don’t expect your government to help you out of trouble. In the case of Mohamed Fahmy, imprisoned in Egypt in 2013 on charges of belonging to the banned Muslim Brotherhood and spreading false news, CJFE’s advocacy for Canadian government support has been an exercise in frustration. For months, the government shamefully did nothing, then offered only milquetoast calls for a “fair trial.” Even though the Egyptian government has said that Fahmy

could be deported—and Australia secured the release of Peter Grete, an Australian reporter charged alongside Fahmy—our government has failed to bring him home. As of press time, Fahmy was still on bail in Egypt, facing a lengthy retrial in a judicial system internationally decried for frequent political interference. And he isn’t the only journalist Canada has failed to help. Kathy Gannon, a veteran AP reporter and recipient of CJFE’s Tara Singh Hayer Memorial Award, said she received next to no assistance from our government after she was shot and nearly killed in Afghanistan in early 2014.

F **Charitable audits by the Canada Revenue Agency**

The Canada Revenue Agency (CRA) is auditing charities, and it’s targeting such trusted brands as the David Suzuki Foundation, PEN Canada, Environmental Defence and the Canadian Centre for Policy Alternatives. The audits drain resources and can result in the revocation of charitable status, and all seem to target groups advocating for civil liberties or those critical of the government’s environmental and development policies. As a result, a chill has settled across the charitable sector. This targeted investigation of charities is a \$13-million investment, yet at the same time, CRA funding has been cut by \$314 million since 2012, and the agency has lost 3,000 jobs from its overall budget. In other words, our government is slashing the budget to go after real tax cheats—who have siphoned an estimated \$170 billion out of Canada’s

economy and into hidden offshore bank accounts—while increasing the cash it spends to target charities that carry out too many “political activities.” It’s hard to see the move as anything but a politically motivated attack on organizations speaking out against the federal government, which would be an enormous abuse of our tax system—and a terrifying blow to free speech in Canada. ❧

B **PUBLIC AWARENESS OF FREE EXPRESSION ISSUES**

As the results of our poll show, the Canadian public is becoming increasingly aware of the threats to free expression in our own country. From the robust debate around the *Charlie Hebdo* shootings to the growing alarm about the collapse of our ATI system and the increasing calls to bring oversight to our spy agencies, Canadians are waking up. These issues are complicated, and there is still much room for improved understanding and awareness of how they impact all Canadians—not just journalists and activists. But watching Canadians call for an end to the government’s startling abuses of power and finally rally en masse and take up the fight for their rights has been incredibly encouraging. See the results of the CJFE poll on p. 6.