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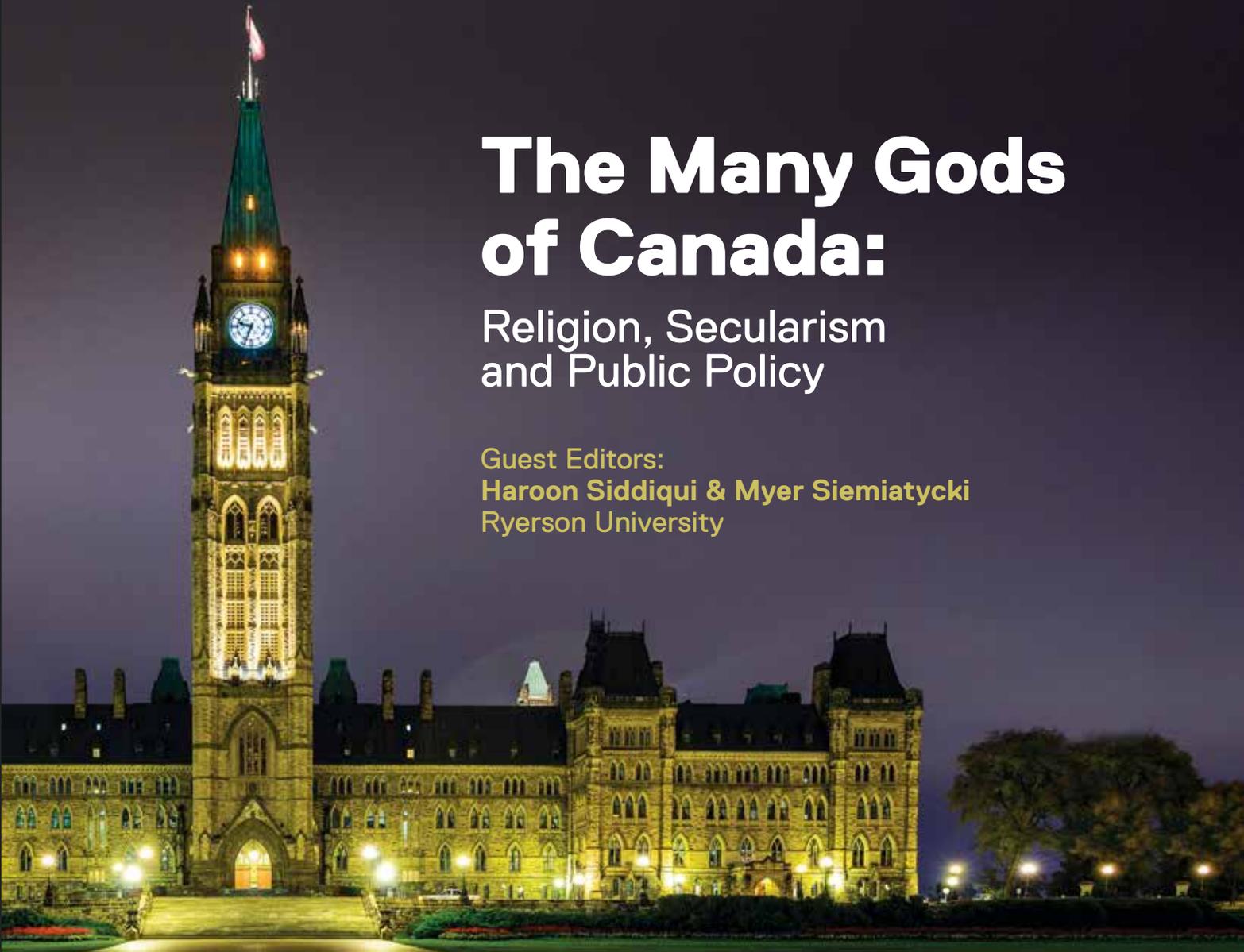
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The Many Gods of Canada:

Religion, Secularism
and Public Policy

Guest Editors:
Haroon Siddiqui & Myer Siemiatycki
Ryerson University





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EDITOR-IN-CHIEF

Jack Jedwab

GUEST EDITORS

Haroon Siddiqui
Myer Siemiatycki

MANAGING EDITOR

Sarah Kooi

DESIGN & LAYOUT

CAMILAHGO, studio créatif
camilahgo@gmail.com

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LETTERS

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Canadian Diversity / ACS
1822A, rue Sherbrooke Ouest
Montreal, Quebec H3H 1E4

Or e-mail us at <sarah.kooi@acs-aec.ca>

Your letters may be edited for length and clarity.

OLD GODS, NEW GODS AND NO GODS

HAROON SIDDIQUI is Distinguished Visiting Professor at Ryerson University, and Editorial Page Editor Emeritus of *The Toronto Star*.

MYER SIEMIATYCKI is Professor of Politics and Public Administration at Ryerson University, and Past Founding Director of Ryerson's MA Program in Immigration & Settlement Studies.

God keep our land glorious and free
- O Canada

Car ton bras sait porter l'épée, Il sait porter la croix
(*Your arm can wield the sword, it is ready to carry the cross*)
- Ô Canada

Canada is founded upon principles that recognize the supremacy of God and the rule of law
- Charter of Rights and Freedoms

Religion and secularism converge uneasily in Canada. Should the 21st century national anthem of a liberal democracy proclaim faith in a supernatural God? Should it align that God with only one of many faith communities? And can a foundational constitutional document truly be anchored in both the supremacy of God and the inviolate sovereignty of politically legislated law?

While words of an anthem are typically sung in rote, and constitutional preambles scarcely known beyond jurists and political pundits, the tensions between religion and secularism have erupted anew in post-9/11 Canada. Secularists recoil at perceived intrusions of religion into the public realm; religions, particularly minority religions, feel subjected to enhanced scrutiny and criticism. All this in a global context

of rising religious fundamentalism and Islamophobia.

Tensions in Canada have been manifest in many ways and spaces: at their extreme, worshippers gunned down in a mosque; more routinely, numerous public conflicts over values, policies, programs, sites of worship, where the dead may or may not be buried, and what can or cannot be worn (the kippa, the hijab, the turban), especially by those on public payroll.

The nastiness is in keeping with the tenor of the times – the jungle justice of social media, the white-hot anger over women's and gay rights. Our concern here, though, is with the demonization of religions and religious practices, often in the name of secularism, and the incitement to hatred against believers, using the shield of free speech.

Canada comes to this challenge with a distinct history. Indigenous spirituality is by far the most deeply rooted faith and belief system in the territorial space that is now Canada. European colonialism, from its missionary origins five centuries ago, sought to extinguish Indigenous spirituality and supplant it with Christianity. For hundreds of years thereafter, competing Catholic and Protestant interpretations of the Divine vied for recognition and supremacy.

Over the past hundred years – and especially in recent dec-

ades — the rising ranks of both minority religions and declared secularists have enlivened claims and debates over identity, rights and belonging. The Canadian census probes the population's religious affiliation every ten years. The 2011 census revealed the two fastest growing identities were non-religious and non-Christian. The former increased by 14 per cent from just a decade earlier to total 7.8 million persons. Non-Christian religious minorities — most of them newer immigrants — increased by 47 per cent from a decade earlier to a total of 2.7 million. Across the country, there has been a construction boom in temples, gurudwaras, mosques, jamaat khans and other places of worship. At the same time, 22.1 million Canadians identified themselves as Christian, accounting for 67.3 per cent of the population in 2011.

How should this nation of old gods, new gods and no gods co-exist harmoniously? What's to be rendered unto Caesar and what unto God? Questions of boundaries and balance always demand contemporary answers.

This is what we explored at a Ryerson University conference, October 18-19, 2017, *The Many Gods of Canada: Religion, Secularism and Public Policy*. We aimed neither for a theological discussion nor an inter-faith dialogue among priests, rabbis, imams, pundits, etc., as welcome as they were. We tried to steer away from a focus on specific, sometimes passing, flashpoints. Instead we sought to explore foundations and fundamentals at play.

Some of Canada's leading thinkers on the subject explored the challenges, creative encounters and policy options for achieving a shared Canadian identity, rights and reciprocity. Speakers of no religious faith as well as speakers of diverse faiths, values, experiences and social locations grappled with the place of religion in Canadian public life. Their essays, revised for publication here, are sequenced in the order in which they were presented. Some are in 'spoken voice,' others more 'academic.' Also included are some of the lively exchanges that followed the presentations.

John Ralston Saul, author, philosopher, public intellectual, delivered the opening lecture. He argues that Canada has never been a secular place. Some of the evil done to Indigenous peoples was by serious churchgoers — Methodists, Presbyterians, Anglicans, and Catholics. Indigenous spirituality and knowledge are foundations for a more authentic and resilient Canada.

The next two essays address *Indigenous Spirituality and What Canadians Can Learn From It*. **Chief Richard Atleo** PhD, of the Ahousaht First Nation and Associate Adjunct Professor, University of Victoria, illuminates the power of indigenous spirituality. **Kimberly Murray**, Ontario Assistant Deputy Attorney General, and former Executive Director of the Truth and Reconciliation Commission, speaks of the physical and spiritual violence done to Indigenous peoples by

both church and state.

Three succeeding essays explore *Religion and Public Space*. **Dr. Lori Beaman**, Canada Research Chair in the Contextualization of Religion in a Diverse Canada, University of Ottawa, traces the evolution of religiosity in Canada. **Dr. Paul Bramadat**, Director of the Centre for Studies in Religion and Society, University of Victoria, explores the combustibility of religious claims for public space and recognition. **Dr. Joyce Smith**, Associate Professor of Journalism, Ryerson University, reflects on religion in the media and the university.

Religion, Gender Equity and Sexual Identity is explored in the next three essays. **Rabbi Elyse Goldstein** writes from a Jewish feminist perspective. **Dr. Ingrid Mattson**, London and Windsor Community Chair in Islamic Studies at Huron College, Western University, presents a North American Muslim perspective. Toronto City Councillor **Kristyn Wong-Tam** calls on all religions to promote LGBTQ inclusion. The panel sparked a lively debate, moderated by **Nathalie Des Rosiers**, MPP for Ottawa-Vanier and former General Counsel for the Canadian Civil Liberties Association.

The next trio of essays address the challenge of *Balancing Free Speech and Freedom from Hate*. The case for prosecuting religious hate is made by **Dr. Mark Freiman**, lawyer and Past President of the Canadian Jewish Congress, and by **Azeezah Kanji**, Director of the Noor Cultural Centre in Toronto. A contrary perspective is provided by **Dr. James Turk**, Distinguished Visiting Professor, and Director, Centre for Free Expression, Ryerson University.

We are particularly pleased to include two additional readings, selected as top submissions in a student essay contest as part of the conference. Ryerson students were invited to write from experiential or academic perspectives. The winning essays are by **Sara Ali** (Undergraduate) and **Caleb De Jong** (Graduate).

Robust religiosity and staunch secularism are both defining elements of Canadians and the Canadian narrative. The encounter of the two shows no sign of reduced significance for Canadian society — quite the contrary. We at Ryerson plan to continue this debate.

ACKNOWLEDGEMENTS

These essays were first presented at a Ryerson University Conference, *The Many Gods of Canada: Religion, Secularism and Public Policy* (October 2017). We had the enthusiastic support of Ryerson President Mohamed Lachemi, Provost Michael Benarroch, preceeding Interim Provost Chris Evans, Assistant Vice-President International Anver Saloojee, Faculty of Arts Dean Pamela Sugiman, and Faculty of Communication and Design Dean Charles Falzon. Without their openness to new ideas and initiatives, and their ready commitment of administrative resources, this inter-disciplinary undertaking that was national in scope would not have come to fruition, certainly not as swiftly as it did.

Two Distinguished Visiting Professors at Ryerson, John Ralston Saul and Alok Mukherjee, were a ready source of guidance, encouragement and, finally, active participation in the conference.

We are grateful to several members of the Ryerson administration: Rachel Beveridge, Brian Boase, Amy Casey, Julia Davydova, Michael Forbes, Marsha Mceachrane Mikhail, Georgina Phillips, Syeda Shah, and Chris Visser. In the office of the Dean of Arts, Sharmaine McKenzie, Director of Operations and Strategic Initiatives, rescued us more than once from our operational bog. We also benefitted from the superb contribution of our student assistant Mia Hershkowitz.

We owe this special edition of *Canadian Diversity* journal to Jack Jedwab, President of the Association for Canadian Studies, Montreal. He was quick to agree to publish these essays. We also thank his colleague Sarah Kooi, senior project manager, who helped shepherd the content into print.

Haroon Siddiqui and Myer Siemiatycki

CANADA WAS NEVER A SECULAR COUNTRY

Award-winning essayist and novelist, **JOHN RALSTON SAUL** is the only Canadian elected as President of PEN International, the writers group with 146 chapters in 104 countries. His 14 works have been translated into 28 languages in 37 countries.

Canada has never been a secular place. It is not today. In Quebec, many people insist that it is a secular society, but I think this is very much a misreading of their own history. Or it may simply be that they have been watching too much television from Paris... Some of the evil done to Indigenous peoples was by serious churchgoers — Methodists, Presbyterians, low Anglicans and, of course, Catholics. The Protestant northern Irish of the Orange Order brought much disturbance to this country.

Le Canada n'a jamais été un endroit laïque. Il ne l'est toujours pas aujourd'hui. Au Québec, beaucoup de gens insistent sur le fait que la province est une société laïque, mais je crois que c'est une mauvaise lecture de leur propre histoire, ou l'influence de la télévision de Paris... Le mal fait aux peuples autochtones a été en partie orchestré par les pratiquants sérieux, c'est-à-dire les méthodistes, les presbytériens, les anglicans et, bien sûr, les catholiques. Les protestants du nord irlandais de l'Ordre d'Orange ont eux aussi causé beaucoup de perturbation dans ce pays.

You have heard the land acknowledgment and also the Indigenous blessing by Elder Clayton Shirt. They are more than politeness and protocol. They open our minds to the possibility that our relationship to the land is not limited by the very simplistic and barbaric approaches of common law and the civil code. This acknowledgement and blessing, and your acceptance of them, opens all of us up to a non-European, Indigenous and spiritual approach to the relationship between people and place. I take this as a rejection of the European, Manichean approach towards human domination over place; a rejection of the Platonist view of how the world works, with human beings at the top of a pyramid and the land and everything else at the bottom. The spiritual-Indigenous approach is not reductionist. It is not binary. In the midst of an environmental crisis, in particular global warming, this Indigenous, inclusive, spiritual approach is far more sophisticated than anything imported from Britain and France.

Fifty years ago, what I've just said would have been rejected by all of our universities, to say nothing of the universities in Europe, as pagan talk! Until twenty-five years ago, animism was looked down upon throughout the Abrahamic world, demeaned with phrases such as “don't tell me you believe in talking to rocks!” That was the leftover of the old, imperial racist period of the empires, particularly the British empire, in which social Darwinism — that is to say, scientific racism — held sway as a justification for Europeans to treat other people badly.

Richard Atleo, also known as Umeek, who's here tonight and from whom you'll hear from tomorrow, is a remarkable philosopher, who builds his ideas around the concept of *Heshook-ish Tsawalk*, which means, everything is connected, everything is one. It is a philosophy that could be called the exact opposite of the Platonist approach, which puts human

beings at the top. Instead it is an inclusive philosophical concept, which builds human beings into an integral picture that includes the earth and the other living forces on it.

There has been a great deal of movement in terms of non-Indigenous Canadians trying to understand and listen to Indigenous ideas (philosophical and spiritual.) We are willing to understand the great intentional damage done by residential schools and other racist programs. But we have not really tried to understand why that racism and those programs came about, and how closely they are tied to a large Western view of itself in which the utilitarian, meritocracies and rationality were blended into the Abrahamic religions as a justification for doing wrong.

Let me turn to an area where we have done a bit better. Perhaps the most important non-Indigenous philosophical school to come out of Canada came out of the University of Toronto. It is called the Toronto School of Communications, or just the Toronto School. Its members were Harold Innis, Marshall McLuhan, Northrop Frye and Edmund Carpenter. And you could say that Glenn Gould was an honorary member.

Harold Innis' seminal book, *The Fur Trade in Canada*, showed how the fur trade was built to a great extent on spiritual, spatial, non-linear Indigenous philosophy, which was the only way that you could build an enormous economic and often military structure in which people saw very little of each other and yet were loyal to each other. Innis pushed this much further with *Empire and Communications* in 1948, and with his seminal work *The Bias of Communications* in 1951. Marshall McLuhan openly spoke about his debt to Innis and you can see it in such books as *The Gutenberg Galaxy* in 1962. Northrop Frye's work on colonialism and his masterpiece *The Great Code* in 1981 fit very much into this whole picture of a different approach towards communication. In other words, the roots of the modern communications philosophy, which is used around the world, lie very much in Indigenous spirituality and philosophy.

I don't have to explain how Glenn Gould fits into all of this — you can see it very much in his profoundly non-linear approaches towards music, his years of explaining music through CBC programs and his compositions such as *The Idea of North*.]

Richard Atleo and many other great Indigenous philosophers in Canada can add to what I've just said. Two others rush to my mind — the remarkable Leroy Little Bear from Lethbridge and Taiaiake Alfred who teaches at the University of Victoria.

I'm not suggesting that Indigenous spirituality and spatial approaches cannot be found in Christianity or Islam or Buddhism or Judaism or Hinduism, just to name a few. You could call all of this an approach towards humanism. You can cer-

tainly find strong examples of it in Socrates but also in the great Giambattista Vico, who in the 18th Century put forth a philosophy which would be, I think, entirely recognizable to Indigenous philosophers today.

We all know that there has been a great deal of slippage backwards into a period in which religious extremists have allied with political extremists and ideologues — extremists who believe in race as a way of structuring society and people who believe in an authoritarian view of society in which exclusion and extremism are happy partners. It is as if we are seeing a return of the late 19th-century imperial policies, which often rested on "God is on my side". We're seeing extremes, very loud extremes, in virtually every religion. You have only to think of the Buddhist persecution of the Rohingya, of the revived racism of many Christian groups in the Southern United States, of the extreme political movements in Islam, of the violent nationalism in Hinduism in India today, of the extremists in Judaism, and on and on. They are all involved in what I would call the promotion of morality over ethics. Of course, the morality is not moral, but they can't handle ethics, so they kidnap moralism. Much of this outbreak has come as a direct result of forty years of the world being dominated by globalist theory, which has promoted a dominance of utilitarian approaches. A borderlessness which attempts to eradicate the idea of people belonging anywhere in order to replace it with simple self-interest. The dominance of the market view as the leader of civilization.

All of this has led intentionally to the demeaning of ideas of citizenship (which require belonging and social engagement), the demeaning of empathy, of responsible individualism, and therefore the idea of society as a place of sharing. And all of this has clearly involved an attempt to undermine spirituality in order to facilitate the kidnapping of formal religions. I don't think this has succeeded but it has created extremist minority movements. While the mainstream in most religions has largely resisted this politicization and backwards approach, the success of the extremists has led to a return of the fear of the Other, of populism, racism and indeed an expectation of violence, even if that violence is very small in comparison to the real relative stability, certainly in the West. In other words, what we're seeing is an attempt to exploit religion as a way of justifying violence, racism and exclusion.

I began by talking about the influence of Indigenous ideas as they are intimately tied to spirituality, place and protocols, and how these three elements fit together. I then suggested that there are two opposing forces at work — one I would call humanist, which involves religion and spirituality as it relates to Richard Atleo's concept of oneness, to ethics and to a spatial idea of human relationships; and the other force is the use of religion by political movements to advance their ideologies, and their ideas of authoritarianism, linearity. There is a great deal of talk of faith, but when you examine it, what you see is that this is a faith not in the public good or in the human well-

being or in a humanist approach towards spiritualism. Rather it is extreme faith, which enables certain kinds of violence and hatred.

When faced with these two forces, the sensible approach is one of acceptance of complexity and contradiction, in order to leave the door open to ethics and humanism.

Let me throw in something perhaps surprising and certainly contradictory when we think about some of the evil done to Indigenous peoples, and indeed to others by the Fathers of Confederation. They were all serious churchgoers — Methodists, Presbyterians, low Anglicans and Catholics. A great deal of their religious language built into the creation of Canada was drawn from Psalm 72, which was widely understood to be the most egalitarian and justice-oriented Psalm in the Bible. It was the Psalm which put forward ideas of responsibility.

PSALM 72: KJV

⁴ He shall judge the poor of the people, he shall save the children of the needy, and shall break in pieces the oppressor.

¹² For he shall deliver the needy when he crieth; the poor also, and him that hath no helper.

¹³ He shall spare the poor and needy, and shall save the souls of the needy.

It was and remains the left-wing Psalm. Coming from Canadian colonial leaders, it was a vicious attack on the British class system and also on the fundamental ideas of the British Empire.

In that case, how can we explain their betrayal of the treaties, their residential schools, their attempt to eliminate culture and language, and their other expressions of racism and exclusion?

Well, that is the challenge of reality. Politics is filled with these flagrant and often disgusting contradictions. They represent the complexity of human actions — you might say the lack of consciousness, the greed. That justifies nothing. It is simply important to identify this complexity.

I think it helps if we can consciously break down the two religious groupings I mentioned — one spiritual, the other not. One is about connection to place, the other is about human domination. Think of the banning of the potlatch. It was driven by church leaders who clearly were not spiritual and who sought power. They wanted to destroy the spirituality of Indigenous peoples. They also wanted to destroy the independence and even the economic success of the Indigenous people in the fishing industry.

Through this simple act of banning a spiritual, philosophical and social tradition and practice, they were aiming to

humiliate another civilization and to deny the possibility of its spirituality, let alone its religion.

We could also say they simply wanted the business and the land and this was the easiest way to knock Indigenous people out of their role and their reality. We could simply say that the colonials were racists. All of that is no doubt true. But it's important to stick with the complexity because the very act of banning showed that the formal, power-driven religious movements feared the power and influence of Indigenous people, their spiritual reality and their understanding of place. In other words, the very act of banning showed the power of those who were banned. Even though Ottawa, John A. Macdonald and the formal religious groups had the power to do this, you feel in their action a deep weakness and a deep sense of insecurity as to who they were, and why they were doing it and what their right to do it was.

You might say that an underlying message in everything I'm saying is that Canada has never been a secular place. It is not a secular place today. In Quebec, many people insist that it is a secular society, but I think this is very much a misreading of their own history. And it may simply be that they have been watching too much television from Paris.

An example of the extent to which spirituality has always played a role in Canada is the way we have welcomed immigrants. It was the Indigenous approach towards welcoming that has firmly put in place the best of what we now think of as our immigration citizenship policy. We owe an enormous amount to the Indigenous peoples for the way in which they reshaped the thinking of European Canadians on immigration. The other obvious point is that most immigrants who came to Canada came in religious groups. They depended on the support they received from their faith groups. It was more often than not the religious or the faith groups that helped people to get settled — helped them to find jobs and to organize themselves in a new and difficult country.

New immigrants being so dependent on their religious groups always came with the risk that people would get locked into a romantic notion that they could simply transport their notions of society to this new place. Certainly, the worst example were the Protestant northern Irish of the Orange Order, who used their relationship to the British Empire as a tool to gain as much power as possible for themselves under the guise that they represented a language, a culture and a religion that were proper to Canada. Nobody has ever outdone the influence of the Orange Order and the disturbance it brought to this country.

But in general, what we've seen is a gradual balancing out between what people bring with them and what they find here. Again, the religions and the spirituality have largely played a positive role in the building of that citizenship and the gradual evolution of a Canadian's idea of who they are

and what this place is.

This is not entirely changed today. Yes, there are all the immigration and settlement systems, and the three thousand citizenship ceremonies every year. And there are the civil society organizations that help immigrants. But at the same time, the humanist side of the religions of many immigrants have continued to play an important role. The humanist side: the side of empathy, the side of engaged citizens. I think one of the exciting things today is that this mixing – particularly in the cities and towns – of many, many sets of religions has meant that all groups have become used to working together, used to the idea that their spirituality can fit together with the spirituality of other religions, of other spiritual groups. So curiously enough, this old idea of spirituality being at the centre of building citizens has found a new energy, thanks to diversity. In many ways, it is coming more and more to resemble the complexity which the Europeans were very fortunate to be part of with Indigenous people in the 16th, 17th, 18th, and early 19th centuries.

I think that the next step really is to pay a great deal of attention to these Indigenous ideas of complexity and oneness that will allow us to build an increasingly complex and unusual society.

Don't think for a moment that I'm being a romantic. All of this does require a great deal of attention from all players. What we are trying to build requires the acceptance of a delicate balance, and above all it requires enormous citizen efforts and citizen engagement. All of this will succeed or fail on the basis of citizen engagement as a partner of laws and programs and official structures.

This has always been and will increasingly be a constant test for each of us. We will always have to work out where our faith can serve the greater good – not block it, and not create divisions.

THERE'S ETHICAL SOLIDITY IN THIS COUNTRY

An exchange — JOHN RALSTON SAUL and HAROON SIDDIQUI

Haroon Siddiqui: Do you hold hope for Canada in the sea of trouble in the United States and Europe? We are not immune to those forces.

John Ralston Saul: I do have hope; otherwise I wouldn't bother. I'd just go to the beach with a bottle of whisky and get drunk and swim.

I think the return of Indigenous people is a very important factor. It grounds us in thousands of years — all of us. And the more powerful Indigenous people are, frankly, the better it will be for the rest of us. We have gradually managed to weed out, bit by bit, the various aspects of institutional racism. Forty years ago, Jews weren't allowed to belong to clubs — at McGill, there were only a certain number of spots for Jews. I mean, just think about this — this was after the Second World War!

Siddiqui: “No Jews need apply...”

Saul: All that stuff...

Siddiqui: ...no Irish, either.

Saul: No Irish, either! We have done away with the Protestant-Catholic thing, which was a terrible division. The Orange Order and the right wing of the Catholic Church did everything they could to fight each other, because they wanted it to be like Europe, they wanted to feel at home. But we dealt with a lot of that. Doesn't mean it can't come back — in another form.

Siddiqui: We've managed well. Ours is a model that works relatively better than anybody else's.

Saul: Yes, there's a comfort in Canadian cities that's quite remarkable. Foreign visitors to Canada say, “The atmosphere here is so relaxed!” What they mean by ‘relaxed’ is relaxed between races. They can't quite figure out how it functions — neither can we. We're succeeding in many ways now, but I think Canadians don't realize how much hard work it entailed and entails.

Siddiqui: Except that the consensus we had developed post-Charter and post-multiculturalism, post even the 1990s economic troubles, that consensus began to break down post-9/11, especially with respect to Muslims. Now it's gone well beyond fear of terrorism. It's a cultural warfare against Muslims, and also against women's empowerment, against gay rights, which Trump stokes.

We see parallels to the 1930s.

Saul: But I thought it was absolutely wonderful that when the incident happened the other day in Edmonton (where a Muslim was accused of stabbing a police officer and plowing a van into pedestrians in Edmonton), it was the Muslim organizations that immediately came forward and said, “We will organize all the public ceremonies,” “We're taking over the public ceremonies...”

Siddiqui: There's a counter-argument — it's good PR on the

part of Muslims who are learning to do it, but why should they have to do it in the first place?

Saul: No, you're missing the point.

Siddiqui: We don't expect whites to do this when white murderers go out and do their killings.

Saul: But doing good is a very important thing, doing the right thing. I don't want to say you have to be seen to be doing good, that's not what I mean – people have to understand that you are part of the doing good. And when you have so many forces – coming from the United States and so on, and talk radio going the other way, you do have to stand up and be there, otherwise those people will control the language and the public agenda.

That's not what I would like, but that's the reality of public debate. It's one thing to stand up apologetically, [and another] to say, "We're taking over here, we're doing it – you can follow us."

That changes it completely. It's a bit like the Aboriginal movement, Idle No More (2012-13), which was a real turning point in the history of Canada. Those kids, those Indigenous kids said that wrong was being done. They were the only people in this country who got up in the middle of the winter, when the Harper government was doing evil – evil – against the parliamentary system through those omnibus bills. They were the only people who got up in the middle of the winter and for several months stood out there and said, "We will not allow this to pass."

Thousands of young people, who would not stand up for O Canada, who would not say they are Canadian citizens, actually saved the dignity of the country. We're a much better place because they did it. That's called ethics.

Siddiqui: More power to them. But equally, we have a public discourse that has become venomous, far less civil than it used to be in my lifetime.

Saul: That's because you're too young. The history of democracy is vicious and full of violent debate. The 19th century was appallingly vicious and violent.

Siddiqui: You want us to be compared to the 19th century?

Saul: All I'm saying is, the new methods of communication have permitted us to go back to the kind of debates we had in the 19th century.

The viciousness that we're getting in social media may have two aspects to it: one is that social media is very, very new. There's a side to it that's profoundly irresponsible. Worse than some of the racism, which you can kind of shut off, is

the pornography. I think the effect of that pornography on this new generation – and I'm not being conservative when I say this – stuffing the heads of 12-to-18-year-olds with sexual images that are not possible in the real world. People are only just starting to write about that effect – what does it mean to people.

Siddiqui: And it's all being done in the name of free speech.

Saul: Yes. But that's the complexity. As the Chinese say on their good days, "Short periods of time are short periods of time." You do have to get through them.

Siddiqui: Is there hope for Canada?

Saul: I think that there's solidity in the country, which we perhaps have never had. And when I say solidity, I mean there's an ethical solidity, which is really quite interesting. We didn't have a civil war and kill 700,000 people as in the United States. We didn't have a coup d'état, etc.

We have a lot of experience with trying to work out what it is that we're going to do. If you've been trying to be a democracy, officially since 1848, with 50-60 years of struggle before that – and on top of that a long experience before that of Indigenous democracy, which had an enormous influence on settlers, the incredible influence of Indigenous ways of making decisions, humanist ways of making decisions – all that influence on French-Canadians, on Scots, on people in the Prairies, on the Hudson's Bay Company, the Métis Nation, all the rest of it, you have to say there's a line there. And if you can start eliminating some of the worst things you're carrying with you, like the racisms, we start to get back to these thousands of years of Indigenous ways.

A NUU-CHAH-NULTH PERSPECTIVE ON RELIGION, SECULARISM AND PUBLIC POLICY

DR. RICHARD ATLEO — a.k.a Umeek — helped create the First Nations Studies Department at Malaspina University College (now Vancouver Island University). He is Research Liaison at the University of Manitoba; Associate Adjunct Professor at the University of Victoria; and Champion to the Indigenous Adult and Higher Learning Association of British Columbia.

In ancient Nuu-chah-nulth culture, there's no distinction or essential division between the spiritual and physical domains — there's unity of the spiritual with the physical. Another feature was an awareness of the cyclical nature of birth, growth and learning in phases that apply not only to individual beings but also to nations and ages of being, which progress in phases from birth to maturity that , in turn, brings on another birth in regular cycles of being.

Dans l'ancienne culture nuu-chah-nulth, il n'y a pas de distinction ou de division essentielle entre les domaines spirituel et physique: on parle plutôt d'une unité du spirituel avec le physique. Une autre caractéristique de cette culture est la prise de conscience de la nature cyclique de la naissance, de la croissance et de l'apprentissage. Cette nature cyclique comprend plusieurs phases, de la naissance à la maturité, s'appliquant non seulement aux individus, mais aussi aux nations et aux âges de l'être.

Within a span of 133 years, from 1884 when Canada enacted legislation to outlaw the religious practices of the “Indians” of Canada, there have been radical changes. Radical, that is, for Canada. I was born at the outset of World War II, in April of 1939, the significance of which is that Canada for most of the 1940s was preoccupied with overseas issues. No time, then, to enforce the Indian Act, particularly in isolated communities like Ahousaht out on the western-most shores of Vancouver Island that remained without basic amenities like roads, electricity, indoor plumbing, and communication. Blissfully unaware of religion, secularism and public policy as this applied to Canada, I understood my world through my culture, my language, my food, and the way my ancestors viewed their world.

One day as I played outside my home as a little boy I noticed

a large man stride to the summit of a local hill and make an announcement that is literally translated as “Walk, people of Ahousaht, Walk.” Evidently this announcement was not unexpected but eagerly awaited, for immediately the entire community mobilized to gather for a great feast in the Big House of the Head Chief. It was the custom of the day for each family to bring their own dishes, plates, cups and utensils. We did not yet have tables for eating but rather cedar mats laid out on the floor before each family. What does this event have to do with religion, secularism and public policy? Everything!

From time immemorial to the early formative years of my life into the 1940s, my people did not view the world, did not view existence, did not see creation, as a disconnection between the sacred and profane, but rather assumed through their experiences that there is no division between the physical

world and the spiritual world. The use of the English language is problematic here because its usage is heavily biased in favor of empirical science.

It is with this understanding— that the English language, as a means of communicating spiritual things, is problematic — that I began to address the Ryerson Conference in my language and to sing a song in my language. The name of the Creator in Nuu-chah-nulth is *Kʷaaʔuuc*, meaning ‘Owner of That Which Is,’ or ‘Owner of That Which Exists.’ The song that I sang is an acknowledgement of the Ownership of creation, which means that all things come from this one source.

Existence viewed through the lens of ancient Nuu-chah-nulth did not clarify its mysteries, contradictions and conundrums, for these remain intact on a global scale. How did ancient Nuu-chah-nulth cope with the difficult issues of existence? Not perfectly, but with a good degree of tolerance as witnessed by the relatively healthy condition of religion, secularism and public policy at colonial contact. This tolerance is indicated in everyday language such as *qʷaasasa iʃ*, a common household saying that speaks to specific instances of disagreement, or conflict, that means “he or she is just that way” or “that’s just the way things are.” This common saying is directly related to the name of the Creator, who Owns What Is. No attempt is made to understand or comprehend why things are the way they are. What is understood, what is comprehended is story, which in formal ceremonies is always concluded with *ʔaʔaa uuna*, meaning “it is that long.” The Potlatch system, a combined forum of religion, secularism and public policy, always began with a long oration about the host Chief and family. This Chief is distributing political goods to community and the oration is testifying to the efficacy of the spiritual practices to do this effectively.

The significance of *ʔaʔaa uuna* is that it circumscribes this ancient knowledge system beyond which there definitely is a vast universe of mystery. How this came to be must be attributed to its spiritual practices, which were universal until interrupted by colonial pressures. The *ʔuusum*, roughly translated as ‘vision quest’ is directly related to the story of Son of Raven’s quest for the light. This story of Son of Raven has several key features, which cannot be fully elaborated in this account. From a Nuu-chah-nulth perspective, since it is a Nuu-chah-nulth story, its primary feature is the unity of the spiritual with the physical. That is, Son of Raven and community find themselves living in the dark but they know that the Head Wolf keeps the light hidden in a box. On the surface, the story reads like a community strategy for grand theft. Below the surface, when a constellation of story is examined, together with millennia of a governance system of ceremonial giving, millennia of acknowledging respectful protocols with salmon, deer, cedar tree and the rest of creation, the conclusion to the story of Son of Raven’s quest for the light is always the satisfaction of noting, on any given beach, that each morning at low tide raven enjoys the fruit

of his success by finding food.

If you haven’t guessed it yet, the Head Wolf who owns the light is the Creator, and in ancient Nuu-chah-nulth culture each head chief will own a wolf dance, called *hinkiic*, which literally means “gift bearing.” At each great feast, the chief’s dance, *hinkiic*, is performed in anticipation of a distribution of gifts, political goods, to community. Along with these performances of dance and song will always be lengthy prayers, which not unexpectedly sound very much like wolf howls.

Since the Nuu-chah-nulth Creator is portrayed as a Head Wolf who lives in a wolf community, and since no distinction or essential division is made between the spiritual and physical domains, then the interactive nature of this unified creation is expressed in a *ʔuukʷaana* down in the Nuu-chah-nulth community. *ʔuukʷaana* means “remember reality we.” The reality that is being remembered is related to *ʔaapciuk*, meaning, going the right way, and *wiikciuk*, going the wrong way, which, in turn, is related to *Kʷaaʔuuc*, the Creator. What is being remembered is the reality of the Creator and the teachings about what ‘going the right way’ means and what ‘going the wrong way’ means. Since the *ʔuukʷaana* was performed in cycles of time on a regular basis, and since the *ʔuukʷaana* was always performed by the Head Chief of the community, this meant that any blame for going the wrong way was always taken by the Head Chief. In fact, the Head Chief during this ceremony was publicly taken to task by *wit wok*, a form of national security, and humiliated. Children of the Head Chief are absconded by wolves and this is evidence that the Head Chief is guilty. After a suitable period of time, the children of the Head Chief are secretly taken to a place of seclusion and taught, or re-taught, the right way. Finally, there is an enactment of conflict between the community and the wolves where the children are contested for by the *wit wok*, who finally succeed in their rescue. Once back in community, there is a great feast celebration. Today the *ʔuukʷaana* is very rarely performed but its principles that reflect the nature of existence, that reflect the nature of being, indicate that there are ways of living that are judged to be good and ways of living judged to be bad.

In the unity of creation, the unity between the spiritual and physical domains, these opposing ways of living are articulated in teachings such as “a spirit sits one on each shoulder.” The one on the right shoulder gives good advice and the one that sits on the left shoulder gives bad advice. In the ancient Nuu-chah-nulth worldview and through the practice of the *ʔuusum*, the world of spirits was common experience. Each household had great numbers of stories, some of which were common to all, and some of which were family legacies. Many of these stories could thematically be described by *iʔaa*, a word that has been translated as ghost, but can also be translated as referring to any mysterious spiritual power. The etymology of the word is philosophically interesting. Since it is a word that refers to a spiritual mystery that escapes human

comprehension, the syllable *i* is used in the word for knife *ima*, and means “cut.” The second syllable *haa* means “what is there” or “that which is there.” In translation then, *ihaa* could mean a cut, or a breach, that has been made in an otherwise unified creation. This word suggests that ancient Nuu-chah-nulth were aware of the contradictions and oppositionalities presented by creation but chose not to complain about these contradictions and oppositionalities, nor attempt to use these apparent contradictions against the Owner of creation.

Rather ancient Nuu-chah-nulth accepted their human condition and periodically made adjustments and corrections by performing a *luuk^waana*.

Quite naturally, the question arises whether these ancient Nuu-chah-nulth ways are sufficient to cope with the modern issues we face today on a global scale. The answer must obviously be no. Although Nuu-chah-nulth cultural ways survived every attempt to eliminate it by legislation, policy and practice, its resurgence has proven to be beneficial only in part. A study of the language and some of the practices, like the *luuk^waana* and the *luusum*, indicate an approach that, for me, is the most useful or appropriate. Approach to what? First, ancient Nuu-chah-nulth had a clear understanding of their limitation of being in the phrase, *pa^haa uuna*. Within the bounds of this limitation were contained a great deal of knowledge and skills, which were then made insignificant with the practice of the *luusum* that unveiled vast mysteries both within the physical universe as well as its spiritual component.

Another feature of ancient Nuu-chah-nulth culture was an awareness of the cyclical nature of birth, growth and learning in phases that apply not only to individual beings but also to nations and ages of being. Just as a child is born, grows into toddlerhood, and progressively learns in phases into childhood, adulthood and old age, so too do nations, and ages of being progress in phases from birth to maturity, which then brings on another birth in regular cycles of being. Thus, in Nuu-chah-nulth story, the first age of being is represented by Son of Raven and a diverse community that is of one language and culture. Once this age has matured, then story has it that a prophetic word is given to warn, and put on notice, the created beings like Son of Raven, that a new age will soon take effect. There is resistance to this warning and notice of change, so the Transformer utilizes the resistance to effect the change. This second age of being is the one described as biodiversity. Once all beings spoke one language and now the degree of difficulty in cross-species communication becomes a necessary challenge. It seems that growth and progress is expected from one age of being to another, in the same way that children in school are expected to grow and make progress.

The third age of being from this Nuu-chah-nulth perspective is the recent colonial age, which brought even greater challen-

ges to living. Although many Indigenous people view the colonial age as a purely negative evil since it destroyed so many lives, it is not inconsistent with the challenges of ancient life ways. What is written here can be abused but it is the view of one Nuu-chah-nulth author who takes a position of faith in the benevolence of the Creator. Yes, the colonial age appears, from an Indigenous experiential perspective, to be an evil one, but the degree to which some ancient practitioners of the *luusum* abused their bodies would be considered unusual and cruel punishment today. The principle involved in the *luusum* in these cases of profound self-abuse is the expectation that the rewards far outweigh the pain and suffering of the process.

THE SPIRITUAL VIOLENCE DONE IN RESIDENTIAL SCHOOLS

A member of the Kahnesatake Mohawk Nation, **KIMBERLY MURRAY** is Ontario's first-ever Assistant Deputy Attorney General for Indigenous Justice. She was the executive director of the Truth and Reconciliation Commission.

As the Truth and Reconciliation Commission said, there was “spiritual violence” in Residential Schools. Its impact continues to haunt survivors. Churches bear a responsibility to formally recognize Indigenous spirituality as a valid form of worship equal to their own. They should go further: Tell the survivors, “It’s o.k. not to be Christian.”

Tel que la Commission de vérité et de réconciliation l’a affirmé, il y a eu une forme de « violence spirituelle » dans les pensionnats. Son impact continue de hanter les survivants. Les Églises ont la responsabilité de reconnaître formellement la spiritualité autochtone comme une forme valide de culte égale à la leur. Ils devraient aller plus loin et dire aux survivants, « On peut très bien ne pas être Chrétien. »

Sago, kwe kwe, Kimberly Murray, une-juts, Haude-saunee, Mohawk Kanesatake – Wolf Clan.

Thank you Ryerson for inviting me to participate in this very important conversation. When I was first asked to speak on this panel, my first reaction was to decline. I am not the right person to speak about Indigenous spirituality, and what we can learn from it. It is not my role to — I leave that to our Elders, and Knowledge Keepers. But what I can offer to the conversation is to share with everyone what the Truth and Reconciliation Commission had to say about spirituality and religion.

First, just a quick reminder: over 130 years, more than 150,000 First Nations, Inuit and Metis children were apprehended from their homes and communities, taken from their loving parents, and placed in residential schools. The schools were funded, or rather- under funded, by the federal government, and operated by church entities. The stated purpose of the schools was to civilize and Christianize the children. Chil-

dren were not permitted to speak their Indigenous languages, and were forced to learn English or French. Their Indigenous identities were literally beaten out of them. It has been noted, that the goal of the schools was to “Kill the Indian in the Child.”

The Truth and Reconciliation Commission stated this:

“Aboriginal children were taught to reject the spiritual ways of their parents and ancestors in favour of the religions that predominated among settler societies. As their traditional ways of worshipping the Creator were disparaged and rejected, so too were the children devalued. They were not respected as human beings who were loved by the Creator just as they were — as First Nations, Inuit or Metis peoples. Rather, their Christian teachers saw them as inferior humans in need of being ‘raised up’ through Christianity, and therefore tried to mould them into models of Christianity according to the racist ideals that prevailed at the time.”

“The impact of such treatment was amplified by federal laws and policies that banned traditional Indigenous spiritual practices in the children’s home communities for much of the residential school era.”

The Commission concluded that “spiritual violence” occurred in the residential schools. The commission said that “spiritual violence” occurs when a person is not permitted to follow her or his preferred spiritual or religious traditions; when a different spiritual or religious path or practice is forced on them; when a person’s spiritual or religious tradition, beliefs or practices are demeaned or belittled; and when a person is made to feel shame for practicing his or her traditional or family beliefs. All these things happened in Residential schools.

The impact of this “spiritual violence” has lived on past the closure of the last school in 1996 – and the impact continues today.

The Commission heard from 7,000 survivors and intergenerational survivors. Many spoke of the “deep fear” of the church that was instilled in them as children in the schools, and that “deep fear” remains with many of them.

One Survivor who spoke to the commission shared this about her experience in one of the schools:

“At the front they had a poster. It was really long and there was a black ugly road going down and there were people in the fire at the bottom and their hands were raised and they were suffering and they were stuck there and the priest... he taught religion. He said if you want to go down this road, you are going to be in there. You are going to go to hell and then the other road was so beautiful they had a picture, it was going to heaven. There were angels and the lord and talk and it was so beautiful and you didn’t want to go with that other one. I was so terrified of hell.”

How does one heal from (such) spiritual violence? Many Survivors told the Commission that reconnecting with their Indigenous spiritual teachings and practices has been essential to their healing – with some saying that Indigenous spirituality “saved their life”.

Indigenous spirituality is connected to the land, to language, to our songs, to culture, to our identity as human beings.

Survivor and Elder Fred Kelly said that to take the territorial lands away from the people whose very spirit is so intrinsically connected to Mother Earth was to actually dispossess them of their very soul and being. “They were mortally wounded in mind, heart and spirit and that turned them into walking dead.”

But not all Survivors reject the religion that was forced on them as children. Many still embrace what they learned. But what the Commission heard was that for many communities, (especially) the young people, want to return to Indigenous spirituality, they want to learn the ways of their ancestors – but the fear of the past continues and in some communities the survivors themselves want to stop Indigenous spirituality.

The spiritual violence perpetrated in the schools has now led to spiritual conflict within some communities and some families.

So, what is the answer? The Commission said that churches bear a responsibility to formally recognize Indigenous spirituality as a valid form of worship that’s equal to their own. Many religious entities are incorporating Indigenous spirituality into their churches, and mixing religious teachings with Indigenous spiritual practices. But the Commission challenged the church entities to go a step further: Come out and tell the survivors, “It’s o.k. *not* to be Christian.” By doing so, the churches would help lift the fear of hell, and perhaps help resolve the spiritual conflict that exists in some families and communities, and help the young people learn the way of their peoples before the children were taken away to residential schools. But this challenge has not been fully taken up by the church entities.

I want to speak about the Two Row Wampum. It’s one of the first Treaties that Settlers entered into with Indigenous peoples of these lands. The Wampum Belt that depicts the Treaty is that of two purple rows of wampum. One row depicts the Settlers on their side of the waterway in their vessel. The other row, which runs parallel to the first, represents the Indigenous peoples in their canoe. Both are travelling along side by side in friendship, peace and respect, and neither will interfere with the other. Residential schools, along with many other government policies, directly breached this Treaty.

So, as institutions, governments, churches, NGO’s, individual citizens, how to we breath life back into our original agreement, our treaties? We all have a role to play. Indigenous communities must be supported in revitalizing and reclaiming their languages, their laws, their governance systems, and their spirituality (whatever form that may be today). I urge policy makers to think about that. And as John (Ralston Saul) stated last night, Canada will be a better place for everyone.

RECOGNIZE THE NEW RELIGIOUS DIVERSITY

Canada Research Chair in Religious Diversity and Social Change at the University of Ottawa, **DR. LORI BEAMAN** is the Principal Investigator of a seven-year research project at 24 universities in five countries, studying religious diversity in global context.

The description of Canada as a secular country is not accurate, but neither is it 'religious'. Faced with a new diversity, including the rapid growth of the nonreligious; a declining commitment to organized religion; an increase in migration and minority religions; and a renewed attention to indigenous spiritualities, the challenge is to develop inclusive practices that build a solid foundation for a complex future. This means acknowledging power and renegotiating old arrangements to recognize the potential of the new diversity.

La description du Canada en tant que pays laïc n'est pas exacte, mais le pays n'est pas non plus « religieux ». Face à une nouvelle diversité, incluant la croissance rapide du non-religieux, un engagement déclinant envers la religion organisée, une augmentation des migrations et des religions minoritaires et une attention renouvelée aux spiritualités autochtones, le défi est de développer des pratiques inclusives qui construisent une base solide pour un futur pour le moins complexe. Cela signifie reconnaître le pouvoir et renégocier d'anciens arrangements pour reconnaître le potentiel de la nouvelle diversité.

Is Canada a 'religious' country? A 'secular' country? Both? Neither? The answer to this is complicated and very much depends on who is responding. From the perspective of some people, Canada is secular, a fact which sometimes means the exclusion of religious people from public life. Others, however, experience Canada as still very much shaped by its Christian settlers, which also results in exclusion of those who do not share this worldview. The declaration that Canada is a secular nation stands in interesting tension with the declaration of 'the Supremacy of God' in the preamble of the *Canadian Charter of Rights and Freedoms*, the recitation of Christian prayers at various state functions (including the opening of Parliament, provincial legislatures and municipal council

meetings), the presence of religious symbols in state buildings and the frequent intervention by religious groups in Supreme Court of Canada cases. Canada is very much in a period of intense change when it comes to religion, and descriptors like 'religious' or 'secular' do not capture the complexity of that shift, which can be characterized as 'the new diversity'. What does this mean?

Developments around diversity are changing the nature and shape of what we describe as the public sphere (or, claims on public sphere space and perhaps even function). Though these changes are broader than simply being about religion, the focus for our purposes is on several developments related

to religion.¹ First, during the past decade something rather phenomenal has happened in a number of Western democracies: for the first time ever, census data and population surveys show that a critical mass of people are nonreligious, identifying as ‘none’ when asked their religion. In Canada, nearly 24% of Canadians self-describe as nones or nonreligious, according to the most recent data available from Statistics Canada.² This represents a significant increase from 2001, when only 16.5 percent of people identified as nonreligious.³ Other examples include the US (19.6%), Australia (30.1%), the UK (50.6%), France (28%), the Czech Republic (76.4%), Estonia (59.6%), and Sweden (27%). The nonreligious constitute a growing presence in a wide range of social, economic and cultural contexts.⁴ The none category is made up of a wide range of worldviews, ranging from atheists, humanists, spiritual but not religious, and those who are quite simply indifferent. To date, they remain understudied, although this is changing.⁵ The rise of the nonreligious has prompted debates over the implications of a society that is much less influenced by religion, sometimes bordering on a moral panic about a potentially godless world.

As we might expect, a simultaneous change has been the rapid decline in affiliation or commitment to organized religion. Numerous scholars have theorized about this shift, some like Grace Davie arguing that a small group of people are now ‘performing’ religion for the rest of us, who reap the benefits of that performance.⁶ Davie calls this ‘vicarious religion’ and believing without belonging.⁷ It is not clear exactly what

role organized religion plays in the lives of the uncommitted. While maintaining an affiliation with organized religion, (in Canada this makes up about 67% of the population), they are not supporting the churches in tangible ways, resulting in, among other things, an abundance of church buildings available for condominium development and repurposing for other religious groups, often immigrant communities. In our Montreal focused research Monica Grigore and I have studied a number of such transitions,⁸ including the transformation of a Grey Nuns convent into a university residence and study area, a church converted to a seniors home, and orthodox and catholic groups sharing, somewhat uncomfortably, the same church space. An increasingly prevalent architectural feature in city developments is the remnants of a church building incorporated into a new development. As rural populations decline once vibrant country churches are closing. Congregations are merging in an attempt to pool diminishing resources. There are feelings of loss, despair and fear as an old normal disappears in the midst of the new diversity.⁹

The third change is an acceleration of migration, often to the same countries in which the number of nonreligious has increased so dramatically and rapidly.¹⁰ Migrant groups often bring with them religious practices and traditions that, while present in the receiving country, have been largely unnoticed. In Canada between 2001 and 2011 the percentage of those who identify as Hindus, Sikh, Buddhist, and Muslim increased from 4.9% to 7.2%, and account for 33% of immigrants who arrived within that ten-year period.¹¹ Australia has

1 Steven Vertovec (2007) describes this diversity as ‘super-diversity.’ He notes that “in the last decade the proliferation and mutually conditioning effects of additional variables shows that it is not enough to see diversity only in terms of ethnicity, as is regularly the case both in social science and the wider public sphere. Such additional variables include differential immigration statuses and their concomitant entitlements and restrictions of rights, divergent labour market experiences, discrete gender and age profiles, patterns of spatial distribution, and mixed local area responses by service providers and residents. Rarely are these factors described side by side. The interplay of these factors is what is meant here, in summary fashion, by the notion of ‘super-diversity’” (Vertovec 2007: 1025). See also Vertovec (2017) and Burchardt and Irene Becci (2016) for discussions on superdiversity. Deirdre Meintel (2016) refers to this diversity as ‘complex diversity.’

2 Statistics Canada (2011a).

3 Statistics Canada (2001).

4 Pew Forum on Religion and Public Life (2012); Australian Bureau of Statistics (2016); Woodhead (2016); and Pew Research Center (2015a). A WIN-Gallup International (2012: 15-16) report found that more than half of the populations in Vietnam, France, and Ireland consider themselves “not a religious person” or atheist.

5 There is an emerging literature, some dealing with atheism (Zuckerman 2010; Beaman and Tomlins 2015; Lee 2015, Day 2011; Day, Vincett, and Cotter 2013).

6 See Davie (2007; 2015).

7 Danièle Hervieu-Léger (2000) makes a related argument in her book *Religion as a Chain of Memory*, in which she argues that religious traditions preserve chains of collective memory within modern societies

8 See Grigore Dovlete and Beaman (2017).

9 For an excellent ethnographic study of a declining congregation, see Day (2017).

10 I may be overstating the dramatic nature of the rise. In a number of countries answering ‘none’ was not possible until relatively recently. Moreover, there has been a steady increase in the number of people answering ‘none’ or nonreligious for at least the past 7 decades. However, it does seem that this has accelerated to some extent in the past decade.

11 Statistics Canada (2011b).

had a steady increase of these same groups with Hindus, Buddhists, and Muslims increasing from 3.9% of the population in 2001 to 6% in 2011.¹² In the UK, Muslims, Sikhs, Buddhists, and Hindus increased from 5% of the population in 2001 to 7.5% in 2011.¹³ According to Statistics Sweden as of 2016, 17.65% of the population is foreign born (in Canada it is 21.45%).¹⁴ The statistics are similar in many Western democracies.¹⁵

Finally, there is a renewed attention to indigenous populations and the consequences of colonization. The Truth and Reconciliation made a number of recommendations related specifically to religion. Christianity played a key role in the attempted annihilation of indigenous culture. Indigenous children were taken from their families to church-run residential schools where they were forbidden to speak their language, communicate with each other and were often physically and sexually abused. Indigenous spiritual practices were forbidden and Christianization was very much part of the 'civilizing' of indigenous peoples. The global reach of the churches meant that Canada's indigenous peoples were not isolated in this: similar treatment was experienced by indigenous peoples in Australia, for example. The other aspect of the Truth and Reconciliation Calls to Action (in addition to the reparation called for by the churches involved in the residential school system) is a greater understanding and recognition of indigenous spirituality. This has, in part, resulted in an increased attention to indigenous spiritualities, which are present in indigenous law, environmental action and language.

All of these factors mean that Canada (and many other Western democracies) is becoming increasingly religiously and non-religiously diverse. This is not a change in kind, but a change in degree. But degree matters: this shifting ground has the potential to create increased conflict, platforms for exclusion and feelings of voicelessness in the public sphere. The primary consequence of this is the need to re-negotiate old arrangements if we are to achieve inclusion and the goal of living well together in a complex future. Re-negotiation, then, means acknowledging both the privilege of historically dominant religious groups and the power and vitality of their religious symbols and practices (including crosses and crucifixes in public spaces and prayers in public ceremonies).

Renegotiation may mean, then, a moment of silence instead of prayer, or giving way to aboriginal prayer connecting

people to place, instead of invoking divine guidance. It may mean moving symbols from places of authority to places of equality and contextualizing their presence with explanations about historical significance. Responding to the new diversity in an inclusive way means relinquishing rightness and power by those who are accustomed to having it, rather than claiming victim status. It also means acknowledging that silence or failure to complain by those who do not share this worldview does not equal inclusion. Neither does assuming that one's worldview somehow represents universal values to which no one might take offence. Also at stake, though, are symbols and practices that are cherished by certain constituencies of the population and which have been historically present. Although the turn to culture and heritage as justification for maintaining privilege is troubling, it is important to work to find ways to treat such symbols and practices with respect while renegotiating the ways in which they may be present to create an inclusive society. Finally, there must be an examination and mobilization of the positive contributions of the constituent parts of the new diversity. Examples of this are blossoming as individuals, groups and organizations are responding to the new diversity to create inclusive spaces and practices. Mapping these can offer models for living well together rather than simply co-existing.

12 Hindus increased from 0.5% in 2001 to 1.3% in 2011; Buddhists from 1.9% to 2.5%; Muslims from 1.5% to 2.2%. See Australian Bureau of Statistics (2006; 2012).

13 Muslims increased from 3% of the population in 2001 to 4.8% in 2011; Sikhs from 0.6% to 0.8%; Buddhists from 0.3% to 0.4%; and Hindus from 1.0% to 1.5%. See Office for National Statistics (2004; 2012).

14 See Statistics Sweden (2016) and Statistics Canada (2016).

15 In the US, the amount of the population identifying with non-Christian faiths increased from 4.7% in 2007 to 5.9% in 2014 (Pew Research Center 2015b). Pew Research Center (2015a) has projected that France's Muslim population will increase from 7.5% (in 2010) to 10.9% (in 2050) as a result of migration, and that Sweden's will similarly increase from 4.6% to 12.4%.

BEFORE, BEYOND AND UNDERNEATH MORAL PANICS: RELIGION AND PUBLIC DISCOURSE IN CANADA

Director of the Centre for Studies in Religion and Society, University of Victoria, DR. PAUL BRAMADAT has written extensively on Canadian multiculturalism and immigration policies.

The moral panics that erupt every couple months in Canada and abroad about this or that religious issue distract us from the major things we might do through policies, elections, academic research, and agitation, to make things incrementally better for minorities. This essay focuses on two controversies — one about the cultural appropriation of yoga in BC and another about a student at York University who sought an exemption from a class requirement — that enable us to see more clearly some of the unfinished political, historical, and theoretical business in our society.

Les paniques morales qui éclatent tous les deux mois au Canada et à l'étranger au sujet de tel ou tel sujet religieux nous détournent des grandes choses que nous pourrions accomplir par le biais de politiques, d'élections, de recherche universitaire et d'activisme pour améliorer graduellement les choses pour les minorités. Cet article met l'accent sur deux controverses — la première portant sur l'appropriation culturelle du yoga en Colombie-Britannique et la deuxième sur un étudiant de l'Université York qui a demandé une dérogation à une exigence de cours — qui nous permettent de voir plus clairement certains éléments politiques, historiques et théoriques qui demeurent inachevés dans notre société.

The way religious clothing, practices, and claims get handled in the public arena depends very much on the location of that arena. Moreover, when one studies religious controversies one is never really, or simply, studying some discrete object out there. One is always, in fact, mainly studying the wide range of social forces in which so-called religious practices or claims are made, defended and contested.

I want to focus on two specific events that enable us to see some of the unfinished political, historical, and theoretical business in our society. The first story comes from my adopted province, British Columbia. In 2015, Premier Christy Clark announced that Vancouver's Burrard Street Bridge would be closing for a few hours in the morning on June 21

to host a one-hour yoga session, which would be the largest International Day of Yoga event outside of India.

Ms. Clark conceived of the event following a visit with India's Prime Minister, as a means of strengthening ties between Canada and India and celebrating International Day of Yoga with more than 100 other countries; the event would involve government and corporate cooperation — one of the main sponsors was, predictably, Lululemon.

In the weeks following the announcement, we witnessed a tsunami of protest and derision, among which the main vectors included:

- Many Indigenous commentators complained that by scheduling the event on National Aboriginal Day, yet again, the dominant society was overlooking their claims.
- Some activists protested the cultural appropriation associated with “postural yoga” that allegedly commodifies what some imagine to be an essentially Indian – or to some, Hindu – practice.
- Other citizens protested that the closure of the Burrard St. bridge would cost \$150,000 in security and porta-potties; it would also disadvantage those who needed to take public transit to get to work, and might injure businesses that depend on traffic flow.

In defence of the early morning event, one organizer noted that it was never intended to take away from Aboriginal celebrations at Trout Lake, which would have taken place in a different part of the city long after the morning yoga class. Finally, the date was chosen by the Indian government for their own political and religious reasons, supported by the United Nations, and meant to coincide with the summer solstice. That is, the originators of the day had no interest in and probably no awareness of Canada’s National Aboriginal Day.

Nonetheless, on-line media and call-in shows gave people plenty of chance to express their frustration over the event – its timing, its political implications, its crass commercialism. Weeks after the event arrived in the public arena, it was cancelled entirely. Here we had the perfect blank screen, and everyone projected their own concerns about provincial politics, inaction on Indigenous claims, cultural authenticity, post-colonialism, neo-liberalism, political opportunism, and Canadian identity.

YORK UNIVERSITY V. “MUHAMMAD”

Let us shift now to an event that unfolded mostly in Southern Ontario but that also involved the broader Canadian public arena. It unfolded roughly between about September 2013 and late March 2014.

A student – whose religious affiliation is *still unknown*, but to capture an almost immediate public consensus, we shall call “Muhammad” – registers for a sociological methods class at York University in Toronto. The on-line course includes one in-person “learning group” meeting in Toronto in which students are broken down into groups to discuss relevant themes.

The majority of the students are from the Toronto area, but a few are from farther afield. In at least one case, a student from overseas is granted an exemption from this component of the course. One day the course the instructor (Dr. Paul Grayson)

receives an email from a student that reads:

One of the main reasons that I have chosen Internet courses to complete my BA is due to my firm religious beliefs, and part of that is the intermingling between men and women. It will not be possible for me to meet in public with a group of women (the majority of my group) to complete some of these tasks. (Sept. 20, 2013)

Grayson seeks the advice of the dean and the director of the centre for human rights at York. At the same time, he also consults his peers in his department, and they decide not to allow Muhammad to miss this one class, citing their concern that his absence would “contribute to material or symbolic marginalizations of other students, faculty or teaching assistants.” (Oct. 9, 2013)

So, the professor informs Muhammad that he is not able to grant the exemption. Those members of the public who were convinced that Muhammad was an intransigent Salafist might have been shocked when he replied:

I cannot expect that everything will perfectly suit what I would consider an ideal situation. I will respect the final decision, and do my best to accommodate it. I thank you for the way you have handled this request, and I look forward to continuing in this course. (Oct 17, 2013)

Interestingly, Muhammad’s impeccably cordial acceptance of the department’s position had virtually no impact on the trajectory of the controversy. Moreover, while the department discussed this request, the university’s provost, dean, and director of human rights had decided (on Oct. 18, 2013), after weeks of exchanges between Grayson and the vice dean, that Grayson must accommodate (or should have accommodated) Muhammad’s request. In the end Grayson refuses.

The event gets ugly in January 2014 when the professor publishes an article in *University Affairs*, in which he provides an account both of the student’s request and the university’s demands that he grant the accommodation. Once the issue entered the public arena, virtually every Canadian news source picked up on it and the issue seemed to be everywhere on social media.

The political response was strangely unanimous. Ontario’s Progressive Conservative Leader Tim Hudak said he supported Grayson and invoked his own family: “I think about my daughter going to university or college down the road.”

Federal New Democratic Party leader Tom Mulcair commented: “I don’t think a university should be accommodating such a demand.... The professor made the right call.” Federal Liberal Member of Parliament Judy Sgro agreed: “It’s nothing short of ridiculous.... We live in a country seeking gender

equality... This is Canada, pure and simple.”

Perhaps the most tendentious public comment came from Conservative MP and Justice Minister Peter McKay: “We did not send soldiers to Afghanistan to protect the rights of women to only see those same rights eroded here at home,” and “This is what we’ve tried to combat in places like Afghanistan.” If Canadians were puzzled by the connection McKay saw between Muhammad’s *politely issued and politely withdrawn* e-mail request and our military actions in Afghanistan, it led to no backlash. The fact that McKay’s bizarre comment was not pilloried says something about the public consensus that had emerged by that time.

At least one Canadian scholar made an effort to contribute to the public conversation, and the furor his intervention created is quite instructive. David Seljak, a personal friend and professor of religious studies, was interviewed by several media outlets, including the National Post. He tried to situate the controversy in a larger political and historical context, and to tease apart the rhetorical threads that had become entangled in the weeks of public and political discourse. In other words, he did what he is trained to do as a scholar.

He noted that given the current practices, laws, and policies related to reasonable accommodation requests, it would be difficult to reject Muhammad’s claim given that it seemed sincere and the harm it might have done was not significant. In response, hundreds of people offered their thoughts on the National Post’s website. A significant hardening in the social meaning of Muhammad’s request had already occurred, so the perspectives were rather nasty. One person suggested we might feed David to dogs.

KEY LESSONS FROM OM THE BRIDGE AND YORK

Both cases reflect the importance of place: the Om the Bridge controversy arguably could not have occurred in any other part of Canada – there is something about the peculiar geographical, cultural, and political features of what we call the Cascadia bio-region that give this event its specific flavor.

Yoga culture on the west coast is indicative of a broad openness to post-institutional spirituality. The province is home to about two times the number of people who tell pollsters they have “no religion” than the rest of Canada.

The cluster of alternative modes of religious and spiritual life in B.C. is coupled with the dramatically unfinished business of Indigenous politics. Relationships between Indigenous communities and settler society are less settled on the west coast than they are elsewhere (where treaties at least theoretically establish the terms of engagement). Also evident in this controversy is the effect of the province’s rather idiosyn-

cratic political culture.

I am not suggesting that yoga is not popular elsewhere or that the relationship between the federal and provincial governments and First Nations is rosy elsewhere. Rather, there is arguably a certain combination of these social forces that creates the perfect conditions for this controversy in BC.

The York controversy was also locally-inflected, in the sense that it included features of the university’s well-known activist political climate, the economic pressures its faculty feel vis-a-vis an expanding administration, combined with some paranoia around the growing size of the Muslim community in the Greater Toronto Area. This makes the York case characteristic of that time and place.

Both cases reflect the distinction between “troubles” and “issues.” The great sociologist, C.W. Mills observed that troubles are practical concerns that can often be managed at the local or even personal level (e.g., your neighbour’s trees, or their son’s loud music). Issues are linked to concerns about broader, even world, dilemmas (e.g., immigration, inflation, pollution, racism, liberalism).

In these two cases, we see troubles arising that might well have been resolved imperfectly, but quietly and practically. However due to local conditions, media amplification, and unresolved political grievances, these troubles erupted into full blown issues that seem to demand hyperbolic political posturing. Once these kinds of challenges escape the interpersonal arena and enter the public arena, all bets are off and pretty soon someone is going to be fed to the dogs.

Both cases reveal deeper anxieties and misgivings in the broader population with regard to the ways our society will, as it were, “manage” religious diversity in our sort-of-secular society.

The moral panics that erupt every couple months in Canada and abroad about this or that religious issue reveal things we would rather not admit, but really should think about more carefully. Nonetheless, these events also distract us from thinking and talking about the small things we do – without fanfare – in our schools, on our streets, in businesses, and in governments, to ensure that newcomers, religious and non-religious folk, liberals, conservatives, LGBTQ people, settlers and long-settled people can, more or less, and with notable exceptions, get along.

JOURNALISM ON CHURCH STREET

Associate Professor, School of Journalism at Ryerson University, DR. JOYCE SMITH studies the representation of religion in mainstream Canadian, American and South African news media.

Institutional religious communities are changing, and so too is journalism. Technology, economic drivers and demographic influences are behind much of this evolution. But to discount either religion or journalism as continuing forces in public life is to ignore not just their current presence but also their long histories in Canadian society. This essay looks at one small city block within a downtown Toronto university campus, suggesting that the ways in which media and religion continue to be tangible serve also as metaphors for journalism in its role as public square.

Les communautés religieuses institutionnelles changent, tout comme le journalisme. La technologie, les moteurs économiques et les influences démographiques expliquent une grande partie de cette évolution. Mais ignorer la religion ou le journalisme en tant que forces permanentes dans la vie publique, c'est ignorer non seulement leur présence actuelle, mais aussi leur longue histoire dans la société canadienne. Cet article se penche sur un petit pâté de maisons dans un campus universitaire du centre-ville de Toronto, et suggère que les façons dont les médias et la religion continuent d'être pertinents servent également de métaphores pour le journalisme dans son rôle de place publique.

Ryerson University, home to a journalism program for more than 60 years, sits squarely in downtown Toronto. It began as a polytechnic, primarily serving the needs of post World War II veterans. Unlike the University of Toronto, its older cousin to the west, Ryerson has always been a secular, public institution. This is a university where with the exception of Indigenous spiritual supports, there is no official, on-campus chaplaincy. Yet this is still an institution steeped in religious traditions and practices.

Physical space can suggest ways in which journalism defines, mediates, and even evolves our concepts of religion, secularism and public policy in Canada.

On Gould Street, the “main street” of campus, stands a statue

of the university's namesake, Egerton Ryerson, a Methodist minister who was a key figure in the creation of the public school system in Ontario. His opinions on the education of Indigenous peoples – that they should be made into “industrious farmers, and that learning is provided for and pursued only so far as it will contribute to that end” – has been cited as foundational for the residential school system (Ryerson 1847, p 74). During the summer of 2017, his statue was flanked by photographs by Shelley Niro, the Mohawk artist. Her images were of monuments and historical plaques as well as landscapes, which she described as Battlefields of her Ancestors.

Around the corner on Bond Street are two churches: St. George's Greek Orthodox Church, the oldest such community in Canada. The building itself, however, was first the

Holy Blossom synagogue. In somewhat stark contrast across the street is the First Evangelical Lutheran church, again, the oldest Lutheran community in Toronto. Now brick rather than wood, it is in the same spot as originally built by its German founders. Both churches have active congregations.

At the end of this short stretch of Bond Street, on the second floor above a halal café and a store selling jeans, is the Sheikh Deedat Centre, a small mosque. Coming back up the block on Church Street, it's easy to catch sight of the spires of St. Michael's Cathedral Basilica (the seat of the Catholic archdiocese), and of the Metropolitan United Church (once Metropolitan Wesleyan Methodist Church).

But buildings are only the most recognizable faces of institutional religion — also the most easily reported on by journalists. For example, at the southwest corner of Church and Gould streets is Oakham House. The gothic revival building was completed in 1848 as a private home for the architect of St. Michael's Cathedral. But in its current incarnation as the Ryerson Student Centre, it contains a multi-faith prayer space on the third floor, most heavily used by Muslims on campus. There's no evidence of this space from the exterior (or even the interior ground floor of the building), but campus media coverage of its planning and continued use has made it known to the community.

Journalism, whether on campus or on national airwaves, remains the public square or sphere for our Canadian discussion of religion as experienced in the so-called secular state. It is the way in which we engage with traditions known and unknown; surveys have found that Canadians of many backgrounds rely on mainstream media not only for news about other traditions but also their own (Smith 2008).

Journalism is also the place where we have the chance to hash out policy: for example, the debates in the lead up to same-sex marriage becoming legal in Canada. The first such marriages took place in January 2001 at the Metropolitan Community Church of Toronto, not far southeast from campus. Even without a personal invite to the weddings, Canadians were part of the proceedings as the ceremony was broadcast live on CBC TV.

Take another spin around the same campus block, and again see the statue of Ryerson, but this time please note that he was also the founding editor of the weekly *Christian Guardian*, established in 1829, Canada's first denominational newspaper. In the same year, he obtained a licence for a printing press, which became Ryerson Press (since folded into McGraw-Hill).

Across from the statue is one of several popular coffee shops on campus. Juergen Habermas identified coffee shops as an important part of the creation of a public sphere, sitting outside of government and other institutions, allowing for discussion of common issues (Smith 2008). Inside are students and

faculty busy on their digital devices, accessing and creating information, some of it news. Next door is the Ryerson Image Centre, host to collections of photojournalism, including Indigenous and other rituals.

Media, including journalism, are physically intertwined with religion, again, just in this small block of our campus.

But what of all the religious and spiritual practices and beliefs which are not so identifiable? Continuing this meditation on the physical world, consider the buried rivers of Toronto, including Taddle Creek, passing under land close to Ryerson. Despite being covered over, sometimes relegated to sewer status, they continue to flow. There are attempts to recognize these currents, either by "daylighting," literally excavating the creeks to bring them once again to the surface, or at least by marking their paths above ground using trails and maps. Journalism does this too in a number of ways. First, reporting provides archival treasures. It's possible to go back and envision past ideas and practices if they have been captured accurately. But daylighting also means acknowledging beliefs and practices that for a variety of reasons have been marginalized or subjected to attempts at extinction. I think particularly of Indigenous traditions. The current response among journalists to the Truth and Reconciliation Commission in telling stories about Indigenous peoples, including their spiritual lives, is heartening.

Daylighting is also an important metaphor for recognizing the way in which the language, the tropes, the frames that are deployed by journalists, continue to draw on buried religious traditions that have and continue to influence our society. Ideas of pilgrimage, of miracles, meccas, saints and rituals pervade what would seem at first glance to be banal reportage.

Finally, storytelling may well be the way in which we collectively identify and perhaps even create a sense of the new spiritual possibilities in a diverse Canada. The percentage of Canadians who are religious "nones" is growing, but we know this number includes more than atheists. The grouping is complex and subtle, so the reporting of cultural, artistic endeavours, the storytelling of everyday life, are ways in which journalism not only records but creates a public space for the identification, validation, and challenge of religious ideas.

How important is it that journalism continues to fulfill these roles! It has been a long time now since most major Canadian outlets have had religion specialists in newsrooms. And yet, any content analysis will quickly show just how much religion is in the daily news cycle: conflict, foreign affairs, health and science, ethics, politics of all types.

Like the changing importance of traditional brick and mortar places of worship, journalism is moving, inexorably, from tangible print to digital dissemination. But its intangible nature,

flashing across handheld screens, makes it simultaneously more visible. And images, and discussions of religion as lived in real public space continue to count.

The cover story for the summer 2009 edition of the Ryerson Review of Journalism critiqued the role reporting played in the accommodation debate in the province of Quebec (Tobolka 2009). Eve Tobolka described the coverage of the Montreal Du Parc YMCA window controversy. Hasidic schoolboys across the alley from the Y were apparently a little too interested in watching women doing yoga, so the synagogue paid for frosted windows to be installed in the Y. Tobolka describes how the initial story, written by arts journalist Sylvie St-Jacques, also a member of the Y, ran on the front page of *La Presse*, Nov. 7, 2006. Tobolka writes:

The prominent headline read “*Cachez ce short qu'on ne saurait voir*” (Hide your shorts because we don't want to see them). The piece generated more than 600 letters and e-mails. The story about four windows in a smallish YMCA then ran on local newscasts and dominated talk radio. Soon it seeped onto the airwaves and into the pages of papers across the country: CTV, CBC Radio, *The Vancouver Sun*, *The Globe and Mail*, *The Winnipeg Free Press*, *The Guardian* in Charlottetown. (Tobolka 2009)

Describing this as well as other similar stories which followed, Tobolka wrote: “Were the media just doing their job or are they guilty of irresponsibly hyping the issue?”

Given the more recent news of the Quebec government's introduction of Bill 62 (banning niqab-wearing women from receiving public services), it is important to see how the reporting of this “act to foster adherence to state religious neutrality” is handled. Within 24 hours of its introduction, many noted the use of photos of niqab-wearing women from as far afield as Austria, or places unidentified, being run as illustrations for this Quebec story, as if one could interchange images of people for any other news story (Iqbal 2017). Here is a prime example of the way in which journalism serves as the public sphere where a policy affecting religion in secular, public spaces is being described and responded to. How important that the communication of the issues, and the reality of religious dress and practice in Quebec, be accurately reported.

A Ryerson campus tour wouldn't be complete without a visit to the Rogers Communications Centre, which houses the School of Journalism, among other communications-based

programs. The building features a number of labs and classrooms as well as offices. But one of my favourite elements is the entrance atrium. Above street level and looking south, is an unobstructed view of the Anglican St. James Cathedral, staring right back. When the building was being planned, a resident north of the Centre apparently fought to have his view of St. James preserved, hence the see-through atrium. It's a tangible reminder of the idea of architectural communication between the journalistic and religious elements of this city, the visible and the invisible, and all that those connections mean to understanding our common public life.

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SPEAK OUT AGAINST BIGOTRY

An exchange

Audience member: The media have taken a ‘Fox News’ approach to religion in this country. It goes well beyond the excuse that the media don’t any more have resources. It’s galling to see the vile, poisonous coverage being (justified) in the name of freedom of speech. Is there anything you can say about what has happened to civil discourse in Canada? How do we move forward, regardless of the minority that is being demonized at this point?

Joyce Smith: One of the things that I think would immediately improve coverage of every kind of religion in the public sphere is to have specialist reporters. In terms of the coverage being ‘poisoned,’ one of the reasons is that at the moment, religion is always covered through the lens of something else — it’s someone covering politics, or it’s someone covering a war, or someone covering the education system or whatever else. So it’s always seen through that lens that’s sort of hyphenated. And we never really get a chance to hear stories about religion on its own terms. So I think just that alone would improve things, to some extent.

We need people who are specialists who can sit in newsrooms and help to advise the people who are on those other beats and say, ‘Actually, you’re just about to walk into a big trap — be careful. You should know a, b, and c about these people, this behaviour, this dress, or whatever before you do that story.’ That’s my quick take on that one.

Lori Beaman: Paul was talking about feeding (University of Waterloo Professor) David Seljack to the dogs for his com-

ments. But we also participate in this by not calling it out, and say, ‘Wait a minute.’ As citizens, we share a responsibility to say, ‘This is not acceptable. We need a higher quality of discourse.’ Each and every person has a responsibility as a citizen or a participant in public dialogue to both keep the level of dialogue and discourse at a particular level, and to encourage others to do so. And I think that’s not just the responsibility of journalists.

Paul Bramadat: One of the problems — and Lori and I have talked about this many times — that many of us in Religious Studies have is, what should our role be in approaching a media story which we consider to be problematic or biased? It’s not clear to me that our role should be to replace one essentialism with another. If there’s some story that’s based on some assumption that Islam is violent or misogynist, it’s not clear to me that the way to respond to that is to say, ‘No, no, no — actually Islam is egalitarian and absolutely pacifistic.’ Our job is to figure out ‘What are the various social forces that went into making that initial claim?’ and leave it at that. Activists and advocates, it’s their job to have kind of a horse in the race on that particular question. It’s not my job.

Audience member: I was wondering if you might be able to say a little bit more about the “nones,” because in my experience (I work a lot within the Buddhist community and have been many years working in the newcomer settlement sector), many people choose not to identify as a faith.

Many Buddhists choose to say ‘none of the above,’ because

it's safer. In fact, in settlement contexts, people are unfortunately encouraged to do so, in some ways — in the same way as adopting a European-sounding name. It's a way of making oneself invisible, in light of the systemic oppression.

Bramadat: The category of the 'nones' is something we all debate quite a bit. The problem is that it's become this catch-all term — we don't know if it is a transitional term for some people, that they were brought up as Catholic or Jewish or Buddhist or Muslim, and right now they're in their 40s or their 20s and they're not really sure what they are, so they'll say 'none.' Or is it more like a permanent category for many people — or that they just don't care?

And then you have the additional dilemma of the large number of Chinese-Canadians who will say 'none,' even though if you actually followed them around — if that wasn't stalking — and they participated in ancestral worship and they have all kinds of practices in their everyday life which sure look a lot like religion. But they said 'none' to a survey-taker — there are over a million people of Chinese background, so that does tend to skew the data considerably.

And Buddhists, especially what we'd call non-ethnic Buddhists — in other words, white Buddhists, often called 'book-store Buddhists' — will often say, 'Well, no, Buddhism's not a religion — it's a philosophy, it's a spirituality, it's a meditative practice. Don't call it religion — that's a bad word.' When it comes to a survey, they'll say 'none.' Even though, again, if you follow them around and you watch how they think about their yoga practice, how they think about death, how they think about suffering, it sure looks Buddhist to me.

Beaman: We get into this problem of what I call 'the will to religion' and the tricky business of trying not to push people into identity corners at the same time as allowing them the space to be who they are. And that's a really difficult thing to do. And that's one of the reasons I say we don't really know what's happening in the 'none' category.

My desire is to not say that 'they're really this, or they're really that,' but to think about the complexity of this category, how and why are people self-describing as 'none.'

Many of the people I've interviewed who are older women — not the generation usually thought of as being 'nones' — self-describe themselves as non-religious. But when you take that apart, they'll talk about having had some kind of a religious upbringing, they'll have abandoned that religious upbringing, then they'll say, 'And now I'm influenced by Indigenous spiritualities, I've learned a bit from Buddhism, and...'

NO ONE SINGLE JEWISH VOICE OR OPINION

ELYSE GOLDSTEIN is Rabbi of the City Shul in Toronto, and served as the first woman President of the Toronto Board of Rabbis.

This essay presents a Jewish feminist perspective on balancing freedom of religion, gender equity and LGBTQ2 Rights. Noting a multiplicity of Jewish perspectives on these issues, the essay reflects discomfort with government impositions on religious minorities, while also problematizing both civil and religious restrictive legal codifications of gender and sexual identity. It argues for rejection of legislation of any sort, religious or civil, which allows for or demands or even justifies the restriction of participation, bodily freedom, the right of voice and the right of relationship to any human being created in God's Divine image.

Cet article présente une perspective féministe juive sur l'équilibre entre la liberté de religion, l'égalité des sexes et les droits LGBTQ2. Notant une multiplicité de points de vue juifs sur ces questions, ce texte reflète un inconfort face aux impositions du gouvernement sur les minorités religieuses, tout en problématisant à la fois les codifications juridiques restrictives civiles et religieuses du genre et de l'identité sexuelle. Il plaide pour le rejet de toute loi, religieuse ou civile, qui autorise, exige ou justifie la restriction de la participation, de la liberté corporelle, du droit de parole et du droit de relation à tout être humain créé dans l'image divine de Dieu.

In order for me to tackle the question of the balance of freedom of religion and gender and sexual equality as a Jew, I will first honour my Jewish culture where a Jew always answers a question with another question (“how are you?” — “how should I be?”) and ask a more overarching question: according to Jewish thought, what role should religion play at all in the making of civic policies? As both a Jew and a woman I historically sit in discomfort at the entanglement of ruling powers and minorities; of jurisprudence and gender. And as a Canadian I watch with tremendous anxiety just to the south of us where this question seems to lie unasked. To answer this overarching question I look in Jewish sacred text, for it is there that we find the first articulations in Jewish thought between the role of government and the role of human autonomy. And as a Jewish feminist, it's critical to bring to light also the analysis in feminist thought between the role of patriarchal law —

that is, any law made by men *for* women or *about* women, whether then or now, whether granting freedom or restricting freedom — and the role of female autonomy.

From the beginning of the Jewish diaspora, we Jews have been rightfully fearful of too much involvement in politics, of too loud a voice in demanding that Jewish mores be universally accepted. My people too have experienced both “physical and spiritual violence” — as Kimberly Murray so eloquently talked about — at the hands of ruling powers when church and state are not separated. Beginning at the second century when the Roman Empire became the Holy Roman Empire we've been wary of the marriage of piety and politics.

Two of my ancient sacred texts serve as example: the first from *Pirke Avot*, a compilation of ethical teachings and wise

maxims from the Rabbis of the second century, which posits in chapter 2: “Be careful in your relations with the government; for they draw no person close to themselves except for their own interests. They appear as friends when it is to their advantage, but they do not stand by a person in their time of stress;” and the second from *halacha* or Jewish law in the Talmud, compiled in the 2nd to 5th centuries, which states unequivocally: *dina d’malchuta dina*: the law of the land is the law; that is, the law of the country in which a Jew lives in is binding upon the entire Jewish community.

This is not to say that if the law of the land forced Jews for example to eat pork or to desecrate the Sabbath we would go along willingly without finding some golden mean of compromise, but in the vast majority of cases which are neither radical nor extreme, the law of the land is Jewish law.

As a liberal Jew, it’s fine for me to trust *dina d’malchuta dina* — that as a Jew I am bound to the law of the land — when that secular law is in consonance with my personal and autonomous values, but what happens when it isn’t? If the law of the land took away my personal liberty of body, for example, or infringed upon my right to celebrate my love as my own religious conscience directed me, or demanded of me to practice something I found religiously abhorrent? Clearly the emergence of the modern nation-state brought the promise of equal citizenship to Jews but with that came the inevitable loss of Jewish corporate identity; of the power of Jewish courts to render civil decisions in property or marital disputes. Jews have, however, been willing to surrender that communal authority for the reward, if you will, of equal individual authority in the nation-state.

But for example, when Jewish women who feel harmed by restrictive legalisms of a more traditional reading of a patriarchal text for example around divorce and the dissolution of Jewish wedding vows, we celebrated the “*Ghet* law” when the Supreme Court of Canada overturned a Quebec Court of Appeal decision and ruled that civil courts have the authority to enforce the Jewish law of *Ghet* — of requiring a husband to grant his wife the Jewish bill of divorcement in order to obtain his full civil divorce. Yet Jewish women on the more liberal side of our tradition would object mightily to any discussion of any civil decision that would render the individual autonomous decision to abort a fetus as illegal.

So to the Jewish heart of the matter: it is virtually impossible in the 21st century to have a universally recognized “*Jewish* point of view” or “*Jewish* stance” on any political or religious question. I would hope today we will problematize the idea that there is one Jewish voice or opinion or recognized authority on LGBTQ2 rights, and if lawmakers are trying to see an issue through the Jewish lens they will have to place me on one side of the room and the bearded black-hatted male Rabbi with long sideburns and a hat — who so often is assumed to be the voice of the “*Jewish* community” — on the other. And in fact

that lawmaker might find that there are more than just two communities vying for the “*Jewish* vote” or “*Jewish* perspective” on any particular political issue.

And to the feminist heart of the matter: in the 21st century, the theological is political.

As a woman of course I’ve also experienced physical and spiritual violence at the hands of a patriarchal system which taught when I was growing up that pain in childbirth is a punishment for a sin of my earliest ancestor Eve; and that my gender keeps me from — you choose which: serving communion, being a Rabbi, reading from the Torah, etc etc etc — any “language of permission” we women use for our fathers, father-priests and Father God to ascertain what we may or may not do, be, wear, think or say.

Which brings me to law. Jewish feminist writer and pioneer Judith Plaskow first critiqued this theology in her book *Standing Again at Sinai* when she wondered if the concept of law itself could ever be adapted to a feminist agenda with the provocative question: “Is law a female form?...Perhaps what distinguishes feminist Judaism from traditional rabbinic Judaism is not so much the absence of law in the former, as a conception of rule-making as a *shared communal process*.” Thus a feminist view of law as a shared communal process suggests the ability — even the command — for civil law to be in dialogue with those who live it, rather than in monologue with those who must keep it.

This — law as a *shared communal process* — is a disturbing ideology for my more fundamentalist co-religionists who adhere to a strict literal reading of law as The Law and an eternally binding covenant from ancient days until an unknown future.

Let’s be honest: Jewish law has been the major means by which Jewish women and Jewish LGBTQ have been marginalized, so even the most traditional of feminist Jews approach it with what feminist scholar Rachel Adler terms “a hermeneutics of suspicion.” So too do I approach civil law in regards to anything which touches upon human and female autonomy with a hermeneutics of suspicion.

Western religion still is, and in fact many Eastern religions also are, in most areas of thought, binary systems which posit that men do certain things and are certain ways, and women are... the opposite. Except in the most liberal streams of each religion there is little doctrinal attention paid to trans and intersex and questioning and queer except where those identities cause a shift from classically legislated binary thinking, leaving religion at a loss for where to categorize this person and therefore how to legislate behaviour for this person according to either male or female classifications. But those questions are internal to the religious realm. If Judaism needs to work out which side of the gender divide in a traditional

synagogue transgender people should sit on, that belongs in the halls of the faith community and not in the halls of the Parliament.

In closing, a personal word: as I grow older and further away from the glass ceiling I first broke in Canada in 1983, I admit that my patience is wearing thin for legislature of any sort, religious or civil, which allows for or demands or even justifies the restriction of participation, bodily freedom, the right of voice and the right of relationship to any human being created in God's Divine image. I cannot believe that such a Creator isn't often frustrated with us and our lack of insight into the very basic fundamental truth in the maxim of the Rabbis in *Leviticus Rabbah*: when we are in one boat, and you bore a hole under only my seat, we both drown.

MULTIPLE WAYS TO INTERPRET ISLAMIC TRADITIONS

Professor of Islamic Studies at Huron University College at the University of Western Ontario, **DR. INGRID MATTSON** has taught at Hartford Seminary in Connecticut and served as the first woman president of the Islamic Society of North America, the largest Muslim organization on the continent.

Grudging tolerance is less robust than respect and acceptance, but it must be enough for the state to accept. I have no problem with Christian evangelicals thinking I'm going to hell in the next life as long as they do not try to subvert my rights in this life. To insist that gender equality means stripping Muslim women at the beach of their clothes is a slippery slope to cultural uniformity and, in its extreme expression, totalitarianism.

La tolérance à contrecœur est moins robuste que le respect et l'acceptation, mais elle doit être suffisante pour que l'État accepte. Je n'ai aucun problème avec les chrétiens évangéliques qui croient que j'irai en enfer dans ma prochaine vie, tant qu'ils n'essaient pas de subvertir mes droits dans cette vie. Insister sur le fait que l'égalité des sexes signifie de dépouiller les femmes musulmanes de leurs vêtements à la plage est une pente dangereuse vers l'uniformité culturelle et, dans son expression extrême, vers le totalitarisme.

There is a Canadian woman I follow on Twitter who calls herself, "The Salafi Feminist." She describes herself as "A Goth, (Steam)Punk, wannabe-biker niqaabi feminist who may or may not be a Salafi according to your definition thereof." She is a Canadian woman living on the West coast. Here in Toronto, El-Tawhid Juma Circle a.k.a. the Unity Mosque, "is a gender-equal, LGBTQI2S affirming mosque, that's welcoming of everyone regardless of sexual orientation, gender, sexual identity, or faith background." In 2009, Pakistan became one of the first countries in the world to issue identity cards indicating "third gender" to individuals who identify neither as male nor female.¹ The 2017-18 budget of the Khyber

Pakhtunkhwa provincial government, centered in Peshawar, Pakistan, includes funds to establish a skills training center for transgender people.² Islamic law has always recognized the *mukhannath* as a person who does not fit male-female binary gender identities. Across Muslim cultures this identity was held by people who might be identified in modern Canada as transgender, asexual, or transsexual. While the United States has yet to elect a female head of state, the Muslim majority countries of Indonesia, Turkey, Pakistan, Bangladesh, Kosovo, Senegal, Kyrgyzstan, Mali and Mauritius have all had female heads of state. The president of Singapore is a hijab-wearing Muslim woman, Halima Yacob.

1 www.dawn.com/news/1341545.

2 Sadia Qasim Shah, "Welfare initiative for transgender persons announced," *Dawn*, 6/8/2017; accessed at: https://epaper.dawn.com/DetailImage.php?StoryImage=08_06_2017_181_011.

I do not list these facts to suggest that the vast majority of Muslims in the world believe in absolute gender equality or in equal rights for gay or non-gender conforming people. I would argue that no one really knows what the vast majority of Muslims think about these issues. Because without freedom of conscience and expression, which so many Muslims are fighting for across the world, and have suffered imprisonment, torture or death for their beliefs and activism, we simply cannot know what most Muslims really think. We might have a better idea by noting their political views and behaviour when they live in free and democratic nations.

In 2017 in Germany, 226 members of parliament – “Western” people – the majority of the Christian Democratic parties voted against marriage equality; 393 members, including all six Muslim MPs in the Bundestag, voted for marriage equality.³

In 2007, just 27 per cent of American Muslims said society should approve of homosexuality. In 2017 “more than half, 52 per cent said the same.”⁴

Without further study, we cannot know what “approve of” really means – for example, would this majority accept that same-sex marriage could be lawful for a practicing Muslim? What is evident, nevertheless, from these examples, from other studies, and from many conversations with my Muslim students and communities, is that most Western Muslims believe in fairness and reciprocity as core ethical principles. Muslims want to be free to practice their religion and to follow their consciences as minorities in democratic societies, and will therefore support the rights of others to do the same. I have heard critics of Islam say that these Muslims are supporting minority rights only because they are minorities here, but where they are majorities, they would not support the rights of other minorities.

And certainly we see many Muslim majority nations where minorities of all kinds are oppressed. But generally, in these contemporary nations, the majority Muslim population also lacks political freedom and even the freedom to practice Islam as they understand it. Historically, Muslim rulers understood Islamic law to require them to allow non-Muslim communities to follow their own laws, including the laws of marriage, divorce, inheritance and the like. The dominant schools of Islamic theology supported divine command theory, eschewing natural law. This meant that even where a religious tradition permitted a practice that “seemed” wrong to Muslims, such as the Zoroastrian approval of the marriage

of a man and his niece among the elite castes, the communal right to religious freedom overruled such feelings.⁵ This historical ruling is one of the proofs some contemporary conservative Muslim scholars give to argue that Muslims must support the rights of at least “other” religious communities, or communities of conscience, to same sex marriage.

Islam is a complex and diverse tradition with core principles and values that require scholars to change rules according to new science and social context. We must resist affording semiotic privilege to the state, to radical secularists and to religious fundamentalists; most Muslims – in 2017, 64 per cent of American Muslims – believe that there is more than one way to interpret Islamic traditions.⁶

This is not a new idea. One of the most commonly cited statements attributed to the Prophet Muhammad is “difference of opinion within my community is a source of mercy.” Modern fundamentalists should never be seen as the protectors of traditional Islam. Rather, they have adopted the centralizing, homogenizing, nationalizing tendencies of modernity, the cooptation of religious institutions by European colonial powers, the linear thinking of the so-called Enlightenment. In our post-modern period, many Muslims are rediscovering older ways of embracing complex identities that were lost through colonial trauma and the self-inflicted wounds of extreme nationalism.

Yesterday was “Person’s Day” in Canada – in recognition of the decision on October 18, 1929 that gave women the right to be appointed to the Senate. In most places in Canada, women were given the right to vote just a decade earlier (while Quebec held out until 1940). It was not until the late 19th century that colonial women began to be given the right to own property and/or keep their wages. That is a right women have always possessed in Islamic law. It was the European colonialists who could not comprehend the complexity of Muslim families whereby a woman could have a husband, but still keep her own name, lineage and personal property.

This does not mean that premodern Islamic societies were bastions of women’s empowerment or gay rights. We cannot romanticize the past or deny injustices where we find them. But even an Islamic traditionalist does not simply repeat the past; rather, tradition requires a change in norms when there is a change in circumstances. A simple example is the increase in the minimum age for marriage to eighteen in most Muslim countries, so young people can be prepared for the

3 www.independent.co.uk/news/world/europe/angela-merkel-chancellor-germany-same-sex-marriage-vote-lgbt-muslim-mps-berlin-bundestag-cdu-sdp-a7819391.html.

4 www.cnn.com/2017/07/26/us/pew-muslim-american-survey/index.html.

5 Sherman Jackson, *Islam and the Blackamerican: Looking Toward the Third Resurrection* (New York: Oxford University Press, 2011), 144-45.

6 www.cnn.com/2017/07/26/us/pew-muslim-american-survey/index.html.

complexity of modern life.

Many Muslims believe that an ethical reading of the Qur'an should be progressive, uplifting values and principles, all with the goal in mind of removing obstacles from the spiritual path and to engage with others from an ethical stance founded in respect, reciprocity and mercy. Of course, not everyone agrees. There are those who have a more literal, less contextualized and less ecumenical view of Islam. Some wish to uphold patriarchy and male privilege. Many argue that same sex intimacy is not only sinful but, picking up Catholic "natural law" discourse, harmful to society. How should we deal with such views stated to be grounded in some form of religious belief or identity in our diverse society?

DIFFERENT PERSPECTIVES/CULTURES/DISCOURSES/ HISTORICAL SOLUTIONS

The more diverse a society is in terms of its cultures, languages, faith traditions, national origins, and personal identities, the more opportunities an individual has to strengthen their capacity to make a connection with others. If a person initially does not like or is uncomfortable with one aspect of another's identity, they usually can find a way to get along by looking at them through another lens — as their neighbor, or as their elder, or as a friend of a friend. And once some connection has been made, they just might, and often do, start to change their opinion about the identity they initially rejected or that made them uncomfortable. These opportunities exist not just because of the accidental encounters of diverse peoples, but because the law restrains individuals from translating their initial biases into discriminatory or harmful behaviour. Diversity alone is not enough; legal protection for diversity is necessary — as is legal protection for equality. We have those legal protections here in Canada. But let's not pretend it always has been so. Too often we are presented with an essentialized, enlightened West contrasted with a reductive view of Islam in its most rigid and exclusive form. In the real world, individuals and communities, through trial and error, through oppression and correction, through resentment and reconciliation struggle to make their actions, their communities and their laws in harmony with principles and values with which we all can live.

We cannot demand that all people love and accept each other, if we are speaking about beliefs and feelings. Personally, I do believe that in the end, love is the only thing that matters and that love is a word for the only eternal reality. But that is my spiritual belief. It is not for the state, nor for the institutions of the state to compel feelings and beliefs. Grudging tolerance is certainly less robust than respect and acceptance, but it must be enough for the state to accept. I have no problem, for example, with Christian evangelicals thinking I'm going

to hell in the next life as long as they do not try to subvert my rights in this life.

This panel is about "balancing" rights — balancing the religious freedom of those, for example, who believe in covering certain parts of the body in a mixed gender setting with "gender equality" is the whole point of accommodation — to allow, for example, the wearing of burkinis or having gender-separated swimming lessons for those who want them. To insist that gender equality means stripping Muslim women at the beach of their clothes is a slippery slope to cultural uniformity and, in its extreme expression, totalitarianism. Last year, I would have said that invoking such a term in a panel like this is overkill. But having seen the empowering of white supremacy and other violent right-wing extremist groups in the West in the last few years, we can no longer be in denial.

DON'T ASSUME YOUR CONGREGATIONS ARE ALL STRAIGHT

Councillor **KRISTYN WONG-TAM** has represented Ward 27 in downtown Toronto since 2010. She came out as a lesbian in high school at the age of 16 and has been an activist for both LGBTQ and Asian Canadian community issues.

For most of my adult life, I have been a human rights activist. Often times, the language of inclusion does not include someone like myself — someone who is a member of the LGBTQ community and who has a very different way of expressing my own gender-identity. While we name anti-Semitism, we name the rise of and the need to fight Islamophobia, we name racism, we name anti-Black racism, what is often missing is naming and defeating homophobia, transphobia and misogyny in those circles. This is something we have to do together and not in side conversations. As communities advocating for equity and inclusion, we have to look at who we are leaving behind.

Pendant la majeure partie de ma vie d'adulte, j'ai milité pour les droits de la personne. Souvent, le langage de l'inclusion n'inclut pas quelqu'un comme moi — quelqu'un qui est membre de la communauté LGBTQ et qui a une façon très différente d'exprimer sa propre identité de genre. Nous parlons d'antisémitisme, de la lutte contre l'islamophobie, du racisme, du racisme anti-noir, mais ce qui manque souvent, c'est de parler et de vaincre l'homophobie, la transphobie et la misogynie dans ces cercles. C'est quelque chose que nous devons faire ensemble et non dans des conversations secondaires. En tant que communautés qui militent pour l'équité et l'inclusion, nous devons regarder qui nous laissons derrière nous.

You are probably wondering: what is a local Toronto City Councillor doing on a panel about religion and human rights with esteemed academics and thought-leaders?

For most of my adult life, I have been a human rights activist. I have worn and continue to wear my values and my heart on my sleeve. I hope I make the right decisions and gather momentum along the way. I know together we can make our city, our country and the world a more just and equitable place for all. I care deeply about our country and I believe that Toronto is a social miracle. Our diversity is our strength. While there is much work to be done in building a more equitable and inclusive Toronto, I believe in the strength of this

city. I believe in the people that make Toronto great and work every day with communities who are making Toronto better for all our diverse residents.

I want to take us back to 2010 and to a public policy debate on an issue that greatly affects LGBTQ minorities, sexual minorities, and women. Premier Dalton McGuinty was inching forward ever so carefully, and perhaps with too much hesitation, on the introduction of the sex-education curriculum that was widely recognized by educators as well-documented and with years of research backing the introduction of this curriculum. Young people were not getting important information on sexual health. Education centered on physical health — how

to keep your body strong and healthy — but did not address critical issues of sexual education.

The Premier was not able to introduce new legislation, despite his dedication to reforming sex-education curriculum. He was known as 'Premier Dad' when it came to education. But Premier Dad could not introduce this new curriculum because of tremendous opposition from a very loud vocal minority — largely evangelical Christians and Roman Catholics — who led a number of protests and occupied the offices of Members of Provincial Parliament.

Five years later, it was Premier Kathleen Wynne who successfully introduced updated provincial sex-education curriculum. This achievement took tremendous courage. The same threats that derailed her predecessor's introduction of the legislation existed for Premier Wynne: She risked losing voters and making a legislative move that would threaten the voter support she had worked tirelessly to earn. What had been behind much of the protest and organized opposition was not only vocal minority religious groups, but organizations such as the Campaign Life Coalition, the Institute for Canadian Values, REAL Women of Canada, and My Child My Choice — many of which are anti-women organizations that do not support women's reproductive autonomous rights. There were rampant myths and misinformation surrounding the issue, including claims that the new curriculum would teach your children to learn how to masturbate. Opposition voices did not believe that high school students should have the chance to learn about or discuss in school, for example, what sexual violence could look like or what it means to give consent.

Of course we know that we need to have these conversations. They make for a healthier and safer population. They make for healthier relationships, especially as young people begin to explore their sexuality and sexual identity. Many thought-leaders and advocates on the issue were vocal in their support of Premier Wynne and her efforts to do the right thing. This support gave her the political courage to do just that. The debate could once again be reopened in 2018, as we enter a provincial election period.

This is just one example of where public policy runs into conflict with religious freedoms.

Another is in 2013 in Quebec. The Parti Quebecois government introduced the Charter of Quebec Values and it immediately became an affront to many people. It aimed to legitimize and formalize forms of racism towards people who wore expressions of their faith on their head or around their bodies. It was a conflict between public policy and a rabid embrace of secularism which translated into an impediment of someone's individual freedoms and rights.

In 2017, the Quebec Liberal government introduced Bill 62.

It is an absurd bill, depriving public services to women who wear the niqab. This bill, like the Parti Quebecois' 2013 Charter, formalized hate. We know that many Muslim-identified women in Quebec are scared to exist in public space because of these policies. A woman riding the public subway had her hijab torn off. Others are being denied housing. This kind of discrimination is becoming state-sanctioned.

I have a message to religious leaders: do not assume that your congregations are all straight. Often times, the language of inclusion does not include someone like myself — someone who is a member of the LGBTQ community and who has a very different way of expressing my own gender-identity. While we name anti-Semitism, we name the rise of and the need to fight Islamophobia, we name racism, we name anti-Black racism, what is often missing is naming and defeating homophobia, transphobia and misogyny in those circles. Sometimes they come about in sidebar conversations, but I am certainly not seeing these issues being addressed at the forefront of community meetings or rallies. This is something we have to do together and not in side conversations. As communities advocating for equity and inclusion, we have to look at who we are leaving behind. I notice that even in communities that are advocating to end war, end violence, and stop American imperialism, they are often selective in whose voices are brought to the forefront.

In 2016, an incredibly troubled young man in his 20s walked into a gay nightclub in Orlando and killed 49 people and wounded 58 in one of the largest acts of terror in America. The mass killings were designated a hate crime in Florida. The LGBTQ community responded not with hate — we cried of course, and mourned — but ultimately we responded with love. Our response is one rooted in our own humanity, because we do not believe that hate is an option. We can only respond with love.

I want to share two quick anecdotes before I conclude. In 2004, I was president of a human rights organization, the Chinese Canadian National Council Toronto Chapter. With 27 chapters across the country, we advocated for human rights and equality. The CBC asked us to participate in a national debate on marriage equality. They asked if our organization, a Chinese-Canadian organization, would do an interview to speak out against equal marriage. We explained to the producer, perhaps obviously so, that we are a human rights organization and we would not be speaking out against marriage equality. They told us they had enough speakers in support of equal marriage and they we need an oppositional voice. "Are you sure you cannot do it?" asked the producer one last time.

After that incident, we created the Asian-Canadians For Equal Marriage campaign. We went to the Supreme Court of Canada, we unfurled a banner, and we protested in support of equal marriage — all this because we wanted to respond to the racialization of homophobia. There is an assumption

that racial minorities are more socially conservative. I think you've heard from our esteemed panelists that there is no such thing as a single monolithic voice in any particular community. Somehow our national news network tried so desperately to pigeonhole us and could not see it.

Recently I have become involved with the Burma Task Force in support of Rohingya Muslims in Burma/Mynamar and in Bangladesh. They are facing a humanitarian crisis. There were 1.1 million Rohingya Muslims in Burma. Over 50% have now been expelled from their country. Today, there are more people of Rohingya background living outside of Burma than in their own country. I have been working with many of them and have been vocal in advocating that this not a Muslim issue, but a Canadian issue. Every one of us must care. I offered to organize a day of solidarity where Canadian women would come out demanding a stop to systemic sanctioned rape of the Rohingyas. Can I bring out the LGBTQ community to show support? Maybe we could lead a day of protest and action on Bay Street, occupying and taking up the road in an attempt to raise the awareness. But as dire as this situation is, as desperate as everyone is to bring attention to the issue, there was still a hesitation from the lead organizers.

One final remark — and I want to say this because I see that my wife Farrah Khan has just walked through the door. She always tells me that God does not make mistakes. Our gender expression is not a mistake. Our sexual orientation is not a mistake. The fact that Farrah and I were married with Buddhist blessings, Muslim blessings, and the Jewish and Christian and Dutch Reform faith, is not a mistake.

SHOULD THE STATE BE DICTATING RELIGION?

An exchange — Discussion between speakers and the moderator, **NATHALIE DES ROSIERS**, MPP, Ottawa-Vanier, constitutional law expert, and former General Counsel for the Canadian Civil Liberties Association.

Nathalie Des Rosiers: There's a couple of things that came up quite clearly in terms of balancing equality for all and freedom of religion. I heard certainly, 'don't essentialize religion — there's lots of diversity, diversity of voices.' I heard as well that equality thinking was learned almost by osmosis, that if you create an equality framework, or equality capacity enhancing, then people grab onto it and fight within their own community... to defy colonialism, defy patriarchy. Finally, I heard very strongly the importance of having a strong anti-discrimination legal framework.

But there was a little tension about the internal space versus the outside space. You (Rabbi Goldstein) said, 'I really like the *Bruker vs. Marcovitz* decision,' in which the Supreme Court said that even if a Jewish woman doesn't get the *get* that she was promised, we were going to oblige the husband to pay damages. So in a sense, the Supreme Court was involving itself — it's not only a private religious matter: we're going to protect the right of the religious woman to *get*, under civil law, because she was denied what she was promised. So the state was intervening there. But, then, you also say, 'Don't intervene in the synagogue to decide how to deal with transgender issues.' Is there a contradiction there?

Elyse Goldstein: I was putting forward the contradiction that we all live with. Those of us who are liberals in our religious communities, we have much less contradiction in our lives. My congregation will never have that conversation about where trans people sit, because people sit wherever they want

to sit. So I'd rather have that conversation with my co-religionists and get them to change their synagogue seating than have you legislate it.

But at the end of the day, if I can't convince my own religious community to do things differently, then I don't have any problem making sure that the courts make sure that within my religious community, there is no discrimination.

If I can use the *get* law as a good example — of course, all of us feminist female rabbis were part of that conversation — the law that a Jewish man cannot withhold the Jewish divorce from his wife; he can't obtain his civil papers until he gives her the Jewish papers. Among us, we were (agitated) about the fact that within traditional Jewish law, it is still up to the man to serve his wife a divorce. So we in the liberal community said, 'The heck' — actually we said, 'The hell' — 'The hell with that, we're going to now, in our internal religious rulings, make it possible for a woman to deliver the divorce to her husband.' And guess what? In the Reform community, for the last 20 years, we don't need the *get* law, because we have changed the Jewish law to be that which a woman can deliver the divorce to her husband. So we solved the problem without having to go to the courts. If my co-religionists in the Orthodox community still need the courts, I think that they're having the wrong conversation. I think they should be having the conversation within the Jewish milieu as to why are they still accepting that rule which says only a man can serve his wife a divorce.

Ingrid Mattson: I would not want the state to force a congregation to practice equality as the state sees it. I see that as part of religious freedom, really. A majority of our (Muslim) congregations only allow men to deliver a Friday sermon, for example. But I don't think it's up to the state to come in and say, 'No, women in your congregation must be allowed to deliver sermons.' The state should also certainly not interfere when communities of Muslims form their own congregations where they have a woman delivering the sermon.

A trickier thing would be in public schools where a space is being offered for Muslims to have congregational prayer. Should the state compel it (to have women deliver the sermon)? If a young woman says, 'I want to be able to deliver the sermon,' they (the school administration) couldn't really block that, in my opinion. The others who don't want to attend would say, 'Well, we're not attending that prayer,' or whatever. That seems to me the space where clearly the state has an interest, because it's extending accommodation, and maybe you're going to have to accommodate two different prayer services for two different groups... just as Catholics still only have male priests and many Protestant denominations have both genders.

Kristyn Wong-Tam: There's the separation of church and state, however the church has a very powerful way of getting themselves into the state. Places of worship do not pay property taxes. So they are largely government-subsidized. Which means that if you want to say that you're providing a public service then you need to make sure that your services, regardless of how you frame the programs, must be equally accessible to all without barriers.

I don't think we can't look at these things without looking at it holistically. There was a time where you would have signs in Canada that said: "No dogs, no Jews, no Chinese." Yet in certain places, and it doesn't matter to me which God you worship — there has to be some open dialogue to the fact that you are receiving government dollars and, therefore, it has to be open to all people. Or you can start paying your property taxes, say goodbye to all your tax credits, and you can make your own rules.

Mattson: I'm wondering what it means to be open to all people. For example, religious congregations have services for people in their own religious denomination, and not admitting people of other faiths — I mean, they may welcome them at certain times, but not, say, for communion. Different communities have different marriage laws about whether they'll officiate services between people from their faith tradition and other faiths. That's discrimination, religious discrimination by saying, 'No, I will not allow in my congregation whether it's Catholic, conservative Jewish, whatever an interfaith marriage. We will not hold that service, but you're free to marry a person of another faith in a civil ceremony.' That's a very common form of exclusion, on the basis of religious identity.

What do you mean by being open to all people?

Wong-Tam: I would look at a built space as space that needs to include people, as much as there is a request to close the blinds to ensure that you have girls' change room and women-only swimming hours. I think it's very important for us to take a look at what creates a safe environment for everyone — and there are a number of places of worship that do welcome everyone.

When it comes to the issues that abound in our communities, when we see the exclusion of women, or we see homophobia or transphobia or violence — whether it's physical violence or emotional violence — we have to think of all those pieces that feed into it. So I can't say what's right for you or me — all I can say is, if I walk into a space and I see some very clear lines — men over here, women are over there — that may not be a space that I feel welcome in. The LGBT discussion here is very important, because we oftentimes do feel excluded, by not just Islam, but all the faiths — all the faiths are equal-opportunity exclusionary when it comes to queers, that's just how it is.

Goldstein: When I was very young, I went to university in the United States, and the very first Sabbath, Friday night, I went to services at the Hillel organization on campus, and the only service that was offered on that Friday night, for all the Jewish students on this campus, hundreds of them, was an Orthodox service. And at the end of the service, I marched into the office of the Hillel director and said, 'How can you only offer one way to pray?' And he very wisely said to me, 'You start the Reform service next week, and it will happen.' I believe that there is so much room in this town for more Unity mosques. In fact, my synagogue, City Shul, would welcome partnering with a liberal mosque that has reform values that are akin to ours. We partner with many mosques, and across the differences, we have dialogue. Many women in my faith were marginalized growing up as Jewish women. They've come back to the faith because of feminism and Jewish feminism and female clergy. And I think there's many other ways that we could make a rational and spiritual faith community for the 21st century if we have the will to critique ourselves, and critique what we received from the past. As soon as faith leaders are willing to do that, I think you'll see very exciting things happening, especially in downtown Toronto.

Mattson: We have to decide whether we think the state has an obligation to provide religious institutions for people or not. And if it's not the state's obligation, then people who are like-minded need to come together and form these communities, and this is what they do. I mean, there are a lot of mosques I don't go to, and there are a few that I do.

But for the state to dictate religion, is that what we want? There are many religious state institutions in the world — establishment churches in Europe, establishment Islamic traditions in

different Muslim countries, some Sunni, some Shiite. I mean, is that what we want in this country, that we're going to establish religious institutions and require them to perform their prayers in a particular way? That just seems absurd.

However, if people are being harmed by religious discourse — especially young people being coerced to do or not do things in a space — that is a human rights issue.

I would hope that any religious community, whether Muslim or Roman Catholic, or Christian evangelical, would invite people like you [gestures to Wong-Tam] into the community to talk about the reality of young people in the city.

Whether that should be linked to public funds or not, I don't know. I mean, religious communities are not the only ones who get public funding — we're going to have a community of robots on the waterfront here in Toronto, apparently soon, with Google getting public funding, tax breaks.

Wong-Tam: This is obviously a very challenging topic. I would say that this is not a place where we're going to sort of walk out of here with crystal clarity. If anything, perhaps we're going to be following the Jewish faith and walking out with more questions. And that's perfectly okay, as long as we're willing to have that conversation, and that conversation at times can be very tough. But if we approach it with an open heart and open mind, I'm pretty sure this is the country where we can have those discussions.

HATE SPEECH IN A FREE AND DEMOCRATIC SOCIETY

DR. MARK FREIMAN practices law at Lerner LLP in Toronto. He was Deputy Attorney General for Ontario (2000-2004); President of Canadian Jewish Congress (2009-2011); and Lead Counsel at the Canadian Human Rights Commission proceedings against Ernst Zundel.

The issue of hate speech in a liberal democracy involves the balancing of two fundamental human rights, those of expressive freedom and freedom from incitement to hatred and discrimination. The US and its case law are outliers in this regard. Canadian constitutional jurisprudence has established that there is no hierarchy of human or constitutional rights. The Supreme Court has ruled that it is constitutionally permissible to regulate hate speech.

La question du discours haineux dans une démocratie libérale implique l'équilibre entre deux droits de la personne fondamentaux, ceux de la liberté d'expression et de l'absence d'incitation à la haine et à la discrimination. La jurisprudence des États-Unis présente des cas aberrants à cet égard. La jurisprudence constitutionnelle canadienne a établi qu'il n'y a pas de hiérarchie des droits de la personne ou constitutionnels. La Cour suprême a statué qu'il est constitutionnellement permis de réglementer le discours de haine.

ONE RIGHT OR TWO?

The issue of hate speech in a liberal democracy involves the balancing of two fundamental human rights, those of expressive freedom and freedom from incitement to hatred and discrimination. The need to balance these two rights reflects a fundamental tension in all liberal democratic societies between the foundational values of “liberty” and of “equality,” corresponding, on the one hand, to the right to be left alone by the state and, on the other, to the right to the assistance and protection of the state from unjust discrimination.

That there are indeed two rights at issue when society confronts hate speech such that freedom from incitement to hatred and discrimination is as much a human right as expressive freedom, becomes clear when one looks carefully at the list of human rights in the foundational document for

the modern concept of human rights, the *Universal Declaration of Human Rights* (“UDHR”).

Article 19 provides:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.”

At the same time, article 7 provides:

“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination and violation of this Declaration and against any

incitement to such discrimination.”

That conventional international law regards incitement to hatred as a form of incitement to discrimination from which groups and individuals are entitled to protection is clear from article 20 of the *International Covenant on Civil and Political Rights* (“ICCPR”), to which Canada is a signatory. Article 20.2 provides:

“Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

A “PURPOSIVE” APPROACH

In the US jurisprudential tradition “free speech,” protected by the First Amendment to the US Constitution, occupies a special place under a doctrine often referred to as the “Firstness of the First Amendment.” Under this doctrine, expressive freedom enjoys a constitutional primacy and near absolute protection. However, the US and its case law are outliers in this regard. Canadian constitutional jurisprudence has established that there is no hierarchy of human or constitutional rights, with each case to be decided on its own facts within a “purposive” interpretive context.

Once again the UDHR is instructive. As it makes clear, human rights are not abstract or reified, but rather contextual in character. When we think of human rights, we should be asking not “what is the definition of this human right?” but rather “what is the purpose of this human right?” That is what is meant by a “purposive” approach. It is the approach taken by the drafters of Article 19 of the UDHR, outlining the right to freedom of opinion and expression when that Article invokes the right to “seek, receive and impart information and ideas.” It is also the approach underlying the phrasing of Article 7, which refers to the “equal protection of the law against any incitement to ... discrimination.”

We can also understand that it is for this reason that Article 30 provides:

“Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.”

An abstract invocation of a human right cannot be used as an excuse to justify undermining another human right. Analysis begins by looking at the purpose of each right in question and then determining how on the facts those purposes are advanced or impeded.

The preamble to the UDHR provides a clear statement of the ultimate basis and purpose for the protection of human rights. As such it provides a functional and “purposive” context for the list of human rights that follow.

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...”

In other words, the foundation for human rights is the recognition of the inherent dignity and the inherent equal and inalienable rights of all members of the human family. The human rights, which the preamble goes on to enumerate as including “freedom of speech and belief and freedom from fear...”, are thus based on, and intended to reinforce, the equality and the inherent worth and dignity of all individuals.

While not determinative of any given situation involving an allegation of hate speech, it is nevertheless obviously significant that true hate speech is itself both an infringement of another human right and a denial of the fundamental principle that underlies all human rights and that is the purpose for their existence.

APPLYING A PURPOSIVE APPROACH TO THE REGULATION OF HATE SPEECH

A purposive approach to the regulation of hate speech begins with the obvious observation that hate speech denies the fundamental premise that underlies all human rights, that of the equal worth and dignity of all human beings, and is inconsistent with the human right to be free from incitement to hatred and discrimination.

But before one moves on to the next stage of exploring the implications of that observation, it is important to confirm whether what one is dealing with is, in fact, truly “hate speech” and that, in turn, raises the issue of who decides that question.

A NEUTRAL ARBITER

The Supreme Court of Canada has ruled that it is constitutionally permissible to regulate hate speech and indeed the ICCPR seems to suggest that it is incumbent upon states to do so. The problem is that governments are not ideal regulators, and there will always be at least an appearance of conflict of interest and/or a danger that the regulation will be a disguised means to suppress unpopular political opinions. It is therefore important that the power to adjudicate be put in the hands

of an impartial, independent and well-qualified adjudicator.

There is no perfect body to fill this role, but in advanced western democracies, the judiciary is best placed to take on this role. Administrative tribunals are not a good choice. Few have the qualifications to do so. Most are short-term political appointments and therefore not truly independent. Many are not amenable to judicial review. In the Canadian context, the courts have proven to be independent, are subject to appellate review and have benefitted from a clear jurisprudential standard for what constitutes “hate speech” that protects the right to be free from incitement to hatred while respecting the right to expressive freedom even for offensive, scurrilous and unpopular speech.

THE STANDARD

If we have an adjudicator, what is the standard? What is “hate” for purposes of “hate speech”?

A proper standard for what constitutes “hate speech” captures the purpose of the human right of freedom from discrimination and incitement to hatred and discrimination.

It does not capture speech that is merely unpopular, impolite, rude, offensive, blasphemous, immoral or even untrue. So long as they do not constitute incitement to hatred or discriminate against an identifiable group, all of the latter types of speech are examples of expression that would be protected under a purposive approach to expansive freedom whether as set out in international statements of principle like the UDHR or constitutional instruments like the Charter. They are not examples of “hate” for constitutional purposes.

The international documents all speak of incitement to hatred or discrimination. This is a very important first point to notice. The speech being referred to is speech meant to provoke an emotional reaction, not speech meant to convey ideas or facts. As for the emotion intended to be produced, Canadian courts have referred to it as a heightened and ardent emotion, synonymous with “detestation.” It has been described as “demonizing” and “dehumanizing” an entire group. It can therefore be contrasted with criticism, offensive speech, inappropriate language, “micro-aggression”, insensitivity, etc.

“Hate speech” therefore is a very specific category of speech

that is aimed at producing an emotion of detestation against a specified group, whose human worth and dignity it either explicitly or implicitly denies.

Where so found by an impartial and independent adjudicator, it is not improper to regulate or proscribe such speech.

SHOULD HATE SPEECH BE PROSCRIBED?

Canada, like many liberal democracies has a number of criminal and administrative provisions meant to deal with hate speech. Some critics maintain that these are inappropriate in principle as attacks on the human right of expressive freedom. It is hoped that the foregoing discussion has demonstrated that such criticism is fundamentally misguided and misconceived.

But there is a difference between “may” and “should.”

Even if it is legally or constitutionally permissible to regulate or proscribe hate speech, is it a good idea to do so? Some critics believe hate speech provisions to be ineffective or even counter-productive. It is said that they are ineffective because of the difficulty in distinguishing between hate speech and offensive speech and because new technologies make it impossible to pursue even real hate speech. It is said that hate speech provisions are counter-productive in that they provide a platform and publicity for hate mongers who would otherwise attract little attention.

The argument about definitional difficulty is the same as can be made about any legislation that seeks to set a boundary along a continuum. The definition proposed by the Supreme Court of Canada sets the standard sufficiently high to mitigate such concerns.

The fact that some speech will escape regulation due to new technologies that do not respect national borders is not a reason to abandon all attempts at any regulation.¹ The fact that some attempts at regulation may be counter-productive and may play into the hands of demagogues who exploit the attendant publicity is a reason to exercise prudence and discretion at the front end, not to throw up one’s hands.

In fact, as has often been pointed out, the enemies of an open society are in a no-loss position regardless of how their

1 A more serious issue beyond the scope of this brief paper, is the impact of new technologies on the very notion of “facts” and “truth”, which is especially germane to our topic as it relates to the frequently repeated chestnut “the best response is bad speech is more speech.” The current fragmentation of audiences, proliferation of “alternative facts,” state sponsored hoax news, conspiracy theories, blurring of the border between “facts” and “opinions,” and increasing technological ability to manipulate images to revise history has created a genuine question as to whether and for how long it will be possible to maintain a social consensus about objective facts. It has always been questionable whether the analogy to Nineteenth Century economics involved in the metaphor of a “marketplace of ideas” was an especially convincing one. In the Brave New Putin/Trump Tech World of the Twenty-First Century, the metaphor makes no sense whatsoever.

incitement to hatred is treated. Either they are allowed to undermine the right to be free from incitement to hatred and discrimination and thereby compromise the human rights of others or they are able to garner free publicity for their hateful messages. This is not an issue that can be dealt with by means of formulaic responses. One size definitely does not fit all. Each situation should be addressed on its own specific facts.

In the final analysis, the fact that there are tools available to be used when appropriate is an important fact in and of itself. The fact that prosecutorial or regulatory authorities may choose to initiate proceedings provides an important means by which it is possible to signal condemnation of hatred directed against the most vulnerable in society and to reaffirm solidarity and recognition of the inherent dignity and equal worth of all members of society. Whatever other results may ensue, that alone is an important vindication of human rights.

RACISM STIFLES THE FREE SPEECH OF ITS TARGETS

A legal analyst and writer, **AZEEZAH KANJI** received her Juris Doctor from University of Toronto, and Masters in Law from the School of Oriental and African Studies, University of London. She is Director of Programming at Noor Cultural Centre, Toronto.

Conversations about the relationship between anti-hate speech provisions and freedom of speech often assume a tension between the two: measures to counter hate are represented as imposing restrictions on the ability of people to express themselves freely. The problem with that is that it focuses primarily on the freedom of expression of the sources of hate speech, while ignoring the freedom of expression of the targets.

Les conversations sur la relation entre les dispositions sur le discours haineux et la liberté d'expression supposent souvent une tension entre les deux : les mesures visant à contrer la haine sont présentées comme imposant des restrictions à la capacité des personnes de s'exprimer librement. Le problème est que ces conversations se concentrent principalement sur la liberté d'expression des sources de discours haineux, tout en ignorant la liberté d'expression des personnes ciblées par ces discours.

Conversations about the relationship between anti-hate speech provisions and freedom of speech often assume a tension between the two: measures to counter hate (whether anti-racism, anti-misogyny, or anti-homophobia) are seen as imposing restrictions on the ability of people to express themselves freely. In this dominant framing, oriented around the tension between anti-racism and freedom of speech, the two are represented as competing values: protecting people from hate speech is depicted as restricting or eroding the freedom of speech of people targeted by such laws.

In some cases, fears about the suffocation of free speech by the state have been stoked to discredit anti-racism measures, even where no credible threat to freedom of expression exists. This was the case, for example, with much of the rhetoric around M-103, a recent parliamentary motion that was passed in the House of Commons to study the problem of Islamophobia and systemic racism. People opposed to the

study warned that it would stifle the ability to voice criticisms of Islam – even though, as civil liberties organizations like the Canadian Civil Liberties Association and Canadian Journalists for Free Expression, assured the public, M-103 produced no changes to Canadian law and imposed no plausible restriction on freedom of speech. This quixotic crusade against M-103 was transparently disingenuous as a defence of free speech, since many of its most prominent proponents had previously embraced measures seriously undermining speech rights in Canada; the politicians who campaigned most furiously against the motion have been some of the staunchest supporters of laws curtailing freedom of expression in the name of national security (discussed in some detail below).

In other cases, particularly where legal punishment for speech deemed hateful is possibly involved, there are potential costs to freedom of expression. However, the problem with the dominant framing – which pits anti-hate speech against free

speech — is that it focuses purely or primarily on the freedom of expression of the sources of hate speech, while ignoring the freedom of expression of the targets of hate speech. In the case of racially hateful speech, for example, this means ignoring the racialized people and racialized communities that bear the brunt of the negative effects of racist speech.

But as the Supreme Court of Canada has recognized, hate speech itself may restrict the freedom of expression of its targets. In its unanimous judgement in *Saskatchewan Human Rights Commission v Whatcott*, a 2013 case concerning homophobic hate literature, the Supreme Court observed: “hate propaganda opposes the targeted group’s ability to find self-fulfillment by articulating their thoughts and ideas. It impacts on that group’s ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy... It does this not only by attempting to marginalize the group so that their reply will be ignored: it also forces the group to argue for their basic humanity or social standing, as a precondition to participating in the deliberative aspects of our democracy.” Indeed, a recent Environics survey found that one-sixth of Muslims in Canada — including one-third of Canadian-born Muslims, and one-quarter of Muslims under 35 — felt inhibited from expressing their political or social opinions because of the surrounding climate of Islamophobia and racism. And so, discouraging or restricting or punishing hate speech might actually expand the scope of expressive freedom for marginalized groups targeted by hate. In other words, restrictions on hate speech might not only impose costs for freedom of expression; they might also produce gains.

By excluding or intimidating marginalized communities from full and equal participation in public discourse, hate speech vitiates the free speech of its targets. And so, legal restrictions on hate speech might not only impose costs for freedom of expression (for the haters); they might also produce gains (for the hated).

A recent example of a hate speech case in Ontario illustrates how hateful speech can imperil the ability of its targets to express themselves freely. Kevin Johnston, who was notorious for posting video diatribes against Muslims and Islam — which he had called “as evil as it gets,” and a “military doctrine” that needs to be banned — was recently charged under the Criminal Code for “wilful promotion of hatred.” Shortly before being charged, Johnston had posted a video on his website offering a \$1,000 reward, which he subsequently increased to \$2,500, for anyone who could provide a record-

ing of Muslim students “spewing hate speech” during their Friday prayers at school.

Effectively, Johnston was encouraging individuals to engage in their own surveillance of Muslim prayer services, to watch them and record them for hostile scrutiny. Such privatized surveillance would obviously impose on the Muslim students’ ability to express themselves freely to their fellow students — especially in a context where the definition of what is considered “hate speech” or dangerous speech from Muslims is so broad, often including speech that is simply politically unpopular or critical. What makes bounties like the one offered by Johnston for Friday prayer videos so particularly chilling for Muslim communities is the knowledge that Muslims’ speech is *already* under exceptional suspicion of being dangerous, and is *already* under exceptional surveillance by the state — even while White supremacist and extreme right-wing groups more directly advocating and preparing for violence (in some cases conducting border patrols and mosque stake-outs, and even engaging in live-fire paramilitary exercises,¹) are not subjected to similar scrutiny and pre-emptive repression.

The Anti-Terrorism Act, 2015 (more popularly known as Bill C-51), for instance, included several provisions that would chill and restrict and even punish free speech, through measures such as preventive arrest and detention. (The 2015 Anti-Terrorism Act is currently operative as law in Canada; many of the threats it poses to freedom of expression and other fundamental rights are not resolved by the revisions to the legislation that are currently being considered with Bill C-59, as highlighted by multiple civil liberties organizations.²) Lawyers Clayton Ruby and Nader Hasan describe the type of scenario that could come under The Anti-Terrorism Act’s expanded powers of preventive arrest:

Six Muslim young adults stand in front of a mosque late at night in heated discussion in some foreign language. They may be debating the merits of a new Drake album. They may be talking about video games, or sports, or girls, or advocating the overthrow of the Harper government. Who knows? There is no evidence one way or the other. Just stereotypes. But the new standard for arrest and detention — reason to suspect that they *may* commit an act — is so low that an officer may be inclined to arrest and detain them in order to investigate further ... Yesterday, the Muslim men were freely exercising constitutional rights to freedom of expression and assembly. Today they are arrestable.³

1 www.vice.com/en_ca/article/newgwd/the-birth-of-canadas-armed-anti-islamic-patriot-group; www.vice.com/en_ca/article/8x43g5/an-ultranationalistic-group-patrolling-canadas-border-with-the-us.
2 <http://iclmg.ca/open-letter-to-the-federal-government-on-c-59-new-national-security-bill-fails-to-reverse-c-51-and-introduces-serious-new-problems/>.
3 www.policyalternatives.ca/publications/monitor/bill-c-51-legal-primer.

There are many other measures imposed in the name of national security that repress the free expression of securitized communities, even if they involve less overt coercion and violence than police powers of arrest and detention. For example, “counter-radicalization” programs (also known as “countering violence extremism”) — which target individuals, including students, for state intervention on the basis of signs supposed to indicate movement towards “violent extremism” — have tended to stigmatize and suppress forms of political and religious expression wrongly, and discriminatorily, construed as precursors to violence.⁴ The United Nations Special Rapporteur on Freedom of Expression recently warned that state counter-radicalization initiatives “are used increasingly to justify profiling, surveillance and other activities that treat certain communities as de facto suspects ... thereby deterring robust debate and information-sharing,” and that such initiatives “have in some cases impacted negatively on academic freedom and open debate in schools and universities, undermining the freedom of expression rights of children and young people.”⁵

The terrain of expressive freedom is not an even playing field in Canada. Communities subjected to racism experience a matrix of particular constraints on their ability to express themselves freely; the silencing effects of hate speech further stifle the expression of groups already marginalized in public life and public discourse by racial profiling, stereotyping, and under-representation in mainstream media. “The harm that expressions of racial hatred do is harm in the first instance to the groups who are denounced or bestialized in pamphlets, billboards, talk radio, and blogs,” writes New York University law professor Jeremy Waldron, in his book *The Harm in Hate Speech*. “Maybe we should admire some [ACLU] lawyer who says he hates what the racist says but defends to the death his right to say it, but ... [t]he [real] question is about the direct targets of the abuse. Can their lives be led, can their children be brought up, can their hopes be maintained and their worst fears dispelled, in a social environment polluted by these materials?” The focus on anti-hate speech laws and other anti-oppression measures as primarily a *threat* to free speech privileges the perspectives of the haters at the expense of the hated, further tilting the field of expressive freedom to the advantage of the relatively privileged.

4 www.un.org/apps/news/story.asp?NewsID=53841#.WhIYokqnE2w. This has been documented for counter-radicalization or countering violent extremism programs in Britain and the United States, which are at more mature stages of development than Canada’s more embryonic counter-radicalization programs.

5 www.osce.org/fom/237966?download=true

SUPPRESSING SPEECH DOES NOT LEAD TO SOCIAL JUSTICE

DR. JIM TURK is Distinguished Visiting Professor, and Director of the Centre for Free Expression at Ryerson University. He was Executive Director of the Canadian Association of University Teachers (1998-2014).

In the attempt to eliminate racism and injustice, freedom of expression has come under attack for allowing hateful speech. This paper argues there is no contradiction of freedom of expression and social justice; that they are necessary for each other. It discusses why freedom of expression is rightly one of the Charter's "fundamental" freedoms and why criminalizing offensive speech is harmful to society as well as ineffective, if not counter-productive.

En tentant d'éliminer le racisme et l'injustice, la liberté d'expression a été attaquée pour avoir permis le discours haineux. Cet article soutient qu'il n'y a pas de contradiction entre la liberté d'expression et la justice sociale : elles sont nécessaires l'une pour l'autre. Il explique pourquoi la liberté d'expression est à juste titre l'une des « libertés fondamentales » de la Charte et pourquoi la criminalisation du discours offensant est inefficace et nuisible à la société, voire même contre-productive.

INTRODUCTION

Racism, anti-Indigeneity, Islamophobia, anti-Semitism, homophobia and sexism haunt our country. The question is what to do about them. One approach is to try to use legal regulation to eradicate all expression of these odious views. The objective is to forbid all exterior "signs" of an interior frame of mind.

However attractive the idea of regulating hateful speech may seem in the abstract (and it does seem attractive), *except for very limited and extreme forms of expression*, restricting freedom of expression:

- Undermines democracy and human rights

- Is contrary to Canadian law; and
- Is ineffective in practice — in fact, often counter-productive

I do not suggest that we have to accept hateful speech. We do not and should not. But suppressing it is not the solution.

Free speech and social justice are not in fundamental conflict. They are allied in their opposition to orthodoxy and in their commitment to inclusion and participation.

This is often not recognized because what most people see today is free speech being taken up by White supremacists, neo-Nazis and alt-right heroes like Anne Coulter and Milo Yiannopoulos who would be the first to suppress free speech

were they in power and whose commitment is not to the Charter or the First Amendment but to the hunger of trolls eager to feast on the remains of liberalism.¹

THE IMPORTANCE OF FREEDOM OF EXPRESSION

Our Charter of Rights and Freedoms, the supreme law of Canada, identifies “freedom of thought, belief, opinion and expression” as one of our four “fundamental” freedoms.

It is not just a right, it is the foundation of human and civil rights.

As the late Nobel Peace Prize recipient and leading Chinese human rights activist, Liu Xiaobo, said on many occasions, “Free expression is the base of human rights, the root of human nature and the mother of truth. To kill free speech is to insult human rights, to stifle human nature and to suppress truth.”

Freedom of expression is essential for three distinct reasons: self-realization, aiding the search for truth, and sustaining democracy.

American legal scholar Thomas Emerson has described the first of these:

The achievement of self-realization commences with development of the mind. But the process of conscious thought by its very nature can have no limits. An individual cannot tell where it may lead nor anticipate its end... [Everyone] in the development of [their] own personality has the right to form [their] own beliefs and opinions. And, it also follows, that [they have] the right to express these beliefs and opinions. Otherwise they are of little account. For expression is an integral part of the development of ideas, of mental exploration and of the affirmation of self.²

Regarding the search for truth and advancement of knowledge, there is no shortage of evidence that official censorship has proven consistently harmful. Censorship has obstructed the ability to challenge those in power and to contest dominant groups’ exploitation and marginalization of others. It has undermined the advancement of knowledge and understand-

ing.

Finally, free expression rights are the foundation for democracy. Democracy is more than about voting and majorities having their say. It is about ongoing conversation – what many have called “public discourse.” Since the discussion and debate that constitute democracy can never result in complete agreement, they are necessarily without end. French philosopher and activist, Claude Lefort puts it well:

“... modern democracy invites us to replace the notion of a regime governed by laws, of a legitimate power, by the notion of a regime founded upon the legitimacy of a debate as to what is legitimate and what is illegitimate – a debate which is necessarily without any guarantor and without any end.”³

Robert Post adds that this requires democracy to be “independently maintained as an ongoing structure of communication.”⁴ Otherwise, we would have a majoritarian dictatorship with no minority rights. This means that, while democratic governments must have the ability to regulate behaviour, the public conversation – the public discourse – that constitutes democracy must necessarily and in important respects be exempt from majoritarian regulation as to content or viewpoint. The logic is simple. If the essence of democracy is “a debate which is necessarily without any guarantor and without any end”, restrictions on that continuing debate, necessarily compromise it and the democratic process it makes possible.

State suppression of speech in the name of social justice puts protection of disadvantaged minorities’ interests in the hands of the state, which in a democracy, acts in the interests of the majority, not minorities. American Civil Liberties Association General Counsel, David Cole, properly asks, “Why would disadvantaged minorities trust representatives of the majority to decide whose speech should be censored?”⁵

PROTECTION OF FREE SPEECH IN CANADA

Jurisprudence in Canada generally reflects recognition of these important reasons to protect free expression. Even in relation to hate speech, Canadian courts have set a high bar for what violates criminal law.

1 I borrowed this description from Jill Lepore, “Inquietude”, *The New Yorker*. October 9, 2017, p. 17.

2 Thomas I. Emerson, “Toward a General Theory of the First Amendment.” *Yale Law Journal* 72 (5) (Apr. 1963), p. 879.

3 Claude Lefort, *Democracy and Political Theory*. New York: Wiley, 1991, p. 39.

4 Robert Post, “Racist Speech, Democracy and the First Amendment”, *William and Mary Law Review* 32 (1991), p. 283.

5 David Cole, “Why We Must Still Defend Free Speech.” *The New York Review of Books*. September 28, 2017, p. 61. www.nybooks.com/articles/2017/09/28/why-we-must-still-defend-free-speech

In his decision in a Nova Scotia case, *R. v. A.B.*⁶ that concerned an individual and two friends who spray-painted racist slogans on a variety of surfaces near Dartmouth Nova Scotia, Judge Jamie Campbell, now a judge on the Nova Scotia Supreme Court, described Canadian law with respect to hate speech — specifically the legal meaning of s. 319(2) of the Criminal Code which proscribes statements made, other than in private conversation, that wilfully promote hatred of an identifiable group:

“[13] The presence of the word “wilfully” in subsection (2) is significant ... The person must have intended that the statements as communicated, promote hatred.

“[15] ... it is not illegal simply to say things that are grossly rude, wildly offensive, blatantly false, callously hurtful, or even disgustingly hateful. The law does not make the use of specific words or symbols criminal. Society’s condemnation of those things comes from sources other than the criminal law.

“[18] The promotion of racism, anti-Semitism or homophobia to name only three examples, as outrageously offensive as they are to any right thinking person, are not in themselves criminal acts. Racism is not a crime. It is a curse, but not a crime. Even the promotion of racism is protected by free speech. What is criminal is the promotion of hatred.

“[19] ... Hatred is an intense and destabilizing emotion. It goes beyond racism. It may naturally develop from the ignorance and fear that underlie and drive racism...Hatred takes it a step further. It is intense, aggressive and dangerous. Hatred is not simply disrespect but vilification and detestation.”

Provisions relating to hate speech also exist in three provincial human rights acts⁷, although no longer the federal code. But in human rights acts, the understanding of what constitutes “hate speech” is limited to very extreme expression. In its most recent hate speech case in relation to human rights acts (*Saskatchewan (Human Rights Commission) v. Whatcott*), the Supreme Court upheld the constitutionality of hate speech provisions in human rights law, but only if the bar is set very high, so as not to unduly limit freedom of expression. Justice Rothstein, on behalf of a unanimous court wrote:

“... the legislative term ‘hatred’ or ‘hatred or contempt’

must be interpreted as being restricted to those extreme manifestations of the emotion described by the words ‘detestation’ and ‘vilification’ ... expression that [in the words of the Saskatchewan Code] ‘ridicules, belittles or otherwise affronts the dignity of’ does not rise to the level of ardent and extreme feelings constituting hatred required to uphold the constitutionality of a prohibition of expression in human rights legislation... Consequently, they are constitutionally invalid and must be struck from [the Code].”⁸

CRIMINALIZING OFFENSIVE SPEECH IS INEFFECTIVE AND COUNTERPRODUCTIVE

Beyond arguments from principle or law, criminalizing hateful expression in public discourse is largely ineffective, if not counterproductive.

If one believes, as I do, that the views giving rise to hateful expression are systemic in Canadian society, there is little reason to think that suppressing communicative acts will remedy the problem. Further, criminalizing all hateful communicative acts would necessarily entail overbroad restriction, as manifestations of racism or sexism are almost without limit — from the use of vicious epithets to endless microaggressions.

Efforts to suppress all racist or sexist expression in public discourse would impair that discourse without offering effective remedy for the systemic problem.

We only need to look to the many countries in Europe that have more extensive hate speech limitations than Canada. I am aware of no data that suggest the extent and virulence of racism, sexism, anti-Semitism, Islamophobia, or white supremacy are any less in those countries than in Canada as a result.

As well, when we attempt to deal with a systemic problem as if it could be remedied by criminalizing expression, we prevent the public from seeing those holding offensive views for what they are.

The fact that the white supremacist/neo-Nazi rally in Boston in August 2017⁹ went ahead did more damage to the racist

6 *R. v. A. B.*, 2012 NSPC 31. www.canlii.org/en/ns/nspc/doc/2012/2012nspc31/2012nspc31.html

7 British Columbia, Alberta and Saskatchewan.

8 *Saskatchewan (Human Rights Commission) v. Whatcott*, [2013] 1 SCR 467, 2013 SCC 11. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12876/index.do>

9 “Rightwing rally and counter-protest in Boston – in pictures” *The Guardian*. August 20, 2017. www.theguardian.com/us-news/gallery/2017/aug/20/boston-rally

cause than had it been suppressed. For what the public saw was a small, angry, hateful group of a few hundred counterposed to tens of thousands who rallied for equality and social justice. Public discourse is about letting people see, hear and make up their own minds. Suppression of offensive expression denies that right.

Finally, tough laws to restrict hateful speech, imposed in a racist and sexist society, are often used in unintended ways by those who enforce them — victimizing those already marginalized.¹⁰

WHAT WE SHOULD DO

Having argued that criminalizing and suppressing expression is not what we should do, there are many things we, individually and collectively, can and should do.

Individually, we need to speak out against all forms of racism and other forms of hate whenever and wherever we encounter them. A good place to start is in our everyday lives, where often it is most difficult because it is close and personal -- with family and friends, at work, in school, in social situations. We should not let racist comments, hateful jokes, or discriminatory behaviour stand without comment.

Beyond that, we can use social media and conventional media to make our voices heard more broadly. We can join social justice rallies and counter-demonstrations, or even help organize them.

Even more importantly, we can work to dismantle structural conditions of racism and hate: precarious employment; inadequate housing; our discriminatory criminal justice system; and financial, social and cultural inequality. We can support community organizations that do this work as well as organize politically at the municipal, provincial and federal levels.

Hateful expression is the symptom of the disease. We need to attack the causes. This includes looking inside ourselves. If the problem is systemic, as it is, we are part of it. We need to understand and change our own behaviours and roles in perpetuating hate and the conditions that promote it.

There are many things to be done. Suppressing freedom of expression in public discourse is not one of them.

10 See Henry Louis Gates, Jr., "Let Them Talk" *The New Republic*. September 20, 1993; Edwin Chemerinsky & Howard Gillman, *Free Speech on Campus*: New Haven: Yale University Press, 2017, 106-07.

THE NORMALIZATION OF HATE SPEECH

An exchange

Mark Freiman: I certainly agree with the last third of Jim's remarks about the things that we can do, and I also agree that anti-hate legislation does need to have a very high threshold. I also agree that government can't be trusted to be a guarantor; I think an independent judiciary has to be a guarantor. But I still do take issue with the idea that in talking about legal responses to hate speech, we should be ashamed of what we're doing.

Legal responses to hate prevent what's happening in the United States — the normalization of hate and extreme behaviour, and people just say, 'Well, that's just the way it is now.' But it can't be accepted. You can't simply accept this as being normal everyday behaviour. And, finally, and I agree, we're not looking at offensive behaviour, insulting behaviour, micro-aggressions, enforced conformity of thought. Believe me, I am just as disturbed by the academic and intellectual lynching of Michael Marrus as anyone. (Prof. Marrus of the University of Toronto resigned in Sept. 2017 as Senior Fellow at U of T's Massey College, after a remark that was denounced as racially offensive, in a petition signed by 200 students and faculty. Prof. Marrus said he was sorry for his words but "disheartened" by the lack of "due process" and dialogue between him and those who asked for his resignation).

Freiman... contd.: However, there's a special kind of macro-aggression, not micro-aggression, against specific groups that denies their equality, that denies their equal dignity and their entitlement to equal treatment that's a form of incitement to hostility that should be opposed.

I also want to speak about the dangers of freedom of expression taken up not just by the Ann Coulters of the world but also by the Supreme Court of the United States in pursuing an absolutist view of expressive freedom. This (*Citizen United vs. Federal Election Commission* ruling) isn't the first decision (on free speech), but the last waystation down the road of undermining American democracy, and putting it up for sale to the highest right-wing fascist bidder who is able to buy elections. There is something profoundly disturbing when that's what expressive freedom means, that you can spend as much money, and you can hide the source of the money as you like, in pursuit of elections.

So it is a complicated and nuanced discussion. But we should not shy away from the possibility that sometimes the legal fight against hate speech has to be a fight against the speech itself.

Moderator Haroon Siddiqui: Mark was referring to the U.S. Supreme Court decision in 2010, that freedom of speech includes the right of very rich people to donate endless amounts of money to advance their causes. The Supreme Court of Canada, however, went in the opposite direction, in 2015, in a decision that Jim Turk was citing. In a Saskatchewan case, the court upheld Section 13 of the old Human Rights Code restricting free speech, even while defining very strict limits on what constitutes hate speech.

Azeezah Kanji: The Canadian legal system has shown itself quite poor in understanding, or let alone addressing, Islamo-

phobia. For example, in a Supreme Court case that upheld the definition of terrorism in Canadian law, advocates were arguing that it was Islamophobic because it associated particular expressions of religion with terrorism in a way that demonized Muslims, and the Supreme Court said, 'No, it's not the definition of terrorism that does that, it's Muslims committing terrorist attacks that have created this association between Islam and terrorism.' In a way, it just reproduced Islamophobic ideas about Muslims being the major source of political violence in our societies, whereas we know that both in Europe and the U.S., it's been white supremacists, right-wing and separatist groups that have been responsible for that.

When our legal system itself is espousing racist or Islamophobic ideas, clearly it cannot be the solution to addressing those Islamophobic ideas.

However, I think there is a difference between systemic racism and exceptional expressions of hatred. There's a difference between the state developing counter-radicalization programs that surveil what Muslim students are doing in schools — programs that are based on many racist ideas and impose a chill on freedom of expression — and what Kevin Johnson was calling for, paying people to go and sit and record Muslim students and then give the recordings to him or to police to show that they were being hateful.

There's a difference between those two things. And when people like Kevin Johnson are allowed to make those kinds of requests to the public without any legal censure, that normalizes it and diminishes even our ability to recognize what's systemically racist.

Jim Turk: Let's start with a few things I think we're all in agreement on. Canada is not the United States. We don't have the First Amendment. We have the Charter of Rights and Freedoms with Section 2B, with a very robust understanding of what freedom of expression is, and Section 1, which provides a basis for qualifying that.

As Mark said, we don't have in Canada the absolutist traditions of free speech in the United States. I'm not sure there's anybody on the planet more opposed to the Citizens United decision than me. But that's not what we're talking about here — we're talking about hate speech, and offensive speech and regulating it.

Mark also made reference to things that aren't captured by the law — offensive speech, microaggressions. My own view is, they're very serious, and they have to be dealt with — it's just that the law isn't the way to deal with them.

Azeezah, you were agreeing that it (hate speech) should be extreme, but then you talked about this guy in Mississauga doing these odious things, which I don't think get to the level of what Canadian courts would consider hate speech, but you

say, 'Well, he can get away with it without legal censure.' We can't have it both ways — if we want to start imposing legal censure on a lower level of offensive speech, we get into such an overly broad set of possibilities that it really does endanger our democracy.

Kanji: The courts will decide whether what Kevin Johnson said was extreme enough to meet the high-level speech.

Turk: I agree completely. He's been charged, and so now there'll be a determination whether his speech got above that bar.

Mark talked several times about an independent judiciary, and that's very important. Except the judiciary is never fully independent. When it's making a judgment, it has to judge based on what the legislature intended. And in a majoritarian governments... (there has been) a very negative impact on how the courts are interpreting things. So it's not as if we have this independent body that is totally out there to protect all of us — they're appointed by majoritarian governments and they are constrained...

Siddiqui: Except, Jim, the logical extension of what you're saying is that we should do away with the courts and not have any laws.

Turk: I'm not saying that at all. What I'm saying is...

Siddiqui: Why would you trust the courts on everything else, but not on free speech?

Turk: I don't trust the courts on everything else — we live in a democratic society, which in my view is an ongoing conversation. The election of Trudeau or the election of Trump isn't the end. Well, it may be in the case of Trump! The conversation continues. Those of us who are unhappy continue to organize and have to have the rights to do that. So we can be critical of the courts — we have to protect the ability of that continuing. That means those of us who are in minority positions, politically or otherwise, have to have Constitutional protections to ensure that our rights to dissent aren't squashed by a particular government elected at a particular time.

Siddiqui: You say the Charter guarantees free speech — of course it does — the Charter also provides great protections for minorities. So how can we cite one part of the Charter and not the other? How can we ignore that the Supreme Court, which while restricting definitions of hate, has upheld anti-hate laws?

You also said the way to eradicating hate is not to criminalize speech, but that is precisely where we have ended up, ironically. Section 13 of the Human Rights Code is gone, that civilian remedy is gone, and all we are left with is the criminalization of hate speech. How can you square the circle?

Turk: No, no. I said at the very beginning — and this was the same point Mark was making — except for extreme expressions, which are properly criminalized, we can't deal with the much more pervasive forms of hateful speech by criminalizing it. What oppresses most people who are minorities or marginalized in this country is not the Ernst Zundels and Jim Keegstras, it's the day-to-day racist expression, exposures, microaggressions, exclusion, discrimination [that] have to be dealt with, and turning to criminal law is not the way to deal with it.

Kanji: As a racialized woman, I can say that systemic racism is the day-to-day oppression, but the threat of violence from violent Islamophobes, whose speech potentially comes under hate-speech provisions, is also there. And so it's not an either/or — it's not that we either address systemic racism or we address hate speech — the two have to go together.

Ingrid Mattson: The idea that as long as someone doesn't hit you as you're walking down the street but they could belittle you and spew racist things at you, that's not harmful? That's a kind of dichotomous view of the human person and health.

Freiman: When we're dealing with hate propaganda, or incitement to hatred, we're dealing not with interactions on a one-to-one basis but rather with incitement of hatred against a group. Incitement to violence is the subject of 319 Sub-A, whereas Sub-B is the willful promotion of hatred. It's not somebody coming up to you on the street and saying, 'Go back to where you came from.' We're dealing with something quite different.

It's the damage done to society that's really is the subject of the prohibition. It's not a personal wrong that's being done to you. That would be the subject of a different sort of tort.

Kanji: The way that I understood Prof. Mattson's question was that our whole conversation seems to artificially separate systemic conditions of oppression from particular exceptional incidents of violence and that it also seems to separate physical violence from verbal violence.

Perhaps from an abstract perspective, these kinds of distinctions make some semantic or theoretical sense. But from the perspective of people who experience violence — both systemic as well as interpersonal violence that stems out of a systemic context but is also rooted in individual interactions — often those things can't be separated.

Can the law address that? In the current formulation of hate speech, perhaps not. That's a critique of the way that the law itself is formulated — to not be responsive to the experiences of people who are marginalized and oppressed.

Turk: There's no suggestion that verbal expression does not cause harm. That isn't the issue — it does, most assuredly. The

question is, what do we do about it? And it's not a question of what we do about violence. Violence is against the law. We're talking about expression. The term 'expressive violence' is used, but that's not violence as the law recognizes violence. And I don't think it's because it's something experienced by the marginalized but by everybody else. The law is a broad club, and to use that broad club against ubiquitous hateful behaviour is impossible to enforce. There are things that we have to deal with not by criminal law — doesn't mean we don't deal with them — it's just that criminal law is not the tool to deal with them.

We as a community have to have obligations. That's why I was pointing to a myriad of things that we can do, and many people in this room do them as part of their daily life.

Siddiqui: Here's an extreme example, and not completely relevant to Canada — what would you have done in the case of the Rwandan radio station that was inciting murder? What should the state do in situation like that?

Turk: That's an almost crystal-clear case of a violation of Section 319 of our Criminal Code. So the police would have to go in...

Audience member: Anthony Palma here. I teach a course on media and religion at UTSC (University of Toronto Scarborough Campus). Timothy Garton Ash, professor of European Studies at Oxford, in his book, *Free Speech: Ten Principles for a Connected World* offers the principle that, "We respect the believer, but not necessarily the content of the belief." Do you find that persuasive? And if so, why, and if not, why not?

Turk: Dick Moon, professor of law at the University of Windsor, who's written about this and talked about this, is with us today — I don't know if you'd like to comment on that, Dick?

Richard Moon: That's a distinction that's often drawn. To attack the believer, could, if extreme, count as hate speech. But attacks on the belief are seen as what would fall within the ordinary scope of public discussion, no matter how offensive, etc.

The problem, however, can be — and we see this with so much Islamophobic speech — is that it takes the form of the false attribution of belief to the members of a group. And so this line sometimes between an attack on belief and attack on believer can become blurred and complicate it.

Audience member: Professor Turk, you've talked about the way allowing a neo-Nazi rally to happen would allow everyone else to see how small and pathetic these ideas are. And then Mr. Freiman, you talked about the normalization of hatred that goes on in America. So is that a real disagreement between the two of you, that allowing racists to express their belief will, on the one hand, normalize racism, or, on the other

hand, allow everyone to see how not widely-held these beliefs are?

Freiman: There's always the issue of cause and effect. I was reading an article that drew the same discussion that Jim briefly alluded to. In European countries, there's far more robust prohibitions on displaying fascist symbols, denying the Holocaust, all manner of things you don't find in North America. Yet the incidents of hate crimes there are much higher than here. The article drew the conclusion that these prohibitions are no more effective in preventing that behaviour than the relatively laissez-faire policies in North America. But, of course, that assumes that there's a cause-and-effect relationship going from the prohibition to what happens in society, rather than perhaps the other way.

In Germany, you can understand why people would be nervous about displays of swastikas and of Holocaust denials in the media for fear of what might happen, whereas until quite recently, we wouldn't worry so much about it in North America. But to me, the lesson of the last little while in the United States is that 'it can't happen here' may not be the best guide for predicting the future.

Turk: The rally of white supremacists, if Mark and I agree, would only be blocked in Canada were it to either be promoting incipient violence or otherwise contravene Section 319. Those of you who saw the coverage of Boston, did many of you come away feeling that, "Jeez, maybe those white supremacists are right — I was impressed with them?" I don't think so.

Kanji: This is probably not a completely representative crowd. We're talking about a country that elected Donald Trump.

Turk: That suggests that Donald Trump is the result ... I mean, 'If we had only stopped more free expression, Donald Trump wouldn't have been elected,' I think that trivializes the extent and nature of the racism in the United States. Were it the case that we could deal with that just by more extensive hate speech legislation, I'd actually be happy, but we can't.

Kanji: It's not saying that repressing speech would have prevented the election of Donald Trump. Rather, allowing white supremacist rallies to take place and then seeing the opposition to them is not an effective way of addressing racist speech that was on display, as well as its knock-on effects and side effects in widening the space for expression of beliefs that previously would have been considered extreme and on which people would have felt compelled to restrain themselves.

We also have to think about whose right to express these things do we spend our resources and time defending? Do we spend our resources making sure white supremacists and extreme right-wingers have the space to express their views? That's been the view of some of the defenders of civil liberties

who say we need to defend the right of white supremacists to express their speech, because otherwise we constrict freedom of speech in ways that will impair the ability of all people to express themselves, including the marginalized people supposedly being protected. Whereas I think that white supremacists in Canada, as well in the United States, already have a far greater freedom of expression than Muslim activists, Indigenous activists and environmental activists whose freedom of speech has been constrained in all kinds of ways.

While we're debating about the right of white supremacists to engage in their rallies, and acting as if this is the forefront of freedom of speech that we need to be defending, we're often overlooking the minoritized and oppressed groups that are facing the sharp edge of the state's repression of freedom of expression (in the name of national security). But their experiences are completely overlooked in the name of saying that we need to keep the space open for white supremacists to express themselves.

MY MIGRANT MIND

SARA ALI is a student in the BA English Program at Ryerson University.

This creative writing essay explores a racialized Muslim woman's encounter with tradition and autonomy, homeland and Canada, bringing her back to wearing the hijab.

Ce texte de création littéraire explore la rencontre d'une femme musulmane racialisée avec la tradition et l'autonomie, la patrie et le Canada, ce qui la ramène à porter le hijab.

Winter brings out the worst in people, winter brings out the best in people, and I have only ever lived in Summer. This melancholy of the migrant mind is not a thing until you have lived it, and having lived it; you are barely anything. Where does that leave me: an international student, temporary worker, a brown woman, a minority but part of Canada's second largest religion, a—

Moslem? noun a follower of the religion of Islam.

Letters my mother never wrote, tell me:

“Darling, neighbors back home still whisper about your absence from the mosque. The empty house echoes with the sound of a call to a prayer you never went to answer, while your lusty bones have crawled out of your dusty body to dance with a Northern dervish wind that pledges to war with the village mullahs on your behalf.”

I confess that in my sleep I sometimes still hear:

My mother singing as she cooks;
Roast lamb with saffron rice, and the crisp smell of a

chapati I took for granted as item number (3) on my long List of Things that I would willingly exchange for the lofty ideals of freedom and equality offered by a progressive Western culture in my Adopted Homeland, my Benefactor, my proudly Feminist, and Upholder of Human Rights: *My Canada*.

Therefore, it made my mother, a sixty-something visibly devout Muslim woman, supremely happy *but concerned* when one day, years after having emancipated the self from the —

Islamic Republic

noun

Name given to several states in countries ruled by Islamic laws

her daughter again chose to wear the hijab in the streets of the city of Toronto, the place she proudly proclaims the Diverse, the Most Multicultural Metropolis in the world, and chose to call —

Home

noun

the place where one lives permanently.

I wanted to tell her that when at age seven she tenderly covered my head with a scarf that was bright yellow, so yellow that it was like carrying the sun with me, bathed in the purity of her love and care I felt above all things, secure and strong. That feeling travelled with me into adulthood until that sun I had carried so airily on my person for all these years began to feel heavy with gender implications. I realized that the piece of cloth, which to me was just a piece of cloth, made me a second-class citizen in a country which regulated the rights of individuals based on archaic principles bent and altered to suit patriarchal agendas. It began to define and restrict me in ways strong women will never want to be defined as and suppress my intelligence in ways no secure woman could let happen. My hijab was a symbol of decency, but in a society ruled and defined by individuals hijacking a culture and religion to enforce personal agendas, it hid everything about me but the fact that it is a woman body behind the drapery. It captured and insulated the features, curves, and lines of my body, so that the cloth became the ultimate seduction, and began to feel to me, an indecency —

What cannot be seen, cannot be had. What cannot be had, must be had.

Instead, I choose to tell her about my life now as a student in one of the leading universities in Canada. I discuss with her ideas old and new, debate matters of politics, society, and ethics, repeat lessons from philosophy and world history that I continue to have the privilege to learn in my undergraduate studies in a secular society that supports rational autonomy, and encourages intellectual independence. My favorite professor, I tell her, openly identifies as an atheist, whose lectures I attend and drink in religiously because his intelligence and knowledge knows no bounds. I tell her about my peers who come from all backgrounds, race, ethnicities and social classes. I also told her about my best friend, a lawyer in the making, who wears the hijab every day despite the negativity surrounding her culture and religion and my decision to don the hijab was in part to stand in solidarity with visibly devout Muslim Canadian women such as her, because she reminds me of the bravery of another such woman.

My mother who was homeschooled, had by age nine, learned by rote, the Qur'an. At age fourteen she completed her undergraduate at a time when most women around her barely got their high school diplomas. As a single mother of progressive thinking living in a system of patriarchy, she successfully brought up four children to value independence and equality along with a deep-rooted respect for a religion that has suffered abuses and misrepresentation from all corners of the

world, near and far. So, when my mother, out of sheer fear, reading news about a mosque attack in Quebec and increased incidents of Islamophobia against hijab-wearing women in My Canada, became more concerned than happy over my choice to wear the hijab, even if for a day, in a letter I told her:

“A society that continues to strive for equality irrespective of religion, caste, ethnicity, race, and gender cannot for long let live discrimination against one of their own. A country whose leaders shun politics of division and fear-mongering, and instead focus on building better communities and equal opportunities for all, will prosper, despite the antithesis polemic of a few. A nation that stands with strong and empowered women, free to make their own choices, at home and outside, cannot be defeated by the hatred and ignorance of a handful.”

CAN RELIGIOUS DIVERSITY AND SECULARISM CO-EXIST?

CALEB DE JONG is a student in the M.A. Program in Literatures of Modernity at Ryerson University.

Secular government is broadly characterized in one of two ways: aggressively anti-religious — an alpha competitor in the public arena that will brook no rivals, as in the French *laïcité* and also the 2013 Quebec Charter of Values — or secularism as a benign facilitator, accommodating religion in the public arena, so long as it doesn't aspire toward monopolization.

Le gouvernement laïque est généralement caractérisé de deux façons: agressivement antireligieux — un joueur alpha dans l'arène publique qui ne tolère aucun concurrent, comme dans la laïcité française et la Charte des valeurs québécoises de 2013 — ou la laïcité comme facilitateur bénin, qui accommode la religion dans l'arène publique, tant qu'elle n'aspire pas à la monopolisation.

I will argue that the possibility of a benign relationship between “religious diversity” and “secularism” depends on how these concepts are interpreted. Religion, I argue, must be properly understood as both a private and public phenomenon. Secular government, therefore, can only be acceptable to religious persons if it provides for both the private and public expressions of religion.

It is necessary to clarify the operative terms: “religion” and “secularism.” I will begin by scrutinizing the use of these terms in popular discourse. The resulting definitions will then be used to test their complementarity. So then, how are “religion” and “secularism” typically characterized?

Let us begin with religion. I believe section two of the Canadian Charter of Rights and Freedoms may serve as an expedient point of departure. For, under the headline of “fundamental freedoms,” the first listed is “freedom of conscience and religion.” The yoking of “conscience” to “religion” by way of a conspicuous “and” suggests an intrinsic relationship between

the two. If this is the case, then religion, like conscience, should have something to do with an inner moral compass. And, indeed, this definition is prevalent in public discourse. Consider, for instance, “conscientious objection” and its typical association with Christian pacifists. A second popular convention is to speak of religion as an assembly of persons who worship together on a regular basis and who furthermore share certain beliefs and principles in common. This idea of religion is further associated with a litany of sacred festivals and holidays (Sabbath, Diwali, Ramadan etc.) as well as with distinct “religious” apparel (Cassock, Hijab, Yarmulke etc.). If the first definition is somewhat private and personal, the second is public and corporate. That said, the marriage of the two ideas (private, personal conscience and public, corporate practice) produces yet a third definition; namely, religion as conscience-forming practice. Here again conscientious objection is a noteworthy example: objecting Christians historically grounded their objection not on conscience alone but on the teachings and trainings they received from their respective faith communities (e.g. Mennonite, Dukhobor, Quaker). For

me this hybrid definition is the most satisfying because it holds together both the private and public dimensions of religion in a robust fashion. If religion is reduced to one or the other it becomes one-dimensional and incomplete.

On to secularism. The preamble to the Charter of Rights and Freedoms reads: “Canada is founded upon principles that recognize the Supremacy of God and the Rule of Law.” That an increasing number of Canadians find the content of this declaration problematic supports Charles Taylor’s well-known thesis that we are living in a “Secular Age.” For, according to Taylor, ours is an age marked by the “contestability” of any and all claims to exclusive authority, especially religious authority. It is an age in which the “cross-pressures” of various interest groups, religious or otherwise, have produced a hotly contested public arena. When speaking of the “Supremacy of God and the Rule of Law,” then, it will naturally be asked, “Whose God, Which Law?” In Taylor’s account, secularism, as an official government policy, emerged as a means of addressing that question. I am inclined to agree.

As I see it, secular government is broadly characterized in one of two ways in popular discourse. The first posits secularism as aggressively anti-religious. Secular government, on this model, is seen as an alpha competitor in the public arena that will brook no rivals. Competition for public influence is seen as a zero-sum game in which secular civil authority and religious authority are fundamentally at odds. This brand of secularism is usually associated with the French policy of *laïcité* and many would see the 2013 Quebec Charter of Values as representative. The second characterization posits secularism as a benign facilitator, accommodating the presence of religion in the public arena so long as it doesn’t aspire toward monopolization. Secular government is thus seen as serving to maintain a fair and equitable balance between competing religious (and non-religious) authorities. On this model, public concord is not achieved by banishing religion from the public sphere but by policing against disproportionate manifestations of religious power. This model of secularism is associated more with North America than Europe. The idea of Canada as a “cultural mosaic” is exemplary of its logic.

Having now run through several workable definitions of religion and secularism, we are in a better position to answer the initial question: “Can religious diversity and secularism co-exist?” If we take conscience to be the essence of religion, then the answer is ostensibly “yes” for both varieties of secularism: aggressive and facilitating. For such a definition effectively privatizes religion, thereby satisfying the strictures of even aggressive secular government. That being said, a purely private religion would, I believe, prove so attenuated as to be hardly recognizable to its adherents. It would thus be unacceptable to the vast majority of religiously observant Canadians. Given that private religion is the only kind provided for by aggressive, *laïcité* secularism I submit that this secularism cannot co-exist with any but the most mitigated of

religions. Be that as it may, the facilitating variety of secularism, which has, in any case, most often prevailed in Canada, appears to satisfy all three of the above definitions of religion – private conscience, public practice and public/private conscience-forming practice. This should not come as a surprise. For, indeed, if Charles Taylor is to be believed, provision for the co-existence of competing religious authorities is its very *raison d’être*.

IN CLOSING

MOHAMED LACHEMI, President, Ryerson University

Ryerson University has built its reputation on education and research that's innovative and applied. More and more, we are putting forward practical public policy proposals — how to pave the way to welcome refugees, how to enhance diversity in public institutions, how to advance entrepreneurship, and more. With *Many Gods of Canada*, we want to enrich our national conversation on secularism and faith, enhance our remarkable social harmony, and promote understanding and mutual respect.

CHARLES FALZON, Dean Faculty of Communication & Design

Why are we discussing *Many Gods*?

Religion is communal, not private. Religion is a shared experience. Religion is a pathway to deal with shared questions, a shared desire to be good, shared love of beauty. Religion is a shared humanity.

Creativity is a result of that yearning. Our creativity is a manifestation of our own Godness.

As educators, do we stop talking about God? Hide our prayers? Stop reflecting on mystery? Stop absorbing the wisdom of elders from our traditions whether imparted through oral storytelling or through our scriptures? Relegate stories to being acceptable only if they are God-less? Or do we appropriate the goodness, the wisdom and the beauty that we share and learn to dance together to the tune of an exciting symphony? Do we discuss our fears, our uncertainties and our trust in the creative process?

We can build a society of despair and loneliness where goodness and humility are relegated to the private. Or we can publicly proclaim our shared yearnings and uncertainties and build an economy of love.

PAMELA SUGIMAN, Dean of Arts

With this unique conference initiative exploring religion and secularism, we hope to advance valuable recommendations in the sphere of public policy.



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Proudly diverse, intentionally inclusive

Ryerson's focus on equity, diversity and inclusion is the foundation of university life. Proof of our commitment is appointing Denise O'Neil Green as the university's first vice-president, equity and community inclusion.

One of her key achievements is introducing an Employee Diversity Self-ID report to measure progress in advancing workplace equity. Thanks to this initiative and many more, Ryerson is one of Canada's Best Diversity Employers – four years running.