Rethinking R v Zundel: Challenges and Opportunities for the Regulation of Internet Disinformation

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Abstract

Disinformation and its regulation pose a series of complex challenges for society. The problems disinformation creates require some level of legal, regulatory, and legislative response. However, any measures must be undertaken in a way that protects freedom of expression. R v Zundel, a 1992 case from the Supreme Court of Canada, is generally seen as an authoritative statement in Canadian law that the regulation of falsehoods and fake news are not "reasonable limits" on the freedom of expression rights created by section 2(b) of the Charter of Rights and Freedoms. In this paper, I present a preliminary argument to overcome Zundel with a view to guiding the development of constitutionally compliant disinformation regulation. I argue that the prevailing view against the regulation of falsehoods may not be as strong as is commonly thought in light of other free expression jurisprudence and the changing mischief of disinformation now compared to 1992. Online disinformation will continue to play a deleterious role in democracy without some recourse. It is my hope that any such recourse protects and promotes a broad and inclusive view of the values of free expression in Canada.

Keywords: Internet disinformation, freedom of expression, free speech, regulations, fake news, falsehoods, section 2(b), reasonable limits, constitutional law, legal theory.

INTRODUCTION

We have only begun to see and understand the problems that disinformation poses to society. The rise of disinformation raises important policy questions, including those about whether to regulate it and, if so, how. While private actors and social norms have started to address the issue of disinformation, a more formal regulatory, legislative, and legal response appears to be necessary given the harms and problems disinformation creates[1]. However, any such measures must be undertaken in a way that protects freedom of expression.

Freedom of expression poses a significant and important legal challenge[2] to the regulation of online disinformation. Entrenched in the Canadian constitution by section 2(b) of the Charter of Rights and Freedoms as a "fundamental freedom", freedom of expression is regarded as the "very life blood of our freedom and free institutions."[3] Despite its importance, free expression is not absolute: as with other *Charter* protections, it is subject to reasonable limits that can be "justified in a free and democratic society".[4]

Generally, falsehoods and "fake news" are considered to not be reasonable limits and remain constitutionally protected. This general view stems from *R v Zundel*, a case in which the Supreme Court of Canada ("SCC") decided, by way of a 4-3 split decision, that a criminal prohibition on the publication of false news violated the *Charter*.[5] Since *Zundel* in 1992, the SCC has not squarely revisited the issue of disinformation. Relying heavily on *Zundel*, the

[1] While there is a live question as to whether law is the appropriate tool for addressing disinformation, I set aside such discussion for the purposes of this paper.

[2] Throughout this paper, I refer to the right to freedom of expression as a challenge. However, I do not mean this to suggest as something nefarious, but rather an important check on regulation to ensure fundamental freedoms are respected. My aim is to ensure this right is maintained while still addressing the detrimental effects of disinformation.

[3] *WIC Radio Ltd v Simpson*, 2008 SCC 40 [*WIC Radio*] at para 1.

[4] Hate speech and defamatory statements are two such examples.

[5] *R v Zundel,* [1992] 2 SCR 731 [*Zundel*], considering *Criminal Code*, R.S.C., 1985, c. C-46, s 181.

prevailing view in Canadian law is that falsehoods attract section 2(b) protection and are not easily limited. In this paper, I present a preliminary (and incomplete) argument to overcome *Zundel*, with a view to guiding the development of constitutionally compliant disinformation regulation.[6] The prevailing view against the regulation of falsehoods may not be as strong as commonly thought, in large part because *Zundel* may not be as strong of a case as is commonly thought. In my view, the dissent's reasoning more accurately describes the underlying values of free expression, truth, and the problems posed by falsehoods. I refer to other free expression jurisprudence to support this view. Furthermore, the underlying mischief of disinformation in *Zundel* differs from the mischief now, creating an opportunity to revisit disinformation and free expression principles. Throughout this paper, though certainly not the primary focus of it, I offer broad suggestions for crafting legislation that may comply with or be distinguished from *Zundel*, in the light of the present realities of disinformation.

Scope & Importance

Broadly, I hope to contribute to an understanding of how to avoid the overregulation of disinformation while addressing the need to reduce the problems arising from it. While my comments can likely (and perhaps should!) be perceived and criticized by many as advocating for an increase in government regulation of expression, my goal is to show how government regulation can and should proceed without violating the core values of free expression. I would ideally prefer no regulation of speech over the unjust regulation of speech. But since government regulation in this area seems inevitable, but malleable, my aim

[6] For this paper, I set aside whether the challenges *should* be overcome.

is therefore just and balanced regulation. We need to protect the free expression while also recognizing that it is complex and cannot be adequately protected by simply holding free expression in unwaveringly high regard.[7]

Zundel can be and is interpreted as opposing the regulation of falsehoods: the SCC found criminal restrictions on false publications to be an unjustifiable limit on the right to freedom of expression. However, using *Zundel* in this way risks 1) misinterpreting the structure of the *Charter* and Canadian constitutional framework, 2) ignoring the dissenting opinion in *Zundel's* 4-3 split decision, 3) disregarding the contextual differences between the facts at issue in *Zundel* and present-day online disinformation. The bulk of this paper focuses on the second and third points, showing how *Zundel* can be interpreted as less of a blunt denouncement of the regulation of falsehoods and disinformation.

However, to briefly address the first point, and to provide background as to why this paper is needed, the public's (and at times, the legal community's[8]) understanding of the right freedom of expression is flawed. In some instances, it is regarded as a near absolute right or as identical to the US First Amendment; in Canada, the right to freedom of expression in section 2(b) is not interpretated nearly as absolutely as the First Amendment. In other instances, the right is regarded as subordinate concern to the remediation of harm. This too is an inaccurate portrayal of Canadian constitutional analysis. Discussions about regulating misinformation or other online harms seem to polarize around these two interpretations[9],

[7] In my graduate research, I am investigating the philosophical difficulties of free expression.

[8] See, for example: the SCC's recent citation of mostly American theorists such as Jeremy Waldron, dealing with the First Amendment, in *Ward v Quebec (Commission des droits de la personne et des droits de la jeunesse),* 2021 SCC 43 [*Ward*], and historically in *Irwin Toy v Quebec (Attorney General)*, [1989] 1 SCR 927 [*Irwin Toy*].

[9] See, generally: *Ward*, *ibid*, where the SCC was divided around these two lines of argument, reflecting this polarization.

exposing the need to carefully understand what the right to freedom of expression protects and its limits.

At the same time, the internet leads us into a new legal space.[10] Previous arguments about free expression may not be as salient as they were in the analog world. The combination of the gaps in understand free expression and the issues posed by online expression point towards a need for the law surrounding freedom of expression rights to be revisited and revised.

Limitations

This paper has a practical but general focus, and it suffers from several defects. First, it does not examine all SCC cases dealing with free expression nor does it address lower court decisions. A deeper discussion involving *all* Canadian jurisprudence dealing with falsehoods and free expression would be immensely helpful and certainly more complete.[11] Second, this paper does not centre on any specific example of regulation or legislation, nor one specific target for that regulation. The comments herein are therefore overly generic and potentially inaccurate when referring to 'future legislation'. Third, this paper does not address strictly private law, only government or quasi-government regulation, as it is focused on the *Charter.* Fourth, this paper is aimed at legislators and regulators[12] looking to address online disinformation. While I presume some knowledge of the Canadian legal system, my intended audience is non-lawyers, though this paper may also serve as a refresher for those with legal

[10] For example, in *Grant v Torstar*, 2009 SCC 61 [*Grant*] at para 97, the SCC stated that "blog postings and other online media…are potentially both more ephemeral and more ubiquitous than traditional print media." (see also, para 114). In *Crookes v Newton*, 2011 SCC 47 at para 37, the SCC stated that the internet is "powerful medium for all kinds of expression" which, in that case, suggested the potential for greater defamatory harm.

[11] Particularly a historical review that tracks dissenting opinions.

[12] I will use these terms interchangeably.

training (as that training may be from first-year constitutional law two decades ago). This focus inevitably glosses over important legal nuance and debate, which dulls my legal analysis, but (hopefully) improves readability for a non-legal audience.

Definitions

Any survey about a broad topic like free expression will suffer from definitional issues. I offer the following imperfect definitions. Different definitions may expose weaknesses in and inspire criticisms of my main points: I welcome such criticism.

The definition of *disinformation* itself is a live issue. For the purposes of this paper, I adopt the definition from the UN Special Rapporteur, in which "disinformation is understood as false information that is disseminated intentionally to cause serious social harm and misinformation as the dissemination of false information unknowingly."[13] Intent, and the role of intent, in defining and regulating disinformation is also a live issue[14] but I set it aside in this paper.

By *regulation* or *legislation*, I am referring to action by government or quasi-government actors implementing legislative or administrative measures meant to limit disinformation by restricting the online expression of individuals. I am not referring to any specific method of regulation. I set aside whether the *Charter* will apply to certain types of regulation or the impacts on section 2(b) rights, even though such issues would be important in actual litigation.

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[13] See: UNGA, Human Rights Council, Irene Khan, *Disinformation and freedom of opinion and expression: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 47th session, UN Doc A/HRC/47/25 at II.A.9.

[14] See, e.g.: *Canadian Constitution Foundation v Canada (Attorney General)*, 2021 ONSC 1224

I use the term *online* generically, though what I have in mind are social media platforms and their analogues.

I only refer to the *right to free expression* as it exists under the *Charter*. I set aside any discussion about the nature or quality of this right or rights in general.

CHARTER ANALYSIS UNDER SECTION 2(b) [15]

This section outlines how a *Charter* analysis under section 2(b) proceeds: what qualifies for section 2(b) protection, what constitutes an infringement of this section, and what criteria are used to evaluate whether an infringement is a reasonable limit of section 2(b) right.

Generally, the *Charter* applies only to government action, not to private actions, and extends to administrative bodies exercising a government function.[16] Notably, the *Charter* may apply to other laws and private regulation (i.e., regulation not by government) when those laws fail to adequately protect *Charter* rights as part of the development of the common law,[17] which is especially relevant in defamation.[18]

If a matter falls under Charter protection, section 2(b) sets out the right to freedom of expression:

2. Everyone has the following fundamental freedoms:

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[15] See, generally: Kent Roach & Robert Sharpe, *Charter of Rights and Freedoms*, 5th ed (Toronto: Irwin Law, 2013) [Roach & Sharpe] at 97-112.

[16] See: s. 32 of the *Charter*: This Charter applies (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories.

[17] *Dolphin Delivery Ltd. v R.W.D.S.U., Local 580*, [1986] 2 S.C.R. 573 at 603; *Hill v Church of Scientology of Toronto*, [1995] 2 SCR 1130 at 1160; Roach and Sharpe, *supra* note at 103-104. See: *WIC Radio, supra* note at para 2 for a discussion about the application to defamation.

[18] See: *WIC Radio, supra* note and *Grant*, *supra* note at para 135.

(b) freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication;

For section 2(b) to apply, the activity must be classified as "expression".[19] The definition of expression is incredibly broad, protecting all activities that convey meaning;[20] activities with a remotely expressive purpose attracts section 2(b) protection.[21] Essentially, the only expression that section 2(b) clearly does not protect is violence or the threat of violence.[22]

Finding an infringement of section 2(b)

If an activity is determined to be expression, the next question is whether the purpose of the regulation was to infringe section 2(b) rights.[23] Such infringements can be found quite easily: infringements of expression, just like expression itself, are construed broadly. An infringement will be found if the restriction "singl[es] out particular meanings" (e.g., restricting expression about specific religious or political beliefs) or restricts the form of expression to control the meaningful content (e.g., a ban on pamphlets may have the effect of restricting political content and therefore restrict expression). However, if a regulation merely tries to control the "physical consequences of certain human activity" (e.g., a more general ban against littering that does not specifically ban pamphlets), it is likely not an infringement of section 2(b).[24] A regulation may also infringe the right to free expression if

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[19] *Irwin Toy*, *supra* note at 978; *Zundel, supra* note at 752.

[20] *Irwin Toy*, *ibid* at 970. Note: expression has both content and form; meaning, generally, exists in the *content* of expression: the form of the expression, therefore, is not subject to the same protections as the content.

[21] *Canada (Attorney General) v JTI Macdonald Corp*, 2007 SCC 30 [*JTI*] at para 132.

[22] See: *R v Khawaja* 2012 SCC 69 at para 70; *Irwin Toy*, supra note at 968, 970. Note: the method or location of expression *can* limit the protection of expression as well, but generally this is difficult to do (See: *Montreal (Ville) v 2952-1366 Québec Inc* 2005 SCC 62 para 56). The philosophical basis for this distinction is, in my view, tenuous and imprecise, but that is beyond the scope of this paper.

[23] *Irwin Toy*, *supra* note at 972.

[24] *Ibid* at 974. Note: while intent may sometimes come into play, I set that issue aside for the purposes of this paper.

it impedes one or more of the three underlying values of free expression: truth-seeking, political participation, or self-fulfillment.[25] These values will be discussed below.

Justifying an infringement under section 1

A restriction on expression may be justified as "reasonable limits" under section 1 of the *Charter*:

> The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

The bulk of a freedom of expression analysis lies in the section 1 analysis (as the thresholds for section 2(b) protection and for an infringement are both easy to meet). A section 1 analysis is complicated and highly contextual, and the level of protection accorded to expression will depend on the nature of that expression.[26] While the initial steps of a section 2(b) analysis is a "content-neutral" exercise, content becomes very much at issue under a section 1 analysis.[27] This analysis has two branches:

a. Is the objective for which the legislation was enacted sufficiently pressing and substantial to override a *Charter* freedom?
b. Is there proportionality between the effects of the measures which are responsible for limiting the *Charter* freedom and the objective?
    i. Is there a rational connection between the objective and the measure?
    ii. Does the measure minimally impair the right?
    iii. Does the provision appropriately balance its deleterious and salutary effects?

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[25] *Ibid* at 976; *Ford v Quebec (Attorney General)*, [1988] 2 S.C.R. 712 [*Ford*] at 765.

[26] *Thomson Newspapers Co v Canada (Attorney General)*, [1998] 1 SCR 877 at para 85; *R v Lucas* [1998] 1 SCR 439 [*Lucas*] at para 33-34, 88-89; *Edmonton Journal (The) v Alberta (Attorney General)* [1989] 2 S.C.R. 1326 at 1355-56.

[27] See, e.g., *WIC Radio, supra* note **Error! Bookmark not defined.** at para 48.

On the first branch, to justifiably infringe section 2(b) protection, a provision must serve more than simply a legitimate objective: the objective must be "pressing and substantial". This is a key component of the test, and it informs the rest of the analysis.[28] To meet this requirement, the objective should be well-defined and direct. An objective based on the remote or theoretical possibility of harm or an objective that conflicts with numerous other values will have difficulty meeting the first branch of the section 1 analysis. Note, determining the objective of provision may itself be difficult, but necessary.[29]

The second branch of the section 1 analysis assesses proportionality. In brief, this step seeks to ensure that a regulation which violates section 2(b) does not do so heavy-handedly. The regulation must be rationally (and reasonably) connected to the mischief it is meant to address.[30] This branch probes three elements. First, the objective must be rationally connected to the chosen legislative measure. This threshold is relatively easy to meet. Second, the measure must minimally impair the right. At one point, this was interpreted as having no other reasonable means of achieving the objective while impairing the right less.[31] However, the SCC has clarified that the means of achieving the objective can fall within a range of reasonable options: it does not have to be the most minimally impairing.[32] Under the final element of the proportionality analysis, the benefits in addressing the mischief must

[28] See: *Zundel, supra* note **Error! Bookmark not defined.** at 764-5.

[29] See, e.g.: *JTI*, *supra* note **Error! Bookmark not defined.** at para 38; *Zundel, supra* note **Error! Bookmark not defined.** at 761-763.

[30] Roach and Sharpe, *supra* note **Error! Bookmark not defined.** at 68-9. This underscores the need to have a clear objective.

[31] *Ibid* at 76. See also, Justice Canada, "Section 1-Reasonable Limits", (September 2021), https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art1.html [Justice], citing *Alberta v Hutterian Brethren of Wilson Colony*, [2009] 2 SCR 567, at para 55; *Carter v Canada (Attorney General)*, [2015] 1 SCR 331, at paras 102, 118*; R v KRJ*, [2016] 1 SCR 906, at para 70.

[32] Justice, *supra* note **Error! Bookmark not defined.**, citing R *v Sharpe*, [2001] 1 SCR 45; *RJR-MacDonald Inc. v Canada (Attorney General)*, [1995] 3 SCR 199 [*RJR*]. See also; *R v Keegstra*, [1990] 3 SCR 697 [*Keegstra*].

outweigh the costs of doing so.[33] Here, the effects of the legislation are closely considered, though what is considered will vary according to the facts of the case.[34] For example, in Irwin Toy, the SCC found that protecting children from certain types of advertising outweighed the negative impact that restricting advertising might have had on commercial profits.[35] Notably, in accordance with the minimal impairment element, the legislation did not prevent advertising to adults or other consumers, and allowed advertisers to "develop new marketing strategies for children's products."[36] In *JTI*, the SCC looked at the evidence supporting the argument that restrictions on misleading tobacco advertising could help reduce smoking (treating such the objective as a 'matter of life and death for millions of people"), balanced against the "low value" of the commercial expression at stake by limiting such advertising.[37] This emphasis on the objective raises a key point for future regulation of disinformation: framing the issue matters greatly. Ensuring the legislation is narrow and focuses is vital to remaining *Charter* compliant.

R v ZUNDEL: STAUNCH PROHIBITION OR FUTURE GUIDANCE?

Using *Zundel*, the SCC could strike down disinformation regulation on the basis that it infringes on freedom of expression; at very least, they may hesitate to uphold it. A narrow majority of 4 of 7 presiding SCC justices found that a broad restriction of the publishing of false information was unconstitutional: their hesitancy to regulate falsehoods should not be underestimated. The majority stated: "the value of liberty of speech, one of the most

[33] *JTI*, *supra* note **Error! Bookmark not defined.** at para 45.

[34] See: Justice, *supra* note **Error! Bookmark not defined.**. The framing of costs/benefits is an active issue but outside the scope of this paper.

[35] *Irwin Toy*, *supra* note **Error! Bookmark not defined.** at 1000.

[36] *Ibid*.

[37] *JTI*, *supra* note **Error! Bookmark not defined.** at para 68.

fundamental freedoms protected by the Charter, needs no elaboration."[38] *Zundel* therefore poses a significant challenge to any potential disinformation regulation, ascribing strong protection to falsehoods and "fake news" under section 2(b).

However, *Zundel* may also present opportunities for constructing *Charter* compliant legislation to address disinformation. The majority's view of truth may be flawed, while the dissent appears to provide a more appropriate framework for the regulation of disinformation then, now, and in the future.

Overview and Summary

Ernst Zundel published various Holocaust-denial booklets and materials.[39] Zundel did not write the booklet himself, as it had previously been published in the United States, though he added a preface and an afterword. He was charged and convicted under section 181, a "false news" provision of the Criminal Code:

> 181. Everyone who willfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.[40]

He appealed his conviction on the ground that section 181 was unconstitutional.

McLachlin J. (as she then was), writing for the majority, found that section 181 was unconstitutional. She held that the booklet qualified as expression and attracted constitutional protection under section 2(b).[41] Section 181 infringed on this protection and

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[38] *Zundel, supra* note **Error! Bookmark not defined.** at 776.
[39] *Zundel, supra* note **Error! Bookmark not defined.** at 732, 743-4.
[40] R.S.C., 1985, c. C-46.
[41] *Zundel, supra* note 5 at 753-60.

was not justified under section 1.[42] Cory and Iacobucci JJ, writing the dissenting opinion, agreed with the majority that the booklet attracted section 2(b) protection and that section 181 infringed this protection.[43] However, they found that the infringement was justified under section 1. [44] Each of the majority and dissenting opinions made important points about disinformation, several of which I unpack in the following sections.

Unpacking *Zundel*: Overbreadth, Evolving Purpose, Sanction

Before proceeding, several elements of the case ought to be discussed, as these elements likely drive the reasoning of the majority and dissent. First, in striking down section 181, the majority expressed concern about the criminal sanction attached to a violation of section 181. In their view, a criminal sanction was "the most draconian of sanction" available and were disproportionate to what the provision sought to prevent.[45] The majority was concerned about convicting an accused on what they characterized as the accused's "divergence from prevailing or officially accepted beliefs."[46] This view may have heightened the concern about the difficulties in distinguishing between fact and opinion. The majority contrasted section 181's criminal sanction to the remedy in defamation: "the consequences of failure to prove truth [in defamation] are civil damages, not the rigorous sanction of criminal conviction and imprisonment."[47] Thus, the majority may have been more of section

[42] *Zundel, supra* note **Error! Bookmark not defined.** at 743. Note: as indicated at 748-750, there was a problem with the jury charge, which somewhat distorts the legal analysis of the case.

[43] *Zundel, supra* note **Error! Bookmark not defined.** at 801.

[44] *Zundel, supra* note **Error! Bookmark not defined.** at 779.

[45] *Zundel, supra* note **Error! Bookmark not defined.** at 774.

[46] *Zundel, supra* note **Error! Bookmark not defined.** at 769. But see below at page 22 for why the dissent believed this was a mischaracterization.

[47] *Zundel, supra* note **Error! Bookmark not defined.** at 757-8. That said, there is the crime of "criminal libel" (See, for example: *Lucas,* who upheld criminal libel provisions, though on narrow grounds). The majority's concern about criminality may, therefore, have been misplaced, but I set aside such concerns here. Their concern may be more with evidentiary issues with historical facts; however, they instead highlight the criminality aspect.

181 had it been enforced with civil penalties assessed on a civil standard.[48] Therefore, future legislation ought to engage civil, rather than criminal, sanctions to avoid being struck down on the grounds of proportionality, given the majority's opinion in *Zundel*.

Second, in the majority's view, section 181's "fatal flaw" was that it was overbroad.[49] In particular, the majority took issue with the term "injury or mischief to a public interest", as it gave the provision "unlimited reach".[50] For the majority, the "overbreadth of s. 181 poses greater danger to minority interest groups worthy of popular support."[51] Whether or not this concern about the potential reach of section 181 was supported in evidence, the majority's view emphasizes the need for focused and narrow legislation in the future. The overbreadth issue helps explain why the majority was concerned about determining truth, as will be seen in the section. Notably, the dissent did not share the majority's concerns about overbreadth.[52] In particular, they did not see section 181 as vague, noting that the provision "provide[d] clear guidelines of conduct" and imposed clear enough constraints.[53] On the broadness of the term "public interest", the dissent stated that it is open to the courts to define public interest, namely in recognition of other *Charter* values.[54]

Third, the majority found that reading section 181 to promote social tolerance was not aligned with the original intent of the provision.[55] The majority rejected that purpose of

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[48] The civil standard is the "balance of probabilities" (more likely than not) whereas the criminal standard is "beyond a reasonable doubt". Civil penalties are primarily monetary, whereas criminal penalties can involve imprisonment.

[49] *Zundel, supra* note **Error! Bookmark not defined.** at 772.

[50] *Zundel, supra* note **Error! Bookmark not defined.** at 769.

[51] *Zundel, supra* note **Error! Bookmark not defined.** at 772.

[52] *Zundel, supra* note **Error! Bookmark not defined.** at 87-88.

[53] *Zundel, supra* note **Error! Bookmark not defined.** at 88.

[54] *Zundel, supra* note **Error! Bookmark not defined.** at 88-89. This point directly criticized by the majority.

[55] *Zundel, supra* note **Error! Bookmark not defined.** at 765, 766.

section 181 was to prevent harmful consequences of publications, noting that the effect of the provision was to restrict expression.[56] The dissent, in contrast, stated that the purpose of a provision can change, especially when such a change aligns with broader jurisprudential trends.[57] This change, in section 181, was to protect vulnerable groups.[58] While this issue forms a significant portion of the judgment, I set it aside here to focus more on the role of truth and the values of free expression.

Free Expression Values

Generally

A brief overview of the values underlying free expression helps contextualize *Zundel* within the principles of free expression. The SCC has repeatedly stated that free expression is protected to promote three overlapping but separate values: the search for truth, democracy, and self fulfilment.[59] The search for truth relies on the idea that restricting expression inhibits the interaction of ideas necessary to attain truth. This idea is encapsulated, though incompletely, by the concept of the "marketplace of ideas": through open discussion and open expression, the "market" will produce truth.[60] This approach presumes the audience to be able to rationalize the falsehoods. Second, closely related to truth, the expression of diverse ideas, however unpopular, is required for the "full participation in a democracy and to the assurance that [minority groups'] basic rights are

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[56] *Zundel, supra* note **Error! Bookmark not defined.** at 759, 761-768.

[57] *Zundel, supra* note **Error! Bookmark not defined.** at 793-801; 804-7; 814-19.

[58] *Zundel, supra* note **Error! Bookmark not defined.** at 819-824. Note that the ability for a purpose to change is supported in *JTI*, supra note **Error! Bookmark not defined.**.

[59] *Irwin Toy*, *supra* note **Error! Bookmark not defined.** at 976; *R v Butler* [1992] 1 S.C.R. 452 at para 100 [*Butler*].

[60] JS Mill, *On Liberty*, (Oxford: Oxford University Press, 2008); Justice Oliver Wendell Holmes in *Abrams v United States*, (1919) 250 U.S. 616; Stanley Ingber, "The Marketplace of Ideas: A Legitimizing Myth" (1984) 1 Duke LJ 1.

respected."[61] A problem with this approach subtly arises in some cases, including *Zundel*, when different minority groups' interests come into conflict with one another. Thirdly, self-fulfillment, for the purposes of this paper, is the ability to express and to develop oneself through one's own expression and through one's interactions with others and their expressions. This is the most intuitively obvious reason to protect freedom of expression, yet it is analytically complex.[62]

Truth and free expression values and the strength of the* Zundel *dissent

The majority and dissenting opinions disagree on key points about the values of free expression; in my view, the dissent's view is far more holistic and accurate. Both decisions considered falsehoods as a legitimate form of expression[63], emphasizing that truth was and is a key value protected by section 2(b).[64] However, the two decisions took different approaches to the concept of truth, and the search for it, under the section 1 analysis. The majority expressed concern with the state deterring expression that may contain truth and meaning, leaning heavily on the marketplace of ideas. The dissent disagreed with the majority's view on the indeterminacy of truth and took a broader approach focused more on the deception created by falsehoods, other values protected by free expression, and the overlap of these values.

The dissent's perspective is highly persuasive, as it is concerned about infringing on free expression while still acknowledging the need to address falsehoods. Moreover, the

[61] *Zundel, supra* note **Error! Bookmark not defined.** at 765.

[62] This complexity is evident in pornography cases. See, for example, *Butler*, *supra* note **Error! Bookmark not defined.**. This value, and the relationship between it and other values is a substantial component of my graduate work.

[63] *Zundel, supra* note **Error! Bookmark not defined.** at 754-5; 801-2; See, also: *Keegstra*, *supra* note **Error! Bookmark not defined.**.

[64] See also: *Ford*, *supra* note **Error! Bookmark not defined.** at 765.

dissent's perspective is similar to that in other SCC cases dealing with falsehoods that were decided both before and after *Zundel*. This weakens the majority's position or, at least, creates doubt about its application.

Majority

The majority expressed a desire to achieve certainty before denying Charter protection to an individual or their expression: "we should, in my belief, be entirely certain that there can be no justification for offering protection."[65] In reference to the claims made in *Zundel*'s booklet denying the Holocaust, the majority stated that the "question of falsity of a statement is often a matter of debate, particularly where historical facts are at issue."[66] Further, for the majority the distinction between opinion and fact was blurry, so erring on anything but the side of caution risks slipping into totalitarianism.[67] The criterion of falsity in section 181 was vague and precluded the desired level of certainty because falsity was difficult to assess in respect of the booklet. This vagueness, in part, precluded section 181 from being justified under section 1.

Relatedly, the majority was also wary of restricting the *meanings* contained in the booklet.[68] For the majority, meanings can change, and the interpretations of meaning can differ, which affects the assessment of truth and casts doubt on the claim that the Holocaust-denial materials contained no value:

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[65] *Zundel, supra* note **Error! Bookmark not defined.** at 758 [emphasis added].

[66] *Ibid* at 747.

[67] *Ibid* at 767-9. This slippery slope fear expressed by the majority is common to arguments advanced by free speech advocates. It is slightly ironic to suggest that restricting speech leads into horrors like Nazi rule, yet the subject matter of the case is, in fact, denial that Nazi rule was that bad.

[68] See note **Error! Bookmark not defined.**: freedom of expression protects the *meanings* within expression.

> One problem lies in determining the meaning which is to be judged to be true or false. A given expression may offer many meanings, some which seem false, others, of a metaphorical or allegorical nature, which may possess some validity. Moreover, meaning is not a datum so much as an interactive process, depending on the listener as well as the speaker. Different people may draw from the same statement different meanings at different times. The guarantee of freedom of expression seeks to protect not only the meaning intended to be communicated by the publisher but also the meaning or meanings understood by the reader: [citation omitted]. The result is that a statement that is true on one level or for one person may be false on another level for a different person.
>
> Even a publication as crude as that at issue in this case illustrates the difficulty of determining its meaning. On the respondent's view, the assertion that there was no Nazi Policy of the extermination of Jews in World War II communicates only one meaning -- that there was no policy, a meaning which, as my colleagues rightly point out, may be extremely hurtful to those who suffered or lost loved ones under it. Yet, other meanings may be derived from the expressive activity, e.g., that the public should not be quick to adopt `accepted' versions of history, truth, etc., or that one should rigorously analyze common characterizations of past events. Even more esoterically, what is being communicated by the very fact that persons such as the appellant Mr. Zundel are able to publish and distribute materials, regardless of their deception, is that there is value inherent in the unimpeded communication or assertion of "facts" or "opinions".[69] [emphasis added]

The majority thus identified that meanings can be explicit (e.g., the publication stating that the Holocaust didn't happen) or implicit (e.g., when a statement's meaning is its suggestion that we should analyse past events and question common interpretations of history). Further, the potential for different interpretations and meanings, however "crude" such meaning may be, was valuable in itself and ought to be protected by freedom of expression.[70] Section 181's limitation on expression on the basis of truth (or lack thereof) therefore posed unacceptable risks to "the value of all speech potentially limited by [it]…".[71]

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[69] *Zundel, supra* note **Error! Bookmark not defined.** at 756.
[70] *Ibid*.
[71] *Ibid* at 775.

In referencing the other values underlying free expression, the majority pointed to several examples of how exaggeration and falsification may serve social purposes which "arguably [have] intrinsic value in fostering political participation and self-fulfillment." [72]:

> A person fighting cruelty against animals may knowingly cite false statistics in pursuit of his or her beliefs and with the purpose of communicating a more fundamental message, e.g., `cruelty to animals is increasing and must be stopped'. A doctor, in order to persuade people to be inoculated against a burgeoning epidemic, may exaggerate the number or geographical location of persons potentially infected with the virus. An artist, for artistic purposes, may make a statement that a particular society considers both an assertion of fact and a manifestly deliberate lie; consider the case of Salman Rushdie's Satanic Verses, viewed by many Muslim societies as perpetrating deliberate lies against the Prophet.[73]

The majority viewed freedom of expression as "serv[ing] to preclude the majority's perception of 'truth' or 'public interest' from smothering the minority's perception," [74] referring to Zundel as the minority at issue. The majority framed determining whether a particular expression is false as difficult, if not impossible, particularly when such expression has a historical element. Moreover, falsehoods may contain meaning that ought to be constitutionally protected. Even then, falsehoods may serve valid social purposes. Restricting falsehoods, therefore, jeopardizes the underlying reasons for protecting expression.

Dissent

The dissent viewed truth differently. The dissent's view suggests that the majority's view of the search for truth may have been, at least in some circumstances, overblown and theoretical. The dissent pointed out that while separating fact from opinion may be difficult, such a task is not impossible:

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[72] *Ibid* at 755.
[73] *Ibid* at 754-5.
[74] *Ibid* at 753.

> Expression which makes a statement susceptible to proof and disproof is an assertion of fact; expression which merely offers an interpretation of fact which may be embraced or rejected depending on its cogency or normative appeal, is opinion.[75] [emphasis added]

Moreover, the dissent agreed with the majority that "no theory of history can be proved or disproved"[76] but distinguished between theories or interpretations of history and provable facts:

> when [Zundel] points to the Goebbels' diaries and says they say X when in fact they say Y, he is not offering an alternative interpretation of the material, but a fabrication proven to be false by the very materials to which he has referred.[77]

This view directly contrasted the majority's view of truth as indeterminable.

The dissent's approach also contrasted with the majority's reliance on the marketplace of ideas in obtaining truth. In part because they were more comfortable with separating fact from fiction, the dissent took issue with the deception that resulted from the falsehoods. In the dissent's view, "deliberate and injurious falsehoods [do] not contribute to the attainment of truth"[78] , and falsehoods are indeed "the antithesis of the truth."[79] In this line of thinking, the dissent interpreted section 181 as protecting the rationality and critical thinking of the audience:

> The focus of s. 181 is on manipulative and injurious false statements of fact disguised as authentic research. The publication of such lies makes the concept of multiculturalism in a true democracy impossible to attain. These materials do not merely operate to foment discord and hatred, but they do so in an extraordinarily duplicitous manner. By couching their propaganda as the banal product of disinterested research, the purveyors of these

[75] *Ibid* at 833.

[76] *Ibid* at 835, emphasis original. Full quote: While it is true that no theory of history can be proved or disproved, the accused has not been convicted for misinterpreting factual material but for entirely and deliberately misrepresenting its contents, manipulating, and fabricating basic facts in order to support his theories.

[77] *Ibid* at 836.

[78] *Ibid* at 827, citing *Keegstra*, *supra* note **Error! Bookmark not defined.** at 762-3.

[79] *Ibid* at 827.

works seek to circumvent rather than appeal to the critical faculties of their audience. The harm wreaked by this genre of material can best be illustrated with reference to the sort of Holocaust denial literature at issue in this appeal.[80] [emphasis added]

For the dissent, rather than facilitating a search for truth in the market "[Zundel's publication] deceives and misleads in a cruel and calculating manner those that seek the truth."[81] To the dissent, the value of truth in free expression was therefore undermined, rather than supported, by the publication.

Similarly, the dissent looked at free expression and truth more holistically, giving broader scope to other reasons for protecting free expression (democracy and self-fulfillment). They stated:

> The values of self-fulfillment and human flourishing are also key to the principles underlying s. 2(b). Self-fulfilment and human flourishing can never be achieved by the publication of statements known to be false. Rather the damaging false statements that are prohibited under s. 181 serve only to impede, in a most despicable and demeaning manner, the enjoyment of these values by members of society who are the subject of these lies.[82] [emphasis added]

Like the majority, the dissent viewed protecting minority views as a central purpose of free expression. Unlike the majority, the dissent viewed the marketplace of ideas as inadequately protecting minorities who were vulnerable to censure and were often the objects of harmful speech.[83] The dissent saw falsehoods as "repudiate[ing] democratic values by denying respect and dignity to certain members of society, and therefore, to the public interest as a whole."[84] Interpreting section 181 in this pluralistic light, the dissent noted that what was prohibited was not Zundel's opinion or his unpopular views but rather the "attempt to win

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[80] *Ibid* at 808.

[81] *Ibid* at 827.

[82] *Ibid* at 828.

[83] *Ibid* at 825-7. (The dissent acknowledges that Holocaust victims, as well as deniers, are minority groups).

[84] *Ibid* at 838-9.

converts to this [Zundel's] point of view and to inflict harm against disadvantaged members of society by the most unscrupulous manipulation."[85] Thus, the dissent viewed section 181 as protecting, rather than hindering, the free expression of minority groups.

The dissent's view is largely summarized in the following (lengthy) quote:

> A careful examination of the philosophical underpinnings of our commitment to free speech reveals that prohibiting deliberate lies which foment racism is mandated by a principled commitment to fostering free speech values. Liberal theory proposes that the state does not exist to designate and impose a single vision of the good life but to provide a forum in which opposing interests can engage in peaceful and reasoned struggle to articulate social and individual projects. We enshrine freedom of speech because it is an essential feature of humanity to reason and to choose and in order to allow our knowledge and our vision of the good to evolve. The risk of losing a kernel of truth which might lie buried in even the most apparently worthless and venal theory is believed to justify absolute freedom of expression. However, where there is no possibility that speech may be true because even its source has knowledge of its falsity, the arguments against state intervention weaken. When such false speech can be positively demonstrated to undermine democratic values, these arguments fade into oblivion.[86] [emphasis added]

The dissent's approach makes clear sense in the context of present-day online disinformation. For example, in the context of vaccine disinformation, it is opinion to say that vaccines are a global conspiracy between Pfizer and Bill Gates to put microchips in citizens. While I may think this idea is wrong and outlandish, such a view is more akin to a 'theory' of history referenced in *Zundel* and likely should have given section 2(b) protection. However, if someone publishes an online pamphlet that claims numerous scientific studies have shown that the Pfizer vaccine contains microchips, this is a fact: the publisher ought to be able to produce a reference to such studies. Thus, regulating the latter example is different (in regard

[85] *Ibid* at 838-9.
[86] *Ibid* at 824.

to truth) than regulating the former. This difference is a key reason why the *Zundel* majority appears problematically libertarian while the dissent appears measured, as it still allows for discussion and protection for unpopular opinions.

Truth in other section 2(b) cases aligns with the* Zundel *dissent

Other SCC cases addressing freedom of expression align with the *Zundel* dissent, and thereby help support the argument that the majority decision might not be as staunch a statement of Canadian law as assumed.

Keegstra, a foundational hate speech case, acknowledged similar challenges with truth as those referred to by the majority in *Zundel* but took an approach to inclusion (and hatred) that was later adopted by the *Zundel* dissent. James Keegstra was charged under the Criminal Code[87] for teaching antisemitic ideas to his students.[88] In addition to arguing that the provision violated his section 2(b) rights, Keegstra claimed the defence of truth. [89] The SCC accepted that uncertainty on social truths did not preclude regulations to reduce social harms, stating:

> […] Since truth and the ideal form of political and social organization can rarely, if at all, be identified with absolute certainty, it is difficult to prohibit expression without impeding the free exchange of potentially valuable information. Nevertheless, the argument from truth does not provide convincing support for the protection of hate propaganda. Taken to its extreme, this argument would require us to permit the communication of all expression, it being impossible to know with absolute certainty which factual statements are true, or which ideas obtain the greatest good. The problem with this extreme position, however, is that the greater the degree of certainty that a statement is erroneous or mendacious, the less its value in the quest for truth. Indeed, expression can be used to the detriment of our search for truth; the state should not be the sole arbiter of truth, but neither should we overplay the view

[87] Criminal Code, R.S.C. 1985, c. C-46 section 319(2).
[88] *Keegstra*, *supra* note **Error! Bookmark not defined.** at para 2-3.
[89] Criminal Code, R.S.C. 1985, c. C-46 section 319(3).

> that rationality will overcome all falsehoods in the unregulated marketplace of ideas. There is very little chance that statements intended to promote hatred against an identifiable group are true, or that their vision of society will lead to a better world. To portray such statements as crucial to truth and the betterment of the political and social milieu is therefore misguided.[90]

Thus, though *Keegstra* arose in the hate speech context and dealt with a different (and more narrow) legislative provision, the underlying idea directly conflicts with the approach of the majority in *Zundel*: certainty of truth is not, itself, a fundamental requirement of legislation.

More recently, *JTI* departed from the majority in *Zundel* on the issue of whether truth must be ascertained to be able to regulate falsehoods. Provisions of the *Tobacco Act* and the *Tobacco Products Information Regulations* were struck down by the SCC in an earlier case,[91] and then revised by Parliament. This new legislation was then challenged under section 2(b),[92] and in *JTI*, the SCC unanimously upheld the provision.

Like *Keegstra* (and most constitutional jurisprudence) this decision is highly contextual; however, it still helps demonstrate the problems with the *Zundel* majority's reasons. As in *Keegstra*, the Court in *JTI* acknowledged the difficulty in ascertaining truth with any certainty. They focused more on the effect on the listener than the actual content of the expression:

> […] the phrase "likely to create an erroneous impression" [in the legislation at issue] is directed at promotion that, while not literally false, misleading or deceptive in the traditional legal sense, conveys an erroneous impression about the effects of the tobacco product, in the sense of leading consumers to infer things that are not true. It represents an attempt to cover the grey area between demonstrable falsity and invitation to false inference that tobacco manufacturers have successfully exploited in the past. [93]

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[90] *Keegstra*, *supra* note **Error! Bookmark not defined.** at para 92.
[91] See: *RJR-MacDonald Inc v Canada (Attorney General)*, [1995] 3 SCR 199.
[92] *JTI*, *supra* note **Error! Bookmark not defined.** at 611 (headnote).
[93] *Ibid* at para 63.

This statement aligns with the approach taken by the *Zundel* dissent: the 'pursuit of truth' requires more than simply allowing all speech. The Court, like the dissent in *Zundel*, took the perspective that even if something *is* true, the negative social effects of such speech can still justify regulation, and a restriction on misleading materials may therefore be justified:

> […] manufacturers have used labels such as "additive free" and "100% Canadian tobacco" to convey the impression that their product is wholesome and healthful. Technically, the labels may be true. But their intent and effect is to falsely lull consumers into believing, as they ask for the package behind the counter, that the product they will consume will not harm them, or at any rate will harm them less than would other tobacco products, despite evidence demonstrating that products bearing these labels are in fact no safer than other tobacco products."[94]

In *WIC Radio*, a defamation case, the SCC emphasized the need for people to have appropriate information. In modifying the "honest belief" element of the fair comment defence to defamation,[95] the SCC stated: "what is important is that the facts be sufficiently stated or otherwise be known to the listeners that listeners are able to make up their own minds on the merits of [the comments at issue]."[96] However, if the facts are verifiably false (as was the case in *Zundel*, by the dissent's estimation) this exercise is not possible. In other words, a statement requires a basis in facts, but does not necessarily have to be *supported* by the facts: "If the speaker, however misguided, spoke with integrity, the law would give effect to freedom of expression on matters of public interest."[97] In this way, the SCC allowed space for a ridiculous comment, so long as it was based in fact.[98]

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[94] *Ibid* at para 61.
[95] *WIC Radio, supra* note **Error! Bookmark not defined.** at 422 (headnote).
[96] *Ibid* at para 31.
[97] *Ibid* at para 39.
[98] *Ibid* at paras 39-41.

Tying into Zundel*, disinformation*

The reasoning of all three of these cases fits the *Zundel* dissent: freedom of expression may protect the ability for the audience to assess the facts and produce an opinion. This is not to say that the majority's view is invalid, but this understanding of truth better accords with an intuitive and sophisticated understanding of truth: how are we supposed to analyze truth when we are being deceived?

This treatment of truth makes sense in the online disinformation context. By legally prohibiting verifiably false information (e.g., the Goebbels diary issue in *Zundel*), the role of the court (or another party) as the arbiter of truth in other respects, as people are empowered to form their own decisions and beliefs on truthful grounds. The approach of the *Zundel* dissent appears to balance the concerns about inherent uncertainty in the pursuit of truth, and obvious instances of misleading information. Therefore, concerns about such a provision overreaching to censor expression that ought not be censored (i.e., political dissent or unpopular views) seem overstated.

The preceding discussion requires further context. The belief that Zundel's materials did not present a pressing social problem appears to underlie the majority judgment.[99] This partly explains why the Court readily restricted false and misleading expression in *JTI*. The harm in tobacco use, and its promotion, and therefore the legislative objective of reducing smoking, justified the restriction:[100]

> the objective is of great importance, nothing less than a matter of life or death for millions of people who could be affected, and the evidence shows that banning advertising by half-truths and by invitation to false inference may help reduce smoking. The reliance of tobacco manufacturers on this type of advertising attests to

[99] *Zundel, supra* note **Error! Bookmark not defined.** at 763, 765.
[100] The provision in *JTI* was also constructed narrowly enough.

> this. On the other hand, the expression at stake is of low value — the right to invite consumers to draw an erroneous inference as to the healthfulness of a product that, on the evidence, will almost certainly harm them. On balance, the effect of the ban is proportional.[101]

Bear in mind the issues of overbreadth present in *Zundel*. in *JTI*, the restriction of the expression (i.e., commercial advertising) was not more than necessary:[102] the narrow nature of the regulation, targeting a specific type of advertising rather than *all* advertising (or *all* falsehoods), led the SCC to find that the provision was justified under section 1.[103] However, the value of the objective (preventing smoking) was far more valuable than the value of false advertising in itself.

The harm from disinformation, particularly on the internet, raises doubts about whether the SCC would take the same approach now, particularly in respect of issues of health care and public health measures. The body of evidence of the harms of disinformation seems to grow daily. This reality harm alone may distinguish from *Zundel*: the manipulation of people may be pressing enough to justify the restriction on expression.

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[101] *JTI*, *supra* note **Error! Bookmark not defined.** at para 68.

[102] *Ibid* at para 66. Similar bans on Similar bans on lifestyle advertising, sponsorships, and health warning labels were also justified: see paras 115, 125, 135.

[103] *Ibid* at para 69.

CONCLUSION

As the threats and harms from disinformation become clear, so does the need to regulate it. While falsehoods in 1992 may not have been a major problem, events of the past several years have shown that perhaps the law ought to be concerned with such issues. I have attempted here to show that the common understanding that falsehoods are staunchly protected by *Zundel* (and more broadly, the *Charter*) is not necessarily true. [104] I have attempted to show how the majority's decision may have been misguided, and the dissent's superior, specifically as it relates to truth. The analogues I have drawn from other areas of free expression law support, at a basic level, the premise that falsehoods can be regulated.

In this review, I have also identified some of the lessons from *Zundel*, notably to avoid criminal sanction and overbreadth and clearly identifying the harm that regulation seeks to address, but this review is certainly not comprehensive. These issues with overbreadth and imprecision of terms and purpose can be overcome. Legislators ought to narrowly define what is meant by "disinformation," "fake news," or what ever subject matter they seek to regulate, have a pressing purpose, supported by evidence, in the harm the legislation seeks to prevent. [105] Doing so will make such legislation more *Charter* compliant and able to withstand judicial scrutiny.

Online disinformation will continue to play a deleterious role in democracy without some recourse. It is my hope that this recourse protects and promotes a broad and inclusive view of the values of free expression in Canada.

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[104] Pun fully intended.

[105] If, as was argued in *Zundel* the purpose is "public interest", defining "public interest" may be helpful. See: *Grant, supra* note **Error! Bookmark not defined.** for assistance.

Bibliography

JURISPRUDENCE

Abrams v United States, (1919) 250 U.S.616.

Canada (Attorney General) v JTI Macdonald Corp, 2007 SCC 30.

Canadian Constitution Foundation v Canada (Attorney General), 2021 ONSC 1224.

Crookes v Newton, 2011 SCC 47.

Dolphin Delivery Ltd. v R.W.D.S.U., Local 580, [1986] 2 SCR 573.

Edmonton Journal (The) v Alberta (Attorney General) [1989] 2 SCR 1326.

Ford v Quebec (Attorney General), [1988] 2 SCR712.

Grant v Torstar, 2009 SCC 61.

Hill v Church of Scientology of Toronto, [1995] 2 SCR 1130.

Irwin Toy v Quebec (Attorney General), [1989] 1 SCR 927.

Montreal (Ville) v 2952-1366 Québec Inc 2005 SCC 62.

R v Butler [1992] 1 SCR 452.

R v Keegstra, [1990] 3 SCR 697.

R v Khawaja 2012 SCC 69.

R v Lucas [1998] 1 SCR 439.

R v Zundel, [1992] 2 SCR 731.

Thomson Newspapers Co v Canada (Attorney General), [1998] 1 SCR 877.

Ward v Quebec (Commission des droits de la personne et des droits de la jeunesse), 2021 SCC 43.

WIC Radio Ltd v Simpson, 2008 SCC 40.

SECONDARY MATERIALS

Ingber, S. (1984). The Marketplace of Ideas: A Legitimizing Myth, *Duke Law Journal,* 1-91.

The Canadian Charter of Rights and Freedoms, Section 1-Reasonable Limits. (n.d.). Retrieved September 2021 from https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art1.html

Mill, J.S. (2008). *On Liberty*. Oxford: Oxford University Press.

Sharpe, R.J., & Roach, K. (2013). *Charter of Rights and Freedoms* (5th ed.). Toronto: Irwin Law.

Khan, I. (13 April 2021). *A/HRC/47/25: Disinformation and freedom of opinion and expression: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, United Nations General Assembly, Human Rights Council, 47th session. Retrieved from https://www.ohchr.org/en/documents/thematic-reports/ahrc4725-disinformation-and-freedom-opinion-and-expression-report

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