



**CITIZENS' ASSEMBLY ON
DEMOCRATIC EXPRESSION**

**L'ASSEMBLÉE CITOYENNE SUR
L'EXPRESSION DÉMOCRATIQUE**

The Citizens' Assembly on Democratic Expression Zoom Session 3, November 6, 2021

Executive Summary

The second iteration of the Citizens' Assembly on Democratic Expression comprises a representative group of 42 randomly selected Canadian residents who have been tasked with considering whether legal penalties or other consequences should apply for individuals and/or organizations that knowingly spread disinformation online with the intent to cause harm.

This report summarizes the third and final virtual session held via Zoom on November 6, 2021.

Session Overview

The third virtual meeting began with a general recap of the previous session, particularly the different levels of legal instruments to tackle disinformation. Assembly Chair and host Peter MacLeod and co-host Émilie Hervieux also revisited the Assembly's mandate, outlined the day's general agenda, and encouraged members to share their thoughts on what had been heard so far.

The session featured two presentations followed by Q&As. First, Karim Benyekhlef from the University of Montréal's Faculty of Law shared his thoughts on regulating online disinformation. Second, Dr. Heidi Tworek, associate professor of international history and public policy from the University of British Columbia, shared some ideas and examples on how platforms could be regulated on a global level.

The session included two small group breakout discussions after the presentations, followed by a full group or plenary discussion. Assembly members shared their thoughts on what objectives should guide Canada's anti-disinformation efforts and what could be learned by looking at other countries.

Detailed Summary

Featured Presentation: "Regulation of Online Disinformation" by Karim Benyekhlef

The day's first speaker, Karim Benyekhlef, discussed the need to adapt current legal sanctions (i.e., criminal laws, administrative regulation, and civil laws) in accordance with the evolution and current nature of operations of digital platforms. Mass distributed content was traditionally filtered by gatekeepers (e.g., broadcasters, publishers) who were expected to uphold certain standards in exchange for the right to continue operating. He explained that immunity had been granted to internet platforms in the 1990s when the focus was on pursuing innovation, free speech, and decentralization. Today, however, a handful of big players have monopolized the internet, shifting the focus to profit, mass data collection, and a highly centralized model of operation.

Karim strongly supported treating the internet as a public resource and holding platforms accountable, through checks and controls, as the publishers or gatekeepers of content. He also favoured the establishment of a complementary cybercrime tribunal that could resolve grievances in a quicker, more efficient, and less expensive manner than traditional justice pathways. He concluded by giving a brief overview of international reforms being considered for regulating social media — such as the EU's Digital Services Act, the US Algorithmic Justice Act, and Canada's Bill C-36.

Q&A: Discussing Canada's ability to regulate the digital realm, Karim stated that the task was difficult but feasible, given the platforms' economic interests in operating in the country. He expressed some concern about the diplomatic strain this might put on Canada-US relations, but emphasized that national security would prevail over free trade agreements. He felt that the European Union would be a better international ally for Canada, since they share similar free speech values and have less economic interests in the business operations of platforms.

Featured Presentation: “Legal Penalties in a Global Setting” by Dr. Heidi Tworek

The day's second talk by Dr. Heidi Tworek focused on anti-disinformation approaches being pursued in different countries. She discussed some real-world examples with their benefits and pitfalls, including Singapore's fake news law, Hungary's laws against COVID-19 disinformation, and the EU's code on disinformation. She outlined three legislative approaches to consider:

1. Hard laws, or interventions via criminal justice pathways. Heidi cautioned against their use, as less democratic governments can misuse laws to clamp down on freedom of expression and to censor the press.
2. Co-regulatory mechanisms, where governments work with platforms. Better transparency and more civil society involvement are essential to monitor the progress of such an approach.
3. Self-regulation, where platforms enforce their own terms of service. But with platforms' economic interests at stake and gaps in AI and algorithms, this is rarely done as effectively as promised.

Heidi then proposed some ideas for the Assembly to consider. First, having governments mandate greater levels of transparency from platforms so that policymakers can get a better sense of the gaps in existing solutions. Second, working to disincentivize the spread of disinformation by levying fines, or changing the algorithms/business models that reward clicks and sensationalism over facts. Third, setting up a third-party online dispute resolution system (or e-court) to moderate content through a Canadian lens.

Q&A: Discussing the challenges of jurisdiction in a global information ecosystem, Heidi suggested focusing more on minimizing harms to the victims rather than prosecuting individual perpetrators located outside of Canada. Some other ideas mentioned were cooperating with like-minded countries via international committees (e.g., the International Grand Commission), having a dedicated e-Safety commissioner (like in Australia), or setting up online speech laws specific to Canada that compel platforms to perform extra checks (similar to Germany's approach). She also discussed Australia's link tax where platforms pay news outlets for content, but warned that this could crush small news outlets that lack bargaining power. Finally, she expressed optimism about the legislative momentum in discussing regulations, but emphasized the need for more concrete and timely actions.

Small Group Discussion: *What should be the objectives of Canada's efforts to reduce the spread of disinformation?*

Assembly members were split into six breakout groups to deliberate and reach consensus with the aid of a facilitator. Group representatives shared their views in plenary at the end of the session.

- A common objective proposed by all groups was prevention through education. Members emphasized the need to develop critical thinking skills, cultivate impeccable language, and embed non-violence and integrity in the use of technology. One group suggested that the government launch toolkits to help users identify disinformation and enable them to perform their own fact-checking.
- Members also strongly supported enforcing transparency in both platform operations and content moderation solutions.
- Most members agreed that a made-in-Canada approach, such as an e-court or third-party dispute resolution, would be quicker to implement and easier to navigate without having to wait for other countries to step up. Some members emphasized that penalties on platforms must be hefty enough to match the burdens they pose on public well-being.
- A few members questioned how accurate information could be reliably identified and made more accessible. One member wondered if platforms' primary purpose could be more succinctly defined — are they social media, advertising companies, or news publishers?

Small Group Discussion: *What should Canada emulate or avoid from the examples of other countries?*

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- Most members supported Germany's approach of instituting online speech laws within its borders and holding platforms accountable.
- Some members also supported Australia's e-Safety system, but a few expressed doubts on having just the government involved, questioning how the public could participate and how information would be validated. One group emphasized that regulations must not change with governments.
- Most members were wary of hard law approaches (like the one used in Singapore) given their capacity for misuse by authoritarian leaders, but a few also felt that governments must not shy away from exercising their power to keep platforms in check.
- Other approaches mentioned included: instituting joint international panels or organizations, focusing on education, using technology to aid in regulations (e.g., AI-based fact checking), etc.