



Justice Centre
for Constitutional Freedoms

YEAR IN REVIEW 2020

A LOOK BACK AT THE ACHIEVEMENTS
AND HIGHLIGHTS OF THE YEAR

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INTRODUCTION

2020 was the busiest year the Justice Centre has ever had. Across the country, we defended the freedom of Canadians from unprecedented government restrictions.

In March, governments across Canada imposed severe lockdown measures that violate our *Charter* freedoms to move, travel, associate, assemble, worship and express ourselves. Our team responded to over 1,200 lockdown-related requests for legal help in 2020, including over 100 submissions related to the isolation of elderly residents of long-term care homes. We answered literally thousands of general questions and information requests.

During 2020, we also responded to over 300 non-Covid requests for legal help not related to lockdowns, ranging from free speech issues to parental rights. We continued to take on as many cases as possible.



ABOUT THE JUSTICE CENTRE

The Justice Centre is a public interest law firm and registered charity. Staff are accountable to the Board of Directors, which includes businessmen, journalists, professors and lawyers. We do not ask for or receive any government funding, and did not apply for government grants that were readily available in 2020. The Justice Centre handled 51 legal cases in 2020 (most of which were resolved without needing to go to court), and secured 13 new victories for fundamental rights and freedoms. By January 2021, we were representing over 100 individuals issued tickets for peacefully exercising their *Charter* Freedoms.



PROTECTING CANADIANS' *CHARTER* FREEDOMS TO TRAVEL

In March of 2020, the federal government closed all Service Canada Centres and Passport offices. The federal government began forcing Canadians to “prove” they had “valid, urgent” reasons to travel, in order to obtain or renew passports. In August 2020, after four months of the federal government refusing to accept and process most passport applications by mail, and with in-person services closed, the Justice Centre filed a court application on behalf of three Canadians who applied to renew their passports and were denied. Four days after our legal action was filed, the federal government resumed processing applications by mail.

Canadians have a *Charter*-protected right to leave the country, which, as courts have recognized, can only be meaningfully exercised by those possessing a passport.





CHALLENGING GOVERNMENT PROHIBITIONS ON DRIVE-IN CHURCH SERVICES IN MANITOBA, ONTARIO AND SASKATCHEWAN

In 2020, the Justice Centre successfully challenged irrational and oppressive government prohibitions on “drive-in” church services (cars parked on church parking lots, with services delivered via car speaker) in Manitoba, Ontario and Saskatchewan. Ontario backed down upon service of the Justice Centre’s lawsuit. Saskatchewan and Manitoba changed their drive-in policies upon receipt of the Justice Centre’s legal warning letters.

In April, the Justice Centre represented Nipawin Apostolic Church after the Saskatchewan Health Authority deemed the church’s planned Easter drive-in service a “mass gathering” in violation of Public Health Orders. The church was threatened with steep fines if they did not cancel the service. After receiving a legal warning letter, the Saskatchewan Government determined drive-in church services present a minimal safety risk after all.

In May, the Justice Centre filed a *Charter* challenge against the Aylmer Police Service and Ontario government, after the government refused to allow drive-in religious services. The court action challenged the government’s infringement of a church’s freedom of peaceful assembly, and asked the court for clarification as to what is permitted under emergency legislation. The Aylmer Police had repeatedly threatened to fine the Church of God of Aylmer, despite the church using strict “social distancing” measures to comply with the law while hosting drive-in-only church services. Police attended the drive-in services in a show of force, and intimidated church representatives and parishioners by filming them in their cars during the worship service. The police were fully aware that worshipers were not leaving their parked cars, and that they were not interacting with each other in person.

After we filed our legal action, the Ontario Government amended its public health orders to expressly allow drive-in church services.



In December, the Manitoba Government received a legal warning letter from the Justice Centre after outlawing religious services entirely on November 22. Various Manitoba churches had attempted drive-in services once regular church was banned. In Steinbach, Manitoba, RCMP blocked the road and prevented over 150 vehicles from attending a drive-in church service at the Church of God. After being notified of the intent to bring legal action, the Manitoba Government reversed a previous ban on drive-in religious church services.



"The Covid-19 pandemic does not suspend the protection of the *Canadian Charter of Rights and Freedoms*, or the rights of Canadians. This was a small victory for Manitoba churches whose congregants were desperate to worship together, even if it's just from their cars in a church parking lot."

ALLISON PEJOVIC, JUSTICE CENTRE STAFF LAWYER



COVID TICKETS DISMISSED

The Justice Centre was retained by many individuals charged under public health orders for peacefully and safely exercising their *Charter* freedoms of expression, association, religion, conscience and peaceful assembly.

One Edmonton man was ticketed \$1,200 in April 2020 while expressing his opinions on a public sidewalk and giving out literature. Edmonton Police had a long history of issuing tickets to Dale Malayko, a retired firefighter, who practices the centuries-old tradition of “street preaching” and offering free Bibles to those who want them. At trial on October 20, 2020, the Justice Centre argued that Mr. Malayko was peacefully exercising his *Charter*-protected freedom of expression, and had committed no offence. The Provincial Court of Alberta agreed and Mr. Malayko was found not guilty.

The Justice Centre also represented Patrick Lefebvre, Patrick Tipper, and Cory Teichroew, all of Edmonton. At various assemblies, the men were individually at the Alberta Legislature grounds, engaging in peaceful protest against lockdown measures and other issues. Each individual was charged \$1,200 under public health orders in May 2020. Crown prosecutors, after being put on notice that the Justice Centre was representing these individuals and that they would plead “not guilty,” withdrew the charges without proceeding to trial.



Dale Malayko



Patrick Lefebvre



Patrick Tipper



Cory Teichroew



“Many citizens are alarmed at the government response to Covid and the resulting erosion of democracy and violation of constitutional rights. The *Canadian Charter of Rights and Freedoms* protects individuals’ freedom to peacefully assemble and express their opinions, especially at important symbolic locations such as the Legislature grounds. This protection is even more vital during declared emergencies, to ensure citizen voices are heard and civil liberties preserved.”

JAMES KITCHEN, JUSTICE CENTRE STAFF LAWYER





A COURT CHALLENGE TO *BILL 10* WHICH MAKES MINISTERS KINGS

In April of 2020, the Justice Centre filed a constitutional challenge to *Bill 10*, an Alberta law that gave individual cabinet ministers new powers to write new laws unilaterally, without any input from, or review by, the elected Members of the Legislative Assembly.

Bill 10 is the controversial legislation Premier Jason Kenney's United Conservative Party government rammed through the legislature in 48 hours in the spring of 2020. *Bill 10* transferred broad law-making power to Health Minister Tyler Shandro and all cabinet ministers.

Justice Centre President John Carpay has called *Bill 10* a "power grab under cover of the pandemic," the "betrayal of the electorate and of the rule of law," and "an affront to democracy and constitutionalism." Procedural motions are complete, and in spite of delay tactics used by the Alberta government, this case is expected to be heard in 2021.

Prior to *Bill 10*, the Public Health Act already gave extraordinary powers to Cabinet, the Minister of Health, and the Chief Medical Officer in the event of a public health emergency. These existing powers included taking citizen's real or personal property without consent, authorizing entry into a person's residence without a warrant, requiring mass immunization of the public, and requiring mass public testing. Under these existing provisions, a minister could suspend – for up to 60 days – the operation of any existing law.

Adding to these existing powers, *Bill 10* allows a single Minister to unilaterally make new laws and create new

offences for the people of Alberta, without input from, or a vote by, the elected members of the Legislative Assembly. *Bill 10* also raises maximum individual penalties for violating the Public Health Act to the eye-watering sum of \$500,000. The Public Health Act has extended the power of Ministers to make new law for a period of up to 270 days, or even longer.



"*Bill 10* was an act of political opportunism. Before the public, or the Legislature for that matter, could clearly understand what was occurring, the UCP transferred enormous power to their Health Minister to unilaterally make and amend laws without debate or oversight from the Legislative Assembly. Our court action holds the government to account for violating Canada's Constitution."

JOHN CARPAY, JUSTICE CENTRE PRESIDENT





LOCKDOWN LAWSUITS FILED OR PENDING IN FIVE PROVINCES

The Justice Centre was the first organization in Canada to challenge lockdowns in court with the filing of a constitutional challenge to *Bill 10*. The Justice Centre has also filed actions against lockdowns in British Columbia, Alberta, and Manitoba, with pending legal action in Saskatchewan and Ontario.

As part of preparation for court, the Justice Centre released a comprehensive legal analysis for each of B.C., Alberta, Saskatchewan, Manitoba and Ontario, as to why government violations of our *Charter* freedoms through lockdown measures are not justified under the *Charter*.

On December 3, 2020, we published “Flying Blind,” a *Charter* analysis on the impact of lockdowns on the lives of all Canadians, and the government’s failure to consider all lockdown harms.

Flying Blind demonstrates that Canada’s federal and provincial governments have not properly and adequately considered the specific nature and the full extent of lockdown harms that result from the violations of *Charter* freedoms to move, travel, express, assemble, associate and worship.





SAFE SPACES FOR WOMEN: NO BIOLOGICAL MALES IN CHANGE ROOM

The Justice Centre is defending Canada Galaxy Pageants, a beauty pageant for women and girls based in Toronto, Ontario, against a human rights complaint lodged by serial complainant Jessica Yaniv (also known as Jonathan Yaniv and Jessica Simpson).

In 2020, Yaniv, born a biological male, and having not yet completed sex reassignment surgery, applied to be a contestant in the Pageant.

The Pageant accepted women as contestants, and also accepted fully transitioned transgender individuals who no longer have male genitals.

All of the contestants, including girls as young as six, change their clothing and undress in common areas. No males, including contestants' fathers, are allowed in that space, to protect the privacy and comfort of the contestants. Contestants from teens and up also compete in a swimwear category. Yaniv seeks \$10,000 for hurt feelings and harm to dignity, alleging discrimination based on gender identity, gender expression, and sex.

Yaniv previously filed more than 16 human rights complaints against various BC estheticians who refused to provide Yaniv with a Brazilian bikini wax. In October 2019, the B.C. Human Rights Tribunal dismissed Yaniv's human rights complaints against several Vancouver-area estheticians who were represented by the Justice Centre.

The Tribunal specifically found that “Yaniv’s predominant motive in filing these waxing complaints “is not to prevent or remedy alleged discrimination, but to target small businesses for personal financial gain.”

The Justice Centre has requested the complaint against Canada Galaxy Pageants be dismissed; a hearing is expected in 2021.



“Biological women and girls must continue to have the freedom to associate with other biological women and girls in activities that serve their unique interests and needs as females.”

JAY CAMERON, JUSTICE CENTRE LITIGATION DIRECTOR





PROTECTING PRIVATE PROPERTY FROM GOVERNMENT CONFISCATION

The Justice Centre is seeking to intervene in the case of the Canadian Coalition for Firearms Rights v. Canada, challenging the constitutionality of Justin Trudeau's Cabinet Order which confiscate legally acquired property from law-abiding Canadians.

In May 2020, while the country was occupied with coronavirus restrictions and closures of Parliament, the federal cabinet used an Order-in-Council to reclassify thousands of legal firearms and make them "prohibited," turning thousands of gun owners into criminals with "illegal weapons." There was no debate, consultation or study in advance of this mass confiscation, which banned several ordinary shotguns that are typically used to hunt gophers.

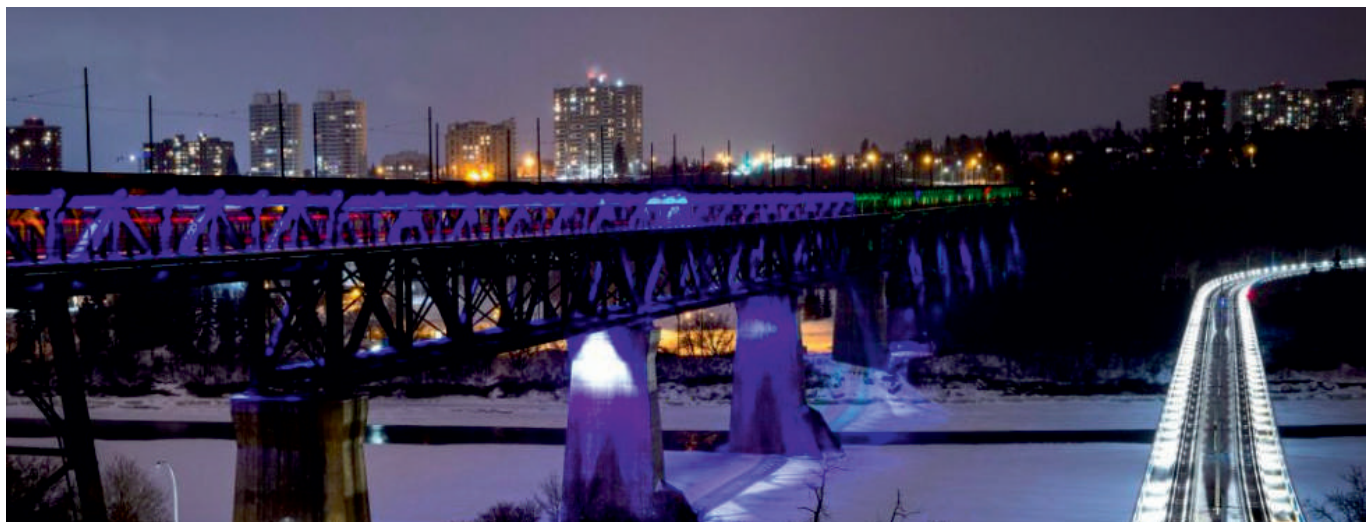
The Justice Centre's intervention application will focus on the Constitution's allocation of legislative power to Parliament, and the Constitution's inherent safeguards which are intended to prevent the tyranny that results from government operating independently of democratically-elected representatives.



"The arbitrary and opportunistic confiscation of property from Canadians by a Federal Cabinet operating behind closed doors, with no transparency and without accountability to an independent Parliament, is little better than theft."

JAY CAMERON, JUSTICE CENTRE LITIGATION DIRECTOR





JUSTICE CENTRE CHALLENGES EDMONTON'S CANCELLATION OF BRIDGE LIGHTING

The Justice Centre appeared in court on November 13, 2020, representing the Alberta March for Life Association (AMLA) and Jerry Pasternak against the City of Edmonton over its decision to cancel a scheduled lighting of the High Level Bridge in colours chosen by AMLA.

Operated by Edmonton, the High Level Bridge is outfitted with 60,000 programmable lights, lit every day in the morning and evening. Through the “Light the Bridge” program, the City invites members of the public and community groups to request the Bridge be lit in specific colours to reflect their event, cause or campaign. The Bridge is regularly lit in association with various religious and political causes, awareness days, religious celebrations, political holidays and commemorations that promote the ideologies, political causes, social campaigns and religious beliefs of their proponents.

The City singled out AMLA’s display and cancelled the scheduled lighting of the Bridge “due to the polarizing nature of the subject matter,” as though other causes were not also polarizing. The Justice Centre argued the City is constitutionally prohibited from discriminating against the content of expression in spaces it has opened up to the public for expressive purposes.



“Edmonton is home to a diverse population with a wide variety of views, values and beliefs including, unsurprisingly, persons who express pro-life views. The expression of pro-life opinions is part of the diversity of expression found in a free society, and is protected by the *Charter*.”

JAMES KITCHEN, JUSTICE CENTRE STAFF LAWYER



PROTECTING STUDENTS' RIGHTS TO FREE EXPRESSION

The Justice Centre received a favourable decision in 2020 in *UAlberta Pro-Life v. the University of Alberta*, a campus free speech case that began in 2016.

A group of students at the U of A applied to set up a peaceful, stationary education display for their campus pro-life club. The University demanded the students pay \$17,500 in security fees to hold their event, to cover the wages of security guards and police, and pay for potential misconduct of any other students who might violate the University's Code of Student Behavior by obstructing and disrupting the display.



Unable to pay the fee, the event had to be cancelled. A lower court agreed with the U of A decision to charge the security fee, but the Justice Centre successfully appealed that decision to the Alberta Court of Appeal.

On January 6, 2020, the Court ruled that the U of A's decision to charge a \$17,500 security fee was unreasonable and unlawful. In a landmark decision, the Court also found that the *Canadian Charter of Rights and Freedoms'* protection for freedom of speech applies to the University's regulation of student speech on university grounds.





PARENTS ENTITLED TO MAKE DECISIONS ABOUT WHO BABYSITS THEIR CHILDREN

The Justice Centre represented two Alberta parents, Danielle, the mother of three young children, and Todd, the single father of two children, against the same complainant, James Cyrynowski, who applied through Kijiji to be a babysitter. The Alberta mother asked the potential babysitter if he had children of his own. The Alberta father asked Cyrynowski his age and gender. Cyrynowski filed human rights complaints against both parents, and a third complaint against the mother of a five-year old boy who advertised for “an older lady with experience”.

In 2019, two years after first filing the complaint against Todd, Cyrynowski withdrew his complaint. In November of 2020, the Alberta Human Rights Commission dismissed the complaint against Danielle.

“Parents’ personal decisions about who should babysit their children should not be subject to the dictates of the Alberta Human Rights Commission,” explains Justice Centre staff lawyer Marty Moore, who represented both Danielle and the single father previously investigated.



“It is a sad state of affairs when parents are subjected to the stress of the Alberta Human Rights Commission process simply for seeking to make informed decisions for the care of their own children. Parents have the right to decide on the best caregiver to entrust with their children.”

MARTY MOORE, JUSTICE CENTRE STAFF LAWYER



2020 BY THE NUMBERS



THE YEAR AHEAD

WE HAVE IMPORTANT BATTLES TO FIGHT IN 2021, INCLUDING:



1. *Servatius v. School District 70 (Alberni)*

Defending religious freedom, including the right of parents not to have their children subjected to religious or spiritual ceremonies in public schools.



2. Court actions against provincial restrictions on *Charter* freedoms

In 2020 we challenged arbitrary and irrational lockdown violations of *Charter* rights and freedoms in British Columbia, Alberta and Manitoba, with additional legal actions to be filed in Saskatchewan and Ontario in 2021.



3. *Justice Centre v. Alberta (re: Bill 10)*

Our efforts will continue in 2021 to strike down a law which gives cabinet ministers the power to write laws unilaterally, without any oversight from the Legislative Assembly.



4. Long-term Care Homes in Ontario

Defending the *Charter* rights to life, liberty and security of the person of vulnerable seniors in long-term care homes, and the right of their family members to provide love and care. The Justice Centre challenges in court the government's decision to keep family and private caregivers locked out of long-term care homes.



5. Covid Ticket Defences

Defending over 100 Canadians who were issued steep fines simply for peacefully exercising their *Charter* freedoms of expression, religion, association and peaceful assembly.



6. BCM v. Canada

Defending the *Charter* right against compelled speech by challenging the Federal Government's attestation clause required when applying for a Canada Summer Jobs grant.



7. Yaniv v. Canada Galaxy Pageants

Defending the *Charter* rights of women and young girls to safe change-rooms at a beauty pageant without being forced to include contestants who are not biologically female.



8. Nova Scotia v. Grabher

Defending the *Charter* rights of Lorne Grabher to express his family name on his personalized license plate. This case was heard by the Nova Scotia Court of Appeal and will likely proceed to the Supreme Court of Canada.



9. Free Speech Club v. UBC

Defending the Club's *Charter* rights to have speakers, even controversial speakers, and to ensure that cancel culture does not censor those who present alternate views at the University of British Columbia.



10. A.A. v. Simcoe Muskoka Child Services

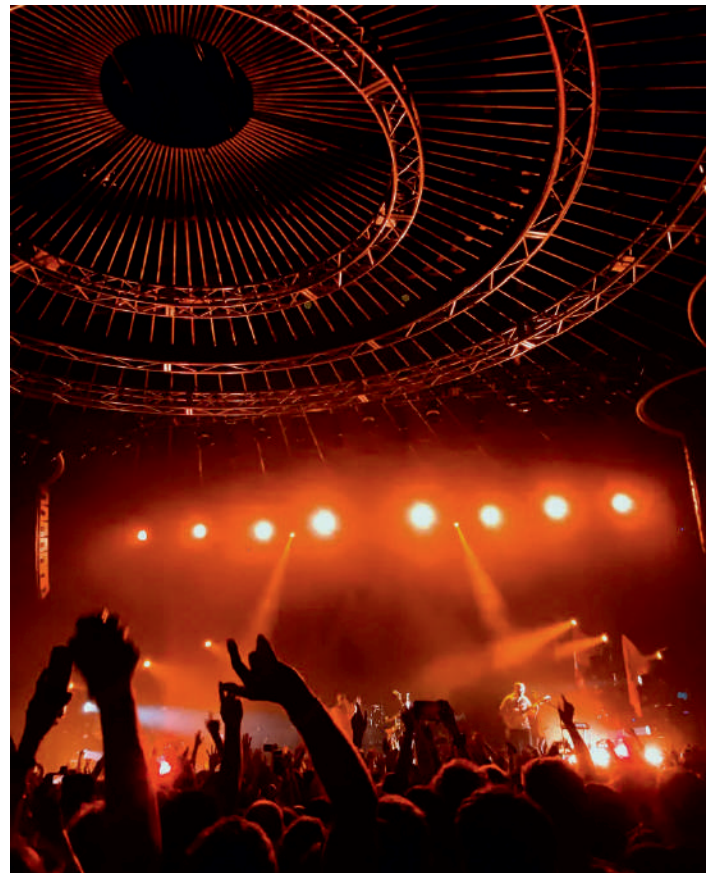
Defending a family's *Charter* rights by challenging Child Services' unreasonable rejection of the family's foster application due to their religious beliefs.



ABOUT YOUR DONATION

The Justice Centre achieves a high value-for-donations ratio by relying on our own experienced in-house counsel, rather than paying the high rates for outside counsel that are charged by regular law firms. Justice Centre staff lawyers are devoted to defending the free society, and tirelessly carry out this work even while earning considerably less than lawyers at regular commercial law firms. For every dollar donated to the Justice Centre, we provide the equivalent of two or three dollars worth of legal services to Canadians, in defence of their *Charter* freedoms. For example, when you donate \$1,000 to the Justice Centre, your donation makes it possible for us to provide legal representation that would otherwise cost from \$2,000 to \$3,000 if purchased from a regular law firm.





ON BEHALF OF ALL OF US AT THE JUSTICE CENTRE

Thank you for your support, and for being an important part of the Justice Centre team. We can't do this without you. If you have donated to our efforts, we sincerely thank you for your support in the past and hope you will continue to give to our mission. Be assured, all of your donations make an enormous impact in the lives of our clients, who we defend at no cost, relying entirely on the support of generous Canadians.



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