

PUBLIC ACCESS TO GOVERNMENT-EMPLOYED SCIENTISTS AND THEIR RESEARCH IS RESTRICTED. POLITICAL ACTIVITIES BY CHARITIES ARE BEING MONITORED. THE LONG-FORM CENSUS IS DISCONTINUED, ELIMINATING A MAJOR SOURCE OF DATA. PRISONERS' ACCESS TO BOOKS IS LIMITED. ONLINE ACTIVITIES ARE UNDER SURVEILLANCE. SLAPP LAWSUITS ARE CRUSHING CRITICAL VOICES IN THE MEDIA.

IS THIS THE NEW NORMAL IN CANADA?



Preface

By Diana Kuprel

This past year, PEN Canada shone a spotlight on free expression issues at home.

We launched Non-Speak Week. Across all platforms - in online videos, blogs, articles and short stories, at public panels and readings - we engaged Canadians in a robust dialogue on the state of freedom of expression in Canada. That dialogue continues.

In these efforts, we are building on a tradition that includes supporting gay bookstores in their fight against Canada Customs' seizure of publications entering Canada, intervening in the case of a prominent activist and writer arrested and charged with criminal conspiracy during the G20 protests, and urging the Canadian Broadcast Standards Council to reverse its decision to ban the original version of the Dire Straits' song *Money for Nothing*. They did.

PEN Canada is vigilant that the new normal in Canada must be one that remains committed to upholding not only freedom of expression, but also, as one of our contributors, a Sri Lankan journalist who was recently granted convention refugee status, reminds us, "the humanity of Canada." Supreme Court Justice Peter Cory once stated, it "is difficult to imagine a guaranteed right more important to a democratic society" than freedom of expression. Not merely a right - it is also difficult to imagine a more fundamental human value.



A JOURNEY WITHOUT MAPS



By Ilamaran Nagarasa

From the cradle to the grave, every person who belongs to the Tamil community is taught the importance of three words: culture, discipline and duty. They set out a commitment to solidarity that helps us to endure the trials of this world. Four years ago, the words took on a new meaning when I placed myself at the mercy of a gang of human traffickers and sailed across the Pacific Ocean in the hold of a cargo ship.

My journey began in Thailand, where I'd fled in July 2009 to escape death threats in my native Sri Lanka. After several weeks of what amounted to house arrest in Bangkok, the traffickers placed me and 20 other refugees on a fishing trawler. After a day of sailing, we were transferred to a cargo ship in the middle of the night. For the next six weeks, we lived in the ship's hold, until the Canadian coastguard intercepted the vessel off the coast of Vancouver Island in October 2009.

At the beginning of the voyage, we were disconnected, each man alone with his fears - relieved at escaping from a difficult past, but anxious about his uncertain future. Early on, I nearly lost all hope. One night, during a storm, I snuck upstairs with another refugee and we looked out at the sea. I cannot swim and the ocean's vastness unsettled me. Its terrifying power and its indifference to our fate overwhelmed me. I felt like we were playing with death.

Looking out at the sea that night, I lost the will to live. I resolved to commit suicide rather than live with the despair. But when I went back down to the hold and looked at the others, I realized that I still had a role to play. Each man's face was tense with misery, and the agony of what they had left behind was etched on their features. As a journalist, I knew I could help them to make sense of their stories, so I tried to help the men communicate with each other. I hoped this might help us find a way through this dark period.

I felt like crying whenever I thought about what I'd left behind, but instead of giving in to the sadness, I asked the other men about their lives. What were they fleeing from, and what did they fear? At first they were suspicious. Who is this man? Why does he want to know so much?

But others started to notice the power of sharing stories. After I'd listened, I'd console them with a promise that they would soon be reunited with their families. I assumed a confidence that I didn't feel. But it worked. Presently others began to tell their stories too.

As the weeks passed, we grew closer. Nowadays, we often associate religious differences with hatred and conflict, but on the ship we all worshipped together. I saw Christians and Hindus praying together, repeating each other's creeds and dancing to improvised music made with enamel cups and cutlery.

When we reached Canada, we were relieved but scared. None of us was prepared for what came next. It has taken the better part of four years for us to recover from being wrongly branded as terrorists by the Sri Lankan government.

When I came to Toronto after being released from a prison in Vancouver, I'd lost interest in being a journalist. But my lawyer encouraged me to return to the profession. He was the first person to help me regain my lost confidence. PEN Canada helped too. It lent critical support at my immigration hearings. Knowing that I had the support of other writers lessened my loneliness and made me feel that I could, after all, become a writer again. Mary Jo Leddy (Chair of PEN Canada's Writers in Exile Committee) and Romero House figured prominently in this transition. Mary Jo has supported me with a care and love that cannot easily be described. She has become like a second mother to me.

I had developed contacts with Canadian Multicultural Radio (CMR) during the time I was in Sri Lanka. So, when I finally reached Toronto, CMR welcomed me with open arms, and offered me a job in the field which I have always been most passionate about and that is journalism, which has become an important part of my life yet again. My colleagues at CMR have been invaluable companions and their warmth and understanding have shown me why Canadians have such a good reputation for welcoming foreigners. These experiences have shown me the humanity of Canada.

Eventually I was accepted as a convention refugee. This gave me hope that the truth, however long it may be suppressed, never disappears entirely. Journalists may get killed or chased into exile, but the stories they unearth survive and emerge in the fullness of time. In the meantime, we must learn how to be patient.

Ilamaran Nagarasa is a Sri Lankan journalist who is now based in Toronto.

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President's Report

This past year, PEN Canada got writing and talking. We did so in newspapers and magazines, on stage and on air; we did so using media old and new, ways tried and still unfolding; we did so most regularly on our website and via our blog, pencil, which features weekly contributions from distinguished veterans and gifted newcomers alike.

On pencil, we've covered everything from book banning to the effects of torture to impunity in Mexico to censorship and dissent on the Net. In 2012, PEN Canada returned to fundamentals. Writers write. Writers challenge, provoke, persuade, infuriate and simply inform, and we do so pretty well. It's who we are, and how we are in the world. It's how we live the freedom that makes all the others possible: freedom of expression.

Moving PEN Canada forward is the job of each president and board of directors. In a crowded landscape of NGOs and in a digital age that can easily detach initiatives from their surroundings, we must continually justify our existence. Never mind that PEN is one of the world's oldest human rights organizations, with centres in 144 countries. Never mind PEN Canada's own distinguished history, including founders and presidents with names like Atwood, Findley, Ralston Saul, Ricci, Govier and Seligman, or that we count Cronenberg, Clarkson, Klein, Martel and Mistry among current advisors and supporters.

Right here, right now, Canadians have concerns and anxieties, and wish core principles defended and upheld. Is PEN doing the hard, necessary work, and are we doing so effectively? Do we deserve your support? We have proceeded on the assumption that our initiatives - all that writing and talking, for sure, but also programming events and public protests, open letters to governments and freedom of information requests, along with plenty of backchannel efforts on behalf of imperiled writers and journalists - must pass the test of relevance, and of urgency. We must be perpetually alert and reactive, but also anticipatory and even visionary. We have to be in the news, while also sometimes staying behind it; to play the long game, but still be involved in the short.

In 2012, PEN found itself most ardently engaged with freedom of expression issues right here in Canada. We saw it coming early in the year, and planned a full week of education and awareness raising in the early autumn that would serve as a foundation. Non-Speak Week, as we

titled the campaign, opened with a question: “Do we get the society we demand or the one we assume we deserve?”

“PEN Canada,” I wrote in The Huffington Post, “has become uneasy with how freedom of expression is faring at home. Like many other groups, we’ve monitored the current federal government, and noted a tendency towards excessive secrecy and a wish to control information, dalliances with censorship and Internet surveillance, the intimidation of critics, and the kind of obsession with political gamesmanship, via spin and mis-direction and the manipulation of Parliament, that can easily cast a shadow, or create a chill, over political life. We’ve debated whether this is politics as usual - earlier governments were far from immune from these operating principles - and have come to the conclusion that it isn’t. It is new, and unsettling, and we are concerned.”

The ultimate concern related to how a government can slowly, steadily shift perceptions of acceptable practices until former standards and expectations are, in effect, forgotten. “What happens,” I said, “if some of this - the media’s restricted access to scientists, the monitoring of charities, the elimination of troublesome data gathering, the imposition of greater surveillance on the Internet, to name but a few - becomes the new normal?” Freedom of expression, everywhere and all the time, I ended, is earned, not given.

With that, PEN Canada launched a week of daily essays exploring our concerns about the new normal, including a short story by Pasha Malla on freedom of assembly, and two public events. We ended Non-Speak Week with our annual benefit at the International Festival of Authors, where revered novelist Rohinton Mistry read and talked and even sang his support for the freedom that makes all others possible.

Only we didn’t end our conversation about the state of freedom of expression here in Canada with the Mistry benefit. We were only beginning to talk and write about it - as the bustling, active winter and spring that followed attested. Almost a year later, we are only beginning to talk and write - and inform, insist, agitate and persuade, using all means possible - about these fundamentals.

PEN Canada gets two things about our still new century, and our evolved role in it. First, we must keep on deserving your support and, even better, participation. Second, we all get the societies we demand.

Charlie Foran

LIBEL CHILL



By Bruce Livesey

In the spring of 2012, a little over a month after being freed from prison, former media mogul (and convicted felon) Conrad Black launched a \$1.25-million libel lawsuit against Random House Canada, its publisher Anne Collins, senior editor Craig Pyette, freelance editor Ken Alexander and myself.

What Black was ticked off about were four sentences in my book *Thieves of Bay Street*, an investigative exposé of the crimes of Canada's financial industry and other white collar criminals which had been published by Random House just prior to Black's release. Today, this lawsuit is grinding along, although Black has since upped the ante by increasing his demand for damages to \$3 million.

Why is Black suing Random House Canada and the rest of us, even though Random House is his very own publishing house (RHC owns McClelland & Stewart, which prints Black's books)? One can only surmise it's part of his campaign to convince the Canadian public he's an innocent man and was wrongfully convicted by the U.S. justice system. My book, which delves into aspects of his case, is perhaps an annoying reminder to anyone who should read it about why he fell from his perch and that perhaps his Icarus-like plunge was justified.

But in a broader context, Black's lawsuit raises issues about whether the wealthier classes and corporations use Canada's libel laws and our courts to crush dissenting and critical voices in the media. Is it part and parcel of the trend of launching SLAPP lawsuits - which stands for Strategic Lawsuit Against Public Participation? After all, by any measure, Black has had ample access to the mainstream media to trumpet his claims of innocence. And he had a prominent publishing house publish his book, *A Matter of Principle*, which rambled on for nearly 600 pages about how he felt he was badly treated. In contrast, while my book did land on bestseller lists, it sold modestly and caused hardly a ripple in the Zeitgeist.

Canada's libel laws are a necessary evil, designed to protect those who have been unfairly maligned by the media. They also force journalists to ensure that our research is sound and well-sourced - which is a good thing.

Yet the emergence of SLAPP lawsuits is really not about any of this. They're designed to ensure the public never sees important information, or discourage media outlets and publishers from ever assigning or producing investigative and critical stories in the first place. Random House Canada has paid a steep price for publishing my book, which explored skullduggery within Canada's powerful financial industry. The legal costs are high and burgeoning, with no end in sight, and can only have the effect of making the publisher have second thoughts the next time a journalist comes along with an idea of writing a book that exposes the crimes of the high and mighty - especially at a time when publishers are hurting financially and profits are thin to non-existent.

Indeed, the use of libel laws to intimidate journalists and commentators is commonplace. For example, Barrick Gold, the powerful Canadian gold mining conglomerate, launched lawsuits against a pair of books, one in French and the other in English, that criticized the company's mining practices in Africa. In the case of the book in French, it demanded \$11 million from its publisher. When they threatened to sue the English book in 2010, the publisher was forced to postpone publication.

Last year, Mark McQueen, who runs Wellington Financial, a Bay Street investment fund, was threatened with a libel lawsuit by Kevin O'Leary, the TV business guru, after McQueen wrote a series of critical postings on his popular blog about O'Leary's investment firm's track record. And Timminco Ltd., a producer of industrial metals, launched a \$6-million lawsuit against Toronto fund manager Ravi Sood, when Sood questioned whether Timminco had really invented a new process to produce solar cells. The lawsuit effectively ended Sood's criticisms, even after Timminco raised hundreds of millions of dollars from investors but failed to deliver on its promise of producing a revolutionary solar cell technology.

In my own career as an investigative journalist, I've had similar dust ups. In 2009, a Bay Street investment fund called Caldwell Securities launched a lawsuit against the CBC over a story I'd produced about the dirty secrets of the brokerage business, even though Caldwell was not actually mentioned in the piece. Caldwell was attempting to get the story removed from the web, where it was enjoying much popularity.

A year later, Nortel hired two powerful Bay Street law firms to threaten to sue the CBC for a story I produced about an internal Nortel executive compensation document I'd been leaked and had also put online. The CBC agreed to take the document down.

At a time when investigative journalism is becoming increasingly rare in Canada (with shows like CBC's *Disclosure* long gone, and budgets at programs like *the fifth estate*, *Marketplace* and *W5* slashed, and with newspapers getting thinner and poorer by the day), and fewer media outlets willing to fund it, SLAPP lawsuits act as an effective form of censorship. And while libel laws are necessary, the real problem lies in the high cost of fighting libel lawsuits through the courts, especially when going up against litigious folks and corporations with deep pockets.

Bruce Livesey is an award-winning Toronto-based investigative journalist who has written for more than 30 newspapers and magazines, and worked as a TV producer with the CBC's the fifth estate, CBC News Sunday and The National as well as for Global TV, Discovery Channel, PBS Frontline and Al Jazeera English. In 2013, Thieves of Bay Street was nominated for an Arthur Ellis Award for best non-fiction crime book.

Executive Director's Report

In May of 2012, when I began at PEN Canada, I was unprepared for what I was about to encounter. A staff of two and a board of 17 that had been without an executive director for almost three years? I braced myself. Little did I know that, while the office had been closed for a few months, it was the dedication of the board that kept PEN alive. Then, after it reopened, members of the board and the staff made sure that the building blocks for a stronger, more connected and more resilient PEN Canada were being laid. A new website was already in development, a new visual identity had been designed, a strategic plan had been approved, and a more robust patrons' circle had been cultivated that has provided significant financial support to the organization.

My first year at PEN has coincided with this period of renewal. With these building blocks as the foundation, the board and staff at PEN have been rethinking, recalibrating and rejuvenating all our programs and activities so that we can better reflect the concerns of, and connect with, thoughtful Canadians who believe that the right to freedom of expression is the right upon which all other freedoms are based.

The year saw us hold Non-Speak Week, a week's worth of activities focused on the threats to freedom of expression in Canada, and produce an ongoing series of blog posts on issues of concern to Canadians. Partnerships with The Huffington Post, the Canadian Science Writers' Association and the University of Toronto's Citizen Lab extended our reach substantially. While PEN has always been known as an organization that speaks for freedom of expression abroad, these activities re-established us as an authority on issues of free speech in Canada.

That's not to say we haven't been active on the international front - our honorary members remain the heart of what we do. The new website has allowed us to profile the writers for whom we advocate, and we've laid the foundation for reviving our advocates program, which will allow us to keep in touch with writers in peril abroad and with their families.

Our writers in exile program has similarly been abuzz. A series of get-togethers for writers who live in exile in Canada has fostered a network for newcomer writers and journalists to share their experiences and connect with those who are established in the Canadian literary and publishing arenas. New opportunities are in the works: residencies and work placements at universities, colleges, literary institutions and media companies; writing opportunities on our blog, at the *LRC*

and at other media outlets; and informal English language tutoring for those who need it. We hope that these activities will help get writers back to doing what they love: writing. At the same time, the committee is dealing with the aftermath of Bill C-31, and with fewer refugees being admitted to Canada, we're rethinking the ways that we help writers in peril.

The momentum continues to grow. We now produce a smart, engaging monthly e-newsletter that has seen subscribers increase by over 50% in the past year. We held literary events with Rohinton Mistry, Calvin Trillin, Séan Cullen, Mark Kingwell and Janice Gross Stein in 2012. And we are thrilled to confirm that Stephen King and his son Owen will be doing the PEN benefit at the International Festival of Authors in 2013.

Of course none of this would have been possible without the PEN staff: Brendan de Caires, whose innovative programming spans the breadth of our activity, and Kasey Coholan, without whom none of our ideas would ever get off the ground. We are also grateful to the many interns, work placement students and volunteers (listed on page 55), who assisted in everything from social media to event planning.

And finally, PEN Canada is indebted to its dedicated board, particularly Charlie Foran, who is completing his term as President. Building upon the foundation established by his predecessor, the renewal of PEN, of which I am grateful to be a part, is almost entirely the result of his vision and dedication over the past two years.

Tasleem Thawar



ARTICLE 19

THE UNIVERSAL DECLARATION
OF HUMAN RIGHTS



EVERYONE HAS THE RIGHT TO FREEDOM OF OPINION AND
EXPRESSION. THIS RIGHT INCLUDES FREEDOM TO HOLD
OPINIONS WITHOUT INTERFERENCE AND TO SEEK, RECEIVE
AND IMPART INFORMATION AND IDEAS THROUGH ANY MEDIA
AND REGARDLESS OF FRONTIERS.

INFORMATION



By Elise Moser

For political and social historian Valerie Knowles, the closure of the libraries of various federal government departments means she will not be able to access records she needs to update her history of Canadian immigration policy. She cites an example from fellow historian Michael Molloy, of a cabinet-level operations memorandum from a historically critical period. Only one copy is known to exist; it is stuck inside an instruction manual for immigration officers. It was in the Citizenship and Immigration Canada library - now closed.

When the Harper government first came to power, it began removing certain words, like “humanitarian,” and phrases, like “child soldier,” from use by the Department of Foreign Affairs. This censorship didn’t receive much attention at the time. In retrospect, it stands as a harbinger of things to come.

University of Toronto law professor Audrey Macklin told CBC News that she suspected the banning of the phrase “child soldier” was aimed squarely at Omar Khadr. Under the Convention on the Rights of the Child, Canada has legal obligations toward child soldiers, and should not be prosecuting them; the government was trying to refuse repatriation to Canadian citizen Khadr.

Now the government has progressed from altering the way we think about foreign policy to reducing both the production and dissemination of information. The discontinuation of the long-form census eliminated a major source of data. Government-employed scientists are no longer allowed to speak freely on the results of their (publicly-funded) research, which previously was considered part of their jobs. A Department of Fisheries and Oceans employee who once earned a spokesperson of the year award was threatened with consequences for appearing on *Canada AM* to chat about sharks. Definitely not a policy question - but part of the government’s successful effort to lower the profile of environmental issues. Media coverage of federal research on climate change dropped 80 percent after the government made it harder to access information.

Hundreds of scientists have been fired and research facilities closed, such as the globally unique Experimental Lakes Area (a transfer of responsibility to another operator has been negotiated but as of May 9, 2013 had not yet taken place), reducing the amount of information produced in the first place. Public access to scientists and research has been limited or denied outright; requests for information are delayed or simply ignored. Canadians' ability to enter into international research projects is inhibited.


The shift of government funding to "targeted" research, reflecting business priorities, is hurting many disciplines in Canadian universities, limiting research from education policy to the development of influenza and cancer vaccines. Student research opportunities are also reduced, which University of Lethbridge neuroscientist Rob Sutherland predicts will have serious long-term effects.

And recently, media reports appeared citing new rules at Libraries and Archives Canada (LAC) requiring staff to clear public appearances in advance. Like scientists, federal librarians and archivists used to be expected to share the material they had charge of with the public by speaking to community groups and participating in public events. The new rules emphasize employees' "duty of loyalty" to the government - and include "both a muzzle and a snitch line," according to James Turk of the Canadian Association of University Teachers, which includes librarians among its members.

Valerie Knowles sees the cuts to LAC as "undermining our understanding of Canadian history" and "seriously impeding research - some of which should play a vital role in the formulation of evidence-based government policy."

Together, these examples point to a complex and comprehensive policy of repressing information and free expression.

Montreal-based Elise Moser's short stories have appeared in Canada and the United States, and across the Commonwealth. She has also published a novel, Because I Have Loved and Hidden It (Cormorant Books), and a young adult novel, Lily & Taylor (Groundwood Books). She is a member of PEN Canada's National Affairs Committee.



“Information is the lifeblood of a democracy. Without adequate access to key information about government policies and programs, citizens and parliamentarians cannot make informed decisions and incompetent or corrupt governments can be hidden under a cloak of secrecy.”

Stephen Harper, writing in the Montreal Gazette as opposition leader, November 2005



PROGRAM COMMITTEE

REPORTS

NATIONAL AFFAIRS

By Philip Slayton, Chair

The National Affairs Committee monitors government legislation, policy and action in Canada that may violate the right to freedom of expression guaranteed under the Canadian Charter of Rights and Freedoms, and intervenes in appropriate ways when necessary.

In the past year, PEN Canada, through the National Affairs Committee, has increasingly turned its attention to freedom of expression issues in Canada. This effort began with Non-Speak Week last autumn. Issues that the committee is currently pursuing include reform of the law of defamation, including removal of criminal libel as an offence under the Criminal Code, and increasing access to written materials and the Internet by prisoners in federal penitentiaries and provincial prisons.

Members: Janne Duncan, Ken Filkow, Anne Giardini, Cindy Grauer, Bill Kowalski, Elise Moser, Marq de Villiers, Bruce Walsh, Grace Westcott

WRITERS IN EXILE

By Mary Jo Leddy, Chair

The Writers in Exile Committee creates programs that provide support and opportunities for PEN's writers in exile, residing in Canada but not yet Canadian citizens.

This past year, a large shadow hung over the committee's work as the disastrous effects of Bill C31 were felt by refugee writers in Canada and abroad. Since January, the number of refugee claims has dropped by 70% and the Minister of Immigration has trumpeted his plan to cut back on the number of government-sponsored refugees, a program through which many writers in exile came to Canada in the past. PEN has begun to refocus its strategy on helping writers who are not in prison but who are in peril, moving from place to place or living along borders, languishing in refugee camps.

In spite of this situation, or perhaps because of it, writers in exile and their supporters continue to meet regularly at the supper club. This informal gathering provides a way of networking that is personally supportive and politically empowering.

Members: Katrina Alfonso, Miki Andrejevic, Aaron Berhane, Maureen Brosnahan, Annyta Fuwumba, Paola Gomez Restrepo, Katherinn Hidalgo, Ava Homa, Judy Koonar, Keith Leckie, Joan Leishman, Ilamaran Nagarasa, Luis Nájera, Marina Nemat, Ayub Nuri, Munir Pervaiz, Kaziwa Salih, Andres Torres Scott, Isaac Tetteh

WRITERS IN PRISON

By Jim Creskey, Chair

In collaboration with other centres of PEN International, the Writers in Prison Committee leads PEN Canada's work on behalf of writers and journalists who are persecuted for expressing their imaginations or writing the truth as they see it.

This past year, more bloggers, poets, journalists - writers of all kinds - were arrested, imprisoned and tortured by political leaders who fear exposure.

In countries like Turkey and Ethiopia, to name only two, anti-terrorism laws are used to charge and convict writers who are often advocates for peace and minority rights.

In other countries, like Honduras and Mexico, the law enforcement and justice systems are often too fragile to protect writers, especially journalists, who publish stories of corruption fuelled by powerful drug lords. The murders of journalists are regularly carried out with impunity.

Identifying individual imprisoned writers and taking steps to help them is close to the heart of PEN Canada's very reason for existence.

Our work this year has included partnering with the International Human Rights Program at the University of Toronto to begin researching the causes of impunity for violence against journalists in the Honduras.

We have also named several new imprisoned writers as PEN Canada Honorary Members, pairing them with a volunteer advocate. We have made this program more personal, seeking regular contact with imprisoned writers and sometimes their families. At the same time, we have established a system for collecting information about the conditions experienced by honorary members. Sometimes this information can be used in either diplomatic contacts or public advocacy programs. The aim is always the same: to attempt to secure the release of the imprisoned writer.

There is a fine line separating the choice between the efficacy of a quite diplomatic inquiry and a very public advocacy campaign. We count on details that come from our volunteer advocates to help inform those choices.

Free in my Mind

“I still keep writing because it makes me feel free in my mind, at least. And [that’s] the most important thing. We do not feel human if we don’t have the right to speak our mind.”

Vietnamese blogger Nguyen Ngoc Nhu Quynh, who continues to write, despite knowing that she could be “arrested at any time” should she trespass onto “sensitive areas.”

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HONORARY MEMBERS RELEASED

UZBEKISTAN

On April 19, 2013, Uzbek writer **Mamadali Makhmudov** was released after serving a 14-year prison sentence for his involvement in a series of bombings in Tashkent and an apparent assassination attempt against President Karimov. There was little evidence to substantiate these charges and human rights groups in Uzbekistan and elsewhere rose to his defence. Makhmudov's sentence expired in February 2013, but he was sentenced to three additional years imprisonment on April 8 for breaking prison regulations. Makhmudov had appealed this new sentence and was waiting for a response when he was unexpectedly set free. On his release the 72-year-old writer met his five grandchildren for the first time.

*PEN CANADA
HONOURS
LIU XIAOBO
WITH THE 2012
ONE HUMANITY AWARD*

The 2010 Nobel Peace Laureate, Liu Xiaobo, is a prominent dissident who first received support from PEN in 1989, when he was one of a group of writers and intellectuals dubbed “Black Hands of Beijing” by the government, and arrested for their part in the Tiananmen Square protests. Liu has since spent a total of five years in prison, including a three-year sentence passed in 1996, and has suffered frequent short arrests, harassment and censorship. Liu was arrested for signing Charter 08, a declaration calling for political reforms and human rights, and kept under Residential Surveillance, a form of pre-trial detention, at an undisclosed location in Beijing, until he was formally charged on June 23, 2009 with “spreading rumours and defaming the government, aimed at subversion of the state and overthrowing the socialism system in recent years.” The charge is said to be based on his endorsement of Charter 08 and over 20 articles published between 2001 and 2008. Liu was sentenced to 11 years in prison on December 25, 2009.

In 2012, PEN Canada honoured Liu Xiaobo with the One Humanity Award, which is given to a writer whose work transcends the boundaries of national divides and inspires connections across cultures. He was also featured, along with Russian punk band Pussy Riot, on PEN’s Day of the Imprisoned Writer.

HONORARY MEMBERS

CHINA AND AUTONOMOUS REGIONS

Uighur writer **Nuremuhamet Yasin** received a 10-year sentence in November 2004 for “inciting Uighur separatism” in a short story published in the *Kashgar Literature Journal*. “Wild Pigeon” recounts the experiences of a young pigeon trapped and caged by humans while trying to find a new home for its flock. Instead of accepting captivity, the pigeon kills itself by swallowing a poisonous strawberry, a choice that Yasin’s own father had made in similar circumstances several years earlier. Yasin is an award-winning and prolific freelance writer with a well-established literary reputation among Uighur readers. Since 2010, PEN has received several unconfirmed reports of Yasin’s death but these were recently disputed by a family member, who claimed to have found him in reasonably good health during a prison visit in July 2012. Yasin’s wife and two children were reportedly granted permission to visit him in prison in January 2013.

ERITREA

At least 13 newspaper journalists were arrested when President Issaias Afewerki closed Eritrea’s independent newspapers in September 2001, leaving only state-owned newspapers. PEN Canada adopted the following: **Said Abdelkader** (writer, editor of *Admas* and owner of the press that printed most of the independent newspapers), **Yusuf Mohamed Ali** (editor-in-chief of *Tsigenay*), **Emanuel Asrat** (editor of *Zemen*), **Temesken Ghebreyesus** (reporter for *Keste Debona*), **Mattewos Habteab** (editor-in-chief of *Meqaleh*), **Dawit Habtemichael** (reporter for *Meqaleh*), **Medhanie Haile** (editor-in-chief of *Keste Debona*), **Dawit Isaac** (writer and co-owner of *Setit*), **Seyoum Tsehaye** (a TV and radio journalist and columnist for the newspaper *Setit*) and **Fesshaye Yohannes “Joshua”** (playwright, poet and publisher of *Setit*).

By 2007, four of the journalists - Abdelkader, Haile, Ali and Yohannes - reportedly had died in custody. Their deaths were attributed to harsh conditions and lack of medical attention. Reports also

indicated that Yohannes' fingernails had been ripped out, apparently during torture. In August 2012, Reporters Without Borders reported that Dawit Habtemichael and Mattewos Habteab had died in Eiraeiro prison camp, Habtemichael during the second half of 2010. In May 2007, the African Commission on Human and People's Rights (ACHPR) of the African Union ruled that the detention of the journalists was arbitrary and unlawful and called on the Eritrean government to release and compensate the detainees. In September 2011, the European Parliament adopted a strongly worded resolution urging Eritrea to "lift the ban on the country's independent press and to immediately release independent journalists and all others who have been jailed simply for exercising their right to freedom of expression." Dawit Isaac, who spent a number of years in Sweden during the Eritrean war of independence and the border dispute between Eritrea and Ethiopia, holds Swedish citizenship. On October 27, 2012, Reporters Without Borders reported that three European jurists had referred Isaac's case to the African Commission on Human and People's Rights following the Eritrean Supreme Court's lack of response to the habeas corpus writ for Isaac filed in 2011.

In 2012, Dawit Isaac was featured as the PEN Canada empty chair at the International Festival of Authors.

IRAN

The blogger **Hossein Derakhshan** was arrested by Iranian authorities on November 1, 2008 and placed on trial for "conspiracy" and "acting against national security" on June 23, 2010. He is thought to have been accused of "spying for Israel," apparently for a highly publicized trip he made there in 2006, travelling on a Canadian passport. No verdict was made known until September 2010 when a Farsi news website reported his conviction on charges of "propagating against the regime," "promoting counter-revolutionary groups," "insulting Islamic thought and religious figures" and "managing an obscene website." Derakhshan received a sentence of 19 years and six months in prison. He was held in solitary confinement for the first eight months of his detention and has reportedly been ill-treated in prison. On December 9, 2010, Derakhshan was released conditionally, on two-days parole, after posting a bail of \$1.5 million. Within two days, he was taken back to prison. There are serious concerns for his physical and psychological well-being.

Nasrin Sotoudeh, a prominent writer, journalist and lawyer, was arrested on September 4, 2010, after being summoned to the special court in Evin Prison to answer charges of “propaganda against the state.” The arrest followed a raid on her home and office the previous month by security officers, who confiscated files and documents. Sotoudeh’s lawyer was not allowed to represent her in court or accompany her client during questioning. Sotoudeh received an 11-year sentence from Branch 26 of the Revolutionary Court on January 9, 2010 and was banned from practising law or leaving the country for 20 years. The sentence comprises one-year imprisonment for “propaganda against the regime,” and a total of 10 years for the two charges of “acting against national security” and “violating the Islamic dress code (Hijab) in a filmed speech.” She is believed to have been charged for interviews she gave that were critical of the regime to overseas media following Iran’s disputed 2009 presidential election and for her membership in the Association of Human Rights Defenders. In mid-September 2011, her sentence was commuted to six years and the legal ban reduced to 10 years. In October 2011, Sotoudeh was awarded PEN Canada’s One Humanity Award, *in absentia*, on the opening night of the International Festival of Authors. In October 2012, she staged a 49-day hunger strike in protest of the travel ban placed on her daughter to prevent her leaving Iran to collect an award on her mother’s behalf. Sotoudeh ended her hunger strike in December when the travel ban was lifted.

MEXICO

PEN is monitoring the cases of some 46 print journalists and writers killed in Mexico since December 2006.

In the year before he was murdered, **José Armando Rodríguez Carreón** filed more than 900 crime reports for *El Diario* newspaper in Ciudad Juárez, Chihuahua state. Rodríguez covered drug-related violence and organized crime in Ciudad Juárez and had previously left Mexico, briefly, to live in El Paso, Texas after receiving death threats. On his return, he refused to stop his crime reporting despite further death threats. He was shot by an unidentified person on the morning of November 13, 2008, as he prepared to drive his daughter to school. Shortly before his death, Rodríguez told the Committee to Protect Journalists (CPJ):

“The risks here are high and rising, and journalists are easy targets. But I can’t live in my house like a prisoner. I refuse to live in fear.” On May 26, 2011, the Inter American Press Association sent a letter to President Calderón, signed by hundreds of newspaper readers throughout the Americas, calling on him to intervene in order to ensure that the stalled investigation into Rodríguez’s murder moves forward and those responsible are brought to justice. Since then, despite repeated promises and a false confession, no progress has been made in the case.

Marco Antonio López Ortiz, a news editor for the daily newspaper *Novedades Acapulco*, was reportedly kidnapped in Acapulco, Guerrero state, on June 7, 2011. López disappeared shortly after unidentified men assaulted him as he left his office at night. López oversaw the paper’s crime reporting, among other responsibilities. Local journalists in Acapulco have claimed that organized crime groups repeatedly threaten them to keep coverage to a minimum. *Novedades Acapulco*’s crime reports are accordingly brief and avoid investigative reporting to avoid angering and being targeted by the groups. In July 2011, President Calderón’s office notified PEN International that López’s case had been referred to the Federal Attorney General (Procuraduría General de la República), but more than a year later no progress had been made in the investigation and the case reportedly remained unsolved as of December 31, 2012.

RUSSIA

More than six years after her murder, PEN continues to track the case of the fearless independent Russian journalist **Anna Politkovskaya**. As a special correspondent for the newspaper *Novaya Gazeta*, Politkovskaya made her name by exposing human rights abuses carried out by Russian forces in Chechnya. In 2001, she was detained by Russian officials in Chechnya, threatened with rape and torture and put through a mock execution. Three years later, she told a BBC interviewer: “I am absolutely sure that risk is [a] usual part of my job; the job of [a] Russian journalist, and I cannot stop because it’s my duty. I think the duty of doctors is to give health to their patients, the duty of the singer to sing. The duty of [the] journalist [is] to write what this journalist sees in the reality.” On October 7, 2006, Politkovskaya’s body was found in the stairwell of her apartment building. She had been

killed by a gunshot wound to the head. On August 24, 2011, following several inconclusive trials, Russian authorities arrested Lt. Col. Dmitry Pavlyuchenkov in connection with the case and named convicted criminal Lom Ali Gaitukayev as the organizer of the murder. The Investigative Committee responsible for investigating Politkovskaya's murder alleged that Gaitukayev had been approached by an unidentified person in July 2006 and asked to carry out the murder. Gaitukayev had formed a gang with his nephews Rustam and Dzhabrail Makhmudov (previously acquitted in February 2009) and Ibragim Makhmudov, along with Pavlyuchekov and former police officer Sergei Khadzhiburbanov (also acquitted). The agency claimed that Pavlyuchenkov - then head of surveillance at Moscow's Main Internal Affairs Directorate - had ordered his subordinates to follow the journalist to identify her schedule and commuting routes, and had then shared this information with the other members of the gang. Pavlyucheko also allegedly passed the murder weapon from Gaitukayev to the suspected gunman, Rustam Makhmudov. It is not yet clear whether the Investigation Committee plans to charge Gaitukayev, who is currently serving a lengthy jail term on unrelated charges of attempted murder, with the killing.

On August 17, 2012, **Nadezhda Tolokonnikova** and **Maria Alyokhina** (members of the Russian punk band Pussy Riot) were jailed for two years under Article 213 of the Russian Criminal Code. Ekaterina Samutsevich, another member of the group, was freed with a suspended sentence. The three women had been held in custody since early March. In February, the band members entered into the Christ the Saviour Cathedral in Moscow wearing colourful masks and performed a song with the aim of highlighting the close relationship between the Orthodox Church and President Vladimir Putin. The women were arrested two weeks later. Their trial began in July. During the trial, the women were locked in a bulletproof cage and, according to their lawyers, were not given food or water for long periods of time. The prosecution and its witnesses argued that the band had shown a deep hatred of all Orthodox Christians and was not motivated by outrage at the Putin regime, as they had claimed. PEN International, which monitored the trial, found the defence was repeatedly denied the right to make objections, to call witnesses and even, at times, to speak. PEN believes the repressive nature of the trial is indicative of the ongoing repression of free

speech in Russia. Following their arrests and trial, Pussy Riot has become an international cause célèbre with unprecedented levels of support from musicians, artists, human rights organizations and politicians within Russia and around the world. In 2012, Pussy Riot was featured, along with Chinese Nobel Laureate Liu Xiaobo, during PEN's Day of the Imprisoned Writer.

SYRIA

High-school student Tal Al-Mallouhi, a poet and blogger, was detained on December 27, 2009 after being summoned by state security officers for questioning about her blog entries. Following her arrest, Tal Al-Mallouhi's family home was raided by security agents, who confiscated her computer, notebook and other personal documents. She was held incommunicado at an undisclosed location without charge or access to her family for the first nine months of her detention. Her family was allowed to visit her once at Doma Prison in Damascus in September 2010. On September 2, 2010, her mother published an open letter to the Syrian president seeking information about her daughter's welfare and calling for her release. On October 5, 2010, it was reported that Al-Mallouhi had been charged with spying for a foreign country. On February 4, 2011, she appeared before Damascus State Security Court in a closed session, during which she was convicted of "divulging information to a foreign state" and sentenced to five years in prison. Al-Mallouhi has no known political affiliations, and sources close to the family are baffled by the charges. It is feared that she could be targeted for comments and poems published in her blog.

VIETNAM

Nguyen Van Hai, better known by his pen name “Dieu Cay,” is a renowned blogger, journalist and democracy activist in Vietnam. He co-founded the Club of Free Journalists in 2006 and is well known for reporting on human rights abuses and corruption and for his participation in protests against Chinese foreign policy. On September 24, 2012, on completion of two-and-a-half years imprisonment for “tax fraud,” Dieu Cay was placed on trial in the Ho Chi Minh City People’s Court, along with his fellow founders of the Club of Free Journalists, Phan Thanh Hai and Ta Phong Tan, for violating article 88 of Vietnam’s penal code by “conducting propaganda against the Socialist Republic of Vietnam.” According to Human Rights Watch, two weeks earlier Prime Minister Nguyen Tan Dung “personally took responsibility for the crackdown on free expression when he ordered the Ministry of Public Security, Ministry of Information and Communications, and related offices to shut down political blogs that the government disapproved of, punish those behind them, and prohibit state employees to read and/or disseminate news published on them.” After a trial that lasted only a few hours, Dieu Cay was sentenced to 12 years in prison (and five years of probation and restricted movement), Ta Phong Tan was sentenced to 10 years in prison and Phan Thanh Hai to four. In 2012, on World Press Freedom Day (May 3), President Obama mentioned Dieu Cay in a speech that paid “special tribute to those journalists who have sacrificed their lives, freedom or personal well-being in pursuit of truth and justice.”

*CENSORSHIP
BEHIND BARS*



By Stephen Reid

When our government silences dissent by proroguing Parliament, muzzling its caucus, controlling the release of scientific research, et al, it is a threat to our democracy. When the government silences its prisoners, it is a threat to our humanity.

Over the ages, philosophers have opined that to gain the truest measure of a society, one merely has to look inside its prisons. A few short years ago, people came to our country from all over the world to do just that. Law enforcement and corrections professionals came to study the Canadian models of incarceration and rehabilitation. Recidivist rates were dropping, violent crimes were on the decrease, the subject of addiction was being meaningfully discussed.

Members of the Conservative party who posed as warriors in the fight against crime won a majority and began to implement their “get tough on crime” vision. Their ideology may be viewed as being based in retributive justice, and can come across as being bereft of compassion or fairness. Other countries have stopped coming, and the professionals have either dismissed the new penal infrastructure as “correctional quackery” or outright denounced it as a “medieval mindset.”

The ongoing changes are mostly found in directives and policy. They are not legislative so as not to be open or debatable in the House of Commons. Media access, once open and unhindered, is now tightly controlled by bureaucratic procedure and oversight. The media that do gain access are not allowed free rein but are “handled” by correctional or parole public relations specialists. Essentially the media is embedded. (At a recent parole hearing, a media representative was led through a back door into the room after everyone was seated. He was not allowed to speak to me; I was not allowed to turn and even look at him. Immediately after the hearing he was led out of the same back door, and out of the prison.)

Writing and publishing from prison is frowned upon. I am perversely heartened that, through the act of writing, I am doing the one thing that threatens Correctional Service Canada (CSC) more than riots, escapes, stabbings or drugs.

Prison magazines and broad sheets are heavily censored and actively discouraged throughout the system. Prisoners have no access to the Internet, computers are banned. Library funding has been gutted, some libraries even closed. The authorities don't burn books, they simply lock them behind 600-lb steel doors. The grievance process, a procedure in which prisoners could document unfair treatment or ongoing abuse and ask for help in correcting these injustices, has been abolished.

Omar Khadr fought through layers of bureaucratic tape to be allowed to speak to the press, and was approved at every level only to have his interview nixed by the now resigned Justice Minister Vic Toews. Khadr's was a case purportedly mishandled by the Canadian government for years. To let the electorate see and hear another side, to allow them to make up their own minds, was apparently too threatening to the Justice Minister.

The social imperative for all Canadians to extend and defend the right of expression of the most defenseless - and indefensible - members of our society, is needed more now than ever. Even if people are of the tough-on-crime mindset and think prisoners deserve to be treated harshly, we must beware of the suppression of any voices in our democracy. If the Canadian prison system does not offer its prisoners a little light in darkness, if we are not caring and vigilant, eventually that darkness will jump prison walls.

Stephen Reid began writing in 1984 while serving a prison sentence in Aggasiz, British Columbia, for bank robbery. He is the author of a novel, Jack Rabbit Parole, and A Crowbar in the Buddhist Garden, a collection of short stories about his life in prison. He is also the subject of a 2007 National Film Board of Canada documentary film, Inside Time, which received the Golden Sheaf Award for social/political documentary.

A
LITTLE



LIGHT

IN
DARKNESS



Why do I support PEN in defending freedom of expression?
Because I am all in favour of oxygen.

Societies that enjoy this freedom often do so without noticing it much: it is there, like oxygen, taken for granted. But diminish or turn off the supply and there is blurring of vision, mental confusion, drowsiness, collapse; civil society suffocates, democracy decays, human rights extinguish.

Far, far better to promote oxygen and freedom of expression.

Rohinton Mistry

EVENTS

Words and Music, by Rohinton Mistry

A few months before I was to leave Bombay for Toronto, a friend asked to borrow my copy of *A Hard Day's Night*. It was 1975, and the Beatles had long since recorded their last studio album, but my friend - I'll call him Harish - working his way backwards, was now enthralled by their earlier work.

He was constantly trying to find hidden meanings in songs, parsing, analyzing the lyric as though it were Wittgenstein or Schopenhauer. When B.B. King moaned that his woman had done him wrong, Harish was happy to spend an afternoon in the St. Xavier's College canteen debating, over endless cups of tea, what it was that the bluesman and his guitar were actually saying. With his ever-present flicker of a smile, Harish was agreeable company; the mischief he sought to provoke, the arguments he instigated were always welcome, as was his readiness for laughter.

When I gave him the Beatles LP, his request had barely registered. In 1975, India, in grave turmoil, gripped everyone's attention. People were filling the streets in the hundreds of thousands, marching daily against misrule and corruption. Newspapers wrote, before censorship silenced them, about goon squads and torture, police brutality and custodial deaths, the disappearance of dissidents and union leaders, and about bodies found, bloodied and broken, beside suburban railway tracks. The Prime Minister's response to all this, the unleashing of a State of Emergency, was barely a month away.

Born in India and residing in Canada since 1975, Rohinton Mistry is the internationally acclaimed author of the award-winning novels Such a Long Journey, A Fine Balance and Family Matters, all published by McClelland & Stewart. "Words and Music" is an excerpt from Mistry's original reading performed at PEN Canada's gala on the opening night of the International Festival of Authors.

THROUGH OUR EVENTS, WHICH REFLECT PEN CANADA'S FOUR MAIN PROGRAM AREAS, WE ENDEAVOUR TO ENGAGE THE PUBLIC WITH WRITERS, WHILE RAISING AWARENESS ABOUT THE VALUE AND IMPORTANCE OF DEFENDING FREE EXPRESSION IN CANADA AND ABROAD, AND OF VIGILANTLY CHALLENGING PRACTICES AND REGIMES THAT THREATEN THIS UNIVERSAL HUMAN RIGHT.

National Affairs Programming

- **NON-SPEAK WEEK**

In October 2012, PEN Canada produced Non-Speak Week, as a special addition to our National Affairs programming, to draw Canadians' attention to threats to free expression at home. Events took the form of panel discussions and blog posts with contributors casting light on some of the most pressing issues.

Freedom of Expression Online, Perspectives from Canada and the World - Novelist and arts columnist Russell Smith, writer-in-exile Luis Nájera, Citizen Lab director Ron Deibert and international digital security guru Alejandro Pisanty examined freedom of expression and censorship in the online world. Co-hosted with the Citizen Lab at the University of Toronto's Munk School of Global Affairs.

Sci-lenced - Science writer Stephen Strauss, science journalist Pippa Wyson and climate change expert Danny Harvey considered the implications of reduced public access to government-funded science. Moderated by PEN Canada board member Bruce Walsh. Co-hosted by the Canadian Science Writers Association.

Blog Posts - Trish Hennessy, Pasha Malla, Toby Mendel, Brian Rogers, Philip Slayton and Dwayne Winseck contributed to The Huffington Post.

- **Beyond Book Burning: Disappearing Books in the Digital Age** - As part of Freedom to Read Week, authors Hal Niedzviecki and Stephen Henighan and commentator Jesse Hirsch discussed how certain books are censored prior to publication and never make it to the general public. Moderated by PEN Canada board member and *National Post* Book Editor Mark Medley. (March 2013)

Literary Programming

For our 2012-13 literary programming, we partnered with respected artists, public intellectuals and organizations in complementary fields to develop new audiences and bring the literary voice into current debates. To extend the reach of these occasions, we also began to record our events in audio and video and make them available online.

- **Ideas in Dialogue - FUNNY STRANGE: Satire after Mordecai Richler** - Legendary New Yorker writer Calvin Trillin and Canadian comedian, actor and author Seán Cullen conversed on comedy, satire and the legacy of Canada's great novelist and provocateur, at the ROM. Moderated by PEN president Charlie Foran. (May 2012)
- **Words and Music: An Evening with Rohinton Mistry** - In his first major public appearance in over a decade, the Giller Prize-winning author discussed his journey from east to west, and reflected on the challenges on migration, his life and work, and his love of music. In conversation with CBC's Eleanor Wachtel. Presented with the International Festival of Authors. (October 2012)
- **Ideas in Dialogue - Democracy in the Year of Election:** Mark Kingwell in Conversation with Janice Gross Stein - Held at the ROM on the eve of the U.S. election, the speakers examined the changing face of democracy in the 21st century. Moderated by CBC's Carol Off. (November 2012)
- **From Booker to Hollywood** - Canadian author Yann Martel conversed with John Ralston Saul and Adrienne Clarkson on writing as craft, religion and politics, and the release of *Life of Pi*, the movie. (February 2013)

Writers in Prison Programming

- **Day of the Imprisoned Writer Photographic Intervention** - Canadian photographers Rita Leistner, Chris Thomaidis and Jim Ryce produced a series of photographs of Torontonians on the street appealing for the release of imprisoned Chinese poet Liu Xiaobo and Russian rock band Pussy Riot. (November 2012)
- **Larry Siems and The Torture Report** - Author, poet and PEN American Center director Larry Siems talked about what he uncovered from examining thousands of documents related to the U.S. torture program under the Bush administration. Presented with Ryerson University. (February 2013)
- **Advocacy Week** - Programs Coordinator Brendan de Caires spoke at Osgoode Hall Law School about how PEN Canada conceived and produced the report on impunity in Mexico. Organized by the International Legal Partnership. (March 2013)

Writers in Exile Programming

- **A Screening of Silenced Voices: Tales of Sri Lankan Journalists in Exile** - Film screening and Q&A with director Beate Arnestad and former BBC foreign correspondent to Sri Lanka Frances Harrison. Co-hosted with Amnesty International and sponsored by House of Anansi Press. (November 2012)
- **PEN in the Community** - Over the year, Programs Coordinator Brendan de Caires and writers in exile Ava Homa (Iran), Luis Nájera (Mexico) and Ayub Nuri (Iraq) visited high schools and postsecondary institutions around Ontario, offering workshops to students on freedom of expression as well as presentations on the experience of journalists in conflict-torn countries.

PEN PATRON SALONS

In addition to public events, PEN Canada hosts a special series of conversations with prominent literary figures and public intellectuals for patrons.* This past year, artist Charles Pachter generously hosted an evening featuring Canadian writer and filmmaker David Bezmozgis in a lively conversation with PEN Canada president Charlie Foran.

**Patrons are those individuals who donate a minimum of \$1,000 each year to PEN Canada.*

*CHARITIES,
POLITICS AND PEN*



By Hank Bulmash

It's a common perception that Prime Minister Harper has used the Canada Revenue Agency (CRA) to wage a war against charities - at least those with leftist leanings. One well-known example: the David Suzuki Foundation has suffered through several audits presumably because of Suzuki's personal opposition to nuclear power. Suzuki, who certainly sees himself as a target, has announced that he feels hounded by the government.

The Harper government has budgeted \$8 million to review and presumably restrict the political activities of charities. This move is allegedly a response to the activities of environmental groups, some of whom have been funded by American organizations. But it's also directed at Canadian charities that have entered the political arena. On the one hand, that seems reasonable, since it was never Parliament's goal to create a privileged class of lobbyists connected to charities. On the other hand, many people feel that restricting the political activities of charities is absurd given that virtually all charitable activity can be characterized as an attempt to change the way social resources are spent.

Perhaps in acknowledgement of this tension, CRA rules do allow charities a significant involvement in politics. CRA's stated position is that at least 90% of a charity's resources must be used for charitable purposes rather than for political activity. This leaves 10% available for politics. But this 90/10 rule is misleading. Many activities that might be considered political in nature are accepted by CRA as charitable. And some political activities are totally prohibited. A charity can't spend one cent on them without risking deregistration - 10% rule or not.

Communications that endorse or attack a specific candidate or party are forbidden. As soon as a charity does that, it contravenes the law allowing it to issue tax receipts. This has been seen as a limitation on the freedom of speech, but that's not fair. Members of a charity can create a sister organization to promote its social goals through political means. The sister organization can support its preferred candidates and oppose others, but it can't issue charitable receipts or receive funds from organizations that do.

What's permitted under the 10% rule? Certain types of campaigns aimed at pressuring a government to change a law, a policy or a decision. The rules allow a charity to create advertising campaigns and to convene conferences, panel discussions and demonstrations to this end. But the rules do not allow a charity to engage in the specific endorsements of candidates or parties.

There are many political activities a charity can pursue to which the 10% limit does not apply - they basically concern the distribution of information that the charity has gathered in support of its objectives. CRA states that these activities must be connected and subordinate to the charity's purpose, they must not contain a call to political action and they must be based on a well-reasoned position.

What does that mean? For PEN, it means the information must relate in some way to freedom of expression (subordinate and connected to PEN's purpose). The information must not be used as part of a campaign to change the laws or policies of a government (it can't be part of a political campaign). And finally that subjective term "well-reasoned" simply seems to imply that our information must be rational rather than emotional.

What about the allegations that Harper is misusing the rules for his own purposes? Certainly, government members have publicly attacked environmental groups. In particular Tides Canada seemed to be a target. Tides obtains funds from various sources and distributes them to a number of organizations, not all of which are charities. The recent federal budget introduced rules that limit the ability of charities to make donations to political organizations. Rules of this type are within the spirit of the existing legislation and do not seem malign. It doesn't make sense to limit the political activities of charities but allow them to donate receipted funds to organizations that are not limited themselves.

Tides is apparently undergoing an audit, but it has not lost its registration, although it was first mentioned nearly three years ago by members of the government.

Physicians for Global Survival (Canada) (PGS) has lost its registration. Despite the atmosphere of dread, this seems to be the only casualty of the \$8-million compliance budget. PGS had been under review by CRA for six years before being deregistered. PGS's stated purpose is opposition to the use of nuclear weapons and war in general

- it's impossible to imagine less controversial motherhood issues. The organization obviously didn't lose its registration for opposing mass slaughter.

PGS has taken political positions relating to cancer around nuclear power plants in Canada, and it attacked the published health reports of a government regulatory body. It has criticized the Canadian government's nuclear stance in the United Nations. PGS opposes current Canadian gun control legislation for being too lax. We do know that whatever problems PGS has had with CRA, those issues have been longstanding and predate by several years the Tories' campaign against the political involvement of charities.

It's inevitable that any government will have organizations that offend it. Clearly the Harper government is particularly sensitive to attacks on its policies from environmental organizations. However it has not deregistered any environmental charities - at least not yet.

PEN Canada is in a curious position. We achieve our goals by marshalling public opinion and the support of legislators. We may act as a friend to Parliament by providing its members with information. We generally are not opposed to domestic legislation, but we do oppose the actions of governments and other organizations such as police departments that limit access to information. We do not endorse or oppose candidates or political parties. PEN's actions seem to fall within the CRA definition of charitable activities since they are connected with and subordinate to PEN's purpose of promoting freedom of expression. Perhaps PEN has little to worry about. It's pretty to think so.

But we should be wary.

The crucial message of the current government's campaign has nothing to do with this government alone. It is a reminder that our charitable status is a privilege and not a right. It is a privilege granted by CRA, an arm of the government, and as such we and other charitable organizations will always exist subject to the scrutiny of those in power in Ottawa.

This is not unjust, at least not in principle.

It's the way the world works.

Former PEN Canada treasurer Hank Bulmash is a chartered accountant with Bulmash Cullemore LLP.

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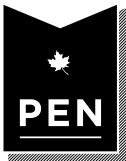
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