

The gag law's injury

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Imagine that you are the leader of a gay-rights group. You want to protest against Conservative Leader Stephen Harper's proposal to hold a new vote on same-sex marriage. It's election time and you figure this is the best time to speak out, so you make plans to run a series of national television ads. Sorry, this is Canada. That would be illegal.

Okay, then imagine you are a leader of a Toronto neighbourhood group. You think it's a scandal that the Liberals haven't done more to help the homeless in your riding. You plan to buy ads in the city papers saying so. Sorry, this is Canada. That would be illegal, too.

A law brought in by the Liberal government in 2000 places severe restrictions on how much third parties can spend during election campaigns. The maximum is \$150,000 for national campaigns (which rules out your TV spots) and \$3,000 for each riding (forget those newspaper ads). The aptly nicknamed "gag law" applies to all kinds of groups: unions, environmental lobbies, businesses, church groups, charities -- anything but an official political party. Even a private individual with a bee in his bonnet can't spend his own money to speak his mind while the election is on.

It's the worst time to restrict free expression. Ottawa may not have noticed, but keeping citizens engaged in the political process is hard enough these days. Voter turnout is low, cynicism high. So why prevent people from speaking up at the very time the issues are being discussed?

The government says spending limits keep elections from being bought by powerful groups or well-heeled individuals. But there's no evidence that third-party advertising unduly influences the public. In the 1992 referendum on the Charlottetown constitutional accord, the Yes side outspent the No 13 to 1 and still lost.

That is one reason that courts repeatedly struck down previous versions of the law, which gave third parties even lower spending caps. The Supreme Court upheld the current version last year, arguing that the latest caps are reasonable.

But that ruling should not end the debate. As the Supreme Court's dissenting judges wrote, political speech is "the single most important and protected type for expression." That's why Canadians should call on the next Parliament to rethink the gag law. In fact, the issue would be perfect for a national TV campaign. But no, this is Canada. That would be illegal.

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