



Ontario
Civil Liberties
Association

“The OCLA takes a vigorous and highly principled approach to defending free speech rights, which is an approach that is sorely needed in Canada today.”

—John Carpay,
President,
Justice Centre for
Constitutional Freedoms

“I am very pleased to learn of the Ontario Civil Liberties Association, and wish it the greatest success in its work, which could not be more timely and urgent as elementary civil rights, including freedom of speech, are under attack in much of the world, not excluding the more free and democratic societies.”

—Noam Chomsky,
Institute Professor, MIT

“Freedom of expression is our most fundamental and most precious freedom. It has been under attack in Canada for years. The Ontario Civil Liberties Association has taken a position on freedom of expression that is both courageous and principled. The OCLA now stands alone and its position should be supported by all Canadians who cherish democracy and freedom.”

—Robert Martin,
Professor of Law,
Emeritus,
Western University

July 16, 2018

By Email

Honourable Chrystia Freeland
Minister of Foreign Affairs of Canada
chrystia.freeland@parl.gc.ca

Honourable Jody Wilson-Raybould
Minister of Justice of Canada
jody.wilson-raybould@parl.gc.ca

Dear Ministers Freeland and Wilson-Raybould:

Re: Imprisonment of Canadian Monika Schaefer in Germany for a video expressing a view about the Nazi holocaust

The Ontario Civil Liberties Association (OCLA) advocates for civil and human rights, including the human right of freedom of expression, opinion and belief.

The OCLA is concerned about an apparent unwillingness of Canada to come to the aid of a Canadian political prisoner in Germany, who is charged using a German criminal law that does not exist in Canada and that is categorically contrary to international law.

Canada ratified the International Covenant on Civil and Political Rights (ICCPR) in 1976. As you know, General Comments (GC) of the United Nations Human Rights Committee (UN-HRC) interpret and specify the ICCPR covenant and constitute international law.

At paragraph 49 in General Comment No. 34 [CCPR/C/GC/34, 2011] the UN-HRC determined:

Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression. The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events.

Therefore, the German law in issue, which criminalizes negative expression about the historical events of the Nazi holocaust, is a so-called “memory-law” (HRC term) that violates the human right of free expression. It carries a maximum jail sentence of five years.

We have reviewed the reason given that Ms. Schaeffer was arrested, charged and detained in Germany when she travelled to that country. It is her 5-minute video titled “Sorry mom I was wrong about the holocaust”, which she made in Canada

about Canada and published from Canada, and which the CBC embedded in its July 15, 2016 article entitled "Hate speech complaint filed against Jasper woman for Holocaust denial video":

https://archive.org/details/SorryMomIWasWrongAboutTheHolocaust_201709

In this way, the CBC participated in a criminal offence under German law (perpetrated in Canada), which is absurd.

We ask you both to do everything you can to save Monika Schaefer from her on-going unjust and immoral imprisonment in Germany and that you tell your efforts in this regard publicly. Ms. Schaefer's trial is in progress. In particular, we ask Canada to appoint a consular observer and direct contact for Ms. Schaefer immediately.

Every day that Canada refuses to act or acts ineffectively is a day that Ms. Schaefer spends in a foreign jail. Therefore, we express the required urgency.

Please let us know your responses so that we may report these on our website.

Yours truly,



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