



NATIONAL CITIZENS INQUIRY

Quebec, QC

Day 3

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EVIDENCE

(Translated from the French)

Witness 7: Myriam Bohémier

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[00:00:00]

Samuel Bachand

Hello, my name is Samuel Bachand. I'm acting as Inquiry counsel for your testimony, Myriam Bohémier. First, I'd like you to spell your full name.

Myriam Bohémier

Myriam M-Y-R-I-A-M, Bohémier B-O-H-É-M-I-E-R, like Richard.

Samuel Bachand

I'm going to swear you in. Do you swear to tell the Inquiry nothing but the truth?

Myriam Bohémier

I do.

Samuel Bachand

As a first step, Madame Bohémier, I would ask you to provide us with something of an overview of your CV, which will be filed for the Inquiry's benefit at a later date. I don't have the file number yet, but I'll let you know as soon as I have it [no exhibit number available]. Please go ahead.

Myriam Bohémier

I've been a lawyer since 2000, so for 23 years, and an accredited mediator since 2015. My practice has always involved medico-legal issues. I did my internship at the Société d'Assurance Automobile du Québec [Quebec Automobile Insurance Company] in legal damages, so I have 23 years of experience in medical forensics. I also have a great deal of experience in all matters of harassment—both psychological and sexual—and domestic violence; and I've touched in a general way on social and labour law—in fact a lot of things

that concern people in the face of big entities such as governments, institutions, insurers, and government agencies. So this has always been my practice for the past 23 years. Since October 2021, I've been concentrating more on cases involving government measures.

Samuel Bachand

I offer the witness to the court as an expert witness with the qualifications of a jurist.

Myriam Bohémier

Yes.

Samuel Bachand

Myriam Bohémier, I believe you have some opening comments to make.

Myriam Bohémier

Since I'm testifying as a lawyer, my speech is limited to what I can say under the attorney-client privilege. So everything I say here has either been: authorized by my clients or disclosed by them; or the information has become public through judgments; or it concerns me personally in my capacity as a lawyer.

Samuel Bachand

Myriam Bohémier, you've shared with me a rough outline of your presentation, which you have in front of you, as do I. I don't think it's necessary to submit it as an exhibit. However, if the commissioners would like to see it to assess credibility or something of that nature, they can simply glance at it; otherwise, we can just carry on. Is that okay? So first of all, you wanted to talk about constitutional rights in the context of COVID.

Myriam Bohémier

Well actually, I'm going to tell you about my involvement with the measures from October 2021 to the present day. I've been immersed in this subject for a year and a half now, let's put it that way. So my involvement covers a lot of subjects. Firstly, I'm involved in the Foundation's appeal, the power of judicial review concerning the constitutionality of all government measures. I'm also involved in certain tickets, where the right to demonstrate was so restricted that to demonstrate against wearing a mask— There was an obligation to wear a mask in order to demonstrate against wearing a mask.

Samuel Bachand

Let me stop you there for a moment. When you talk about "tickets" you're talking about penal charges or statutory offences which are penal but not criminal.

Myriam Bohémier

Exactly. Contraventions based on the various decrees that have been issued in relation to the *Public Health Act*. So I'm involved in this type of file. I'm involved in labour law—labour law for unionized employees.

[00:05:00]

My role is limited since unionized employees have a union; except that in certain contexts, I act to protect the divergent interests that these employees may have with their unions, as in the case of Professor Patrick Provost. A portion of my work is labour law as related to labour standards—so for people who have lost their jobs for refusing to comply with a vaccination policy, that is, people who had refused to comply with the vaccination policy and then lost their jobs after two years' continuous service. So these people can appeal to the Tribunal administrative du travail [Administrative Labour Tribunal], and I have files of this type. I've defended and advised university professors against their university who, let's say, were censuring them for having sounded the alarm about the COVID-19 vaccination, or rather injection, for children.

I'm also involved in employment insurance [EI]. I have a federal appeal pending. Because you have to understand that people who refused to follow an employer's policy on vaccination lost out—either because they fell into a no-man's land, with an indefinite suspension, where they couldn't even get their vacation or their accumulated days off. You know, they had nothing at all. They were left with nothing but they weren't fired either. Alternatively, people were fired outright. But when these people applied for EI, they were told that they had committed misconduct by refusing to comply with a company policy. EI decided that it wouldn't get into the legality of the policy. They're interested in the reasonableness, but not the legality of vaccination policies. As a result, many people found themselves not only unemployed but without employment insurance.

Samuel Bachand

Okay, in one minute, elaborate a little on the distinction between reasonableness and legality. These are things that are familiar to us as jurists but for others, it may not be so clear.

Myriam Bohémier

Legality means that if you want to challenge the legality of an employer's policy on a constitutional or charter level, the social security court refuses to go there. So we are at the federal appeals court because we have to be, I mean— You know, we could make this caricature: let's say the employer had a policy that said everybody had to come to the office naked. I think it would have been pretty clear that the social security court would not have declared noncompliance with that policy as misconduct. But the mandatory vaccination policy was considered reasonable by the social security court. When I looked into it, I came across only one case that was successful. There are questions of [systemic] delays, but on the fundamental question of refusing the vaccination policy, only one case to my knowledge was successful, and that was last December. But otherwise, it was considered that the pandemic was real.

You know, it's like we don't question the seriousness of the situation or the pandemic as such. So therefore, the vaccination policy becomes completely reasonable in such a serious situation. So that's how I would sum it up.

Next, I've done a lot of disciplinary work, and I still do a lot. These are professionals, members of professional orders who have criticized government measures and who have either been intimidated by the *syndics* [representatives] of their organization, or have been brought before their professional organization for having sounded the alarm on masks or on the COVID-19 injection.

[00:10:00]

There have been police officers and firefighters as well among the people I've advised.

Right now, I'm preparing a criminal law file based on section 9 of the *Food and Drugs Act*, which states that you can't engage in misleading advertising. I consider that what was said regarding the COVID-19 injection was misleading to the public. So I'm working on a file like that.

And the cases that have kept me the busiest were the family law cases in which a parent who wanted a child to receive the COVID-19 injection was required to go to court when the other parent was opposed, and this ended up before the courts. But I'll come back to that in the second part, as I think it's important to outline the legislative history in Quebec because Quebec has its own distinctions. I won't go into all the technical details, but it's something that could eventually be submitted to the Inquiry.

I'll just explain that on March 13, 2020, a health emergency under the *Public Health Act* was declared which gave the government special powers. Under this law, the government could adopt decrees that lasted a maximum of ten days, if I'm not mistaken. And at the end of ten days, the decree either had to be renewed or, at some point, the National Assembly had to make a decision. To avoid going before the National Assembly, the government chose to renew every ten days. It renewed the health emergency and at the same time, it changed the measures more or less regularly every ten days—which made it very, very, very difficult to follow.

Not to mention that in law, we have a code of civil procedure for court proceedings. We have rules of evidence and procedure before the courts as well: the Superior Court, the Court of Quebec, all the various courts, not to mention the administrative tribunals. And on top of that: with the pandemic, they started issuing directives, but directives for each district, each courthouse, each tribunal. It became like *The 12 Tasks of Asterix*—extremely difficult to follow. Then, in addition to the usual procedures, you had to fill out form X, then send it in so many days in advance—because it had to be captured by the digital registry so that it would appear on the roll. And then the roll calls were no longer made the same day and you had to be available the day before. And then the roll call could be made by phone. In any case, it became extremely complex and in a certain sense, very anxiety-provoking.

Samuel Bachand

What you've just described is your personal experience as a practitioner using regulatory tools, guidelines and so on, correct?

Myriam Bohémier

Yes, tools were imposed on us that were outside the usual rules: outside the law and outside the regulations. We started getting directives from chief justices, from every courthouse, and from the Ministry of Justice. You know, it was hard to keep up. It's still going on today. There are forms and then things change.

Samuel Bachand

When you say outside the law and regulations: Does your statement mean to say that the courts' COVID directives were not authorized, not statutorily founded, or simply that they were in addition to—

[00:15:00]

Myriam Bohémier

Ah, they were additional, yes.

Samuel Bachand

All right. My other question. Earlier you mentioned the decrees and, I suppose, the related ministerial orders and the fact that they change very often—on a weekly basis, perhaps?

Myriam Bohémier

Pretty much, yes.

Samuel Bachand

Good. What kind of administrative codification or consolidation was made available to jurists and the general public, so that they would know exactly where they stood?

Myriam Bohémier

Well normally it's published in the official gazette, so I don't know if that's your question.

Samuel Bachand

No, I mean was there ultimately a summary in the same manner as in—?

Myriam Bohémier

No, no, no.

Samuel Bachand

You know, in reality, a municipal by-law—and here I put the question to you—my understanding is that a municipal by-law is often a sedimentation of various amendments. Except that we make available to the public, and to lawyers, what we call an administrative codification or consolidation, which enables people to see where things currently stand. To your knowledge, was the equivalent of this type of tool made available to lawyers or the general public?

Myriam Bohémier

To my knowledge: no. I'd say it's also that we're lawyers here and it's our job. But it was also difficult for us to keep up with the measures, what was going on, and where we were at. It was *The 12 Tasks of Asterix*. It was complex.

Samuel Bachand

You can go back to your outline. I've diverted you from it.

Myriam Bohémier

Yes, it changed frequently. Then what increasingly happened was that when we wanted to challenge certain measures, the government backed down or changed the measure. And then we ended up in a lot of decisions where the courts said, “Well, it has become a theoretical debate because the measure no longer exists.”

So the government changed their measures before the hearing—

Samuel Bachand

Let me stop you there. The courts said it had become theoretical, and so what happened with the files?

Myriam Bohémier

They were rejected. The files were rejected.

Samuel Bachand

The challenges to the COVID measures were rejected because, according to the judges in question—

Myriam Bohémier

It had become theoretical. The debate had become theoretical, so—

Samuel Bachand

Because the measure in question has ceased to have effect?

Myriam Bohémier

Yes, and we talked about the Foundation’s appeal for judicial review. They spent \$700,000 to travel there, put together this file, obtain expert assessments and all that—only to have the case dismissed because it had become theoretical. I mean, that’s an incredible amount of resources invested. And just when the trials are about to take place— And that’s been done too with Madame Manole’s file, which had the health care workers, the caregivers, and the transportation files because we couldn’t travel any more.

To date, there is only the vaccination passport case, and that of the Foundation for which we are awaiting decisions. But only the vaccination passport has escaped the [label of] theoretical debate. The other appeals that were launched to contest the measures and determine whether or not they were constitutional were deemed by the judges to be theoretical. Furthermore, they said that considering the lack of judicial resources, these had to be assigned for purposes other than discussing something that had been terminated.

So if I come back to the chronology, there was the declaration of a health emergency. Then there was an attempt to introduce Bill 61, which caused a great deal of indignation because the government was clearly going too far. But the fact is that it was never actually put into place.

Samuel Bachand

You'll have to tell us something about it because we're not all aware of Bill 61.

Myriam Bohémier

Yes, well I won't go into detail because I don't remember much about it. But what I understood from Bill 61 was that it maintained a state of health emergency for two years, if I am remembering correctly. They could expropriate without compensation—and it was like nothing ever seen before. There was no more need to repeat the decree process; the government was on a roll.

[00:20:00]

[The government] said that it would make things easier—with construction projects, for instance—to get Quebec back on track after being on hold when things stopped, when we went into lockdown. So the intent was to promote the economic situation by depriving, well, you know, by expropriating, and—

Samuel Bachand

Okay, we've got 40 minutes left. I'll let you evaluate where you want to put the emphasis because you have several points.

Myriam Bohémier

Yes, yes. Okay. So in May 2021, we began vaccinating children aged 12 to 17. In Quebec, children aged 14 and over have the right to decide on their own health care. As a result, children at school could be offered vaccination and put under a form of peer pressure to be vaccinated. Then came the introduction of the vaccine passport on September 1, 2021.

Samuel Bachand

Which consisted of?

Myriam Bohémier

Which meant that people needed to be double vaccinated to be able to go to the movies, to go to restaurants, even for children to participate in activities. If teenagers over the age of 12 wanted to play hockey, if they wanted to do all kinds of extracurricular activities, they were forbidden to do so unless they were double vaccinated. Then—and this is an important point I'd like to highlight—on September 7, 2021, an article was published. It wasn't in the usual newspapers but in specialized legal journals. In it, the Chief Justice of the Supreme Court of Canada said that there was a vaccination policy at the Supreme Court of Canada and that all Supreme Court of Canada judges were vaccinated. In the same article, the Chief Justice of the Federal Court of Appeal refused to talk about a vaccination policy at the Federal Court of Appeal, saying it raised a reasonable apprehension of bias. I fully agree with this view.

Samuel Bachand

Myriam Bohémier, which publication was it?

Myriam Bohémier

It's an article that appeared in *LexisNexis* or something, but I would be able to provide it to the court [sic].

Samuel Bachand

What date again?

Myriam Bohémier

That was September 7, 2021—so even before Prime Minister Trudeau was re-elected on September 19 and imposed vaccination on federal workers. So on October 15, 2021, compulsory vaccination was introduced for healthcare workers; and it was the day before, I believe, because Madame Manole had taken steps in a legal action to prevent this compulsory vaccination. So two days before, the government backed down, saying, ah well it's going to cause a break in services. They then pushed it back to November 15. And on November 15, the government again backed down on the vaccination requirement but imposed a testing requirement. What's very important to understand is that these decrees stated that professionals who didn't respect the vaccination requirement, and later the testing requirement, were automatically undermining the dignity of their profession.

So it's like creating a presumption that they've breached their ethical obligations and may therefore have problems with their professional order. It was also indicated that the professional order could, as it were, denounce doctors by reporting matters to the Ministère de la santé des services sociaux [Ministry of Health and Social Services] and the Régie de l'assurance-maladie du Québec [Quebec's Health Insurance] in order to prevent doctors from being able to bill for services. And it's worth noting that even telemedicine doctors were obliged to be vaccinated or later, tested. So it was really a deliberate attack on the incomes and even the rights to practise of healthcare workers and professionals.

[00:25:00]

Then, around the same time, an injunction was issued that workers, federal employees, and government suppliers had to be vaccinated by November 30, 2021. Failing this, they would be suspended without pay. For his part, Monsieur Hans Mercier brought an action to try to have the vaccine passport suspended. This too was rejected.

It's also important to understand that on November 18, 2021, we began vaccinating children aged 5 to 11. And what was said was that we recommended that parents be offered vaccination. It was an offer, but not mandatory; it was not a compulsory vaccination. On the other hand, it did say that doctors could impose contraindications. But it was never said that the contraindications—which I believe were set out by the INSPQ [public health] at the Ministry of Health and Social Services—were really limited to three things. I can't remember the three things off by heart but one of them was allergies.

I had a case of a pregnant woman with a neurological condition whose job required her to get vaccinated. And she produced a medical certificate but that was at the federal level. And Transport Canada wouldn't accept her certificate because it didn't meet one of the three criteria—the three recognized contraindications. So she was suspended without pay while she was pregnant.

Then as of November 30, 2021, the federal government prevented unvaccinated people from travelling by train and by plane. And there was also a ban on unvaccinated caregivers

visiting their loved ones, helping out in healthcare facilities. I believe that was in December 2021.

And on December 30-31, 2021, a new lockdown was introduced saying that the unvaccinated were to blame. This was followed by multiple draconian measures to prevent unvaccinated people from going to the Société des alcools du Québec [liquor store], the SQDC, the Société Québécoise du cannabis [cannabis store]. Nor could they go into big box stores larger than 1,500 square feet. They couldn't go to the garage to change their tires. And they couldn't go to Costco, Bureau en gros [Staples], Canadian Tire—those places were off-limits. And they were threatening to impose a health tax on people who hadn't been vaccinated. And I know from having seen a lot of information circulating that, for example, people who were waiting for a transplant and who had reached the point of receiving a lung, for instance, were refused a transplant if they weren't vaccinated.

Then followed the truckers' convoy and the *Emergencies Act*, where bank accounts were seized without going through a judicial process. And people were jailed too. At that time, I got involved with Réinfo Covid; and several lawyers signed a letter dated February 16, 2022 to the Bâtonnière du Québec [the President of the Bar of Quebec] to say, well listen, as the Quebec Bar, you are responsible for the respect of the rule of law, for the enforcement of the rule of law, and for the protection of the public. So what's going on? What are you doing about it? We never got a reply to our letter; no reply at all.

[00:30:00]

And also in May 2022, we had several lawyers from the CCLC. It's another association of lawyers I'm involved with. We wrote a letter—

Samuel Bachand

An association called CCLC, Canadian Covid Lawyers Coalition, if I'm not mistaken?

Myriam Bohémier

Yes, that's it. Yes, exactly. So it was a former judge who wrote a letter, a complaint against the Chief Justice of the Supreme Court of Canada for his comments on the truckers' convoy, which he had called anarchic, et cetera, et cetera. But there were several cases already before the courts that were likely to go all the way to the Supreme Court of Canada. So this departure from the Chief Justice's duty of discretion—when he spoke of misinformation, anarchy, et cetera—raised a reasonable fear, in our view, among the public of not being judged impartially if ever one of these cases were to end up before the Supreme Court of Canada. And in June 2022, this complaint was ruled inadmissible.

Samuel Bachand

Can you explain to us what the concept of inadmissibility is and what it meant in this context?

Myriam Bohémier

Well, what that meant was that it was considered frivolous, you know: obviously unfounded, that it wasn't even worth the board's consideration.

Samuel Bachand

Were you given the terms of, how shall I put it, the reasons for inadmissibility?

Myriam Bohémier

Yes, we had a letter on the subject. And in short, it was basically that the Chief Justice of the Supreme Court of Canada had greater room to maneuver with regard to his duty of discretion.

Samuel Bachand

All right, then. You're halfway through your time, or a little less. I invite you to perhaps take a quick look at what all you still have to tackle, so as to touch on what's most important to you.

Myriam Bohémier

So my desire to really get involved in children's COVID-19 injection cases began with a judgment handed down on December 23, 2021, which ruled that communication between an unvaccinated father and his child would be cut off. In my opinion, the child was penalized, not the parent. Well, of course the parent was penalized, but I mean we always look at the child as having rights and parents as having obligations towards their children. That's kind of the philosophy when it comes to children's rights. And in this case, I felt that the child had been mistreated. I felt that we were preventing a parent from being who he is with his child. For me, this was important.

And remember that at that time, children had to wear masks to school. There were a lot of measures that seriously affected children. So I decided to get involved—especially as we were making decisions on COVID-19 vaccinations, injections, for children on the basis of protection orders. You have to understand that a protection order is used to deal with emergencies, okay? Let's say you separate and you want to know who's going to get custody, who's going [to get] alimony, quick, quick. You know, the things that need to be settled quickly in order to establish a status quo right at the start. But these are things that can be re-established later when we hear the evidence. Because a protection order is just sworn statements. There is no proof at that point.

But we're talking about an injection here. The injection can't be removed. Once a person has been injected, it's over: it's in their body. So I said for this, we needed decisions on merit. For me, that constitutes consent to care under the Quebec Civil Code. So it requires hearings on the merits. And I've had some success in getting hearings on the merits. But you have to understand that in the middle of a major pandemic health emergency, it was considered a question of urgency. So we had to put together files in a week or ten days: in-depth files on such a complex issue.

[00:35:00]

How did the case law develop? It was to say, "well, look, the court won't go against public health recommendations. If a parent wants to follow what public health recommends, well, that's what will happen." So the notion of the child's best interests was not really taken into account. Nor was the question of free and informed consent. I saw the documents given to parents at school and they didn't really talk about side effects. Well, they were already saying firstly, that COVID is like having a cold. Good grief, even if it's serious, it will pass.

And then they specified the risks of catching COVID-19: the systemic syndrome, the pericardial and myocardial problems were all indicated as possibilities with COVID-19.

But when it came to the side effects of the injection, they talked about possible reactions, mentioning rashes, fever, chills—you know, fairly benign things. And on the consent form, there was a question about existing clotting disorders. But nowhere did it explain why that question was asked. Still, it was important. So I made a first attempt. In the course of a few days, on a Friday, I had to proceed with a case on the merits by the following Friday. And then fortunately I had the cooperation of Dr. Lavigueur to come and attend the hearing. They refused to recognize him as an expert because he hadn't produced an expert report. Okay, I'll try again. I said—

Samuel Bachand

Madame Bohémier, I'm really sorry, but at this rate, you won't make it. So what I'm suggesting—and you're free to accept it or not—is to propose to the commissioners the placement of your summary outline in the file, along with stable hyperlinked references to the judgments you intend to comment on in the next few minutes. May I suggest that you move on to the question of your disciplinary experience and then to the practical recommendations you wish to make to the Inquiry.

Myriam Bohémier

Okay, well, briefly, on the question of vaccinating children, I tried to get a doctor to testify but it didn't work. I tried to get a vaccine expert to testify but it didn't work. I tried to submit medical certificates from a doctor who did not recommend vaccinating children but it didn't work. Invoking the fact that there were hereditary heart problems in the family didn't work. At one point, I said, well, I'm going to contact Dr. Quach, who's the president of the Comité d'immunisation du Québec [Quebec Immunization Committee], to ask her some questions since we could only take into account public health recommendations. Well, the subpoena was quashed on the grounds that this is a case between two parents on a question of parental authority. So it was not relevant. So that's it: the notion of free and informed consent was eliminated and we couldn't allow the parents to hear anything other than what the government was saying.

Samuel Bachand

This is your summary of the relevant case law?

Myriam Bohémier

Yes, effectively it is.

Samuel Bachand

Okay. Continue.

Myriam Bohémier

And here I come to my own situation, which is that during this year, or 2022, I had three requests for investigation by the *syndic's* office.

[00:40:00]

The first was following a video I made with Monsieur Stéphane Blais of the Fondation pour la défense des droits et libertés du peuple [Foundation for the defence of people's rights and freedoms]. I was questioning whether parents have the right to ask questions, to challenge public health recommendations, to disagree. And I had mentioned the name of an article which said that vaccinated people were a few weeks away from acquired immunodeficiency syndrome. I had just mentioned the name of an article. This earned me a request for investigation, and the *syndic* concluded with a simple warning. But he told me that I had no right to talk about science and that he was sure to win if he went before the disciplinary board. Because what I had said was like saying that the earth was flat, that was my—

Samuel Bachand

Is what you've just recounted the content of a written document or the content of a verbal exchange?

Myriam Bohémier

A verbal exchange.

Samuel Bachand

Can you also place it in time?

Myriam Bohémier

I made my video on February 10 and I read the response on February 25. Then, on July 14, 2022, I received a second request for an investigation. This was the result of, let's say, an emotional reaction I had to a judge who refused to recognize Commissioner Massie, present here, as an expert and his expert's report as an expert's report. As far as she was concerned, once the children's pediatrician had said that she recommended vaccination against COVID-19—that she recommended it and declared that there was no contraindication—the case was actually settled.

So I had an emotional reaction, but afterwards— At any rate one thing led to another: I asked for her recusal; I went to appeal; I filed a notice of appeal and a presentation. And the *syndic* criticized me outright for doing my job. I didn't even know what the problem was with my notice of appeal. He kept quoting me in bits and pieces but I asked him— Like, on September 29, 2022, when I spoke to him—I asked, "Listen, without admitting that I committed a fault, how could I change my notice of appeal to satisfy you?" And he never answered me. He referred me to a decision that had nothing to do with my situation.

Samuel Bachand

Do you remember what the decision was?

Myriam Bohémier

I'd rather not name it.

Samuel Bachand

Okay.

Myriam Bohémier

Following this, I have a good friend who's a lawyer and university professor—a full university professor in civil law—and as part of his teaching duties he organizes moot court competitions for his students in appeal courts. So I submitted my presentation to him; I submitted my notice of appeal to him, which I had modified; and he saw no problem.

Samuel Bachand

Listen, I think that for obvious reasons of admissibility and reliability, we should avoid invoking the expertise of a third party who cannot be questioned. Let's continue.

Myriam Bohémier

So anyway, all that to say that I had no intention of violating my code of ethics. And on November 15, the same day I did a video with Maître Fontaine on *Sam en direct*, I was served with a disciplinary complaint. Then on November 18, I received a third request for an investigation into the video I had made with Maître Fontaine.

Samuel Bachand

Excuse me, maybe I just had a moment of distraction, but the *Sam en direct* video, what exactly is that?

Myriam Bohémier

Well actually, Maître Fontaine and I represented a nursing assistant in front of his professional association because he had criticized government measures, and we went to *Sam en direct* to talk about the case and to ask for funding.

[00:45:00]

And on that show, we announced that we were subpoenaing Pfizer and McKinsey. I also announced that I intended to ask the board about their vaccination status. Because, in my experience, there are two camps now: there is no middle road. So I felt that for the sake of impartiality, it was a fair question to ask. And then just before the interview, which was about to begin, we got a warning from the *syndic* that he was keeping an eye on us. In fact, it was the *syndic* against our client, who had complained to our *syndic*. So I didn't—

Samuel Bachand

I just want to come back to this. I'm not sure I'm following you, there are several *syndics*, et cetera. Just—

Myriam Bohémier

Yes. Well, actually our client's *syndic*—representing the Ordre des infirmiers et infirmières auxiliaires du Québec [Order of nurses and nursing assistants]—he followed the video, he saw the video. So he forwarded it to our *syndic* for the Bar, who then warned us about the hearing, which was coming up on November 28. So we were under a lot of pressure.

I should also mention that before I made my presentation to the Court of Appeal for my other case, where I had had a disciplinary complaint, I had also been warned in advance to be careful about what I was going to say in my presentation. It was a lot of pressure to receive when you haven't even done anything and they are telling you, "Hey, I'm watching you because—"

Samuel Bachand

Were those written warnings?

Myriam Bohémier

No, it was verbal. Well, the one for my presentation was verbal, but the one for the nursing assistant's trial was in writing.

Samuel Bachand

In the case with verbal warnings, did you ask for a written version?

Myriam Bohémier

No, I didn't, but it [the warning] wasn't denied because I proceeded with the inquiry request just last week, the week of the 20th, from Tuesday to Friday of last week. And the *syndic* didn't deny it.

Samuel Bachand

All right. You have about five minutes left for everything.

Myriam Bohémier

Yes, okay. Anyway, all that to say that the nursing assistant's case, where we experienced the intimidation, was closed on January 10. On the other hand, I had to appear before my order this past week. I can't comment because it's under deliberation. But the members did have some interesting questions about what was derogatory about requesting a recusal or raising a reasonable apprehension of bias—because this is provided for in our *Code of Civil Procedure*. It's something you can do. It's even a fundamental right under section 23 of the Quebec Charter. So they were wondering where we draw the line between what we can do as lawyers in our job and the point at which it becomes derogatory. So there were some interesting questions, but the answer was rather weak.

Samuel Bachand

Whose answer?

Myriam Bohémier

The *syndic's*.

Samuel Bachand

Right.

Myriam Bohémier

Now for the recommendations. I'm going to dare to address a taboo that bothers a lot of people. I've noticed that I'm naturally disturbing, I have red hair and I have a way of being. I mean, in one case, there was a journalist who attended the hearing; and since she was present at the hearing, I could summon her to testify, which I did.

[00:50:00]

I've sent formal notices to journalists about Patrick Provost's treatment and media coverage. I subpoenaed Pfizer, McKinsey, and they have tried to have the subpoenas quashed: I'm awaiting that judgment. I subpoenaed Dr. Caroline Quach, President of the Quebec Immunization Committee, to answer questions. In short, you could say I've got a lot of nerve. But I see it as part of my job. In front of my own disciplinary board, I asked about their conflict of interest and also their vaccination status. And the answer was: "It's a confidential medical act." I replied, "Can you please write that into your decision as there are an impressive number of people who have lost their jobs because that wasn't accepted." It's such a simple answer. And we're still debating the issue of the vaccination passport in the courts. And yet, before my disciplinary board, it didn't even take two-and-a-quarter minutes to reach that conclusion.

So, I am coming to the practical issues, and I dare to address the following taboo: money. Nobody has the means that the government, Pfizer, McKinsey, whatever, have. I defend people who have no money. And the financing of claims is a major concern. Also, we've had appeals rejected after considerable expense because they became theoretical debates after the measures were changed. We also have many, many appeals—for example, on tickets where the value in dispute is perhaps \$1,500: we can't ask people to pay more than the value of the ticket. So it's complex because I have to eat too. I also have to live. I have to pay my rent. And people who lose their jobs, who don't have any money, finally have their means cut off.

So, how? How are we going to defend these people? It takes funding; it takes money. And, you know, for example: just to give you a written overview of all the measures, given the number of decrees, orders, and case law decisions, I could do that. But then again, I'm a full-time lawyer, one hundred per cent. It would again be pro bono work. And while I'm doing this, I'm not making any money. I'm self-employed. I don't have a job other than being a lawyer. And I'm not retired, I don't have a pension, I don't have anything else. So that's an important question because I want to help these people; and I don't want money to be an obstacle to helping them.

There are also legal notions that take precedence over human rights, such as the concept of the greater good. We have a decision on caregivers where Justice Brossard recognizes that caregivers and those being cared for are in great difficulty, that there is real damage, even potential death—but that the government is presumed to be acting for the greater good. Well, the problem is that the courts take so long to hand down decisions that, in the meantime, the debate has time to become theoretical. And people die and children are vaccinated and suffer side effects. The Court of Appeal has said that child vaccination is a matter of public law.

[00:55:00]

As for a public law debate today: None of them are heard on the merits, and it's 2023. On the other hand, I barely had ten days to prepare a trial on the children's injection issues. Neither works.

There's also the idea of unions. When a union agrees with the employer to apply measures and doesn't want to defend the employees, well then, the employees have no recourse.

There are charters. The notion of discrimination is limited to what is indicated in the charters. So vaccination status is not in the charters. On the other hand, gender identity is. So there's no protection against the discrimination we've experienced in relation to vaccination status. As for the notion of hate propaganda, which is contained in our criminal code, gender identity is there, but not vaccination status. So all the talk—

Samuel Bachand

Why, exactly, are you referring to hate speech?

Myriam Bohémier

Hate propaganda. Well, we've had such unparalleled media beating from—

Samuel Bachand

Okay, I know it's not an easy exercise but can you recollect an example of this kind of talk?

Myriam Bohémier

“Covidiot, ignoramus, selfish, toothless, imbecile; we should starve them.”

Samuel Bachand

Who carried or relayed these words?

Myriam Bohémier

Journalists and columnists.

Samuel Bachand

Okay.

Myriam Bohémier

And, yes, you could say that even our government leaders in their press conferences didn't have very complimentary things to say about the unvaccinated.

Samuel Bachand

It's time to wrap things up, as you're running out of time.

Myriam Bohémier

Yes, and now I have a few fundamental and philosophical points. First is the issue of fear. I'm a lawyer who decided to be on the front lines. This has caused me difficulties, pressures from my professional order. And there are a lot of people and lawyers who don't dare to do what I do. A lot of professionals too. So fear is an issue. It's a very big issue. If we want a

different world, we're going to have to examine that and examine also the judgments that we make about each other. Because we're on the same team here, but some people fight people on the same team. It is not easy. But judgment is what kills. They are only ideas, not reality. They're just projections of one person's own thoughts onto someone else. So indeed, that has to change.

So we have to get out of the victim-persecutor-rescuer space and look at ourselves. Because change has got to come from each and every one of us. Love yourself first of all, as you are, then accept yourself. That way we leave others free to be who they are. Because the fundamental question here is: Why is this still important today? Our right to breathe has been attacked—our right to breathe. To breathe is to live. Our right to decide what happens to our own bodies has been attacked.

Samuel Bachand

Excuse me, how was the right to breathe attacked?

Myriam Bohémier

Through masking.

Samuel Bachand

Ah, right.

Myriam Bohémier

Through masking. They attacked our right to decide for our own bodies regarding the COVID-19 injection by attacking our very survival. You know, we were given the choice between our physical integrity or our survival through our work. We're essentially fighting for humanity—

Samuel Bachand

What you mean is subsistence.

Myriam Bohémier

Subsistence, yes. We're also fighting for our humanity, for life. And what direction can we follow in a world that has lost its bearings? Everyone has to make life choices. Life choices imply solidarity and loyalty to self-love and accepting that others are the way they are, that they have the right to be, without that affecting us in any way because we are in solidarity with that right to be.

[01:00:00]

Samuel Bachand

Thank you for your time. We'll stop now.

Myriam Bohémier

Yes.

Samuel Bachand

So if the Commissioners have any further questions.

Commissioner DiGregorio

Thank you for your testimony. I'll ask my questions in English and Dr. Massie will translate for people.

[In English] Across the country, we have heard other lawyers talk also about how the Charter of Rights has not protected people.

Commissioner Massie

Across the country, we also heard a lot of testimony from other lawyers who mentioned being disappointed that the Charter of Rights didn't seem to have adequately protected people.

Commissioner DiGregorio

[In English] And we've heard suggestions that perhaps the Charter needs to be amended to provide better protections.

Commissioner Massie

Discussions were held to suggest amendments to the Charter of Rights to provide better protection.

Commissioner DiGregorio

[In English] But because amending the Charter is such a difficult thing to do, some of the other suggestions we've had are to change some of the laws.

Commissioner Massie

But since changes to the Charter could be quite complex to achieve in our confederation, people suggested perhaps trying to amend other laws that would be less difficult to change.

Commissioner DiGregorio

[In English] And so I'm interested in your thoughts on which changes might be most effective. For instance, you have spoken today about government measures being removed before you get to court. And then when the court, it comes before the court, the court says it's moot or theoretical.

Commissioner Massie

So for example, what suggestions would you have on more accessible changes, such as the comments about the reasons that are presented and become obsolete when measures are no longer active.

Commissioner DiGregorio

[In English] Your thoughts.

Myriam Bohémier

Well, I think that in this type of case, the government should have to demonstrate the measure first, rather than us having to challenge it. That would reverse the burden of proof on the government to justify its measure before putting it in place.

Samuel Bachand

What does this mean in practice? The Commissioners have been told about the Oakes test before, but in practice, the burden of proof of the state or the public prosecutor does not operate in the same way, as I understand it. So perhaps you'd like to explain to the Commissioner what you mean procedurally.

Myriam Bohémier

Procedurally it would mean that before adopting an infringing measure, human rights must be discussed. Not just any rights. We're talking about physical and psychological integrity, the right to life. These are rights to which you are entitled simply by being born, they are intrinsic human rights. It's written in the Quebec Charter.

Samuel Bachand

The practical side?

Myriam Bohémier

Yes. To infringe these rights, the government would have to justify that the measure it wanted to put in place was justified within the framework of a free and democratic society. And it would have to meet the criteria of proportionality and reasonableness before imposing the measure; and then, I tell you, it would go to court very quickly.

Commissioner DiGregorio

Thank you.

Commissioner Kaikkonen

[In English] The Prime Minister rejected truckers as anarchists while actively supporting Black Lives Matter.

Commissioner Massie

The Prime Minister called the truckers anarchists and protesters on the same level as people who protest in militant groups like Black Lives Matters.

[01:05:00]

Commissioner Kaikkonen

[In English] At the same time, the federal court is posturing, signalling to the populace that they are vaxxed.

Commissioner Massie

At the same time, the— [In English] Can you repeat with me?

Commissioner Kaikkonen

[In English] At the same time, the federal court is posturing, signalling to the populace that they are vaxxed.

Commissioner Massie

At the same time, the government is reporting that there are people who are recognized as vaccinated.

Commissioner Kaikkonen

[In English] The censorship bill C-11 was signed into law by the Governor General in record time.

Commissioner Massie

Bill C-11 came into force in record time and was quickly approved by the Governor [General].

Commissioner Kaikkonen

[In English] The lesser magistrates have climbed on board, deferring their decision-making power to public health.

Commissioner Massie

The judicial authorities quickly delegated their judicial functions to the government health authorities.

Commissioner Kaikkonen

[In English] We've heard testimony that our institutions are weaponizing the law to suit their own ideological agendas.

Commissioner Massie

Across Canada, we've heard testimony that institutions have used the law to implement their ideology.

Commissioner Kaikkonen

[In English] Particularly when they consider their own institutional view as the only acceptable view.

Commissioner Massie

Particularly when these institutions considered their vision or ideology to be the only acceptable one.

Commissioner Kaikkonen

[In English] And that the dissenting views of the citizenry are not accepted.

Commissioner Massie

And that any other vision of the world or other ideologies of citizens were perceived as unacceptable.

Commissioner Kaikkonen

[In English] So given where we are and your own experiences as a lawyer: Are we already living in a police state? And what constructive recourse do hard-working Canadians who love this country need to do to restore their God-given inherent rights and freedoms and, as you suggest, their birthright?

Commissioner Massie

So given the situation we find ourselves in, which is documented by a whole series of court cases that were quickly evaluated, as we've seen, as you've testified: Are we finding ourselves more and more in an authoritarian police state—one that is in fact eroding citizens' rights, fundamental rights, rights that are given at birth? And what can we do to try and re-establish the exercise of these essential rights, the fundamental rights of citizens?

Myriam Bohémier

Yes, in my opinion we are now in a totalitarian state. The last three years have shown that the courts have been powerless to prevent the infringement of people's fundamental rights, whether by delays or by strategy under the *Public Health Act*, where measures are changed a few days before the hearing. So there's no doubt that everything that's in the *Public Health Act*—those measures can't continue. And what's worrying—very worrying—is that the Charter statute is supposed to be higher than the measures and decrees of the *Public Health Act*. But that's not what we've seen in recent years.

So all the tools exist—they are there—but they're illusory. We haven't been able to use them. We've invoked them. We've gone to court to claim them. But there are concepts like judicial notice; it's a concept where it has been said that— Well, it's now judicial knowledge that there's a pandemic.

[01:10:00]

But it's never been proven that there was a pandemic. It was the government and the media that said there was a pandemic. But no demonstration has ever been made in a court of law that there was in fact a pandemic. So this concept: from the moment that everyone believes there has indeed been a pandemic and this premise goes unchallenged, well then, all else follows. The measures become justified, and everything can be explained on that basis. But that's why—particularly in a disciplinary case involving one of my clients—I questioned the notion of a pandemic because there was no excess mortality at that time. But since the COVID-19 injection, yes, now there has been excess mortality.

So in my opinion, you have to dare to question these false premises. And if we don't go that far for fear that the courts won't accept us going that far, or for fear of losing our credibility as a lawyer, well I mean, we won't succeed that's for sure. Because the basic premise isn't true. So you have to challenge it; you have to work through it; and then you have to dare to do it. I haven't seen much of that being done because it was deemed too difficult to question that premise.

Commissioner Kaikkonen

Thank you very much.

Samuel Bachand

Myriam Bohémier, thank you for your testimony on behalf of the Inquiry. You've always been free, but now you are free to go. Thank you.

[01:12:00]

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The evidence offered in this transcript is a true and faithful record of witness testimony given during the National Citizens Inquiry (NCI) hearings. The transcript was prepared by members of a team of volunteers using an "intelligent verbatim" transcription method, and further translated from the original French.

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