



NEWS

No, freedom of speech won't save a politician's job in Canada: experts

MPP Roman Baber bound by caucus solidarity: political scientist

By [Veronica Appia](#) Toronto.com

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As an average citizen, if you have opposing views from the government about COVID-19 restrictions or lockdown measures, you have the right to voice those publicly.

That is because, as a Canadian, you have the right to freedom of expression, under [Section 2 \(b\)](#) of the Canadian Charter of Rights and Freedoms.

However, for Canadian politicians, the repercussions for voicing those same views publicly can differ, experts say.

It is not the case that a politician forgoes the right to freedom of expression — they still have that right. Rather, as a Member of Parliament or Provincial Parliament, they are also bound to certain constitutional conventions, Jonathan Rose, associate professor of Canadian Politics at Queen's University, said.

Let's break it down, based on the most recent example.

On Jan. 15, York Centre Progressive Conservative MPP Roman Baber issued a public letter to Ontario Premier Doug Ford, expressing his views in opposition of the current lockdown measures being implemented by the Ontario government.

Lockdowns are deadlier than Covid. I wrote a respectful letter to Premier Ford, asking to end the Lockdown. Look @ the data -the virus is real but the crisis is mostly in LTC. Let's focus on LTC & hospital capacity, but ending the Lockdown is best for our health.#onpoli #cdnpoli
pic.twitter.com/IluvB7OXQo — Roman Baber (@Roman_Baber) January 15, 2021

Less than two hours later, Baber was **removed from caucus** and Ford noted he “will not be permitted to seek re-election as a PC member.”

But why was this the course of action and does it stifle Baber's right to freedom of expression?

“A lot of people confuse the ability to do something with the legitimacy of that action,” Rose said. “Whether he was able to do it or not, I think, is besides the fact that he should not have done it.”

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Rose explained that, as a citizen, a MPP does have free speech rights that they can exercise; however, being in the role of MPP means they are also bound by certain restraints and rules — one being caucus solidarity.

He said while it is completely appropriate and acceptable to have a “full and frank discussion” about these opposing views — as well as any other — while behind closed doors in caucus, an MPP cannot do it publicly.

“I think Premier Ford had no option but to let him go, in part because it was such a serious frontal assault on his leadership and the premier’s control over caucus, but also because it flies in the face of the government’s arguably only legislative priority,” Rose said. “And if you’re not on board with that, there’s no reason you should be in caucus.”

On Friday, Ford also made a secondary argument that Baber was “spreading misinformation” through the contents of his letter. Since then, Baber has been taking to social media to counter the argument.

But whether each statement made by Baber in the letter was accurate or not is besides the point when discussing why he was removed from caucus, Rose said. The issue is not so much about what was said, as the fact that it was aired publicly.

Brett Caraway, associate professor in University of Toronto’s Faculty of Information, agreed.

“It could be argued that that's not what Baber did (spread misinformation) and that he was basically just making a value judgment that the lockdown is as, if not more, pernicious as the virus itself,” Caraway said.

“In the end, there's not a straightforward answer to whether or not the statement was inappropriate, but I do think it's completely appropriate for the PC caucus to decide, ‘yeah you can't be a member or run for re-election as a Progressive Conservative.’”

Richard Stacey, an associate professor of law at University of Toronto, said in an email statement that the PC Party is essentially a private organization and that “the Charter applies only to government actors, not private associations.”

“In managing its internal affairs — disciplining a MPP, for example — it seems to me that a political party is acting in its capacity as a private association, and not as government,” he said.

Stacey added that, in this particular case, there has been no limitation on free speech

because there has not been government action preventing the free speech from occurring.

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Veronica Appia is a reporter with Torstar Corporation Community Brands, covering COVID-19 news across Ontario.

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