

Rune Brekka

Freedom of expression versus Gender expression

**Arguments against anti-discrimination laws in
Canada**

Bachelor's project in Sociology

Supervisor: Melanie Magin

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Introduction

The overall theme of this bachelor thesis is the controversy surrounding Bill C-16. This Bill is an amendment to the Human Rights Act and Criminal Code in Canada. What it does is include gender expression and identity under the protection against discrimination, and it also includes them in the protection against hate speech under the Criminal Code (Canadian Human Rights Act, 2017, §3-1). This is in itself a great step towards equality as there should be no reason to discriminate against someone based on their gender or sexual expression. The controversy lies in those who oppose this Bill. The opposing side claims that this Bill goes against freedom of expression or speech. Their main point does not lie in the Bill itself, but rather in the policies that follows Bill C-16. We can summarize the relevant policies to the opposing side to personal pronoun usage. Their main point is that because of the policies surrounding Bill C-16, they have to say and use certain pronouns that they did not have to use before the amendment. So why exactly is this a black mark against freedom of speech or expression? Their main argument here is that the law by the policies, and therefore the state of Canada, require people to use certain language or words when talking about or to a transgendered person. By their arguments that goes against freedom of expression because the State says you must use certain words. These controversies and discussions are what this thesis will try to cover.

When describing this case, one could say that this is a fight between few vs. many, most people want to be inclusive of different groups. This does not mean that the few does not get their way at times. This Bill has been halted several times by only a few opposers but have been fought for the whole way by the LGBTQ-community. Feminists have been fighting for equality for decades, fighting for their rights as women and their freedom to express themselves. But they are not alone in their struggles, the trans-community has also fought, and this is just one of the latest battles for equal treatment for them as well.

Topicality 1.1

Bill C-16 became law when given the Royal Assent on June 19, 2017. There has been a lot of discussions and controversy surrounding it. The controversy comes from those who oppose this Bill, and the most vocal of these opposers is Jordan Peterson. Peterson is a psychology professor at Toronto university, who has had some recognition, and in some sense made a

claim to fame for his view on this Bill. In part of what makes this such a controversy is also the fact that wherever he goes, protesters are bound to follow. He is not the only one to oppose this Bill, however he is the most noticeable and he is the person whom is viewed as a champion to their cause, which is why I have chosen to focus on his arguments. A lot of turmoil and outrage has erupted from the transgender community because of his fight against this amendment. Even though the amendment became law in 2017, it is still a discussed topic among those who oppose it, and therefore the transgender community have to keep fighting over this issue.

Sociologically relevance 1.2

This thesis is relevant in many aspects. One of the most important things sociology does is to explain or peer into the lives that are led in today's society and what might cause an effect on how those lives change. This thesis will cover Bill C-16 which has changed the lives of a whole community, but instead of focusing on the lives in that community, it focuses on the Bill itself and the arguments opposers has to that Bill. Another part of why this is sociologically relevant is that the opposing side claims this to be a violation on freedom of expression, which is an important part of today's society. Any acts that violates this freedom and human right must be taken with all seriousness and investigated, especially when it comes from a nations state via the law.

In another aspect, it is also interesting sociologically to look at what kind of wording and rhetoric the opposing side uses trying to convince others as to why this law should not be passed. My own interest on the subject is simply a fascination of the thoughts that oppose Bill C-16. The thought of an amendment to include someone into the protection against discrimination as something that violates the human right of freedom of expression is firstly baffling, and secondly captivating from the very first glance. And such started my deeper fascination on the subject at hand and the reason behind this whole thesis. One could also investigate the trans-community and see how this amendment would change their day to day lives and what it means for them to have Bill C-16 pass. What counter arguments has been used and what the meaning behind such arguments could stand for could also be of an interesting topic. I chose the opposition because there is some relevance to the arguments that are being made. The arguments being made of the opposing side is not just something to be swept under the rug, it needs to be analyzed. My thesis isn't about trying to find out if

opposing this amendment is right or wrong, but what reasons and words are used to oppose such a change in the law.

Structure of the thesis 1.3

This thesis is split into five chapters with a different focus in each chapter. Chapter one as per usual consists of a short introduction of the theme and why it this theme is worth looking into. Following chapter one, we have the successor which lays the theoretical groundwork for the understanding of the data and to be used in the analysis in later chapters. The theoretical framework will be limited to what is deemed relevant to the data at hand. In chapter three we will look at the data, it is important here that these are presented in a neutral fashion and give an overview of the situation in question. Chapter four we will take on the task of analyzing the data and materials that have been collected, and this is followed up by our findings which will be explained in chapter five.

Research question: How does the opposing side to this amendment justify their position?

Bi-questions: 1. How do they argue their point to appeal to the audience?

2. What structure or system could have sparked the opposition?

Theoretical framework

In this thesis I will use feministic theories to look at discrimination and power relations that might be relevant for the subject. The feministic theories will help explain how transgendered people have experienced this controversy and will also lay a foundation for investigating inequality and oppression. The feminist theories will be a way to look at the subject, not in the form of looking at women in this but rather as the transgendered as an oppressed or subordinate group.

I will also take a look at what freedom of expression is and where it comes from, mainly to have a viewpoint to investigate whether the opposing side and Jordan Petersons arguments holds valid in a structured way. Finding the root of freedom of expression is important to have knowledge about what the initial thoughts about this human right was in the beginning and where it is now. This is because the knowledge of the real meaning in freedom of expression

might be different from what Peterson and the others actually mean when talking about the subject in question.

In the analysis I will also use rhetoric analysis to investigate the arguments made by the opposing side. The use of Ethos, Pathos and Logos will help clarify how the arguments are supposed to work. I will also use structuralism as a way of thinking to try to understand why he might be arguing the way he does. When combining these two I think we will get a more complete picture that will help us understand what the underlying causes and reasons for the arguments.

Feministic theory 2.1

Feministic theory is seeing the world from the viewpoint of women regarding social life and general human experience (Ritzer & Stepnisky, 2014, p.440). As such it does not seem like it would fit in with the agenda of this thesis, but as one might understand the oppression that was faced by women can in some sense be applicable for the transgendered. One should also mention that it was the feminist theories that first came up with the idea of gender as socially constructed through socially learned behaviors and not necessarily biological determined attributes concerning differences between men and women (Ritzer & Stepnisky, 2014, p. 441). Feminists also found that genders are situated differently in society and that men and women are situated unequally, not only in social status but also in material resources, power and opportunities for self-actualization (Ritzer & Stepnisky, 2014, p. 452). Understanding inequality between men and women will also help us see and understand other structures in society that is creating inequality for others, not necessarily just between men and women. Stratification is a part of this structural inequality and gender is a key component for the basis of that structure (Risman, 2004, p. 433). This has consequences on multiple levels, such as the individual level, the social interactional dimension and, perhaps most important for this thesis, on the institutional level (Risman, 2004, p. 433). On the institutional level we must look to law, formal regulations and organizational practices to understand inequality, based on that the different parts of the institutional level also distinguishes between gender or sex categories (Risman, 2004, p. 436). Although changes come to the institutional dimensions, more often than not gender stratification and thus inequality, remains part of society (Risman, 2004, p.436). There can be found a lot of power to change the social structure to a more equal system for women, not only that but there are arguments made that to have equality you even need to restructure the institutions themselves (Bem, 1993, pp. 176). Also, when it comes to the institutional dimension and inequality, a way to empower a certain group can be done by

the state or government by changing the legal code in their favor in such a way it has not been before (Lorber, 1994, pp. 256). Sometimes it is also necessary for these groups to empower themselves through the legal system, this is also why some take to activism (Lorber, 1994, pp. 256).

Freedom of expression 2.2

The reason as to why I put freedom of expression under theory is because it is used as a basis for the arguments of those that oppose the change. Freedom of expression is not a theory, but it will be a way to discuss if the points and arguments made by the opposing side are valid. I will investigate where freedom of expression has its origins, historically and what it means in contemporary society.

The origins of freedom of expression comes from ancient Greece and is said to have come from the aristocracy and the nobles (Raaflaub, 2007, p.65). At that time, it was not free speech as we know it, but it was considered an important instrument to the democracy that all citizens had the power to address the assembly (Raaflaub, 2007, p.65). So, from the earliest sentiment of ancient Greece, the thought of freedom of expression was considered a political right. In other words, something to be used to take part in political life, decisions and voice one's opinions on political matters. On the other hand, we should also look at more recent times to find something a little more known. Although it is from 1789, the "Declaration of the rights of man and the citizen" from France, may be called recent on the scale of ancient Greece and up to this moment in time. Article 10 and Article 11 of that declaration are relevant even in these modern times. Article 10 reads as follows: "No man may be harassed for his opinions, even religious opinions, provided their expression does not disturb the public order established by the law" (Warman, 2016). We also have Article 11 which is equally important:

The free communication of thoughts and opinions is one of the most precious rights of man: every citizen may therefore speak, write and publish freely, but shall be responsible for such abuses of this freedom as shall be defined by law. (Warman, 2016)

As we can see, the French thought of freedom of expression as something not just as a political affair but as a right to certain kinds of freedom everyone has as a citizen. As this is a case in Canada, I would be remiss if I did not include the law on freedom of expression *in*

Canada. The section which is most relevant to this thesis is section 2(b) of the Constitution Act under fundamental freedoms, which states as follows: “Everyone has the following fundamental freedoms: [...] (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media communication [...]” (Constitution Act, 1982, §2-b). This is freedom of expression, however freedom of speech which is also declared a human right can be found in the Canadian Bill of Rights (Walker, 2018). As we can see the Canadians have freedoms as good as the rest of the west, but these freedoms also have limitations. By limitations the Supreme Court of Canada has said that the freedom of expression although a right, cannot be absolute in that it may prevent the rights of another group (Walker, 2018). The expression that is limited is the kind that goes against the spirit of the law, this means such expression as hate speech and the like. The reason for this is because the purpose of such expression is to limit another person’s rights (Walker, 2018).

Rhetorical analysis 2.3

A rhetorical analysis is what you do when trying to comprehend what was the meaning behind something that was said. Or in other words, the analysis of an utterance. A rhetoric utterance is how someone argues to try to compel you to their view of things, often in a capacity to make something happen from it (Johannessen, Rafoss & Rasmussen, 2018, p. 188). For example, if someone tries to make you go home after overstaying your welcome, he or she might try to argue that he/she must wake up early the next morning, meaning they are trying to compel you to leave (Johannessen, et al., 2018, p. 188). In other words, uttering words to make something happen or someone take action. When doing such an analysis one must take into consideration the context of the statement in which it was made. This is called the rhetorical situation, which is the context of what one is trying to convince an audience of (Johannessen, et al., 2018, p. 188). There are two contexts one has to differentiate between in a rhetorical analysis, the narrow and the wide situation. The narrow situation is simply put the context of who, where and when the statement was made (Johannessen, et al., 2018, p. 188). The wide situation on the other hand is more substantial than just who, when and where. The wide situation is about the cultural meaning and backdrop, the historical implications and what might have led up to the expression or statement (Johannessen, et al., 2018, p. 191).

There are three appeal-forms a rhetorical utterance might take, ethos, logos and pathos. Each of the appeal-forms is how the statement is meant to appeal to an audience, and they differ

from each other even though they have the goal to achieve the same, action. Ethos, the first appeal, is about making oneself sound and look believable (Johannessen, et al., 2018, p. 193). In other words, make yourself seem as trustworthy as possible. This does not necessarily speak for the character of a person, but how his or her character is perceived by an audience (Johannessen, et al., 2018, p. 193). Pathos, the second appeal, is about appealing to the feelings of the audience. Changing how or making people feel a certain way can be a forceful tool to make people take action or change their opinion (Johannessen, et al., p. 197). Emotions can therefore be an important key to move an audience and convince them to your side of an argument. Third and last, we have logos, which appeals to the logical sense of an audience. Logos uses factual arguments to convince an audience that you are correct (Johannessen, et al., p. 200). When we appeal to someone's logical sense, we are considering two aspects of the argument, what is the central claim that is being made and on what grounds and how are they made legitimate (Johannessen, et al. p. 200).

In this part of the analysis I also want to use structuralism. The primary concern of the structuralists and the source of the modern structuralism is linguistics (Ritzer & Stepnisky, 2014, p.603). Often thought of as one of the forefathers of structuralism, Ferdinand de Saussure thought it was important to differentiate between *langue* and *parole* in linguistics. *Langue* is the grammatical and formal system of a language, the way it is supposed to be written and spoken determined by rules (Ritzer & Stepnisky, 2014, p.604). *Parole* is the way we speak, how we use language to express ourselves (Ritzer & Stepnisky, 2014, p.604). The main thought behind this differentiation is that one has to look at the system behind the language to understand it and to be able to explain it. In other words, structuralism is a way of thinking, a concept that helps you to understand objects or subjects because of the relations they have to other things. Structuralism and structuralist analysis are about describing objects and that these objects can be characterized by structures and systems that the objects are part of (Gough, 2010, p.1). In this thesis I will use structuralism as a way of thinking about the arguments and the position they take. It will give this thesis a perspective as to why these arguments.

Data & Method

In this chapter I will look at the relevant data. The data is opinions of the media about Bill C-16, the changes the Bill brings and what the policy's wording. I will present the law and make

it clear what changes has been made so one has the context of the argument. I will also present the policy on which the arguments of Jordan Peterson and the opposition rests. Later in this chapter I will also present the general opinion of the media, this is because the media is an important factor as to how things are presented to the public.

Bill C-16 3.1

By the uproar about this change one would think the whole law was changed dramatically. The reality is that the change in the law itself is quite small. So small in fact that if one did not know it before hand, one might not have noticed. The change is an addition of the words “gender identity or expression” to the law. We can look at the prohibited grounds for discrimination to see how small a change we are dealing with:

For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. (Canadian Human Rights Act, 2017, §3-1)

The underlined words are the changes made to the law. As one can see the changes are minimal. What the law symbolizes on the other hand is an extensive change in the pursuit of equality for those who do not recognize themselves as neither man nor woman. As we can see the change is a small one in the law itself, it is simply an inclusion of “gender identity or expression” as a group that should be protected under the Canadian Human Rights Act.

Ontario Human Rights Commissions Policy 3.2

This policy is somewhat of a linchpin for the arguments made by Peterson and the opposition, and there is just one sentence in the midst of the policy that is referenced more than any other by the opposing side. The sentence in question is about the personal pronouns which are mentioned throughout the senate hearing. The policy states as follows: “Gender-based harassment can involve: [...] Refusing to refer to a person by their self-identified name and proper personal pronoun” (Ontario Human Rights Commission, 2014, p. 18). I must clarify that having read all of the characteristics of what gender-based harassment can involve, this specific one is the only one that states that you cannot refuse using certain words. In other words, the policies on what harassment can involve are predominantly what you cannot say and do, except this one which demands you use certain words.

The fact that Jordan Peterson and the opposition are so specific about this one sentence in the policy is one of the reasons as to why I chose to include it in my data material. This one sentence is so pivotal that it seems almost singlehandedly like the reason to why they are arguing against Bill C-16.

Medias opinion 3.3

Here I have focused on a small selection of news outlets that voice their opinions on Bill C-16. I took a random selection of two national newspapers and a news broadcasting station and searched for what their opinion was. The randomly selected was The Star, The CBC and The Globe and Mail. I then searched for the newspaper name combined with Bill C-16 to cast the broadest net I could, also this way keeping the search neutral instead of adding pro/con wording to the search.

What I found was an overwhelmingly positive response to the Bill. These media sources were positive before the Bill became law and after the law was changed. Not only were the opinions positive, but almost making Bill C-16 a championing cause for equality. As an example, we can look at an excerpt from The Globe and Mail: “In the end, equality prevailed, and trans and gender non-binary Canadians are recognized as formally equal citizens” (Cossman & Katri, 2017). When taking this into account, we can conclude that the opposition to this law is an outlier to the norm. The media, and therefore the people seem positive to the change.

We can also quote The Star and their exuberant remarks on the Bill: “[...] in a glorious display of Canada at it finest, Bill C-16 was introduced in Ottawa and will amend the Human Rights Act to ban discrimination against people based on gender identity or expression” (Coren, 2016). As we can see, the media is almost overflowing with positivity toward the changes.

Method 3.4

For my selection of texts and data, my criteria were that it had to be arguments that had been said in public. Something that could be analyzed and discussed, not blank statements with no real content. I chose to use only one video for the analysis for the arguments, the reason for as to this video in particular was because of how properly every argument is introduced. It also speaks to my logical sense that this video can be trusted in that it has no video trickery that would make the case seem anything else than a proper discussion. As it is part of the senate

hearing on the Bill C-16, there is also precedence on how closely related the arguments are, and I think you cannot get any closer to the issue at hand than Peterson arguing the Bill in front of the senate that will ultimately be part of the decision on whether or not the Bill passes.

In the analysis I will first look at what the trans-community have been facing in a feministic perspective. The feministic analysis will mainly focus on how the people who do not identify within the binary system have been oppressed. This means I have to look outside the main focus of this thesis to get a broader perspective and more of the context of the situation.

Firstly, when analyzing, I will set the framework with the feministic perspective, from there I will see what the broader context tells me. In other words, I start with the theoretical principle and work through it to see if it is applicable to the situation. Later in the analysis there is a discussion on if this policy or change in general would affect free speech or freedom of expression. I will look at different arguments to see if one can justify one or the other with the freedom of expression at the base of every argument, and with that see if Petersons arguments hold water. In the largest part of the analysis will be the rhetorical analysis, this will be split into different parts. Firstly, I will look at the situation, both narrow and wide, to give some context to the analysis and arguments made later. The rhetorical analysis will also be split into 3 categories, namely Pathos, Ethos and Logos. In this part of the analysis we shall look at the different statements Peterson made and what they mean to the argument and how they affect people.

First, Ethos, as a category this means I will look for anything that would make him seem more trustworthy. This means reading the excerpt, finding it and listening and watching it all over again, multiple times. As this is my perspective, I will have to be aware that it might not be the way that I interpret it. That goes for every category and the analysis as a whole. For Pathos, I will focus on anything that makes me feel that there is more meaning behind certain words, and what the usage of these words might be interpreted as. I am aware, and sure of, that a lot of words can bring a lot of people different feelings and emotions, as such in this analysis, I will find what I see as the most common conception of these words and the analysis of them. Lastly, Logos, here we shall look at what might be deemed reasonable and logical in Petersons arguments. My criteria here is if there is anything in his arguments that makes sense without having Peterson go into great detail, as if there is some unsaid or reason not expressed directly in words.

I would like to add that as far as my research goes, I have not found any earlier research on the subject that this thesis is handling. And as such this thesis could prove difficult to answer with the analysis that follows. That said, I will say that I believe this was the best option that presented itself to me to relieve me of some of my curiosity on the subject. In the way of validity, I believe I have chosen the path that answers my research questions most accurately, which is what this concept is about (Tjora, 2017, p. 232). It is difficult to know completely as there is no research on the subject that I know of, and thus I have nothing to compare my work to. I will argue however that I have covered a lot on the subject that is relevant to the case and research question, not only that, I have also given a lot of context as to make the subject and case easier to understand. As for my reliability I have gone into my personal interests in this thesis, but I have also done my utmost to remain neutral in every aspect, which every researcher worth his salt should (Tjora, 2017, pp. 235). If I was not interested in the subject, there would not be a thesis, and I believe that such is it for a lot of scientists. If this thesis is applicable on other cases or has some generalizability, meaning it is applicable to a broader set of cases, of sorts could be discussed at length (Tjora, 2017, pp. 238). Although I chose to believe that since this is a quite the unique case it has not much of a generalizability to it, the information uncovered might be of some value to other research that might cover the same type of subject. I would also like to add here that when it comes to ethics, I have given it some thought. There is not much to say about for example exposing a person's private information on the account that all these people are in the public view. And I would think that this thesis partakes in a discussion, although it might be a sore subject for some, that is important to have even though some might see it as morally or ethically grey area. My conscience is therefore clean when writing this thesis as I understand that the empirical data and facts must be right for it to be ethical to publish (Materstvedt, 2018, p. 116).

Analysis

In this analysis I will first look at the situation the trans-community find themselves in and through a feministic theoretical perspective explain why this Bill is so important to them. I will also use the feministic perspective to look at what kind of oppression they are experiencing. Later in the analysis I will use freedom of expression to look at the arguments presented by Jordan Peterson and the opposition to see if what they say is sound as an argument. Lastly in the analysis, the rhetorical analysis will be used to understand the

arguments made by the opposing side to find a concrete answer to the research question. The rhetorical analysis will take up most of the analysis and will be split into parts. The context of the statements, followed by an analysis of pathos, ethos and logos.

Feministic perspective 4.1

With the feminist perspective I would lead off by stating the fact that on the institutional level it is the law and formal regulations we look to when looking for and deciding if there is inequality towards a group when looking to the institutional dimensions (Risman, 2004, p. 436). On the institutional level we find federal laws and regulations, and it is also here we find the change Bill C-16 brings. By the fact that this Bill is only now become something to be considered, it also means that before this amendment, the trans-community has been under institutional inequality and oppression. The change is to a law against discrimination, by the simple fact that the wording “gender identity or expression” previously has not been written into the law makes them a target for discrimination and oppression. On one hand you could argue that they have been protected under the provincial laws which are indeed similar and gave their protection to the trans-community. On the other hand one has to take into account that this is a federal law, which means that people who has a different gender expression than the binary options could be discriminated against by the federal government, which also means that they would have been situated differently in society and thus be unequal to the people finding themselves to be in the binary conformity.

When the institutions are oppressing for a group one would perhaps need to restructure the institutions, such as law and the federal policy on certain groups (Bem, 1993, pp. 176) And as such for the trans-community there has been a fight for equality by law change on the federal level that has been needed to be empowered. One of the most visible ways to empower certain groups that truly have needed it has always been through change in law and policy (Lorber, 1994, pp. 256). And with this law change it will also make it easier for a trans-person to seize more opportunities for themselves to self-actualize. Simply stated, since they now have the same anti-discrimination rights as everyone else, they now have, at least more equal opportunities (Ritzer & Stepnisky, 2014, p. 452).

Freedom of expression 4.2

What Jordan Peterson and the opposition seem concerned about is the policy of the OHRC on gender pronouns. The OHRC policy that they are referring is the policy against discrimination based on gender identity and expression. The policy outlines what gender-based harassment is

and actions that are defined as such. Among these actions are such as “refusing to refer to a person by their self-identified name and proper personal pronoun” (Ontario Human Rights Commission, 2014, p. 18).

An important part of Jordan Petersons arguments is that these pronouns have an ideological implication and that a person has to use these pronouns despite their belief or opinion that these are real or just made up by those who has a certain ideological view (Peterson, 2017, 2:16). If one combines this with the policy that demands you to use these words, are they not forcing a belief on the people that do not think this way? The Canadians have the freedom of belief, thought, opinion and expression (Constitution Act, 1982, §2-b). This should cover the right not to use these pronouns. One should also think that since it is a policy and not directly stated in the law, the pronoun usage should not affect anyone who truly do not have this opinion. If one is forced to use pronouns that does not share term with one’s opinions, it is in fact a violation of free speech and expression as defined in the laws reviewed here. But there is also the fact that the court does acknowledge that the freedom of expression part of the law cannot be guaranteed to be absolute. For example, one cannot hinder the expression of another group, such as hate speech against such groups (Walker, 2018). But would the refusal of using pronouns warrant as harsh a judgment as hate speech in the way that it is being presented by the law and policy? Hate speech would incite violence against a group, which a refusal to utter words does not do. But it does not have to be just hate speech, but anything that would run counter to the spirit of the charter, and that has a wide variety of ways you can interpret it (Walker, 2018).

When it comes to it, freedom of expression is about having the right to express one’s opinion and thought freely. In other words, no one is allowed to force you to express opinions that are not your own. Even though a person’s opinion might be wrong, he or she has a right to that opinion. A problem arises when such people as Jordan Peterson who refuses to use such pronouns because it lies in his opinion or belief not to do so, the government would then, through the policy, force him to use them. And this is what Petersons compelled speech argument is about, expressing an opinion that is not your own. Jared Browns main argument is similar but replaces the ideological notion with a more totalitarian state view, in that the state requires or mandates that you use government approved words when talking about a subject. This fits in with Petersons argument about compelled speech.

The rhetorical analysis 4.3

The narrow situation

The narrow situation is a simple but important matter of where the statement takes place, who says it and hears it, and when it takes place. In this case it is in a senate hearing room in Ottawa, the 17th of May 2017. The people present are the senate committee on legal and constitutional affairs, politicians from the conservative side and from the liberal side, the audience, the press and the witnesses, which Jordan Peterson and Jared Brown are witnesses. As with a rhetorical analysis one has to consider the audience, or rather who he is trying to compel or convince. In this case it is the Senate Hearing Committee, the press, and the people as an audience. Depending on the audience the effectiveness of their arguments may vary.

The wide situation

One has to put into context that such as transgenderism does not fit into some people's binary gender system, in a structure that has lasted for ages. There has always been the dichotomy, with some exceptions in different cultures, of he and she, and because of that there could now be a refusal to implement anything outside that dichotomy, at least in the way of pronouns. By understanding that transgenderism is something that is recognized and only now in modern times been accepted by the majority, we can also see some of the backlash to the changes in language, such as Peterson's objections. Although not a focus in this thesis, one could consider religion and belief as a reason against transgenderism, mainly because of their strong belief of a dichotomy on gender and until recently, and in some cases still do, has also argued against same-sex activities in general (Schieffloe, 2015, p. 458). If we look at this cultural backdrop from a structuralist perspective, we can look at the structure of gender. Most aspects of our culture and society when related to gender is split in two, the male and female, which has different roles, attributes and connotations associated with them which can be seen for example in socialization where we learn how to behave in society (Schieffloe, 2015, pp. 288). This however is changing as transgenderism is becoming more and more common, and its validity as a choice made more accepted not only socially but also in matter of law, as one can see with the change Bill C-16 brings and represents. When it comes to change, there will always be those who oppose it, and this is a change to what has been an enduring and rigid structural pillar for a lot of aspects in society. There are several reasons as to why people could or would oppose change, especially social ones. For example, when we are in the early

stages of socializing, we learn from our parents what roles each gender play, and usually this follows a certain systematical pattern (Schieffloe, 2015, pp. 288). These may now be changed as people may feel that they no longer fit in those categories. But there will be those who cling to such categories, simply because it is their way of understanding their world.

Ethos – Appeal to trust

Ethos is about making yourself seem trustworthy and believable to the audience, and this is not always the things we say, it is however all the things that makes an audience *think* he is more or less trustworthy, that means also any externally communicated reasoning (Johannessen, et al., 2018, pp. 193). Jordan Peterson can seem trustworthy for an outsider in multiple ways. One of these are his title, or how he is presented to the audience and the Senate. He is presented as a psychology professor at Toronto University, which means he has a doctorate in psychology. This alone gives him a claim to some authority, perhaps not in the field of law but as a person who has a higher education than most people (Johannessen, et al., 2018, p. 195). Simply his position as a professor will make him more trustworthy in the eyes of the audience. But you also have to take into consideration who the audience is to know this effect. This audience does not only contain “regular” people with a high-school diploma but also politicians, lawyers and the Senate Committee, which might not be as impressed as the rest. They might not see him in a position that makes him trustworthy at all, in fact it might work against him. This is because they could see him as not well versed in the judicial system and the federal laws because of his position as a psychology professor. This is because his position in their eyes could be of no importance or not relevant (Johannessen, et al., 2018, p. 195).

It is also important to consider what Peterson do when talking and how he presents himself. His body language is calm and collected, so is his voice and demeanor, and he is dressed in a nice suit, this also plays a significant part in being believed (Johannessen, et al., 2018, p. 194). In fact, if someone act erratic or has a nervous body language, they might even seem less trustworthy (Johannessen, et al., 2018, p. 194). A typical example of this would be a guilty man sweating when being confronted with his crime. For this reason, Peterson also seem worthy of the audience’s trust, as he is presenting himself in a nice and professional way.

The last thing I should mention when analyzing this from the perspective of ethos is his reputation. Reputation can also play a part in the audience’s perception of Peterson. Reputation is

very important in how a person is perceived, negative or positive, it will influence the situation (Johannesen, et al., 2018, p. 195). For many he is a voice of reason, and his reputation for those who have already heard good things about him will see him as such. On the other hand, there are a lot of people who despise Peterson because of his stance against this Bill and from his earlier videos on YouTube.

Pathos – appeal to emotions

Pathos is about making the audience be moved by emotion, usually in a way that is beneficial to the speaker, this might be to cause anger, sadness or happiness, or any other way that might be a way to influence the audience (Johannesen, et al., 2018, p. 197). As calm as Peterson is, you can still tell that he is affected by emotions like outrage or excitement. You can see this through his body language and through his words, and the audience will notice as well and respond to the display of emotions although they are masked. We can show through an excerpt from the video to make it clearer how he uses emotion to sway listeners by using words with certain connotations: “[...] I think that’s appalling, first of all because there hasn’t been a piece of legislation that requires Canadians to utter a particular form of address that has particular ideological implications before [...]” (Peterson, 2017, 2:45). We can begin with the word “appalling”. The word is a quite hard-hitting word for negative opinion. A synonym to appalling is horrific, so we can easily see how negative he is towards the policies. By using certain words with certain meanings, one can try to make others feel that way about a subject as well (Johannesen, et al., 2018, pp. 198). One can also argue that he plays on a feeling of nationality by explicitly stating that it is Canadians that is required to use these words, but by also stating that this requirement to use certain words has never happened before he tries to show that this is fundamentally not what Canadians do or should ever do. When analyzing pathos, it can also be wise to include the wide situation as a thought of why some words or some strategies for appealing to emotions works better in some situations than others (Johannesen, et al., 2018, p. 199). Obviously, appealing to people as Canadians rarely work in other places than Canada, but in Canada this could and should be effective. In other words, an appeal to sway the people with a feeling of nationality by stating that what is happening is not something that is Canadian. He also uses the word “ideological” and would like you to think that this is something that the federal government should not have, or at the very least not when it comes to the matter at hand. And for many, such as Peterson, ideology might have a negative association with it. It almost has the ring of something that people follow blindly, like faith

for other people. For others, words like ideology and faith has a quite positive ring to it. If we try to understand it from Petersons critical view of such matters, there would be a reason to oppose this Bill of course. As for others with a less critical view of things, maybe not.

We can also look at the following statement regarding personal pronouns: “Well, I don’t think the people who initiated the legislation ever expected that there would be an absolute explosion of identities first of all, and also of so-called personal pronouns as there has been” (Peterson, 2017, 25:50). By using the words “so-called” he might be meaning that this is not something to be taken seriously. But this depends on the tone of voice or how you say it, which I am unsure of, but considered that he is negative towards these pronouns I will also add this statement under the appeal to emotions. Another reason for why I think he is thinking of these pronouns in a negative way, almost like they are silly is: “I think Facebook now recognizes something like seventy-one (71) separate gender identity categories, each of which in principle is associated with its own set of pronouns, and it has become linguistically a parody, essentially linguistically unmanageable” (Peterson, 2017, 26:00). Peterson seem to see these pronouns as a parody of the English language. In a way this could be a way for him to change how the audience feel about the Bill by making these pronouns seem less important than they are.

Logos – the appeal to reason

When analyzing the logos appeal, one has to look to two factors, what are the central statement or assertion, and what reason is meant to legitimize them (Johannessen, et al., 2018, p. 200). The central statement would then be that the Bill should not pass, and it is infringing on the freedom of expression of the people. The reason for this is that the policy on personal pronouns states that not using them would be harassment. This would mean that the policy, combined with the law, would actually require compelled speech. I should also mention that this is not a law, but a policy that is taken into consideration when relevant and would also be interpreted by each judge in such a case, so the outcome may vary. For most of us, freedom of expression is quite important. Peterson seems to use that as an argument, almost like a rallying cry to fight for it, and by that fact fight against the Bill. He can do this by stating a logical notion that no one really thought of before. But because he thought of what no one else thought of, it could be hard to relate to it logically if one does not understand it.

We should also mention that in logos, one should also consider the silent reasons of the arguments, for example the message on smoking packaging says that the smoking leads to lung cancer, the silent message is therefore that you should not smoke because it can kill you (Johannessen, et al., 2018, p. 201). Which seems to be somewhat similar to what Jordan Peterson is afraid of when it comes to this Bill. By making this Bill a law, they are crossing a line in Peterson's opinion in which it will be easier to restrict freedom of expression the next time they have a similar legislation. For clarification, Jordan Peterson does not seem to argue against transgenderism as people, only the forced pronoun usage. He seems also to think that there are too many pronouns, and that is one of his arguments as to why this is not a good idea. He calls it linguistically unmanageable in one of his statements. From a structuralist perspective, when looking at these pronouns they do not fit into the system as it currently is, and in a way, that is how Peterson also thinks about the pronouns. Because when using the structuralist perspective, one looks at the objects in question and the system or structure that they are part of (Gough, 2010, p.1). But they have not been implemented formally and it will take a lot of work to do so as the current pronoun system is quite rigid, almost as rigid as the gender binary system that it is based upon. And by the assumption that these pronouns do not fit into the system correlates with that the other identities do not fit with the binary gender system. If we look at the arguments from this structuralist perspective, it gives more meaning to the arguments, an underlying understanding of the arguments that is not spoken of.

Conclusions

The theme of this thesis is the controversy that has surrounded Bill C-16 and the arguments used to justify their view of the policies surrounding that Bill. We have looked at different viewpoints on this case, for example the media has been overwhelmingly positive to the change, and I am sure that most people would think this was a great thing that was happening. On the other hand, we also have people like Jordan Peterson whose critical view does not seem to miss a thing and find it appalling that no one is fighting against this and thus takes action themselves. My standpoint is to be neutral in this thesis, it is not about who is right or wrong, but what is most interesting is to see the arguments made against such a case. To try to answer this, the following research questions were phrased in such a way to apprehend the core points made in the arguments and how they could affect anyone hearing the arguments.

Research question: How does the opposing side to this amendment justify their position?

To answer the main research question, I thought it would be wise to have some bi-questions to break it down into pieces, although smaller questions and more of them could be made, for the purpose of this thesis the breakdown that has been presented should suffice. And I will begin with answering the smaller questions so that answering the main research question will be easier at the end of my conclusions.

Bi-questions: 1. How do they argue their point to appeal to the audience?

As we can see in the analysis that they use different rhetorical methods to try to sway people's opinions to their side of the argument. Ethos, Pathos and Logos to be exact. In the analysis of Ethos, we can see that he has made an effort to seem trustworthy for the audience, this does not speak for his character as fact but how he is perceived by the audience (Johannessen, et al., 2018, pp. 193). But by dressing formal and nice, while also remaining controlled in the situation he could be deemed trustworthy in his statements. And as we all surely know; one has to be seen as trustworthy to have a chance at convincing someone of their views. The rhetorical analysis continues with Pathos. Here we investigate how he could influence people's feelings towards the policies. Strong, hard-hitting words were used to sway the audience, which could prove to be quite effective (Johannesen, et al., 2018, p. 197). Not only that, but also playing on the audience's notion on what it means to be Canadian, no one can tell you what to say or think, which could be very effective. Not everyone responds to the feeling of nationality however, sometimes logical arguments win the day. In Logos we have seen that there are some reasons to think like Peterson, like the compelled speech argument would suggest that it is an infringement on freedom of expression. As we have seen in the analysis, there are certain ways to influence people, but was he successful? I would argue for both yes and no. On the "no" part, we have the fact that Bill C-16 became law and the anti-discrimination laws was indeed changed to include the phrasing shown in the chapter on Data. In other words, he did not attain his ultimate goal of denying this change to pass into the law, and I think that also comes from the fact that what he was arguing against was the policy. My reasoning for this is that because it is a policy and not law it is not as crystal clear as to if it in fact is an infringement on the freedom of expression right of the people. On the other hand, yes, he was successful in swaying some people to his corner, not all of them of course, but he did attain a huge following. His YouTube channel when this controversy first hit exploded with followers, and his fame has been increasing ever since. So, in a way, he did indeed succeed in making his arguments known and gained a huge following who share his views.

2. What structure or system could have sparked the opposition?

In the analysis of Logos, we brought in some structuralist thinking, which I must say has been valuable throughout the whole thesis. In my analysis, I found that there might be more than one system or structure which has caused this reaction in people. As we know, it is not only Jordan Peterson who feels this way, although a minority, he is not alone. The dichotomy of the binary gender-system, the either you are male, or you are female, has left a lot of people feeling that they do not belong. And that could also be the feeling that other people has about them as well, that they do not belong. But now that they have had a law changed for them to be more inclusive and equal could seem wrong to the people who still has this binary system so ingrained in them that they cannot see past it. The same goes for the pronouns that has been one of the main arguments presented. The personal pronouns change how the earlier structure works in their language. This change in the structure of the language could also be felt like it does not belong, it is made up and should not be taken seriously. People change, language change, the world never cease to change, it is a fact one must live with.

The main research question can be addressed by the notion of change. The opposition to Bill C-16 justify their position by claiming that these changes will cause more harm than good, that this will be an infringement on freedom of expression. On whether they are or not, is not for this thesis to decide. But they justify their position as fighting for a good cause, fighting for the right not to be told what to say. One could also say that they are trying to fight an ideology, an ideology that threatens free speech (Peterson, 2017, 2:45). In some manners it might even seem to them that this will lead to further restrictions on freedom of expression if we are to believe their arguments. But fighting to not being discriminated against on behalf of your gender identity, is that not also fighting for someone's freedom to express themselves? For Jordan Peterson and the like, it would seem like there is no middle ground to be made as long as these policies has that one clause which states one has to use proper personal pronouns (Ontario Human Rights Commission, 2014, p. 18). How they justify it to others is to act as champions of freedom of expression and the human right to say what you want.

References

- Bem, S. (1993). *The Lenses of Gender: Transforming the Debate on Sexual Inequality*. Yale University Press. Retrieved from <http://www.jstor.org/stable/j.ctt1nq86n>
- Coren, M. (2016, May 22). Bill C-16: A glorious trans-formation that went mostly unnoticed. *The Star* Retrieved from: <https://www.thestar.com/opinion/commentary/2016/05/22/bill-c-16-a-glorious-trans-formation-that-went-mostly-unnoticed.html>
- Cossman, B. & Katri, I. (2017, June 15). Today, trans Canadians celebrate Bill C-16. Tomorrow, the work begins for us all. *The Globe and Mail*. Retrieved From <https://www.theglobeandmail.com/opinion/today-trans-canadians-celebrate-bill-c-16-tomorrow-the-work-begins-for-us-all/article35324961/#comments>
- Fundamental Freedoms. (1982). Constitution Act. Retrieved from <https://laws-lois.justice.gc.ca/eng/const/page-15.html>
- Gough, N. (2010). Structuralism. *The SAGE Encyclopedia of Curriculum Studies*. New York: Sage Publications Retrieved from https://www.researchgate.net/publication/274375324_Structuralism
- Johannessen, L., Rafoss, T. & Rasmussen, E. (2018). *Hvordan Bruke Teori? Nyttige Verktøy i Kvalitativ Analyse* (1. edition) Oslo: Universitetsforlaget
- Lorber, J. (1994). *Paradoxes of Gender*. Yale University Press. Retrieved from <http://www.jstor.org/stable/j.ctt1bhkntg>
- Materstvedt, L. (2018). *Vitenskap, Etikk og Politikk* (1. edition) Bergen: Fagbokforlaget
- Ontario Human Rights Commission. (2014). *Policy on Preventing Discrimination Because of Gender Identity and Gender Expression* Retrieved from <http://www.ohrc.on.ca/sites/default/files/Policy%20on%20preventing%20discrimination%20because%20of%20gender%20identity%20and%20gender%20expression.pdf>
- Peterson, J. [Jordan B Peterson]. (2017, May 18). *2017/05/17: Senate hearing on Bill C16* [Videoclip]. Retrieved from <https://www.youtube.com/watch?v=KnIAAkSNtqo>
- Prohibited grounds of discrimination. (2017, 19. June). Canadian Human Rights Act. Retrieved from <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-16/royal-assent>
- Raaflaub, K., Ober, J., Wallace, R., Cartledge, P., & Farrar, C. (2007). *Origins of Democracy in Ancient Greece*. Berkeley; Los Angeles; London: University of California Press. Retrieved from <http://www.jstor.org/stable/10.1525/j.ctt1pp9pt>
- Risman, B. (2004). Gender as a Social Structure: Theory Wrestling with Activism. *Gender & Society* 18(4):429-450 <https://doi.org/10.1177/0891243204265349>
- Ritzer, G. & Stepnisky, J. (2014). *Sociological theory* (9. Edition) New York: McGraw-Hill Education
- Schiefloe, P. (2015). *Mennesker og samfunn: innføring i sosiologisk forståelse* (2. Edition) Bergen: Fagbokforlaget
- Tjora, A. (2017). *Kvalitative Forskningsmetoder i Praksis* (3. Edition) Oslo: Gyldendal Akademisk

Walker, J. (2018, 29. June). *Hate Speech and Freedom of Expression: Legal Boundaries in Canada* Retrieved from https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201825E

The Declaration of the Rights of Man and the Citizen, 1789. (2016). In Warman C. (Ed.), *Tolerance: The Beacon of the Enlightenment* (pp. 11-13). Cambridge, UK: Open Book. Retrieved from <http://www.jstor.org/stable/j.ctt19b9jvh.6>

Transcription

Jordan B. Peterson Time: 2:16 (opening statement)

“[...] the most egregious elements of the policies are that it requires compelled speech. The Ontario Human Rights Commission explicitly states that refusing to refer to a person by their self-identified name and proper personal pronoun, which are the pronouns I was objecting to can be interpreted as harassment, and that is explicitly defined in the relevant policies. And I think that’s appalling, first of all because there hasn’t been a piece of legislation that requires Canadians to utter a particular form of address that has particular ideological implications before, and I think it’s a line we shouldn’t cross [...]”

Jared Brown Time: 7:49 (opening statement)

“[...] But what about the freedom of expression issue? It’s a foundational issue, we all know that section 2 B of the charter, sets out that everybody has the fundamental freedoms of thought, belief, opinion and expression. And we all know that the government has successfully restricted freedom of expression over the years, but what if rather than restricting what you can’t say, the government actually mandated what you must say? In other words, instead of legislating that you cannot defame someone for instance, the government says when you speak about a particular subject, let’s say gender, you must use this government approved set of words and theories. The American jurisprudence clearly defines this as unconstitutional compelled speech. In Canada the supreme court has enunciated the principle that anything that forces someone to express opinions that are not their own is a penalty that is totalitarian as such alien to the tradition of free nations like Canada [...]”

Jordan B. Peterson Time: 25:50 (on personal pronouns)

“Well, I don’t think the people who initiated the legislation ever expected that there would be an absolute explosion of identities first of all, and also of so-called personal pronouns as there has been. I think Facebook now recognizes something like seventy-one (71) separate gender identity categories, each of which in principle is associated with its own set of pronouns, and it has become linguistically a parody, essentially linguistically unmanageable”

