



Submission to the Standing Committee on Justice and Human Rights on online hate

May 2019

Introduction

The Evangelical Fellowship of Canada would like to thank the committee for the opportunity to participate in this study on online hate.

The Evangelical Fellowship of Canada (EFC) is the national association of evangelical Christians, with affiliates including 45 denominations, 70 ministry organizations and 36 post-secondary educational institutions. It is estimated there are 6,500 congregations that belong to our affiliate denominations across Canada. Established in 1964, the EFC provides a national forum for Canada's four million Evangelicals and a constructive voice for biblical principles in life and society.

We are greatly concerned with the increase in violent attacks, both in Canada and globally, particularly those that target people in a place of worship. There is no group or faith community immune to violent attack. In the last few months we have witnessed horrific attacks on the Chabad of Poway synagogue during Passover, Christians in churches on Easter Sunday in Sri Lanka and on Muslims at prayer in mosques in New Zealand. Attacks against people at worship reverberate through the community and touch every member.

These horrific acts defy our sensibilities. It is difficult to comprehend what could fuel such attacks. Yet they are becoming all too frequent.

As we said after the massacre at the Tree of Life Synagogue in Pittsburgh, "Together and everywhere we must denounce this violence and each do what we can to counter the hate that animates it. We are committed to strive for tolerance and respect for all."

Canada is not immune to this kind of violence. We denounced the horrifying attack against Muslims at prayer in Quebec City in 2017, and continue to remember the victims, their families and their community. In recent months there have been assaults of Catholic clergy while performing their duties during services. All of these point to a trend: an increase in attacks against religious officials and communities at worship.

Statistics Canada reports increasing rates of hate crimes targeting religion. The latest statistics available, from 2017, found hate crimes against religion accounted for more than 40% of all

hate crimes in Canada, and had increased 83% over the previous year.¹ The greatest incidence of hate crimes in Canada is consistently against those who are Jewish, and there has been a significant increase of hate crimes against those who are Muslim.

In many cases, notably the devastating attacks at the Tree of Life synagogue and the Christchurch mosques, these incidents have followed or been linked to the online promotion of hatred.

As the High Commissioner for Human Rights has said, “Virulent and hate-laden advocacy can trigger the worst of crimes. ... It is clear that hatred has many faces and is present in all parts of the world.”

A response to online hate should consider carefully how hatred is defined, how we might prevent the spread of hate online and when and how it is appropriate for the government to intervene.

1. Defining hatred

It’s critical that hate be defined very carefully in light of the fundamental freedoms guaranteed in the *Charter of Rights and Freedoms*.

Respecting freedom of belief and expression

The *Charter of Rights and Freedoms* guarantees the fundamental freedoms of religion, conscience, thought, belief, opinion and expression to all Canadians. The right to believe, to debate and to disagree on issues is foundational to a true and vibrant democracy. We must respect and promote these fundamental freedoms, even when the opinions or beliefs expressed are unpopular or uncomfortable.

At its best, Canada is a country of deep pluralism, in which individuals and communities of different religions, cultures and races live in peace with one another. This brings a richness of experience. Canada’s respect and tolerance are some of our greatest strengths.

We as a society have decided some activities are contrary to the functioning of a civil society and the protection of all citizens. The *Criminal Code* provides an extensive list of activities we do not tolerate. A critical part of what legislatures do is decide what should or should not be tolerated.

Canada is a multicultural, multi-faith society, with a diversity of beliefs and opinions. Our diversity means it is inevitable that we will disagree. Sometimes we may disagree deeply. And a critical feature of a free and democratic society is how we deal with these differences. We must find ways to respect and promote fundamental freedoms including religion, conscience,

¹ <https://www150.statcan.gc.ca/n1/daily-quotidien/181129/dq181129a-eng.htm>

thought, belief, opinion and expression, while also clearly addressing the promotion of hatred and incitement of violence.

We must respect and promote these fundamental freedoms, even when the beliefs protected are unpopular, while drawing a clear and firm line at expressions of hate and the incitement of violence.

Use of the term hatred

We caution that if everything is considered hatred, then nothing is hatred. To call disagreement or critique hatred compromises our ability to call out and respond to actual instances of hatred. When we call every objectionable or offensive expression hatred, we both minimize the seriousness of actual incidents of hate and diminish our ability to respond to and address them effectively.

The word hate is used in the *Criminal Code* and in common discourse to describe offences against individuals or groups. The *Criminal Code* addresses hate crimes and hate speech and considers hatred an aggravating factor in sentencing. But the use of this word also creates challenges in addressing these instances. Hate is a feeling, an emotion. And it can become problematic for a government to criminalize or regulate an emotion.

Our concern must not be with hatred in terms of emotion, but with the kind of expression that dehumanizes others so that violence toward them seems unobjectionable, or that advocates or justifies violence. Threatening speech or behaviour and violent attacks may have utilitarian and dispassionate motivations, and not be based in hatred at all. Callousness in calling for the destruction of a group or individual can lead to the same outcome as expression motivated by hate.

It is the task of government to govern all of the citizens within its protection, to do so with justice, and to protect each of its citizens. Canadian criminal law considers actions and expression, examining intent but not motivation with limited exceptions.

The government's primary concern should be the behaviours or activities that need to be addressed, rather than the emotion that motivates it.

What hate is not

It is critical that we discern the difference between hate and legitimate dissent. It is important to recognize that dissent, disagreement and critique are not hatred. Hatred must not be defined by the unpopularity of the ideas held or expressed. It is not illegal to hold or express views that are unpopular; nor is it illegal to hold or express views that are offensive. That content may be deeply offensive does not mean it is necessarily hateful.

Some of the core tenets of our evangelical faith, for example, are blasphemy to people of other faiths. Those tenets may be considered nonsense by others. As Christians, there are expressions of mockery or contempt for Christian beliefs and even for Christ that may offend us deeply, but are not necessarily hate speech. It is not hateful to think that the core beliefs of evangelicals are nonsense; nor is it hateful for evangelicals to believe the biblical vision of marriage as a union between one man and one woman.

Our parallel body in the U.K, the Evangelical Alliance UK, responded to the Scottish government's consultation on hate crime legislation earlier this year, and wrote,

Any offence of stirring up hatred on grounds of sexual orientation must allow people the right to discuss and criticise sexual behaviour. In particular, it must also safeguard the right of religious communities to preach and live out their long-standing convictions on the definition of marriage as between one man and one woman.

...the offence of "hate" based on gender reassignment is causing great legal uncertainty in England, as seen in the cases of a woman being visited by police regarding tweets about transgender and a mother being arrested for calling a transgender woman a man. We would therefore argue that any new legislation on stirring up hatred on such grounds ... should also include protection of free speech around the contentious issue of gender identity.²

In Canada, we have seen the accusation of hate speech used to end discussions and prevent the expression of opinions on biology and policy. For example, we have seen feminist writers and speakers accused of hate speech for expressing the view that a woman is an adult human person born with a vagina, and removed from social media platforms and denied public venues for debate. Does expressing this view meet a reasonable threshold for hatred? We would argue it does not. Further, we believe it is crucial for Canada to protect free expression so that there can be discussion and debate of policy, ideas and beliefs.

Respecting a person is not the same as respecting their beliefs. We agree with the Evangelical Alliance UK that "An individual should be able to disagree strongly with someone's views without disrespecting them personally."³ It is important to make a clear and careful distinction between hate directed at a person and strong disagreement with their views.

We must not silence critique or challenge of views or beliefs. In a civil society, there must be robust freedom of speech. Tolerance and respect do not mean that our views or beliefs are free from evaluation or critique.

² <https://www.eauk.org/what-we-do/public-policy/could-you-respond-to-government-consultations/hate-crime-consultation-respond-to-the-scottish-government>

³ <https://www.eauk.org/what-we-do/public-policy/could-you-respond-to-government-consultations/hate-crime-consultation-respond-to-the-scottish-government>

What reaches the threshold of hate?

As Professor Richard Moon said to this committee in 2009, “The use of censorship by the government should be confined to a narrow category of extreme expression – that which threatens, advocates or justifies violence against the members of an identifiable group.”⁴

We note a statement by Professor Gregory Stanton of Genocide Watch, “Denial of the humanity of others is the step that permits killing with impunity.”

We suggest that the Committee consider a definition of hatred that includes threatening, inciting or justifying violence toward a person or group of people, or dehumanizing a person or group of people, as less than human.

Examples of dehumanizing speech include referring to a person or group of people as vermin or cockroaches, which implies – if not stating outright - that they should be exterminated. This crosses the threshold of legitimate expression into hatred.

Any definition the Committee proposes would be strengthened by including examples of hateful expression versus legitimate discourse. It must be clear both to citizens and to those who would adjudicate expression where the threshold is. It would be helpful to include clear parameters and concrete examples.

The Committee may also want to consider specific clarification on what is intended. For example, Section 29J of the *Public Order Act 1986* in England and Wales states:

Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practicing their religion or belief system.⁵

The High Commissioner for Human Rights points out that it is important to distinguish between the forms of expression: expression that is criminally punishable, expression that justifies a civil suit, and expression that may not give rise to criminal or civil sanctions, but still raises concerns in terms of “tolerance, civility and respect for the convictions of others.”⁶

⁴ <https://www.ourcommons.ca/DocumentViewer/en/40-2/JUST/meeting-43/evidence>

⁵ <https://www.legislation.gov.uk/ukpga/1986/64/section/29J>

⁶ https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

2. Tracking hate

We recommend that the government develop uniform national standards on collecting, categorizing and reporting hate crime data to help ensure consistency across the country. This would provide a consistent body of information to inform dialogue and policy-making. Statistics Canada and other government departments should consult with faith communities in developing data collection.

3. Preventing hate

We note that there is something broader, more societal at play in these discussions. Canada has always been a land with deep divisions and is becoming increasingly diverse in terms of cultures and religions, as well as in perspectives on how to address the issues facing our nation. This has necessarily led to significant differences in views, beliefs and opinions among Canadians.

At the same time, the ability to disagree well is increasingly rare. This has been exacerbated by the proliferation and popularity of social media and online platforms, which give liberty to forms and styles of reacting and expressing views that normal social conventions typically held in check. Individuals are less likely to hold back stinging rhetoric when there is no person in front of them – just an impersonal screen and keyboard.

In the face of increasing polarization in Western society, including in Canada, it is critical for Canadians to think carefully about how to live with others who have different views and different beliefs. Tolerance and respect for those with whom we disagree are so needed at the present time.

From our experience, we know that different religions in Canada can and do engage in meaningful discourse on religion and come to agreement and collaboration on issues that concern the public good, while maintaining deep religious differences.

As faith communities, we strive for tolerance and respect for one another. There is a growing movement toward inter-faith dialogue in Canada. A number of national faith groups are working together in positive, respectful, collaborative relationships.

Tolerance means allowing difference and the “other” to exist. It does not require we believe the same things or agree with one another. Tolerance means that we allow those with whom we disagree to hold opposing views and to express them.

Tolerance is not, however, indifference, and it does not require affirming or celebrating a practice or belief with which one disagrees. Tolerance is, by definition, premised on disagreement.

As interfaith groups, we have profound differences on matters of belief and practice, but we seek to show tolerance and respect for one another. In fact, on many points, our beliefs could

be considered blasphemy to one another. Nevertheless, we respect one another, build friendships and seek to model collaboration toward common goals, for the good of not only our own communities, but for the common good of all.

It is also important for government and for elected representatives to ensure they are modeling civility and respectful disagreement. We can disagree deeply, but we must do it respectfully.

4. Intervening

Canadian law

The *Criminal Code* has existing provisions regarding hate speech that are applicable and able to address online hate. Section 319(1) of the *Criminal Code* prohibits inciting hatred and s. 319(2) prohibits willfully promoting hatred against an identifiable group. This section includes the defences of truth; a good faith attempt to establish an opinion on a religious subject; statements relevant to public interest and for public benefit; or a good faith intention to remove feelings of hatred toward an identifiable group. These provisions apply to online activity. Section 318 prohibits inciting genocide.

A more active application of the existing *Criminal Code* provisions against hate speech could be an effective way forward. This may require additional training for law enforcement or initiatives to raise awareness of these offences.

Public education

In addition to better enforcement of existing laws against hate speech, we need better public awareness of what our laws say, what kinds of speech or expression may be captured, and the consequences of violating those laws. This is especially important in light of social media – to understand that the law applies to these forums as well.

We support the Centre for Israel and Jewish Affairs suggestion to this Committee that “a campaign to strengthen internet literacy and critical online thinking, with resources to support parents and educators, could help mitigate these trends.”

Many of these online forums and platforms become a sort of echo chamber, where misinformation can spread quickly and extensively, and views are reinforced. It is essential that people know where to find accurate, truthful information, and how to discern what may not be trustworthy.

Ignorance and stereotype lead to discrimination, and sometimes hatred. But prohibiting the expression of dissenting ideas is not the solution and could in fact entrench views that have the potential to become problematic.

As the High Commissioner for Human Rights noted in the report on the expert workshops on the prohibition of incitement to national, racial or religious hatred:

While a legal response is important, legislation is only part of a larger toolbox to respond to the challenges of hate speech. Any related legislation should be complemented by initiatives from various sectors of society geared towards a plurality of policies, practices and measures nurturing social consciousness, tolerance and understanding change and public discussion. This is with a view to creating and strengthening a culture of peace, tolerance and mutual respect among individuals, public officials and members of the judiciary, as well as rendering media organizations and religious/community leaders more ethically aware and socially responsible. States, media and society have a collective responsibility to ensure that acts of incitement to hatred are spoken out against and acted upon with the appropriate measures, in accordance with international human rights law.⁷

We note an interesting initiative that provides other viewpoints to those who are searching for extremist content online. Individuals at risk of getting involved in violent extremism leave a digital footprint that can be identified by an algorithm, according to Vidhya Ramalingam of Moonshots CVE. Her company has partnered with the Canadian government to undertake a program called Canada Redirect to use advertising tools to ensure safe content is offered to those within Canada who are using Google to try to access hateful content.⁸ We affirm such efforts and recommend that the government continue to work with initiatives that aim to intervene and redirect individuals who may be venturing into content that is extremist or hateful.

The role and responsibility of social media

The nature of social media platforms gives a scalability and reach that is unprecedented. In the past, individuals who held strong views or disagreed were constrained to some degree in *how* those views were expressed by the need to get along with the people who lived around them, in their communities. Or by having to include their name and address in a letter to the local paper that would likely be read by all of their neighbours. This acted as an informal check on behavior and malicious expression and provided some accountability for the manner in which opinions were expressed and shared.

Those checks are not present online, where individuals are not faced with those with whom they disagree. In many cases, it also affords some sense of anonymity or the ability to create a separate or distinct online identity. When behaviour is anonymous, there is little to constrain.

⁷ https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

⁸ <https://www.cbc.ca/radio/thecurrent/the-current-for-april-10-2019-1.5090939/wednesday-10-april-219-full-transcript-1.5092769>

Social media businesses must be responsible and held accountable for knowingly hosting hateful and malicious content on their platforms.

We support the idea of holding social media companies and online platforms accountable for knowingly hosting content that threatens, advocates or justifies violence on their platforms. We note that in the U.S., Backpage.com was – eventually – held accountable for the rampant trafficking that was occurring on their platform. They knew they were hosting traffickers and they intentionally facilitated the trafficking. The U.S. passed federal legislation to hold them accountable in 2018.

Recommendations:

We caution the Committee to consider clear and careful definitions of hate in light of *Charter* freedoms of belief and expression. We ask the Committee to:

- recognize that the expression of differing beliefs and ideas is not the same as hatred toward a person or group;
- include examples of hateful expression versus legitimate discourse.

We suggest that the Committee consider a definition of hatred that includes threatening, inciting or justifying violence toward a person or group of people, or dehumanizing a person or group of people, as less than human.

We recommend the government take steps to improve consistent and uniform data collection related to hate crimes.

We suggest a more active application of the existing *Criminal Code* provisions against hate speech as an effective way forward, which may require additional training for law enforcement, as well as initiatives to increase public awareness.

We support holding social media companies accountable for knowingly hosting content that threatens, advocates or justifies violence on their platforms.

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