Canadian Centre for Christian Charities
Supporting ministries in a complex world

Canadian Centre for Christian Charities

Submissions to the Standing Senate Committee on Human Rights
Re: Bill C-9, *Combatting Hate Act*

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INTRODUCTION & OVERVIEW

Founded in 1972, the Canadian Centre for Christian Charities (CCCC) is a Canadian registered charity that exists solely to support Christian ministries on their journey to becoming ever more exemplary, healthy, effective, and faithfully Christian. CCCC's thousands of members are a diverse group of ministries from all across Canada and include churches, overseas missions, relief and development charities, summer camps, denominational offices, education centres, higher education institutions, foundations, fundraising organizations and many others.

Expert in Canadian charity law and issues that affect religious charities across Canada, CCCC is evangelical in identity and ecumenical in service, meaning that while it self-identifies as evangelical, it makes its services available to the broader public.

CCCC focuses on charity management and advocates for a favourable legal and regulatory framework in which its members may operate. We help support and equip charities by integrating the spiritual concerns of ministry with the practical aspects of management, stewardship, and accountability, which includes fiscal, tax, accounting, and legal compliance.

CCCC welcomes the opportunity to make submissions on this important proposed legislation.

INTRODUCTION

At the outset, CCCC wants to emphasize that promoting antisemitism and other forms of hate propaganda are rightly criminalized, as per existing *Criminal Code*[1] offences. We recognize and affirm that there must be limits to expression in a free and democratic society. Further, as a religious organization representing religious organizations, we are keenly aware of the offensive, derogatory and hurtful speech so often aimed at communities and individuals of faith and applaud the government for taking seriously the acts of hate crimes that are noticeably on the rise.

However, we are concerned with both the approach to and substance of Bill C-9, *Combatting Hate Act*[2] and its potential impact on free expression.

SUMMARY OF CONCERNS & RECOMMENDATIONS

First, before new criminal offences are proposed or enacted, Senators should **review existing offences** to determine whether new offences are even necessary or whether the issue is one of enforcement. If there are issues related to the substance of the provision, amendments should be the first course of action. Only after existing options have been exhausted should new criminal offences be created.

Second, when activity is prohibited through the use of criminal law powers,[3] it must narrowly focus on the specific harmful activity. It should not overreach. Instead, we urge the government writ large to **exercise restraint regarding expanding Criminal Code offences**. We specifically ask Senators to carefully examine all risks of potential overreach and unintended consequences, particularly in the context of *Charter* rights and freedoms like free expression, freedom of religion, and the principles of fundamental justice.

Third, the Senate should **reinstate the good faith religious defence**. Statutory defences should not be repealed absent uncontroverted, uncontroversial, and compelling evidence to warrant such a decision, such as that the defence is unconstitutional, has resulted in grave injustice or is obsolete. No such factors apply here.

Fourth, the scope of the offence must be properly defined and therefore we recommend that the Committee **amend the "for greater certainty clause" to provide certainty**.

Finally, particularly where there are existing criminal offences that substantively address underlying concerns, criminal law should not be used primarily as a means of symbolism or solidarity, no matter how compelling the underlying issue. And we affirm that there are deeply compelling underlying concerns, including the rapid rise of hateful acts targeting Jewish communities. But introducing duplicative offences and expanding the *Criminal Code*'s reach holds no promise when existing ones are not employed to effectively combat these acts.

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[1] RSC, 1985, c C-46 ["*Criminal Code* "].

[2] Per the Short Title of Bill C-9, *An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places,* 1st Sess, 45th Parl, 2025 ["Bill C-9"].

[3] *Constitution Act 1867* (UK), 30 & 31, c 3, s 91(27).

RECOMMENDATIONS

1. REVIEW EXISTING OFFENCES

As noted above, we urge Senators to first review existing *Criminal Code* offences to determine whether they address the concerns at hand, and if not, to specifically identify how and why. This includes issues of enforcement and barriers to effective use, whether substantive, interpretative, or procedural. If they are inadequate, determine what amendments, if any, could address the reason rendering them ineffective before proposing new offences.

In this case, we note the following non-exhaustive list of *Criminal Code* offences that already exist and which are directly relevant to "protect[ing] access to places of worship, as well as schools, community centres and other specified places, and [...] address and denounce hate-motivated crime"[4]:

- Public incitement of hatred (319(1))
- Wilful promotion of hatred (319(2))
- Wilful promotion of antisemitism (319(2.1))
- Mischief (430(1))
- Mischief relating to religious property, educational institutions, etc. (430(4.1))
- Intimidation (423(1))
- Uttering threats (264.1(1))
- Criminal harassment (264(1))
- Hate-motivated offences as aggravating factor on sentencing (718.2(a)(i))

We also note that many municipal bylaws address concerns surrounding access to specific places, including houses of worship.

2. EXERCISE RESTRAINT RE: EXPANDING CRIMINAL CODE OFFENCES

Criminal Code expansion must be very carefully considered, including all risks of potential overreach, particularly in the context of *Charter*[5] rights and freedoms such as free expression and the principles of fundamental justice.

The *Charter* affords everyone "freedom of thought, belief, opinion and expression."[6] Its three core purposes are to promote democratic discourse, truth-finding and self-fulfilment.[7] In a free, pluralistic and democratic society, expression is fundamental; "we prize a diversity of ideas and opinions for their inherent value both to the community and to the individual."[8]

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[4] Department of Justice backgrounder, "Combatting Hate Act: Proposed legislation to protect communities against hate" (26 September 2025).
[5] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982,* being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 ["*Charter*"].
[6] *Charter*, s 2(b).
[7] *Grant v Torstar Corp.*, 2009 SCC 61 at para 47 ["*Torstar*"].
[8] *Irwin Toy Ltd. v Quebec (Attorney General)*, [1989] 1 SCR 927 at p 968; As noted by Justice Rand, free expression "is little less vital to man's mind and spirit than breathing is to his physical existence."

Expression promotes truth-finding "through the open exchange of ideas."[9] This is only accomplished when there is space for "all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream."[10] Indeed, as one literary giant of the last century put it, "if liberty means anything at all, it means the right to tell people what they do not want to hear."[11]

Section 7 of the *Charter* also requires that all laws be enacted in accordance with the principles of fundamental justice to protect life, liberty and security of the person. To fall within the principles of fundamental justice, a law cannot be arbitrary, overly broad or grossly disproportionate. Among other things necessary to meet this standard, the law must "sufficiently delineate an area of risk to allow for substantive notice to citizens" that "certain conduct is the subject of legal restrictions."[12] Vague laws prevent people from "realizing when [they are] entering an area of risk for criminal sanction."[13]

Laws must "set an intelligible standard" for both citizens who are governed by them and officials who enforce them. Setting intelligible standards means that the "dangers of arbitrary and discriminatory application" of the law are avoided.[14]

The proposed new offences raise serious concerns about unjustified infringements on free expression and the "for greater certainty" clause fails to provide any substantive notice or set an intelligible standard that Canadians can understand.[15] This is deeply problematic in the context of penal statutes.

3. REINSTATE THE GOOD FAITH RELIGIOUS DEFENCE

We urge this Committee to reinstate the good faith religious defence currently reflected in s 319[16] of the *Criminal Code*:

> Defences
>
> (3) No person shall be convicted of an offence under subsection (2)
>
> > […]
> >
> > (b) if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text;

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[9] *R v Sharpe*, 2001 SCC 2 at para 23.
[10] *Irwin Toy, supra,* note 5 at p 968.
[11] George Orwell, proposed preface to *Animal Farm*, first published in the *Times Literary Supplement* (15 September 1972).
[12] *R v Nova Scotia Pharmaceutical Society* [1992], 2 SCR 606 at 639, 635.
[13] *Canadian Foundation for Children, Youth and the Law v Canada (Attorney General)*, 2004 SCC 4 at para 16.
[14] *Ibid.*
[15] See our more detailed discussion under recommendation 4. In the alternative, amend the "for greater certainty" clauses to provide certainty.
[16] *Criminal Code*, s 319(3)(b); an almost-identical defence is set out in s 319(3.1)(b).

As the Supreme Court of Canada majority explained in *Keegstra*, the hate propaganda defences operate to reduce the risk that the offences are overbroad or unduly vague.[17] In other words, the existence of the defences keep the offences constitutionally sound. Further, three of the defences require "good faith" elements and provide important examples of expression that are not criminal.

The defence is narrowly applied and does not operate as a "shield" to protect what is otherwise wilful promotion of hatred simply by cloaking it in religious terminology. The Ontario Court of Appeal affirmed this in upholding a lower court decision that saw "no reason to construe the defence in s.319(3)(b) in a manner that would permit the mere imbedding of a wilful message of hate within protected religious comment to immunize the maker of the message from successful prosecution."[18] That means that while expression of religious opinion is "strongly protected",[19] but where the opinions expressed go "above and beyond the expression of religious belief and [are] not made in good faith", the defence does not apply.[20]

The good faith reading, teaching, adherence to, publication of, and reliance upon religious texts would clearly fall within the scope of protected expression of religious belief. We note with deep alarm statements made by the former Chair of the House of Commons Standing Committee on Justice and Human Rights to the effect that biblical texts in and of themselves are hateful:

> In Leviticus, Deuteronomy and Romans, there are passages with clear hatred towards, for examples [sic], homosexuals. I don't understand how the concept of good faith could be invoked if someone were literally invoking a passage from, in this case, the Bible, though there are other religious texts that say the same thing. How do we somehow constitute this as being said in good faith? Clearly, there are situations in these texts where statements are hateful. They should not be used to invoke … or be a defence. There should perhaps be discretion for prosecutors to press charges. I just want to understand what your notion of good faith is in this context, where there are passages in religious texts that are clearly hateful.[21]

The fact that a Member of Parliament has described passages from the Bible, and some of which are also included in the Torah, as "clearly hateful" is alarming and underscores the necessity of preserving the good faith religious defence.

As the Supreme Court explained in *Whatcott,* a "biblical passage, in and of itself, cannot be taken as inspiring detestation and vilification"[22] of, for example, homosexuality. The Supreme Court went on to explain that "it would only be unusual circumstances and context that could transform a simple reading or publication of a religion's holy text into what could objectively be viewed as hate speech."[23] One such example could be when people use the bible "as a cover" for

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[17] *R v Keegstra, supra*, note 12 at p 779.
[18] *R v Harding,* 2001, (2001), 57 OR (3d) 333 (ONCA) at paras 47-48 ["*Harding*"].
[19] *Harding,* at para 46.
[20] *Harding,* at paras 47-48.
[21] House of Commons, Standing Committee on Justice and Human Rights, *Evidence*, 45-1, No 11 (30 October 2025) at 16:10 (Hon. Marc Miller) <online: https://www.ourcommons.ca/DocumentViewer/en/45-1/JUST/meeting-11/evidence#Int-13212891>.
[22] *R v Whatcott, supra,* note 15 at para 199.
[23] *Ibid,* emphasis added.

hateful beliefs or add biblical passages to their own "hateful motives to sensationalize […] materials to grab people's attention and spread […] violent and cruel messages under the guise of religion".[24]

Like virtually any idea, text, or tool, any religious text, including the above passages, can likewise be appropriated for nefarious purposes. But the case law is clear that "statements" or "passages in religious texts" are not, in fact, "clearly hateful."[25] The fact is that different religions often make mutually exclusive truth claims, which naturally creates tension amongst worldviews, and could be viewed by some as offensive and hurtful. But this is not and cannot be akin to a criminal hate speech offence.

A free and democratic society "demands the condition of a virtually unobstructed access to and diffusion of ideas", specifically those that facilitate democratic discourse, truth-finding and self-fulfilment.[26] This, in turn, further underscores the necessity of maintaining a good faith, religious defence.

4. AMEND THE "FOR GREATER CERTAINTY" CLAUSES TO PROVIDE CERTAINTY

In addition to reinstating the good faith religious defence, the "for greater certainty" clause should be amended to provide necessary certainty.

The current clauses read as follows:

> For greater certainty, nothing in subsection 319(2) or (2.2) of the *Criminal Code* shall be construed as prohibiting a person from communicating a statement on a matter of public interest, including an educational, religious, political or scientific statement made in the course of a discussion, publication or debate, if they do not wilfully promote hatred against an identifiable group by communicating the statement.
>
> For greater certainty, nothing in subsection 319(2.1) of the Criminal Code shall be construed as prohibiting a person from communicating a statement on a matter of public interest, including an educational, religious, political or scientific statement made in the course of a discussion, publication or debate, if they do not wilfully promote antisemitism by condoning, denying or downplaying the Holocaust.

As drafted, these clauses merely restate the offences instead of carefully defining the scope of conduct captured by the offence. The closing clause beginning with "if they do not wilfully promote hatred" essentially functions to render the clarification void.

Setting parameters for the scope of criminal conduct is essential, particularly when the conduct is expressive in nature. As explained above, the law must provide an "intelligible standard" and give substantive notice to citizens that they, by virtue of their conduct, are entering an area of risk for criminal sanction.

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[24] *R v Popescu*, 2020 ONCS 427 at para 42.
[25] *Supra, note* 21; *R v Whatcott, supra,* note 15 at para 199.
[26] *Grant v Torstar Corp.*, 2009 SCC 61 at para 48; *Irwin Toy, supra,* note 5 at p 976.

The current phrasing undermines the important purpose this clause is meant to fulfill.

To provide much-needed clarity and certainty, we urge the Committee to amend the clause. We also emphasize that amending the clause is a necessary addition to, but not a sufficient replacement for, the good faith religious defence.

We support and endorse the amendment proposed by Christian Legal Fellowship (CLF) in its brief to this Committee.[27] The amendment is as follows:

> For greater certainty, nothing in subsection 319(2) or (2.2) of the Criminal Code shall be construed as prohibiting a person from communicating a statement, in good faith, on a matter of public interest, including an educational, religious, political, or scientific statement made in the course of a discussion, publication, or debate~~, if they do not willfully promote hatred against an identifiable group by communicating the statement~~.

5. REMOVE NEW S 320.1001 OFFENCE MOTIVATED BY HATRED

The proposed Section 320.1001 creates a new standalone hate offence where everyone who commits an offence under the *Criminal Code* or any other Act of Parliament if the commission of the underlying offence is motivated by hatred. The hate offence may be punishable on summary conviction, or punishable by increasing terms of imprisonment on indictment, based on the term of imprisonment for the underlying offence. There are two fundamental concerns with this new offence.

First, it is our position that principles of sentencing already perform this function. Sentencing provisions specifically provide that where the offence was motivated by "bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor" it shall be an aggravating factor in sentencing.[28]

Second, the scope of the new hate crime offence is overly broad. It would apply to any offence under the *Criminal Code* and – importantly – any other Act of Parliament. Offences under other Acts of Parliament could include a wide range of regulated conduct. For example, there are over 250 federal statutes with offences that fall under the Public Prosecution Service of Canada's (PPSC) jurisdiction,[29] and the PPSC has dedicated teams prosecuting offences pursuant to more than 75 regulatory and economic statutes.[30] More than forty years ago, in 1983, the Department of Justice estimated the number of federal regulatory offences to be 97,000.[31]

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[27] See p 6 of Christian Legal Fellowship's Written Submissions, dated 25 May 2026.
[28] *Criminal Code*, s 718.2(a)(i).
[29] Public Prosecution Service of Canada, "Areas of Prosecution" (23 July 2025), online: *About the PPSC*, < https://www.ppsc-sppc.gc.ca/eng/bas/index.html>.
[30] Public Prosecution Service of Canada, *Annual Report 2024-2025* (His Majesty the King, 2025), "Regulatory and Economic Prosecutions", < https://www.ppsc-sppc.gc.ca/eng/pub/ar-ra/2024_2025/index.html#section_2_1>.
[31] Hon. Justice Rick Libman, "Sentencing Purposes and Principles for Provincial Offences" (June 2010), Law Commission of Ontario, at p 15.

Regulatory offences are different than criminal offences in a number of important ways, including that regulatory offences "govern risk creating behaviours that are not inherently wrong;"[32] rather, they are meant to protect public and societal interests and prevent future harm "through the enforcement of minimum standards of conduct and care."[33] They therefore rarely require proof of *mens rea* (that is, intent or moral fault);[34] generally presume strict liability (that is, prosecutors need only prove the *actus reus*, the act of the offence);[35] and without actively contesting it, "a regulatory offence violation can be deemed guilty by default."[36]

While this may not be the intention for the new offence, it seems it could apply in these instances.

A statute such as the *Canada Not-for-Profit Corporations Act* (CNCA), which governs many Canadian charities, creates an offence for contravening virtually any provisions of the CNCA, including making misleading statements in a document or misusing information about members.[37] Arguably, a finding of guilt under these sections, and pursuant to a very different enforcement framework, structure, procedure and standard of liability could now also result in criminal charges.

The proposed new offence motivated by hatred unduly extends the reach of criminal law powers beyond its intended scope. We urge this Committee to remove this offence from Bill C-9 in its entirety. In the alternative, we recommend this section be amended to apply only to *Criminal Code* offences and circumscribed to align more precisely with the legislative text of the existing hate offences in s 319.

CONCLUSION

CCCC understands the desire to address criminally hateful conduct. As a Christian organization, we believe in the inherent worth and dignity of every human being and reject such conduct. At the same time, we acknowledge that different religious beliefs, philosophies, opinions, and worldviews can and do conflict.

That is why careful study of Bill C-9 is essential, and we are thankful for the work of the Standing Committee on Human Rights and the opportunity to contribute to the discussion. This is an integral part of democratic discourse, and we urge the Committee to craft legislation that ensures our free, pluralistic and democratic society preserves and prizes "a diversity of ideas and opinions for their inherent value both to the community and to the individual."[38]

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[32] Terry Skolnik, "The Regulatory Offence Revolution in Criminal Justice: The Expansive Role of Regulatory Offences" (2024) 61:4 ALR 777 at 780 ["Regulatory Offence Revolution Part I"].
[33] *R v Wholesale Travel Group Inc.,* [1991] 3 SCR 154 at p 219.
[34] *Ibid*, at p 781.
[35] *Ibid*, at 782; *R v Sault Ste. Marie,* [1978] 2 SCR 1299 at 1325-26.
[36] Terry Skolnik, "The Regulatory Offence Revolution in Criminal Justice: The Choice Architecture of Regulatory Offences" (2024) 62:1 ALR 39 at 51.
[37] *Canada Not-for-Profit Corporations Act,* SC 2009, c 23 ss 262(1)-(5).
[38] *Irwin Toy Ltd. v Quebec (Attorney General),* [1989] 1 SCR 927 at p 968.