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Joint Submission Regarding Proposed Legal Remedies to Combat Online Hate

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Executive Summary

The Canadian Civil Liberties Association ("CCLA"), the BC Civil Liberties Association ("BCCLA"), and Ryerson's Center for Free Expression ("CFE") are pleased to make this joint submission to Arif Virani, Parliamentary Secretary to the Minister of Justice and Attorney General of Canada, addressing the proposed legal remedies to combat online hate.

The complete set of our recommendations are the following:

Developing a definition of hate

- **The federal government should not develop a definition of hate.** Developing a definition of hate is unnecessary; Canadian courts have already developed enough case law defining the term. Developing a definition either in policy or codifying it in legislation will be detrimental to the definition's evolution through future case law and may unduly restrict freedom of expression.

Reinstating s. 13 to the *Canadian Human Rights Act*

- **The federal government should not reinstate section 13 to the *Canadian Human Rights Act***. Human Rights Tribunals are an inappropriate mechanism for dealing with hate speech. The need to interpret hate speech law narrowly runs counter to the spirit and purpose of anti-discrimination legislation. The complaint process permits the possible investigation of controversial speech that falls short of the legal definition of hatred.

- **The federal government should not enact an amended version of the previous section 13**. Enacting an amended version of the previous section 13 to the *Canadian Human Rights Act* would require a substantial overhaul of the *Act* that might negatively impact other provisions and undermine the spirit and original intent of the legislation.

Amending s. 319 of the *Criminal Code*

- **The Attorney General's consent requirement should be retained**. Removal of the consent requirement would undermine Parliament's intent to balance free expression with preventing the spread of hate propaganda when enacting the provision. Furthermore, the

consent requirement serves a filtering function to ensure that individuals are not unduly exposed to criminal proceedings based on controversial but not legally hateful statements or materials.

- **There is no evidence that developing guidelines are necessary.** We are not aware of, nor has it been demonstrated, that there is an issue with the way in which provincial Attorneys General are exercising their discretion to prosecute.

Adding a peace bond to the *Criminal Code*

- **Peace bonds have been shown on numerous occasions to be ineffective at preventing the harmful behaviour at the center of the order.**

- **Introducing a new peace bond provision is unnecessary.** Victims of hateful speech can and have been successfully awarded a peace bond under the current *Criminal Code* provisions.

Introduction

Founded in 1964, the CCLA is a national, independent, non-profit, non-governmental organization dedicated to furthering fundamental human rights, civil liberties, the rule of law and government accountability. Its national membership includes thousands of paid supporters drawn from all walks of life. The underlying purpose of CCLA's work is to maintain a free and democratic society in Canada that balances civil liberties and competing public and private interests. The fundamental importance of freedom of expression in a democratic society has been a cornerstone of CCLA's work since its inception.

At the same time, CCLA has always promoted equality for all and campaigned against discrimination, affirming that everyone should be treated equitably and taking a stand against injustice and oppression. Everyone should be able to be a part of society without being discriminated against. Discrimination on the basis of race, ethnicity, and skin color is a violation of people's dignity and can affect their ability to access basic services and opportunities available to others. CCLA's long-standing opposition to laws that restrict expression – including hateful expression – stems not from a belief that such expression is not harmful. Rather, our concern is that hate speech is difficult to define, that laws restricting it may chill expression more broadly, and that such laws are ineffective at addressing the root causes of hatred and its harmful impacts.

Founded in 1962, the BCCLA is a non-partisan, charitable society striving to promote, defend, sustain, and extend civil liberties and human rights in British Columbia and Canada. It achieves its mandate through litigation, law reform, community-based legal advocacy, and public engagement and education. The BCCLA recognizes that freedom of expression is a Constitutional right necessary for individuals and society to flourish.

The BCCLA is committed to the protection of inherent human dignity, and strives to achieve a society in which people benefit from the meaningful and substantively equal enjoyment of their *Charter*-protected rights and liberty interests. While the BCCLA is unequivocal in denouncing hate, it has had long-standing concerns about the ability of hate speech laws to weaken the democratic fabric by chilling political and controversial speech without actually reducing hate in all its manifestations.

Founded in 2015, the CFE is a hub for public education, research and advocacy on free expression and the public's right to know. It works in collaboration with academic and community-based organizations across Canada and internationally on issues like artistic expression, censorship, freedom of the press, intellectual freedom and speech restrictive laws. The CFE affirms that freedom of expression is the foundation of a democratic society and is essential to virtually all other freedoms. The CFE defends free expression rights by promoting public discussion, advocating for the repeal of antiquated and inappropriate speech restrictive laws, and where appropriate, seeks to intervene in court cases that will shape free expression rights in Canada.

Freedom of expression and online hate

Freedom of expression is a fundamental right that not only involves the right to speak, but also the right to hear.[1] It facilitates the right of the individual to "participate in an activity that is deeply social in character; that involves socially created languages and the use of community resources."[2] The internet has become an incredible tool facilitating opportunities for people to find community, construct identity, participate in the democratic process, and express themselves freely.

While the internet has demonstrated infinite benefits, it has also been used to spread hate, and "radicalize, recruit and incite people to hate."[3] We do not dispute this fact and actively condemn hate in all its forms. However, we maintain that respect for personal autonomy warrants that the listener, not the speaker, is responsible for the decisions they make and what they choose to believe. When government actors are allowed to decide which opinions can be expressed and which cannot, an open, vibrant and diverse society quickly breaks down. Similarly, when courts are used to silence those with unpopular views or those who oppose powerful actors, we lose the opportunity to hear all sides of an issue and come to our own conclusions."[4] While we respect that the issue of online hate is of serious concern, we do not believe the proposed legal remedies

[1] Canadian Civil Liberties Association, "Freedom of Expression", online: https://ccla.org/freedom-of-expression/.
[2] Canadian Human Rights Commission, *Report to the Canadian Human Rights Commission Concerning Section 13 of the Canadian Human Rights Act and the Regulation of Hate Speech on the Internet*, by Richard Moon, (October 1, 2008) at 20 [*Moon Report*].
[3] House of Commons, *Taking Action to End Online Hate*, Standing Committee on Justice and Human Rights (June 2019) (Chair: Anthony Housefather) at 7 [*Taking Action*].
[4] *CCLA, supra* note 1.

outlined in the online hate consultation paper will be an effective means of addressing and preventing the spread of online hate.

Developing a definition of online hate

The Justice Committee report *Taking Action to End Online Hate*[5] makes several recommendations to address the spread of hate speech online; one of which involves the Government of Canada formulating a definition of what constitutes "hate" or "hatred." Conceptually, hate is a difficult emotion to define because how it is identified and experienced is incredibly subjective. Developing a definition either in policy or codifying it in legislation is not only unnecessary since Canada's courts have already defined the term, but will be detrimental to the definition's evolution through future case law and may risk unduly restricting freedom of expression.

Over the past 30 years, from *Taylor*[6] to *Whatcott*[7] and beyond, Canadian courts have developed a body of jurisprudence that defines hate. This definition has evolved over time while judges have attempted to preserve the weight and severity of the word while balancing the importance of freedom of expression. For example, in *R v Keegstra*,[8] Chief Justice Dickson wrote:

> Noting the purpose of s. 319(2), in my opinion the term "hatred" connotes **emotion of an intense and extreme nature that is clearly associated with vilification and detestation.** As Cory J.A. stated in *R. v. Andrews*…:
>
> > Hatred is not a word of casual connotation. To promote hatred is to instil detestation, enmity, ill-will and malevolence in another. Clearly an expression must go a long way before it qualifies within the definition in [s. 319(2)].
>
> Hatred is predicated on destruction, and hatred against identifiable groups therefore thrives on insensitivity, bigotry and destruction of both the target group and of the

[5] *Taking Action, supra* note 3.
[6] *Canada (Human Rights Commission) v Taylor*, [1990] 3 SCR 892, 1990 CanLII 26 (SCC) [*Taylor*].
[7] *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, [2013] 1 SCR 467, (CanLII) [*Whatcott*].
[8] *R v Keegstra*, [1990] 3 SCR 697, 1990 CanLII 24 (SCC) [*Keegstra*].

> values of our society. Hatred in this sense is a **most extreme emotion that belies reason;** an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill-treatment on the basis of group affiliation.[9]

In *Saskatchewan (Human Rights Commission) v. Whatcott,* Mr. Justice Rothstein=, writing on behalf of a unanimous Court, further elaborated that

> ...Representations that expose a target group to detestation tend to inspire enmity and extreme ill-will against them, which goes beyond mere disdain or dislike. Representations vilifying a person or group will seek to abuse, denigrate or delegitimize them, to render them lawless, dangerous, unworthy or unacceptable in the eyes of the audience. **Expression exposing vulnerable groups to detestation and vilification goes far beyond merely discrediting, humiliating or offending the victims**.[10]

In *R v A.B.*,[11] the Nova Scotia Provincial Court further unpacked the legal meaning of hatred within the context of criminal hate speech:

> …It is unfortunate that the concept of freedom of speech is so often sullied by invoking it in defense of crude epithets. At the same time, it is not illegal simply to say things that are grossly rude, wildly offensive, blatantly false, callously hurtful, or even disgustingly hateful. The law does not make the use of specific words or symbols criminal. Society's condemnation of those things comes from sources other than criminal law.[12]

Courts have differed in their application of the definition, demonstrating the highly subjective nature of determining whether expression falls with in the ambit of hate speech. For example, in *Whatcott* complaints were filed with the Saskatchewan Human Rights Commission concerning flyers published and distributed that were alleged to promote hatred against individuals based on

[9] *Ibid*.
[10] *Whatcott, supra* note 7.
[11] 2012 NSPC 31
[12] *Ibid* at para 15.

their sexual orientation. The Saskatchewan Human Right Tribunal found that all four impugned pamphlets constituted hate under the *Saskatchewan Human Rights Code* ("*Code*"). The Saskatchewan Court of Appeal found the *Code* provisions constitutional, but that the four leaflets did not constitute hatred as found in the *Code* provision. The Supreme Court of Canada held that two of the flyers were violations and two were not.

Inarguably, it would be unnecessary for the Government of Canada to develop a definition of hate and would provide no more clarity to the courts on how to apply this subjective definition to the facts of particular cases. Furthermore, a government definition may actually stifle the courts' ability to further develop the definition through future case law.

We are also concerned about the federal government developing a definition of hatred that might unjustly limit free expression in Canada. We've seen how this has played out in the context of antisemitism. On June 25, 2019, the federal government formally adopted the International Holocaust Remembrance Alliance's ("IHRA") definition of antisemitism as part of its strategy to combat racism. While we vehemently condemn antisemitism, the IHRA's definition is "extremely vague, open to misinterpretation," and "not suitable for any legal or administrative purposes in Canada."[13] Furthermore, the accompanying "illustrations" conflate criticism of the state of Israel with antisemitism.[14]

The federal government's inclusion of the IHRA's definition of antisemitism as a non-binding tool in its anti-racism strategy legitimized this conflation. It is unclear as to what, if any, benefit adopting the IHRA's definition of antisemitism has had. It is also unclear as to how this definition will be implemented or how it will impact government actions moving forward. Barring evidence to the contrary, it appears as though the federal government may have just muddied the waters of political speech. Provincial and municipal governments have also considered adopting this problematic definition. City council motions were introduced in Vancouver, Calgary, and

[13] BC Civil Liberties Association, "BCCLA Opposes the international campaign to adopt the International Holocaust Remembrance Association (IHRA) definition of antisemitism", (18 June 2019), online (blog): https://bccla.org/our_work/the-bccla-opposes-the-international-campaign-to-adopt-the-international-holocaust-remembrance-association-ihra-definition-of-antisemitism/

[14] Boycott, Divestment, Sanctions (BDS), a Palestinian-led movement, strives for the freedom, justice and equality of Palestinians. With the expansion of criminal hate speech laws to include "national origin" to the type of "identifiable groups" and the adoption of the IHRA definition which equates criticism of the state of Israel with antisemitism, BDS's political expression has been negatively impacted.

Montreal but were not passed. In the province of Ontario, Bill 168, the *Combating Antisemitism Act*[15], which would entrench this threat to freedom of expression in law and severely chill political speech, has passed Second Reading and been referred to committee.

Reinstating s. 13 to the *Canadian Human Rights Act*

Under the *Canadian Human Rights Act*[16] (*CHRA*), the Canadian Human Rights Commission ("the Commission") and the Canadian Human Rights Tribunal ("CHRT") play an important role in the promotion and protection of equality rights in Canada. Human rights law dictates that individuals are free to make a life for themselves and have their needs accommodated without fear of "discriminatory practices based on race, national or ethnic origin, color, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record of suspension has been ordered."[17] We greatly support this objective and have advocated for equality rights in our policy reform, public education initiatives, campaigning and outreach programs, and court challenges.

In 2013, Section 13 of the *CHRA* was repealed. At the time, the CCLA and BCCLA supported its repeal, and for these same reasons oppose its reinstatement. Having, said that, our opposition to the reinstatement of section 13 should not be seen to derogate from the importance of these human rights bodies and the laws they apply. While we recognize that section 13 was enacted in an attempt to combat discrimination and promote equality, a mature democracy does not achieve equality by limiting freedom of expression.

Firstly, human rights tribunals continue to be an inappropriate mechanism for dealing with the problem of hate speech. The CHRT must interpret the *CHRA* broadly in order to fulfill its mandate of addressing systemic discrimination, yet only a narrow interpretation of hate (as defined in the case law referenced above) will ensure that section 13 doesn't unreasonably limit freedom of

[15] Bill 168, *Combating Antisemitism Act*, 1st Sess, 42nd Leg, Ontario, 2019 (referred to the Standing Committee on Justice Policy).
[16] *Canadian Human Rights Act*, RSC 1985, c H-6, s 2.
[17] *Ibid*.

expression. In a comprehensive and independent review of section 13 of the *CHRA*, Prof. Richard Moon noted that a narrowly drawn ban on hate speech that focuses on expression that is tied to violence does not fit easily or simply into human rights law that defines discrimination broadly."[18] We agree that defining hate narrowly runs counter to the CHRT's mandate and what it is used to doing.

Secondly, even in cases that do not ultimately end up before the Tribunal, the complaints and investigation process can be lengthy and burdensome for the complainant and respondent. Historically, the CHRT has found that section 13 was breached by the most extreme types of speech. However, the complaint process makes it possible for controversial speech to be the subject of an investigation that can impact an individual's reputation for a long time. Consequently, an investigation can cause a chilling effect on controversial forms of speech that, while perhaps offensive, do not rise to the level of hate as defined in Canadian jurisprudence.

In his report, Richard Moon, while advocating for section 13's repeal, provided an alternative that included possible amendments to the provision. These amendments included modifying the language of the provision to make clear that it only prohibits the most extreme examples of discriminatory expression that "threatens, advocates or justifies violence against an identifiable group"; that the new section 13 include an intent requirement; and that the *CHRA* be amended to include a distinct complaints process for section 13.[19]

We do not believe an amended version of the previous section 13 can be enacted in the *CHRA* so as to satisfy our concerns, nor do we believe it is necessary given the availability of other civil law mechanisms like libel and slander, the tort of invasion of privacy or criminal proceedings under section 319 and 320.1 of the *Criminal Code*. Furthermore, if Parliament were to accept the alternative recommendations of the Moon report, we believe it would require a substantial overhaul of the *CHRA* that might negatively impact other provisions and undermine the spirit and original intent of the legislation.

[18] *Moon report*, *supra* note 2 at 31.
[19] *Ibid* at 2.

Amending s. 319 of the *Criminal Code*

The consultation paper proposes amending section 319(6) of the *Criminal Code* to remove the requirement of obtaining the Attorney General's consent before proceeding with a prosecution for the willful promotion of hatred. We do not support this proposal because not only would it undermine the intent of Parliament when enacting this provision, but it would potentially expose individuals to criminal proceedings based on statements or materials that may not fall within the ambit of hate speech laws.

In 1965, the Special Committee on Hate Propaganda, also known as the Cohen Committee, sought to study the "power of words to maim" and what a civilized society could do about it. While recognizing a strong presumption against limiting freedom of expression, the Committee also identified the need to prevent the dissemination of hate propaganda as justified in a multicultural nation like Canada.[20] At the time, the Committee concluded that the existing criminal or civil law (defamation or non-discrimination legislation) were not effective in addressing the issue of the promotion of genocide and hate propaganda.[21] Its recommendations to Parliament eventually lead to the passing of Bill S-5, *An Act to Amend the Criminal Code (Hate Propaganda*), in 1970. Bill S-5 created section 318 and section 319 of the *Criminal Code*.

The importance of the requirement for the Attorney General's permission to prosecute cannot be overstated. It provides protection from the provisions being used for "either harassing prosecutions or easy convictions."[22] These protections make it very difficult to initiate "frivolous prosecutions or fact situations that really involve serious debate over responsible questions related to inter-group tensions or political conflict" regardless of "how tough or abusive the language used."[23]

During Senate debates on Bill S-5, the Honorable. J. A. Scollin quoted remarks made by Chief Justice Wells of the Ontario High Court:

[20] *R v Andrews*, [1990] 3 SCR 870, 1990 CanLII 25 (SCC).
[21] Maxwell Cohen, "The Hate Propaganda Amendments: Reflections on a Controversy", (1970), Vol 9, Alta L Rev, 103 at 109 [*Cohen*].
[22] *Ibid* at 112.
[23] *Ibid*.

> "…I would personally advocate the necessity of obtaining the consent of one of the Attorneys General of a province or…of Canada…before such charges should be proceeded with…it is vitally important that when some law to regulate attacks of this sort is finally put in legislative form, it should be one which will hold the balance between fair speech and freedom of expression on the hand, and ordinary decency in the other.[24]

To remove the requirement for the Attorney General's permission could open these provisions up to abuse and significantly impact the "filtering function"[25] this requirement provides as well as potentially impact the constitutionality of the provision.

Finally, we question the need to establish guidelines on when the Attorney General ought to provide his or her consent to prosecute under criminal hate speech provisions. We are unware of any provincial Attorneys General calling for guidelines, nor is there any evidence that there has been a problematic use of discretion when giving consent to prosecute that would indicate guidelines are necessary. Barring such evidence, the federal government is effectively proposing a solution to something that does not appear to be a problem.

Adding a peace bond to the *Criminal Code*

Another proposed legal remedy suggests amending section 810 of the *Criminal Code* to add a new peace bond provision related to the promotion of hatred/hate crimes. We strongly urge the government not to do this. A peace bond does not require conviction of an offence and can be used where an individual appears likely to commit a criminal offence. It has a lower burden of proof and lacks the appropriate safeguards to adequately protect free expression. Enacting a peace bond provision related to hate speech would operate to criminalize speech before it occurs, it may inadvertently catch controversial speech that doesn't rise to the level of criminal hate speech, and, generally speaking, peace bonds have proven to be ineffective at preventing the behavior they aim to address. Furthermore, victims of hate speech can be awarded a peace bond under the current

[24] "Bill S-5, An Act to Amend the Criminal Code", Special Committee on the Criminal Code, *Senate Debates*, 27-2, No. 1 (14 February 1968) at 33 (Hon J. A. Scollin).
[25] *Moon report supra* note 2 at 32.

Criminal Code provisions, making it redundant to add a specific hate speech peace bond provision to the *Criminal Code*.

While the courts have held peace bonds to be constitutional as preventative provisions, peace bonds are the subject of some academic criticism for eroding three traditional principles of law. Firstly, they erode the distinctions between criminal and civil law by reducing the traditional criminal burden of "beyond a reasonable doubt" to the civil burden of "balance of probabilities."[26] Secondly, peace bonds erode principles of fundamental justice like due process and trial fairness because they are issued on the basis of threats;[27] "intent to act upon a threat cannot be proven because their execution is based in an uncertain future."[28] Finally, peace bonds have been criticized for eroding the traditional rules of evidence through the use of hearsay.[29] Operating together, these criticisms undermine the courts' desire to balance the protection of identifiable groups from the willful promotion of hate with the protection of expression, the bedrock of a free and democratic society.

Although peace bonds are intended to provide the victim a sense of security, unfortunately, they have shown to be ineffective at preventing the risk of harm one fears.[30] This has never been more evident than in the context of domestic violence where protection orders are meant to serve as "life-saving tools for victims of abuse."[31] According to Statistics Canada, in 2009, 15% of female victims of spousal violence reported obtaining some type of protection order.[32] One third of these women said the terms of the order were breached.[33] As Suzie Dunn, part-time professor at the University of Ottawa stated, "[r]estraining orders are useful when you're dealing with a 'more reasonable' perpetrator…a person who already 'doesn't care about authority' isn't likely to abide

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[26] Brandon Chase, "Where Injury or Damage is Feared: Peace Bonds as Counter-Law?" (2012), Electronic Theses and Dissertations 50 at 43 [*Chase*].
[27] *Ibid*.
[28] Richard Ericson, *Crime in an Insecure World*, (Cambridge: Polity Press, 2007) at 157 as cited in *Chase, supra* note 26 at 43.
[29] *Chase, supra* note 26 at 43.
[30] *Ibid* at 45.
[31] Katie Dangerfield, "'A piece of paper did nothing': Advocates say protection orders are failing women in Canada", *Global News* (6 June 2019), online: https://globalnews.ca/news/3965001/protection-orders-canada-failing-women/.
[32] *Ibid*.
[33] *Ibid*.

by a restraining order."[34] It must be expressly stated, that by no means are we trying to diminish the devastating harm experienced by victims of intimate partner violence; we are merely trying to illustrate the historical ineffectiveness of peace bonds at preventing the very behavior they seek to regulate.

We have also witnessed the failure of peace bonds in the counterterrorism context. In 2016, Aaron Driver, an Islamic State of Iraq and the Levant sympathizer, was subject to a peace bond that restricted his mobility and types of activities he could engage in. Despite this, he was still able to shoot a martyrdom video and successfully detonate a bomb that ultimately injured a taxi driver.[35] This begs the question, if peace bonds have been demonstrated to be ineffective in preventing violence and terrorism, how effective will they be in the prevention of hateful speech?

Finally, introducing a new peace bond provision to section 810 may be redundant. The conditions available under the existing peace bond regime may be sufficient to address fears of harm initiated by certain types of speech that are unlikely to be prosecuted under section 319. These include no physical contact with the victim, no communication with the victim, and "any reasonable conditions…that the justice or court considers desirable to secure the good conduct of the defendant" to prevent the harm."[36] In 2019, Richard Warman was successfully awarded a peace bond against Kevin Goudreau, leader of the Canadian Nationalist Front, a white supremacist group. The online posting identified "high value targets" like the Canadian Anti-Hate Network, human rights commissions, police hate crimes units, immigration lawyers and media outlets, advising his audience to "remember to…double tap both hemispheres."[37] Warman's success has created a precedent for targeted persons experiencing threats of injury or property damage.

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[34] Jane Gerster, "'Better than nothing': Do restraining orders actually work?", *Global News* (4 May 2019), online: https://globalnews.ca/news/5231586/do-restraining-orders-work/.
[35] Douglas Quan, "What are peace bonds, and why did the counterterrorism tool fail in the case of Aaron Driver?", *The National Post* (12 August 2016), online: https://nationalpost.com/news/canada/what-are-peace-bonds-and-why-did-the-counterterrorism-tool-fail-in-the-case-of-aaron-driver.
[36] *Criminal Code*, R.S.C., 1985, c. C-46, s 810(3.02).
[37] Joanne Laucius, "'A good self-help remedy': Ottawa human rights lawyer wins peace bond against white supremacist", *Postmedia News* (15 August 2019), online: https://www.thechronicleherald.ca/news/canada/a-good-self-help-remedy-ottawa-human-rights-lawyer-wins-peace-bond-against-white-supremacist-341626/.

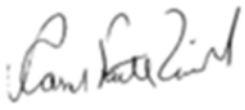
Conclusions

Freedom of expression fundamentally underscores every facet of our democratic society; it empowers the public to gain knowledge while seeking the truth, to engage in civil discourse, to find community and achieve self-actualization. We firmly believe that ending discrimination and prejudice cannot be accomplished through censorship.

The Cohen Committee recognized that "…legislation cannot change the human heart and that fundamentally, change must come from within and that the most formidable enemy of prejudice was education and not punitive criminal law."[38] More broadly, the Committee recognized the fundamental role of education and of the social environment as "a more desirable framework within which to alter and control 'patterns of prejudice.'"[39]

We respectfully submit that government resources should be directed at education and countering hateful messages. If we are to effectively fight discriminatory speech with counter-speech, then we as a society must accept the collective responsibility of facilitating opportunities for marginalized voices to be uplifted and amplified. Simultaneously, we must engage in early intervention by encouraging youth to denounce discrimination in all its forms. We need to encourage people not to forget the importance of civility in public discourse, and to have difficult conversations while maintaining respect for each other's dignity and humanity. Those who preach hate in Canada are a minority and we need to consider putting mechanisms in place that would help facilitate powerful counter-speech and address instances of actual discrimination swiftly and directly.

Respectfully submitted by



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[38] *Cohen, supra* note 21 at 109.
[39] *Ibid*.

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