



The Committee for Justice in Canada

B'NAI BRITH CANADA

Le comité pour la justice au Canada

**SUBMISSION TO THE HOUSE OF COMMONS STANDING COMMITTEE
ON PUBLIC SAFETY AND NATIONAL SECURITY
In its study of Ideologically Motivated Violent Extremism
June 23rd, 2021**

I. Introduction

B'nai Brith Canada is Canada's oldest grassroots Jewish community organization dedicated to eradicating racism, antisemitism and hatred in all its forms, championing the rights of the marginalized, while providing basic human needs for members of the Jewish community. Our overriding objective is combatting antisemitism.

We issued very recently a policy paper entitled '*B'nai Brith Canada's Stand on Fighting Hate*'. It captures key points we have been making on this subject for four years. We would like to share that paper with Committee members.

Just as important in the context of your discussions is our annual *Audit of Antisemitic Incidents in Canada*. We have been publishing this detailed analysis for almost 40 years. The latest *Audit*, with data for the year 2020, was released in April. We would also like to share that document.

Records for antisemitism in this country were set for a fifth consecutive year in 2020. There was an increase of 18.3% of recorded antisemitic incidents in comparison to 2019. These numbers represent a stark reality for Jewish Canadians.

What is even more alarming is the very stark rise in antisemitic incidents, many of them violent, in the four plus weeks since early May. We will be releasing a supplementary report to our annual *Audit* this week, highlighting how dangerous has become the situation for Jewish Canadians. **There is a palpable fear from within our community that Jewish life here is becoming unsafe.**

II. Hate is Hate – Whatever the Source

B’nai Brith Canada has always stood against not just hate directed at the Jewish community but against all forms of hate that are motivated by religious animus.

We are actively engaged with the federal Anti-Racism Secretariat in its implementation of Canada’s **anti-racism strategy**. When the strategy was under development, B’nai Brith Canada **stressed that it should be one that attacks ‘hate’ as much as ‘racism’**. We still believe that. Recent events in Canada, and the Committee’s work, allow for a reflection on that framework. **Hate crosses a broad spectrum of motivations, whether from the right or the left**, and that broad spectrum deserves action.

Canada’s work on systemic or ingrained racism and religious discrimination must not diminish, or be perceived to diminish, the threat to Canadians of all faith communities who face racism and religious discrimination regularly. And it must not suggest that one form of racism or religious discrimination is more threatening or of greater priority than another.

Antisemitism and anti-Muslim hatred are two sides of the same coin of hatred, prejudice and bigotry that affect the rights of all Canadians. They should not be dealt with separately or subjected to different standards that could create resentment between Jews and Muslims.

Community engagement remains key, particularly to prevent the emergence of religiously-based hatred and fear in Canadian youth. This includes the importance of creating **structured opportunities for dialogue, tolerance training and cross-community partnerships**. And we must be careful to **focus our efforts on the low end of the spectrum**, not waiting until hatred reaches the near threshold of radicalization to violence.

III. Violent Extremism, White Supremacy and Domestic Terrorism

There is **merit in the categorizations of violent extremism that are included in the 2019 public report of the Canadian Security Intelligence Service**. The value in these categorizations is that it **facilitates a clearer understanding of the kinds of extremist threats Canada faces**; it lays a foundation for critical education efforts.

Just as important, these **categorizations permit parliamentarians and the public to highlight the domestic threat from white supremacists and neo-Nazis, and to ‘push’ Canada’s security and intelligence agencies to properly address IMVE**, and to ensure they are given the resources and guidance required to deal with it.

However, we **caution against the drawing of artificial distinctions between IMVE and extremism that is politically or religiously motivated**. In reality, the motivations to violent extremism drift across these boundaries – just as the sources of antisemitism are multifold. That is why we emphasize the need **to look at the categorizations more holistically, as violent extremism motivated by hate**.

IV. Observations and Recommendations

In the broader context:

We need a **federal approach to racism that includes a much clearer and balanced focus on hate**. That **government strategy must be national in scope**. Just as we have long advocated for a national – not just federal -- action plan on antisemitism, Canadians need a whole-of-government and whole-of-society approach, including actions for federal, provincial/territorial and municipal officials, as well as the tech industry. Together, a **comprehensive set of actions** should significantly help prevent and counter violent extremism and domestic terrorism – **more so than any one policy or law**.

A **whole-of-government strategy must be accompanied by a whole-of-society approach**. This requires not only **mainstreaming the fight against hate across federal departments and agencies** but **coordination among federal, provincial/territorial and municipal stakeholders, civil society and the private sector**. The federal Government can ensure civil society input by **kicking off the strategy process with a Preventing Domestic Terrorism Summit** with civil society, and then creating a comprehensive interdepartmental strategy that calls out IMVE, and other forms of violent extremism and domestic terrorism and prioritizes preventing and countering it.

In that the Government of Canada will be leading **national summits on both antisemitism and Islamophobia/anti-Muslim hatred**, **mechanism should be created to facilitate a sharing of ideas and best practices between those communities**, particularly in the realm of countering white supremacy and neo-Nazi ideologies.

There must be **more funding directed to civil society and academic programmes to address violent extremist radicalization and recruitment**. These initiatives, which might include education, counseling, and off-ramping, require careful oversight and safeguards that ensure they do not stigmatize communities and are responsive to such concerns. Some valuable work has been undertaken by the Government, which we applaud, but more is needed.

We **endorse the work of the Anti-Racism Secretariat and agencies such as the Canada Centre for Community Engagement and Prevention of Violence**. Greater attention should be devoted to their **long-term funding needs**, to **educating Canadians** on how they can help counter violent extremism, and to **strengthening cooperation with**

civil society organizations in decision-making and in highlighting Canada's *National Strategy on Countering Radicalization to Violence* as it applies to the IMVE threat.

The **Ministers of Justice and of Public Safety and Emergency Preparedness, together with the Prime Minister's National Security Advisor, should convene a meeting of senior officials to review terrorist designations** to ensure that any foreign extremist groups, particularly white supremacist and neo-Nazi groups, that have reached the threshold for the designation should be so designated. This forum's **work should be transparent and involve civil society input.**

The government must ensure consistent analysis of the global nature of the white supremacist terrorist threat, including the threat posed by 'lone wolf' terrorists, through **empowering the Integrated Terrorism Assessment Centre National Counterterrorism Center to analyze the threat to the fullest extent permitted by law.** Efforts are required to **ensure ITAC is appropriately focused on the threat from white supremacist/neo-Nazi groups** and individuals embracing such ideologies.

The federal **government should be urgently tasked with preparing a national strategy for countering domestic terrorism** – with a focus on white supremacists and neo-Nazi groups -- such as that published in June, 2021, by the United States National Security Council. Such a strategy would **incorporate the existing strategy on countering radicalization to violence.** Civil society input should be a contribution.

Government agencies must focus on the **application of international instruments and analysis** to help address the violent extremism threat. Greater attention should be focused, for example, on the United Nations Secretary General's Hate Speech Action Plan of May, 2019 and on applicable recommendations in **the two reports on antisemitism and anti-Muslim hatred/Islamophobia authored by the UN Special Rapporteur on Freedom of Religion or Belief.**

Similarly, the federal government should be urged to clearly endorse the **application to white supremacist/neo Nazi groups and associated individuals of the provisions of United Nations Security Council resolution 1566 (2004)** on the threats to international peace and security caused by terrorism **and resolution 2462 (2019)** on combatting and criminalizing the financing of terrorist and their activities.

In the more specific and domestic context:

We must extol the principle that **the right to freedom from hatred because of one's religion must also exist on the same plane as freedom of expression.** The latter cannot be considered of a higher order

Hate speech and hate crimes, whether directed at the Jewish community or other religious and minority communities in Canada, **must be seen holistically as public safety issues**. Those who lead our system of justice, together with law enforcement agencies, must exert particular leadership to ensure that the safety of our publics remains paramount and that our actions reflect this.

To counter hate, we must first properly define it. From the Jewish community perspective, it goes without question that greater **efforts are required to implement the adoption of the definition of antisemitism from the International Holocaust Remembrance Alliance (IHRA)**. That definition was adopted by the Government in its anti-racism strategy. But diligence in implementing it, and expanding awareness of it, is now imperative.

Representative community organizations, working with law enforcement agencies at the federal, provincial and municipal level must address these issues collaboratively. Law enforcement agencies can better respond to complaints and concerns from civil society organizations if there is ongoing dialogue.

There must be **more diligent use of all the tools at our disposal**. We need to address what can be done to have existing municipal hate crimes units more diligently pursue instances of hate crimes/hate speech to ensure that charges are laid where appropriate.

There must be acknowledgement that **many immigrants to Canada and refugees hail from countries where antisemitism, and hate in general against certain groups, are tolerated or even promoted** by the state. The Government should **commit to remedying this by greater efforts to offering counter-narratives** based on Canadian values.

Attorneys General must be more aggressive in laying hate crimes charges. The prosecution of incitement to terrorism and facilitation of terrorist activity, within Crown investigation and prosecution offices, **needs to be given a higher priority**. There needs to be more resources, more expertise, and more training.

The **Government could publish advisory guidelines on its understanding of the meaning of the advocacy or promotion of terrorism**. The guidelines would not bind prosecutors but could help dispel uncertainty. The guidelines could be drawn from Canadian and international jurisprudence. The guidelines should state that glorification of terrorism should be included in advocacy or promotion of terrorism

There should be **dedicated hate crimes units in all major Canadian cities with common criteria and clear strategies**, distinct from units focused on community engagement and inter-faith dialogue. Canada's mayors and the Canadian Association of Chiefs of Police should be a critical element of the dialogue.

There must be **strengthened training for hate crimes officers in all major police forces and in cities** where hate crimes persist as a public threat. The Canadian Association of Chiefs of Police should be a critical element of the dialogue.

Under federal leadership, the **provinces/territories should commit, with legislative backing, to support and strengthen anti-bias and hate crimes education programmes** to help schools and communities address all forms of bigotry. The Council of Ministers of Education Canada (CMEC) should be a critical element of the dialogue.

Canada's *National Strategy on Countering Radicalization to Violence* is a highly useful vehicle for 'de-radicalization' based on education of those with a tendency to violence and re-shaping their thinking (our words). The current **National Strategy may, in practice, be too weighted towards violent extremists such as Islamists or those prone to overtly terrorist acts.** It must equally be applied to white nationalists, neo-Nazis and white supremacists.

Certain changes to the Criminal Code enacted through Bill C-59 are problematic, as we testified before this Committee in February, 2018, and the Senate Standing Committee on National Security and Defence in April, 2019. There is ample reason to **recommend regular review of such changes** to determine whether they address evolving challenges.

As part of Ontario's commitment to build safer communities, The Ministry of the Attorney General has indicated it will establish justice centres in various locations across the province to address the root causes of crime, break the cycle of offending, and tackle gun and gang violence. The **creation of specialized courts that deal with hate crimes and hate motivated crimes may be worthy of consideration**; the two could potentially work together very effectively.

Governments, together with civil society and affected community organizations, foundations, companies and universities must support **more research to understand and respond to harmful speech, as well as disinformation.**

Data remains key. The government should incentivize and encourage provincial/territorial and municipal law enforcement agencies to **more comprehensively collect and report (and share) hate crimes data**, as well as details of hate incidents.

In Canada, we need to **foster more vigorous public debate**. The public needs to understand the challenges -- and the role they play -- in countering online hate (including disinformation); action cannot be left just to governments, platforms and content providers. The Digital Citizen Initiative should be adapted to facilitate discussion and education, leading to action.

International collaboration is important and must be based on clear national strategies.

No government alone can stop the global scourge of online hate. A **clear legal and policy framework – domestically and internationally** – is required to bring coherence to efforts to take down hate.

We should consider the **creation of a forum similar to the Canadian Broadcast Standards Council**, to convene social media platforms, civil society, and other stakeholders in developing and implementing codes of conduct to address harmful speech.

Direct redress by citizens is equally important. Citizens must be able to challenge providers and platforms directly on their experiences with online hate. This must include a right of responses to those complaints. B'nai Brith Canada has advocated for the Government to **adopt the 'trusted flagger' approach** applied in other jurisdictions.

At present, federally, the only general legal instrument for **combatting online hate** speech is the *Criminal Code*. **Restricting ourselves to use of the *Criminal Code* is too limiting, because the standard of proof is so high** - proof beyond a reasonable doubt; the remedy is often inappropriate - criminal punishment; and the locus of enforcement is a general criminal system rather than an expert human rights system.

The former Section 13 of the *Canadian Human Rights Act* got the balance wrong in the other direction between freedom of expression and freedom from incitement to hatred and discrimination. In our view, it was rightly repealed.

The repealed Section 13 was substantively sound, but procedurally defective, leading to an undue limitation on freedom of expression. We **need a re-enactment of Section 13 with a re-equilibration of the balance**, so that the use of the law is not, as Section 13 had become, a vehicle for harassment of legitimate expression.

There may be merit in considering **whether measures should be introduced to criminalize membership in a terrorist organization**. An illustrative model is that contained in laws of New South Wales, Australia, wherein: (1) A person commits an offence if (a) the person intentionally is a member of a terrorist organization, and (b) the organization is a terrorist organisation, and (c) the person knows the organization is a terrorist organisation.

We concur with proposals advanced earlier the **consideration should be given to addressing how Section 70(1) of the Criminal Code could be adapted as an instrument in addressing the threat from white supremacist and neo-Nazi groups.**

Finally, it is important to recognize that action to designate certain white supremacist and neo-Nazi groups as terrorist entities, such as was recently done by the Government, should not detract from more concerted action against other organizations that threaten Canadian interests. **For years, B'nai Brith Canada has advocated for designation of the entirety of the Islamic Revolutionary Guard Corps (IRGC),** particularly after the 2018 motion passed in the House of Commons. **Action on the IRGC is urgent and necessary.**

In Summary

Actions speak louder than words. There are specific actions that government, together with community organizations, can take in respect of hate crimes and hate speech. We must thoroughly investigate all incidents and potential hate crimes. We must **commit to adopting and implementing preventive measures and education programmes to forestall the inclination to hate.** We must all take responsibility by creating greater awareness of the challenges in dealing with hate and reporting both our successes and shortcomings.

While religious communities must shoulder their part of this burden, our overall recommendations to governments include:

- **Supporting organizations that have a shared mission** to combat racism and religious discrimination, including funding capacity building for them;
- **Facilitating the effort to share information and best practices** to counter racism and religious discrimination through community engagement;
- **Supporting increased education** to counter racism and religious discrimination;
- Obtaining **better quality data on hate crimes and hate incidents**; and
- Recognizing that effectiveness of our hate speech laws requires **strengthened training, preparedness and capacity to report by our law enforcement agencies.**

Above all – whether addressing terrorism-related offences, hate speech/hate crimes and antisemitism or anti-Muslim sentiment in general -- Canada requires a **truly national effort to craft strategies and implement policies at the federal, provincial/territorial and municipal levels.** We must not approach the issues piecemeal, nor proceed in any one given area without considering the implications for another.