BILL C-9

AN ACT TO AMEND THE CRIMINAL CODE (HATE PROPAGANDE, HATE CRIME AND ACCESS TO RELIGIOUS OR CULTURAL PLACES)

BRIEF SUBMITTED BY

TO THE STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS

HOUSE OF COMMONS OF CANADA

NOVEMBER 6, 2025

Table of content

Presentation of the Ligue des droits et libertés

The *Ligue des droits et libertés* is an independent, non-partisan, non-profit organisation that aims to defend and promote human rights by promoting their universality, indivisibility and interdependence. Since its creation in 1963, the LDL has influenced several government policies and bills, and contributed to the creation of instruments and institutions dedicated to the defence and promotion of human rights, such as the *Quebec Charter of Human Rights and Freedoms*, and the *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ).

The LDL regularly intervenes in the public sphere to voice demands and denounce human rights violations before government authorities at the local, national and international levels. The LDL is also a member of the International Federation for Human Rights (FIDH).

The LDL continues, as it has throughout its history, to fight against discrimination and all forms of abuse of power, in defence of civil, political, economic, social and cultural rights, which are universal, interdependent and indivisible.

We thank the House of Commons Standing Committee on Justice and Human Rights for its invitation to comment on Bill C-9, *An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places)*.

Introduction

Bill C-9, introduced on 19 September 2025 by the Minister of Justice, is presented as a tool to combat hatred and ensure the safety of Canadians. It comes amid an increase in police-reported hate crimes, particularly against Jewish and Muslim communities[1]. Hatred and intolerance towards historically discriminated groups within our society is a significant and serious problem that requires urgent attention.

The *Ligue des droits et libertés* (LDL) considers that Bill C-9, which consists of several amendments to the *Criminal Code*, is not an appropriate tool for combating hate and is concerned. Without providing

[1] Department of Justice Canada, ''Canada introduces legislation to combat hate crimes, intimidation, and obstruction'', News release, September 19, 2025.

new legal tools to effectively combat hate, C-9 poses a threat to the rights and freedoms protected by the *Canadian Charter of Rights and Freedoms*, particularly freedom of expression, peaceful assembly and association. The LDL is a co-signatory of a letter by the Canadian Civil Liberties Association (CCLA) signed by 42 organisations and sent to the Minister on October 6th, urging the government not to pass C-9 and to favour community-based approaches that protect vulnerable groups without compromising rights and freedoms[2].

Bill C-9 proposes:

- to include in the *Criminal Code* a definition of hatred that falls below the threshold established in the definition adopted by the Supreme Court, which is not advisable;
- to create a new criminal offence of inciting hatred by displaying a symbol associated with an entity on Canada's list of terrorist entities – a list that has long been criticized by civil society organisations;
- creating a new criminal offence of intimidation, and preventing or hindering access to specific places, including places of worship, based on vague and imprecise concepts;
- creating a new offence related to the commission of an offence when it is motivated by hatred, undermining the coherence of the *Criminal Code*, which currently provides that hatred is an aggravating factor in sentencing;
- and to repeal the prior consent of the Attorney General, which could, outside Quebec, increase the risk of abusive private prosecutions and unfounded charges by police officers.

The LDL is concerned about the impact of such a bill on the exercise of rights and freedoms and on social movements, which are at risk of increased surveillance and repression, a trend already observed in recent years, particularly with regard to movements calling for respect for the human rights and the right to self-determination of the Palestinian people. The LDL recalls that Canada is called upon to respect and abide by the principles of the 1998 *United Nations Declaration on Human Rights Defenders*, which guarantees the right to promote the protection and realisation of human rights at the national and international levels. The Special Rapporteur on human rights defenders also expresses deep concern about States where human rights defenders are targeted by “restrictions on freedom of movement, expression, association and assembly”.

The LDL urges Parliament not to pass Bill C-9 and to broaden consultations and conversations with communities targeted by hate speech and behaviour, in order to identify community-based solutions that are effective and do not compromise the exercise of the rights and freedoms of these communities, and of the Canadian population as a whole.

[2] Canadian Civil Liberties Association, ‘’Civil Society Groups Demand Federal Government Rethink Bill C-9’’, Letter signed by 42 organizations and press release, October 6, 2025.

1. New definition of hatred

Bill C-9 proposes to add, to section 319(7) of the *Criminal Code*, the following definition of hatred that would apply to the new offences proposed in C-9 and to existing offences: ‘’hatred means the emotion that involves detestation or vilification, and that is stronger that disdain or dislike; (haine)’’.

The Supreme Court's case law sets a higher threshold that must be met for statements to be characterised as hateful. In 1990, in *R. v. Keegstra*[3], the Supreme Court established that hatred “connotes emotion of an intense and extreme nature that is clearly associated with vilification and detestation.” The Court went on to state that: “Hatred is predicated on destruction [...] [It represents] 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.”

Without reference to the extreme nature of this sentiment, as defined in Supreme Court jurisprudence, C-9 risks lowering the threshold according to which a person could be considered to have made criminally hateful statements, thereby unjustifiably infringing on the freedom of expression protected by the *Canadian Charter*.

The LDL is opposed to codifying in the *Criminal Code* a definition of hate that falls below the threshold established by the Supreme Court.

2. Offence of displaying symbols related to terrorism and hatred

C-9 proposes the creation of a new offence under section 319(2.2) of the *Criminal Code* for “wilfully promoting hatred against any identifiable group by displaying [a symbol] in any public place.” Three types of symbols are targeted, namely (a) a symbol principally used by an entity listed as a terrorist entity, or principally associated with such an entity; (b) the Nazi Hakenkreuz, also known as the Nazi swastika, or the Nazi double Sig-Rune, also known as SS bolts; and (c) a symbol so nearly resembles a symbol described in paragraph (a) or (b) that it is likely to be confused with that symbol.

First, the creation of criminal offences linking individuals or acts to Canada's list of terrorist entities is problematic in itself. The LDL, like other organisations, has expressed its opposition to such a list since its creation. While it is presented as a tool to protect the security of people in Canada and around the world, in fact, it is rather an opaque and arbitrary list that undermines freedoms of association and expression, as well as due process in the courts[4]. Terrorist entity lists are often political instruments used discretionarily to serve the geopolitical interests of States and their allies. The inclusion of organisations on the Canadian list is the result of a discretionary decision by the Minister of Public Security that does not comply with the UN's minimum safeguards in this area[5]. It currently includes 87 entities and continues to grow.

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[3] *R. c. Keegstra*, [1990] 3 RCS 697.

[4] See International Civil Liberties Monitoring Group (ICLMG), ‘’Canadian civil liberties coalition calls for end to terrorist entities listing regime’’, Press Release, October 17, 2024. The Ligue des droits et libertés is a member of the ICLMG.

[5] United Nations, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, ‘’Best practices to protect human rights while using administrative measures to prevent terrorism: restrictive orders, terrorist listings, security detention and

In a report published in July 2025, the *United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* warns of serious human rights violations that can occur "where a vague and overbroad definition of terrorism triggers a vague and overbroad category of “terrorist organization”, which in turn triggers vague and overbroad offences[6]”.

We consider that this applies appropriately to section 319(2.2). This is an excessively broad offence which, in paragraphs (a) and (c), depends on the process of designating “terrorist entities”. It should also be noted that the Special Rapporteur -- recalling that any offence related to such lists must comply with the principle of legality and make it possible to know what is considered criminal behaviour - states that offences related to the display of symbols are precisely exposed to the risk of legal uncertainty[7].

The new section 319(2.2) is worded in such a way that the mere display of one of the prohibited symbols could in itself constitute incitement to hatred (more specifically, in terms of the material element of the offence). In other words, a person who displays a prohibited symbol could be arrested on that basis alone. Because the police act on reasonable grounds drawn primarily from the material element of offences, an offence whose material element is the display of a symbol effectively authorises police intervention on that basis.

If it is not the intention of the legislature to make the mere display of a symbol an offence, what would be the purpose of section 319(2.2)? Currently, a person who displays a Nazi swastika may, depending on the context, be subject to charges related to the offence of incitement to hatred (s. 319(1)), the offence of fomenting hatred (s. 319(2)) and the offence of fomenting anti-Semitism by condoning, denying or minimising the Holocaust (s. 319(2.1)). Simply displaying it is not in itself criminalised, but it can certainly be part of the evidence used to establish the material element (actus reus) and the mental element of the offence (mens rea). Thus, at best, section 319(2.2) would be repetitive and of no use. At worst, by criminalising the display of a symbol itself, it would go well beyond what is constitutionally permissible, representing a significant limitation on freedom of expression.

The wording leaves considerable room for arbitrariness in its application, especially since the terms are vague and imprecise, for example: “principally used by a listed entity” and “principally associated with a listed entity” in paragraph (a). In light of the above, we consider that if C-9 is adopted, the use of symbols associated with national liberation or self-determination organisations, such as Tamil, Kurdish or Palestinian ones, in peaceful demonstrations could expose demonstrators to criminal charges. With regard to paragraph c) referring to “a symbol that so nearly resembles a symbol described in paragraphs a) or b) that it is likely to be confused with that symbol”, this further extends the apparent scope of the text by making it dependent on subjective judgement, allowing for even more arbitrary and unreasonable application.

Furthermore, since the concept of a “public place” includes the Internet and social media, a person who posts an image of a flag of a “listed entity” on a private account – but one that is accessible to a certain number of people – could face criminal charges.

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compulsory interventions’’, Report, A/80/284, July 31, 2025, par. 19 to 38 ; United Nations, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, ‘’Ten areas of best practices in countering terrorism’’, Report, December 22, 2010, A/HRC/16/51, par. 35.

[6] United Nations, *op.cit.*, A/80/284, par. 33.

[7] United Nations, *op.cit.*, A/80/284, par. 35.

We note that the current offences under section 319 of the *Criminal Code*[8] represent infringements on freedom of expression protected by section 2(b) of the *Canadian Charter*, but are justified in a free and democratic society within the meaning of section 1 of the *Charter*[9]. It seems clear to us that the new section 319(2.2) could not be upheld by section 1, since we do not believe there is a rational connection between the objective and the provision as formulated, and since the provision certainly does not represent a minimal infringement on freedom of expression.

This would not only be an unjustified violation of the freedoms of expression, peaceful assembly and association, but could also constitute an infringement on the right to equality protected under section 15 of the *Canadian Charter* on the grounds of race, national or ethnic origin, or religion.

Examples of abuses abroad

The United Kingdom offers a striking example of security drift. Civil liberties advocates are concerned that the police are using broad public order powers to detain people who post “offensive” tweets, making around 30 arrests a day[10]. Citizens are left in limbo, unsure of what comments made, posted or *liked* on social media will send the police to their door and land them behind bars.

Furthermore, after designating as a ‘’terrorist entity’’ the activist group, Palestine Action, which had disrupted the facilities of Israeli arms manufacturer Elbit Systems, the United Kingdom arrested hundreds of peaceful citizens, including elderly people, people with disabilities and veterans, simply for displaying a banner or clothing bearing the words ‘’I oppose genocide, I support Palestine Action[11]’’. Amnesty International saw this as ‘’a violation of the United Kingdom's international obligations to protect the rights to freedom of expression and assembly[12]’’, stressing that "instead of criminalising peaceful protesters, the government should focus on taking immediate and unequivocal action to end Israel's genocide and end any risk of UK complicity in genocide[13]". The UN High Commissioner for Human Rights criticized the British government's position, saying that the new law "misuses the gravity and impact of terrorism[14]."

In the United States, President Donald Trump issued an executive order on 22 September 2025 designating the Antifa movement as a ‘’terrorist organisation’’[15], demonstrating the risk that social movements and civil society groups may be designated as "terrorist" entities for political ends by governments in power.

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[8] Section 319 (1) Public incitement of hatred; 319 (2) Wilful promotion of hatred; 319 (2.1) Wilful promotion of antisemitism.
[9] *R. c. Keegstra*, [1990] 3 RCS 697.
[10] Gabriella Swerling, ‘’The victims of Britain’s free speech crackdown’’, *The Telegraph*, September 3, 2025.
[11] Sylvia Hui and Jill Lawless, ‘’Police arrest almost 900 at London protest supporting banned group Palestine Action’’, *Toronto Star*, September 15, 2025.
[12] Amnesty International, ‘’Open Letter to Sir Mark Rowley, Chief Commissioner of the Metropolitan Police’’, August 6, 2025.
[13] Amnesty International UK, ‘’UK: Arrests of Palestine Action protesters 'deeply concerning'’’, Press release, August 8, 2025.
[14] United Nations, Office of the High Commissioner for Human Rights, ‘’UK: Palestine Action ban ‘disturbing’ misuse of UK counter-terrorism legislation, Türk warns’’, Press Release, July 25, 2025.
[15] The White House, ‘’Designating Antifa as a Domestic Terrorist Organization’’, Executive Order, September 22, 2025.

In a recent report published in October 2025 on the criminalisation of movements in solidarity with the Palestinian people, the International Federation for Human Rights notes that in several of the states analysed, anti-terrorism legislation is being used to repress solidarity movements. Among its key recommendations, the FIDH urges states to ''reform counterterrorism legislation to explicitly exclude any application to protected forms of political expression, making clear in law that criticism of a state, participation in peaceful demonstrations, or expression of political slogans cannot, in themselves, be equated with a terrorist offense[16]''. The FIDH also recommends the creation of ''independent and pluralistic oversight bodies [...] tasked with regularly reviewing measures adopted in the name of national security[17]''. These major concerns should inform Canada about the nature and use of the list of terrorist entities.

Statutory defences

Bill C-9 provides defences to this new offence. Although at first glance the language is reminiscent of the defences provided for offences of wilfully promoting hatred or anti-Semitism (sections 319(3) and 319(3.1)), we consider that the new defences are more limited.

Currently, the defences permitted under sections 319(3) and 319(3.1) are:

> **(a)** if he establishes that the statements communicated were true;
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> **(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;
>
> **(c)** if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or
>
> **(d)** if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

The following defences are proposed in relation to the new offence at 319(2.2):

> **(a)** the display of the symbol was for a legitimate purpose, including a legitimate purpose related to journalism, religion, education or art, that is not contrary to the public interest;
>
> **(b)** in good faith, the display of the symbol was intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

Paragraph (b) essentially reiterates the defence of reporting in good faith to remedy an issue causing feelings of hatred provided for in paragraph (d) of 319(3) and 319(3.1). However, we believe that the defence in paragraph (a) narrows the practical scope of recognised justifications.

Indeed, under the current defence in paragraph (c) of 319(3) and 319(3.1), it is sufficient that the statements relate to a matter of public interest, that their examination is in the public interest, and that the accused believed them to be true. Applied to the symbol, the equivalent would have been that the display of the symbol was made in connection with a matter of public interest, in the public interest.

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[16] FIDH, ''Solidarity as a Crime: Voices for Palestine Under Fire'', Report, No 846f, October 2025, p. 49.
[17] Idem.

As for the current defence provided for in paragraph (b) of 319(3) and 319(3.1), it is sufficient to have expressed an opinion in good faith on a religious subject or text. Transposed to the context of the symbol, the equivalent would have been a display in good faith of a symbol related to religion.

However, the proposed text merges the two rationales of (b) and (c) in the current defences, but requires that the display of the symbol, even if it pursues a ‘'legitimate'' purpose, not be ‘'contrary to the public interest.'' Thus, we move from a positive test (connection and consideration of public interest or good faith) to a two-step test with a negative filter: legitimate purpose, but not contrary to the public interest. The result is a narrower and less predictable defence for the proposed offence in 319(2.2).

3. Offences of intimidation and obstructing access to buildings

C-9 proposes the addition of section 423.3 (1), which criminalises acting in any manner with the intent to cause fear in a person in order to prevent them from accessing a cemetery; or buildings or structures used primarily for religious worship or used primarily by an identifiable group. The new section 423.3 (2) makes it an offence to intentionally prevent or obstruct access to these same places.

These new provisions call into question freedom of expression, freedom of association and freedom of peaceful assembly. They compromise the right to demonstrate and picket as defined by the courts. However, these are recognised forms of expression and essential rights in a democratic society, as the Supreme Court points out: ‘'Representative democracy, as we know it today, which is in great part the product of free expression and discussion of varying ideas, depends upon its maintenance and protection.''[18]

The ability to picket is also crucial in labor law: “Within the labour context, picketing represents a particularly crucial form of expression with strong historical roots.”[19] The proposed changes undermine these forms of expression.

Vague concepts

Intimidation within the meaning of section 423.3(1) is based on the use of a vague concept, namely “the intent to provoke a state of fear” in a person in order to impede their access to a place. The use of such a vague and subjective concept leads to arbitrariness. It is difficult to identify prohibited behavior.

Case law only excludes from the scope of protection afforded by section 2(b) of the *Canadian Charter* violence or threats of violence that directly affect the physical integrity and liberty of another person[20]. On this matter, the Ontario Court of Appeal stated:

> [49] Violence is not the mere absence of civility. The application judge extended the concept of violence to include actions and words associated with a traditional form of political protest, on the basis that some town employees claimed they felt "unsafe". This goes much too far. A

[18] *SDGMR c. Dolphin Delivery Ltd.*, 1986 CanLII 5 (CSC), [1986] 2 RCS 573, par.12.
[19] *Alberta (Information and Privacy Commissioner) c. Travailleurs et travailleuses unis de l’alimentation et du commerce*, section locale 401, [2013] 3 RCS 733, par. 35.
[20] *Renvoi relatif à l'art. 193 et à l'al. 195.1(1)c) Code Criminel (Man.)*, [1990] 1 RCS 1123.

> person's subjective feelings of disquiet, unease, and even fear, are not in themselves capable of ousting expression categorically from the protection of s. 2(b).[21]

Disruptive actions that cause discomfort, embarrassment and subjective fears do not justify restricting this form of expression[22]. However, “the intent to provoke a state of fear” could easily be confused with disruptive actions that are currently permitted in the context of demonstrations or picketing. In 2019, the Quebec Court of Appeal recognized that protesting is an inherently disruptive form of expression that disturbs and interrupts daily life[23]. The same applies to the offense of “obstructing or interfering with” access under section 423.3 (2), which could criminalize a number of disruptive or disturbing behaviors that are constitutionally protected.

Countless and vague places

These provisions entail very serious consequences to demonstrating in certain places. However, the Supreme Court has rejected, as arbitrary, restrictions on picketing based on the location of expression:

> Where picketing occurs has little to do with whether it is peaceful and highly respectful of the rights of others on the one hand, or violent and disrespectful of the rights of others on the other hand. By focussing on the character and effect of expression rather than its location, the wrongful action approach offers a rational test for limiting picketing, not an arbitrary one[24].

Furthermore, these places -- where protesters face significant criminal penalties - are countless and difficult to identify. It is not always easy to determine whether a building, structure, or part thereof is “primarily used by an identifiable group” for a myriad of activities. Yet this is crucial in order to know what criminal penalties a person may face.

Given that these places are also workplaces, the new offenses risk disproportionately penalizing the workers who work there. Making noise, shouting slogans, or delaying traffic by distributing flyers could potentially constitute vague offenses of “fear” or “interference.” These legislative changes are likely to undermine the right to picket. They could also have an inhibiting effect on the right to free speech and expression of identifiable groups that they seek to protect.

Furthermore, it should be noted that demonstrations may take place in front of locations referred to in section 423.3 (1) not because of the nature of the location, but because of the event taking place there. This was the case, for example, with a demonstration in July 2025 in front of a church in Montreal where a concert was being held by a singer associated with the MAGA (Make America Great Again) movement. This was also the case with demonstrations in 2024 denouncing real estate events for Palestinian land in the occupied West Bank, which were sometimes organized in places of worship such as synagogues. The purpose of such demonstrations was to denounce practices that are illegal under international law. The choice of location for the demonstration was therefore closely linked to the illegal activities taking place inside. Such demonstrations are an exercise of freedom of expression and the right to defend human rights, and although they take place in front of a place of worship, they should not be wrongly associated with anti-Semitism or be subject to criminal charges if C-9 is adopted.

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[21] *Bracken v. Fort Erie (Town)*, 2017 ONCA 668 (CanLII) par. 49.
[22] See for example *Medvedovsky c. Solidarity for Palestinian Human Rights McGill (SPHR McGill)*, 2024 QCCS 1518 (CanLII) par.42 ; *Bérubé c. Ville de Québec*, 2019 QCCA 1764, par. 163
[23] *Bérubé c. Ville de Québec*, 2019 QCCA 1764, par. 163.
[24] *S.D.G.M.R., section locale 558 c. Pepsi-Cola Canada Beverages (West) Ltd.*, 2002 CSC 8 (CanLII), [2002] 1 RCS 156 par. 76

Disproportionate penalties and consequences

The penalties for these two offenses (intimidation or interference), which are broad and vague in scope, are excessive. A violation of section 423.3(1) or (2) is punishable by a maximum penalty of 10 years' imprisonment. The offense of intimidation does not give rise to a defense concerning the disclosure of information (423.3(4)). As a secondary offense, intimidation would also allow for DNA sampling[25].

Duplication

These new offenses are also unnecessary. The *Criminal Code* already provides sufficient tools for victims of obstruction or intimidation[26]. Everything indicates that the new provisions are in fact aimed at criminalizing acts that are currently permitted in the context of peaceful demonstrations.

We believe that these new offenses would, at the very least, discourage people from demonstrating in front of certain locations and would therefore interfere with the message. Such an infringement on the freedoms of expression, assembly, and association is unjustifiable[27].

4. Offence motivated by hatred

C-9 provides for the creation of a new offense under section 320.1001(1) when the commission of an existing offense (called an included offense) is motivated by hatred based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression. This provision aims to increase the penalties when the offense is prosecuted as an indictable offense.

In the current structure of the *Criminal Code*, section 718.2(a) sets out the principles for determining the sentence and states, as a principle in paragraph (a), that the sentence must be adapted to the mitigating and aggravating circumstances. The fact that an offense was motivated by prejudice or hatred based on the factors listed above is provided for in 718.2(a)(i) as an aggravating circumstance. It also provides, for example, that aggravating circumstances include the fact that the offense is mistreatment of an intimate partner or mistreatment of a minor.

The new offense undermines the coherence of the *Criminal Code*, especially since the section is being added without amending 718.2(a)(i). Hate motivation for a crime is now not only an aggravating factor to be considered along with other aggravating and mitigating factors in sentencing but would also constitute an offense in itself if C-9 were adopted.

The maximum penalties are increased excessively, in particular, an offense punishable by a maximum of two years would increase to five years, and an offense punishable by 14 years would increase to life imprisonment. For materially identical acts, the factor of hate motivation causes the applicable ceiling to jump from one category to another, whereas the current regime allows for adjustments in

[25] Section 8 of Bill C-9.
[26] Disturbing religious worship or certain meetings section 176(2); Mischief relating to religious property section. 430(4.1) ; Criminal harassment section 264; Uttering threats section 264.1; Intimidation section 423.
[27] See *Verdun (Ville) c. Syndicat canadien de la fonction publique, section locale 302*, 2000 CanLII 11385 (QCCA) :''[...] When you tell someone how and where they should exercise their freedom of expression, that in itself is a limitation on freedom of expression, a limitation that must be justified.'' (our traduction)

severity on a case-by-case basis. Thus, 320.1001(1) could allow for the application of disproportionate sentences, breaking with the principle of sentencing consistency.

5. Repeal of prior consent of the Attorney General

Bill C-9 proposes to eliminate the Attorney General's (AG) consent requirement for laying charges of hate propaganda, currently provided for in section 319(6) of the *Criminal Code*. This requirement serves as a preliminary filter in several provinces. In Quebec, this filtering mechanism is rather theoretical, because under section 2 of the *Criminal Code* and the *Act respecting the Director of Criminal and Penal Prosecutions*[28], all prosecutors of the DPCP act as substitutes for the AG and can give consent without any particular formality[29], and criminal charges are laid by them. As a result, the proposed repeal would not change the practice in Quebec. However, we believe that it would reduce effective filtering elsewhere in the country, increasing the risk of abusive private prosecutions and unfounded charges brought by police officers

Conclusion

When drafting bills, Canada would be well advised to take a stand against repressive trends that tend to criminalize the expression of diverse opinions and suppress the defense of rights, and to reaffirm high and loud its respect for human rights obligations. With its redundant provisions, new offenses based on broad and vague wording, removal of safeguards and addition of extremely harsh penalties, Bill C-9 will not only fail to provide new and appropriate tools to effectively combat hate but will instead provoke fear of thought crime and excessive self-censorship.

[28] RLRQ c D-9.1.1.
[29] *Drummond c. R.*, 2023 QCCA 1387.