

RECOMMENDATION

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GIVE POWER TO THE CANADIAN HUMAN RIGHTS COMMISSION TO DEAL WITH HATE PROPAGANDA

Timely: The Committee believes that prosecutions under the Criminal Code should form only one of a handful of legal techniques that should be deployed against hate propaganda peddlers. One of the more timely and less cumbersome means is amending the Human Rights Act to cover this problem.

No Provision: When the Saskatchewan Human Rights Commission appeared before the Committee, its representatives described a problem they had with hate propaganda. Hate propaganda originating in Ontario was found in Saskatchewan. The Saskatchewan Human Rights Commission could not deal with the case because Ontario was the point of origin of the material. The Ontario Human Rights Code does not have a provision for dealing with hate propaganda, whereas the Saskatchewan Act does.

The Law: The relevant section of the Saskatchewan Act states that the production and/or distribution in any shape or form, of literature which exposes, or tends to expose to hatred, ridicules, belittles, or otherwise affronts the dignity of any person or any class of persons because of their race, creed, religion, color, sex, marital status, physical disability, age, nationality, ancestry, or place of origin, is illegal. There is a similar provision in Manitoba.

Recourse: This type of provision enables any Canadian to go to the Human Rights Commission when there is evidence of such material being published. The complaint is handled by the Commission and not by the courts, thus eliminating the need for a lawyer and other legal requirements involved in an ordinary prosecution. The Commission attempts to conciliate the matter and reach a settlement before setting up a tribunal. A tribunal order would likely require an apology, nominal damages and an undertaking not to publish any more like material.

Efforts: The Committee's attention has been brought to the possible civil recourse individuals might have in cases of group defamation.

Section 19 of the Manitoba Defamation Act and British Columbia's Civil Rights Protection Act provide a recourse to the Provincial Supreme Court to an individual who is a member of an identifiable group which is the subject of hate propaganda. These laws allow for injunctions, the award of damages and the imposition of fines.

The Law Reform Commission of British Columbia and the Ontario Attorney General's Office are studying their libel and slander laws, and group defamation forms part of these studies. The Committee commends these efforts and encourages others to undertake similar activities.

RECOMMENDATION:

Justice Canada should prepare amendments to the Canadian Human Rights Act to allow the Canadian Human Rights Commission to deal with hate propaganda.