
KEY-NOTE ADDRESS

OSCE High-level Conference on Tolerance and Non-Discrimination The Honorable Alice Wong, Parliamentary Secretary for Multiculturalism Astana Kazakstan, June 30, 2010

SESSION 4 – the role of legislation, law enforcement, data collections and civil society in combating and preventing intolerance and discrimination, including hate crimes

Ladies and gentlemen,

We would like to thank the Kazakh OSCE Chairmanship for organizing this very important event. We would also like to thank the Office for Democratic Institutions and Human Rights in its efforts to assist participating States as well as NGOs in the fight against hate crime. Hate crimes and discrimination are a significant source of violence in the OSCE region today. Combating and preventing intolerance and discrimination is a core commitment made by OSCE participating States. The recent tragic events in Kyrgyzstan are a reminder to us all that we must be vigilant in promoting tolerance and non-discrimination in our respective societies.

Canada takes the issue of hate crime very seriously. Hate-motivated crimes are unique in that their effects can go beyond those generally associated with non-hate crimes, because the personal characteristics motivating the crime are often core elements of the victim's sense of identity. People targeted by hate crime, and particularly violent hate crime, can therefore suffer significant emotional consequences, which can cause further tensions between different groups living together in a society. .

It is important that citizens in all OSCE participating States are safe within their respective communities. Canada's approach to diversity is premised on the principle that multiculturalism is a fundamental value and a core characteristic of the country. Canada views diversity as a source of strength, innovation, and a competitive edge in a globalized world economy.

In this presentation, I would like to share with you some examples of progress that has been made in Canada in the area of hate crimes for OSCE participating States to contemplate in their efforts to combat this particularly damaging type of crime. The *Criminal Code* of Canada has specific legislation to address crimes motivated by hate, which we believe is a "best practice" that other OSCE members may wish to consider when drafting or amending their hate crimes legislation. First, our *Criminal Code* provides that offences motivated by hate, bias or prejudice based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor shall be considered as aggravating factors in sentencing an offender. As you can see, this list of deemed aggravating factors is **non-exhaustive**; hence the use of the phrase "or any other similar factor".

Secondly, the *Criminal Code* creates a specific crime of mischief in relation to a building that is primarily used for religious worship, including a church, mosque or synagogue or a cemetery, where the mischief is motivated by bias, prejudice, or hate based on religion, race, colour or national or ethnic origin.

There is of course another kind scourge that promotes hatred in society, the dissemination of hate propaganda. Unlike regular hate crimes provisions, which focus on crimes already committed that have been motivated by hatred towards various groups within societies, hate propaganda is a form of freedom of expression. Thus, it is important that crimes of hate speech, if created, must

be crafted with due regard for freedom of expression. This means that they **must** include important safeguards to prevent improperly curtailing freedom of expression.

For example, Canada's *Criminal Code* has three crimes of hate propaganda, one of which is the crime of communicating statements, other than in private conversation, to wilfully promote hatred against an "identifiable group", that is, any section of the public distinguished by colour, race, religion, ethnic origin, or sexual orientation. The crime of wilfully promoting hatred has a number of defences, such as the defence of truth. Moreover, the Supreme Court of Canada has ruled that "wilfully" means intentionally, which is the highest kind of mental fault requirement in our criminal law. Finally, this crime requires that the relevant provincial Attorney General give his or her consent before a criminal prosecution can begin.

With regard to combating hate propaganda on the Internet, we also offer to participating states another Canadian example: Canada's *Criminal Code* authorizes a judge to order the deletion, from a computer system within the jurisdiction of the court, of publicly-available hate propaganda material. The *Code* also provides for the seizure and forfeiture of hate propaganda kept on premises for distribution or sale.

Canada's Action Plan Against Racism addresses racial discrimination in a coordinated manner across federal government institutions. This framework was augmented through efforts to combat anti-Semitism, through the *Canadian Municipalities Against Racism and Discrimination*, and through innovative programming by our provinces and territories.

Through the Action Plan, Canada developed a nationally standardized data-collection strategy on hate-motivated crime, which provides data covering 87% of the Canadian population. We recently released the third year of national data and see the beginning of a larger dialogue on combating acts of hate. This data provides useful insights into the scope of hate crimes in Canada.

For example, the most recent statistics on police-reported hate crime in Canada, covering the year 2008, was released this June by Statistics Canada. The number of police-reported hate crimes in 2008 was broken down into "violent crimes" (such as assault, uttering threats or harassing phone calls) and "non-violent crimes". In 2008, non-violent crimes, primarily mischief accounted for about 6 in 10 hate crimes. Hate crimes motivated by sexual orientation were more likely to involve a violent offence than those motivated by race/ethnicity or religion. The statistics also showed that hate crimes in Canada were most likely to be committed by youth and young adults (12 to 22 years).

We believe that our data-collection systems, law enforcement from police services and the judiciary provide good examples for OSCE participating States in their effort to combat hate crime. Specific recent efforts in Canada include a number of policing initiatives, such as youth-orientated presentations and fact sheets on hate crime, a community outreach program, and a guide on hate and bias crime for police investigators. Some cities, such as Toronto, Vancouver, and Ottawa, have created police hate-crime units. The Royal Canadian Mounted Police's "Bias-Free Policing" strategy entitles all persons to equitable treatment by the national police service. Cultural diversity training is widespread in our law enforcement agencies.

Another example of a best practice that could be introduced in other participating States is the *Cross-Cultural Roundtable on Security*, created in 2005, which allows Canadians and the Government of Canada to participate in an ongoing dialogue on national security in a diverse and pluralistic society. This Roundtable is comprised of up to 15 individuals, all volunteers, from

various ethno-cultural and religious communities from across Canada. They meet about three times a year with senior Government officials to discuss and provide advice on issues relating to national security. To date, there have been 15 such meetings which have contributed to improved policy decision-making. It has also been engaged in outreach sessions with communities, for example, with newcomers to Canada.

There are a wide variety of federal, provincial and municipal activities in Canada related to racism and racial discrimination in order to promote the protection of ethnocultural and ethnoracial communities from prejudice and stereotypes. Examples include joint efforts to address gaps in foreign credentials recognition and pursue opportunities to advance multiculturalism, the creation of the *Canadian Museum of Human Rights*, and the province of British Columbia's *Welcoming Communities' Strategy*.

While we believe that our approach has served us well, we continue to engage all Canadians given our responsibilities to reduce intolerance and discrimination and urge participating States to also pursue this dialogue with their citizens.

Ladies and gentlemen,

A few months ago we welcomed the three Personal Representatives of the Chair-in-Office to promote greater tolerance and combat racism, xenophobia and discrimination in a joint visit Canada. We would encourage other participating States to do the same. We also support the valued work of the High Commissioner on National Minorities on these issues and in related areas.

We recommend that participating States continue to improve their reporting on hate crime and work to develop whole of government approaches to combating hate, racism and discrimination.

We encourage ODIHR to continue working with participating States on the collection of accurate data on hate crime and in developing legislation to combat impunity for hate-motivated violence.

In conclusion, I would like to reaffirm that participating States have an important role in increasing efforts in combating violent hate incidents and intolerance in the OSCE region. Canada looks forward to continuing to be actively engaged in our collective work to this end. It has been my pleasure to present in this session and to be a part of this important event which so aptly brings our attention to the ongoing need to promote tolerance and non-discrimination in our respective societies.

Thank you very much for your attention.