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## Criminal Code Amendments (Bill C-250) Regarding Hate Propaganda (Power Point Presentation)

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**Sections 318 and 319 of the *Criminal Code***

**Section 318 - Hate Propaganda**

**Advocating genocide**

- (1) Every one who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.
- (2) In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,
- (a) killing members of the group; or
  - (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

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**Section 319**

(1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

(2) Every one who, by communicating statements, other than in private conversation, willfully promotes hatred against any identifiable group is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

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(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General

(4) In this section, “identifiable group” means any section of the public distinguished by colour, race, religion (or) ethnic origin or sexual orientation.

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(3) No person shall be convicted of an offence under subsection (2)

- (a) if he establishes that the statements communicated were true;
- (b) if, in good faith, he expressed or attempted to establish by 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.

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(4) Not applicable

(5) Not applicable

(6) No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.

(7) In this section,

“communicating” includes communicating by telephone, broadcasting or other audible or visible means;

“identifiable group” has the same meaning as in section 318;

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### Notes

- Are two separate offences – “communicating statements” and “promoting hatred”
- The “communicating statements” offence does not require Attorney General consent nor does it have 4 statutory defences
- Both offences allow for arrest however, it must comply with S.495 of the *Criminal Code*

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“public place” includes any place to which the public have access as of right or by invitation, express or implied;

“statements” includes words spoken or written or recorded electronically or electro-magnetically or otherwise, and gestures, signs or other visible representations.

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- The “promoting hatred” offence has 4 defences:
  - Truth
  - Good faith religious opinion
  - Public benefit
  - Removal of hatred and it requires Attorney General consent
- “Communicating statements” offence can result in a conviction even if 4 defences are present

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- **Identifiable group – meaning of “orientation” is unclear. If it includes “inclination” and/or “actions” may protect polygamists, bisexuals, pedophiles or child pornographers**
- **Passages in Koran, Torah, Bible, etc. may be designated as promoting hatred**
- **“Communicate”: includes all means of disseminating information**
- **The religious good faith defence has not succeeded in Canada**

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## Suggestions

Suggestions until the law is settled:

- **Avoid public criticisms of identifiable groups or its activities**
- **Limit opinions to private conversations**
- **Continue to express views to M.P.s**
- **If targeted or investigated, rely on constitutional right to remain silent. Inasmuch as offence is directly related to intention and motive, silence is usually preferable at initial stages**

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- **“Promoting hatred” may only require willful blindness**
- **Freedom of religion is relative to equality rights of minorities**
- **Defences to “communicating statements” offence include:**
  - **Not stir up hatred**
  - **Not in public place**
  - **Not lead to danger to public or property**
  - **Victim criticized for another reason**

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