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**Standing Committee on Justice and Human Rights**  
**42nd Parliament, 1st Session**

Meeting 143  
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Room 420, Wellington Building, 197 Sparks Street

**Study: Online Hate**

*Opening Remarks by André Schutten, Director of Law & Policy and General Legal Counsel  
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There is a problem with the internet, and it's a big one. Typically shielded by anonymity, users are able to spew forth all sorts of bile on the web: seething hatred of people different from us, covetous and greedy tricks to defraud the poor and vulnerable, vile objectification and perverted cruelty to women and girls through sexual slavery, sinister and horrific words, images, and videos posted every second for anyone who wants to find them.

There is a problem with the internet, and something needs to be done. Yet, in a certain sense, the dark corners of the web are a window into the dark corners of the human heart: greed, lust, hatred, anarchy, covetousness and lies infect both the internet and the human heart.

The honourable members of this committee are studying, in particular, online hatred and what, if anything, the federal government can do to restrict it. Before we can address how to fix the problem, we need to first ask, "Where does the problem come from, and who is best suited to fix it?"

**So, where is online hate coming from?**

Aleksandr Solzhenitsyn, writing in *The Gulag Archipelago*, says this:

"the line separating good and evil passes not through states, nor between classes, nor between political parties either -- but right through every human heart -- and through all human hearts... And even in the best of all hearts, there remains ... an un-uprooted small corner of evil."

Since then I have come to understand the truth of all the religions of the world: They struggle with the *evil inside a human being* (inside every human being). It is impossible to expel evil from the world in its entirety, but it is possible to constrict it within each person."

Charles Colson, founder of Prison Ministries international, builds on this idea in his book "Justice that Restores". He writes,

"There is no more urgent task... than to restore the sense of community cohesion and to build a virtuous character into common life. Without individual virtue, one cannot achieve a virtuous culture; without a virtuous culture, one cannot hire enough policemen to keep order. As Michael Novak has trenchantly observed, [adapted to a Canadian audience], 'In a virtuous culture, we have 37 million policemen. In a culture that mocks virtue, we cannot hire enough policemen.'"

### **So, who is best suited to offer solutions to the problem of online hatred?**

I don't think the honourable members of this committee realize it, but you have already made a big step in the right direction when, just over a year ago, you amended Bill C-51 in order to preserve the protections afforded houses of worship in section 176 of the Criminal Code. Not only did you signal that you care about the protection of vulnerable citizens in a state of prayer and worship, whether in a mosque, synagogue, temple or church. More than that, you preserved protections for the institutions that can inculcate virtue in individuals, so that we can have a virtuous society. If we want a virtuous society, we need to protect churches and mosques and synagogues to continue to preach peace, shalom, shalaam. That's where the work against online hate starts. And it is absolutely necessary for this committee, indeed all of Parliament, to understand this. Do not undermine houses of worship (and I can speak specifically for the Protestant Christian community). Protect them and expect good things from them.

### **So can the State not do anything?**

I am not suggesting the State has no role in combatting the violence and senseless slaughter resulting from seething hatred as witnessed in New Zealand and Pittsburgh.

The Hebrew Psalms speak to the proper role of the State: Psalm 72 says,

For he [the king] will deliver the needy who cry out,  
the afflicted who have no one to help.  
He will take pity on the weak and the needy  
and save the needy from death.  
He will rescue them from oppression and violence,  
for precious is their blood in his sight.

This psalm, parts of which are etched into our Peace Tower, points to the God-given role of the state: to protect from bloodshed and violence the weak, the needy, the citizen.

In the Apostle Paul's letter to the Romans, chapter 13, he builds on this command:

the one in authority is God's servant for your good. But if you do wrong, be afraid, for rulers do not bear the sword for no reason. They are God's servants, agents of wrath to bring punishment on the wrongdoer.<sup>5</sup> Therefore, it is necessary to submit to the authorities, not only because of possible punishment but also as a matter of conscience.

A clear application here to the question of online hate would be that the government has a role in enacting swift justice to punish a wrong-doer seeking violence against another person or group of people. So, where the vitriol of online hatred rises to the level of incitement to violence or threats of violence – crimes under the Criminal Code, section 264.1 (threats), 318 (advocating genocide), 319 (public incitement to hatred) – then the police must act swiftly to investigate, arrest, charge, and prosecute. Perhaps one impediment to swift action and swift justice on the crimes of advocating genocide and public incitement to hatred are the unusual requirements for the Attorney General's consent to proceed (see sections 318(3) and 319(6)). This committee should consider whether those sections unnecessarily delay police action to stop such crimes from happening.

#### **A warning and concern about over-reach**

However, ARPA Canada is very concerned about an over-zealous attempt to fix the problem of online hate. We co-signed a letter requesting the Justice Committee study the issue of online hate, with the good faith understanding that we would be able to raise legitimate concerns about what would constitute going too far.

We are very concerned about any attempt to reinstate a hate speech provision in the Canada Human Rights Act. These provisions have been shown to be ineffective and often abused. They chill freedom of expression and are applied in demonstrably unfair ways. Let me give you one example of what some commentators have described as politically correct double-standards:

In 2003, in a case called *Johnson v. Music World Ltd.*, 2003 AHRC 3, a complaint was made against a record label for a song called "Kill the Christian". The lyrics were read into the record by the complainant and included the following:

You are the one we despise  
Day in day out your words compromise lies  
I will love watching you die  
Soon it will be and by your own demise  
Satan wants you dead

Kill the Christian, kill the Christian  
Kill the Christian, kill the Christian

The death of prediction  
Kill the Christian

Kill the Christian, dead!

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The panel found that, while the content and tone of the communication appeared on their face to be discriminatory, there is “very little vulnerability of the target group”. So, no violation of hate speech.

And yet, three years later, in a case called *Lund v. Boissoin, 2008 AHRC 6*, a panel found that a letter published in a mainstream newspaper in Red Deer that made disparaging remarks about homosexuality was hate speech and ordered the writer (a rather provocative preacher) to “cease publishing in newspapers, by email, on the radio, in public speeches, or on the internet, in future, disparaging remarks about gays and homosexuals.”

The panel chair for both of these decisions was the same person, Ms. Lori Andreachuk.

Public policy discussions require as broad and open access to expression as is possible. Freedom of expression ought to be such that all citizens feel free to speak about all public policy issues. We must preserve that freedom. By putting finite resources into hate speech codes other than the Criminal Code, the government will distract from true hate speech leading to violence. That’s a distraction that will not do anything to curb the kind of violence we saw in Pittsburgh or New Zealand.

**Concluding request:**

1. Take seriously the protection of other institutions in society that can inculcate virtue in our citizens: religious groups and institutions.
2. The State needs to demonstrate swift justice against these crimes. “When the sentence for a crime is not quickly carried out, people’s hearts are filled with schemes to do wrong.” (Ecclesiastes 8:11). This committee should consider removing the requirement for the Attorney General’s consent to prosecute incitements to genocide and public hatred in section 318(3) and 319(6) of the Criminal Code.
3. Finally, do not entertain incorporating hate speech measures into the Canada Human Rights Act. This distracts resources from the more pressing work of preventing violence against vulnerable citizens.