

ANTI-HATE COMMUNITY LEADERS' GROUP

Canada's Online Harms Act - A Step in the Right Direction

Online hate is pervasive. It is a barrier to the free expression and democratic participation for Canadians. Racialized, Indigenous, women, LGBTQ+, and faith minority groups are often overrepresented in being victims of online hate. Online hate is often criminal, but has not been sufficiently addressed by large online platforms or the criminal justice system.

On Monday, February 26, 2024 the federal government tabled the Online Harms Act (Bill C-63) which creates new duties for social media platform companies to act responsibly to deal with content that creates harms. The [Anti-hate Community Leaders' Group](#) welcomes the Online Harms Act, which meets many of the requirements we have been [presenting to the government since 2019](#) and officially presented to now Minister Arif Virani in 2020.

We recognize that the bill is not perfect, however, it is urgently needed to protect vulnerable and marginalized people online. We cannot afford to allow hate content to remain unregulated any longer.

What the Online Harms Act does

In part the bill requires action from companies that manage [a social media service, defined as](#) "a website or application that is accessible in Canada, the primary purpose of which is to facilitate interprovincial or international online communication among users of the website or application by enabling them to access and share content."

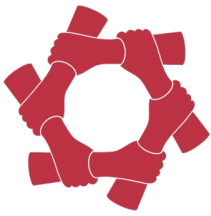
Specifically, Platforms must fulfil three core duties:

1. Act responsibly;
2. Protect children; and
3. Remove content that sexually victimizes a child or revictimizes a survivor, and intimate content shared without consent, including deepfakes.

These duties apply to seven types of harms:

1. Content that sexually victimizes a child or revictimizes a survivor;
2. Intimate content communicated without consent, (so called "revenge porn"), including deepfakes;
3. Content that incites violent extremism or terrorism;
4. Content that incites violence;
5. Content that foments hatred;
6. Content that induces a child to harm themselves; and
7. Content used to bully a child.

Online content that sexually victimizes a child or revictimizes a survivor, or intimate content communicated without consent, are required to be taken down from platforms upon being flagged by users or following a complaint to the Digital Safety Commission within 24 hours.



ANTI-HATE COMMUNITY LEADERS' GROUP

For content perpetrating all other types of harms, users will have the ability to flag content related to these harms and to block other users. Companies will need to develop their own policies to fulfil their duties in relation to these harms, which *could* include takedown. There is no legally required takedown.

The bill does not apply to private communications such as email.

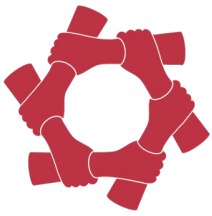
The bill also creates a new Digital Safety Commission made up of between three to five commissioners to enforce the rules, a Digital Safety Ombudsperson to support users and victims, and a Digital Safety Office to support the Commission and Ombudsperson, and amends existing Acts:

- Adding a definition of “hatred” to the *Criminal Code* based on Supreme Court of Canada’s jurisprudence. This will help clarify the application of the existing hate propaganda offences in the *Criminal Code*.
- A new stand-alone hate crime offence. This will make it easier to denounce and prosecute hate crimes. The maximum penalty is life imprisonment.
- Raising the maximum penalties of the four existing hate propaganda offences.
- Creating a new peace bond designed to prevent hate propaganda offences and hate crimes from happening in the first place.
- Extending the mandatory data preservation for child pornography material from 21 days to one year and extending the limitation period (time limit to bring a prosecution) by 3 years (from 2 to 5 years) to allow more time to bring forward a prosecution for an offence under the *Mandatory Reporting Act*. This will help facilitate investigations and bring perpetrators to justice.
- Creating a mandatory preservation requirement for content that incites violence or content that incites violent extremism or terrorism to give law enforcement the tools they need to hold perpetrators to account.
- The bill will also include obligations to provide tools and publish plans and data to better allow users and researchers to assess and mitigate risks and exposure to harmful content.

What the Online Harms Act should also do

The Bill indicates that platforms must have a certain number of users in Canada (that number is still to be determined) for the law to apply. It should cover smaller and newer platforms as well, to ensure that they build responsibility and protections into their services from the ground up.

Online content that creates the many other harms outlined in the Bill such as inciting hate should also be taken down within 24 hours. Just this week [Statistics Canada reported that 71% of young Canadians \(aged 15 to 24\) report seeing media that may incite hate or violence](#). Public incitement of hatred accounts for 52% of reported cyber-related hate crime. Young racialized women are most often the victims of online hate. Online hate towards Indigenous, Black, Muslim, Jewish, Asian, Arab, and 2SLGBTQ+ communities have [increased substantially](#) over the last few years.



ANTI-HATE COMMUNITY LEADERS' GROUP

We need to see measures taken to ensure that the Commission is not weaponized against equity deserving groups, their voices, and their legitimate protests. We continue to be concerned with the over-policing of racialized communities with significant issues of systemic discrimination, and attempts at silencing legitimate grievances and protests. We are concerned that this may continue here.

The Digital Safety Commission has significant power that needs judicial oversight and accountability. We have made [previous recommendations about addressing online hate](#) that should be factored in here. If the platform does not remove hate content within a short time period, they should face significant and escalating fines which, in turn, can provide continuing funding for the independent oversight body. These oversight mechanisms must themselves be accountable to public scrutiny. The Digital Safety Commission must publish its reports, audits, definitions, and decisions, and incorporate the feedback of the public and expert organizations over time.

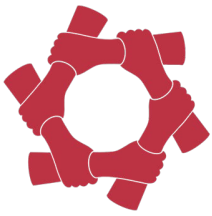
What else needs to be done

We made [previous recommendations to the government](#) which we reiterate here to help mitigate concerns about the lack of oversight and accountability.

Form an inter-provincial and-territorial committee to create a national anti-hate strategy and oversee its implementation. Support provincial and territorial ministries in establishing inter-ministerial committees to combat hate crimes and hate speech.

We know that many community members impacted by online hate do not report these hate crimes to police. Community organizations have launched various methods of third party reporting of hate motivated incidents which do not involve law enforcement. We recommend that sufficient funding be provided to create community-based civilian groups, composed of community members, including those with negative experiences with the police, to act as a neutral reporting and advocacy body between police boards and communities. Victims would feel safer reporting to this body as opposed to working directly with the criminal justice system. We also recommend providing funding to support existing community health centres and local agencies to allow for third-party reporting where victims could report hate crimes or incidents.

Provide sufficient funding to partner with leading community organizations with an expertise in addressing hate to develop and implement a multi-year 'Canada against hate' public education campaign. This campaign would use multiple platforms of media and broadcast communications to creatively and effectively raise public awareness about the manifestations of hate in Canada. The campaign must also equip Canadians with the means to identify hate, question it and challenge it in their daily lives.



**ANTI-HATE
COMMUNITY
LEADERS' GROUP**

On behalf of the Anti-hate Community Leaders' Group, co-authors of this statement:

Across Boundaries: An Ethnoracial Mental Health Centre

Bangladeshi-Canadian Community Services (BCS)

Canadian Association of Jews and Muslims

Canadian Council of Muslim Women (CCMW)

Canadian Centre for Torture Victims (CCVT)

Chinese Canadian National Council for Social Justice

Council of Agencies Serving South Asians (CASSA)

Mosaic Institute

South Asian Legal Clinic of Ontario (SALCO)

South Asian Women's & Immigrants Services Inc (SAWIS)

--

The [Anti-hate Community Leaders Group](#) was convened in 2019 by the [Council of Agencies Serving South Asians \(CASSA\)](#) to take a proactive and preventative approach to address the increase in hate-motivated violence and crimes that are unfortunately on the rise in Canada. The AHCL Group brought together more than 40 diverse organizations to tackle hate, with a specific mandate in the following six areas: online hate and social media, law enforcement and legislation, the education system, media engagement, political engagement, and interfaith/interracial dialogue. Aligned with these mandates, the AHCL Group has undertaken multiple projects, including analysis of legal tools and legislation, developing tools to combat hate-motivated speech online, and working with municipal police services to improve their hate-crime reporting processes.