



CMPAC Analysis and Position on [Bill C-9: The Combatting Hate Act](#)

The Canadian Muslim Public Affairs Council (CMPAC) has conducted a review of [Bill C-9, *An Act to amend the Criminal Code \(hate propaganda, hate crime and access to religious or cultural places\)*](#). While presented as a measure to combat hate, CMPAC finds that the Bill risks serious infringements on fundamental freedoms protected under the *Canadian Charter of Rights and Freedoms*, particularly sections 2(b) and 2(c) (freedom of expression and peaceful assembly). CMPAC categorically rejects this bill as drafted. Our analysis identifies four major areas of concern:

1. Expansion of Police Powers and Removal of Prosecutorial Oversight

Bill C-9 removes the long-standing requirement that the Attorney General consent to the initiation of proceedings for hate propaganda or related offences.¹ By abolishing that gatekeeping step, the Bill shifts the effective power to define and enforce the new offences to frontline criminal investigators and police services: officers and investigators will be the primary actors who decide, at the investigative and charging stage, whether particular speech or protest conduct meets the statutory thresholds for “hatred,” “intimidation,” or “obstruction,” and can lay full criminal charges without prior independent prosecutorial review.

That transfer of authority has several concrete consequences. First, police exercising unfettered charging discretion can determine, in the first instance and without Attorney-General review, whether an act of protest, a public display, or a piece of political expression crosses into criminality; such front-line determinations carry immediate collateral effects (arrest, criminal record, bail conditions) even before any court has tested the legal validity of the charge. Second, the Bill pairs that expanded charging authority with other coercive tools, including property-forfeiture measures and the inclusion of the new offences among the catalogue of designated offences that permit covert electronic surveillance and wiretaps, thereby increasing the investigative capabilities available to police in hate-related cases. Together, these changes amplify the practical power of police to investigate, charge, seize, and surveil in ways that can be applied to protestors and political advocates.

From a constitutional perspective, these reforms raise serious concerns. Charter jurisprudence requires that criminal laws limiting expression be narrowly tailored and that procedural safeguards guard against arbitrary or politically selective enforcement.² Removing the Attorney General’s consent eliminates a key institutional check designed to ensure a proportionate, public-interest assessment before criminal prosecutions proceed in areas where expression and conscience are implicated, thereby increasing the risk of selective enforcement and a chilling effect on lawful dissent.

¹ [Bill C-9, Page ii - Summary](#).

² [R v. Keegstra, \[1990\] 3 S.C.R. 697](#)

2. Vague and Overbroad Offences Related to “Intimidation” and “Obstruction”

The Bill introduces new offences criminalizing conduct that “*provokes a state of fear*”³ or “*obstructs*”⁴ access to religious, cultural, or even sports facilities. Terms such as “*fear*,” and “*intimidation*,” are inherently subjective, leaving interpretation to the perceptions of those who feel targeted. Peaceful demonstrations, such as rallies outside cultural centers, universities, or sports arenas, could therefore be construed as unlawful if attendees or bystanders claim to feel intimidated.

Criminal offences must be drafted with sufficient precision to give fair notice of prohibited conduct and to prevent arbitrary enforcement.⁵ The Bill’s reliance on subjective standards without clear definitions invites inconsistent application and raises serious Charter concerns over vagueness and the suppression of legitimate protest activity.

3. Expansion of Protected Spaces and Protest Restrictions

Bill C-9 does more than protect religious sites. Section 423.3 extends new “*intimidation*” and “*obstruction*” offences to any building or part of a building used “*primarily*” by an identifiable group (as defined in section 318(4) to include race, nationality, ethnic origin, religion, etc.) for activities such as cultural gatherings, sports events, education, or administration.

This provision vastly enlarges the concept of “*protected space*,” creating a wide range of locations where ordinary protest or advocacy could be criminalized. It effectively transforms cultural centres, schools, sports arenas, and other civic institutions into protest-restricted zones whenever they are associated with an identifiable group.

Such an expansion is both unnecessary and constitutionally problematic. Existing Criminal Code provisions already address intimidation and mischief at public facilities. By layering new offences tied to vague and subjective standards, Bill C-9 invites arbitrary enforcement, chills legitimate assembly, and disproportionately restricts political expression in spaces that have traditionally been open to debate and demonstration.

4. Criminalization of Symbols: Risks of Overreach and Selectivity

Bill C-9 criminalizes the display of certain “*terrorism or hate symbols*,”⁶ including those associated with entities listed under the [Criminal Code’s terrorist entity list](#). While banning Nazi symbols may appear justified, tying criminal liability to Canada’s terrorist listing regime is highly problematic. The process under [section 83.05](#) is executive-driven, lacks transparency, and offers limited avenues of appeal. Importing this flawed system into criminal law risks sweeping in flags or emblems associated with Palestinian, Kurdish, Tamil, or other liberation movements, even when displayed as part of lawful political expression rather than incitement to hatred.

International law underscores these concerns. The [International Covenant on Civil and Political Rights \(ICCPR\)](#), to which Canada is a party, protects freedom of expression, and UN Special Rapporteurs have

³ [Bill C-9](#), pg. 4, section 423.3(1)

⁴ [Bill C-9](#), pg. 5, section 423.3(2)

⁵ [Canadian Foundation for Children, Youth and the Law v. Canada \(Attorney General\)](#), 2004 SCC 4

⁶ [Bill C-9](#), Page ii - Summary and page 1, s.4(1)(2.2).

found overly broad bans on political symbols to be disproportionate and prone to abuse. By anchoring criminal liability to a politicized executive listing process, Bill C-9 undermines the rule of law and risks chilling legitimate advocacy and dissent.

5. Vague Definitions and New “Hate Crime” Category

Bill C-9 codifies “*hatred*”⁷ as “*detestation or vilification*,”⁸ derived from Supreme Court jurisprudence, and creates a standalone “*hate crime*”⁹ offence with enhanced penalties for any offence motivated by hatred. While this may seem clarifying, it does little to address the practical challenge of distinguishing unlawful hate speech from protected offensive expression. Courts have consistently emphasized that criminal intervention must separate truly hateful conduct from expression that is merely offensive, critical, or provocative.¹⁰ Broadly defining “hatred” risks capturing distasteful or political speech that remains constitutionally protected.

The Bill’s new sentencing regime compounds this risk, escalating penalties, potentially up to life imprisonment, even though the Criminal Code already treats hate motivation as an aggravating factor under [section 718.2\(a\)\(i\)](#). By layering additional liability on existing safeguards, Bill C-9 risks duplicative punishment, excessive sentencing, and a disproportionate response, undermining the principle of proportionality in criminal law.

Further Risks: Forfeiture, Wiretap, Overcriminalization, Stigmatization, etc.

Bill C-9 introduces several additional risks beyond the specific offences already discussed. It adds forfeiture provisions (s. 319(4)), allowing permanent seizure of property allegedly linked to offences, including computers, banners, or vehicles, which raises concerns about disproportionate punishment and due process. The Bill also expands wiretap and surveillance powers by including the new intimidation and obstruction offences among designated offences under s. 183, allowing covert monitoring of peaceful protest activity and creating a serious intrusion into privacy.

Furthermore, existing Criminal Code provisions on intimidation (s. 423), mischief (s. 430), and obstruction are duplicated with harsher penalties, producing a broader regime of overcriminalization. The requirement for courts to formally endorse hate crime convictions (s. 726.21) also risks stigmatization with long-term effects on immigration, employment, and parole. Finally, the Bill’s rapid implementation, coming into force 30 days after Royal Assent, provides little time for adaptation, training, or public education, undermining legal certainty.

Broader Concerns

Beyond the aforementioned specific provisions, CMPAC is concerned about the broader implications of Bill C-9 for protest rights, equality, and the rule of law. Although the government asserts that the Bill does not prohibit peaceful protest, its vague language and reliance on subjective perceptions of fear will inevitably deter and criminalize demonstrations near religious or cultural sites. This effect mirrors “*bubble zone*” laws in substance, if not in name, despite claims that such zones remain within provincial jurisdiction. In practice, marginalized communities, particularly Muslim, Palestinian, Black, and

⁷ [Bill C-9](#), Page 3.

⁸ *Ibid.*

⁹ [Bill C-9](#), Page 3., s. 320.1001.

¹⁰ [Saskatchewan \(Human Rights Commission\) v. Whatcott](#), 2013 SCC 11.

Indigenous groups, are most likely to bear the brunt of these new offences due to existing patterns of over-policing. Rather than protecting communities, the Bill risks entrenching systemic discrimination by granting police wider powers of surveillance, intervention, and prosecution without meaningful oversight.

CMPAC's Position

CMPAC recognizes the importance of addressing hate in Canada but concludes that Bill C-9 is not the right solution. The Bill is constitutionally questionable, overbroad, and prone to selective enforcement. CMPAC rejects it in its current form and urges Parliament to maintain Attorney General oversight over hate propaganda prosecutions, remove or narrow the vague intimidation and obstruction offences, refrain from criminalizing political symbols tied to Canada's politicized terrorist entity list, and ensure that any definition of "hatred" or expansion of hate crime categories aligns with Charter jurisprudence and international human rights obligations.

Conclusion

Bill C-9 represents a significant expansion of state power under the guise of combatting hate. By criminalizing vague forms of expression, layering excessive penalties, expanding surveillance and forfeiture powers, and imposing stigmatizing labels, it risks suppressing lawful dissent, worsening systemic inequities, and undermining Canada's constitutional commitments to freedom of expression and assembly. CMPAC calls on legislators to reject the Bill and instead pursue community-based, non-carceral approaches that protect vulnerable groups without compromising the rights and freedoms of all Canadians.



CANADIAN MUSLIM PUBLIC AFFAIRS COUNCIL

Executive Summary: CMPAC Critiques of [Bill C-9: The Combatting Hate Act](#)

1. Removal of Attorney General Oversight

- Bill allows police to initiate hate propaganda charges without AG consent.
- CMPAC Concern: Eliminates critical procedural safeguard, risks politicized or selective prosecutions, undermines Charter protections (freedom of expression, s.2(b)).

2. Vague and Overbroad Offences (“Intimidation” & “Obstruction”)

- Criminalizes conduct provoking “fear” or obstructing access to religious/cultural/sports facilities.
- CMPAC Concern: Subjective and open to abuse, risks criminalizing peaceful protests, violates principles against vague criminal laws.

3. Expansion of Protected Spaces and Protest Restrictions

- Extends new offences to any building “primarily used” by an identifiable group (as defined in s. 318(4)) for cultural, educational, sports, social, or administrative purposes.
- CMPAC Concern: Broadens the scope of “protected spaces,” turning ordinary civic venues into protest-restricted zones, risks criminalizing demonstrations at cultural centres, schools, or sports arenas, undermines principle that public spaces remain open to protest and debate, raises Charter concerns about freedom of assembly and expression.

4. Criminalization of Symbols Linked to Terrorist Entities

- Bill criminalizes display of symbols associated with the terrorist entity list.
- CMPAC Concern: Executive-driven, politically influenced process; risks suppressing legitimate political expression; inconsistent with ICCPR and Charter rights.

5. Creation of Standalone Hate Crime Category with Enhanced Penalties

- Expands “hatred” definition and increases sentencing for hate-motivated offences.
- CMPAC Concern: Overlapping with existing aggravating factors, disproportionate penalties, risks duplicative punishment, may chill lawful expression.

6. Additional Risks: Forfeiture, Surveillance, Overcriminalization, Stigmatization

a. Forfeiture of Property (s. 319(4))

- Bill allows permanent seizure of property allegedly connected to offences, including computers, banners, or vehicles.
- CMPAC Concern: Risk of disproportionate punishment, potential seizure of items used in lawful protest or advocacy, undermines due process.

b. Expansion of Wiretap and Surveillance Powers (s. 183)

- Adds new intimidation and obstruction offences to the list of designated offences for covert monitoring.
- CMPAC Concern: Highly invasive, disproportionate for peaceful protest, risks chilling lawful assembly and private communications.

c. Duplication of Existing Criminal Code Provisions

- Overlaps with existing intimidation (s.423), mischief (s.430), and obstruction offences.
- CMPAC Concern: Creates overcriminalization, introduces harsher penalties without justification, unnecessarily complicates the legal landscape.

d. Formal Court Endorsement of Hate Crime Convictions (s. 726.21)

- Requires courts to formally recognize certain offences as hate crimes.
- CMPAC Concern: Risks long-term stigmatization, with implications for immigration, employment, parole, and social integration.

e. Rapid Enactment (30 days after Royal Assent)

- Bill comes into force almost immediately after passing.
- CMPAC Concern: Insufficient time for adaptation, training, or public education; undermines legal certainty and procedural fairness.

7. Broader Social Impacts

- Vague provisions may disproportionately affect marginalized communities (Muslim, Palestinian, Black, Indigenous).
- CMPAC Concern: Expands systemic discrimination, chills lawful protest, undermines equality and rule of law.