



August 23, 2018

Members of the House of Commons Standing Committee on Justice and Human Rights
House of Commons
Ottawa, ON K1A 0A6
C/O Marc-Olivier Girard, Clerk of the Committee

Dear Committee Members,

The following is offered as a written submission regarding Bill C-75 (An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts), offered jointly on behalf of the Centre for Israel and Jewish Affairs (CIJA) and the Canadian Jewish Holocaust Survivors and Descendants (CJHSD). In addition to providing the attached submission for consideration, we formally request an opportunity for CIJA to offer verbal testimony to the committee as it examines Bill C-75.

Summary

Given the serious nature of advocating genocide and terrorism-related offences, the Committee should amend Bill C-75 to ensure that crimes remain indictable offences rather than become hybrid offences.

Submission

Bill C-75 is a sizeable effort to modernize Canada's justice system and reduce backlog in the court system. A significant component of the bill is its recategorization of most indictable offences with a maximum penalty of ten years or less, which C-75 proposes to designate as hybrid offences. The bill also proposes to increase the maximum penalty of summary offences to two years less a day, as well as an extension of the limitation period on summary offences to twelve months.

Making the system more efficient and responsive is an important goal. However, terrorism-related offences and advocating genocide constitute a minute fraction of criminal cases in Canada. Recategorizing these crimes as hybrid offences will have a negligible impact on the current backlog.

Worse, allowing these offences to be prosecuted as summary convictions sends a clear and unacceptable message diminishing the gravity of these crimes. The Jewish community is tragically familiar with the dangers of genocidal rhetoric. Whether in the lead up to the Holocaust, the Rwanda genocide, or other campaigns of ethnic cleansing, history demonstrates that extreme violence is often preceded by dehumanizing propaganda. Society ignores at its own peril those who call for the annihilation of an entire people.

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So too is terrorism a heinous and potentially catastrophic phenomenon. Today, terrorist groups around the world, some of which actively seek to inspire recruits in Canada, are often motivated by ideologies infused with antisemitism. Far too many Jewish communities around the world – from Argentina to Denmark, and from France to Israel – have suffered from deadly terror attacks.

In addition to the primary victims of those who advocate genocide or engage in terrorism, these crimes ultimately threaten the foundation of Canadian democracy and universal human rights. These offences cannot be considered on par with property crimes, for example. They are far more akin to Criminal Code provisions related to treason or acts of violence to intimidate parliament, which are indictable offences that Bill C-75 – rightly – does not propose to hybridize.

We also note that advocating genocide and terrorism-related offences are usually high-profile crimes that not only carry with them a serious risk of orchestrated violence, but also significant public alarm. This is particularly concerning, as a person charged with a summary offence is usually not held in custody but is simply given notice to appear in court at a later date.

It is for this reason that we urge the committee to amend Bill C-75 to ensure that advocating genocide and terrorism-related offences are exempt from this broad hybridization, and instead remain indictable offences.

We therefore propose that committee members amend the Act to remove sections 16 (providing or making available property or services for terrorist purposes), 17 (using or possessing property for terrorist purposes), 20 (knowingly participating in or contributing to the activity of a terrorist group), 21 (leaving Canada to participate in the activity of a terrorist group), 83.23 (1) and (2) (knowingly harbouring a person who carried out a terrorist activity or is likely to carry out a terrorist activity), 122 (advocating genocide), and 407 (5) (counselling commission of terrorism offence). For ease of references, we have appended to this submission the text of these sections of Bill C-75.

We thank you for your consideration of this submission and look forward to discussing this matter with committee members in person. Thank you for all that you do to keep Canadians safe and uphold the democratic ideals of Canada's justice system.

Sincerely,

Pinchas Gutter
Co-President, Canadian Jewish Holocaust Survivors and Descendants (CJHSD)

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Co-President, Canadian Jewish Holocaust Survivors and Descendants (CJHSD)

Shimon Koffler Fogel
CEO, The Centre for Israel and Jewish Affairs (CIJA)

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Appendix: Relevant Sections of Bill C-75

16 (1) The portion of section 83.03 of the Act before paragraph (a) is replaced by the following:

Providing, making available, etc., property or services for terrorist purposes

83.03 Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who, directly or indirectly, collects property, provides or invites a person to provide, or makes available property or financial or other related services

17 (1) The portion of section 83.04 of the Act before paragraph (a) is replaced by the following:

Using or possessing property for terrorist purposes

83.04 Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years or is guilty of an offence punishable on summary conviction who

20 Subsection 83.18(1) of the Act is replaced by the following:

Participation in activity of terrorist group

83.18 (1) Every person who knowingly participates in or contributes to, directly or indirectly, any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity is guilty of

- (a)** an indictable offence and liable to imprisonment for a term of not more than 10 years; or
- (b)** an offence punishable on summary conviction.

21 Section 83.181 of the Act is replaced by the following:

Leaving Canada to participate in activity of terrorist group

83.181 Every person who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an offence under subsection 83.18(1) is guilty of

- (a)** an indictable offence and liable to imprisonment for a term of not more than 10 years; or
- (b)** an offence punishable on summary conviction.

Concealing person who carried out terrorist activity

83.23 (1) Every person who knowingly harbours or conceals another person whom they know to be a person who has carried out a terrorist activity, for the purpose of enabling that other person to facilitate or carry out any terrorist activity, is guilty of

- (a)** an indictable offence and liable to imprisonment for a term of not more than 14 years, if the person who is harboured or concealed carried out a terrorist activity that is a terrorism offence for which that person is liable to imprisonment for life; and
- (b)** an indictable offence and liable to imprisonment for a term of not more than 10 years or an offence punishable on summary conviction, if the person who is harboured or concealed carried out a terrorist activity that is a terrorism offence for which that person is liable to any other punishment.

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Concealing person who is likely to carry out terrorist activity

(2) Every person who knowingly harbours or conceals another person whom they know to be a person who is likely to carry out a terrorist activity, for the purpose of enabling that other person to facilitate or carry out any terrorist activity, is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or
- (b) an offence punishable on summary conviction.

122 Subsection 318(1) of the Act is replaced by the following:

Advocating genocide

318 (1) Every person who advocates or promotes genocide is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction.

407 (1) Subsections (2) to (12) apply if Bill C-59, introduced in the 1st session of the 42nd Parliament and entitled the *National Security Act, 2017* (in this section referred to as the “other Act”), receives royal assent.

(5) On the first day on which both section 143 of the other Act and section 22 of this Act are in force, subsection 83.221(1) of the *Criminal Code* is replaced by the following:

Counselling commission of terrorism offence

83.221 (1) Every person who counsels another person to commit a terrorism offence — other than an offence under this section — is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction.