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Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada (1966).

ALWD 7th ed.

. Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada (1966).

APA 7th ed.

(1966). Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada. Ottawa, Published by the Authority of the Honourable Lucien Cardin Minister of Justice and Attorney-General of Canada.

Chicago 17th ed.

Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada. Ottawa, Published by the Authority of the Honourable Lucien Cardin Minister of Justice and Attorney-General of Canada.

McGill Guide 9th ed.

Report to the Minister of Justice of the Special Committee on Hate Propag&a in Can (Ottawa: Published by the Authority of the Honourable Lucien Cardin Minister of Justice and Attorney-General of Canada., 1966)

AGLC 4th ed.

Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada (Published by the Authority of the Honourable Lucien Cardin Minister of Justice and Attorney-General of Canada., 1966)

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Report to the Minister of Justice of the Special Committee on Hate Propaganda in Canada. Ottawa, Published by the Authority of the Honourable Lucien Cardin Minister of Justice and Attorney-General of Canada. HeinOnline.

OSCOLA 4th ed.

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CHAPTER VI

RECOMMENDATIONS

Having in mind, therefore, the detailed evidence set out in Chapter II; the attitudes toward and the consequences of hate propaganda in all of its forms as described and analyzed in Chapters I and III; the deficiencies in the present Canadian law discussed in Chapter IV; and bearing in mind, too, the detailed conclusions expressed in Chapter V; the Committee believes it to be desirable now to draft a proposed series of amendments to the Criminal Code that would express as specifically and clearly as possible, these findings, conclusions and recommendations.

1. Principal Recommendations

Our principal recommendations therefore are incorporated in the following proposed draft amendment to the Criminal Code:

- 1) Every one who advocates or promotes genocide is guilty of an indictable offence and is liable to imprisonment for five years.
- 2) Every one who, by communicating statements in any public place, incites hatred or contempt 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 two years, or
 - (b) an offence punishable on summary conviction.
- 3) Every one who by communicating statements, wilfully promotes hatred or contempt against any identifiable group is guilty of
 - (a) an indictable offence and is liable to imprisonment for two years or
 - (b) an offence punishable on summary conviction.
- 4) No person shall be convicted of an offence under subsection 3
 - (a) where he proves that the statements communicated were true, or
 - (b) where he proves that they were relevant to any subject of public interest, the public discussion of which was for the public benefit, and that on reasonable grounds he believed them to be true.
- 5) In this section
 - (a) "Genocide" means any of the following acts committed with intent to destroy in whole or in part, any identifiable group:
 - (i) killing members of such a group

- (ii) deliberately inflicting on such a group conditions of life calculated to bring about its physical destruction.
 - (iii) deliberately imposing measures intended to prevent births within such a group.
- (b) "Public place" includes any place to which the public have access as of right or by invitation, express or implied.
- (c) "Identifiable group" means any section of the public distinguished by religion, colour, race, language, ethnic or national origin.
- (d) "Statements" include words either spoken or written, gestures, signs or other visible representations.

We have several comments to make on the penalties and definitions in the above draft. In our view the advocacy of genocide is so serious that it requires a more severe sentence than the other offences proposed, and we therefore have recommended that it should be an indictable offence with a sentence of up to five years' imprisonment. As to the other recommended offences we believe that as they would vary considerably in seriousness depending on the circumstances we should provide for the option of prosecution by way of summary conviction or by indictment. Where the prosecution chooses to proceed by way of summary conviction, the accused will be faced with a less serious charge -- which balances the fact that he will be deprived, as in the case of all summary conviction offences, of his right to trial by jury. Where, on the other hand, the prosecution chooses to treat the charge as indictable, the accused will retain his right to trial by jury in addition to the other options available to him. We feel that a maximum sentence of two years' imprisonment provides a sufficient upper limit range for most foreseeable situations.

The Committee also was governed by the desire to depart as little as possible from existing legal concepts and terms, and we therefore adopted the definition of "public place" now in section 130 of the Code. We have also retained the "hatred and contempt" formula traditional to criminal defamation, although we have omitted the word "ridicule" from the phrase for fear of inhibiting legitimate satire and out of a conviction that the kind of "hate" propaganda we are concerned with is much stronger than simple ridicule. The definition of "genocide" is taken (as explained in Chapter IV) from that used in the United Nations Convention on Genocide.

2. Supplementary Recommendations

In addition to the above specific recommendations involving legislative changes we also recommend the following as general policy guides in dealing with related aspects of the hate propaganda problem and its control or correction:

a. We recommend that the Minister examine the language of sections 153 and 160 of the Criminal Code in the light of our principal recommendations and our comments on these sections to determine whether they themselves may require amendment.

b. We recommend that the Minister examine the legislation and regulations governing the various Agencies and Departments of the Government of Canada in the light of our comments, particularly those that disclose some significant differences between postal and customs powers -- as explained in Chapter IV.

c. We recommend that as far as may be possible, and with due allowance for the particular problems and responsibilities of each Agency and Department, statutes and regulations governing hate propaganda material or activities should be related to the general standard as set out in the Criminal Code rather than to a standard established independently by such agencies and departments, including Broadcasting.

d. We recommend that study be given to the matter of the seizure of hate materials and of their confiscation after conviction.

The Committee considered the advisability of requiring the consent of the Attorney-General of the Province or of Canada to each prosecution instituted under the legislation proposed in order to prevent frivolous or unwarranted prosecutions, and without making any recommendation, we draw the Minister's attention to this possibility.

