

The Canadian Secular Alliance invites our government to uphold the right to freedom of expression for all, including the right to express and criticize religious opinions



What is the Canadian Secular Alliance (CSA)?

- The Canadian Secular Alliance is a non-profit, public policy research and advocacy organization advancing church-state separation and the neutrality of government in matters of religion. We seek to represent all Canadians, religious and non-religious alike, who believe that the Canadian government should adopt public policies consistent with a secular state.
- The CSA believes in church-state separation — the idea that the government of Canada should not favour one religion over others, or religious belief over non-belief. Our commitment is to liberal-democratic principles of equality, fairness and justice for all under the law, regardless of religious belief or lack thereof.

Does Canada have laws against “hate speech”?

- Yes. Section 319 of the Criminal Code prohibits the “incitement of hatred against any identifiable group where such incitement is likely to lead to a breach of the peace”, and the “willful promotion of hatred against an identifiable group”. Section 13 of the Canadian Human Rights Act prohibited expression “that is likely to expose a person or persons to hatred or contempt” based on membership in an identifiable group (including religious groups). Although Section 13 of the Canadian Human Rights Act has been repealed, analogous provisions still exist in some provincial human rights codes and remain in force.

What is the CSA’s general position on hate speech?

- Hate speech should be prohibited under the Criminal Code, but this prohibition should be narrowly confined to expression that advocates or threatens violence.
- Less extreme forms of speech, although arguably harmful, are so common as to be beyond censorship by the government, barring sweeping intervention bordering on totalitarianism.
- Violence-inciting hate speech is a serious matter, and prosecuting such cases under the Criminal Code would ensure that they: (1) are investigated by the police; (2) are prosecuted in the courts; (3) are decided on the more onerous standard of proof of “beyond a reasonable doubt” rather than the civil standard “on a balance of probabilities”; and (4) proceed with the approval of the Attorney General of the relevant province.

But isn’t protecting identifiable groups from “hatred or contempt” a valid goal for public policy, especially given Canada’s commitment to religious freedom and multiculturalism?

- It would certainly be ideal if no Canadian ever felt hatred or contempt for another. The issue is whether this problem can be effectively addressed via censorship.

Are hate speech laws effective at fulfilling their intended objective?

- No. Aside from preventing offense and insult to the target group, the wider aim of hate speech laws is purportedly to prevent the spread of prejudice, stereotypes, and hatred in society at large. However, the presumption upon which this aim rests — that it is feasible to identify a narrow category of hate speech that has this effect — is highly problematic. The spread of prejudice, stereotypes, and hatred in the community is a systemic problem, and the most harmful types of discriminatory speech are likely the relatively moderate, insidious ones that are not captured by hate speech laws. For instance, consider: (1) a pseudo-scientific claim (couched in academic language) that there are genetically based differences in intelligence between identifiable groups; or (2) a joke that stereotypes an identifiable group. Neither of these forms of expression would be “extreme” enough to run afoul of hate speech laws, yet they are arguably more damaging than radical speech — they are more widely circulated, and may not be consciously recognized by the audience as discriminatory. Censorship of “hate speech” cannot accomplish the wider goal of ending prejudice in Canadian society — other means, such as education, must be sought.

Are hate speech laws compatible with our wider commitment to the power of human reason in a democracy?

- No. The underlying logic behind hate speech laws is contemptuous of human reason — in effect, it assumes that hate speech leads to the spread of prejudice in society because the audience is incapable of rationally judging and rejecting discriminatory claims. The assumption is that a speaker “causes” (and is thus responsible for) any actions of an unthinking audience that has been persuaded by their speech. However, the implications of downplaying the strength of human reason are profound. If our society were to reject the capacity of considered judgment and “public reason” to identify truth, then far-reaching government censorship would be permissible — any expression that might have “negative” consequences if accepted by the public would warrant censorship. The paternalistic restriction of expression is at odds with the very concept of democracy, which assumes that human beings are capable of rationally evaluating different claims in the marketplace of ideas.

Should our society uphold the right to express religious opinions, even when such opinions are rude, harsh, insulting, and even hateful?

- Yes. Everyone — including religious believers — should have the right to freedom of expression short of advocating or threatening violence. This includes the right to express religious views that are sexist, bigoted, authoritarian, discriminatory, and deeply anti-liberal-democratic.

Should our society uphold the right to criticize religion, even when such criticism is rude, harsh, insulting, and even hateful?

- Yes. The CSA recognizes that because religion often forms an integral part of a person’s self-identify, religious believers can perceive criticism of their religious doctrine as a personal attack. However, religions are ideologies with clear views on ethics, law, and how human society should be structured — many religious groups explicitly seek political power and influence on public policy. In a democracy, religions cannot be insulated from the rough-and-tumble of debate and criticism in the marketplace of ideas — to do so would dangerously undermine our society’s capacity for democratic deliberation and our commitment to freedom of expression.

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