

Statement of Human Rights First

Canadian Parliamentary Coalition to Combat Antisemitism August, 2009

Introduction

Human Rights First (HRF) welcomes the Canadian Parliamentary Coalition to Combat Antisemitism's (CPCCA) decision to conduct an inquiry into antisemitism in Canada with a view toward providing practical recommendations to address this scourge. We are pleased to have the opportunity to share our views on a problem that exists in Canada, the United States, Europe and indeed, throughout the world.

Since 2002, HRF has been working vigorously to document the reality of violent antisemitic hate crimes as well as to press for government action to combat them. Our most recent report—the *2008 Hate Crime Survey*—provides an overview of the situation in countries of North America, Europe, and the former Soviet Union. In the Survey, we detailed the rise in antisemitic incidents in many OSCE states in 2007, including Canada, but also other countries such as France, Germany, the Russian Federation, Ukraine, and the United Kingdom. There are undoubtedly a number of other countries, in Europe or elsewhere, where antisemitic violence is also problematic, but where information on attacks—either from official or unofficial sources—is much less readily available.

Although the CPCCA has a mandate to focus on analyzing the extent of antisemitism in Canada as well as devising recommendations to remedy this threat, antisemitic violence is a problem whose reach extends far beyond the borders of Canada. There are common trends in many OSCE states, allowing for the possibility for common solutions that have been laid out in the commitments of the 56-member Organization for Security and Cooperation in Europe (OSCE).

Human Rights First recommends that the members of the CPCCA consider including in the coalition's report an international section, as a complement to its analysis of the situation in Canada, that reflects the shared nature of the problem and the need for common strategies and cooperation at the national and international levels to address it.

The Reality of Antisemitic Violence Across the OSCE Region

Increasing attacks on people, in contrast to property, characterizes today's trend of rising antisemitic violence throughout much of Europe, which was first reported in 2000. Often it has surged in response to events in the Middle East pertaining to the Israeli-Palestinian conflict. Most recently, in December 2008 – January 2009, a period of time that coincided with Israeli military action in Gaza and widespread international criticism over Israel's policies, there was a significant rise in a number of European countries in the

number of violent incidents in which Jewish individuals and property were the targets of violent attacks.

But contemporary antisemitism in Europe and North America is multi-faceted and deeply rooted. It cannot be viewed solely as a transitory side-effect of the conflict in the Middle East. Antisemitic incitement and violence predate the Middle East conflict and continue to subsist based on centuries-old hatred and prejudice. The branding of Jews as scapegoats for both ancient and modern ills remains a powerful underlying factor in the antisemitic hatred and violence that continues to manifest itself today.

As Human Rights First's *2008 Hate Crime Survey* illustrates, antisemitic violence continued to rise in **Canada**, **Germany**, the **Russian Federation**, and **Ukraine** in 2007. The proportion of incidents involving violent attacks on persons continued to rise in the **United Kingdom** and remained at high levels in **France**, even as overall levels of anti-Jewish crimes decreased in those two countries. Available data had shown an increase in antisemitic incidents in all of these countries in 2006.

These country-by-country assessments are echoed by data collected on a region-wide basis as well. Global data from the Stephen Roth Institute for the Study of Contemporary Antisemitism and Racism shows a 6.6 percent rise in incidents overall, from 593 to 632 in 2007—with most reported incidents coming from Europe and North America. There were 352 reported from Europe (up from 326), 78 in the former Soviet Union (up from 76), and 140 from North America (up from 103).

Most significantly, there were 35 “major attacks” in Europe (up from 8 in 2006), 8 in the former Soviet Union (up from 4), and 8 in North America (up from 5) in the Stephen Roth data. Major attacks were defined as incidents involving weapons, arson, or an intent to kill. Overall, this represented a nearly four-fold rise in Europe and North America in the most serious incidents from 2006 levels, from 13 to 51. Although the report registered a decline in overall incidents in **France**, **Belgium**, **Germany**, the **United Kingdom** and the **United States**, there was a rise in more significant antisemitic violence in **France**, **Germany**, and the **United Kingdom**.

In some countries, the frequency and severity of attacks on Jewish places of worship, community centers, schools, and other institutions resulted in a need for security measures by representatives of both the Jewish community and local or national government. In **Germany**, special security was provided by police to synagogues and Jewish schools, and even to Jewish book stores and kosher grocery shops. In the **United Kingdom**, constant police protection was required for synagogues, Jewish schools, and Jewish institutions.

Enhanced security was credited for the reduction of serious attacks on Jewish sites in **France**, **Germany**, and the **United Kingdom**, where a strong commitment to such protection has been made by successive governments. The reality in which such protection is required on an everyday basis is, however, perhaps the truest indicator of just how far the revival of antisemitism has progressed since 2000.

Government Responses to Antisemitic and other Hate Crime Violence

Human Rights First has consistently advocated a number of responses to antisemitic and other bias crimes, many of which are reinforced in commitments of the OSCE and other European institutions such as the Council of Europe and the European Union. Our *Hate Crime Report Cards* assess the extent to which the OSCE participating states have implemented commitments in two essential areas/fields: 1) Establishing systems of monitoring and reporting, and 2) Adopting and enforcing criminal law provisions to combat violent hate crimes.

Systems of Monitoring and Reporting

An effective government response to violent hate crimes is difficult, if not impossible, without a clear picture of the extent of the problem. Without adequate monitoring, it is impossible to identify emerging trends or hate crime hotspots, develop strategies for prevention and protection, and determine which groups are most susceptible to violent hate crimes. Without public reporting on the criminal justice response to hate crimes, it is difficult to ensure that adequate legal tools and resources are in place to investigate and prosecute such crimes and to reassure the public that efforts are being made to provide protection from violent forms of discrimination.

Unfortunately, despite international commitments to collect data on hate crimes, few states in the OSCE region have developed comprehensive data collection systems on antisemitic and other hate crimes.

According to the E.U.'s Fundamental Rights Agency's most recent review of data collection systems, only 12 of the 27 member states have criminal justice data collection systems that are "good" or "comprehensive" in their coverage of hate crimes. These countries include: **Austria, Belgium, the Czech Republic, Denmark, Germany, Finland, France, Ireland, Poland, Slovakia, Sweden, and the United Kingdom.**

The FRA has also regularly reported on the response of E.U. states specifically to antisemitic crime and has paid special attention to the importance of data collection to those efforts. A year back, in its 2008 annual report (for the year 2007) the FRA reported that only five countries—**Austria, France, Germany, Sweden, and the United Kingdom**—collect data on antisemitic crime in such a way that allows for a trend analysis over time. Of those that do, **France, Sweden, and the United Kingdom** experienced a general upward trend in recorded antisemitic crime between 2001—2006. The FRA reported that most EU states have a serious problem of underreporting, particularly in reference to official systems of data collection that are based on police records and on crime and law statistics, because not all antisemitic incidents registered officially are categorized under the label "antisemitism" and/or because not all antisemitic incidents are reported by the victims.

Outside of the E.U., the governments of the **United States** and **Canada** have established systems of monitoring and reporting on antisemitic hate crimes. In Canada, official information on antisemitic hate crimes has been limited to individual police jurisdictions that collect such data, although nationwide data was released for the first time in June 2008.

There are no countries in southeastern Europe or the former Soviet Union with adequate systems of monitoring and regular public reporting expressly on antisemitic and other violent hate crimes.

Thus, nearly 40 OSCE participating states are failing in their commitments to collect data on antisemitic and other hate crimes.

These failures are particularly problematic in countries like **Russia** and **Ukraine**, where NGO monitors have documented an increasing number of cases of hate crimes, including those motivated by antisemitism. In **Russia**, where HRF view the situation as particularly problematic, a leading nongovernmental monitor of hate crimes documented 106 race-based murders in 2008, while official Russian data largely ignores this problem. In **Ukraine**, U.S.-based organizations like the Union of Councils for Jews in the former Soviet Union (UCSJ) have reported on a prevalence of antisemitic and racist attacks, yet the government does not report publicly on these crimes in line with their OSCE commitments. Without accurate data, the increasing number of such crimes reported by NGO monitors and the media fall under the radar of policy makers. Similarly, **Greece**, **Italy**, **Portugal**, and **Spain** are among those countries where the authorities do not produce any reliable data on violent hate crimes, but where unofficial reports suggest an increasing number of such cases. In **Cyprus**, officials justified the fact that they did not submit any data on racist crimes to the E.U.'s Fundamental Rights Agency on the grounds that there is no racism there.

Criminal Law Provisions to Combat Violent Hate Crimes

While governments have an obligation to combat all crime, the hate crime concept is a simple acknowledgement of the greater seriousness of crimes motivated by racial, religious, or other hatred that harm whole communities. Hate crime legislation signals a society's commitment to combat violent discrimination and gives force to this by providing for more severe penalties.

A growing number of the 56 countries in the OSCE are adopting legislation to expressly address violent hate crimes. At present, there are over 30 countries in which legislation treats bias-motivated violent crime as a separate crime or in which bias is regarded as an aggravating circumstance that can result in enhanced penalties.

However, 22 OSCE countries still have no express provisions defining bias as an aggravating circumstance in the commission of a range of violent crimes against persons. These countries include: **Albania**, **Bosnia and Herzegovina**, **Bulgaria**, **Cyprus**, **Estonia**, **Germany**, **Holy See**, **Hungary**, **Iceland**, **Ireland**, **Luxembourg**, **Lithuania**,

Macedonia, Monaco, Montenegro, the Netherlands, Poland, San Marino, Serbia, Slovenia, Switzerland, and Turkey.

Even where legislation exists, it is too often limited in terms of the forms of discrimination against which it protects. While aggravating circumstances provisions in most countries cover bias based on religious or racial grounds, provisions extend to sexual orientation bias in only 11¹ countries and to disability bias in only 7 countries.²

Effective enforcement of these provisions is difficult to gauge, although widely thought to be inadequate. Statistics on the use of bias crime sentencing norms, including those convictions resulting in enhanced sentences, are largely unavailable. Monitoring conducted by NGOs and intergovernmental antiracism bodies points to a general reluctance by criminal justice officials to bring charges using hate crime provisions.

Recommendations for the Canadian Government

Addressing antisemitic and other violent hate crimes at home and abroad

The Canadian government should seek to implement the following ten-point plan for combating hate crimes in Canada and should use the opportunity of intergovernmental forums and bilateral engagement to advocate these points with other governments.

1. **Acknowledge and condemn violent hate crimes whenever they occur.** Senior government leaders should send a strong and immediate political signal that violent crimes which appear to be motivated by prejudice and intolerance will be investigated thoroughly and prosecuted to the full extent of the law. Public officials should publicly recognize the destructive force that hate crimes can have on increasingly diverse communities.
2. **Enact laws that expressly address hate crimes.** Governments should recognize hate crimes as the more serious crimes that they are while defining categories of bias motivation broadly. They should enact laws that provide enhanced penalties for crimes motivated by animus on the basis of the victim's race, religion, ethnicity, gender, sexual orientation, mental and physical disabilities, or other similar forms of discrimination.
3. **Strengthen enforcement and prosecute offenders.** Governments should ensure that those responsible for hate crimes are held accountable under the law and that the record of enforcement of hate crime laws is well documented and publicized. In order for hate crimes laws to provide an effective deterrent, governments

¹ Penalty enhancement provisions apply to crimes committed because of bias on the grounds of sexual orientation in: Andorra, Belgium, Canada, Croatia, Denmark, France, Romania, Spain, Sweden, United Kingdom, and in the United States (in certain states).

² Penalty enhancement provisions apply to crimes committed because of bias on the grounds of disability in: Andorra, Belgium, Canada, Romania, Spain, United Kingdom, and the United States (in certain states).

should make enforcement of hate crimes laws a priority within the criminal justice system and in their political platforms.

4. **Provide adequate resources to law enforcement bodies.** Governments should ensure that police and investigators – as the first responders in cases of violent crime – have the resources and training to detect bias motives, and that prosecutors are well aware of the legal measures available and required to prosecute hate crimes. They should ensure that procedures are in place for rapid response to possible “trigger events.”
5. **Undertake parliamentary or other special inquiries into the problem of hate crimes.** Such official inquiries should investigate ways to better respond to hate crimes, but also seek creative ways to deal with the roots of intolerance through education.
6. **Monitor and report on hate crimes.** Governments should establish or strengthen official systems of monitoring and reporting to provide accurate data, including on the victim groups targeted, for informed policy decisions to combat intolerance. These monitoring systems should include improved access to complaints procedures by individual victims and advocacy groups through the introduction of measures such as third party reporting.
7. **Create and strengthen antidiscrimination bodies.** Governments need to ensure that the mandates of official antidiscrimination and human rights bodies have the authority to address hate crimes through monitoring, reporting, and assistance to victims.
8. **Reach out to community groups.** Governments need to take steps to increase the confidence of minority communities by demonstrating a willingness to work more closely with their leaders and community-based organizations in the reporting and registration of hate crimes and on measures to provide equal protection for all under the law.
9. **Speak out against intolerance and bigotry.** Freedom of speech allows considerable latitude for offensive and hateful speech, but public figures should be held to a higher standard. Members of parliament and local government leaders should be held politically accountable for bigoted words that encourage xenophobia and violence and create a climate of fear for minorities.
10. **Encourage international cooperation on hate crimes.** Governments should support and strengthen the mandates of intergovernmental organizations with a human rights component – like the Organization for Security and Cooperation in Europe (OSCE) – to address hate crimes. Governments should also provide a detailed accounting on the incidence and nature of hate crimes to the inter-governmental bodies responsible for monitoring compliance with their obligations

under international and regional human rights conventions (treaty bodies), notably the Convention for the Elimination of All Forms of Racial Discrimination

Enhancing the OSCE's tolerance and nondiscrimination work

- The Government of Canada should seek to advance the OSCE's tolerance and nondiscrimination mandate in the following ways:
- The reappointment by the Kazakh Chairmanship in 2010 of the OSCE Chairman-in-Office's three personal representatives on tolerance with their distinct mandates.
- Inclusion of civil society representatives in the October 2009 meeting of the NPC as well as the Annual Police Experts Meeting on hate crimes and effective law enforcement cooperation.
- The organization of a high-level conference on combating hate crimes in 2010 in order to generate political support for the implementation of tolerance and nondiscrimination commitments as well as to reinforce the activities of the personal representatives on tolerance and the ODIHR.
- Continued support for the ODIHR's Tolerance and Nondiscrimination Unit (TnD), in particular to encourage:
 - Efforts to ensure that the Law Enforcement Officer Program on Combating Hate Crime (LEOP) has the support it needs and that participating states are taking part in this program.
 - The ODIHR to convene regular meetings of the National Points of Contact on Combating Hate Crimes, with the full participation of civil society groups and representatives of specialized antidiscrimination bodies, and consider as a topic in 2009 the building of trust and cooperation between law enforcement agencies and victims, their communities and civil society groups.
 - Agreements between the ODIHR and participating states on programs of technical assistance to combat hate crime.
 - Sufficient funding for the TnD unit and its programs and activities on hate crime through the regular OSCE budget and through extra-budgetary contributions.

Appendix: Report Card on Canada (from Human Rights First's Hate Crime Report Card³)

I. Systems of Monitoring and Reporting

What Data is Collected?

National Data

On June 9, 2008, the government released national hate crime statistics for the year 2006. Using data from the Hate Crime Supplemental Survey and the Uniform Crime Reporting Survey, the Canadian Centre for Justice Statistics (CCJS) – part of Statistics Canada – released a profile which provides statistics from police jurisdictions accounting for 87 percent of the population in 2006. This report shows a total of 892 reported hate crimes in 2006. This number is broken down into “violent crimes,” “property crimes,” and “other crimes” such as disturbing the peace, threatening phone calls and weapon violations. The violent crimes account for 327 (37 percent) of the overall total of hate crimes. Among the violent crimes, 193 (59 percent) are motivated by race/ethnicity, 58 (18 percent) are motivated by religion, 45 (14 percent) by sexual orientation, 26 (8 percent) by unknown bias, 2 (0.6 percent) by language, 2 (0.6 percent) by mental or physical disability and 1 (0.3 percent) by other.⁴

Data from Individual Police Services

Several police services in metropolitan areas have for a number of years provided public data on the hate crimes in their jurisdictions.

The Toronto Police reported a total of 130 hate/bias crimes in 2007, a 20 percent decrease from 2006, the lowest number since the police's Hate Crime Unit began collecting these statistics in 1993. Of the 130 hate crimes reported, the most common were classified as “mischief” (47 incidents), “assault” (31), and “threats” (17). The police note in their annual report that hate/bias crimes are likely underreported.⁵

The Calgary Police Service, in its 2007 Annual Statistical Report, reported on 114 hate/bias crimes, compared with 129 in 2006.⁶ After a low of 96 hate crime offenses for 2005 (representing the lowest recorded during the period of 2001-2007), the 2006 figures

³ Human Rights First, available for each of the 56 OSCE states at:
<http://www.humanrightsfirst.org/discrimination/pages.aspx?id=158>.

⁴ Mia Dauvergne, Katie Scrim and Shannon Brennan, Canadian Centre for Justice Statistics, “Hate crime in Canada 2006” Statistics Canada, June 9, 2008, available at:
<http://www.statcan.ca/english/research/85F0033MIE/85F0033MIE2008017.pdf>.

⁵ Toronto Police Service, Hate Crime Unit, “2007 Annual Hate/Bias Crime Statistical Report, available at:
<http://www.torontopolice.on.ca/publications/files/reports/2007hatecrimereport.pdf>.

⁶ Calgary Police Service, “Annual Statistical Report 2003-2007,” p. 18, available at:
http://www.calgarypolice.ca/news/pdf/Annual_Statistical_Report_2007.pdf; p. 18

reflected the second highest registration in the period 2002-2007. The 2006 report also notes that “these types of offenses are particularly susceptible to underreporting given the sensitive nature of motivations of some of the crimes.”⁷

The Edmonton Police Service, though it does not publish hate crime statistics in its annual crime statistics reporting, did provide information in its *2007 Report to the Community* on its Hate and Bias Crime Initiative (HBCI), which “continues to build a framework to manage issues, respond to hate crime and disorder and prevent such instances from occurring in the first place.” The HBCI has also created Community Liaison Officer Partnership with representatives from the different communities living in Edmonton.⁸

Other police services in metropolitan areas have similarly established hate/bias crimes units and in some cases do collect and report on hate crimes in their jurisdictions.

What Does the Data Say about the Bias Motivations and/or Victim Groups?

The CCJS has developed a registration system according to which data is made available on the basis of the following categories:

- Race/ethnicity (Black, South Asian, Arab/West Asian, East/Southeast Asian, Caucasian, Aboriginals, Multiple Races/Ethnicities, Other race/ethnicity, Unknown race/ethnicity),
- Religion (Jewish, Muslim, Catholic, Other religion, Unknown religion),
- Sexual Orientation (Homosexual, Other sexual orientation),
- Language, Disability, Sex, Other factor, Unknown.

Data made available for 2006 breaks down as follows:⁹

⁷ Calgary Police Service, “Annual Statistical Report 2002-2006,” p. 16, available at: http://www.calgarypolice.ca/news/pdf/Annual_Statistical_Report_2006.pdf; p. 16

⁸ Edmonton Police Service, “Report to the Community 2007,” p. 25, available at: <http://www.police.edmonton.ab.ca/Pages/Publications/AnnualReports/EPSto%20Report%20to%20The%20Community%202007.pdf>.

⁹ Mia Dauvergne, Katie Scrim and Shannon Brennan, Canadian Centre for Justice Statistics, “Hate crime in Canada 2006” Statistics Canada, June 9, 2008, available at: <http://www.statcan.ca/english/research/85F0033MIE/85F0033MIE2008017.pdf>.

Police-reported hate crime by type of motivation and crime category, 2006

Type of motivation	Violent crime		Property crime		Other crime		Total	
	number	%	number	%	number	%	number	%
Race/ethnicity								
Black	90	37.8	122	51.3	26	10.9	238	100.0
South Asian	25	37.9	36	54.5	5	7.6	66	100.0
Arab/West Asian	30	49.2	24	39.3	7	11.5	61	100.0
East/Southeast Asian	12	48.0	9	36.0	4	16.0	25	100.0
Caucasian	11	45.8	11	45.8	2	8.3	24	100.0
Aboriginal	8	50.0	6	37.5	2	12.5	16	100.0
Multiple races/ethnicities	6	16.2	29	78.4	2	5.4	37	100.0
Other	10	34.5	14	48.3	5	17.2	29	100.0
Unknown	1	16.7	5	83.3	0	0.0	6	100.0
Total	193	38.4	256	51.0	53	10.6	502	100.0
Religion								
Jewish	32	23.4	96	70.1	9	6.6	137	100.0
Muslim (Islam)	19	41.3	19	41.3	8	17.4	46	100.0
Catholic	1	7.7	7	53.8	5	38.5	13	100.0
Other	6	30.0	11	55.0	3	15.0	20	100.0
Unknown	0	0.0	4	100.0	0	0.0	4	100.0
Total	58	26.4	137	62.3	25	11.4	220	100.0
Sexual orientation	45	56.3	29	36.3	6	7.5	80	100.0
Other	5	56.3	11	36.3	6	7.5	22	100.0
Unknown	26	38.2	27	39.7	15	22.1	68	100.0
Total	327	36.7	460	51.6	105	11.8	892	100.0

In individual police jurisdictions, data is disaggregated comprehensively, although somewhat differently.

In Toronto, of the 130 hate crimes reported, the victim group most targeted in 2007 was the Black community (33). Jews (29) were the next most targeted, followed by gays (13), Muslims (9), people of Pakistani origin (9), and people of Chinese origin (8). There were 14 offenses categorized as “multiple-bias.”¹⁰

The Calgary Police Service, in its 2007 Annual Statistical Report, reported on 114 hate/bias crimes. Their statistics are broken down by motivation: in 2007, there were 50 hate/bias crimes motivated by race, 18 by ethnicity, 22 by sexual orientation, 16 by religion, and 8 by other motivations including age, gender, nationality and disability.¹¹

II. The Framework of Criminal Law

Legislation on Bias-motivated Violence

Bias-motivated Crimes as Offenses	Violent Specific	Bias as an Express General Factor	Bias as an Aggravating Factor in Specific Common Crimes
		X	X

Bias Types Covered by Provisions on Aggravating Circumstances

Race/National Origin/Ethnicity	Religion	Sexual Orientation	Gender	Disability	Other
X	X	X	X	X	

Bias as an Express General Aggravating Factor

Canada’s Criminal Code was amended in 1996 to include penalty enhancements for crimes committed with a bias motivation. Section 718.2(a)(i) of the code provides for a court to increase a sentence in the light of an aggravating factor, to include “evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, color, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.”¹²

The government does not collect statistics on the use of article 718.2 (a)(i), although the Research and Statistics Division of the Department of Justice Canada is reportedly undertaking a study that will examine the use of these provisions. In a response to a questionnaire from Human Rights First, the Canadian government reported that “a

¹⁰ Toronto Police Service, Hate Crime Unit, “2006 Annual Hate/Bias Crime Statistical Report, available at: <http://www.torontopolice.on.ca/publications/files/reports/2006hatecrimereport.pdf>.

¹¹ Calgary Police Service, “Annual Statistical Report 2003-2007,” available at: http://www.calgarypolice.ca/news/pdf/Annual_Statistical_Report_2007.pdf;

¹² Criminal Code of Canada, “Purpose and Principles of Sentencing,” Section 718, available at: <http://laws.justice.gc.ca/en/C-46/fulltoc.html>.

preliminary review of published case law indicates that between 1996 and 2006 at least 48 cases have applied hate as an aggravating factor at sentencing.”¹³

According to the report on “Addressing Hate Crime in Ontario,” published in 2006 by a Hate Crimes Community Working Group appointed by the Attorney General, this provision is applied only at the sentencing stage, after the person has been found guilty of a crime. The bias motivation thus plays no role in determining a person’s guilt, but may enhance the sentence once guilt has been proven. Even then, the bias motivation is only one of several factors a judge may consider in determining the sentence, and it may thus not always result in an enhanced sentence. Even when it does play a role in the sentencing, a judge rarely specifies the extent to which a sentence is increased on account of the bias motivation.¹⁴

The report further finds that “statistical data about the impact of these sentencing arrangements are, again, rare to non-existent. The Working Group is aware of 28 judicial decisions, twelve from Ontario, in which sentencing courts have considered evidence that hate, bias, or prejudice constituted the whole or some part of the offender’s motivation. In seventeen of those decisions (five from Ontario), the court concluded for sentencing purposes that hate had been a motivating factor in the offense.”¹⁵

Bias as an Aggravating Factor in Specific Common Crimes

Under the Anti-Terrorism Act, introduced in 2001, a new provision was enacted under section 430(4.1) of the Criminal Code providing enhanced penalties for the specific crime of “mischief” when committed “in relation to property that is a building used for religious worship, including a church, mosque, synagogue or temple, or an object associated with religious worship located in or on the grounds of such a building or structure, or a cemetery, if the commission of the mischief is motivated by bias, prejudice or hate based on religion, race, color or national or ethnic origin.”¹⁶

However, according to the Canadian government’s response to a questionnaire from Human Rights First, no charges have been recorded between the years of 1994/95 to 2003/2004 under this provision. The government reports that:

¹³ Official response of the government of Canada to a Human Rights First questionnaire, received on July 2, 2008.

¹⁴ “Addressing Hate Crimes in Ontario: Background Documentation and Resources,” Final Report of the Hate Crimes Community Working Group to the Attorney General (2006), Part 4: Justice System, p. 4.

¹⁵ “Addressing Hate Crimes in Ontario: Background Documentation and Resources,” Final Report of the Hate

Crimes Community Working Group to the Attorney General (2006). Part 4: Justice System, pp. 4-5.

¹⁶ Section 430(1) of the Criminal Code of Canada provides that “[e]very one commits mischief who willfully (a) destroys or damages property; (b) renders property dangerous, useless, inoperative or ineffective; (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.”

“this may be linked to the methodology by which statistics are reported under this provision. In this particular case, statistics for sub-sections in all probability are reported by police agencies under the aggregate category of ‘Mischief’ (s.430). Between 1996/1997 and 2005/2006 there were 111,403 charges laid under section 430, the general mischief provision of the *Criminal Code*. However, statistics pertaining to what proportion of these charges were related to ‘mischief relating to religious property,’ and/or were offences motivated by bias, prejudice or hatred are not available.”¹⁷

¹⁷ Official response of the government of Canada to a Human Rights First questionnaire, received on July 2, 2008.