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# Standing Committee on Justice and Human Rights

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**Chair**

**Mr. Anthony Housefather**



## Standing Committee on Justice and Human Rights

Thursday, February 16, 2017

• (1520)

[English]

**The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)):** I'm going to call to order this meeting of the Standing Committee on Justice and Human Rights.

It gives me great pleasure to welcome Frank Baylis, who is sitting in for Ms. Khalid.

Mr. Baylis, welcome to our committee.

**Mr. Frank Baylis (Pierrefonds—Dollard, Lib.):** Thank you, sir.

**The Chair:** I also welcome Randeep Sarai, who is sitting in for Randy Boissonnault.

Randeep, it's great to have you here.

**Mr. Randeep Sarai (Surrey Centre, Lib.):** Thank you.

**The Chair:** Of course, it's always great to have Ted Falk here, even though he's a regular.

In any case, today we are beginning our study of Bill C-305, An Act to amend the Criminal Code (mischief), sponsored by Chandra Arya, who is here with us today.

Welcome, Mr. Arya. Thank you so much for coming.

**Mr. Chandra Arya (Nepean, Lib.):** Thank you, Mr. Chair.

**The Chair:** We very much look forward to studying this very interesting piece of proposed legislation. We're going to start by inviting you to make your remarks. Please go ahead, sir.

**Mr. Chandra Arya:** Thank you, Mr. Chair, and members of the committee.

It is a pleasure to be here with you to speak on Bill C-305. Thank you all for the unanimous support last week in the House.

Canada is an inclusive nation. We welcome people from all over the world, irrespective of race, religion, colour or creed, such that regardless of where you are from or who you are or what you believe, you'll be treated with respect in Canada. However, we are reminded every time we witness acts of hatred that Canada is not where we want it to be. Acts of hatred based on race, religion, sexual identity, and sexual expression have not subsided; in fact, they have been increasing.

We had certain dark episodes in our country: the Chinese head tax; the internment of Ukrainians, Japanese, and Italian Canadians during the First and Second World Wars; our turning away of boats of Jewish and Punjabi refugees; our own history of slavery; and “No Irish Need Apply”, and “We don't speak French here, so speak

white”; and the discrimination faced by Greek and Portuguese Canadians in Toronto and other places. The same rhetoric that led to a “None is Too Many” immigration policy toward Jews in the thirties and forties is being used to raise fear against Muslims today.

There has been discrimination on the basis of sexual orientation and gender identity for a very long time. The Criminal Code once described gay men as “criminal sexual psychopaths” and “dangerous sexual offenders”. In the sixties we deployed the RCMP to investigate suspected homosexuals. This discrimination still exists in parts of Canadian society today.

While Bill C-305 will not solve every issue related to racism or discrimination, it will take an important small step in protecting the most vulnerable. There is hope, Mr. Chair. As Dr. Martin Luther King Junior said, “The arc of the moral universe is long, but it bends toward justice”. Moreover, our Prime Minister Justin Trudeau has said, “For all our instructive moments of failure, the arc of Canadian history bends towards inclusion, towards liberty”.

Bill C-305 seeks to amend a subsection of the Criminal Code that deals with damage to property due to crime motivated by “hate based on religion, race, colour, national or ethnic origin”. This bill proposes to expand this to include motivation by hate based on gender identity and sexual orientation. Also, currently the subsection is limited to places of worship, like churches, mosques, synagogues, temples, and cemeteries. The proposed Bill C-305 seeks to expand this to include schools, day care centres, colleges or universities, community centres, seniors' residences, and cultural centres.

Under this criminal subsection, if a person is found guilty of an indictable offence, the prison term is up to 10 years. If a person is found guilty of an offence punishable on summary conviction, the present term is up to 18 months. A few months back we had a series of hate crimes in Ottawa. Then, several religious leaders stated that to eliminate and eradicate these acts of hatred from our society, education and compassion were more important than the law and the consequent punishment. However, while I agree that education is the best long-term solution, I also believe that a strong law acts as a major deterrent. We have, as a society, combatted social issues like smoking and seatbelts through an effective combination of law and education.

At this point I would like to quote Dr. Martin Luther King on the interaction between positive law, morality, and culture. He said:

It may be true that morality cannot be legislated, but behaviour can be regulated. It may be true that the law cannot make a man love me, but it can keep him from lynching me.... It may be true that the law cannot change the heart, but it can restrain the heartless....

● (1525)

So, while the law may not change the hearts of men, it does change the habits of men, and when you change the habits of men, pretty soon their attitudes and hearts will be changed. Hence, there is a need for strong legislation to grapple constantly with the problems we face. It is very important that we have strong and robust laws for hate crimes. Again, I agree that education is important, but I am equally confident that good law is also required.

Bill C-305 takes a strong step to making our neighbourhoods and communities safer places to live. Think of the strong message we will be sending to all Canadians that it will not just be a select group of people, but all of the people of Canada, who can feel safer knowing that this Parliament has taken concrete and strong measures to protect them.

There are some alarming statistics I would like to share with you today. As per a Statistics Canada report released in 2015, 51% of the police-reported hate crimes were motivated by hatred of race or ethnicity, 28% were motivated by religion, and 16% by sexual orientation. It is easy to forget that hate-based mischief does not only affect the targeted group or individuals, but also the community as a whole.

There was a recent study by the Department of Justice on understanding the community impact of hate crimes. It stated, “The commission of a hate crime is against not only the individual but the entire community.” It quoted David Matas that, “People live in community. Rights are exercised in community.” It further stated:

With victims of hate crime, it is important to consider that the impact on the community is particularly devastating, as hate crimes are “message crimes in that the perpetrator is sending a message to the members of a certain group that they are despised, devalued, or unwelcome in a particular neighbourhood, community, school, or workplace”....

The data also showed that after a hate crime incident, many people experience increased levels of fear for their personal safety and the safety of their family. As a result, many community members took measures to protect themselves and their families, especially members of the targeted ethnic identity community.

We need to take appropriate measures to ensure that our neighbourhoods are safe places to live, that every Canadian has the right to feel safe, to live their life in the absence of fear or threat. Let us remember that Canada is a nation strengthened by its multiculturalism and shared values of openness, compassion, and equality, so that people are not subject to hate and discrimination, but feel welcome. This bill may not solve every issue, but it can attempt to bring solace to those targeted by hate crimes.

Thank you for the opportunity to speak to you today. It is up to you to decide what to do next. I expect some friendly amendments and also some resistance from the government. You're all well qualified, and I'm happy that this bill is in your good hands.

Thank you, Mr. Chair.

● (1530)

**The Chair:** Thank you very much, Mr. Arya. I very much appreciated your remarks.

Now we will start with some questions. We will start with Mr. Nicholson.

**Hon. Rob Nicholson (Niagara Falls, CPC):** Thank you very much. You're expecting some resistance from the government? Did you want to elaborate?

**Some hon. members:** Oh, oh!

**Hon. Rob Nicholson:** It's usually the opposition parties, I would have guessed, but not lately. Fair enough.

I want to tell you how pleased I am to see that you include in your list, religious properties, educational institutes, community facilities, and seniors' residences. This is very good because hate crimes don't necessarily have to be directed at a mosque or a temple or a church or a synagogue. They are not the only places where religious activity is encouraged. So I think that is a great step forward here and I very much appreciate it.

The question I want to ask you relates to this. The former parliamentary secretary said that the bill could potentially capture numerous unintended buildings and spaces. What is your response to that?

**Mr. Chandra Arya:** Going back to my remarks on resistance from the government, I am confident, that the opposition parties—the Conservatives and the NDP—will join hands with us to unanimously support this bill. However, the remarks by the former parliamentary secretary have caused me a bit of concern.

This bill does not try to cover every single property; for example, coffee shops are not covered here. There are so many other properties.

The point I made in my remarks is that hate crimes do not affect the individuals or the families or a particular group, but make the community feel unsafe. To state that hate crimes against a Catholic school board building are different from hate crimes against a district school board building, in my view, is not correct.

So I am not trying to cover every single private property or private business here. I am trying to cover all the public properties, especially where the communities gather—the community centres, the schools, and other places.

**Hon. Rob Nicholson:** That would be a good example. You said that if somebody has a problem with Catholics, it's a hate crime—or that there's an additional measure of how terrible the crime if it's a church or a Catholic church. But if you went after a Catholic school, that's what you'd be including in this.

**Mr. Chandra Arya:** It's not just a Catholic school. I want to include all schools, because that's where the communities gather. When a hate crime is done against a property—a school that is not Catholic, for example—there is an effect on the community. The entire community will feel unsafe.

**Hon. Rob Nicholson:** Okay.

From the former parliamentary secretary, did you get any wording changes that you might suggest...?

**Mr. Chandra Arya:** No, not yet.

**Hon. Rob Nicholson:** You didn't get that. Okay, fair enough.

There are some questions with respect to consistency with the provisions of the Criminal Code, and I believe one of my colleagues in the NDP, Mr. Garrison, has a possible amendment. Have you had a chance to have a look at that?

**Mr. Chandra Arya:** No, not yet.

**Hon. Rob Nicholson:** Not yet? Okay.

Again, I congratulate you for bringing this forward. As I said, I think it's more expansive than the present wording within the existing legislation, and I think this would be an improvement to it. So thank you very much.

Those are my questions, Mr. Chair.

• (1535)

**The Chair:** Thank you.

I just wonder if anybody has....

Uncharacteristically, Mr. Nicholson took up only about half of his time, and—

**Hon. Rob Nicholson:** Come on now, that's unfair.

**The Chair:** Well no, you're always so to the point.

**Hon. Rob Nicholson:** Oh, okay.

**The Chair:** Mr. Cooper, do you want to take the rest of the time?

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Sure. Thank you very much, Mr. Chair.

Thank you, Mr. Arya, for appearing and for your presentation. Let me say at the outset that I think the intent of this bill is a good one, and I certainly support it.

You mentioned that a couple of months ago a whole series of hate crimes were committed against or targeted at religious groups. I think a mosque and a Jewish community centre were targeted, among other places, here in Ottawa. Am I am correct that it was not just houses of worship but also community centres that were targeted? Is that what happened in the Ottawa incidents?

**Mr. Chandra Arya:** Yes, in Ottawa mosques and synagogues were targeted, plus some private buildings. At the same time, I might be slightly wrong in saying that a community centre was targeted. Actually, it was a building that is used as a community centre, but it is also used as a place of worship.

In the current subsection of the Criminal Code, if the property is associated with a place of worship, that is covered, but when it is only a community centre, that is not covered.

As I mentioned earlier, when a community centre or a school is targeted, the effect on the community is the same.

**Mr. Michael Cooper:** How much time do I have, Chair?

**The Chair:** You have a minute.

**Mr. Michael Cooper:** Right now, then, under section 430 of the Criminal Code, if someone committed an act of mischief—such as

the individual in, say, the Ottawa case—at a house of worship, they would be subject to a penalty of up to 10 years' imprisonment, but if they committed the very same act of vandalism against the same Jewish group, but at a Jewish community centre instead of a synagogue, they would only be subject to two years' imprisonment. Is that correct?

**Mr. Chandra Arya:** Absolutely.

**Mr. Michael Cooper:** And that's the loophole in the Criminal Code that your bill seeks to close.

Is that right?

**Mr. Chandra Arya:** Yes, absolutely. You're correct.

**Mr. Michael Cooper:** Okay, good.

Thank you.

**The Chair:** Are you clear?

Thank you very much.

Mr. McKinnon.

**Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.):** Thank you, Chair.

Thank you, Mr. Arya, for bringing forward this bill. I appreciate the effort and I support the intent.

In the first clause here, you mentioned that you've added “gender identity” and “sexual orientation”, but you did not add “gender expression”. I wonder if that was deliberate or an oversight.

**Mr. Chandra Arya:** It was an oversight.

**Mr. Ron McKinnon:** Okay. All right.

Second, I'm interested in the scope of the buildings that you're intending this to apply to. Proposed paragraph (c) of new subsection (4.101) states:

a building or structure, or part of a building or structure, that is primarily used for administrative, social, cultural or sports activities or events—including a town hall, community centre, playground or arena—

and so on and so forth.

There's no tie-in here to whether they are associated with any religious affiliation at all. It would seem to be applying not only to a great number of public buildings, but also a great number of private buildings. I wonder if it's perhaps too expensive.

**Mr. Chandra Arya:** My thinking is that the subsection saying that this is against religious properties can be amended to say “religious and public properties”.

**Mr. Ron McKinnon:** But paragraph (c) doesn't mention that these buildings have anything to do with any religion.

**Mr. Chandra Arya:** Yes, absolutely. It doesn't specifically mention....

If I had to redraft the bill, I would redraft it as “crime against religious or public properties”.

**Mr. Ron McKinnon:** So you intended it to mean all public properties, like city properties, provincial properties, federal properties.

**Mr. Chandra Arya:** Basically, it's those properties where the community gathers.

**Mr. Ron McKinnon:** I'm sorry, but I didn't catch that.

**Mr. Chandra Arya:** Basically, it's any property where the community gathers, for example, schools or community centres or cultural centres.

**Mr. Ron McKinnon:** Okay.

I know in my riding there are a number of churches that don't have their own premises. They rent space on a regular basis in commercial premises.

Would this bill apply to those specific premises, and, if so, would they apply just to those premises or to the entire structure?

• (1540)

**Mr. Chandra Arya:** Good question.

In fact, this question came up after I introduced the bill. I don't have an answer. I know it's not specifically covered in my private member's bill.

**Mr. Ron McKinnon:** There are a number of groups and categories mentioned in the definition of mischief and hate speech, but buildings and structures relating to other than religious groups and other than public properties are not referenced in any way.

In my reading of this bill, if I had an ethnic cultural centre of some kind perhaps—it's not a public building, but it might be something that hate graffiti might be sprayed upon—it would not be covered.

**Mr. Chandra Arya:** If it is a cultural centre, to my limited knowledge, it is a public property. I don't know if it can be construed as a private property.

Unfortunately, I don't have a correct answer for that.

**Mr. Ron McKinnon:** Okay.

What if a commercial premise is rented by a group promoting, say, racial equality?

**Mr. Chandra Arya:** Yes.

**Mr. Ron McKinnon:** That would not seem to be—

**Mr. Chandra Arya:** No, that does not seem to be covered in this bill.

**Mr. Ron McKinnon:** Is that something that you think should be incorporated in this bill?

**Mr. Chandra Arya:** It can be considered, yes.

**Mr. Ron McKinnon:** Okay.

**Mr. Chandra Arya:** Basically, what I'm trying to say is that the bill will act as an agent that will allow you to expand, strengthen, and achieve the main objectives.

**Mr. Ron McKinnon:** One of the questions provided by our great analysts suggests that graffiti painted on a park bench in a public playground would be subject to this act, but the same thing done to a private playground or a private residence would not, so there would be disparate treatment between those two cases.

Do you think that's appropriate?

**Mr. Chandra Arya:** I agree with that, because there are still, as I was mentioning, hate crimes like those that happened in Ottawa. We saw graffiti against a private home and against a place of worship. These two are treated separately, although the end effect is the same. The end effect was that the communities felt unsafe.

Yes, that is an issue.

**Mr. Ron McKinnon:** I have a final question. You mentioned seniors' residences. I agree with Mr. Nicholson that it seems to be logical to include them within the range of other public buildings. What about youth centres and so forth?

**Mr. Chandra Arya:** At the end of the day, my objective is not to limit it. I want it to be as open and as wide as possible. Any amendments will be good.

**Mr. Ron McKinnon:** You would be happy if this provision applied to any building anywhere?

**Mr. Chandra Arya:** For public buildings and community buildings, yes.

**Mr. Ron McKinnon:** Thank you.

**The Chair:** Thank you, Mr. McKinnon.

Mr. MacGregor.

**Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP):** Thank you, Mr. Chair.

Mr. Arya, I'd like to congratulate you for your success in the House in getting your bill passed on to us unanimously. Welcome to the committee.

It's already been raised—and you reported this already to this committee—that the failure to include “gender expression” was an oversight.

**Mr. Chandra Arya:** Yes.

**Mr. Alistair MacGregor:** I think your bill has laudable goals, but my concern overall is that we seem to be fixing individual trees and losing sight of the forest.

If you look at Bill C-16 and the Criminal Code, you will see that there are also provisions there for prohibiting discrimination based on sex. Your bill also forgets to include that particular part. Is that something that you were made aware of, or is that another oversight?

**Mr. Chandra Arya:** In fact, after I presented the bill, several of these things came up. As I said, I'm always open to all friendly amendments. I should say that I had to rush through it at the last moment.

**Mr. Alistair MacGregor:** Yes, and I ask because the thing that comes to mind for me in my riding of Cowichan—Malahat—Langford is that I have a society there, the Cowichan Women Against Violence Society, which is there, obviously, to help women who are affected by violence. They help them seek shelter and get out of abusive relationships. What if someone were to take issue with the work they do and spray-paint graffiti on their place of work?

I wasn't sure that we're casting a wide enough net, so that's good to hear.

I've read your bill, and you've included these specific areas where hate-based mischief can happen. I was wondering what your rationale was for deciding to list these additional types of property, beyond houses of worship, instead of treating all hate-based mischief offences the same, regardless of where they take place. What was your rationale for taking that approach?

• (1545)

**Mr. Chandra Arya:** I looked at that criminal subsection. It was very specific to religious properties.

**Mr. Alistair MacGregor:** Yes.

**Mr. Chandra Arya:** My thinking was that it would be good to deal very specifically with the places where the community gathers and where the community will be affected by these hate-based crimes. That was the rationale behind what I defined or included in the list of properties.

**Mr. Alistair MacGregor:** Okay. In that same vein, the way the bill is drafted, it seems that if someone were to spray-paint racist insults on a park bench in a playground, that theoretically could be considered worse than if they did so on someone's private home, for example.

Can you explain to the committee why those types of mischief should be treated differently? If they knew where a person's private home was, and if that person were transgendered or followed a certain religion, and the perpetrator decided to create mischief at that personal home, they would get a lighter sentence than if they did it at a public place.

**Mr. Chandra Arya:** I understand, but the effect is the same. In terms of the impact on the communities—number one, on the family and their friends and relatives, but also on the entire community—the effect is the same.

**Mr. Alistair MacGregor:** Yes.

**Mr. Chandra Arya:** They should be treated equally, but I was given advice that including private property would go much beyond the scope of this particular section.

**Mr. Alistair MacGregor:** Okay. Thank you.

In proposed paragraph 430(4.101)(c), you refer to buildings or structures that are used for “administrative” activities or events. Is this limited to public administration? Or is it for administration more generally? Do you see a need to provide a definition for additional clarification there?

**Mr. Chandra Arya:** No.

**Mr. Alistair MacGregor:** Do you want to leave it more for broader interpretation?

**Mr. Chandra Arya:** Absolutely.

**Mr. Alistair MacGregor:** Okay.

You've already had the questions about what Mr. Casey proposed. He stated that the underlying rationale for subsection 430(4.1) of the Criminal Code is to protect freedom of religion. Do you think that is the case?

**Mr. Chandra Arya:** No, in my view, it should not be limited to religious properties alone.

**Mr. Alistair MacGregor:** Okay.

I think that's just about all I have for questions, Mr. Chair. Thank you.

**The Chair:** Thank you very much, Mr. MacGregor.

We're going to go to Mr. Fraser.

**Mr. Colin Fraser (West Nova, Lib.):** Thank you very much, Mr. Chair.

Thank you for being here, Mr. Arya, and for your good work on this bill and for your clear and articulate presentation today.

I'd like to ask questions that have been touched on by a couple of questioners, with regard to adding gender expression and language that is consistent with Bill C-16, currently before the Senate. I know that when we considered another piece of legislation, we added a coordinating amendment so that, if that bill becomes law, we'd be using the same sort of language. Would you be open to that sort of coordinating amendment depending on which bill, if either one or both become law? Would you be open to having that added as an amendment?

**Mr. Chandra Arya:** Absolutely.

**Mr. Colin Fraser:** Okay. So there is no issue at all then with coordinating all of the language.

**Mr. Chandra Arya:** Yes, there's no issue.

**Mr. Colin Fraser:** All right.

First of all, I would like to hear you talk about the current state of the law right now.

If someone were charged with mischief, convicted of that, and underwent sentencing, it's true that the place where the mischief took place and motivation behind it can be considered as an aggravating factor in sentencing. Can you explain a little bit why that's not sufficient, why you see an insufficiency there in the law right now in considering those things as an aggravating factor for mischief?

**Mr. Chandra Arya:** The very fact this subsection was inserted, in fact, shows that we had to highlight and separate certain things that are much more hateful, those things that affect the community much more than under any of those subsections. That's why this particular subsection was brought forward in 2001. However, when it was brought in, it was limited to religious properties. In my view, that should have been made to religious and public properties.

• (1550)

**Mr. Colin Fraser:** Okay.

One of the things that's very important in the law, of course, is certainty and clarity, to ensure that people understand not only the definition of the prohibited offence but also what could be the consequence. In that regard, clarity of language is important. Do you know of any problem in the current subsection 430(4.1) with naming religious places of worship or part thereof and...? Has there ever been a case that you know of where there has been any problem for the courts in interpreting those or there's been an argument made that it wasn't clear whether or not it was primarily for the purpose of religious worship?

**Mr. Chandra Arya:** Personally, I'm not aware of any particular case.

**Mr. Colin Fraser:** Okay. Do you see any issue or do you have any concern over expanding this to include other buildings and partial structures and making it broader in language so that people wouldn't have clarity or certainty about whether they would fall under this section of the law? Have you turned your mind to that?

**Mr. Chandra Arya:** I'm open to that, yes.

**Mr. Colin Fraser:** No, but have you had any thought about whether or not the law would become less clear if we started adding all of these other structures? Is that a concern at all to you?

**Mr. Chandra Arya:** No, I'm not talking along those lines, but I don't think that should be of much concern.

**Mr. Colin Fraser:** Okay. One of the important things in considering an appropriate sentence is deterrence. Obviously, we're talking about including a larger swath here, so people would be subject to a higher penalty, hopefully, with the consequence of deterring these sorts of crimes from happening. Can you talk a little bit about why that would be important for deterring certain future activity and whether you think it would act generally, so that it would be understood that these sorts of offences are not permissible?

**Mr. Chandra Arya:** As I mentioned, to eradicate hate crimes, law by itself is not sufficient. Education is also important. However, education and the law should go hand in hand. Whenever there is a threat of a very severe punishment, that will change the habits of men. That could change the habits of perpetrators. A strong law sends a strong message that we will not tolerate these hate-based crimes. I think that is much more important.

**Mr. Colin Fraser:** Thank you. Those are my questions.

**The Chair:** Thank you very much, Mr. Fraser.

We've done one round. Let's ask if anybody has shorter questions.

Mr. Falk.

**Mr. Ted Falk (Provencher, CPC):** Thank you, Mr. Chair.

Thank you, Mr. Arya, for coming to committee today and for the work you've put into this piece.

I have a question, and I'm going to build on what Mr. MacGregor and Mr. Fraser talked about, and that's in regard to proposed subsection 4.1 of your private member's bill.

They've talked about coordinating amendments. If Bill C-16 ever became law.... That isn't a law, but we do have a document today that is law, and that's the Charter of Rights and Freedoms. Subsections 15 (1) and 15(2) make specific reference to categories that cannot be discriminated against.

Why would your bill not include this similar language or the exact language that is used in the charter?

**Mr. Chandra Arya:** That's a good question.

Honestly speaking, I don't know, but this can be considered.

**Mr. Ted Falk:** So you'd be open to an amendment?

**Mr. Chandra Arya:** I'm open to amendments, yes.

**Mr. Ted Falk:** Okay. Thank you.

**The Chair:** Thank you.

Are there other shorter questions?

If not, I have a couple, if it's okay.

Sorry, Mr. Baylis, please go ahead, sir. This is your first question at this committee, so it better be excellent.

**Mr. Frank Baylis:** I will do my best.

**The Chair:** Your reputation precedes you. I'm sure it will be.

**Mr. Frank Baylis:** There it is.

First of all, I'd like to say that I sit on the industry committee with Mr. Chandra Arya, and he's always looking to make sure that we take into account diversity, ethnic questions, culture, and gender, so that when we're drafting our laws there, or whatever, we take those into account. I also know and have seen personally in the greater Ottawa area that many minority communities hold him in high respect. I'd like to underline that.

I'm not a lawyer, but when I look at this, I understand that you're trying to expand the definition of a building. Why do we have to have a building? For example, in my riding, there's the West Island Black Community Association. I know that it says here that we're trying to protect against mischief motivated by race. That association I mention is for a race, the black community. If someone were to go there and do hate crimes on that building, they would not be subject to this, nor would your amendments make them subject to it—or would they?

• (1555)

**Mr. Chandra Arya:** No. In my bill they'll be subject to....

**Mr. Frank Baylis:** In your change, those buildings—

**Mr. Chandra Arya:** In the current subsection, it is not covered. In my bill, it is covered.

**Mr. Frank Baylis:** Let's say that people go to that, but then they go home and find the same graffiti on their home. That would not be covered.

**Mr. Chandra Arya:** No, that would not be covered.

**Mr. Frank Baylis:** I struggle to understand why we have to limit. If a hate crime is a hate crime, why would we limit it? Okay, if I did something against the WIBCA building, and then went and did the exact same thing against the homes of every person who goes into that building, that is not a hate crime, but doing it to the first building is.

Did you consider just removing it completely?

**Mr. Chandra Arya:** That's a good question and one that I asked myself. I was advised that we cannot deal with private properties in this particular bill.

**Mr. Frank Baylis:** You would have liked to, but you're not allowed.

**Mr. Chandra Arya:** We're not allowed to.

**Mr. Frank Baylis:** I see. Thank you.

**The Chair:** I have a few questions, if it's okay with the committee, just to clarify your intent, Mr. Arya.

First of all, thank you for an excellent effort at drafting a bill that really goes to a commendable purpose.

My understanding right now is that you're looking at all of the things that we will eventually have in subsection 4.1. You took the current list and you added a few. You're open to this committee's looking at other documents and broadening it or changing the scope, but there will be, let's say, protected classes.

What you are saying is that, irrespective of the type of public building, where there is an act of mischief motivated by hatred or dislike of that protected class, it's covered. At the city hall, if there's a swastika, it would be considered an act of mischief or hate because it's a public building.

Let me just ask a few questions. I read Mr. Casey's comments. He was the parliamentary secretary at the time, and he was suggesting that this be restricted to religious buildings. He said it's okay if it's now a church, synagogue, mosque, mandir, or whatever, and also if it's a community centre owned by one of those communities or leased by one of those communities, but if it were, for example, a community centre leased by the black community or the gay community, it wouldn't be protected.

Was that your intent, or is that totally opposite to your intent?

**Mr. Chandra Arya:** That's the problem, Mr. Chair, that I had with Mr. Casey's point. I always take the example of schools. We have two major school systems here. If we go according to what Mr. Casey has said, a hate crime against Catholic school board schools is going to get covered, but not hate crimes against district school board schools. For me, that's unacceptable.

**The Chair:** I understand that, but just to clarify, let's take two analogous situations. A community centre owned by the Mennonite community is defaced. You intend that to be covered?

**Mr. Chandra Arya:** Absolutely.

**The Chair:** But my understanding is that you equally intend that to be covered if it's owned by the black community, or the gay community, or any other of these classes.

**Mr. Chandra Arya:** Yes.

**The Chair:** You're not asking us to distinguish one from the other.

**Mr. Chandra Arya:** No. In fact in my bill, the ownership is not defined or directed.

**The Chair:** I understand. It may be that we need to say it's owned, leased, occupied by, or something like that, but I do understand.

Let me also understand the purpose. For example, I think in perhaps the original intention of the law many years ago, this section putting in property was first adopted in 2001. You talk about a crime against the community, and I understand that. I think perhaps there was a feeling that if, for example, you defaced a church and it was because of a bias against that religious congregation, that would affect that congregation more than if you wrote that same symbol at city hall. I understand what you're saying, absolutely, but did you perhaps consider that it should be limited to buildings that are actually...?

I understand and agree with what my colleague said, that if a church leased space in a shopping centre, it should be covered too, because even though the main building is not a church, the church is

still in the shopping centre, and everybody knows where the church is. Would you understand if it were somehow limited to only being locations where the crime was against that community, because it was that community that occupied the space?

**Mr. Chandra Arya:** I think if my understanding is right, when you say "community", you are mentioning the religious community —

**The Chair:** Or racial, or any of the communities protected under the bill.

**Mr. Chandra Arya:** My bill is very clear. Any hate-based crime is not limited to just the community, or will not just affect that specific community only when it is against a religious place or property. It can be any place the community gathers. It can be community centres, cultural centres, or schools. When this crime is committed against the property, the effect, the end result, is the same.

That is what we are trying to address here.

**The Chair:** I understand.

I just want to distinguish one more thing. When you say "public building", you are not saying, in my understanding or how I read the proposed bill, that the public building necessarily needs to be owned by the state. It could be a building that is owned by a religious community or a building that is owned by any group. It's used by the public at large or by a certain community of the public at large. It's not a private dwelling.

**Mr. Chandra Arya:** You're absolutely correct.

**The Chair:** Thank you. Those are my questions.

Are there any further questions?

Mr. Sarai.

• (1600)

**Mr. Randeep Sarai:** This will be my first question in this committee as well.

**The Chair:** I'm sure you'll outdo Mr. Baylis.

**Mr. Randeep Sarai:** I didn't get the same introduction that Mr. Baylis did, so I will go on my own.

My question is a little quirky. If a person vandalizes a Christian school with graffiti, and the slogan is "I hate school" or "School sucks", would that fall under this proposed legislation?

**The Chair:** No.

**Mr. Randeep Sarai:** Okay.

Second, what if a religious or ethnic bias is written against a place of worship that's of the opposite or different faith—for example, if it's targeted towards Muslims but it's written on a Hindu temple? Would that fall under this?

**Mr. Chandra Arya:** Yes.

**Mr. Randeep Sarai:** Okay.

Those are my two questions.

**The Chair:** Thank you very much. Those were excellent questions.

Mr. Cooper.

**Mr. Michael Cooper:** Thank you, Mr. Chair.

To pick up on some of the other lines of questions from other members, you very clearly indicated, and I fully support, a closing of the loophole in the Criminal Code when it comes to targeting certain types of religious property, whether it be houses of worship, a religious community centre, or a religious school. I support that objective. It makes sense in terms of the purpose of this section, which is mischief in relation to religious property. However, are we not really creating another inconsistency here, based upon the wording of your bill?

Mr. Casey, in his submission to the House, made reference to a coffee shop, that it might include a coffee shop. Well, maybe it does and maybe it doesn't. Suppose it doesn't fit into the language of your bill, and suppose you commit an act of hate directed towards a specific group at a synagogue. Under this you'd be subject to 10 years of imprisonment. If it were at a school, it would be up to potentially 10 years imprisonment. But perhaps if you did the very same thing at a coffee shop, you would be subject to two years. Is that not creating another inconsistency?

Finally, if the objective of the bill is simply to condemn acts of hate directed at groups writ large, then what do you say about section 718.1 of the Criminal Code, which would constitute an aggravating factor for the purpose of sentencing? Does that not have a deleterious impact on section 718.1?

**Mr. Chandra Arya:** If the same crime is committed against a coffee shop, that would not be covered by this bill.

As I said, my objective is to cover as wide a range of things as possible, but I was advised that not everything can be covered in that one single subsection or one single piece of legislation. As I said in my remarks, my bill will not try to solve or address every single issue related to hate crimes or to discrimination or racism. This is just one small part of the bigger picture. You and this committee, I think, are all well placed to address these issues.

**The Chair:** Thank you.

Okay, Mr. Baylis, you have a last question.

**Mr. Frank Baylis:** On this coffee shop idea, there are certain coffee shops that are frequented by certain communities, for example, an Italian coffee shop in an Italian area. Say, someone goes and writes something against Italians. That's a hate crime against Italians. Could it not be easier to use wording to the effect, "a building associated with a certain community", thereby including a public building associated with a community that's being protected, whether it's rented, owned, leased, or frequented?

• (1605)

**Mr. Chandra Arya:** On whether it's rented, owned, or leased, I'm not really sure. But in my definition, the public properties in terms of community centres and cultural centres are covered, but private businesses like coffee shops are not covered.

**The Chair:** Mr. MacGregor.

**Mr. Alistair MacGregor:** I'll just follow up on that line of questioning. I'll go back to proposed paragraph 430(4.101)(c), the administrative part, because you say that it's a building or structure, or any part of a building or a structure that is primarily used for administrative activities. A lot of buildings are used for administrative activities. CIBC does administrative activities. It's a private business.

**Mr. Chandra Arya:** Yes.

**Mr. Alistair MacGregor:** Every business does administrative activities. That's a very broad term. So if something is done that is motivated by those biases, is that net capturing those private businesses?

**Mr. Chandra Arya:** No, that was not the intent of the bill. It was only for—

**Mr. Alistair MacGregor:** But do you have concerns, because that definition of "administrative"—

**Mr. Chandra Arya:** I know; I understand that.

**Mr. Alistair MacGregor:** Right? Yes.

**Mr. Chandra Arya:** It was not the intent of the bill to cover this.

**Mr. Alistair MacGregor:** It was not the intention to do that. Okay.

Thank you.

**The Chair:** Mr. McKinnon.

**Mr. Ron McKinnon:** Thank you, Chair.

I have one more question about scope. I understand here from proposed paragraph (c) that a building or structure for all of these purposes, or things associated with that structure, presumably on the grounds, would be covered. So if you had a public park with a camp shelter for barbecues and so forth, then all the benches and basically everything else in the park would be covered. But if you had a public park that had no such structure, nothing would be covered. Is that how you would read this?

**Mr. Chandra Arya:** Interesting. I think that is not covered in the bill as I see it.

**Mr. Ron McKinnon:** Okay. So it needs to be tied to a building or a structure in order to activate—

**Hon. Rob Nicholson:** To activate the increased penalty.

**Mr. Ron McKinnon:** Yes, the increased penalty.

**Hon. Rob Nicholson:** If you commit a crime, it's still a crime.

**Mr. Ron McKinnon:** Okay, thank you.

**The Chair:** Excellent.

I think that was a really interesting and excellent exchange. I want to thank Mr. Arya for coming before us today. Thank you so much for your excellent presentation, and we look forward to studying the bill you have proposed.

**Mr. Chandra Arya:** Thank you, Mr. Chair.

Thank you, all.

**The Chair:** Thank you, everyone.

The meeting is adjourned.







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