

**Addendum to the ICLMG brief on  
Bill C-9, the *Combatting Hate Act*,  
submitted to the  
Standing Committee on Justice and Human Rights  
on Nov. 14, 2025**

Nov. 19, 2025

Committee members:

On Nov. 14, 2025, the International Civil Liberties Monitoring Group submitted a brief outlining our serious concerns with Bill C-9, the *Combatting Hate Act*, particularly in regard to its impact on freedom of expression and freedom of peaceful assembly, and the serious chill it would send among those wishing to express their opinions through dissent and protest.<sup>1</sup>

In that brief, one area that we addressed was the proposed amendment to the s. 319 of the *Criminal Code* to add the following:

- (2.2)** Everyone commits an offence who wilfully promotes hatred against any identifiable group **by displaying**, in any public place:
- (a)** a symbol that is principally used by, or principally associated with, a listed entity, as defined in subsection 83.01(1);
  - (b)** the Nazi Hakenkreuz, also known as the Nazi swastika, or the Nazi double Sig-Rune, also known as the SS bolts; or
  - (c)** a symbol that so nearly resembles a symbol described in paragraph (a) or (b) that it is likely to be confused with that symbol.

In part, we argued that such a provision would be redundant with existing *Criminal Code* provisions creating an offence of wilfully promoting hatred. This was based on the government's position, as detailed on several occasions by the Minister of Justice, that s. 319(2.2) would not apply to the simple public display of the impugned symbols, but rather such display would need to take place in such a manner that it is inciting hatred. Since the display of a symbol can already be considered as part of a pattern of evidence for the inciting of hatred in general, we questioned why further legislation would be needed.

However, upon further analysis, we are uncertain that the government's description of the legislation factually reflects the proposed wording of the new offence. Instead, the wording of the new offence leaves open the very real likelihood that the simple public display of one of the symbols included in s. 319(2.2) would in and of itself be considered a wilful incitement to hatred. While the government may state this is not their intention, it does not change the fact that the wording of the text could easily – and is likely to be – understood this way.

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<sup>1</sup> <https://iclmg.ca/wp-content/uploads/2025/11/Bill-C-9-brief-ICLMG.pdf>

There is no further clarification in the offence that the simple display of a symbol would not constitute an offence. And the wording of the offence seems clear: that it is the wilful incitement of hatred **by displaying** a symbol in public – it is the display itself which would be inciting hatred, without any other qualification.

This concern is just as clear in the French version of the text, which reads:

*« (2.2) Commet une infraction quiconque fomente volontairement la haine contre un groupe identifiable par l'exposition dans un endroit public de l'un des symboles suivants »*

The plain reading of this would also be that the public display itself of an image that could be considered the “wilful incitement of hatred.”

This expands the possible application of the law much more broadly than what has been proposed by the Minister of Justice and government officials. It is not simply the recognition that the use of a “tool” in the commission of an offence can make an offence even more serious, as the Minister stated at committee.<sup>2</sup> Rather, it could mean that any public display of such a symbol could be considered an act of wilful incitement of hatred. This would walk a very fine line of pushing the burden of proving that displaying a proscribed symbol does not incite hatred onto the individual, rather than necessitating that the state prove that the display of such a symbol was a wilful incitement to hatred.

As outlined in our original brief, the discretion granted to police to interpret what images are “associated with” or “used by” a listed terrorist entity, as well as whether any symbol resembles a “terrorist entity symbol,” is already so broad that it will likely lead to either abuse, misuse or mistakes that will have serious impacts on Charter protected rights.

These concerns are also compounded by the reliance of s.319(2.2) on the rights-violating, political terrorist entities listing process. The terrorist entities list was established – ostensibly – to be able to list entities engaged in terrorist activities. While some of those entities may be viewed as being driven by hate, the list and listing process have nothing to do with addressing hatred or incitement to hatred. This bill is equating apples and oranges. At the same time, we are seeing the word “terrorism” being used to malign perfectly legitimate positions and actions.

All of this combined with the fact that the simple display of a symbol could be considered incitement to hatred will almost certainly result in individuals being at a minimum arrested, and likely charged, with a hate offense for exercising their right to free expression.

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<sup>2</sup> Canada. Parliament. House of Commons. Standing Committee on Justice and Human Rights. (2025). *Minutes of Proceedings*. 45th Parliament, 1st session, meeting no. 7. Online at: <https://www.ourcommons.ca/documentviewer/en/45-1/JUST/meeting-7/evidence#Int-13171949>

There is a reason why, up to this point, the law has included clearly framed offences, protections such as Attorney General approval for charges, and ensuring that the burden to prove intent to incite hatred falls with the state: to protect free speech – including speech that is critical of government policies, its actions, or actions by its allies – from state overreach and censorship.

As argued in our full brief, we believe that these concerns are not simply issues of wording that can be addressed via amendment, but speak to the deeper implication of attempts to legislate around what symbols, signs, flags, images, etc., mean for free expression. The proper approach is to focus on actual acts of incitement to hatred and violence, rather than on outlawing symbols or images themselves.

For this reason, and others included in our full brief, we do not believe that this bill can be fixed via amendment, but instead should be withdrawn.