Hate Speech under the *Canadian Human Rights Act*

CANADIAN BAR ASSOCIATION

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PREFACE

The Canadian Bar Association is a national association representing 37,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice.

This submission was prepared by the Constitutional and Human Rights Law Section and the Equity Committee of the Canadian Bar Association, with assistance from the Legislation and Law Reform Directorate at the National Office. The submission has been reviewed by the Legislation and Law Reform Committee and approved as a public statement of the Canadian Bar Association.

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I. INTRODUCTION

The Canadian Bar Association welcomes this opportunity to make submissions to the Commons Standing Committee on Justice and Human Rights respecting section 13 of the *Canadian Human Rights Act*[1]. The CBA is a national organization representing 37,000 jurists, including lawyers, notaries, law teachers and students across Canada, dedicated to the improvement of the administration of justice and promotion of equality in the justice system. The CBA takes a keen interest in the work and operation of not only the Canadian Human Rights Commission (CHRC) and Canadian Human Rights Tribunal (CHRT) but human rights commissions and tribunals in the provinces and territories. In 1985, the CBA adopted as its policy a recommendation that human rights codes provisions include a prohibition against the publication of statements "which create an unreasonable risk that an identifiable group will be exposed to violence or hatred or which constitute an unreasonable affront to the human dignity of a person belonging to an identifiable group."[2] Almost a decade ago, the CBA presented a submission to the review panel chaired by the Honourable Gérard La Forest examining the *Act*.[3]

This Committee's review of section 13 of the *Act* is timely. The enforcement of human rights protections against hate speech generally, and section 13 of the *Act* specifically, has been very much in the news of late. Lamentably, the public debate engendered by these protections has not been balanced. Leading media outlets in this country have advocated the

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1 R.S.C., 1985, c. H-6 (the "*Act*").

2 Recommendation 2 of the Report of the CBA Special Committee on Racial and Religious Hatred, adopted by the CBA pursuant to Resolution 85-05-M.

3 Canadian Bar Association, *Submission on the Canadian Human Rights Act Review*, December 1999.

abolition of section 13 with no acknowledgement of the value the provision brings to enhancing civic discourse in Canadian society.[4]

Of greater concern to the CBA is the fact that the debate surrounding the expediency of section 13 has become the proxy for an open assault on the very existence of an administrative framework to protect human rights in this country. Critics have decried human rights proceedings as "kangaroo courts"[5] which provide only "drive through justice"[6] and advocated that human rights tribunals and commissions should no longer be permitted to operate. We reject attacks of this kind and reiterate forcefully our support for the continued importance of the work undertaken by these human rights bodies to foster human rights in Canada. Legal protections for human rights have existed in Canada since 1947 when Saskatchewan enacted the first bill of human rights in North America.[7]

Over the years, human rights commissions have remained at the vanguard of eliminating discrimination based on race, religion, gender, disability, sexual orientation, and other grounds, and advancing equality. In addition to their functions in investigating complaints and bringing those with a credible basis before the tribunal for adjudication, they have "collaborative and educational responsibilities [that] afford [them] extensive awareness of the needs of the public, and extensive knowledge of developments in anti-discrimination law at the federal and provincial levels."[8] The contributions that human rights bodies like the CHRC have made, and continue to make, in protecting these advances as well as educating the Canadian public on such matters cannot be overstated.

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4 See most recently, Barry Cooper, "It's time to close our kangaroo courts; Canada's Human-Rights commissions aspire to become more than a thought or speech police; they seek to be an emotion police," *The Gazette* (23 October 2009), A21; "Stop the rot to our right for free speech," Editorial, *Calgary Herald* (9 October, 2009) A16; "Harper must act now to protect free speech," Editorial, *Maclean's* (September 28, 2009) at pp. 2-3, online: http://www2.macleans.ca/2009/09/20/harper-must-act-now-to-protect-free-speech/; David Warren, "Kafka comes to Canada," *The Ottawa Citizen* (5 September 2009) B6; "End the witch hunts for good," Editorial, *The National Post* (3 September 2009).

5 For example, see Ezra Levant's blog posting entitled "Kangaroo Court," dated July 11, 2008, online: http://ezralevant.com/2008/01/kangaroo-court.html.

6 Testimony of Mark Steyn before the Standing Committee on Justice and Human Rights, October 5, 2009, Transcript of Evidence at p. 1635.

7 *The Saskatchewan Bill of Rights Act*, S.S. 1947, c. 35.

8 *Bell Canada v. Canadian Telephone Employees Association*, [2003] 1 S.C.R. 884 at para. 41, speaking specifically about the Canadian Human Rights Commission.

Human rights tribunals are similar to many adjudicative administrative tribunals operating at the provincial and federal levels of government in Canada, such as labour relations boards and securities commissions. Like these bodies, human rights tribunals are comprised of individuals possessing specialized knowledge in the particular areas of the law they are authorized to administer. Like these administrative bodies, human rights tribunals must adhere to principles of natural justice and their rulings may be scrutinized on judicial review. Contrary to the denigrating criticisms leveled against them, human rights tribunals both at the federal and provincial level are bodies which adhere to, and administer, the rule of law in Canada.

The CBA strongly defends freedom of expression, which enjoys constitutional protection as a fundamental freedom in section 2(b) of the *Canadian Charter of Rights and Freedoms*[9]. However, in Canada, freedom of expression is not an absolute value. It is subject to legal limitations, the most obvious being laws against defamation and slander.[10] The CBA endorses the view that a properly drawn civil prohibition against the propagation of hate speech is also a reasonable limitation on freedom of expression.[11]

II. SECTION 13 OF THE *ACT*

The CBA supports maintaining section 13, subject to the revisions proposed below. In its submission to the *Canadian Human Rights Act* Review, we acknowledged that "the promotion of hatred against identifiable groups continues to be a problem in Canada".[12] We recommended that "[j]urisdiction over civil remedies for hate speech should be consolidated under the *Act*." The social evil of promoting hatred against identifiable groups has not diminished in the past decade. Indeed, with the emergence of the internet, its propagation has become more widespread and more sophisticated than in the past.

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9 Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11.

10 See *Hill v. Church of Scientology*, [1995] 2 S.C.R. 1130.

11 See *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892.

12 *Supra* note 2 at p. 10.

There is a need in our law for civil and criminal prohibitions on hate speech. The criminal prohibition in section 319 of the *Criminal Code* sets an extremely onerous standard.[13] This is appropriate since a criminal conviction for hate speech, like any other criminal offence, carries with it social stigma and a criminal record. Section 13 is for a different purpose (providing remedies to target groups for harm, fostering greater respect for target groups, and changing behaviour), and also applies to conduct that falls short of criminal behavior but nevertheless poses harm to vulnerable groups. Canada is not alone in establishing dual civil/penal prohibitions. Civil remedies for hate speech exist in various civil and common law jurisdictions internationally as a supplement to the criminal law.[14] Given the importance of freedom of expression, it is appropriate that there be a range of options for society to respond to expression that causes harm. Criminal sanctions should be reserved for the worst cases, rather than the only option.

Maintaining a civil prohibition against hate speech is necessary to protect individuals and minorities from its pernicious effects. As Dickson C.J. writing for the majority in *Taylor* stated, "messages of hate propaganda undermine the dignity and self-worth of target group members and, more generally, contribute to disharmonious relations among various racial and cultural and religious groups, as a result eroding the tolerance and open-mindedness that must flourish in a multicultural society which is committed to the idea of equality."[15] Furthermore, hate speech hinders the freedom of expression of targeted groups. It erodes

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13 See especially *R. v. Ahenakew*, 2008 SKCA 4 and *R. v. Ahenakew*, 2009 SKPC 10, wherein the accused was acquitted from promoting hatred contrary to s.319(2) of the *Criminal* Code. Among the comments at issue were those the accused made during a conference speech indicating that the Jews created the Second World War, and afterwards (to a reporter) indicating that Jews were a "disease" and that Hitler was attempting to ensure Jews did not take over Europe.

14 For example, Part IIA of Australia's *Racial Discrimination Act, 1975* (Cth.) contains a prohibition against hate speech (as an act reasonably likely to "offend, insult, humiliate or intimidate"), which may form the basis of a complaint to the Australian Human Rights Commission. While most complaints are resolved through the conciliation process, remedies recommended by the Australian Human Rights and Equal Opportunities Commission can be enforced through the federal court. In France, individuals or associations dedicated to opposing racism can sue perpetrators of hate speech for "group defamation" racial incitement and racial injury (*Loi sur la liberté de la presse du 29 juillet 1881*, articles 24, 24bis, 32, 33, and Article 1382 of the *Code Civil),* and can be added as a party to a criminal trial and receive damages by "constitution de partie civile." In California, individuals or the City Attorney, District Attorney or California Attorney General on their behalf, can sue for breaches of the Ralph (Civ. Code § 51.7) and Bane (Civ. Code § 52.1) Civil Rights Acts. The Ralph Act provides that it is a civil right to be free of violence or its threat because of a person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute. The Bane Act's Civil Code section 52.1 provides a civil remedy whenever a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the federal or state Constitution or laws. Damages, injunctive and equitable relief is available for breach of either provision (Civ. Code § 52).

15 *Taylor*, *supra* note 8 at para. 41.

their ability to publicly defend themselves against discriminatory stereotypes by undermining their status as legitimate and truthful social commentators.[16] Therefore, such a prohibition should be maintained and located in human rights legislation.

Since *Taylor*, there have been amendments to the *Act* which critics suggest renew concerns about section 13's constitutionality. Specifically, penalty provisions were added in 1998[17] and subsection 13(2) was added in 2001 to prohibit hate messages being propagated on the internet.[18] These concerns fall under two general categories: concern about the breadth of s.13 and difficulties with enforceability; and second, that the addition of the penalty provisions mean that the *Act* has deviated from its core remedial and conciliatory function, a function highlighted in the *Taylor* majority decision. Very recently, a Canadian Human Rights Tribunal member declined to apply section 13 to complaints before him because, in his view, the penalty provisions meant that section 13 could no longer qualify as a reasonable limitation on freedom of expression, as found in *Taylor*.[19] We will address each of these developments in turn.

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16 See *Ross v. New Brunswick School District No. 15,* [1996] 1 S.C.R. 825 at para. 91, where the Supreme Court says this about anti-Semitic speech: "Such expression silences the views of those in the target group and thereby hinders the free exchange of ideas feeding our search for political truth." See also Sneiderman, "Holocaust Bashing: The Profaning of History," (1999) 26 Man. L.R. 319 at para. 19, where he notes that Holocaust denial trades upon and reinforces the supremacist portrayal of Jews as liars. See also: Delgado and Stefancic, "Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills" (1992), 77 Cornell Law Rev. 1258 at 1278-1279, maintaining that the potency of hate speech is that it responds to existing racial narratives in our society, narratives that work to discredit target groups.

17 Subsections 54(1) and (1.1) of the *Act* contain the penalty provisions:

> **54.** (1) If a member or panel finds that a complaint related to a discriminatory practice described in section 13 is substantiated, the member or panel may make only one or more of the following orders:
> **…**
> (*c*) an order to pay a penalty of not more than ten thousand dollars.
>
> Factors
>
> (1.1) In deciding whether to order the person to pay the penalty, the member or panel shall take into account the following factors:
>
> (*a*) the nature, circumstances, extent and gravity of the discriminatory practice; and
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> (*b*) the wilfulness or intent of the person who engaged in the discriminatory practice, any prior discriminatory practices that the person has engaged in and the person's ability to pay the penalty.

18 This subsection was added by the *Anti-Terrorism Act*, S.C. 2001, c. 41, s.88 to provide that, "for greater certainty", the *Act* applies to a "matter that is communicated by means of a computer or a group of interconnected or related computers, including the internet."

19 *Warman v. Lemire*, 2009 CHRT 26 per Vice-Chair Hadjis. On October 1, 2009, the CHRC filed in the Federal Court of Canada an application for judicial review of this ruling.

To be sure, the rapid development of computer technology and the explosion of the internet create unique challenges for law enforcement generally. There are practical difficulties in enforcing national and provincial legal standards with respect to the internet. At the same time, they do not present a sufficient rationale for abandoning altogether the application of section 13 to web-based hate. The Canadian Human Rights Tribunal has, on a number of occasions, found certain postings on the internet to contravene the *Act*.[20] Indeed, in *Warman v. Lemire*, the Tribunal, prior to holding section 13 constitutionally inapplicable to the complaints, found one posting on the web contravened the provisions of *Act*.[21] As these cases show, the unique enforcement issues surrounding the internet are not insurmountable. Human rights commissions are still able to proceed with human rights complaints advanced against material circulated on the internet. Accordingly, we reject the argument that section 13 should be removed because it is too difficult to enforce against material published and disseminated on the internet.

However, the CBA does not support s. 54(1)(c) of the *Act*, empowering the Tribunal to award a penalty for a violation of s. 13, and s. 54(1.1), specifying the criteria for the imposition of a penalty. These provisions lay at the heart of the Canadian Human Rights Tribunal's finding in *Warman v. Lemire* that section 13 no longer can be justified as a reasonable limitation on freedom of expression.[22] Pursuant to the criminal law power in s. 91(27) of the *Constitution Act*, 1867, Parliament has the constitutional authority to attach punitive sanctions to a breach of the *Act*. However, the inclusion of provisions of this nature in the *Act* runs counter to the philosophy animating human rights laws, namely to eradicate discrimination and to enhance and encourage equality. By repealing these provisions, Parliament would be responding to the need to protect freedom of expression by removing the punitive aspects of the *Act,* and underscoring that remedies for violations of s.13 are purely civil. For this reason, the CBA recommends the removal of subsections 54(1)(c) and

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20 See e.g.*: Citron v. Zundel* (2002), 41 C.H.R.R.D/272; *Warman v. Western Canada for Us*, 2006 CHRT 52, and *Warman v. Canadian Heritage Alliance*, 2008 CHRT 40.

21 *Ibid*., at paras. 188-212. The Tribunal described this posting as "The *AIDS Secrets* column".

22 Curiously, the Tribunal at paragraph 307 appeared to hold that subsections 54(1) and (1.1) as a whole were constitutionally problematic. The CBA does not endorse this position. Compensatory awards for a breach of section 13 as set out in subsection 54(1)(b), for example, are appropriate; however, a punitive sanction such as is found in subsection 54(1)(c) is not.

(1.1) of the *Act*, leaving other remedies available, such as compensatory awards and "cease and desist" orders.

In making this recommendation, the CBA notes that the Canadian Human Rights Commission's Special Report, presented to Parliament in June 2009, recommends only that subsection 54(1)(c) be repealed.[23] Since section 54(1.1) is contingent on a tribunal's authority to impose a penalty, it stands to reason that if the penalty provision is repealed, section 54(1.1), should also be removed.

As mentioned, the Supreme Court of Canada sustained in *Taylor* the constitutionality of the predecessor to the current section 13 of the Act. It is significant that the Tribunal in *Warman v. Lemire* concluded the majority judgment in *Taylor* remained good law, unaffected by recent amendments to the *Act* except for subsection 54(1)(c). As a consequence, the penalty provisions, not section 13, have been found unconstitutional. Should these sections be removed, concerns about the constitutionality of section 13 will evaporate.

The Special Report also recommends that section 13 should be amended to codify the definitions of "hatred" and "contempt" laid down by the Supreme Court in *Taylor*. The CBA does not support this recommendation. First, this amendment is unnecessary since section 13, as a matter of law, must be interpreted in accordance with the reasoning in *Taylor*. It would add nothing to the legislation to codify certain aspects of that reasoning and not others, and could stultify the future application of section 13. Second, the Canadian Human Rights Tribunal has developed a body of jurisprudence identifying contextual factors which should assist in determining whether a particular article, book or web posting could be characterized as hate speech.[24] This jurisprudence enables section 13 to be applied in a manner consistent with its purpose taking into account the dynamics of ever changing forms of telecommunications.

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23 *Freedom of Expression and Freedom from Hate in the Internet Age*, see: http://www.chrc-ccdp.ca/pdf/srp_rsp_eng.pdf (the Special Report).

24 See, for example, *Warman v. Kouba*, 2006 CHRT 50, at paras. 22-81. *Kouba* was referred to and applied in *Warman v. Lemire*, *supra* note 14.

Canadian law is replete with concepts and principles that are not easily distilled into concise definitions. Equality is but one example. Likewise, the terms "hatred" and "contempt" must be assessed in the context of the particular circumstances giving rise to allegations of hate speech. The CBA is of the view that a statutory definition of these terms is not warranted in light of the existing jurisprudence on the subject.

To summarize, the position of the CBA in relation to section 13 is as follows:

- The prohibition against hate speech in section 13 should be maintained.
- No amendment to section 13 defining the terms "hatred" and "contempt" is warranted. The reasoning in *Canada (Human Rights Commission) v. Taylor*[25] already governs the interpretation of section 13.
- Section 13 should continue to be applied to material posted on the internet as authorized by section 13(2) of the *Act*.
- The penalty provisions found in subsections 54(1)(c) and (1.1) of the *Act* should be repealed.
- The constitutionality of section 13 is not in jeopardy. *Canada (Human Rights Commission) v. Taylor*[26] remains good law.

III. COSTS

The Special Report recommends that the *Act* be amended to permit cost awards in cases where the Tribunal is of the opinion that a party has abused the Canadian Human Rights Tribunal process. The CBA endorses this recommendation and recent experience suggests it is overdue. In its submission to the *Canadian Human Rights Act* Review, the CBA advocated that the *Act* be amended to empower the CHRT "to award costs in exceptional circumstances, which would include claims or defences found to be frivolous."[27] The power to award costs is a discretionary one and would be exercised only after all the circumstances of a particular case are taken into account. Accordingly, having an explicit provision empowering the CHRT to award costs[28] would have a salutary effect on preserving the

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25 *Supra* note 8.

26 Ibid

27 *Supra* note 2 at 23.

28 The Federal Court has already recognized a residual power of the CHRT to award costs: *Canada (Attorney General) v. Brooks* (2006), 58 C.H.R.R. 1; *Canada (Attorney General) v. Thwaites,* [1994] 3 F.C. 38. Providing an express authority to award costs would be a natural development from these cases.

integrity of the CHRT's processes, and, at the same time, should not serve as an impediment to claimants wishing to advance legitimate human rights complaints.

IV. OTHER DUE PROCESS CONCERNS

The CBA strongly advocates that the CHRC follow due process in processing complaints presented to it and that the CHRT comply with recognized principles of natural justice in its hearings. The *Act* and the *Canadian Human Rights Tribunal Rules of Procedure*[29] already acknowledge these requirements. Nevertheless, the CBA outlined several suggestions for additional, specific provisions that would ensure these objectives in its submission to the *Canadian Human Rights Act* Review.[30]

The CBA supports the Special Report's recommendation that the *Act* be amended to permit early dismissal of unmeritorious complaints in a greater number of circumstances. Currently, subsection 41(1) gives limited power to the CHRC to dismiss a complaint which is "trivial, frivolous, vexatious or made in bad faith,"[31] for example. A power to dismiss complaints that lack merit or have no reasonable chance for success should be available to

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29 See, for example, s.48.9 of the *Act,* which states, **"**Proceedings before the Tribunal shall be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow," and s.50(1), which states, that the Tribunal "shall inquire into the complaint and shall give all parties to whom notice has been given a full and ample opportunity, in person or through counsel, to appear at the inquiry, present evidence and make representations." With respect to the *Canadian Human Rights Tribunal Rules of Procedure,* see especially s.1(1), indicating,

> These Rules are enacted to ensure that
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> (*a*) all parties to an inquiry have the full and ample opportunity to be heard;
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> (*b*) arguments and evidence be disclosed and presented in a timely and efficient manner; and
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> (*c*) all proceedings before the Tribunal be conducted as informally and expeditiously as possible.

30 *Supra*, note 2 at 13-24.

31 Ss. 41(1)(d) of the *Act*.

the CHRC. Similar powers allowing early dismissal of such complaints currently exist in a number of provinces.[32] Inclusion of this power in the *Act* is warranted.

The CBA also suggests that improvements in the procedures followed by the CHRC could be made in the following areas:

- Election of Forum: At present, complaints may be commenced concurrently with the CHRC and one or more provincial human rights commissions. The ability to lay complaints in more than one forum can become a form of harassment. The CBA recommends that the *Act* be amended to state that the CHRC is empowered to decline jurisdiction to address a complaint if the substance of the complaint has been appropriately dealt with pursuant to another Act or proceeding, or another proceeding is more appropriate having regard to the nature of the allegations and the remedies available in the other proceeding.[33]
- Removal of Parties: The *Act* should be amended to provide expressly that the Canadian Human Rights Tribunal may remove a party to a human rights proceeding, if it is demonstrated that the party is not the correct one. Currently, s. 49.9(2)(b) of the *Act* permits only the addition of a party.
- Right to Know the Accuser: Currently, there is no prohibition in the *Act* against commencing anonymous complaints. A complaint can be based on rumour and its source need not be disclosed to the target of the complaint. The CBA suggests that allowing a human rights complaint to proceed in this manner is itself disrespectful of human rights. The *Act* should stipulate that a party initiating a complaint must be identified to the target of the complaint.
- Disclosure: Currently, the *Act* does not contain a general principle of disclosure. Section 33(2) of the *Act* lists an array of matters which are shielded from disclosure. However, the *Act* does not specify a general obligation of disclosure to the target of the complaint. The CBA suggests that this should be clearly enunciated in the *Act*.

V. CONCLUSION

In a recent speech entitled "Human Rights and History's Judgment," the Honourable Justice Rosalie Abella of the Supreme Court of Canada lamented the world's inability to eradicate

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[32] See, for example, *The Saskatchewan Human Rights Code*, S.S. 1979, c.S-24.1, s. 27.1.

[33] Similar wording is found at ss.27.1(1)(d) and 27.2 of *The Saskatchewan Human Rights Code.* A residual discretion to maintain the complaint is required because a provincial tribunal may not have the jurisdiction to hear a complaint regarding hate speech on the internet, pursuant to the federal-provincial division of powers under the *Constitution Act, 1867*: see *Alberta Government Telephones v. (Canada) Canadian Radio-television and Telecommunications Commission,* [1989] 2 S.C.R. 225; and *Scowby v. Glendinning,* [1986] 2 S.C.R. 226. Even if provinces would have jurisdiction over such a complaint, it would likely be inapplicable to extra-territorial events, requiring a multiplicity of provincial complaints if no federal complaint mechanism is available.

human rights abuses more than 60 years following the end of World War II. She noted that the atrocities which took place during that conflagration spawned "the most sophisticated array of laws, treaties and conventions the international community has ever known, all stating that rights abuses will not be tolerated."[34] Justice Abella stated:

> We were supposed to have learned three indelible lessons from the concentration camps of Europe. First, indifference is injustice's incubator. Second, it's not just what you stand for, it's what you stand up for. And third, we must never forget how the world looks to those who are vulnerable.[35]

Yet, she lamented that in spite of all this, "we still not have learned the most important lesson of all: to try and prevent the abuses in the first place."[36]

Justice Abella's sobering assessment of the state of human rights protections internationally should give us pause. Prohibitions against hate speech are but one aspect of these laudable attempts to prevent human rights abuses from occurring at all. This is why the CBA supports retaining section 13 as a useful tool in this struggle. It is also why the CBA urges Parliament to adopt its recommendations for improving the *Act* to ensure that the efficacy of this protection is not only enhanced but also accords with other fundamental human rights values.

Therefore, the CBA recommends as follows:

- The prohibition against hate speech in section 13 should be maintained.
- No amendment to section 13 defining the terms "hatred" and "contempt" is warranted. The reasoning in *Canada (Human Rights Commission) v. Taylor*[37] already governs the interpretation of section 13.
- Section 13 should continue to be applied to material posted on the internet as authorized by section 13(2) of the *Act*.
- The penalty provisions found in subsections 54(1)(c) and (1.1) of the *Act* should be repealed.

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34 Schmitz, "Justice needs more than words: Abella", *The Lawyers Weekly* (June 12, 2009) at p. 8.

35 Ibid.

36 *Ibid*., emphasis added.

37 *Supra* note 8.

- The *Act* should be amended to permit cost awards in cases where the Tribunal is of the opinion that a party has abused the Canadian Human Rights Tribunal process.
- The *Act* should be amended to empower the CHRC to dismiss at an early stage complaints that lack merit or have no reasonable chance for success.
- The *Act* should be amended to empower the CHRC to decline jurisdiction to address a complaint if the substance of the complaint has been appropriately dealt with pursuant to another Act or proceeding, or another proceeding is more appropriate having regard to the nature of the allegations and the remedies available in the other proceeding .
- The *Act* should be amended to provide expressly that the Canadian Human Rights Tribunal may remove a party to a human rights proceeding, if it is demonstrated that the party is not the correct one.
- The *Act* should stipulate that a party initiating a complaint must be identified to the target of the complaint.
- A positive obligation of disclosure to the target of the complaint should be enunciated in the *Act.*