



Department of Justice
Canada

Ministère de la Justice
Canada

Protecting against Discrimination, Hate Propaganda, and Hate Crime on the grounds of Gender Identity and Gender Expression



Canada 



Legislative Objectives

EQUAL OPPORTUNITY without discrimination

and

SAFETY from hate propaganda and hate crime

for all persons of any
GENDER IDENTITY or **GENDER EXPRESSION**

Gender identity & Gender expression

- **GENDER IDENTITY** is each person's internal and individual experience of gender: their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum.
 - may be the same as or different from the gender typically associated with the sex assigned at birth
 - “transgender”: gender identity is different from the gender typically associated with the sex assigned at birth.
- **GENDER EXPRESSION** is how a person publicly presents their gender, including through dress, hair, make-up, body language, voice, name, and pronoun.
- The terms “gender identity” and “gender expression” include a wide range of gender diversity.

Canadian Human Rights Act

- Prohibits discrimination in employment and the provision of goods, services, facilities, and accommodation, within federal jurisdiction.
- Prohibited grounds of discrimination currently are:

race

national origin

ethnic origin

colour

religion

age

sex

sexual orientation

marital status

family status

disability

pardoned conviction



Canadian Human Rights Act

Proposed legislation would add

“gender identity or expression”

to the list of prohibited grounds of discrimination.

Criminal Code

Hate propaganda offences (ss. 318-19)

- advocating genocide;
- inciting hatred by communicating statements in a public place where such incitement is likely to lead to a breach of the peace;
- wilfully promoting hatred.
 - all protecting “identifiable groups”:
colour, race, religion, national or ethnic origin, age, sex, sexual orientation, or mental or physical disability.

Hate-crime sentencing (s. 718.2(a)(i))

- Sentence should be increased to account for aggravating circumstances, in particular if the offence was motivated by bias, prejudice, or hate based on:
 - race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.



Criminal Code

Proposed legislation would add

“gender identity or expression”

- to the definition of “identifiable group” for the purpose of the hate propaganda offences; and
- to the list of aggravating circumstances for hate-crime sentencing.

Expected Results

- Increased awareness of CHRA protections
 - explicit presence of “gender identity or expression” in the statute
 - Canadian Human Rights Commission: education and complaint-tracking for the new grounds
 - publications in legal and human resources guides and newsletters.
- Facilitated advocacy of transgender and gender-diverse equality rights
- Denunciation and deterrence of hate propaganda and hate-crimes



Resources

- Department of Justice
www.justice.gc.ca
- *LEGISinfo*
www.parl.gc.ca/LegisInfo
- Canadian Human Rights Commission
www.chrc-ccdp.gc.ca