

October 31, 2017

**Re. Bill C-51**

Dear Minister,

At a time of growing concern about intolerance toward religious groups in Canada, Parliament's duty to ensure the protection of faith communities is especially critical. As faith leaders, we are deeply concerned with Bill C-51's proposed removal of section 176 of the *Criminal Code of Canada* which provides specific protections for these communities.

The stated intent of Bill C-51 is to remove *Criminal Code* provisions that are redundant or obsolete. However, other laws that address assault, public disturbance, threats or trespass do not offer the same degree of protection as section 176. Nor do they recognize the unique character and nature of religious gatherings and the unique character of offences directed against religion.

It has been argued before the Justice Committee that the category "clergyman or minister" used in section 176(1) excludes non-Christian religious leaders. Although there appear to be no instances where judges have interpreted 176(1) in this way, we would suggest that the language be amended to make it clear that all religious leaders engaged in officiating a religious service are protected under 176(1).

Religious freedom has been given explicit and singular protection under the law, and is regarded rightly as a uniquely important and foundational element of our entire human rights system. The removal of section 176 would relegate religious freedom to a secondary consideration, indistinguishable from other concerns involving public safety.

The removal of section 176 would erode protection for religious freedom in Canada, and would stand in stark contrast to the explicit protection enshrined in Article 18 of the *International Covenant on Civil and Political Rights (ICCPR)*, and Article 18 of the *Universal Declaration for Human Rights (UDHR)*. These international covenants were drafted in recognition of the 20th century having seen a correlation between violations of religious freedom and some of the worst violations of human rights ever recorded. Religious freedom is known as the first freedom, because where it flourishes, all other freedoms flourish.

The *Canadian Charter of Rights and Freedoms*, while giving specific protection to freedom of conscience, thought, belief and opinion, also ensures explicit protection of religious freedom under Section 2(a). The *Criminal Code* should not be amended to do otherwise.

The removal of section 176 would send the wrong message in our current climate. According to a Statistics Canada report released in June 2017, 35% of hate-motivated crimes reported in

2015 were motivated by hatred of religion.<sup>1</sup> Police-reported crimes motivated by hate against the Muslim population rose 61% in 2015, with hate crimes also on the increase against Catholics. Crimes against the Jewish population in Canada accounted for 13% of all hate crimes.<sup>2</sup> These statistics are very troubling to all faith communities.

A reading from the Torah in a synagogue, a prayer service in a mosque, a song in a Sikh temple, a worship service in a church, or a religious procession in a public space: each of these is a communal event that involves an encounter with the transcendent.

An attack against a religious assembly or the deliberate assault of a religious official outside a house of worship is a different kind of offence from other public disturbances, assaults, threats or incitement to hatred. An offence against a people at worship reverberates through the community and touches every member. An offence against one particular person or community at worship has an impact on all religious adherents.

Section 176 is not obsolete or redundant. In a climate of increasing incidents against faith communities across Canada, and in view of the role of the *Criminal Code* in serving as a deterrent and educational guide to society, we believe it is essential to maintain the specific protections that section 176 affords to religious gatherings and to those who lead them. Retaining section 176 will ensure that the fundamental right to freedom of religion is protected, and that respect for the religious practices and observances of others remains a recognized Canadian value.

As faith leaders, we urge Parliament to protect the integrity and security of public religious expression, and amend Bill C-51 to retain section 176 of the *Criminal Code*. Further, we recommend that Parliament amend section 176(1) so as to ensure explicit protection for all religious officials.

Sincerely,

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<sup>1</sup> <http://www.statcan.gc.ca/pub/85-002-x/2017001/article/14832-eng.htm>

<sup>2</sup> Ibid

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