

Closing the Gaps: Youth Engagement in Bill C-63 - Online Harms

Introduction

The John Humphrey Centre for Peace and Human Rights (JHC) works to advance dignity, freedom, justice, and security through collaborative relationships and transformative education on peace and human rights. JHC prides itself on building spaces for courageous, challenging, and constructive dialogue on pressing human rights issues and using community-based research to inform policy.

When JHC launched the Social Stride project in 2020, we aimed to build a healthier online environment by modelling peace and dignity. The project built advocacy capacity and support for young Canadians using social media to address identity-based mis/disinformation. It became increasingly clear that systemic ways of remediation, reparation, and support for victims of online hate and discrimination are nearly non-existent both online and offline. Social media reporting mechanisms, often the sole avenue of support for victims, are ineffective at addressing online harms. Social Stride experience and research have unveiled how hateful online content is rarely reported¹ due to a lack of trust and effective and timely results. The available mechanisms are difficult to navigate, reports of hate or discrimination rarely result in any action from platforms, and reporting mechanisms are easily abused to target victims and people working to confront online hate. In addition to undertaking critical analysis of remediation and reporting mechanisms to address online harms, Social Stride has been dedicated to facilitating spaces for peer-to-peer education and digital literacy. This has included sharing experiences online with young people to increase awareness of the offline roots of online discrimination, creating education and tools to avoid unintended harm, and developing methods to protect young users of social media platforms and games. The project has facilitated spaces where young people living in rural and urban areas felt safe to share experiences, identify issues, and discuss practices and behaviours to protect each other.

JHC celebrates the Government of Canada's actions in developing legislation that protects and establishes standards to remediate victims of hate and discrimination online. However, since young people are one of the most affected groups by this issue, and their lived experiences guide our work, we wish to share some of the concerns about Bill C-63 that need to be considered as the Government moves forward. To understand the potential impact of the Bill, we conducted two focus groups with members of the Social Stride network and identified strengths and gaps related to participation, protection, provision, and remedy in the proposed ways to address hate and discrimination online. Previous qualitative and quantitative research done by JHC between 2020 and 2024 is also integrated to understand² and express concerns. We will refrain from commenting on how Bill C-63 addresses and protects young people from sexual exploitation, as that is outside Social Stride's area of expertise.

¹ Although we are noticing at around 25% more tendency to report.

² John Humphrey Centre for Peace and Human Rights. (2022). *By Youth For Youth: Learning About Online Hate and Advocacy*.

Our Concerns as it relates to Bill C-63

Participation

The main and most evident concern that emerged in focus groups with Bill C-63 is the lack of accessible, safe, youth and children-friendly spaces designed within Bill C-63 to garner experiences from the community the Bill is intended to protect. Participation of children and young people in “all matters that affect them and to have their voices heard” is one of the foundational principles of the *United Nations Convention on the Rights of the Child*.³ Bill C-63 must establish clear channels to engage and allow children and young people’s voices, primarily those impacted by online harm, to guide the mechanisms designed to protect and support them.

Protection

Definitions

We are pleased to see a standalone definition for a crime motivated by hate; however, there are gaps in the identification of motivating factors. Compared to Human Rights Acts (HRAs) across the country, the absence of family status, source of income, or conviction for which a pardon has been granted or a record suspended, are outstanding and concerning. Young people are identifying clear social media trends using socio-economic conditions as one of the main reasons that trigger hate and discrimination online.

We are concerned about the gap in Bill C-63’s ability to address private communications. Many of the people impacted by hate and discrimination experience it in private communications, where it may escalate beyond what is seen in public forums.

Bill C-63 does not propose anything to address public or private communications on gaming platforms. Hate and discrimination on gaming platforms are particularly prevalent among young people. In a recent report by the Anti-Defamation League, the League found that “hate and harassment in gaming is now so pervasive that it has become the norm for many players,”⁴ and that three out of four young people experience it while engaged with gaming platforms.

Preventive: the importance of digital literacy

We are pleased that Bill C-63 aims to create a framework to standardise reporting and remediation mechanisms to address online hate. However, the proposed prevention strategy includes digital literacy education and research only as secondary tasks. Both activities are placed under the responsibility of the Digital Safety Commission but with no particular relevance given to them nor clear direction on how the Commission will be accessible to or guided by the experiences of young people. Rather than a preventive approach, Bill C-63 focuses on a punitive approach, which may further criminalize and victimize ill-informed young people. Many young people end up reproducing mis/disinformation online and hateful language due to a lack of knowledge, guidance or positive role models. Digital literacy is

³ Government of Canada. *The United Nations Convention on the Rights of the Child*.

⁴ Anti-Defamation League. (2023). *Hate is No Game: Hate and Harassment in Online Games*.

foundational to addressing polarisation, cultivating responsible citizenship, and creating safe and dignifying online spaces.

Bill C-63 proposes that research of mutual interest to the Commission may be undertaken through the *Artificial Intelligence and Data Act*. While the allowance of research regulated in this way is an important step, we also wish to stress the importance of allowing research that studies and strengthens qualitative approaches that focus on the lived experiences of people who are impacted by identity-based hate, discrimination, and mis/disinformation in the online space.

Balancing Protection from Hate Speech with Democratic and Civil Rights

We welcome Bill C-63 and a proposed amendment to the *Canadian Human Rights Act* to reinstate the definition of hate speech. Although the Canadian Human Rights Commission's (CHRC) capacity to address one more area of discrimination is not clear, it is important that people have a mechanism to seek remediation in cases of hate speech.

The definition of hate speech is clear, actionable and relevant and the ways in which this Bill amends the *Canadian Human Rights Act* to achieve remediation of hate speech does not infringe on people exercising their right to speak their minds online⁵.

However, a more detailed definition of 'harmful content' used in the Bill is problematic and will justify possible violations of the *UN International Covenant on Civil and Political Rights*. Bill C-63 states that harmful content includes, among other things, content that incites violence and content that incites violent extremism or terrorism.

Harmful content that incites violence extremism or terrorism is described as any content that "encourages a person to commit — or that actively threatens the commission of — for a political, religious or ideological purpose, an act of physical violence against a person or an act that causes **property damage**, with the intention of intimidating or **denouncing the public or any section of the public or of compelling a person, government or domestic or international organization to do or to refrain from doing any act**, and that, given the context in which it is communicated, could cause a person to commit an act that could cause (a) serious bodily harm to a person; (b) a person's life to be endangered; or (c) a serious risk to the health or safety of the public or any section of the public."

The *UN International Covenant on Civil and Political Rights*⁶ ratified by Canada in 1976 recognizes that "[t]he way assemblies are conducted and their context changes over time. This may in turn affect how they are approached by the authorities. For example, given that emerging communications technologies offer the opportunity to assemble either wholly or partly online and often play an integral role in organizing, participating in and monitoring physical gatherings, interference with such communications can impede assemblies."

⁵ Hate speech is defined as a in the Bill as "discriminatory practice to communicate or cause to be communicated hate speech by means of the Internet or any other means of telecommunication in a context in which the hate speech is likely to foment detestation or vilification of an individual or group of individuals on the basis of a prohibited ground of discrimination."

⁶ United Nations. (2020). *UN International Covenant on Civil and Political Rights*.

Describing harmful content as content that for political or ideological reasons denounces and compels a government or domestic or international organization to do or refrain from doing any act gives room to impede and criminalize communications, invitations and calls to political action online.

Individuals commonly use social media platforms to promote events and gatherings. The definitions of content that incites violence and violent extremism or terrorism contain the phrase “given the context in which it is communicated,” which intentionally opens these definitions to interpretation. “Serious interference with or serious disruption of an essential service, facility or system” could also be used to justify disrupting worker unions’ capabilities to utilize social media to organize picketing or strikes in the collective bargaining process. In essence, there is deep concern that the language in the Bill gives room for curtailing of democratic rights to engagement and assembly.

Remediation

Proposed one-year preservation of harmful content

Bill C-63 introduces an important duty to operators of regulated services. Said operators must make “inaccessible to all persons in Canada content that incites violence or content that incites violent extremism or terrorism⁷, the operator must preserve that content, and all other computer data related to it that is in the operator’s possession or control, for a period of one year beginning on the day on which the content is made inaccessible.”

Under this proposition, people affected by harmful content only have one year to use the preserved content as part of a complaint under the CHRC. Research led by JHC on the barriers experienced by users of the remediation mechanisms available through the Alberta Human Rights Commission (AHRC) and the CHRC identified the one-year limitation as a challenge that impacted users' ability to seek justice.

This time limitation puts unnecessary pressure and stress upon users of the system, particularly when they have to fill out complaint forms, collect evidence, and wait for their complaint to be accepted within 12 months of the last occurrence of an incident of unfair treatment. Preserving data for only one year fails to take into account that people who are impacted by hate and discrimination may require extended periods of time to process traumatic events before seeking remediation or may be fearful of the remediation process itself. Such a short time frame contributes to the claimant feeling rushed and may result in interconnected events that happened outside of the one-year period being excluded. Our research has informed us that harmful content should be held for at least a minimum time of three years.

Penalties

Individuals who have been found to be engaging in activities prohibited by this Bill will be subject to penalties that include an order to cease the discriminatory practice, and in some cases, be required to redress the practice or prevent the same or similar practice from recurring. Furthermore, financial penalties may be incurred by the perpetrating individual, which may include paying compensation of up to \$20,000 to any victim identified in the complaint or paying a penalty of up to \$50,000 to the Receiver

⁷ The definition of these content will be addressed further below.

General based on qualifying factors such as “the nature, circumstances, extent and gravity of the discriminatory practice, the wilfulness or intent of that person, any prior discriminatory practices that that person has engaged in and that person’s ability to pay the penalty” (Bill C-63).

Research conducted by the JHC on remediation measures for complainants to the CHRC has found that the current remuneration cap of \$20,000 does not account for the current financial situation of Canadians and also does not even begin to make up for emotional and psychological trauma victims experience as a result of human rights violations. Complainants often alter their lives to avoid or hide from discrimination and invest much effort and time into the complaint process.

An important way to reduce the burden on users of the complaint mechanisms in making their case, filing complaints, and navigating the process is to reinvest some of those penalties into securing services and necessary support for victims. Debriefing, mental health, and case management are fundamental in the complaints process and inconsistent provisions of these processes are a current gap within the CHRC.

Capacity of the Canadian Human Rights Commission

The CHRC is an important institution of the human rights mechanisms in Canada and has faced difficult moments and important criticism of anti-Black racism from employees and users of the mechanism in the last couple of years. The Commission requires time, resources, and internal process review to overcome these issues. While the Commission is a key part of having space for remedying online harms, an increase to the load of cases that the Commission carries without adequate commensurate support and resources may only serve to increase the issues that it faces.

In research led by the JHC in 2022, we also identified administrative barriers that can further reduce the accessibility of the system to users if they are not addressed before increasing the Commission’s caseload with a new area of discrimination. Among the administrative barriers we identified were the lack of resources and guidance for system users, lengthy processing times, and the retraumatization of complainants during the process.

Moving forward

In moving forward, Bill C-63 needs to be further socialized and discussed in schools and places where young people will have access. The Bill needs to be written in plain language for everyone to understand and engage with and efforts made to familiarize and educate the public. It is important to rely on youth-led organizations that have been doing this work and create mechanisms to integrate consultation with community as a fundamental part of this research.

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