

INTERNET HATE CRIMINAL VS. CIVIL REMEDIES



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UN Declaration of Human Rights and other int'l instruments

■ ***The Universal Declaration of Human Rights (1948)***

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

■ ***International Covenant on Civil and Political Rights (1966)***

Article 20 1. Any propaganda for war shall be prohibited by law.

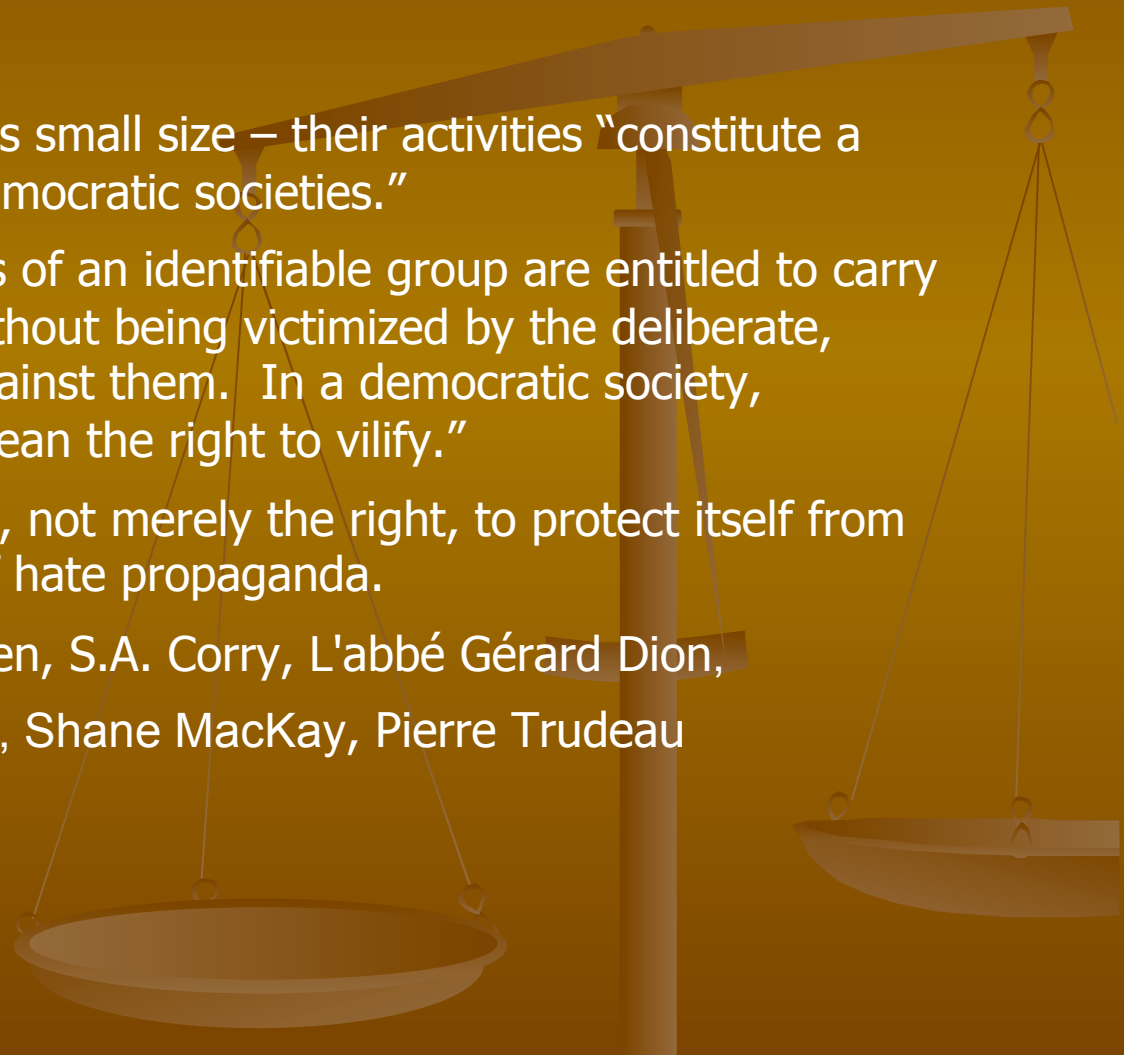
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

■ ***International Convention on Elimination of All Forms of Racial Discrimination (1970)***

Article 4: (summary) Parties condemn organizations and propaganda promoting racial supremacy and shall take measures to eradicate incitement to racial hatred or discrimination. Parties shall make it an offence to disseminate racist hate propaganda, incitement to racial discriminate, and racist violence or incitement to such violence. Parties shall declare such organizations to be illegal and participation in or financing of such activity to be illegal.

SPECIAL COMMITTEE ON HATE PROPAGANDA (The Cohen Committee - 1965)

- Danger of hate groups exceeds small size – their activities “constitute a clear and present danger to democratic societies.”
- “Canadians who are members of an identifiable group are entitled to carry on their lives as Canadians without being victimized by the deliberate, vicious promotion of hatred against them. In a democratic society, freedom of speech does not mean the right to vilify.”
- Canadian community has duty, not merely the right, to protect itself from the socially corrosive effects of hate propaganda.
- Ctte. Members – Maxwell Cohen, S.A. Corry, L'abbé Gérard Dion, Saul Hayes, Mark MacGuigan, Shane MacKay, Pierre Trudeau



Why do we need hate laws?



“The damage caused by hate messages to the groups targeted is very often difficult to repair. It insidiously reinforces the prejudice that some people may have towards minorities identified by race, color and religion, thus prompting and justifying discriminatory practices and even violence against these groups. At the same time, these messages are most likely to affect the perception and self-esteem of all members of these groups, thus precluding their full participation in Canadian society and the achievement of their full potential as human beings.”

Justice Yves de Montigny

Federal Court of Canada contempt proceedings

Canadian Human Rights Commission v. Winnicki

28 November 2005

Section 13 of the Canadian Human Rights Act



Section 13 of the *Canadian Human Rights Act* makes it an offence to use the telephone or the Internet to spread hate messages that are likely to expose people to hatred or contempt on the basis of race, religion, gender, disability, sexual orientation, etc.

NB – “being offended” not covered

What are hatred and contempt anyway?

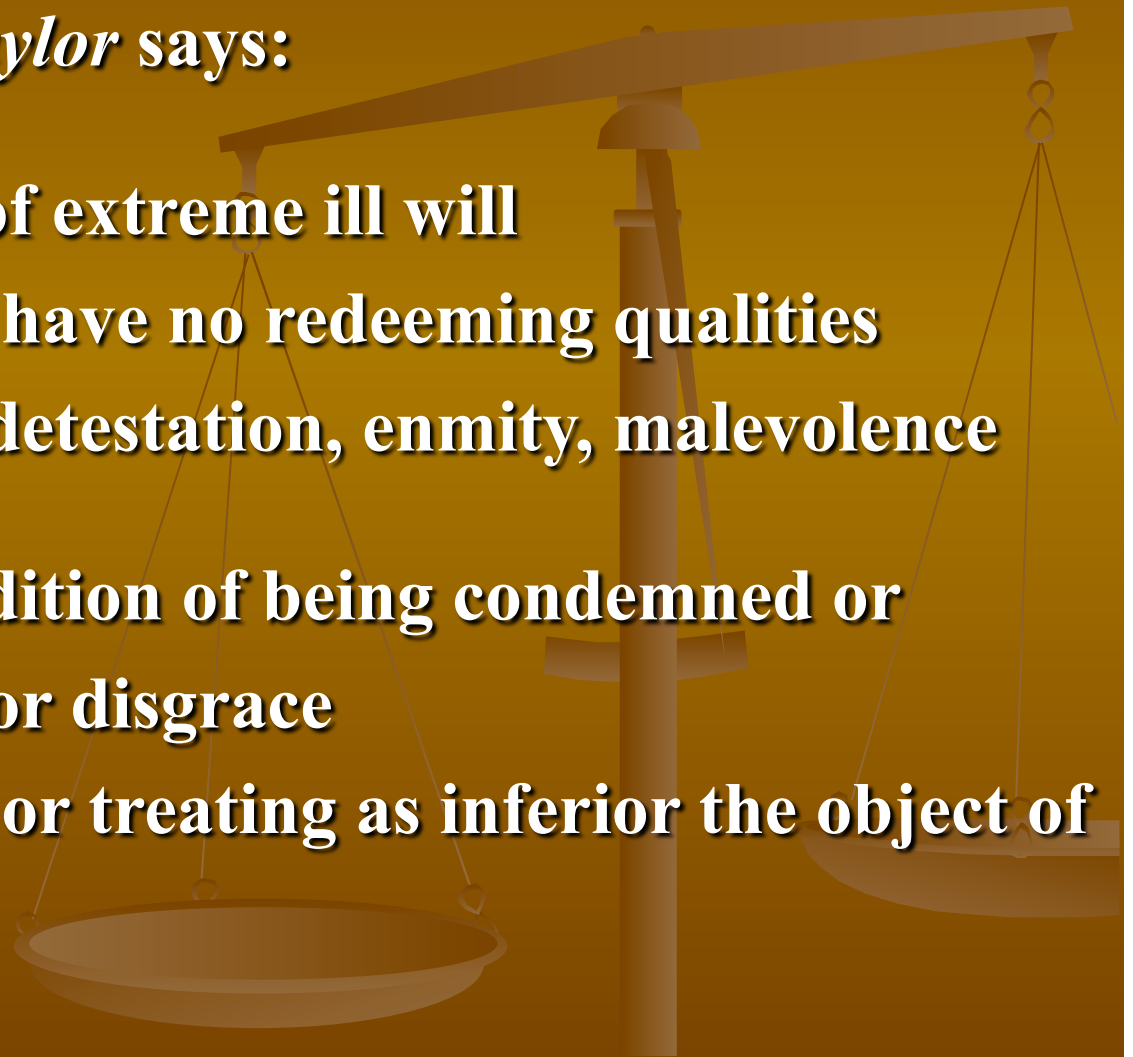
Supreme Court in *Taylor* says:

Hatred - expression of extreme ill will

- targets of messages have no redeeming qualities
- evoking feelings of detestation, enmity, malevolence

Contempt - the condition of being condemned or despised; dishonour or disgrace

- looking down upon or treating as inferior the object of one's feelings



Complaint process

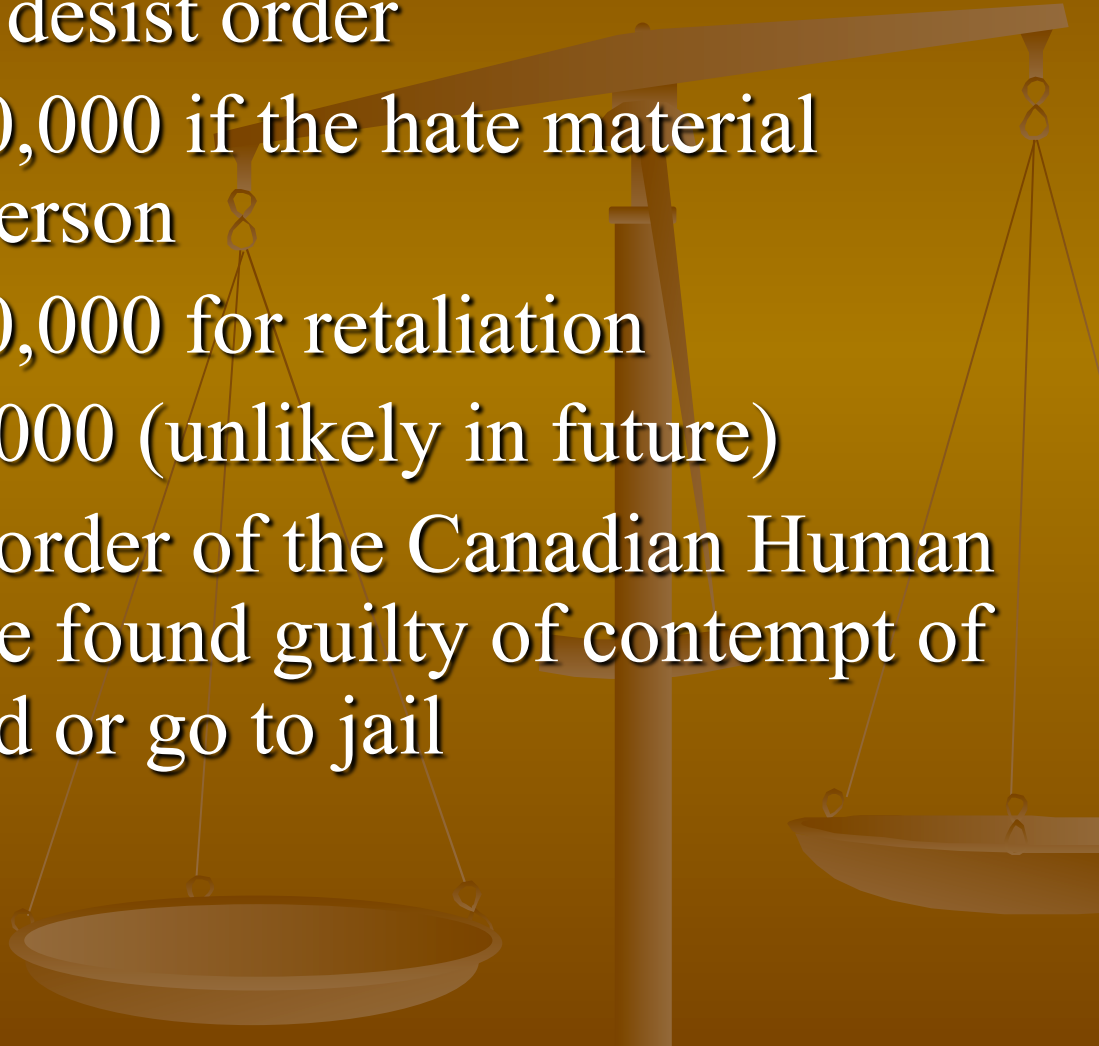


- Individual or group files complaint with the Canadian Human Rights Commission (CHRC)
- Commission investigates and recommends further inquiry or dismissal
- If further inquiry merited, CHRC refers to independent Canadian Human Rights Tribunal (CHRT) who then convenes hearing, takes evidence, submissions, and renders decision on merits

MYTHS #1 and #2

- **Myths:** There's no way to weed out vexatious complaints and aren't all Tribunal members closet Communists running Star-chamber proceedings? Don't they burn witches and kick puppies too?
- **Facts:** S. 41(1)(d) of the *CHRA* permits any respondent to raise a preliminary objection before any investigation occurs that the complaint is trivial, frivolous, vexatious or made in bad faith and should not be dealt with by the Commission.
- S. 48 of the *CHRA* establishes the Tribunal, how its members are to be appointed and the conduct of hearings. The most recent member was appointed on 2 Nov. 2009 by Justice Minister Rob Nicholson (not rumoured to be a Communist).
- All parties may represent themselves or have legal counsel, and submit both evidence and argument. The Act specifies that the Tribunal hearings are subject to the principles of natural justice. Like many federal tribunals, the CHRT's decisions are subject to judicial review by the Federal Court of Canada.
- There is no public record of any member of the CHRT having ever been responsible for the burning of a witch or the kicking of a puppy.

Remedies available under the Canadian Human Rights Act for Internet hate:

- permanent cease and desist order
 - damages of up to \$20,000 if the hate material specifically targets a person
 - damages of up to \$40,000 for retaliation
 - penalty of up to \$10,000 (unlikely in future)
 - if people disobey an order of the Canadian Human Rights Tribunal and are found guilty of contempt of court, they can be fined or go to jail
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MY CHRA COMPLAINTS

- 16 federal human rights complaints drafted, filed, and co-litigated using my own time and resources since 2001
- My cases have dealt with hate targeting Muslim, Arab, Jewish, Hispanic, black, East Asian, francophones, Africans, all non-whites, Hindus, Roma, Aboriginals, homosexual, physical and mentally disabled communities, women, and the one I've yet to figure out – the Rastafarian community... (they obviously weren't listening to Bob Marley's 'One Love')
- Number of advances in Canadian human rights law – including new benchmark 'Hallmarks of Hate' for deciding Internet hate propaganda complaints

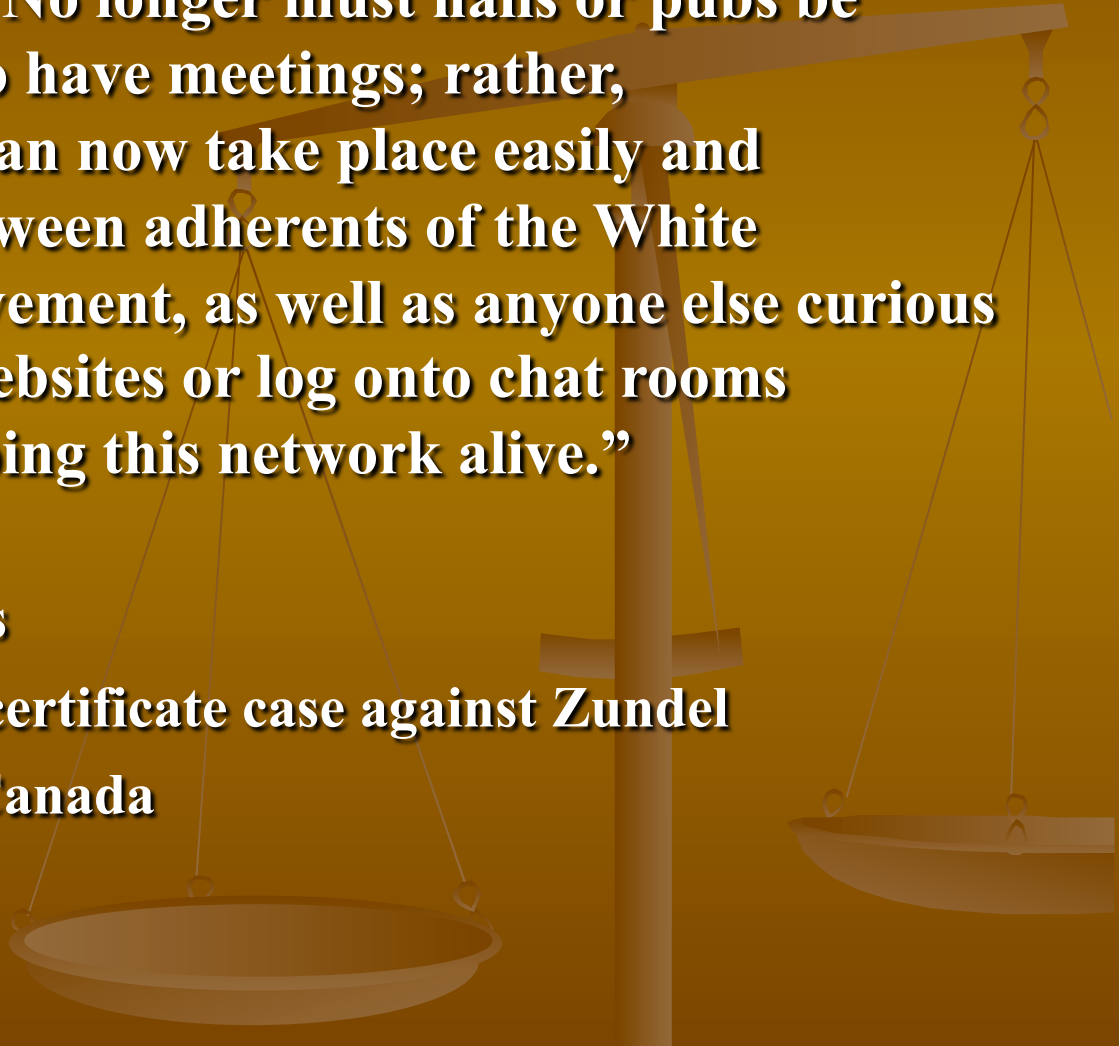
Citron v. Zundel (2002)
– the Mother of all Internet hate cases in Canada



Ernst Zundel



“...the White Supremacist network is still very much alive and active. The use of the Internet has created new methods of communication which have replaced traditional ones. No longer must halls or pubs be rented in order to have meetings; rather, communication can now take place easily and anonymously between adherents of the White Supremacist Movement, as well as anyone else curious enough to visit websites or log onto chat rooms dedicated to keeping this network alive.”

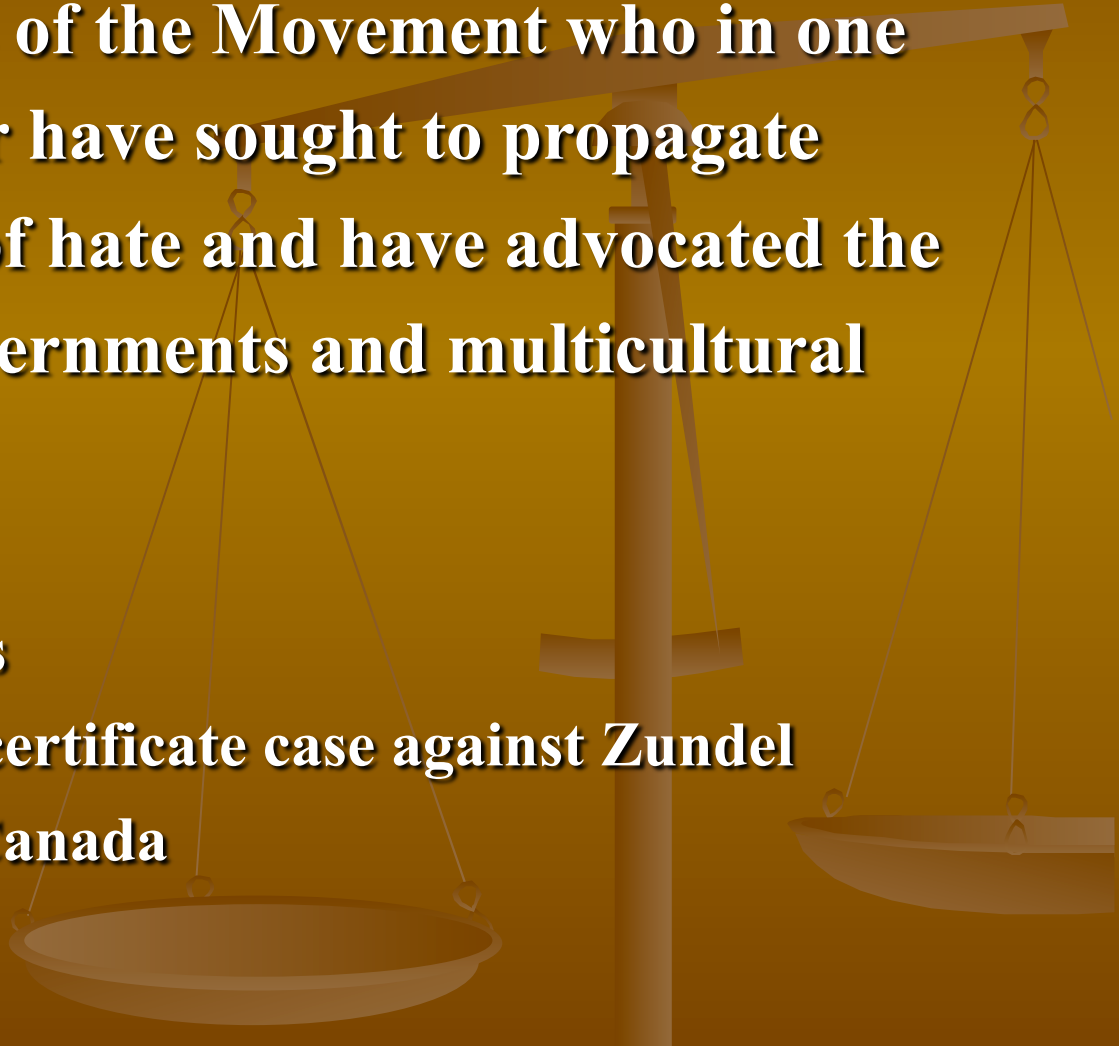


Justice Pierre Blais

National Security certificate case against Zundel

Federal Court of Canada

24 February 2005



“Mr. Zundel has associated, supported, and directed members of the Movement who in one fashion or another have sought to propagate violent messages of hate and have advocated the destruction of governments and multicultural societies.”

Justice Pierre Blais

National Security certificate case against Zundel

Federal Court of Canada

24 February 2005

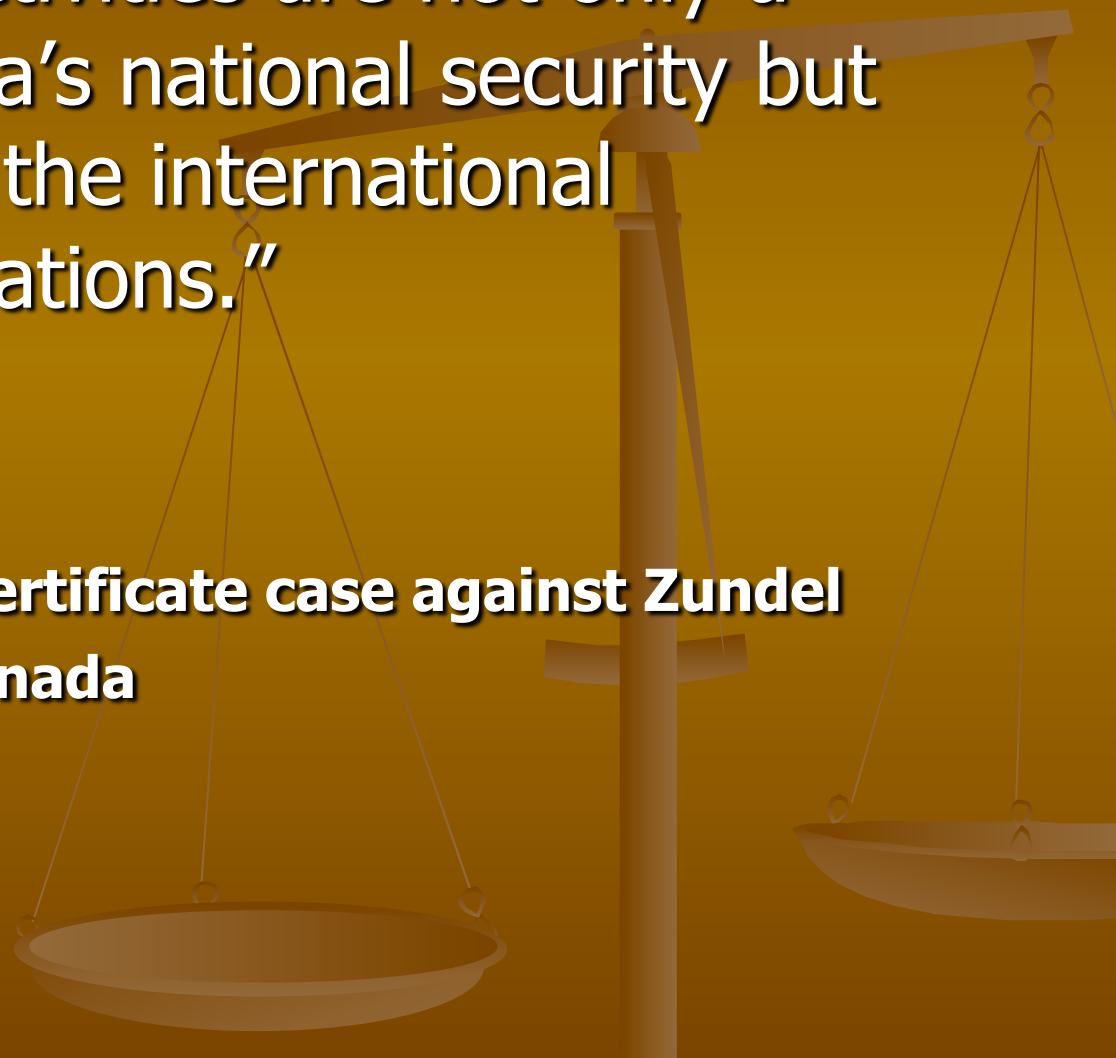
“Mr. Zundel’s activities are not only a threat to Canada’s national security but also a threat to the international community of nations.”

Justice Pierre Blais

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HALLMARKS OF HATE



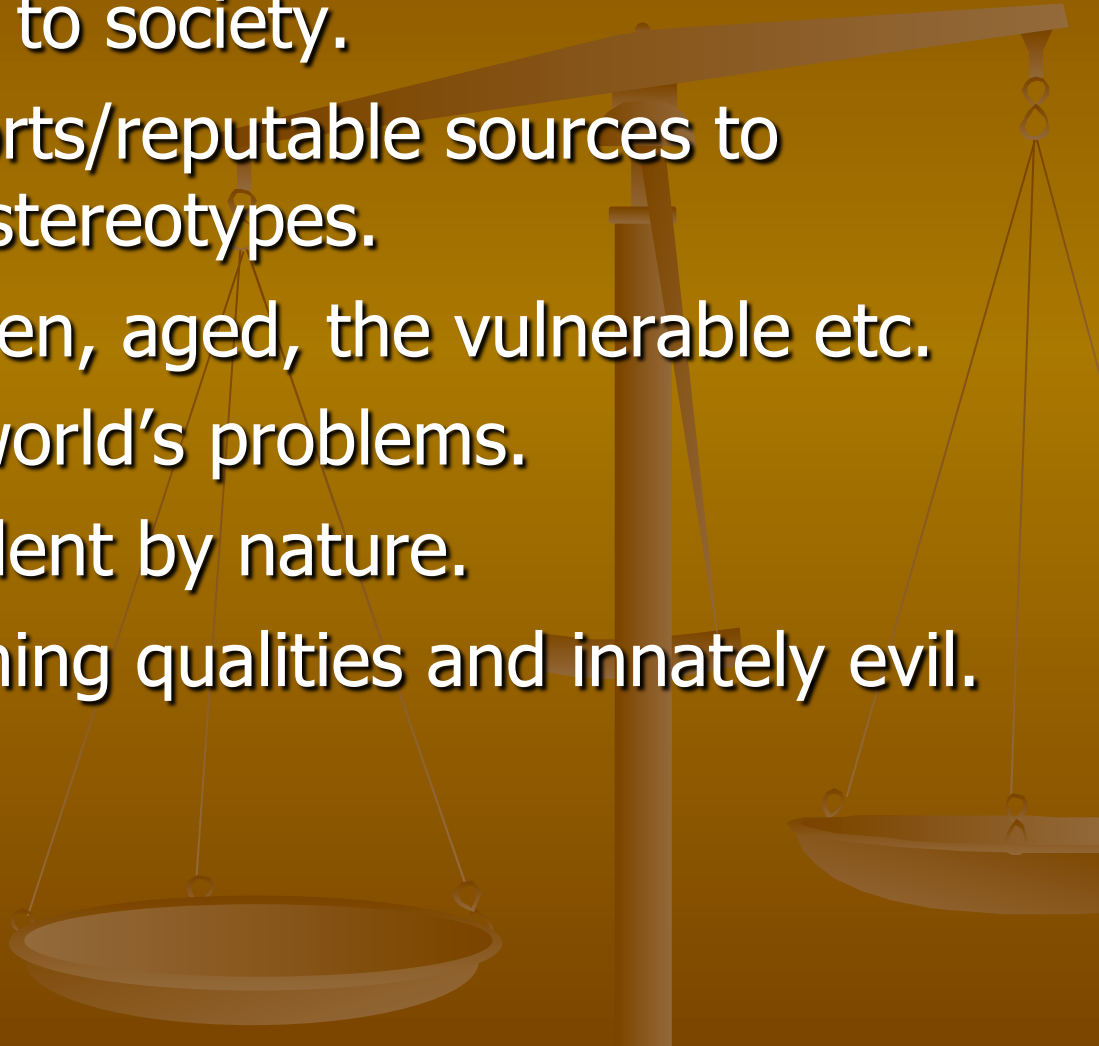
Warman v. Kouba (2006 CHRT 50)

Canadian Human Rights Tribunal Member

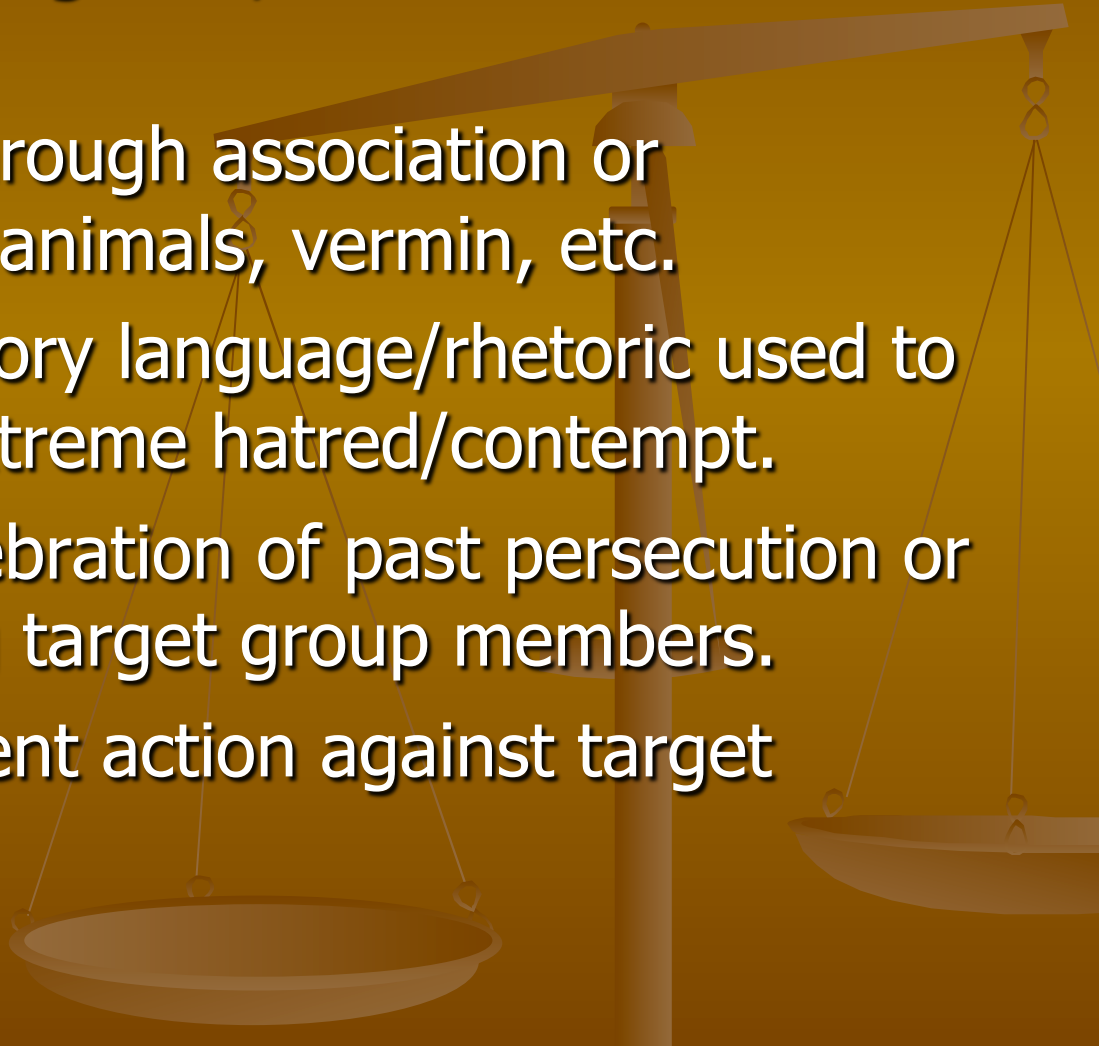
Karen Jensen reviews all of the previous case law and then establishes the benchmark for what the Tribunal will look for to identify hate propaganda

11 Hallmarks of Hate

Target Group Portrayed As:

1. Powerful menace to society.
 2. Use of news reports/reputable sources to further negative stereotypes.
 3. Preys upon children, aged, the vulnerable etc.
 4. Responsible for world's problems.
 5. Dangerous or violent by nature.
 6. Devoid of redeeming qualities and innately evil.
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11 Hallmarks of Hate cont.

7. Banishment, segregation, or eradication of group required.
 8. De-humanized through association or comparison with animals, vermin, etc.
 9. Highly inflammatory language/rhetoric used to create tone of extreme hatred/contempt.
 10. Trivialization/celebration of past persecution or tragedy involving target group members.
 11. Calls to take violent action against target group.
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Myths #3 and #4

- **MYTHS: #3** German laws against hate speech didn't stop the Holocaust so we shouldn't have them and **#4** Prof. Moon's report said we should abolish s. 13 of the CHRA and let the police handle only violent hate speech like the United States
- **FACTS: #3** human rights hearings into hate speech and cease and desist orders remind Canadians of our fundamental commitment to equality of opportunity and the eradication of racial and religious intolerance
- Holocaust result of complex factors. No law on its own could have stopped this. International community agrees such laws are an important weapon against hatred.
- **#4** Dick Moon's report restates libertarian arguments against hate speech laws consistently rejected by the Supreme Court and Canadian Human Rights Tribunals for 20+ years. U.S. doesn't have s. 1 of the Charter that says freedom of expression is subject to reasonable limits that can be justified in a free and democratic society.
- Canadian constitution gives special role to equality and multiculturalism. "If values fundamental to the Canadian conception of a free and democratic society suggest an approach that denies hate propaganda the highest degree of constitutional protection, it is this approach which must be employed." (Supreme Court in *R. v. Keegstra* - 1990)

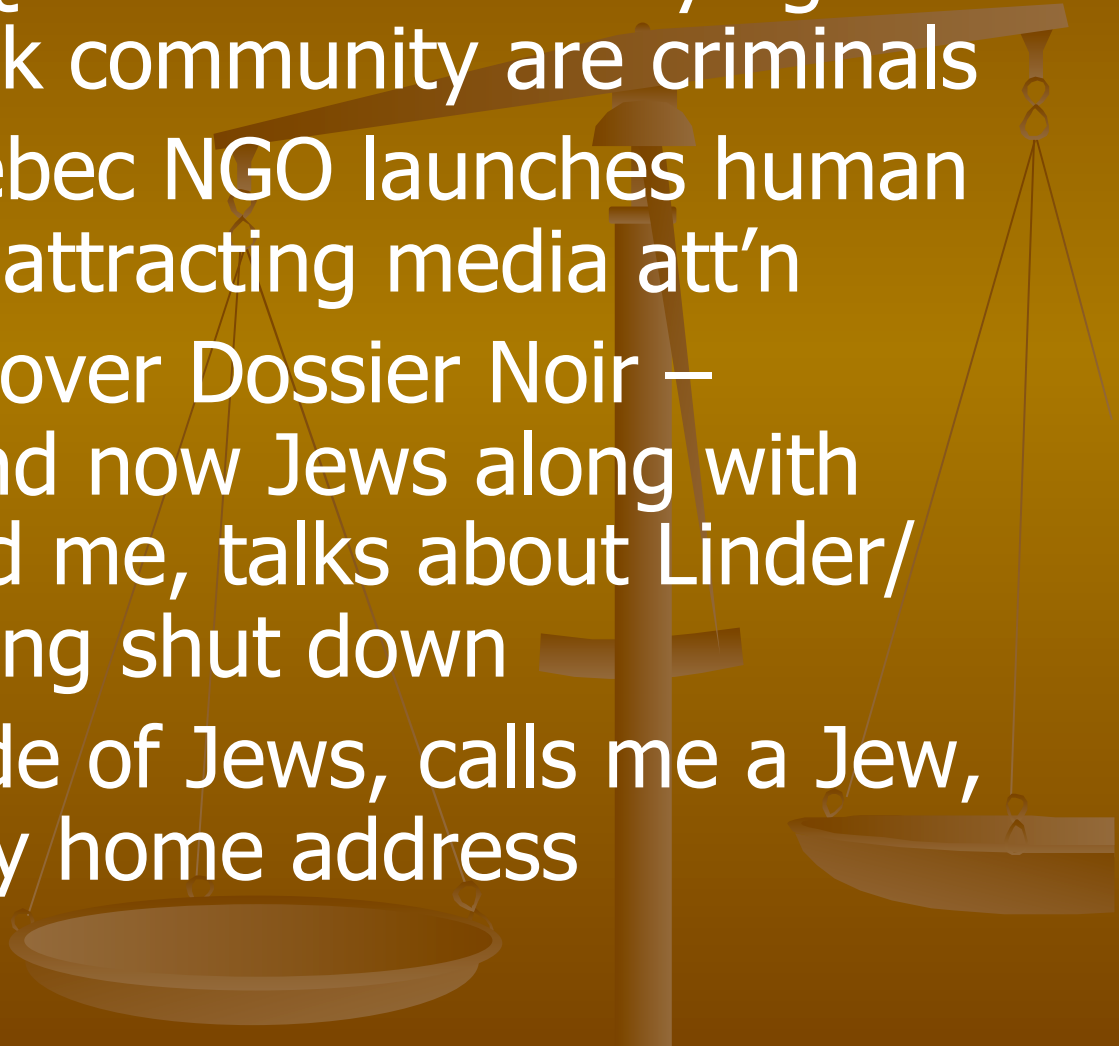
WHAT'S WRONG WITH U.S. HATE SPEECH LAWS? (OR LACK THEREOF)

As Jefferson said, '*the tree of liberty must be refreshed with the blood of tyrants.*' Warman and the Jews who operate him...are tyrants. Killing Warman, "judge" von Finckenstein, or any of the jews who make up the dictatorial "human rights" council that persecutes loyal Canadians such as Winnicki would be a genuine act of patriotism. That is Thomas Jefferson's view, and it is VNN's too. [*sic*]

– *Alex Linder, July 2006*



BILL WHITE – DOSSIER NOIR

- Dossier Noir is Quebec hatesite saying all members of black community are criminals
 - Aug 2006 – Quebec NGO launches human rights complaint attracting media att'n
 - Bill White takes over Dossier Noir – targets blacks and now Jews along with head of NGO and me, talks about Linder/VNN hatesite being shut down
 - Calls for genocide of Jews, calls me a Jew, and publishes my home address
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I told them that I hope that someone does kill Warman, because he has to be stopped somehow.

I would hope that people take violent action against [Warman]. He should be killed.

Bill White – repeatedly counsels my murder
August 2006 to Dec 2008



The Final Straw



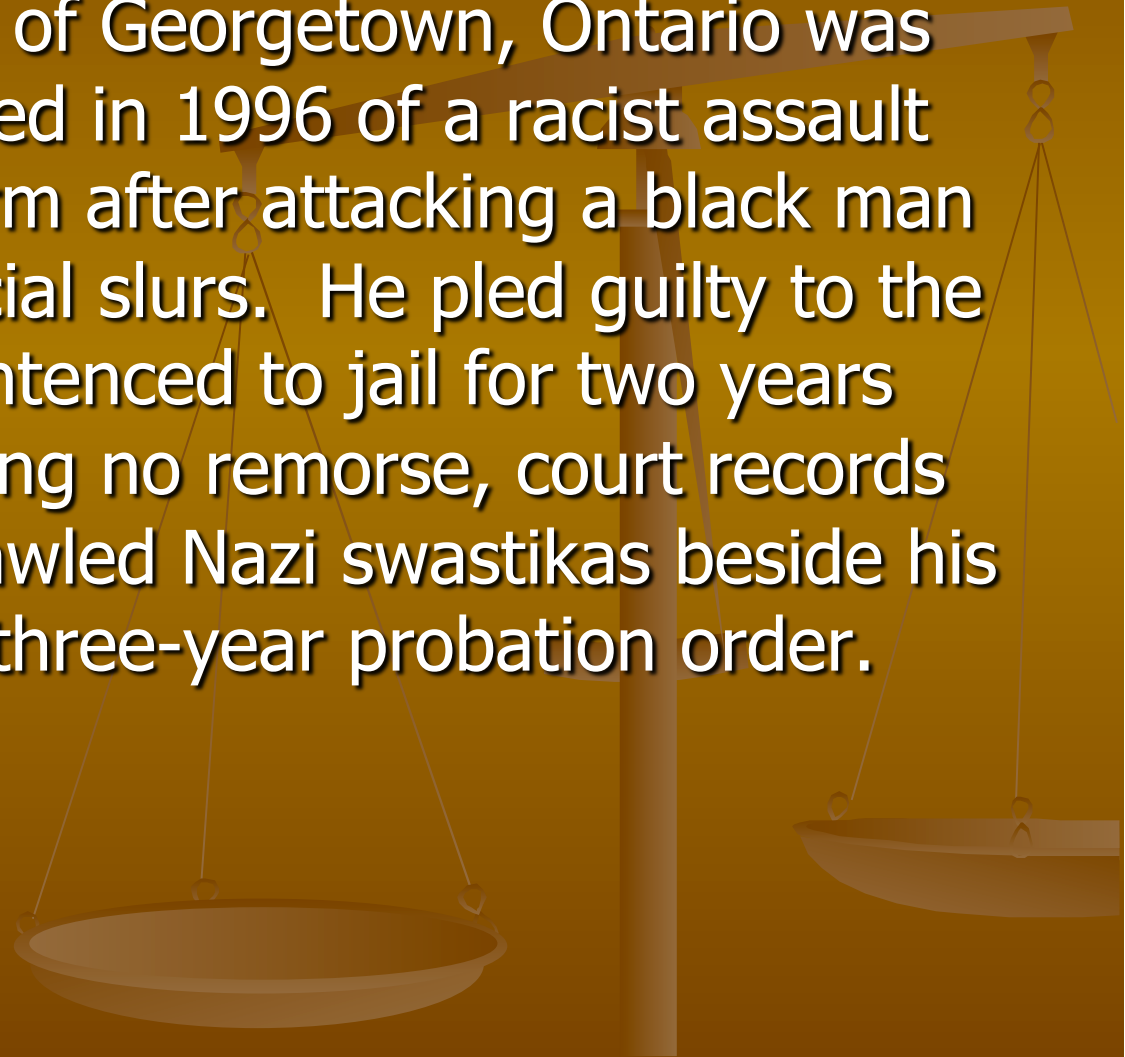
- Aug 2006 - Appl'n to CRTC for voluntary ISP ban on access to site refused
- criminal complaints to US authorities go unheeded until US DOJ civil rights section becomes involved – grand jury called and Bernie Farber of CJC and me testify in Virginia in Aug 2008
- Dec 2008, White posts jury member's personal info from another neo-Nazi case (soliciting murder of federal judge)
- FBI raids White, grand juries indict for threats against jury member and 7 counts relating to threats against me and others
- Dec 2009, jury convicts on 4 counts incl. threats against me – 'activist judge' overturns jury verdict in my case – notice of appeal pending and sentenced to 2.5 years on 3 other counts
14 April 2010

Copy-cat effect – William Grosvenor

- Aug 2006 – Nov 2008 – Grosvenor copycat campaign reposting White's (and own) material to Google forums
- 200+ libels and 70+ threats incl. home address, aerial photos of home and maps to get there
- "I AM GOD AND I HAVE A RUGER P-90 AND IT'S BULLETS HAVE YOUR NAME ON THEM FAGBOY WARMAN"
- Jan 2008 - Civil action (simplified procedure) for libel, assault, and invasion of privacy launched
- Oct 2008 decision issues sweeping injunction, damages for libel/assault of \$50,000 and \$30,000+ in costs
- Total costs of action and enforcement \$65,000+
- No criminal charges ever laid despite repeated complaints

Warman v. Lemire case – Harrison postings

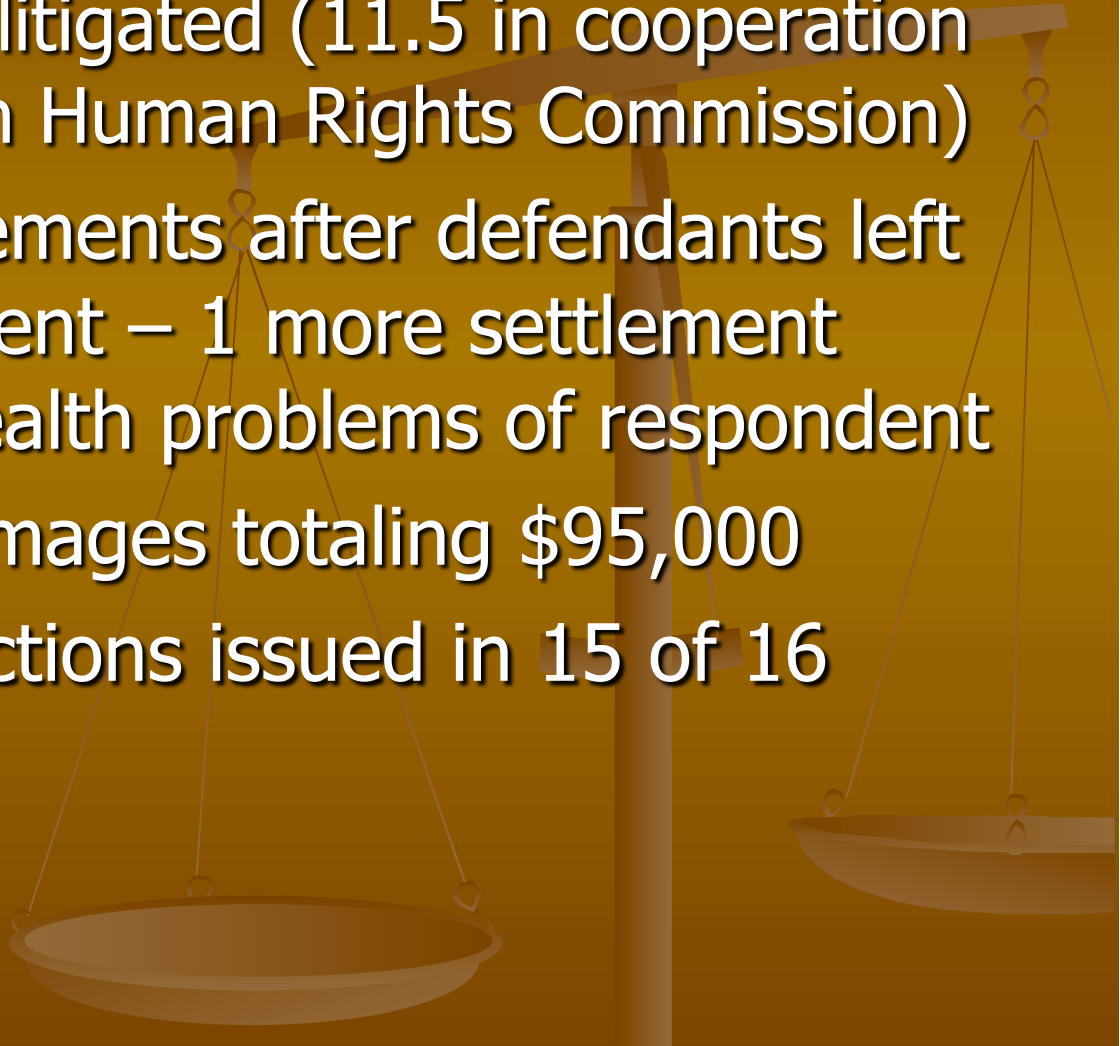
- Harrison, aged 40 of Georgetown, Ontario was previously convicted in 1996 of a racist assault causing bodily harm after attacking a black man while shouting racial slurs. He pled guilty to the crime and was sentenced to jail for two years less a day. Showing no remorse, court records show he later scrawled Nazi swastikas beside his signatures on his three-year probation order.



Warman v. Lemire Case

- Hate propaganda incl. extensive calls for genocide against francophones, Aboriginals, black, and Jews leads to complaints against Craig Harrison and owner/operator of website Marc Lemire
- Aug 2006 - CHRT upholds complaint against Harrison
- Sept 2009 - CHRT member in Lemire upholds complaint but goes against 2 previous CHRT decisions saying \$10,000 penalty clause and case handling renders s. 13 as a whole unconstitutional (decision non-binding on any other case)
- Federal Court judicial review under way. CHRT can't review CHRC case handling and any remedy re: penalty clause should have been not to apply it, not s. 13 as a whole

My Track Record for Complaints?

- 12.5 successfully litigated (11.5 in cooperation with the Canadian Human Rights Commission)
 - 2 mediated settlements after defendants left neo-Nazi movement – 1 more settlement agreed due to health problems of respondent
 - Penalties and damages totaling \$95,000
 - Permanent injunctions issued in 15 of 16 cases
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BOTTOM LINE?



- Demonstrated that the Internet in Canada is not the Wild West - Canadians can and will be held accountable for their illegal online conduct.
- Strong deterrent value – target leadership and worst offenders in concerted and sustained action.
- Reinforces message that Canada and much of the rest of the world have outlawed hate propaganda as poisonous to the communal well.
- Criminal law is largely ineffective - those who argue for an end to civil remedies against hate propaganda argue for a virtual de facto end to controls on hate propaganda.
- As with combating all forms of bigotry and defending human rights the world over... the struggle continues.

Morality cannot be legislated but
behaviour can be regulated.

Judicial decrees may not change
the heart, but they can restrain the
heartless.

Martin Luther King Jr.
Strength to Love (1963)

