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A Legal Test for Hate Speech in Canada

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If a Canadian incites hatred against an identifiable group in public and advocates murder or genocide, does that constitute a hate crime? If the incitement is against, for example, the gay, black or aboriginal community should criminal charges be laid? What if the incitement is against the Jewish community, is there a difference?

Indeed, this is what has happened as in the case of Elias Hazineh at a Toronto rally. Toronto police are "investigating" comments made by the former head of Palestine House who called for the widespread murder of Israelis. The call was made on August 5th at the Al-Quds Day rally -- an event inspired by Iran's Ayatollah's to sow seeds of hate and intolerance against the Jewish state.

In [his remarks](#), Hazineh said, "we have to give them an ultimatum. You have to leave Jerusalem. You have to leave Palestine ... I want to remind you how the police work. When somebody tries to rob a bank, the police get in, they don't negotiate, and we have been negotiating with them for 65 years. We say get out or you're dead. We give them two minutes, and then we start shooting, and that's the only way they'll understand."

Hazineh further encouraged the 400-plus audience near Toronto's provincial legislature -- Queens Park -- to "strike terror into the hearts of the enemies." Realizing his speech was video recorded following the event, Hazineh, although [not apologetic](#), admitted his remarks were inappropriate, but legal.

In fact, his remarks can conform to the expression that fits within the parameters of hate propaganda in section 318 and 319 of the Criminal Code of Canada. Hate propaganda is defined as, "Any communication that advocates or promotes genocide or makes statements, other than in private, that promote hatred against an identifiable group". An identifiable group is defined by the Criminal Code as, "Any section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation."

Thus, Hazineh's expressive remarks can be interpreted as "communication that advocates or promotes genocide" against "an identifiable group" (Jewish people) and in a place "other than in private" (he incited an audience to hate a religious and ethnic group in the public domain/a park).

As significant, Hazineh's remarks may be subject to Bill S-7, the Combating Terrorism Act, legislation in the Criminal Code resurrected in 2012 as a version of the Anti-Terrorism Act which, expired in 2007. His expressed desire to "strike terror into the hearts of the enemies" requires examination and further investigation.

Indeed, some rally participants flew flags in support of Hezbollah, a designated terrorist group in Canada and most recently, the European Union. Hezbollah has been linked to numerous [international terror activities](#) including last summer's bombing of a bus in Bulgaria killing five Israeli tourists and a local bus driver. According to Stuart Bell, "Canadian security agencies have long experience with Hezbollah, which uses the country as a base for fundraising and procurement. Last year, a Quebecer accused of trying to smuggle AR-15 rifles to Hezbollah became the first woman charged under the Anti-Terrorism Act."

Canada cannot become a hotbed for hate and intolerance. Ontario's Attorney General must review Hazineh's remarks in the context for which they were intended -- to promote genocide against an identifiable group, incite hatred against it and possibly, to motivate acts of terrorism.

No matter who is targeted, hate cannot be overlooked, especially for political reasons. The hateful rhetoric is heating up in Canada and threatens to radicalize the young if our authorities fail to undertake legal action against the perpetrators of hatred.

Every person of conscience should take note of the Ottawa Protocols and never forget the lessons of the Holocaust when the world was silent.