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SENT BY EMAIL WITH ORIGINAL BY MAIL

September 28, 2003

Mr. Jack Layton
Leader
New Democratic Party of Canada
1001 - 75 Albert Street
Ottawa, ON K1P 5E7

Dear Mr. Layton:

Re: Bill C-250 - An Act to Amend the Hate Propaganda Law to Add Sexual Orientation But Not Gender

On January 1, 2003, I wrote to you regarding Bill C-250, pointing out that women, too, are excluded from the hate propaganda law, that Bill C-250 is discriminatory, does not conform to Section 15 of the Charter and is therefore unconstitutional. I closed my letter with this question:

So, the question for you is this: will you demand an amendment to Bill C-250 to make it conform to Section 15 of the Charter, so that it provides protection to all people, including women and girls?

I did not receive a response to my letter, although I sent you another copy some months later and again requested a reply. However, the Bill has been passed in the House of Commons without being amended to include gender, so I'll take that as a "no".

Something I find particularly troubling, Mr. Layton, is the concept being presented by the NDP that the passage of Bill C-250 is a victory for equality. In fact, a news release posted on the NDP web site quotes you as saying:

"It is a natural update of the criminal code's hate-crimes section and another victory for equality this week."

A natural update, Mr. Layton, would be amending the outdated hate crimes section to conform to the Charter so that **everyone** in Canada is protected under this law. And, for future reference, a victory for "equality" would generally include everyone -- even women -- not just selected groups.

The NDP web site also states the following under the "Agenda for Women's Equality" section:

In the long struggle for change, women have had a parliamentary voice in Canada's New Democrats. The NDP was the first political party to raise concerns about violence against women...

Where were our **voice** and the NDP **concern** about violence against women when voting for Bill C-250? Locked in the basement, apparently.

When I wrote to Svend Robinson about the absence of gender in his Bill, this was his response:

"I support the inclusion of "gender" in the law on hate propaganda, but unfortunately it was very clear that there was nowhere near the level of support for this change needed to move ahead in the House of Commons.... I was certainly not prepared to table a bill that had absolutely no hope of support, when I do have some chance of getting through the more narrow bill including "sexual orientation".

And here I thought politicians were elected to do the right thing, not the easy thing. He went on to say,

"Perhaps the greatest challenge that remains before moving ahead on the inclusion of "gender" is the fact that I and other Parliamentarians have received no indication of active support for this proposed change from the key feminist and women's groups across the country... I would suggest that you might want to lobby these groups to persuade them to seek this change. Certainly elected officials will not move ahead in the absence of any significant public pressure for these changes."

This raises three points.

(1) If Mr. Robinson had bothered to do his homework, he would have found that over the years, adding gender to the hate propaganda law has already been recommended by the National Action Committee on the Status of Women (1983) and the Canadian Advisory Council on the Status of Women (1985). NAC consistently maintains that it represents a broad cross-section of women's groups across the country, so there's his support from the women's community. This change has also been suggested by the Special Committee on Pornography and Prostitution (1985) which included impressive representation from the Canadian legal community, the Law Reform Commission of Canada (1986), not exactly slackers on the legal front, Raymond Hnatyshyn, Minister of Justice (Bill C-54 1987), Senior Legal Counsel, B'nai Brith League for Human Rights (1994), and James Flaherty, Attorney General of Ontario (2000). There is ample support for adding gender to this law, if he had cared to look for it.

(2) Mr. Robinson suggests that I lobby to seek this change, which I find particularly offensive. I should not have to expend my own very limited financial resources doing what I pay politicians to do, which is to introduce equitable, constitutional legislation that protects me as well as selected groups.

(3) He also maintains "elected officials will not move ahead in the absence of any significant public pressure for these changes". If this is true, and one fervently hopes it isn't, it means that those groups who cannot mount an effective lobbying campaign -- or fund a costly legal challenge -- will be shut out of new legislation. That's an astonishing admission, and a travesty of democracy, one assumes the very reason that Section 15 was added to the Charter.

Mr. Layton, as one of the founding members of the White Ribbon Campaign, your record on this Bill is nothing short of shocking. You should have been front and centre demanding that women

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be added to this Bill, and refusing to support it otherwise. The White Ribbon web site says, "wearing a white ribbon is a personal pledge never to commit, condone nor remain silent about violence against women". Your commitment seems a wee bit on the flexible side now that you've made it to the federal stage.

White Ribbon week will be here shortly and I challenge you to stand up at a White Ribbon event this year and explain to the audience why you abandoned women and refused to fight for our right to be protected from hate propaganda and the violence it unquestionably provokes, and why you trumpet as an equality *victory*, something that insults and hurts women as badly as this Bill does.

In preparation for that, I invite you to visit this web site and read the lyrics of the death metal band, *Cannibal Corpse*. Let your fingers do the walking and make a random selection. Pick a song, any song. Personally, I can't stand to read more than one at a time, and the song titles are so vile, I'm not including them here:

http://lyrics.rockmagic.net/lyrics/cannibal_corpse/

Here's another challenge, Mr. Layton. Politicians are always wringing their hands over whether this or that piece of legislation conforms to the Charter. Just to be on the safe side with Bill C-250, have the NDP caucus ask the Attorney General to submit the Bill to the Supreme Court of Canada to get their opinion on whether it passes constitutional muster. Inquiring minds want to know.

Sincerely,

Valerie Smith

cc Vic Teows, M.P., Peter McKay, M.P.
Scott Newark and Priscilla de Villiers, Office for Victims of Crime
NDP Canada Caucus
EGALE
Michele Landsberg, Toronto Star
Olivia Chow, Councillor, City of Toronto
White Ribbon Campaign