



CANADIAN MUSLIM PUBLIC AFFAIRS COUNCIL

CMPAC Brief on the Proposed Amendment to Remove the “Good-Faith Religious Text” Defence in s.319 of the Criminal Code (Bill C-9 Amendment)

Executive Summary

In this brief, CMPAC provides input on the proposed amendment to [Bill C-9](#) that would repeal the “good-faith” religious-text defence under [s.319\(3\)\(b\) of the Criminal Code](#). CMPAC represents diverse Muslim communities across Canada and conducts research on structural Islamophobia, and the protection of our civil liberties and our constitutional rights.

[CMPAC’s previous analysis of Bill C-9](#) and its [secondary analysis](#) conclude that the Bill, through vague offences, expanded police discretion, and weakened procedural safeguards, poses disproportionate risks not only to marginalized and racialized communities, but to faith-based communities more broadly including Muslim, Christian, Hindu, Sikh, and Jewish communities. These analyses find that C-9’s structure already creates significant constitutional vulnerabilities and heightens the risk of selective or politicized enforcement. Additionally, in every tradition, scripture and religious teaching are foundational to practice and community life. The proposed repeal of [s.319\(3\)\(b\)](#) heightens constitutional concerns for all faith communities and significantly increases the risk of improper state or law-enforcement involvement in religious interpretation.

Our review of the proposed removal of the religious-text defence finds:

- No evidence that the defence has impeded legitimate hate-propaganda prosecutions or contributed to harmful outcomes;
- Substantial constitutional risks to freedom of religion (s.2(a)) and freedom of expression (s.2(b));
- Implications for faith communities of all denominations whose sermons, religious text studies, pastoral counselling, and scriptural references may be exposed to misinterpretation;
- Disproportionate impacts on minority communities whose scriptures are more frequently politicized or scrutinized;
- A heightened risk of chilling lawful religious teaching, including sermons, study circles, youth programs, religious schools, and online religious content.

CMPAC therefore strongly opposes removing the good-faith religious-text defence. Retaining this narrow and historically important safeguard is essential to protecting Charter-protected



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religious expression and preventing state overreach into the application of hate-propaganda laws, as well as into matters of theology

1. Background: Bill C-9 and the Proposed Repeal of s.319(3)(b)

Bill C-9 introduces several new hate-related offences and expands policing and prosecutorial powers in ways that have raised significant concern among civil-liberties organizations and faith-based communities across Canada. [Recent reporting](#) indicates that, as part of a negotiated agreement between the Liberal Party and the Bloc Québécois, the government now intends to repeal the long-standing “good-faith” religious-text defence in [s.319\(3\)\(b\)](#). The said provision currently establishes that a person cannot be convicted of the “wilful promotion of hatred” if they *“in good faith expressed or attempted to establish by argument an opinion on a religious subject or an opinion based on a belief in a religious text.”*

This defence was crafted to not only ensure that legitimate scriptural discussion, doctrinal interpretation, theological debate, or contextual explanation of sacred texts are not mischaracterized as hate propaganda, but also to prevent the state from intruding into religious discourse or scriptural teaching. It is not a blanket exemption: it applies only to good-faith religious expression, and it does not shield speech that meets the high criminal threshold of *“detestation and vilification.”*

Moreover, [legal scholarship](#) and case law demonstrate that the defence is rarely invoked and almost never determinative. Courts already rely primarily on the stringent legal standard articulated in *R v Keegstra* and *Whatcott*, which limits hate-propaganda liability to the most extreme and dangerous forms of expression. Repealing the defence is therefore unnecessary and unsupported by evidence. Its removal would significantly raise the risk that benign or contextual references to scripture, particularly in religious traditions, could trigger complaints, investigations, or criminal scrutiny, and would invite an even greater risk of misinterpreting ordinary religious teaching as criminal activity when taken out of context

2. Legal and Constitutional Analysis

2.1 Charter Protections and the Purpose of s.319(3)(b)

Section 319(3)(b) plays an essential role in aligning the Criminal Code with Charter protections for freedom of religion and expression. It ensures that faith-based communities must be able to cite, discuss, teach, and interpret their sacred texts without undue fear of criminal liability, provided the speech does not cross the high legal threshold for hate propaganda. The [Supreme](#)



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[Court](#) has repeatedly emphasized that hate-speech offences must be narrowly applied and include safeguards to avoid chilling legitimate expression. Removing this safeguard would disrupt this constitutional balance and create uncertainty for all religious traditions where scripture-based teaching is central.

2.2 The Risk of State and Police Intervention in Interpreting Religion

The removal of s.319(3)(b) would invite the state and, practically, police and prosecutors, to assess, interpret, or evaluate religious doctrine, despite lacking the institutional competence or constitutional mandate to do so. This is a profound concern for all religious communities. The original purpose of the exemption was precisely to keep the state out of religious interpretation. Without it, law-enforcement officials may be placed in the position of:

- Assessing whether a passage of scripture is “contextual” or “acceptable”;
- Determining if a faith leader’s interpretation is “good faith”;
- Deciding whether a sermon constitutes theological teaching or prohibited expression; or
- Engaging in comparative evaluation across religious traditions.

Such assessments violate the longstanding constitutional principle that religion falls outside the interpretive authority of the state. Allowing police or prosecutors to interpret scripture risks inconsistency, politicization, and unequal treatment across denominations.

2.3 Risk of Misinterpretation and Increased Complaints

Public reporting and law-enforcement behaviour demonstrate that hate-propaganda laws are poorly understood by the public. Removing the defence will almost certainly lead to a rise in complaints about routine religious speech, including readings from scripture or traditional teachings on morality, discipline, history, or community obligations. Even baseless complaints can trigger investigations that damage trust and stigmatize faith communities.

2.4 Disproportionate Impact on Minority Faith Communities

While all faith communities are at risk, minority communities, such as Muslim, Sikh, Hindu, and Jewish communities, face elevated vulnerability due to existing patterns of scrutiny, misinterpretation, and politicization of their texts. In contexts of heightened Islamophobia and anti-Palestinian racism, removing the religious-text defence risks:

- Increased monitoring of sermons, khutbas, duaas, and religious study;
- Greater vulnerability to politicized or malicious complaints;
- Misinterpretation of religious vocabulary or scripture by complainants or officials unfamiliar with the faith;



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- Chilling online religious content, livestreams, and educational programming; and
- Expanded police presence or intervention in religious spaces.

These outcomes raise significant equality concerns under [s.15 of the Charter](#) and deepen existing disparities in how criminal and security laws impact racialized communities.

3. Evidence Assessment: Lack of Demonstrated Need

There is no empirical evidence that the religious-text defence has ever obstructed prosecution of genuine hate propaganda. Legal scholars, including [Professor Richard Moon](#), note that the clause primarily functions as a constitutional safety valve, not a tool to evade accountability. The existing high threshold for criminal hate speech, combined with mandatory Attorney General approval, already prevents misuse. Removing s.319(3)(b) is largely symbolic, while creating real-world risks for faith-based communities.

4. Risks of Repealing the Defence

4.1 Chilling Effect on Faith Leaders and Communities: Pastors, imams, rabbis, priests, and chaplains may become hesitant to reference scripture or address doctrinal issues, especially those touching on sensitive or contested topics. This directly undermines the practice of religion and the free exchange of ideas within and between faith traditions.

4.2 Expansion of Police Discretion: Bill C-9 already expands police powers through vague offences related to “intimidation,” “obstruction,” and “hate symbols.” Removing the religious-text defence further widens the scope for law-enforcement intervention in religious settings and increases the risk of mistaken, selective, or politicized investigations.

4.3 Heightened Risk of Politically Motivated Allegations: Public discourse around religion, particularly where it intersects with geopolitics, moral teaching, or identity, is vulnerable to misinterpretation. Faith communities, both majority and minority, may find themselves targets of malicious or ideologically motivated complaints.

5. Recommendations

CMPAC respectfully recommends that the Standing Committee:

1. **Maintain the “good-faith” religious-text defence in s.319(3)(b):** Its removal is unnecessary, lacks evidence, and would create significant constitutional risks for freedom of religion and freedom of expression.



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2. **Preserve Attorney General oversight for all hate-propaganda charges** to prevent: inconsistent, politicized, or unjust prosecutions.
3. **Conduct broad, meaningful consultations with Christian, Muslim, Jewish, Sikh, Hindu, and other faith communities** before altering long-standing protections for religious expression.
4. **Prioritize non-criminal, evidence-based approaches to addressing hate**, including education, community-based initiatives, and support for affected groups.

Conclusion

CMPAC recognizes the urgency of responding to hate and discrimination in Canada. However, legislative action must be proportionate, evidence-driven, and fully consistent with Charter protections. Repealing the good-faith religious-text defence does not advance these goals. Instead, it invites overreach by the state into religious interpretation and creates disproportionate risks for both majority and minority faith groups. To uphold Canada's commitment to religious freedom, freedom of expression, and the equality of all faith communities, CMPAC urges Parliament to retain the religious-text defence and reject amendments that erode constitutional safeguards for religious rights.