



RESPONSE TO PETITION

Prepare in English and French marking 'Original Text' or 'Translation'

PETITION No.: **421-02119**

BY: **MR. TABBARA (KITCHENER SOUTH-HESPELER)**

DATE: **MARCH 1, 2018**

PRINT NAME OF SIGNATORY: **HONOURABLE JODY WILSON-RAYBOULD**

Response by the Minister of Justice and Attorney General of Canada

SIGNATURE

Minister or Parliamentary Secretary

SUBJECT

Discrimination

ORIGINAL TEXT

REPLY

The Government is committed to ensuring that our criminal justice system keeps communities safe, protects victims, and holds offenders to account. Canada has one of the most comprehensive legal regimes against hate crime and hate propaganda anywhere in the world.

The Government does not agree with the proposal to repeal paragraph 319(3)(b) of the *Criminal Code*.

Paragraph 319(3)(b) provides a defence to the crime of wilfully promoting hatred against an identifiable group for any person who, in good faith, expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text. There are also three other defences to this crime, which are found in paragraphs 319(3)(a)(c) and (d) of the *Criminal Code*.

In *R. v. Keegstra*, [1990] 3 SCR 697, the Supreme Court of Canada examined these defences. The Court said that the three defences which include elements of good faith or honest belief--namely, paragraphs 319(3)(b), (c) and (d)--seemed to negate the *mens rea* or mental fault requirement for the offence, for only rarely would a person who intends to promote

hatred be acting in good faith or upon honest belief. The Court also said that the defences found in subsection 319(3) reflect a commitment to the idea that an individual's freedom of expression will not be curtailed in borderline cases.