

**Submission
No 10**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

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Free Palestine: submission by Jake Lynch

I write in my capacity as Associate Professor in the Discipline of Sociology and Criminology at the University of Sydney: <https://www.sydney.edu.au/arts/about/our-people/academic-staff/jake-lynch.html>

My area of expertise is Peace and Conflict Studies, in which I contribute teaching to the Master of Social Justice degree program.

My research, which considers issues of peace and conflict in the context of media representations, is widely known in its field. Google Scholar records 5,800 citations of my work: <https://scholar.google.com/citations?user=gmKTVj4AAAAJ&hl=en>

- placing me in the top ten of academic colleagues within the University's School of Social and Political Sciences.

Among the topics I have examined in depth are responses, by various parties at different levels, to conflict involving Israel and Palestine. These have been discussed in several of my research publications and featured in an educational documentary film I produced, titled *News from the Holy Land*, which is distributed by Films for the Humanities.

Events of the past two years, including the killing of tens of thousands of Palestinians by Israel's military onslaught on the Gaza Strip, have brought renewed focus on the role, significance and influence of social movement activity, typically in the form of protest demonstrations and public advocacy.

This applies particularly in countries such as Australia, which are military allies of Israel, but where a substantial portion (often a majority) of the population are sympathetic to and/or supportive of Palestinian perspectives.

Two similar slogans familiar from such demonstrations are: "Free, free Palestine" and "From the river to the sea, Palestine will be free".

These slogans do not incite hatred or threaten community safety and should not be banned.

Palestine is not free

There is no established state of Palestine – which is, indeed, one of the fundamental points of the conflict. Palestinians are deprived of their rights. The Universal Declaration of Human Rights opens with the familiar phrase:

"All peoples have the right to self-determination". It is this right, above all, that is foreclosed to Palestinians.

Since 'Palestine' does not exist as a state, the name refers to the entire historic territory of Palestine, over which the British Mandate was established by the League of Nations when the Ottoman Empire broke up in WWI. It is bounded by the Jordan River and the Mediterranean Sea. Today, the State of Israel is established on some of Mandate Palestine, bounded by the Green Line, marking the armistice line from the Arab-Israeli war of 1947-48.

No part of this territory is free from a Palestinian perspective. East Jerusalem, the West Bank and Gaza are illegally occupied. The ruling to that effect, issued last year by the International Court of Justice, added an official imprimatur from the relevant competent authority to the already-established consensus of credentialed opinion. The full ICJ ruling is here: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>

The settlements established on the West Bank are a violation of International Humanitarian Law. Article 49 of the Fourth Geneva Convention unambiguously states: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies".

Israel dismantled its illegal Gaza settlements in 2005, but continues its hostile occupation of the Strip by virtue of controlling its borders, airspace and seaboard.

Both in Israel and in these Occupied Palestinian Territories, Jewish and non-Jewish citizens enjoy rights that are far from equal: a disparity that reaches into every aspect of daily life including residency, employment, movement, legal treatment and political freedom.

In the same ICJ ruling, the administrative and legal system that limits Palestinian rights was declared one of apartheid, which is a crime against humanity, recognised in the International Convention on the Suppression and Punishment of the Crime of Apartheid, which entered into force in 1976.

Among the respected organisations to have reached this same conclusion are:

Amnesty International, see:

<https://www.amnesty.org/en/latest/campaigns/2022/02/israels-system-of-apartheid/>
Human Rights Watch, see: <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>

B'Tselem, the Israeli Information Centre for Human Rights in the Occupied Territories, see: <https://www.btselem.org/topic/apartheid>

In the words of the last:

"The Israeli regime enacts in all the territory it controls (Israeli sovereign territory, East Jerusalem, the West Bank, and the Gaza Strip) an apartheid regime. One organizing principle lies at the base of a wide array of Israeli policies: advancing and perpetuating the supremacy of one group – Jews – over another – Palestinians. B'Tselem rejects the

perception of Israel as a democracy (inside the Green Line) that simultaneously upholds a temporary military occupation (beyond it). B'Tselem reached the conclusion that the bar for defining the Israeli regime as an apartheid regime has been met after considering the accumulation of policies and laws that Israel devised to entrench its control over Palestinians”.

Right of Return

A further major restriction on freedom for Palestinians is being prevented from returning to the homes from which they or their ancestors were driven out in Al-Nakba of 1948, at the formation of the State of Israel.

Their right to do so is recognised by the overwhelming majority of the international community. UN General Assembly Resolution 194 (1948) states that refugees should be allowed to return home or be compensated. Resolution 3236 (1974), reaffirms the inalienable right of Palestinians to return to their homes and property, linking it to self-determination. These resolutions are reaffirmed annually.

Three key demands

Freedom for Palestine, referenced in these two slogans, therefore corresponds with three key demands, all firmly grounded in human rights and international law:

1. An end to Israel’s illegal military occupation of East Jerusalem, the West Bank and Gaza, and dismantling of illegal settlements;
2. Abolishing the system of apartheid in favour of one that guarantees equal rights to all citizens on the historic territory of Palestine;
3. Providing for the right of return for Palestinians to their homes and property.

These are legitimate demands, which motivate Australians of good conscience to raise their voices in protest and advocacy, and seek to influence policies through their elected representatives. They should not be prevented from doing so.