

**Submission
No 24**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: National Association for the Visual Arts (NAVA)

Date Received: 12 January 2026



**NATIONAL
ASSOCIATION
FOR THE
VISUAL ARTS**

Committee on Law and Safety
Parliament of New South Wales
lawsafety@parliament.nsw.gov.au

Monday 12 January 2026

Re: Measures to prohibit slogans that incite hatred

This submission is made in response to the Committee's inquiry into the use of slogans alleged to intimidate communities and instil fear of violence. It addresses the implications of proposed restrictions for freedom of expression, with particular reference to visual arts practice and the ways artworks are created, presented and interpreted.

Established in 1983, the National Association for the Visual Arts (NAVA) is the national peak body for the visual arts, craft and design sector. NAVA is an independent membership organisation which brings together the many voices of the contemporary arts sector to improve the fundamental conditions of work and practice. We do this through advocacy, education and the [Code of Practice for the Visual Arts, Craft and Design](#). Our network comprises over 50,000 artists, arts workers, galleries, arts organisations and industry bodies.

NAVA has a long history of advocating for freedom of expression and has supported artists and organisations where artwork has been restricted, challenged or withdrawn from public exhibition. NAVA does not advocate for artists to act outside the law. NAVA's position is that artists should be able to exercise freedom of expression within the law, and that new laws should be approached with caution where they affect expression.

We are concerned by the number of instances in which artworks are limited, removed, or not developed or exhibited because artists or institutions anticipate legal risk or legal dispute, rather than in response to any finding of illegality. The Committee's inquiry considers the introduction of new measures that may create additional grounds on which artwork could be found unlawful. In this context, particular care is required to ensure that new laws do not capture artistic expression that is not intended to incite hatred or violence, but instead engages with political language, symbolism or contested histories as part of lawful artistic practice.

Freedom of expression is a universal human right and is particularly valued by artists. However, in Australia it is not effectively protected in law. At times this can result in confusion and contention over artists' work that engages with contested political language or symbolism. In the visual arts, such engagement is not incidental, but a core part of how artists explore social conflict and address difficult subject matter.

United Nations Educational, Scientific and Cultural Organization (UNESCO) has consistently emphasised the importance of artistic freedom as part of democratic societies. Its framework for artistic freedom recognises the right of artists to create without censorship or intimidation, to have their work supported and shared, to associate freely, to participate in cultural life, and to enjoy social and economic rights connected to their practice. These principles are directly relevant to this inquiry. Measures that restrict particular words or slogans risk affecting not only what artists can say, but whether work can be supported, shown, and discussed over time.

If New South Wales is to remain a society in which people live in freedom and safety, care is required when considering new restrictions on expression in the pursuit of security. Artistic practice frequently involves language and imagery that is confronting, symbolic or politically charged. In the visual arts, slogans and phrases may appear within artworks, performances or exhibitions as part of critique, inquiry or historical reference, rather than as literal statements or calls to action. Meaning is often layered, shaped as much by audience interpretation as by artistic intent.

Freedom of expression, including the implied freedom of political communication under the Australian Constitution, is therefore not peripheral to this inquiry. It is a foundational democratic principle that enables political dissent, cultural critique and artistic practice. Restrictions that are broad or imprecise can lead artists, curators and cultural institutions to avoid presenting lawful work due to fear of legal consequences, reputational harm or inconsistent enforcement. This creates a silencing effect that is difficult to detect but has a real impact on what art is made visible to the public, particularly within publicly funded or highly scrutinised spaces.

It is essential to protect communities from hatred, intimidation and violence, and this objective must be carefully balanced with other democratic rights. It is important to maintain clear distinctions between direct incitement to violence and other forms of expression. Political, ideological and artistic expression may be confronting or provocative without encouraging violence.

These forms of expression are not interchangeable. Language cannot be meaningfully assessed in isolation from context, intent, audience and form. Prohibiting specific phrases by default risks collapsing these distinctions and treating symbolic or political expression as inherently criminal.

The inquiry's focus on particular slogans raises practical concerns for the arts. The meaning of slogans can change depending on cultural, historical and political contexts, as

well as how and where they are used. In visual art, words and phrases often appear as part of a broader work that is symbolic, critical or historical in nature. Treating slogans as having a single meaning risks misreading artwork and applying the law in ways that were not intended.

Existing NSW and Commonwealth laws already address serious conduct, including threats, incitement to violence, harassment, intimidation, terrorist advocacy and racial vilification. When new restrictions are proposed, artists and galleries may struggle to assess how those laws apply to visual and symbolic forms of expression.

A range of existing legal instruments already regulate freedom of expression, including the Criminal Code Act 1995, the National Classification Code and the Commonwealth's Classification (Publications, Films and Computer Games) Act 1995 and the Racial Discrimination Act (1975). The Racial Discrimination Act includes specific protections for artistic work, providing defences for conduct done reasonably and in good faith in the course of the performance, exhibition or distribution of artwork.

As documented by David Throsby in research published by Creative Australia, most artists work in financially precarious conditions. They are rarely in a position to initiate legal action or defend themselves if their work becomes the subject of complaint or legal challenge. As a result, the boundaries of laws affecting artistic expression are seldom tested through the courts. Instead, artists and galleries may choose to limit, withdraw or abandon work, not because it is unlawful, but because the risks associated with dispute are too high.

For artists whose work engages with controversial or politically sensitive subject matter, these pressures are compounded. Uncertainty about whether a work may be lawful under new or amended provisions can affect decisions about whether work is made, shown or shared at all. Artists may lose exhibition and commissioning opportunities as institutions seek to minimise perceived risk. These conditions can have significant impacts on artists' wellbeing, including stress, anxiety and isolation, particularly for those working independently or without organisational support.

When artworks engage with difficult subject matter or political conflict, the way concerns are addressed is important. A core function of art is to help people make sense of complexity, ambiguity and differing perspectives, to hold nuance, and to enable difficult conversations. In many cases, informed and educative public discussion is more likely to broaden understanding and tolerance than the removal or suppression of work. While discussion may not resolve disagreement, it allows engagement to take place rather than shutting it down.

Past instances of exhibition censorship show how decisions made in response to perceived risk can lead to the complete removal of artworks, even where no finding of illegality has been made. Such outcomes narrow the space for artistic inquiry and discourage engagement with challenging material.

Restrictions on expression do not operate only through formal law. They can also occur indirectly through institutional decision-making, risk management processes and funding conditions. Decisions driven by concerns about controversy, governance or public reaction may lead institutions to avoid presenting work that may be considered politically sensitive, even where it is lawful and artistically legitimate. These informal pressures can be just as effective in limiting artistic expression as explicit legal prohibitions.

Funding arrangements are particularly significant in this regard. Ongoing pressure on public arts funding, combined with increasingly detailed grant conditions, has resulted in fewer opportunities and greater uncertainty for artists and organisations. For practitioners working in precarious circumstances, funding decisions can shape what work is made and shown.

Measures to introduce new laws intended to keep communities safe require careful consideration. Prohibiting specific slogans may have effects beyond the stated aim of addressing harm, including influencing artistic decisions in advance and narrowing the range of lawful expression. Social cohesion and public safety are best supported through clarity and proportionate responses. Protecting artists' ability to engage critically with the world is not at odds with community safety; it is part of a healthy democratic society.

Please contact NAVA for any further information we can provide.

Sincerely,

Penelope Benton
Executive Director