

**Submission  
No 36**

## **MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED**

**Organisation:** National Sikh Organisation Inc.

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Submission by the **NATIONAL SIKH ORGANISATION INC. (NSO)**

# To the Parliamentary Inquiry on Measures to Prohibit Slogans that Incite Hatred and Threaten Community Safety

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## Executive Summary

This submission presents a unified position on how New South Wales can protect communities from hateful, intimidating, or harmful slogans while preserving the democratic freedoms essential to a multicultural society.

Public expression—including slogans, placards, chants, and digital messaging—is a vital tool for political participation, cultural identity, and community advocacy. For culturally and linguistically diverse communities, and particularly for visible religious minorities such as Sikh Australians, public expression is often the only avenue to challenge misinformation, assert identity, and participate in civic life.

While hateful slogans can cause real harm—creating fear, undermining social cohesion, and escalating tensions—broad or subjective bans risk silencing legitimate voices and suppressing minority perspectives. The solution lies not in blanket prohibitions, but in a rights-based, community-centred framework that strengthens protections against intimidation and vilification while safeguarding freedom of expression.

This submission recommends:

- Strengthening s93Z of the Crimes Act and the Crimes Amendment (Inciting Racial Hatred) Bill 2025 to address intimidation, incitement, and severe harassment
- Establishing expert mechanisms to interpret meaning, context, and intent
- Ensuring structured consultation with affected communities
- Embedding transparent oversight and education
- Protecting legitimate political, cultural, and religious expression
- Developing community-centred approaches to cohesion, dialogue, and conflict prevention

This balanced approach mirrors the logic of defamation law—protecting communities from harmful attacks without restricting democratic freedoms.

## 1. Introduction

Public expression is central to Australia’s democratic character. It enables communities to:

- Advocate for equality and justice

- Respond to misinformation
- Celebrate cultural identity
- Participate in political debate
- Mobilise peacefully for social change

For many migrant and minority communities, public expression is not optional—it is essential. Any proposal to restrict slogans must therefore be approached with precision, caution, and a deep understanding of multicultural realities.

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## **2. Importance of Free Expression for Multicultural Communities**

### **2.1 Advocacy, Visibility, and Representation**

Communities with limited media representation rely heavily on public expression to highlight issues, challenge stereotypes, and assert their presence in civic life.

### **2.2 Preventing the Silencing of Minority Voices**

Ambiguous or overly broad restrictions risk being misapplied by dominant groups or institutions, disproportionately affecting communities already facing systemic barriers.

### **2.3 Social Cohesion Through Open Dialogue**

Healthy democracies encourage open, respectful debate. Suppression of expression can drive grievances underground, increasing polarisation and mistrust.

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## **3. Human Rights and Democratic Participation**

Any regulatory approach must align with international human rights obligations, including:

- **Freedom of opinion and expression**
- **Freedom of peaceful assembly**
- **Equality in dignity and rights**

These protections are foundational to multicultural participation. Restrictions that are vague, subjective, or overly broad risk undermining these rights.

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## **4. Lived Experiences of Harmful Slogans**

Visible religious minorities—such as Sikh Australians—continue to face:

- Racial slurs and derogatory slogans
- Vilification in public spaces and online
- Coded hate speech not captured under current law
- Misidentification and scapegoating during global events
- Institutional misunderstandings of cultural or religious symbols

These experiences demonstrate the real-world harm caused by hateful or intimidating slogans, even when they fall short of explicit threats.

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## **5. Defamation Principles as a Model for Community Protection**

NSW defamation law protects individuals from false, harmful, or malicious statements. Communities, who can be collectively targeted, deserve equivalent safeguards.

However, protection must not come at the cost of legitimate advocacy.

A balanced approach should:

- Strengthen protections against malicious or harmful attacks on communities
  - Ensure definitions are precise, rights-based, and not open to misuse
  - Preserve political expression, cultural identity, and peaceful protest
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## **6. Risks of Overreach and Disproportionate Impact**

### **6.1 Subjectivity and Inconsistency**

Determining what constitutes an unacceptable slogan is inherently subjective. Without clear thresholds, enforcement risks inconsistency and bias.

### **6.2 Disproportionate Impact on Multicultural Communities**

Fear of misinterpretation or punitive action may discourage communities from speaking publicly, weakening civic participation.

### **6.3 Impact on Democratic Participation**

Public expression is central to peaceful protest, political advocacy, and cultural identity. Restrictions must not undermine these democratic functions.

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## **7. Response to the Terms of Reference**

### **7(a) Threats to Community Cohesion and Safety**

Hateful or intimidating slogans—whether overt or coded—pose real risks to community cohesion. They can:

- Normalise hostility
- Trigger fear and traumatisation
- Escalate tensions in public spaces
- Reduce civic participation among vulnerable communities

Current legislation focuses primarily on explicit threats or incitement to violence, leaving gaps where slogans cause fear, menace, or social disruption without meeting a criminal threshold.

### **Recommended Actions**

- Strengthen s93Z to include intimidation and incitement even without explicit violence
  - Provide clear thresholds and guidance for enforcement
  - Establish expert panels to interpret meaning, context, and impact
  - Introduce rapid protective mechanisms for imminent threats
  - Embed structured community consultation and transparent oversight
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### **7(b) Prevention of Inherently Hateful Phrases**

Some expressions carry coded or symbolic meaning that is harmful to targeted communities but may appear ambiguous to outsiders. Migrant and religious minorities frequently encounter such expressions.

Ambiguous or polarising slogans—especially those linked to international conflicts—can escalate tensions, provoke counter-hostility, and undermine social cohesion.

#### **Recommended Actions**

- Develop clear statutory definitions interpreted in context
  - Establish a multidisciplinary expert assessment body
  - Implement formal consultation with affected communities
  - Provide training for police and decision-makers on cultural context and coded hate speech
  - Introduce statutory safeguards for legitimate political expression
  - Require prosecutorial oversight for borderline cases
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### **7(c) Protecting Communities from Hatred, Intimidation, and Violence**

Protection must be strengthened without criminalising dissent or suppressing legitimate advocacy. Communities report:

- Psychological harm
- Withdrawal from public life
- Online amplification of hostility
- Inconsistent enforcement

#### **Recommended Actions**

- Amend s93Z to include incitement to intimidation and severe harassment
  - Ensure compatibility with ICCPR and UN Charter
  - Maintain independent oversight
  - Embed structured community consultation
  - Implement cross-agency protocols and education
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### **7(d) Best Practice Examples**

International models such as:

- UK Public Order Act 1986
- Canada Criminal Code (ss. 318–320)

demonstrate that targeted hate-prevention frameworks can enhance safety while protecting democratic freedoms.

#### **Recommended Actions**

- Adopt precise definitions with expert assessment
- Guarantee statutory safeguards for legitimate expression
- Institutionalise community consultation and prosecutorial oversight
- Integrate criminal, civil, and digital enforcement pathways
- Support consistent interpretation through education and training

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### **7(e) Australian Constitution and Implied Freedom of Political Communication**

The implied freedom of political communication is not unlimited. Reasonable and proportionate restrictions may be imposed when necessary to safeguard public safety or protect the rights of others.

#### **Recommended Actions**

- Establish objective thresholds for prohibited conduct
- Ensure transparent enforcement
- Maintain independent oversight
- Protect good-faith political, cultural, and religious expression

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### **7(f) Existing NSW and Commonwealth Measures**

Existing laws are fragmented and inconsistently applied across jurisdictions. As a result, multicultural communities frequently face uncertainty when it comes to understanding the thresholds for prohibited conduct and how enforcement will be carried out. This uncertainty can lead to confusion about legal protections and obligations, making it more challenging for these communities to feel secure and supported within the current legal framework.

#### **Recommended Actions**

- Introduce clear, standardised definitions
- Strengthen reporting and support mechanisms
- Provide regular training for authorities
- Coordinate emergency and enforcement procedures

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### **7(g) Other Related Matters**

#### **Economic Impacts**

Hate-driven hostility affects:

- Workplace safety
- Productivity
- Small business
- Australia's global reputation

#### **Community Education**

Education is essential to prevent the importation of overseas conflicts into Australian society.

#### **Recommended Actions**

- Deliver community education on respectful expression and conflict spillover
- Empower multicultural organisations to lead local cohesion efforts
- Conduct cost-benefit analyses of hate-driven hostility
- Provide targeted grants to affected communities

## 8. Conclusion

New South Wales has an opportunity to strengthen protections against hateful, intimidating, or harmful slogans while preserving the freedoms that underpin a vibrant multicultural democracy.

NSO urges the inquiry to adopt a rights-based, community-centred framework—grounded in precision, proportionality, and human rights— that will:

- Protect vulnerable communities
- Prevent escalation of hostility
- Promote social cohesion
- Safeguard democratic participation
- Ensure that all Australians can speak, advocate, and participate openly without fear

NSO stands ready to work with policymakers, educators, and community leaders to promote respectful expression, social cohesion, and a vibrant multicultural society.

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