

**Submission
No 56**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: Arab Council Australia

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Chair and Members
NSW Legislative Assembly Committee on Committee on Law and Safety
NSW Parliament

Submission to the NSW Legislative Council Inquiry: Measures to prohibit slogans that incite hatred and threaten community safety.

■ About Arab Council Australia

Arab Council Australia (ACA) is a secular all-inclusive and independent peak Arab community organisation¹. It has the specific aim of assisting the successful social inclusion of people from Arab backgrounds and promoting their active participation in and contribution to the wider community. Located in Sydney, where the largest population of Arabic background and Arabic speaking Australians live, the organisation works on behalf of all people from Arabic Speaking Backgrounds across Australia.

ACA is steadfast in working inclusively across diversity and in forging strong collaborative practices with community, government and other sectors. Over our 45-year history, we have been supporting and assisting Australians of Arabic speaking background (comprising of diverse groups whose origins are from 22 Arab countries) through a range of essential services. We believe in building a safe and secure future for a multicultural Australia and protecting vulnerable and minority communities.

ACA is committed to social justice, and discrimination in any form is incompatible with our values of equality and equity for all. We oppose racism and bigotry in all its forms. ACA has a long history of advocating against racism, including being actively involved in the campaign to repeal section 18c from the *Race Discrimination Act 1975* (Cwth), a campaign that brought together diverse communities who recognise that racism can only be challenged when it is addressed directly, wholistically, and on all fronts.

■ Opening Statement

We note that this Inquiry, by its rushed nature, and minimal notice over the holiday period, has significantly limited the ability for genuine community engagement and response. The legitimacy and therefore acceptance by community of the findings of this Inquiry and potential subsequent legislation will undoubtedly be pulled into question when a matter of this import and impact has all but done away with community engagement. Further, the Terms of Reference which offer little clarity and are worded in such a manner to indicate a pre-destined determination flies in the face of the NSW Government's stated ideals of social cohesion.

We also note that since the commencement of the escalation of violence on Gaza in 2023 there has been a concerted rise in racist attacks and violence against Palestinian, Arab and Muslim communities living in Australia. The rhetoric of certain elected officials and media outlets continues to draw false and unverified connections between the perpetrators of the Bondi shooting and the Palestine solidarity movement, contributing to an escalation in violence and hate crimes against these communities.

¹ Arab Council Australia: <https://www.arabcouncil.org.au/pages.php?About-Us>

This inquiry, through the structuring of the Terms of Reference and rushed nature with limited opportunity for genuine community engagement and reflection, can only be seen as a direct attempt to demonise the Palestine solidarity movement and hold this movement accountable for a crime and tragedy to which there is no link. Along with the prior legislation passed that curtails the democratic right for Australians to protest, this Inquiry by the NSW Government is a betrayal of the very ideals of community safety and social cohesion it is purporting to protect.

■ Summary of ACA Submission and Recommendations

Arab Council Australia (ACA) stands in unequivocal solidarity with all communities targeted by hate. We condemn anti-Semitism, anti-Arab, anti-Palestinian, anti-Islamic, and First Nations racism in the strongest possible terms. Hate speech that incites violence or threatens community safety has no place in Australian society.

The distinction between valid political expression and hate speech is critical to the protection of the fundamentals of democratic principles. The NSW Government's recent announcements to prohibit certain slogans (without clarification on what specific slogans are being considered) as well as expanding police powers that remove fundamental rights of citizens to publicly gather and voice their views, risks creating a dangerous precedent that effectively criminalise legitimate political expression and peaceful protest. Vague, phrase-based prohibitions that do not meet the necessarily high standards of hate speech will inevitably result in over-enforcement and selective and subjective application. These particular prohibitions that are under review will disproportionately affect marginalised communities.

We propose a principled approach that seeks to affirm the anti-racism framework that offers protections to all minority communities whilst safeguarding the fundamental democratic principles as declared by the NSW Government. This requires content-neutral criteria focused on intent, context, and impact—not arbitrary lists of forbidden phrases. International human rights law is clear: restrictions on expression must be precise, necessary, and proportionate. Our recommendations reflect this balance and offer a path forward that enhances community safety without eroding civil liberties for one group.

▶ Context: Safety, Rights, and Recent Developments

This inquiry faces significant challenges that demand careful consideration:

- **Insufficient Consultation:** The rushed timeline and holiday period scheduling have severely limited meaningful community engagement, raising questions in the community about the democratic legitimacy of the process.
- **Overly Broad Terms of Reference:** The Committee's mandate contains a troubling foregone conclusion—that certain phrases are "inherently hateful by their nature that they lead to incitement of hatred." This prejudges complex questions of meaning and context that require nuanced analysis.
- **Escalating Legislation:** NSW has strengthened hate crime laws with enhanced penalties for conduct near Jewish sites, while federal laws have expanded offences around advocating violence against protected groups. These developments demand careful scrutiny to ensure they don't create a two-tiered system of justice.
- **Selective Enforcement Concerns:** The immediate linking of the Bondi tragedy to Palestinian solidarity protests, despite lack of evidence, reflects a dangerous pattern of guilt by association that could inflame tensions rather than resolve them.
- **International Standards:** The ICCPR Article 19 and UN Human Rights Committee General Comment 34 establish strict limitations on restricting expression—any prohibition must be legally precise, pursue legitimate aims, and be necessary and proportionate.

► Clarifying the Debate Around "Slogans"

"Globalise the intifada"

The Government's characterisation of this chant as "encouraging violence" requires careful examination. While "intifada" (Arabic for "uprising") has been associated with Palestinian solidarity, its meaning is deeply contested:

- **Palestinian Perspective:** For Palestinians, this expression represents a call for worldwide popular resistance against occupation, dispossession, and systemic inequality—employing methods like protest, strikes, boycotts, and international solidarity.
- **Targeted Nature:** This expression has always and only ever been used in reference to the Palestinian resistance against the brutality of the occupying forces of Israel. A popular resistance which over the decades has taken on various forms and actions including non-violent resistance. It should be noted that the right to resist occupation is recognised in international law and affirmed by a number of UN resolutions. There are no instances of this term being used against Jewish communities or individuals simply for being Jewish, and no calls for an intifada against Jewish communities simply for being Jewish.
- **Context Matters:** Phrase-based prohibitions struggle when slogans have contested meanings, are deployed in varying contexts, or lack intent to threaten violence. International standards consistently warn against overbroad restrictions that chill political speech.

► Principles for Assessing Whether a Slogan/Chant Breaches the Law

ACA proposes these six guiding principles, grounded in human rights law and practical experience:

1. **Direct Advocacy or Threat of Violence:** Criminalise only expressions that explicitly advocate, glorify, or threaten violence against individuals or groups, or call for destruction of places of worship and congregation. Penalties should reflect context, including proximity to vulnerable sites.
2. **Targeted Harassment and Intimidation:** Prohibit conduct that harasses, intimidates, or threatens individuals or communities based on race, ethnicity, religion, or colour.
3. **Contextual Assessment:** Evaluate whether the expression, in its specific context, would cause a reasonable person in the targeted group to fear harassment, intimidation, or violence. Consider words used, setting, proximity to sensitive sites, accompanying actions, and organiser messaging.
4. **Precision and Accessibility:** Define prohibited conduct with clear, accessible language so people can understand and regulate their behaviour. Avoid vague, open-ended lists of phrases that are banned.
5. **Content-Neutral Enforcement:** Apply standards equally to all forms of extremist hate. Ensure consistent policing across all communities.
6. **Safeguards for Peaceful Assembly:** Protect lawful, non-violent protest with narrowly tailored policing powers, and robust judicial review mechanisms.

► Recommended Legislative and Policy Options

A. Replace Phrase Lists with Conduct-Based Tests

Instead of criminalising specific phrases, define offences by their harmful conduct:

- Prohibit chants that intentionally advocate or threaten violence
- Provide clear examples for guidance without creating exhaustive forbidden lists

This approach respects freedom of expression, does not demonise or misapply meaning of words in Arabic or any other language, whilst targeting genuine harm.

B. Strengthen Evidentiary Standards

Require robust evidence before charging individuals based on chanting:

- Mandatory audio/video documentation and forensic analysis
- Contextual assessment of setting, intent, and impact
- Post-incident review mechanisms to prevent misidentification
- Clear standards for witness credibility and corroboration

We refer to the incident at the Opera House in October 2023, where forensic analysis found no evidence of the "gas the Jews" chant despite widespread claims. This incident demonstrates why rigorous evidentiary standards and safeguards are essential.

C. Invest in Prevention Through Education

Legislation alone cannot eliminate extremism. We recommend:

- Full implementation of the Anti-Racism Framework Strategy at state and federal levels
- Community-led education programs addressing all forms of racism
- Partnerships between government, civil society, and affected communities
- Early intervention programs targeting hate before it escalates to criminal conduct

D. Transparent Guidance for Protest Organisers

Publish clear, accessible guidance that:

- Distinguishes prohibited threats/advocacy from lawful political expression
- Provides concrete examples and frequently asked questions
- References international standards on necessity and proportionality
- Offers consultation pathways for organisers seeking clarification

E. Enshrine Human Rights in Law

Australia stands as an outlier among Western democracies in lacking comprehensive human rights legislation. We recommend:

- Enactment of a Human Rights Act protecting fundamental freedoms
- Establishment of a state-based independent Human Rights Commission with enforcement powers
- Alignment of all legislation with international human rights standards
- Regular reviews of laws impacting freedom of expression

This would provide crucial safeguards for all citizens, particularly those facing systemic discrimination. The ACT, Victoria and Queensland have a Human Rights Act but there is no national Human Rights Act nor one at the NSW level.

► Specific Examples

- **Direct Threats of Violence:** Any chant explicitly threatening harm to individuals or groups—immediate prohibition and prosecution.
- **"Globalise the intifada":** Assess context and intent. When used as political expression against occupation without violent intent, it fails to meet standards of threatening or harassing behaviour. Authorities should intervene only if conduct or context meets the standards of threatening or harassing behaviour.
- **Offensive Rhetoric:** While deeply offensive, enforcement must be grounded in evidence. If conduct crosses into harassment, intimidation, or threat, it should be actionable.

■ Conclusion

The challenge before this Committee is not choosing between safety and rights, but finding the principled balance that protects both. Overbroad restrictions on expression risk creating more division than they prevent, while failing to address genuine hate and instead enables its spread.

ACA urges the Committee to adopt a measured approach that:

1. Targets genuine threats rather than political expression
2. Uses precise, conduct-based standards rather than forbidden phrase lists
3. Ensures equal application across all forms of extremism
4. Protects the rights of all communities
5. Invests in prevention through education and dialogue

This path forward will strengthen community safety, preserve democratic freedoms, and foster the social cohesion that makes Australia strong. We stand ready to work with the Committee to achieve this vital balance.

ACA expresses concern that measures designed to protect one community may inadvertently vilify others, potentially exacerbating tensions and jeopardising social cohesion and Australia's multicultural fabric. We note with concern that the label "antisemitic" does not and should not be weaponised to shield Israel from legitimate condemnation regarding its conduct towards Palestinians and its occupation of Arab territories.

References

- Australian Human Rights Commission An Anti-Racism Framework: Experiences and perspectives of multicultural Australia (2024)
- NSW Government media release: "NSW Government to crack down further on hateful symbols and slogans" (20 Dec 2025)
- Australian Human Rights Commission: Explainer—New national and NSW hate crime laws (2025)
- Human Rights Law Centre: Explainer—NSW's proposed laws on hate crimes and places of worship (11 Feb 2025)
- ABC News: NSW government to bring in tougher laws to combat public displays of Nazi ideology (19 Nov 2025)
- NSW Police/audio analysis coverage: No evidence "gas the Jews" was chanted at Opera House protest (ABC, 1 Feb 2024; SBS, 2 Feb 2024)
- Anti-Discrimination NSW: Racial vilification (updated 13 Mar 2025)
- ABC News explainer: New laws designed to curb racial hatred in NSW (11 Feb 2025)
- UN/ICCPR guidance: Permissible limitations (AHRC & AGD); General Comment No. 34 principles
- The Hundred Years War on Palestine book by Rashid Khalidi
- Anti-Racism Framework: An Anti-Racism Framework Community Consultations Report.pdf (humanrights.gov.au)