

**Submission
No 74**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: Australian Arab Institute for Culture and Ideas (AAICI)

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AAICI

**Australian Arab Institute
for Culture and Ideas**

**Submission to the NSW Legislative Assembly
Committee on Law and Safety Inquiry into
Measures to Prohibit Slogans that Incite Hatred**

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Acknowledgement of Country

The Australian Arab Institute for Culture and Ideas acknowledges the Traditional Owners of Country throughout Australia, and recognise the continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander Elders, past and present. It was, and always will be Aboriginal Land.

About the Institute

The Australian Arab Institute for Culture and Ideas (AAICI) is a national cultural and intellectual institution established to advance culture in Australia by supporting, promoting and showcasing the artistic, cultural and intellectual contributions of Australian Arab communities. The Institute works to create new artistic and cultural works, build creative leadership, promote understanding between communities through arts and culture, and contribute to a more representative and inclusive cultural and intellectual landscape.

AAICI is committed to advancing Arab cultural life, ideas, and civic participation in Australia.

You can find more about the Institute on www.aaici.org.au

Executive Summary

The Australian Arab Institute for Culture and Ideas (AAICI) makes this submission to the Inquiry into Measures to Prohibit Slogans that Incite Hatred to address the risks posed by proposed phrase-based bans on political expression.

AAICI unequivocally condemns antisemitism, racism, and all forms of hatred and violence, and supports strong enforcement of existing criminal laws prohibiting direct threats, incitement to violence, and serious racial hatred. However, AAICI strongly opposes the creation of offences prohibiting specific political slogans or phrases.

Phrase-based bans constitute content-based restrictions on political speech and would burden the implied freedom of political communication protected by the Australian Constitution. Political slogans used in protest are a core form of democratic participation. Such laws are unlikely to satisfy constitutional proportionality requirements where existing law already addresses genuine public safety risks and no evidence has been presented of a legislative gap.

AAICI emphasises that language cannot be separated from context, intent, or usage. Prohibiting phrases in isolation constitutes an attack on language itself, particularly where that language originates in non-English cultural or political traditions. In practice, phrase-based bans would disproportionately impact Arab, Muslim, and Palestinian communities, chill lawful protest and cultural expression, and undermine equality before the law. In effect, such measures are likely to operate in a racially discriminatory manner, disproportionately affecting Arab, Muslim, and Palestinian communities.

The submission also highlights the broader institutional and financial risks of suppressing contested political expression. Recent examples across cultural and media institutions demonstrate how risk-averse decision-making, justified by claims of “community cohesion”, has resulted in exclusion without any allegation of unlawful conduct. Embedding this logic into criminal law would expose NSW to significant constitutional litigation, judicial review, reputational damage, and public cost.

The submission further warns against the weaponisation of antisemitism through overly broad accusations that conflate legitimate criticism of Israel with hatred against Jewish people. This undermines efforts to combat antisemitism, silences Palestinian voices, and fuels further racial discrimination.

AAICI urges the Committee to adopt an evidence-based approach, reject phrase-based bans, affirm constitutional protections for political communication absent direct threats or incitement to violence, and pursue community safety through consistent enforcement of existing law rather than the criminalisation of political language.

1. Introduction

1.1 AAICI makes this submission in response to the Inquiry into Measures to Prohibit Slogans that Incite Hatred.

1.2 AAICI unequivocally condemns antisemitism, racism, and all forms of violence and intimidation.

1.3 AAICI supports strong enforcement of existing criminal laws prohibiting threats and incitement to violence.

1.4 AAICI opposes the creation of offences prohibiting particular political slogans or phrases.

2. Summary of position

2.1 Phrase-based prohibitions would:

- (a) burden the implied freedom of political communication;
- (b) constitute content-based restrictions on political speech;
- (c) be unnecessary in light of existing criminal law;
- (d) operate in practice in a racially discriminatory manner; and
- (e) undermine public confidence in democratic institutions.

2.2 AAICI strongly opposes phrase-based bans or prohibitions on specific words or slogans.

2.3 Language does not exist in isolation from context, intent, or usage. Banning phrases without regard to meaning, speaker intent, or surrounding circumstances constitutes an attack on language itself, particularly when that language originates in non-English cultural, historical, or political traditions.

3. Constitutional considerations

3.1 Political slogans used at protests constitute political communication at the core of representative democracy.

3.2 A law prohibiting specific slogans would burden the implied freedom of political communication recognised by the High Court.

3.3 Where a law targets particular political messages, it is content-based and attracts heightened constitutional scrutiny.

3.4 Under the proportionality framework applied by the High Court, such a law must be suitable, necessary, and adequate in balance.

3.5 These requirements are unlikely to be satisfied because:

- (a) NSW law already criminalises threats, intimidation and incitement to violence or racial hatred;
- (b) political slogans have contested meanings dependent on context and intent; and
- (c) no evidence has been presented of a gap in existing law requiring criminalisation of political language itself.

3.6 Constitutional law experts, including Professor Anne Twomey, have publicly warned that targeted slogan bans are vulnerable to constitutional invalidity.

4. Equality and structural discrimination

4.1 The Committee should consider the practical operation of any proposed law, not merely its formal neutrality.

4.2 In contemporary Australia, Palestinian identity and Palestine-related political expression are frequently treated by institutions as uniquely risky or divisive.

4.3 This pattern has been documented across schools, hospitals, universities, cultural institutions and local government bodies.

4.4 Recent examples include:

- (a) the collapse of the 2025 Bendigo Writers Festival following the imposition of a selective code of conduct after lobbying against a Palestinian-Australian writer; and
- (b) the decision of the Adelaide Festival Board on 8 January 2026 to remove the same writer from Adelaide Writers' Week while expressly stating that she had no connection to any violent act.

4.5 These decisions demonstrate exclusion without allegation of unlawful conduct, justified by reference to "community cohesion" or reputational risk.

4.6 A slogan-ban regime would embed this logic into criminal law, resulting in:

- (a) disproportionate enforcement against Arab, Muslim and Palestinian communities and their artistic, cultural and civic participation;
- (b) racialised policing of political expression; and
- (c) a chilling effect on lawful protest and civic participation.

4.7 Such outcomes are inconsistent with principles of equality before the law and social cohesion.

5. Financial and institutional risk

5.1 Attempts to suppress contested political expression create significant legal and governance risk.

5.2 In *Lattouf v Australian Broadcasting Corporation*, the unlawful removal of a journalist following political controversy relating to Gaza resulted in substantial legal costs, damages liability, governance failures, and reputational harm.

5.3 A slogan-ban regime would expose NSW to comparable risk across policing, local government, universities, cultural organisations and courts.

5.4 Each enforcement action would be capable of generating constitutional litigation, judicial review proceedings, and compensation claims.

5.5 These costs would ultimately be borne by the public.

6. Existing legal framework

6.1 AAICI supports the prohibition of:

- (a) Direct threats of violence against individuals or groups;
- (b) Explicit incitement to violence; and
- (c) The glorification or endorsement of imminent violent acts

6.2 NSW criminal law already prohibits:

- (a) direct threats of violence;
- (b) incitement to violence; and
- (c) serious racial hatred.

6.2 These provisions are sufficient to address genuine public safety risks.

6.3 Expanding criminal liability to political language itself is unnecessary and disproportionate.

6.4 We caution against expanding offences beyond these clear thresholds, as doing so risks conflating speech that is uncomfortable, political, or critical with speech that is genuinely dangerous.

7. Weaponisation of antisemitism

7.1 Antisemitism must be confronted firmly and directly.

7.2 However, when accusations of antisemitism are applied too broadly, particularly as a shield against legitimate criticism of the Israel's conduct towards Palestinians, they risk being weaponised. This practice:

- (a) Undermines genuine efforts to combat antisemitism;
- (b) silences Palestinian voices and their allies;
- (c) fuels anti-Arab and anti-Palestinian racism and discrimination; and
- (d) erodes trust between communities.

7.3 Protecting Jewish communities, as well as Palestinian and Arab communities, and protecting political debate are complementary objectives, not competing ones.

8. Evidence based approaches and outcomes

8.1 AAICI calls on the Committee to adopt an evidence-based approach and to clearly articulate:

- (a) What specific harm any proposed measure is intended to prevent;
- (b) How success will be measured; and
- (c) What safeguards will prevent misuse or overreach.

8.2 Community safety is strengthened through rights, education, and trust, not through rushed legislation, symbolic bans, or the criminalisation of language.

9. Recommendations

AAICI recommends that the Committee:

9.1 Reject any proposal to prohibit specific political slogans or phrases, an attack on the Arabic language itself.

9.2 Affirm that political communication is protected absent of direct threats or incitement to violence. Ensure this is a right protected under Australia's constitution.

9.3 Ensure existing criminal laws are enforced consistently and without discrimination.

9.4 Require any proposed reform or legislation to include:

- (a) strict and narrow definitions;
- (b) demonstrable necessity;
- (c) operational guidance to police regarding constitutional limits as well as anti-racism training;
- (d) high evidentiary thresholds;
- (e) transparent reporting on enforcement; and
- (f) independent oversight to detect discriminatory impact.

10. Conclusion

10.1 The objective of protecting communities from hatred and violence is legitimate and important.

10.2 Criminalising political language is not a lawful or effective means of achieving that objective.

10.3 Phrase-based bans would be constitutionally vulnerable, financially costly, racially discriminatory in effect, and corrosive of democratic participation.

10.4 Vague or expansive definitions of "hate" or "intimidation" invite misuse and selective enforcement. Precision is essential to ensure laws target harmful conduct, not identity, dissent, or political movements.

10.5 AAICI urges the Committee to require clear evidence that any proposed measures address a demonstrated gap in existing law, will meaningfully reduce harm or violence, and will not disproportionately impact particular communities.

10.6 The Australian Arab Institute for Culture and Ideas therefore urges the Committee to pursue community safety through enforcement of existing law and rights-respecting governance, rather than through the prohibition of political slogans.