

**Submission
No 89**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: Catholic Archdiocese of Sydney

Date Received: 12 January 2026

SUBMISSION TO
THE LEGISLATIVE ASSEMBLY COMMITTEE ON LAW AND SAFETY
INQUIRY INTO MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

12 JANUARY 2026

Introduction

The Catholic Archdiocese of Sydney is pleased to provide this submission to the Legislative Assembly Committee on Law and Safety inquiry into measures to prohibit slogans that incite hatred **(Committee.)**

Hatred undermines the inherent dignity of each and every person, fosters division, dehumanisation and even violence.

“Deliberate hatred is contrary to charity. Hatred of the neighbor is a sin when one deliberately wishes him evil. Hatred of the neighbor is a grave sin when one deliberately desires him grave harm.”¹

The shocking terrorist attack of 14 December 2025 that directly targeted Sydney’s Jewish community was a manifestation of racial and religious hatred.

The brazen and callous disregard for human life, and the hatred of some people toward all Jews, is an unspeakable evil that must be repudiated by every Australian.

Part of this is a condemnation of the atmosphere of public antisemitism and normalisation of incendiary language that has been allowed to fester over the past two years, and an appropriate and prompt legislative response that will address the hostility faced by our Jewish community.

It is because of the need for a rapid response that the normal parliamentary inquiry process has been truncated, with only a short window over the Christmas and New Year period for submissions to be made, no public hearings and a reporting date of 31 January 2026. Given the urgency of this matter, the timeframe is understandable.

However, the shortened process for this inquiry means its recommendations should not be used to implement a new legal framework that addresses matters outside of the imminent need for the strengthening of laws dealing with racial and religious hatred.

A delicate balance needs to be struck between laws that protect vulnerable groups, and the freedom of each individual to express his or her own beliefs and to challenge beliefs contrary to their own.

Laws seeking to prohibit the incitement of hatred should not be broad enough to prohibit speech that is unpopular. Not only would this be an unjustifiable imposition on individual freedoms, it can be counterproductive because overly restrictive risk preventing the type of civil discourse that we should be modelling.

Our first response to bad speech should be better speech. The bad speech should be denounced or debated. It should be corrected by friends and critiqued by others. Engaging in respectful civil discourse should be possible without the threat of arrest and prosecution.

¹Catholic Church, Catechism of the Catholic Church (2nd ed, Libreria Editrice Vaticana, 1997) <http://www.vatican.va/archive/ENG0015/INDEX.HTM>, no 2303.

Legal prohibitions and sanctions are not the ideal way to address speech that incites hatred and the criminal law is only a very small part of dealing with this issue. While the law has its place because it forbids certain kinds of bad behaviour and articulates community values and standards, there are prior and more effective forms of correctives. These include the education provided in families and by schools, churches and other community groups, and the wider culture, and these must be a high priority in the fight against hatred or its incitement.

The Archdiocese of Sydney is ready to assist in this respect and will redouble our efforts to combat antisemitism through education and preaching. We look forward to working with the Committee and all those of goodwill in protecting vulnerable communities.

Terms of reference

The terms of reference for this inquiry ask the Committee to consider the following matters:

- (a) The threat that the use of phrases like "globalise the intifada" poses to community cohesion and safety and the importance of maintaining social harmony and cohesion;
- (b) How best to prevent the use of phrases that are so inherently hateful by their nature that they lead to incitement of hatred and threaten community safety;
- (c) The need to protect communities from hatred, intimidation and violence;
- (d) Australian and international examples of best practice to combat the use of such slogans, including measures and approaches taken in the United Kingdom;
- (e) The Australian Constitution and the implied freedom of political communication;
- (f) Existing offences and other measures in New South Wales and Commonwealth legislation, including offences and measures that have been announced; and
- (g) Any other related matters.

This submission will address the terms of reference under the following headings:

- 1. Current laws against incitement of hatred and violence, and recent inquiries related to these – this will respond to items (c) and (f) above;
- 2. The prevention of use of hateful phrases – this will respond to items (a), (b) and (e) above
- 3. Hate speech laws in the United Kingdom – this will respond to item (d) above.

Current laws against incitement of hatred and violence, and recent inquiries related to these

Recommendation: No further changes to the criminal law be made until any related federal law are passed and the 12-month review of section 93ZAA of the Crimes Act is completed.

No person should be subject to hatred, intimidation and violence and it is important to do our best – as a community – to protect against these. State-based legislation plays a key role in this protection.

In relation to violence, section 93Z of the *Crimes Act 1900* (NSW) (**Crimes Act**) makes publicly threatening or inciting violence on the grounds of certain attributes, including race and religion, an offence.

In relation to intimidation, section 13(1) of the *Crimes (Domestic and Personal Violence Act) 2007* makes stalking or intimidating another person “with the intention of causing the other person to fear physical or mental harm” an offence.

Prior to the passage of the *Crimes Amendment (Inciting Racial Hatred) Act 2025* (NSW) (**Amendment Act**), the abovementioned laws have been key in the protection of communities from hatred, intimidation and violence, but arguably left a lacunae with respect to behaviour that was not sufficient to meet the bar of inciting violence nor targeted at an individual in a way that would enliven stalking and intimidation offences, but rather caused fear amongst a group of persons with a protected attribute.

The Amendment Act introduced section 93ZAA to the Crimes Act, creating the following offence:

“93ZAA Offence of publicly inciting hatred on ground of race

- (1) *A person commits an offence if--*
- (a) *the person, by a public act, intentionally incites hatred towards another person or a group of persons on the ground of race, and*
 - (b) *the public act would cause a reasonable person who was the target of the incitement of hatred, or a reasonable person who was a member of a group of persons that was the target of the incitement of hatred, to--*
 - (i) *fear harassment, intimidation or violence, or*
 - (ii) *fear for the reasonable person's safety.”*

The fear element required in this new offence is broader than that required for stalking and intimidation offences.

This amendment was introduced following a NSW Law Reform Commission (**NSWLRC**) review and report "on the effectiveness of s 93Z of the *Crimes Act 1900* (NSW) in addressing serious racial and religious vilification in NSW."²

The NSWLRC did not recommend the introduction of an offence of inciting hatred. It wrote:

“However, amending s93Z or introducing vilification offences that include hatred, animosity, contempt and/or ridicule would introduce imprecision and subjectivity into the criminal law. This concern applies regardless of whether s 93Z is expanded, or a lesser offence with a mental element of intention only, is introduced.

“Criminal offences carry serious penalties, including the possible deprivation of a person’s liberty. It is therefore important that criminal offences are clear and can be consistently understood across the community.

² New South Wales Law Reform Commission, Serious Racial and Religious Vilification (Report 151, September 2024) https://lawreform.nsw.gov.au/documents/Publications/Reports/Report_151_Serious_racial_and_religious_vilification.pdf, page ix.

“Many of the terms proposed to be included as criminal elements are difficult to define precisely. They can mean different things to different people. For instance, there are differences of opinion in the community about what hatred means. As several submissions observed, this ambiguity makes hatred an inappropriate standard for the criminal law.”³

The NSWLRC rightly recognised that criminal laws require clarity so that a person knows if they are engaging in conduct that could result in a deprivation of their liberty and that there are vastly differing opinions as to what constitutes “hatred” and “hate speech,” with some defining the latter as any form of criticism at all.

In light of the novelty of this new offence, the imprecision and subjectivity it brought into the criminal law, and its introduction notwithstanding the NSWLRC’s warning against it, the offence created by section 93ZAA is subject to review 12 months after its commencement. Additionally, an amendment that would see the section automatically repealed after three years was passed without the support of the government.⁴

This is an appropriate safeguard because in order to avoid arbitrary and inconsistent application, criminal laws must necessarily have a high amount of clarity.

Since the calling of this inquiry, the federal government has announced that it will also introduce legislation to ban so-called hate speech.⁵ However, the text of the proposed federal bill was not available at the time submissions to this inquiry closed.

In light of the lack of clarity about what federal laws might be introduced and how they will interact with state laws, it is submitted that the Committee should not recommend any further changes to the criminal law surrounding the incitement of hatred until any relevant federal laws have been passed and the 12-month review of the Amendment Act is completed.

If, contrary to this submission, the Committee does recommend that the criminal law be expanded to include more offences, it should also recommend that this be done narrowly and with the same in-built review and grandfathering mechanisms as section 93ZAA. To do otherwise could result in excessive or inconsistent regulation that would create an environment of fear of prosecution for every expressed disagreement. This would ultimately undermine, rather than serve, the stated goal of social harmony and cohesion.

³ New South Wales Law Reform Commission (n 2), para 4.30-4.32.

⁴ New South Wales, Legislative Council, Hansard, 21 February 2025 (Debate on Crimes Amendment (Inciting Racial Hatred) Bill 2025) <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1820781676-98746>

⁵ PM Anthony Albanese Unveils New Hate Speech Laws, Parliament to Be Recalled for Next Monday', The Australian (Online, [date if known, e.g., circa early 2025]) <https://www.theaustralian.com.au/nation/pm-anthony-albanese-unveils-new-hate-speech-laws-parliament-to-be-recalled-for-next-monday/news-story/77d4b3b703b286ef0d9d56079dd3847c>.

The prevention of use of hateful phrases

Recommendations:

- 1. Investigate alternatives to criminal law that address the environments in which problematic messaging occurs, such as temporary bans, requirements that public rallies not be at the same venue each week, and requiring a contribution to the cost of police presence.**
- 2. Find ways to educate the community in civil discourse and positive human behaviour, rather than simply banning certain language.**

It is clear that hateful language can cause division in the community and has the potential to incite individuals or groups to acts of violence, especially when frequently repeated. Words matter.

The existing laws outlined above appear sufficient to address hateful language that not only incites violence, but also incitement of hatred on racial grounds. It is possible that the current problem is one of enforcement, rather than a deficit in the law.

As noted above, it is submitted that the Committee should not recommend any further changes to the criminal law surrounding the incitement of hatred until the 12-month review of the Amendment Act is completed and more clarity is obtained on whether the current law, including recent amendments and any additions to be made at a federal level, is lacking.

However, there are other measures that might be taken to address the violent rhetoric that has been increasing over the last two years in particular by addressing the circumstances in which this language is used.

The weekly rallies in Hyde Park are one example of this. While organisers and attendees do not intend for these to be inflammatory or radicalising, it is worth investigating whether an escalation in emotions could be an undesired effect of weekly exposure to the same messaging over a period of years.

For example, in one instance, following the announcement of a potential peace deal in the Middle East, a speaker was heard to say: “While ever there’s a single Israeli alive, there will not be peace.”

There are ways to mitigate the risk of escalation that do not necessarily involve creating new offences. For example, protests could be temporarily banned, as is currently the case in NSW. There could alternatively be a requirement that the rally not be held in the same venue each week, so that the venue itself – in this case Hyde Park – does not itself become a place of intimidation and fear for those who regularly encounter this rally on a Sunday. These rallies could, if they were to happen regularly, be treated like other events where organisers must make a financial contribution to the police presence required to keep attendees and the community safe.

Such measures would not limit the right to protest but could minimise the creation of environments where problematic messaging is repeated and reinforced.

Another proposal outlined in the terms of reference is to prohibit particular phrases that are seen as inherently hateful, with the phrase “globalise the intifada” used as an example.

It is not clear that the listing of specific phrases would be effective for two key reasons.

Firstly, it is possible that those who intended their violent or hateful meaning would simply find alternatives or use acronyms or something similar to circumvent any legal prohibition.

Secondly, proscribing certain phrases as ‘inherently hateful’ ignores context, which is always important. There is a significant difference between chanting a phrase at a rally with hundreds of attendees or using it in a sermon, and sharing it on a WhatsApp group or a social media page that is visible to a much smaller number of people.

One illustration of the importance of context is the UK case of Chelsea Russell, a 19-year-old girl with an autism spectrum disorder who posted a tribute to a friend of hers who had died after being hit by a car on her Instagram page, which had 100 followers at the time. The post included the line: “kill a snitch n**** and rob a rich n*****” from a song by US rapper Snap Dogg.⁶

While the n-word would certainly be described as “inherently hateful,” the context in this matter was an expression of grief over the loss of a friend. Notwithstanding, prosecutors in the case successfully argued that the word is always offensive, irrespective of who uses it or the context in which it was used. Russell was convicted of using grossly offensive language which given its racial nature was labelled as a “hate crime”, fined, placed under an eight-week curfew and fitted with an ankle monitor.⁷ It is not clear that this was the intention of the lawmakers, nor necessary or helpful in protecting the community against acts of hatred.

Additionally, prohibition and punishment are only two small tools in protecting against hateful speech. As noted in the introduction to this submission, the better way to protect against hateful rhetoric is to educate people in civil discourse and positive human behaviour.

This may require the use of exemptions similar to those present in anti-discrimination law for any criminal prohibitions on speech. While it is imperfect to characterise legitimate public discourse as exceptions to the law, these have been a useful tool in limiting the law’s infringement on rights such as the implied freedom of political communication and freedom of religion. Such exemptions would need to be broader than those currently in section 93ZAA of the Crimes Act, which only protect a small proportion of people vested with some type of religious teaching authority. Rather, they would need to be capable of being pleaded by any person who made statements or engaged in conversation in good faith and for religious, academic, educational, artistic, literary or scientific purposes.

While such an approach may seem to give too much freedom for disagreement, we must learn again to discuss important matters and disagree, even vehemently disagree, while still maintaining respect for one another. The blunt instrument of the criminal law does not give people the tools to

⁶ 'Woman Guilty of "Racist" Snap Dogg Rap Lyric Instagram Post', BBC News (Online, 19 April 2018) <https://www.bbc.com/news/uk-england-merseyside-43816921>.

⁷ 'Woman Guilty of "Racist" Snap Dogg Rap Lyric' (n 6).

engage in civil discourse, but more usually results in a self-censorship that does not solve disagreements but suppresses them.

As Pope Francis wrote:

“When conflicts are not resolved but kept hidden or buried in the past, silence can lead to complicity in grave misdeeds and sins. Authentic reconciliation does not flee from conflict, but is achieved in conflict, resolving it through dialogue and open, honest and patient negotiation. Conflict between different groups “if it abstains from enmities and mutual hatred, gradually changes into an honest discussion of differences founded on a desire for justice”.”⁸

The goal is not simply to prevent hatred, but to promote love. For this, there needs to be a program of education and encounter that does not paper over conflict but rather accepts it and promotes a culture of fraternity.

While this is obviously a more difficult task and one that requires time and goodwill, it is the only approach that will ultimately be effective.

Hate speech laws in the United Kingdom

Recommendation: NSW does not use the United Kingdom’s legislation as a model for any further regulation here.

The use of the United Kingdom as an example of combating the use of hateful slogans in the Committee’s terms of reference is instructive, as the range of UK laws have had a significant impact on the freedom of political and other expression in that jurisdiction.

Laws relating to hateful or offensive material

Public Order Act 1986

Parts 3 and 3A of the *Public Order Act 1986* (UK) create offences relating to racial hatred and hatred against persons on religious grounds or grounds of sexual orientation, respectively.

The relevant provisions of these parts are below.

Section 18(1) Use of words or behaviour or display of written material.

A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if—

(a) he intends thereby to stir up racial hatred, or

⁸ Pope Francis, *Fratelli Tutti*: Encyclical Letter on Fraternity and Social Friendship (Vatican, 3 October 2020) no 244 http://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_fratelli-tutti.html.

(b) *having regard to all the circumstances racial hatred is likely to be stirred up thereby.*

Section 19(1) Publishing or distributing written material.

A person who publishes or distributes written material which is threatening, abusive or insulting is guilty of an offence if—

(a) *he intends thereby to stir up racial hatred, or*

(b) *having regard to all the circumstances racial hatred is likely to be stirred up thereby.*

Section 29B(1) Use of words or behaviour or display of written material

A person who uses threatening words or behaviour, or displays any written material which is threatening, is guilty of an offence if he intends thereby to stir up religious hatred or hatred on the grounds of sexual orientation.

29C(1) Publishing or distributing written material

A person who publishes or distributes written material which is threatening is guilty of an offence if he intends thereby to stir up religious hatred or hatred on the grounds of sexual orientation.

In a similar fashion to 93ZAA of the *Crimes Act 1900* (NSW), the *Public Order Act 1986* provides a broader range of offences relating to racial hatred than to other protected attributes.

Crime and Disorder Act 1998 (UK)

Separate to the above offences, Part III of the *Crime and Disorder Act 1998* (UK) provides additional offences where assault, property damage, public order offences or harassment are committed where the person was motivated by racial or religious hatred. These focus on offences against an individual, rather than the use or display of words or written material targeted at a group.

Communications Act 2003 (UK)

While the *Public Order Act 1986* focuses on public acts, the *Communications Act 2003* (UK) deals with electronic communications. The offences created by this law are not limited to protected attributes, but cover any electronic communication that can be characterised as grossly offensive, indecent, obscene or menacing. Section 127(1) provides as follows:

127(1) Improper use of public electronic communications network

A person is guilty of an offence if he—

(a) *sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or*

(b) *causes any such message or matter to be so sent.*

Malicious Communications Act 1998 (UK)

In addition to the *Communications Act 2003* (UK), the *Malicious Communications Act 1998* (UK) focuses on indecent or offensive communications sent to an individual recipient. Section 1 provides:

1 Offence of sending letters etc. with intent to cause distress or anxiety.

Any person who sends to another person—

(a) a letter, electronic communication or article of any description] which conveys—

(i) a message which is indecent or grossly offensive;

(b) any article or electronic communication] which is, in whole or part, of an indecent or grossly offensive nature,

is guilty of an offence if his purpose, or one of his purposes, in sending it is that it should, so far as falling within paragraph (a) or (b) above, cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

Commentary on laws related to hateful or offensive material

The above laws, while comprehensive demonstrate the “imprecision and subjectivity” that is inevitable when subjective concepts such as hatred are introduced into the law, as warned about by the NSWLRC.

The offences have provided a broad remit for arrests and prosecutions, given the subjective nature of ‘hatred’ and offensive. The Central Policing Service provides regular examples of hate crime convictions⁹ as well as a collated data set that provides statistics on the reach of the UK’s ‘hate crime’ legislation. In the 2024-2025 financial year, there were 15,128 prosecutions and 13,013 convictions for hate crimes.¹⁰

There have been many publicly-reported examples of conduct that have fallen or allegedly fallen within these definitions.

One high-profile arrest was that of comedian Graham Linehan, who was arrested at Heathrow Airport by five armed officers because of three posts regarding transgender persons Linehan had posted on X (formerly Twitter). London’s Metropolitan Police confirmed that the arrest was made due to the posts on X, on suspicion that Linehan was inciting violence.¹¹ While many might find

⁹ Crown Prosecution Service (UK), Yorkshire and Humberside, Hate Crime Sentence Uplift Examples (Online Series) including: Cases finalised January 2024 (15 March 2024) <https://www.cps.gov.uk/yorkshire-and-humberside/news/cps-yorkshire-and-humberside-hate-crime-sentence-uplift-examples-29>; Cases finalised February 2024 (12 April 2024) <https://www.cps.gov.uk/yorkshire-and-humberside/news/cps-yorkshire-and-humberside-hate-crime-sentence-uplift-examples-30>; Cases finalised March 2024 (17 May 2024) <https://www.cps.gov.uk/yorkshire-and-humberside/news/cps-yorkshire-and-humberside-hate-crime-sentence-uplift-examples-31>; Cases finalised April 2024 (29 August 2024) <https://www.cps.gov.uk/yorkshire-and-humberside/news/cps-yorkshire-and-humberside-hate-crime-sentence-uplift-examples-9>; Cases finalised October 2024 (19 December 2024) <https://www.cps.gov.uk/news/cps-yorkshire-and-humberside-hate-crime-sentence-uplift-examples-cases-finalised-october-2024>; Cases finalised November 2024 (21 January 2025) <https://www.cps.gov.uk/yorkshire-and-humberside/news/cps-yorkshire-and-humberside-hate-crime-sentence-uplift-examples-10>.

¹⁰ Crown Prosecution Service (UK), CPS Data Summary Quarter 4 2024-2025 (17 July 2025) <https://www.cps.gov.uk/publication/cps-data-summary-quarter-4-2024-2025>.

¹¹ 'Father Ted Creator Graham Linehan Arrested in the UK over Transgender Posts on X', ABC News (Online, 3 September 2025) (with wires) <https://www.abc.net.au/news/2025-09-03/graham-linehan-arrested-transgender-posts-on-x/105728142>.

Linehan's comments offensive, his case is illustrative of the concerns about the overreach of the UK laws and their apparent use to prevent criticism of prevailing, popular ideologies rather than uphold public safety.

Another high-profile case is that of Australian football star, Sam Kerr, who was charged with and tried for racially aggravated harassment for calling a police officer "f***king stupid and white."

These well-publicised cases are only two examples of the reach of the UK's hate crime legislation.

It is submitted that in excess of 15,000 prosecutions for hate crimes illustrates that these laws are not necessary to protect the public against hatred, nor are they assisting in the promotion of social cohesion. Rather, this type of regulation and enforcement appears to promote a culture of suspicion and denunciation and a breakdown in civil discourse. Instead of critique and education, objectionable and offensive remarks are prosecuted, even when personal or public safety is not threatened.

In light of this, it is submitted that the UK is not a good model for NSW to follow in seeking to address the incitement of hatred and promote social harmony and cohesion.

Conclusion

The desire to protect vulnerable groups and reduce hostility is commendable and is an important step in ensuring that diversity is not only tolerated, but valued, in New South Wales.

Legislation has a formative effect, setting expectations for behaviour and allowing for offences to be prosecuted. However, the challenge of the present moment cannot simply be placed upon lawmakers and law enforcement.

The entire community – families, schools and universities, churches and community groups and the culture more broadly – must come together to meet the challenge of the present moment, not simply by avoiding the incitement of hatred, but modelling a culture of encounter and respect.