

**Submission  
No 134**

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

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*Inquiry into Measures to Prohibit Slogans that Incite Hatred*

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# EXECUTIVE SUMMARY

## Core Position

Opposition to particular legislative measures should not be understood as minimising the seriousness of antisemitism. Antisemitism is a genuine and, in several contexts, growing threat. The central issue is not whether antisemitism should be addressed, but whether proposed responses accurately identify its sources and dynamics.

This submission argues that while community safety concerns warrant serious attention, comparative evidence from international jurisdictions indicates that prohibiting slogans and symbolic political speech is often an ineffective and potentially counterproductive policy response. By focusing narrowly on restrictions on pro-Palestinian expression, the inquiry risks misidentifying the sources of contemporary antisemitism while constraining legitimate political expression concerning an ongoing humanitarian catastrophe.

## Key Findings

**Absence of causal connection:** No publicly available evidence establishes a causal link between the Bondi Beach attack and pro-Palestinian slogans or activism. The decision to target the slogan *globalise the intifada* rests on anticipated or speculative harm rather than demonstrated incitement.

**Multiple sources of antisemitism:** Contemporary antisemitism arises from analytically distinct contexts: extreme right movements promoting explicit Nazi ideology; far-right movements combining conditional support for Israel with antisemitic conspiracy narratives; neo-jihadist actors; state-directed threats; and a smaller number of incidents within protest contexts. Policy approaches focusing primarily on criminalising pro-Palestinian speech do not meaningfully address these distinct sources.

**Comparative international evidence:** Taken together, comparative cases from Germany, the United Kingdom, and France suggest that speech and symbol prohibition regimes do not reliably correlate with reduced extremist mobilisation or enhanced community safety. Far-right movements consistently demonstrate adaptive capacity, developing new symbols, coded language, and communication strategies in response to legal restrictions.

**Constitutional constraints:** Any legislative restriction on political speech must satisfy proportionality requirements under the implied freedom of political communication. Where existing legal frameworks already address incitement, threats, and vilification, prohibiting contested political slogans may struggle to satisfy these constitutional requirements.

**Existing legal protections:** Australian law, including the *Criminal Code Act 1995* (Cth), *Racial Discrimination Act 1975* (Cth), *Crimes Act 1900* (NSW), and *Anti-Discrimination Act 1977* (NSW), already provides multiple mechanisms for addressing incitement, threats, and vilification. The appropriate response lies in consistent and proportionate enforcement rather than legislative expansion.

## The Risk of Misdiagnosis

The conflation of Jewish identity with the State of Israel, advanced both by far-right actors and, at times, by policy frameworks, may exacerbate rather than reduce antisemitism. This

conflation collapses a diverse and internally plural community into the actions of a single state, erasing dissent and political heterogeneity. Many Jewish Australians oppose current Israeli government policies and do not wish to be identified with them. When governments treat criticism of Israeli military operations as presumptively antisemitic, they risk implicitly endorsing the antisemitic premise that Jewish people bear collective responsibility for the actions of the Israeli state.

### **Recommended Approaches**

Rather than expanding speech prohibition, more effective and proportionate responses include: differentiated counter-extremism initiatives targeting specific sources of harm; consistent and even-handed enforcement of existing incitement and vilification laws; international coordination regarding state-directed threats; community education distinguishing antisemitism from legitimate political criticism; and transparent protocols for responding to antisemitic conduct when it arises within protest settings.

### **Conclusion**

The Committee is invited to consider whether Australia's tradition of evidence-based policy making is best served by responses in which the causal relationship between the proposed restriction and the harm it seeks to address remains undemonstrated. The comparative evidence supports caution in relation to proposals to expand speech prohibition, particularly where such measures rely on broad or indeterminate enforcement discretion rather than clear legislative standards.

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## **1. INTRODUCTION**

Australia has a significant historical record in the development of progressive civic and social rights. Campaigns for the eight-hour working day in the Australian colonies during the 1850s were among the earliest sustained labour victories of their kind and attracted international attention (Patmore 1993). In 1894, South Australia granted women both the right to vote and the right to stand for parliament, preceding comparable reforms in many European democracies. This tradition reflects a longstanding commitment to democratic participation grounded in deliberative, evidence-based approaches to public policy.

This submission argues that, while community safety concerns warrant serious and sustained attention, comparative evidence from international jurisdictions indicates that prohibiting slogans and symbolic political speech is often an ineffective and potentially counterproductive policy response. By focusing narrowly on restrictions on pro-Palestinian expression, the inquiry also risks misidentifying the sources of contemporary antisemitism, which are multiple and distinct, while simultaneously constraining legitimate political expression concerning an ongoing humanitarian catastrophe.

The submission proceeds across three interconnected levels. First, it examines the immediate context of the Bondi Beach attack and subsequent legislative responses, highlighting the absence of any demonstrated causal connection between the incident and the forms of political speech proposed for prohibition. Second, it offers a historically informed analysis of contemporary antisemitism, tracing its emergence across extreme right movements, far-right actors who combine antisemitic narratives with conditional support for Israel, neo-jihadist actors, state-directed violence, and a smaller number of incidents arising within protest contexts. Third, it reviews comparative international evidence alongside the Australian constitutional framework, demonstrating that speech prohibitions frequently fail to achieve their stated objectives and may instead reinforce narratives that have historically sustained organised forms of political discrimination, including antisemitism.

## **2. THE BONDI BEACH ATTACK AND PROPOSED LEGISLATION**

In December 2025, a mass shooting targeting a Hanukkah gathering at Bondi Beach in Sydney left 15 people dead. The attack was widely reported as antisemitic in character and was investigated within counter-terrorism frameworks. In the days that followed, public and political debate in New South Wales intensified around proposals to criminalise the slogan ‘globalise the intifada’. The NSW Premier publicly indicated support for legislative action, and amendments to counter-terrorism and public order legislation were subsequently advanced.

At the same time, developments in the United Kingdom provided a comparative point of reference. Police forces, including the Metropolitan Police and Greater Manchester Police, announced that chanting or displaying the phrase could give rise to arrest under existing public order laws, notwithstanding the absence of new primary legislation. Taken together, these developments illustrate the central concern addressed in this submission: content-specific restrictions on political speech being proposed or enforced without a demonstrated causal connection between the danger posed by the speech targeted and what violence has occurred to justify its prohibition.

## **2.1 Absence of Demonstrated Causal Connection**

There is no publicly available evidence establishing a causal link between the Bondi Beach attack and the chanting or promotion of the slogan ‘globalise the intifada’, nor to pro-Palestinian activism more broadly. The classification of the attack as terrorism-related and antisemitic does not establish, and should not be taken to suggest, any origin in or connection to the political activism now proposed for restriction. The absence of such a connection raises serious concerns about the evidentiary basis for singling out the phrase for prohibition.

The decision to target the slogan therefore rests on anticipated or speculative harm rather than demonstrated incitement. This risks substituting symbolic regulation for evidence-based responses to political violence. In the United Kingdom context, senior police figures have publicly also indicated that enforcement postures there would be ‘recalibrated’ in response to an escalating threat environment, signalling a shift toward enforcement-led regulation of speech in which police discretion increasingly substitutes for legislative clarity and judicial oversight. Scholars of security and constitutionalism have cautioned that such exception-based governance risks normalising extraordinary measures and eroding the distinction between emergency responses and ordinary law (Agamben 2005).

## **2.2 Definitional Ambiguity and Community Division**

The term ‘intifada’ is Arabic for ‘shaking off’ or ‘uprising’. Historically, the First Intifada (1987–1993) involved widespread civil resistance, including strikes, boycotts, and grassroots mobilisation, though it also involved stone-throwing and sporadic violence (Khalidi 1997). The Second Intifada (2000–2005) was markedly different in character, involving sustained armed conflict and suicide bombings targeting Israeli civilians, resulting in significant loss of life on both sides. Contemporary uses of the term are politically contested and context-dependent. Supporters often interpret the phrase ‘globalise the intifada’ as expressing solidarity with Palestinian resistance to occupation or as a call for international political mobilisation, while critics argue that the term is inseparable from violence directed at Jewish civilians.

This definitional ambiguity underscores the importance of legal precision before criminalising particular phrases. That need is reinforced by the absence of consensus within Jewish communities themselves. While some representative organisations have supported restrictions on the slogan, other Jewish organisations and commentators have opposed criminalisation, warning that such measures risk deepening polarisation and reinforcing perceptions of collective suspicion rather than reducing antisemitism. Where affected communities themselves disagree about whether particular forms of political speech should be restricted, that disagreement constitutes a strong reason for legal caution, restraint, and reliance on clearly defined thresholds of incitement rather than symbolic prohibition.

## **3. A PATTERN OF CONFLATION: FROM THE OPERA HOUSE TO BONDI**

The rhetorical strategy of linking pro-Palestinian protest to antisemitic violence has a recent history in New South Wales that predates the Bondi Beach attack. This history reveals a recurring pattern of conflation, repeatedly advanced in the absence of an adequate evidentiary foundation.

### **3.1 The October 2023 Opera House Incident**

On 9 October 2023, two days after the Hamas attacks on Israel, the NSW Government illuminated the Sydney Opera House in the colours of the Israeli flag. A pro-Palestinian protest subsequently gathered outside the site. Footage circulated online purporting to show protesters chanting ‘gas the Jews’. The footage was internationally widely reported and cited as evidence that pro-Palestinian protests posed a public safety threat (The Telegraph 2023).

Subsequent investigation, including forensic audio analysis commissioned by NSW Police, reportedly found no evidence that this phrase was used. Expert analysis instead concluded that the chant was more likely ‘Where’s the Jews?’, which is itself objectionable and antisemitic, but materially distinct from an explicit invocation of genocide. There was also evidence that some protesters directed expletives at Jewish communities. Protest organisers stated that these chants were attributable to a small, unaffiliated group and that police were asked to intervene but did not do so (Lewis and Kidd 2024; Lattouf and Wilson 2023).

This incident illustrates an important analytical distinction. Antisemitic conduct by individuals present at a protest is not equivalent to, and should not be treated as representative of, the character or purpose of a protest movement as a whole. It also demonstrates how initial misreporting or contested allegations can rapidly acquire the status of established fact when they align with prevailing political narratives or policy objectives.

### **3.2 Post-Bondi Rhetoric and the Claimed Progression**

In the aftermath of the Bondi Beach attack, senior public figures advanced public commentary suggesting a causal progression from protest slogans to acts of political violence. In particular, Australia’s Special Envoy to Combat Antisemitism publicly framed the Opera House demonstration, subsequent protests involving hundreds of thousands of participants across Australian capital cities, and the Bondi attack as part of a single sequence, describing a progression from protest rhetoric toward escalating harm (Staszewska and Henderson 2025). This framing was widely reported in international media.

No publicly available evidence has been offered to substantiate such a connection. Assertions of this kind collapse analytically distinct phenomena into a single explanatory framework, transforming questions of political expression into questions of terrorism. Civil liberties organisations, along with some Jewish advocacy groups, have cautioned that conflating criticism of Israeli government policy with antisemitism risks undermining community cohesion and democratic participation rather than strengthening them.

## **4. WHY PROTEST MATTERS: GAZA AND DEMOCRATIC PARTICIPATION**

Any consideration of restrictions on protest speech must take seriously the substance and context of what is being protested, particularly where earlier sections have demonstrated a pattern of causal misattribution between political expression and acts of violence. Since October 2023, Israeli military operations in Gaza have resulted in very large numbers of Palestinian deaths, as reported by international human rights organisations and the Gaza Health Ministry, and cited by United Nations agencies (UNHCR 2025). International legal bodies, including the International Court of Justice, have expressed grave concern regarding the humanitarian situation, with the ICJ ordering provisional measures under the Genocide Convention in proceedings concerning Israel’s conduct (ICJ 2024).

In this context, protest cannot be treated as a merely symbolic or ancillary feature of democratic participation. Rather, it constitutes a primary mechanism through which citizens contest government policies and international actions they regard as morally intolerable or legally questionable. Where protest speech is restricted not because it meets established thresholds of incitement or intimidation, but because it is retrospectively associated with unrelated acts of violence, the relationship between democratic participation and state power is inverted (Post 1990). Political expression directed at government conduct on matters of life and death therefore warrants the highest level of democratic protection (Young 2002).

At the same time, a substantive conception of democracy recognises that speech directed at intimidating or excluding communities raises distinct democratic concerns, insofar as it undermines the conditions of equal civic participation (Waldron 2012). This analysis clearly applies to antisemitic speech, which has a long and violent history, but it also applies to speech that targets Muslim, Palestinian, and other communities subject to vilification and collective suspicion. A democratic response must therefore rest on a careful distinction between protest directed at state policy and speech that seeks to intimidate, dehumanise, or collectively stigmatise communities. Failure to maintain this distinction risks reproducing the very forms of exclusion and insecurity that democratic protest is meant to contest.

## **5. THE MULTIPLE SOURCES OF CONTEMPORARY ANTISEMITISM**

Effective responses to antisemitism require clarity about its distinct sources. In Australia, contemporary antisemitism arises from multiple and analytically distinct contexts: extreme right movements promoting explicit Nazi ideology; far-right movements combining support for Israel with antisemitic conspiracy narratives; neo-jihadist actors; state-linked threats; and a smaller number of incidents occurring within protest contexts. Aggregating incidents without disaggregating by source risks misrepresenting where harms are occurring and misdirecting policy and enforcement responses.

### **5.1 Extreme Right Movements: Neo-Nazism and Explicit Antisemitism**

The most explicit form of contemporary antisemitism emanates from extreme right and neo-Nazi movements, for whom hostility toward Jewish people is a core ideological commitment, drawing directly on Nazi traditions, including Holocaust minimisation or denial. These movements are overtly and unambiguously antisemitic, continuous with the ideological traditions of historical fascism. Antisemitic narratives within these traditions have long positioned Jewish people as hidden forces behind apparently opposing phenomena, including international finance and revolutionary socialism, resolving the contradiction through conspiratorial claims. The myth of ‘Judeo-Bolshevism’, which portrayed communism as a Jewish plot, for instance, circulated widely across Europe following 1917 (Hanebrink 2018). These movements are also in Australia hostile to Israel, which they frame through the same conspiratorial lens.

In November 2025, a neo-Nazi rally outside NSW Parliament was authorised by police through standard Form 1 notification processes. Activists and legal experts accused the government of double standards, noting that pro-Palestinian protests had been subject to repeated court challenges and, in one case, a Supreme Court prohibition order (Gallagher 2025).

Notably, definitional confusion in current political discourse sometimes conflates analytically distinct phenomena: in January 2026, the federal Opposition Leader called for a Royal

Commission to address ‘far-left, neo-Nazi extremism’, a formulation that elides the fundamental ideological opposition between these movements (Ley, cited in Charles 2026).

## **5.2 Far Right Movements: Conditional Philosemitism and the Question of Statehood**

Alongside explicit neo-Nazism, a distinct and increasingly prominent phenomenon has emerged within the contemporary far right: conditional philosemitism, or the strategic adoption of ostensibly pro-Jewish positions, combined with the continued circulation of antisemitic premises. This posture is better understood not as solidarity with Jewish communities, but as a strategic repositioning in which support for Israel serves particular ideological functions. When promoted by the far right, underlying antisemitic assumptions often remain intact (Karp and Sutcliffe 2011).

Historically, antisemitism portrayed Jewish people as ‘rootless’ or ‘cosmopolitan’, lacking authentic territorial attachment and therefore capable of undermining national economies, cultures, and moral orders. Jewish statelessness was imagined as enabling transnational influence and the promotion of cultural and sexual ‘degeneracy’ said to weaken the nation from within (Hanebrink 2018).

The establishment of Israel in 1948 might have been expected to disrupt this narrative, but it complicated rather than dismantled the underlying ideological structure (Feldman 2018). As research on far-right philosemitism demonstrates, contemporary far-right movements increasingly frame Jews as acceptable, and even exemplary, insofar as Jewish identity is aligned with Israel, a ‘Judeo-Christian’ civilisational narrative, or opposition to Islam (ICSR 2020). Acceptance is conditional and instrumental, premised on political alignment rather than a repudiation of antisemitic reasoning (Richards and Jones 2021).

This dynamic is evident across European far-right parties with antisemitic histories, including Germany’s Alternative für Deutschland (AfD), France’s Rassemblement National, Italy’s Lega, and the Sweden Democrats. These parties have adopted overtly pro-Israel positions while members and supporters continue to circulate conspiracy narratives concerning ‘globalist’ elites, demographic ‘replacement’, and cultural decay. Support for Israel functions primarily as opposition to Muslim migration and as insulation against accusations of antisemitism, rather than as a rejection of antisemitic logic (Klaff 2010; ICSR 2020).

Contemporary far-right conspiracy discourse reproduces these historical structures through narratives such as ‘Cultural Marxism’, widely analysed as a modernised iteration of earlier claims about Jewish-led cultural degeneration and closely aligned with tropes such as *Kulturbolschewismus* (Busbridge, Moffitt and Thorburn 2020; Richards et al. 2021). Prohibiting discrete slogans or symbols may disrupt particular performances of these ideas, but it does not address the underlying ideological architecture through which antisemitism is reproduced.

## **5.3 Neo-Jihadist Movements and Antisemitism**

Publicly reported information indicates that the Bondi Beach attack was investigated as terrorism-related and motivated by antisemitism. No publicly established evidence links the attack to pro-Palestinian activism or protest movements. It is therefore analytically essential to distinguish between political mobilisation in support of Palestinian rights and violence associated with neo-jihadist ideology.

Within neo-jihadist movements, antisemitism is closely bound to hostility toward Zionism, but the relationship is not reducible to opposition to Israeli state policy. Zionism is framed not simply as a nationalist project, but as a global conspiratorial force alleged to dominate Western governments, finance, media, and military power (Richards 2020a). Jewish people are frequently positioned as collective agents of this imagined system, collapsing the distinction between Jews, Israel, and Western states into a single enemy. In this framework, attacks on Jewish civilians are justified as strikes against 'Zionism' understood as a civilisational adversary rather than a political ideology (Richards 2020b).

Scholars of jihadist movements have long noted that, while figures such as Osama bin Laden invoked Palestinian suffering rhetorically, neither al-Qaeda nor Islamic State consistently centred the Israeli-Palestinian conflict as the primary driver of mobilisation (Hegghammer 2010; Gerges 2016). Instead, antisemitism functions as part of a broader apocalyptic worldview in which Jews are cast as enemies of Islam aligned with Western imperial power. Radicalisation then occurs through transnational propaganda networks, online grievance amplification, and ideological narratives that are largely disconnected from domestic protest activity (Conway 2016). Criminalising protest slogans does not meaningfully engage these dynamics.

#### **5.4 State-Directed Violence**

Some antisemitic threats arise from state-linked or foreign-directed actors rather than domestic protest movements. Australian and allied security agencies have publicly warned of foreign intelligence services targeting Jewish institutions and individuals abroad and within diaspora communities.

In particular, the Islamic Revolutionary Guard Corps (IRGC) has been linked by international authorities to planned and attempted attacks on Jewish and Israeli targets in multiple jurisdictions including Australia, through plots against synagogues, community centres, and Israeli diplomatic personnel in Europe and elsewhere (Bassi and Corera 2025). These activities operate through covert networks and proxy actors and are motivated by geopolitical strategy rather than grassroots protest mobilisation.

Where antisemitic intimidation or violence is linked to foreign state actors, appropriate responses lie in counter-intelligence, protective security, sanctions, and diplomatic measures. Domestic speech prohibition is not an effective tool for addressing such threats and risks diverting attention from the actors and capabilities actually involved.

#### **5.5 Antisemitic Elements Within Some Protest Movements**

This submission acknowledges that antisemitic incidents have occurred in the context of some pro-Palestinian activism. Analytical clarity requires distinguishing between the conduct of individuals and the character of a political movement as a whole. University encampments and protests that emerged in 2024 were continuous with forms of political mobilisation common in democratic societies, including the anti-apartheid divestment campaigns of the 1980s and anti-war protests of the early 2000s. These mobilisations were not, in themselves, antisemitic. There were however documented instances warranting serious attention in which Jewish students experienced harassment and intimidation, particularly in contexts involving Jewish cultural or religious events, rather than at political demonstrations as such (Kozaki 2025).

There have also been instances in which political figures critical of Israeli government policy employed antisemitic tropes. In December 2023, at a Palestine Justice Movement forum in Bankstown, NSW Greens MP Jenny Leong referred to a ‘Jewish lobby’ whose ‘tentacles’ allegedly reached into positions of power (Rose 2024). This imagery echoes longstanding antisemitic conspiracy narratives centred on hidden influence and infiltration. Although Leong subsequently apologised, the incident illustrates how antisemitic tropes can circulate beyond explicitly far-right contexts.

These incidents deserve neither dismissal nor minimisation. However, misconduct by individuals is analytically distinct from the question of whether particular slogans are inherently antisemitic or whether protest movements as such incite violence. When examined case by case, and accounting for exceptions of limited speech addressing Israeli government policy, protest-related antisemitism accounts for a far smaller share of total incidents than aggregate figures imply. Notably, Palestinian and pro-Palestinian organisers have frequently been among those who challenged antisemitic language or symbolism when it emerged, including at mass rallies in the national ‘March for Humanity’ of August 2025. The presence of antisemitic incidents within a political movement does not establish that the movement’s core claims or objectives are themselves antisemitic.

## **5.6 The Risk of Misdiagnosis**

Opposition to particular legislative measures should not be understood as minimising the seriousness of antisemitism. Antisemitism is a genuine and, in several contexts, growing threat. The central issue is not whether antisemitism should be addressed, but whether proposed responses accurately identify its sources and dynamics.

Policy approaches that focus primarily on criminalising pro-Palestinian speech risk misdiagnosing the locus of harm. Such measures do not address extreme right antisemitism grounded in explicit Nazi ideology, do not meaningfully disrupt far right antisemitism operating through conditional philosemitism, do not engage the recruitment pathways and ideological drivers of neo-jihadist violence, and do not mitigate antisemitic threats linked to state-directed or foreign actors.

More fundamentally, the conflation of Jewish identity with the State of Israel, advanced both by far right proponents of philosemitism and, at times, by policy frameworks, may exacerbate rather than reduce antisemitism. This conflation collapses a diverse and internally plural community into the actions of a single state, erasing dissent and political heterogeneity. Many Jewish Australians oppose current Israeli government policies and do not wish to be identified with them (Marcus and Franquesa 2024). When governments internationally treat criticism of Israeli military operations as presumptively antisemitic, they risk implicitly endorsing the antisemitic premise that Jewish people bear collective responsibility for the actions of the Israeli state (Richards 2026).

The International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism includes examples that blur the distinction between hostility toward Jewish people and criticism of Israeli state policy. As former UK Court of Appeal judge Stephen Sedley has observed, this approach risks institutionalising conflation rather than preventing it (Sedley 2017). The definition’s principal drafter, Kenneth Stern, has likewise cautioned against its ‘weaponisation’ as a means of suppressing legitimate political expression rather than effectively addressing antisemitism (Miller 2025).

## **6. HISTORICAL CONTEXT: AUSTRALIA’S MIGRATION POLICY**

Understanding Australia’s contemporary responses to antisemitism benefits from historical perspective. Under the White Australia Policy and into the early Cold War period, Australian governments imposed restrictive immigration controls that significantly limited Jewish refugee entry, including during periods of acute persecution. At the 1938 Evian Conference, Australia’s delegate stated that the country did not wish to ‘import’ a racial problem, signalling the limits of Australia’s humanitarian commitments even as antisemitic violence intensified in Europe (Rubinstein 1991).

In the post-war period, Jewish migrants were frequently assessed through security frameworks that prioritised ideological conformity over humanitarian need. Jewish displaced persons were often viewed with suspicion—or prohibited from migrating to Australia—because of perceived associations with internationalist, labour, or anti-fascist movements, particularly as Cold War anxieties about communism hardened. More broadly, restrictive screening criteria made it extremely difficult for Jewish displaced persons to be selected for mass resettlement programmes (Rutland 1985; Markus and Rutland 2024).

At the same time, Australia admitted individuals associated with far-right and fascist movements where their anti-communist credentials aligned with geopolitical priorities. This included members and affiliates of collaborationist regimes and organisations such as the Ustaše, whose involvement in wartime atrocities did not preclude migration where they were framed as reliable anti-communist actors (Persian 2023). This asymmetry underscores that migration and security policy was shaped less by a principled opposition to antisemitism than by racialised and geopolitical considerations.

This history cautions against contemporary security frameworks that claim to protect Jewish communities while relying on expansive controls over political expression. Without attention to these historical patterns, such measures risk reproducing forms of governance that prioritise ideological management over genuine community safety.

## **7. COMPARATIVE INTERNATIONAL EVIDENCE**

Comparative analysis of symbol and speech prohibition regimes in other jurisdictions offers important insights for Australian policymakers. The available evidence suggests that such regimes do not reliably correlate with reduced extremist mobilisation or improved community safety. Instead, far right movements have demonstrated a significant capacity to adapt symbolically, discursively, and organisationally in response to legal restrictions.

### **7.1 Germany: Symbol Prohibition and Adaptation**

Germany is frequently cited as a comparative model for the prohibition of extremist symbols. Under section 86a of the German Criminal Code (*Strafgesetzbuch*), symbols associated with unconstitutional organisations, including the swastika and SS insignia, have been prohibited since the post-war period. This constitutes the most extensive and long-standing symbol prohibition regime among Western democracies.

Germany’s experience illustrates both the rationale for, and the limits of, symbol-based prohibition. German security agencies have documented a sustained rise in far-right criminal offences, including violent acts and repeated use of prohibited symbols. A series of far-right

terrorist attacks in 2019 and 2020, including the Halle synagogue shooting and the Hanau attack, prompted authorities to warn of escalating extremist violence.

In response to prohibition, German neo-Nazi movements have adapted their symbolic repertoires. The black-white-red Imperial German flag (*Reichsflagge*), which served as a co-national flag alongside the swastika between 1933 and 1935, now functions as a substitute insignia at far-right gatherings. The *Schwarze Sonne* (Black Sun), a symbol associated with the SS but not explicitly prohibited, appears frequently in extremist imagery. Nordic runic symbols such as the othala rune, as well as the *Reichskriegsflagge* (Imperial War Flag) in its non-swastika form, similarly evoke Nazi associations while technically evading legal sanction. Organisations including the Southern Poverty Law Center and Anti-Defamation League have documented how prohibition drives extremists to develop coded alternatives that communicate the same message while avoiding legal sanction.

At the same time, Alternative für Deutschland entered the Bundestag in 2017 with 12.6 per cent of the vote and has since recorded historically high levels of support in several state elections, particularly in eastern Germany. The party operates within Germany's restrictive legal environment while circulating narratives that scholars identify as continuous with longer traditions of far-right discourse. Research on far-right visual and aesthetic strategies suggests that restrictions on specific symbols tend to redirect, rather than eliminate, the aestheticisation of politics (Richards 2025).

Jewish communities in Germany continue to report threats, harassment, and violent attacks, indicating that symbol prohibition alone is insufficient to address the ideological, organisational, and social drivers of antisemitism and far-right violence.

## **7.2 The United Kingdom: Enforcement-Led Speech Regulation**

The United Kingdom provides a particularly relevant comparative case. UK public order law contains several offences applicable to protest speech. Section 4 of the *Public Order Act 1986* prohibits threatening, abusive, or insulting words or behaviour intended to cause fear of violence. Section 4A prohibits intentionally causing harassment, alarm, or distress. Section 5, as amended in 2014, prohibits threatening or abusive words or behaviour likely to cause harassment, alarm, or distress. The *Crime and Disorder Act 1998* further provides for racially or religiously aggravated versions of these offences, carrying enhanced penalties.

The police announcements made in December 2025 marked a significant shift in enforcement posture. Prior to these statements, the Crown Prosecution Service had advised that phrases including 'globalise the intifada' did not meet prosecution thresholds under existing law. The subsequent joint statement by the Metropolitan Police Commissioner and the Chief Constable of Greater Manchester Police that forces would 'recalibrate to be more assertive' effectively altered enforcement practice without any accompanying legislative change. Within days, arrests were made at London protests for chanting slogans involving the word 'intifada' (Dodd and Badshah 2025).

This approach raises serious questions about legal certainty and the rule of law. Proscribing particular slogans does not deliver the certainty it promises; it simply relocates the interpretive problem. If 'Globalise the Intifada' is treated as criminal, questions immediately arise: is the word 'Intifada' alone permissible? Does 'Globalise the Palestinian Uprising' fall within or outside the prohibition? These interpretive nuances are inherent to language itself, and individuals will remain unable to predict reliably which expressions attract criminal sanction. Such uncertainty risks producing a chilling effect, deterring lawful political

expression out of fear of arrest or prosecution. The UK experience illustrates that enforcement-led approaches to speech regulation carry risks distinct from, but potentially as significant as, formal legislative prohibition.

### **7.3 France: Robust Enforcement and Persistent Mobilisation**

France provides one of the most extensive comparative examples of hate speech regulation. French law prohibits incitement to discrimination, hatred, or violence on grounds including race, religion, and national origin, with prosecutions pursued under the 1972 Pleven Law, the 1990 Gayssot Act, and related provisions. Enforcement has been comparatively active.

Yet far-right mobilisation has persisted. Rassemblement National (formerly the Front National) has become a major electoral force, with Marine Le Pen reaching the presidential run-off in 2017 and 2022. Antisemitic, Islamophobic, and racist incidents continue to be reported, including violent attacks. The French experience suggests that even robust prohibition and enforcement regimes do not, by themselves, eliminate far-right influence or produce sustained improvements in community safety.

### **7.4 Canada: Proportionality and Judicial Restraint**

Canada illustrates the difficulty of achieving consensus on hate speech restrictions, even within a single legal system. In *R v Keegstra* [1990] 3 SCR 697, the Supreme Court of Canada upheld criminal hate speech provisions by a narrow 4–3 majority. While the majority found the law a justifiable limit on expression, the dissent warned that criminal prohibition could produce a chilling effect on legitimate speech, deter expression through uncertainty, and may not effectively reduce hate propaganda. This division reflects an enduring tension in comparative jurisprudence between the aspiration to suppress harmful speech and the risks of overcriminalisation.

Taken together, these comparative cases suggest that speech and symbol prohibition regimes do not reliably correlate with reduced extremist mobilisation or enhanced community safety. Far right movements consistently demonstrate adaptive capacity, developing new symbols, coded language, and communication strategies in response to legal restrictions. The comparative evidence therefore supports caution in relation to proposals to expand speech prohibition in Australia, particularly where such measures rely on broad or indeterminate enforcement discretion rather than clear legislative standards.

## **8. THE AUSTRALIAN CONSTITUTIONAL FRAMEWORK AND EXISTING LAW**

### **8.1 The Implied Freedom of Political Communication**

The Australian Constitution implies a freedom of political communication, as the High Court has consistently recognised since *Australian Capital Television v Commonwealth* (1992) and *Lange v Australian Broadcasting Corporation* (1997). Any legislative restriction on political speech must be assessed against this constitutional protection.

The current test, set out in *McCloy v New South Wales* (2015), involves three questions: whether the law burdens political communication, whether it serves a legitimate purpose consistent with representative government, and whether it is reasonably appropriate and adapted to that purpose. This last step considers suitability, necessity, and balance.

Legislation prohibiting political slogans would clearly burden political communication, particularly where such slogans are used to express opposition to government policy or international conduct. Where existing legal frameworks already address incitement, threats, and vilification, and where there is no demonstrated causal connection between the targeted speech and violence, prohibiting contested political slogans may struggle to satisfy constitutional proportionality requirements. In such circumstances, the burden on political communication may be difficult to justify as necessary or adequately tailored.

## **8.2 Existing Australian Legal Framework**

Australian law already provides multiple mechanisms for addressing incitement, threats, and vilification. At the Commonwealth level, the *Criminal Code Act 1995* creates offences for urging violence against groups distinguished by race, religion, or nationality. The *Racial Discrimination Act 1975* extends further, prohibiting conduct reasonably likely to offend, insult, humiliate, or intimidate a person because of their race.

At the state level, New South Wales law includes significant protections. The *Crimes Act 1900* already prohibited publicly threatening or inciting violence on grounds including race and religious affiliation. The *Crimes Amendment (Inciting Racial Hatred) Act 2025* added a further offence of intentionally and publicly inciting hatred on racial grounds, punishable by up to two years' imprisonment. The *Anti-Discrimination Act 1977* also makes it unlawful to incite hatred or serious contempt on racial grounds. Collectively, these provisions address the spectrum from civil vilification to criminal incitement.

Taken together, these provisions indicate that Australian law already addresses the core harms associated with antisemitic incitement and intimidation. Where existing frameworks are capable of capturing the conduct at issue, the appropriate response lies in consistent and proportionate enforcement rather than legislative expansion. Creating new offences directed at contested political slogans risks duplicating existing powers while raising constitutional concerns and increasing the potential for overreach.

## **9. ALTERNATIVE APPROACHES**

Rather than expanding speech prohibition, more effective and proportionate responses to antisemitism are available. Any policy response should be differentiated according to the distinct sources of harm identified in this submission. These include targeted counter-extremism initiatives addressing both extreme right and far right radicalisation, international coordination and intelligence cooperation in relation to state-directed threats, community education that clearly distinguishes antisemitism from legitimate political criticism, and transparent protocols for responding to antisemitic conduct when it arises within protest settings.

Consistent and even-handed enforcement of existing incitement and vilification laws is essential. Inconsistencies in the application of protest regulation, particularly where neo-Nazi rallies have been authorised while pro-Palestinian protests have faced heightened scrutiny or legal challenge, undermine public confidence in the neutrality of the legal framework. These disparities suggest that enforcement priorities—potentially influenced by factors such as the political environment and protest size—rather than legislative gaps, are the more pressing concern.

Historical and political education also plays a critical role in effective prevention. Understanding how antisemitic narratives have operated historically, including the portrayal of Jewish people as cosmopolitans or ‘borderless enemies’ and the circulation of myths such as Judeo-Bolshevism and Cultural Marxism, is essential to recognising and countering contemporary antisemitism in its evolving forms (Hanebrink 2018; Busbridge, Moffitt and Thorburn 2020).

## **10. CONCLUSION**

This submission has argued that prohibition alone is unlikely to be effective in addressing antisemitism or improving community safety. Comparative evidence from Germany, the United Kingdom, and France indicates that prohibiting symbols and slogans does not reliably prevent far right mobilisation or deliver sustained reductions in extremist violence. Far right movements demonstrate a consistent capacity to adapt to legal restriction through the development of alternative symbols, coded language, and aesthetic strategies, as illustrated by the adoption of Imperial-era insignia in Germany following the prohibition of Nazi symbols.

The proposed policy response risks misdiagnosing the problem it seeks to address. Contemporary antisemitism arises from multiple and distinct sources. Criminalising a pro-Palestinian slogan does not directly engage these sources and may risk reinforcing historical narratives that have themselves sustained antisemitism.

The rhetorical strategy of linking peaceful protest to terrorism lacks an evidentiary foundation. Moreover, the conflation of Jewish identity with Israeli state policy, which some far-right actors who espouse support for Israel recognise and exploit, may itself contribute to increased antisemitism, particularly over the longer term. Historically, antisemitism portrayed Jewish people as dangerous precisely because they were imagined as stateless or transnational. Contemporary far-right movements resolve this perceived problem by accepting Jewish people only insofar as they are associated with the State of Israel. Policy frameworks that reinforce this conflation risk lending legitimacy to an underlying ideological structure that reinforces and also extends beyond antisemitism to other forms of exclusion.

Finally, constitutional constraints require careful consideration. Any restriction on political speech must satisfy proportionality requirements under the implied freedom of political communication. Alternative approaches, including differentiated responses targeting specific sources of harm, consistent enforcement of existing law, inclusive community protection, and historically informed public education, are more likely to be effective and constitutionally sound.

The Committee is invited to consider whether Australia’s tradition of evidence-based policy making is best served by responses in which the causal relationship between the proposed restriction and the harm it seeks to address remains undemonstrated.

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### **New South Wales**

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### **United Kingdom**

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