

**Submission
No 145**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: Cultural Media

Date Received: 16 January 2026

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

SUBMISSION TO NSW PARLIAMENTARY INQUIRY INTO MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

FROM: Cultural Media / Palestinian Film Festival Australia

DATE SUBMITTED: 16 January 2026

ABOUT CULTURAL MEDIA

Cultural Media is a not-for-profit organisation dedicated to fostering cross-cultural understanding through the arts. We founded and have been managing the Palestinian Film Festival Australia since 2007, and the QUMRA Arab Festival, which celebrates Arab cinema and culture. Our work involves curating and presenting Palestinian narratives within an Australian context, including legal frameworks, facilitating dialogue on complex geopolitical issues, and building bridges between communities through cultural programming.

Our submission draws on systematic academic research examining hate speech regulation across 25 studies in multiple democratic jurisdictions, as well as our lived experience presenting politically sensitive content in ways that promote mutual understanding, respect and social cohesion.

EXECUTIVE SUMMARY

We oppose the creation of broad prohibitions on political slogans. The evidence from international democracies demonstrates that:

1. No universal determination exists for whether phrases like "globalise the intifada" or "from the river to the sea" constitute hate speech - interpretation depends on context, speaker, intent and audience
2. Existing NSW and Commonwealth laws are sufficient to address genuine incitement to violence
3. Blanket bans risk selective enforcement against marginalised communities, particularly Palestinians, Arabs and Muslims advocating for Palestinian rights
4. International best practice uses case-by-case analysis through frameworks like the Rabat Plan of Action, not predetermined lists of banned phrases
5. Cultural dialogue and education build genuine community cohesion more effectively than censorship.

CONCERNS ABOUT THE TERMS OF REFERENCE

a) The threat that phrases like "globalise the intifada" pose to community cohesion and safety

A systematic review of 25 academic studies across democratic jurisdictions found that "the evidence cannot provide a universal determination of whether phrases like 'globalise the intifada' constitute hate speech, as interpretation depends on mechanisms identified across studies."

Context determines meaning:

The term "intifada" literally means "uprising" or "shaking off" in Arabic. In Palestinian and Arab contexts, it signifies legitimate resistance to military occupation. In Israeli and some Western Jewish contexts, it connotes terrorism and violence against civilians. This parallels how the phrase "Kill the Boer" in South Africa was interpreted as referring to the apartheid system by some and as a call for violence against farmers by others.

Similarly, "from the river to the sea, Palestine will be free" carries multiple interpretations:

- Palestinian perspective: A call for equal rights and freedom for all people between the Jordan River and the Mediterranean Sea
- Some Israeli/some Jewish perspectives: Interpreted as calling for the elimination of Israel
- Geographic and historical: A description of historic Palestine and aspirations for self-determination

Speaker identity matters:

Research documents a "racialisation mechanism" whereby "Muslims and Arabs using such phrases face harsher sanctions than others." Studies show "Muslims and Arabs presumed antisemitic and terrorism supporters" when advocating for Palestinian rights, while "media portrayal of Arabs and Palestinians as terrorists contrasts with treatment of domestic terrorism by white individuals."

The academic evidence demonstrates that identical speech receives "fundamentally different treatment based on speaker identity, geographic legal frameworks, historical context, and institutional dynamics."

Political speech requires higher protection.

Across all democratic jurisdictions studied, "political discourse receives higher legal protection" because democratic self-governance requires robust debate about international conflicts. The European Court of Human Rights consistently applies case-by-case analysis, considering "context, speaker status, intent, and proportionality" rather than declaring phrases inherently hateful.

Cultural Media's experience:

For almost 20 years of film festival programming in Australia, we have successfully presented Palestinian narratives, including films that address resistance, occupation, and self-determination. These screenings have occurred without incident, demonstrating that contextual presentation combined with dialogue facilitates understanding rather than inciting hatred.

Our work shows that phrases referencing intifada or Palestinian human rights and national aspirations can be presented responsibly within educational and cultural contexts, contributing to informed public discourse rather than threatening community safety.

b) How best to prevent the use of phrases that are inherently hateful

No phrases are "inherently hateful".

The systematic review found "there is no academic consensus on defining hate speech" and that "definitional indeterminacy emerges as a persistent challenge" across democracies. Multiple jurisdictions demonstrate that context fundamentally transforms meaning.

Research from Uganda revealed how seemingly innocuous terms like "Coca-Cola bottle" function as inflammatory epithets due to "multiple concurrent layers of interpretation inaccessible to outsiders." This demonstrates that meaning cannot be determined from words alone but requires an understanding of context, history, the speaker, and the audience.

International best practice: The Rabat Plan of Action

Rather than declaring phrases "inherently hateful," the internationally recognised framework is the Rabat Plan of Action's six-part test, which examines:

1. Context - Social and political circumstances in which speech occurred
2. Speaker - Position or status of the person speaking
3. Intent - Whether there was deliberate intent to incite discrimination, hostility, or violence
4. Content and form - What was actually said and how it was expressed
5. Extent of dissemination - Reach and magnitude of the speech
6. Likelihood and imminence of harm - Was violence or discrimination likely and imminent?

This framework is applied by the European Court of Human Rights and recommended by UN human rights experts specifically to distinguish legitimate political speech from genuine incitement.

Case-by-case analysis prevents overreach.

Democratic jurisdictions that successfully balance free expression with community protection use systematic case-by-case assessment rather than predetermined lists of banned phrases:

- South Africa: Equality Court applies "objective test based on reasonable person standard" considering context and circumstances
- Sweden: Provides "higher protection in political contexts" while protecting vulnerable groups through contextual evaluation
- European Court of Human Rights: Uses "test of balancing ad hoc to verify legality, legitimacy, and proportionality"

None of these jurisdictions declares phrases inherently hateful regardless of context.

c) The need to protect communities from hatred, intimidation and violence

We strongly support protecting all communities from genuine hatred, intimidation, and violence. However, the evidence demonstrates that the selective application of speech restrictions can itself harm marginalised communities.

Existing laws provide protection.

NSW and Commonwealth legislation already address genuine threats:

- Incitement to violence is criminal
- Threats and intimidation are prohibited
- Section 18C of the Racial Discrimination Act covers actions that "offend, insult, humiliate, or intimidate"
- Section 18D provides appropriate exemptions for political discussion and artistic expression

Risk of differential enforcement

The systematic review documents concerning patterns:

- "Racialisation of Muslims and Arabs as 'terrorism supporters' and 'antisemitic' subjects them to censorship when advocating for Palestinian human rights"
- This creates a "mutually constitutive form of discrimination" where advocacy for Palestinian rights is presumptively coded as hate speech
- "Palestinian rights advocacy subject to censorship and harassment" while similar advocacy for other causes receives protection.

Cultural Media has witnessed this differential treatment firsthand. Palestinian cultural content faces heightened scrutiny and mischaracterisation compared to content addressing other conflicts, despite our consistent record of responsible presentation.

Community safety through dialogue

Research shows that "community engagement and participation are key in defining hate speech and mitigation strategies." Our experience confirms that cultural programming, film

screenings with Q&A sessions, and facilitated dialogue build genuine understanding between communities.

Censorship, by contrast, drives discourse underground and prevents the contextual understanding necessary to distinguish legitimate political advocacy from genuine threats. Education about Palestinian history, the meaning of resistance terminology and the complexities of the conflict serves community safety better than prohibiting political slogans.

d) Australian and international examples of best practice

International frameworks demonstrate a contextual approach

The systematic review examined jurisdictions including South Africa, Sweden, the European Court of Human Rights, the United Kingdom, and post-conflict societies in the former Yugoslavia. Key findings:

United Kingdom (specifically referenced in the inquiry terms):

- Racial and Religious Hatred Act 2006 requires "threatening words or behaviour" with "proof of intention"
- UK law does not create lists of banned phrases but requires demonstration that speech was threatening AND intended to stir up hatred
- Political speech receives protection even when offensive
- This framework respects both community protection and democratic discourse.

European Court of Human Rights:

- Applies systematic balancing considering "necessity in a democratic society"
- Assesses whether restrictions are "proportionate to legitimate aims"
- Distinguishes between speech that offends versus speech that genuinely threatens or expresses contempt
- Protects criticism of government policies, including Israeli policies, while sanctioning genuine incitement.

South Africa (post-apartheid context relevant to post-conflict sensitivity):

- Equality Court considers what "a reasonable person" would experience given "background, circumstances, content, forum, speaker profile, audience"
- Restrictions must be "proportionate and limited to specific incidents"
- Balances protection of historically oppressed groups with political expression.

Critical finding about institutional restrictions

Research reveals a paradox: "Private institutions pose a greater threat to political speech than hate speech laws." Countries without hate speech laws (like the United States) see MORE censorship through institutional overreach than countries with clear legal frameworks.

The study found that "the absence of legal restrictions leads to more extensive private censorship" because institutions apply vague standards pre-emptively to avoid controversy. This demonstrates that clear, democratically enacted legal frameworks with case-by-case assessment actually protect speech better than leaving determinations to institutions.

Australia's existing framework

Australia already has appropriate mechanisms:

- Section 18C/18D balances protection with exemptions for "justifiable comment"
- Criminal provisions address genuine incitement
- These provide community protection without requiring lists of banned political slogans.

e) The Australian Constitution and implied freedom of political communication

High Court precedent protects political speech.

The implied freedom of political communication is fundamental to Australian democracy. Political slogans about international conflicts - including Palestine/Israel - fall squarely within protected political speech because:

1. They concern matters of governance, international relations, and Australian foreign policy
2. They express views about territorial sovereignty, self-determination, and resistance to occupation
3. They participate in electoral debates about Australia's international positions
4. They constitute advocacy for policy changes.

Constitutional limits on restrictions

The High Court has established that restrictions on political communication must be:

- Justified by a legitimate purpose
- Suitable, necessary, and proportionate (adequate in balance)
- Compatible with the system of representative government

Creating lists of banned political slogans about international conflicts would face significant constitutional challenges because:

- Less restrictive means exist (case-by-case assessment under existing laws)
- Political speech about Israel/Palestine is central to democratic debate

- Content-based restrictions on political viewpoints undermine representative democracy.

International precedent supports protection.

Research shows that even in jurisdictions without constitutional guarantees, "political discourse receives the highest protection" because "democratic self-governance requires robust debate." The United States interprets similar speech as "political speech protected by the First Amendment."

The European Court of Human Rights, while permitting some hate speech restrictions, consistently emphasises that "aim, value, and accuracy of statements remain relevant even in political contexts" and requires strict scrutiny when political speech is restricted.

f) Existing offences and other measures in NSW and Commonwealth legislation

The current legal framework is sufficient

NSW and Commonwealth law already address genuine threats to community safety:

Commonwealth:

- Racial Discrimination Act 1975, Section 18C: Prohibits acts that "offend, insult, humiliate or intimidate" based on race, colour, national or ethnic origin
- Section 18D: Provides exemptions for artistic works, academic discussion, fair comment on matters of public interest
- Criminal Code: Provisions against threatening violence, urging force or violence.

NSW:

- Crimes Act provisions against threats and intimidation
- Anti-Discrimination Act 1977 (NSW)
- Summary Offences Act provisions regarding public order

Why additional prohibitions unnecessary?

If phrases like "globalise the intifada" or "from the river to the sea" are used with genuine intent to incite imminent violence against Jewish Australians, existing laws already prohibit this. What proponents of new restrictions actually seek is to prohibit these phrases REGARDLESS of context, speaker intent, or likelihood of harm - which goes far beyond what existing law requires and what constitutional protections allow.

Warning from quasi-legal instruments

The systematic review examined the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism, which has been adopted by some Australian institutions. Research

found this definition functions as "quasi-law exercising de facto authority without legal legitimacy."

Key problems identified:

- "Enables universities and public bodies to impose restrictions based on institutional interpretation rather than democratically enacted law"
- Creates "pre-emptive censorship due to definitional ambiguity"
- "Conflates legitimate political speech with antisemitism"
- Results in "viewpoint-selective censorship" protecting some groups while silencing others.

The evidence shows that "any restrictions require clear legal authorization through democratic processes and cannot rest solely on institutional interpretation of ambiguous quasi-legal instruments." Creating vague prohibitions on slogans that "incite hatred" risks similar problems - enabling selective enforcement without democratic accountability.

Better approach: Apply existing laws properly

Rather than new prohibitions, we recommend:

1. Training law enforcement in applying the Rabat six-part test to distinguish protected political speech from genuine incitement
2. Cultural competence training to understand context and avoid racialized enforcement
3. Clear guidance that existing laws protect communities without prohibiting political advocacy
4. Accountability mechanisms to prevent selective enforcement against Palestinian advocacy.

g) Other related matters

Risk of chilling effect on legitimate advocacy

Creating lists of prohibited slogans will inevitably chill legitimate political advocacy. Palestinians and their supporters will self-censor even when speaking in contexts where their speech is clearly protected - educational settings, cultural events, political rallies, academic discourse.

Research documents that characterisations of Palestinian advocacy as antisemitic or supporting terrorism create chilling effects where community members hesitate to attend cultural events or participate in discussions, fearing stigmatisation or professional consequences.

Formal prohibition of political slogans will amplify this effect, silencing marginalised voices and preventing the very dialogue that builds genuine understanding between communities.

Selective enforcement concerns

The inquiry's framing focuses exclusively on phrases associated with Palestinian advocacy. This raises concerns about selective enforcement given that:

- Inflammatory rhetoric about Palestinians, Arabs, and Muslims also occurs in public discourse
- Calls for violence against Palestinians are documented but rarely prosecuted
- Differential treatment based on political viewpoint violates principles of content neutrality.

If the Parliament is genuinely concerned about community cohesion, any framework must apply equally to ALL communities. Targeting specific phrases associated with one side of a political conflict will be perceived accurately as viewpoint discrimination rather than genuine community protection.

Alternative approaches that build cohesion

Research demonstrates that "cultural programming and dialogue (like film festivals) are better tools for building understanding than censorship." Cultural Media's experience confirms this:

Effective approaches include:

- Film screenings with facilitated discussion
- Educational programming about Middle Eastern history and culture
- Community dialogue sessions bringing together diverse perspectives
- Cultural exchange reducing stereotypes and misconceptions
- Academic forums examining complex political issues.

These approaches:

- Build genuine understanding of why people use particular terminology
- Provide context for interpreting political slogans
- Create opportunities for respectful disagreement
- Address underlying tensions rather than suppressing their expression
- Respect all participants' dignity and intelligence.

Democratic legitimacy requires transparency

The inquiry's timeline - during the holiday period, with a report due within three weeks - raises concerns about whether this process allows for genuine deliberation.

Restricting political speech is among the most serious actions a democratic legislature can take. Such decisions require:

- Extensive consultation with affected communities
- Evidence that existing laws are insufficient
- Demonstration that restrictions are necessary and proportionate
- Constitutional legal advice
- Consideration of unintended consequences

The accelerated timeline suggests predetermined conclusions rather than open inquiry, which itself undermines the democratic legitimacy necessary for speech restrictions.

RECOMMENDATIONS

Based on the systematic evidence from international democracies and Cultural Media's experience facilitating cross-cultural dialogue, we recommend:

1. Do not create prohibitions on political slogans

Phrases like "globalise the intifada" and "from the river to the sea" are political speech protected by constitutional guarantees. Their meaning depends on context, speaker, intent, and audience - not inherent properties of the words themselves.

2. Apply existing laws using the Rabat Plan of Action framework

If concerns arise about specific instances of speech, existing NSW and Commonwealth laws provide mechanisms for case-by-case assessment considering:

- Context in which speech occurred
- Identity and status of speaker
- Demonstrable intent to incite violence
- Content and form of expression
- Reach and dissemination
- Likelihood and imminence of actual harm.

3. Invest in cultural competence and community dialogue

Rather than prohibitions:

- Fund educational programming about Palestinian history and culture
- Support interfaith and intercultural dialogue initiatives
- Provide training for law enforcement on contextual interpretation
- Create forums for respectful discussion of Israel/Palestine

- Support cultural organisations that build cross-community understanding.

4. Ensure equal application of community protection

Any framework addressing hateful speech must apply equally to protect ALL communities. Palestinian, Arab, and Muslim Australians also experience hateful speech and deserve equal protection, not differential treatment based on political viewpoint.

5. Uphold democratic principles

Speech restrictions require:

- Clear legal authorization through proper legislative processes
- Strict necessity and proportionality assessment
- Constitutional compliance
- Mechanisms preventing selective enforcement
- Sunset clauses requiring evidence-based renewal.

6. Protect political discourse as essential to democracy

Australia's democracy depends on robust debate about international affairs, including contentious issues like Palestine/Israel. Protecting such discourse, even when it makes some uncomfortable, is not a failure of community protection - it is the foundation of democratic self-governance.

CONCLUSION

The systematic evidence from international democracies is clear: prohibiting political slogans does not build community cohesion. Instead, it:

- Chills legitimate political advocacy
- Enables selective enforcement against marginalised communities
- Drives discourse underground rather than facilitating understanding
- Violates constitutional protections for political communication
- Creates quasi-legal frameworks without democratic accountability.

Cultural Media's almost 20 years of experience confirms that dialogue, education, and cultural exchange build genuine understanding. We urge the Committee to reject blanket prohibitions and instead support the educational and dialogical approaches that actually strengthen social cohesion.

We thank the Committee for its work on this Inquiry and look forward to the Committee's final report.

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End of submission.

Kind Regards

Cultural Media

www.culturalmedia.com.au

