

**Submission
No 146**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: NSW Jewish Board of Deputies

Date Received: 16 January 2026



16 January 2026

Mr Edmond Atalla MP
Chair, Legislative Assembly Committee on Law and Safety
6 Macquarie St
SYDNEY NSW 2000

Copy by email: lawsafety@parliament.nsw.gov.au

Dear Committee,

Measures to prohibit slogans that incite hatred

A. Introduction

The NSW Jewish Board of Deputies (**JBD**) is the official elected representative roof-body of the Jewish Community in New South Wales, with 56 major Jewish organisations in NSW as its constituents. It is recognised by the NSW State Government, its agencies, the media and other ethnic and religious groups as the representative body of the Jewish Community and speaks on its behalf on all matters affecting the status, welfare and interests of New South Wales Jewry.

The JBD welcomes the opportunity to assist the Committee with its inquiry and report into the use of slogans that are directed at certain communities to intimidate those communities and instil fear of violence.

This submission is made less than a month after the Bondi terrorist attack, the deadliest act of terrorism committed on Australian soil, and the attack resulting in the greatest loss of Jewish life outside of Israel since the Hamas attacks of 7 October 2023.

Since 8 October 2023 when Sheik Ibrahim Dadoun told a cheering crowd in Lakemba that he was "elated" by Hamas' attacks of 7 October 2023 and that it was a "day of courage, it's a day of resistance, it's a day of pride, it's a day of victory. This is the day we've been waiting for..."¹, hateful speech which aims to intimidate and incite violence against the New South Wales Jewish community has been steadily increasing.

Even after the Bondi terrorist attack, calls for "globalising the intifada" on the streets of Sydney have not stopped.²

¹ As reported in the Australian on 9 October 2023 <https://www.theaustralian.com.au/nation/elated-sheik-ibrahim-dadouns-lakemba-comments-slammed-by-political-and-religious-leaders/news-story/380573cc0778a30a2230c6876eecb137>, as well as multiple other media sources.

² <https://www.theaustralian.com.au/nation/politics/progaza-ghouls-insult-to-the-victims-as-they-chant-globalise-the-intifada/news-story/13c560944a19a55eff627c9413240f58>; <https://www.theguardian.com/australia-news/2026/jan/06/protester-detained-in-sydney-for-wearing-globalise-the-intifada-jacket-says-she-should-never-have-been-arrested-ntwnfb>

Hate speech is a widely recognised precursor to hate crimes, and other negative phenomena, including declining social cohesion.³

Hateful slogans deployed and repeated in public settings, and particularly at mass gatherings and protests, serve to normalise hatred against their targets. The constant repetition and calls for intifada and the ethnic cleansing of Jews spreads hate and disharmony.

Repeated screams from megaphones or banners calling for physical harm or death to Jewish people signal to participants, and the general public, that the violence those phrases call for is socially acceptable. It is not. Chants and banners calling for physical harm or death to Jewish people have no place on the streets of New South Wales.

Accordingly, the NSW Jewish Board of Deputies requests that the Committee take action consistent with the recommendations below.

In making the below recommendations, the JBD recognises that no legislative scheme can capture every manifestation of hate speech. The JBD also recognises, and accepts, that subject to appropriate limitations, people have a right to publicly express their opinions, even if those opinions are distasteful or controversial.

Notwithstanding the above, the JBD has identified particular phrases which have been repeated by anti-Israel activists in New South Wales (or globally) on a regular basis which are so inherently hateful in that they call for violence, ethnic cleansing or death, and make reference to historical and contemporary massacres of Jews, that, by their nature they lead to incitement of hatred and threaten community safety. Such phrases should be specifically criminalised. They have no legitimate place in New South Wales.

This inquiry and report follows a recent comprehensive review by The Hon. Tom Bathurst AC KC into the effectiveness of s 93Z of the Crimes Act 1900 (NSW) in addressing serious racial and religious vilification in NSW (**Bathurst Report**).⁴

The JBD made a submission to that inquiry⁵ recommending a broadening of the protections afforded by section 93Z.

The JBD maintains, in accordance with its submission to that inquiry, that it is appropriate to broaden the protections afforded by section 93Z. The JBD notes that subsequent to the Bathurst Report, NSW Parliament passed an additional offence of publicly inciting hatred on ground of race (s.93ZAA of the *Crimes Act 1900*).⁶ Other proposals by the JBD, including a new lesser or minor offence that would proscribe the public promotion of hatred or animosity towards, contempt for, or ridicule of, another person were not adopted.

While Term of Reference (g) to this Inquiry invites submissions on "Any other related matters", this submission focuses on the criminalisation of specific phrases, and limits its recommendations to dealing with those phrases.

³ Bathurst Report (as defined in the footnote below) at [3.6]; [3.12] – [3.19]; [3.23] - [3.29]; United Nations Press Release 18 June 2019: "Secretary-General Launches United Nations Strategy and Plan of Action against Hate Speech, Designating Special Adviser on Genocide Prevention as Focal Point" <https://press.un.org/en/2019/pi2264.doc.htm>. Otherwise, see summary in Appendix A to this Submission.

⁴ Report 151 of the New South Wales Law Reform Commission entitled "Serious racial and religious vilification", dated September 2024.

⁵ Jewish Board of Deputies Submission dated 19 April 2024 (SV12).

⁶ *Crimes Amendment (Inciting Racial Hatred) Bill 2025*

B. Summary of recommendations

A new offence of displaying or using, by public act and without reasonable excuse, a “hateful phrase” should be inserted in Part 3A of the *Crimes Act 1900* (NSW).

“hateful phrase” should mean the words:

- a. “Globalise the intifada”;
- b. “Long live the intifada”;
- c. “There is only one solution, intifada, revolution”;
- d. “Resistance by any means necessary”;
- e. “From the river to the sea”;
- f. “Death to the IDF”;
- g. “Min il-mayye la-l-mayye, Falastin ‘arabiyye” (Translated from Arabic as from water to water, Palestine is Arab);
- h. “Khaybar, Khaybar, ya yahud, Jaish Muhammad soufa ya ‘oud” (Translated from Arabic as Khaybar, Khaybar, oh Jews, the army of Muhammad will return)

or a phrase that incorporates those words, or so nearly resembles them that it is likely to be confused with, mistaken for, or used in substitution for a hateful phrase.

For the avoidance of doubt, a hateful phrase is a hateful phrase for the purposes of this section in whatever language the words are said or displayed.

C. A documented link between hate speech and hate crimes

The link between hate speech and hate crimes is well-established.

In September 2020, the United Nations published the “United Nations Strategy and Plan of Action on Hate Speech Detailed Guidance on Implementation for United Nations Field Presences”.⁷ The Introduction (footnotes omitted) identified:

“Hate speech has been identified as a common “precursor to atrocity crimes, including genocide” in many situations, “from Rwanda to Bosnia to Cambodia”. A campaign of hate speech that included language dehumanizing the Rohingya, combined with the active silencing of critical voices, has been linked to the commission of grave human rights violations in Myanmar, more recently. Moreover, the coronavirus disease (COVID-19) pandemic has given rise to a new wave of hate speech and discrimination across the world. Hate speech has been shown to result in a range of real harms, attacking tolerance, inclusion, social cohesion and shared values.””

The corrosive impact of hate speech on safety and social cohesion was also commented on in the recent Bathurst Report. The Report recorded at [3.17]:

“We also heard of the damaging effect that hate-based conduct has on social cohesion. The Anglican Church Dioceses of Sydney observed that “[r]eligious vilification is destructive of social cohesion and polarises communities into ‘us’ and ‘them’”. The Australian Federation of

⁷https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20PoA%20on%20Hate%20Speech_Guidance%20on%20Addressing%20in%20field.pdf.

Islamic Councils similarly noted that vilification based on race or religion “fosters division, mistrust, and hostility between different community groups, which can lead to social unrest and conflict”.⁸

The Director General of ASIO in his 2025 Annual Threat Assessment stated:

“The war in the Middle East has not yet directly inspired terrorism in Australia, but it is prompting protest, exacerbating division, undermining social cohesion and elevating intolerance. This, in turn, is making acts of politically motivated violence more likely.

...

Anti-Semitism festered in Australia before the tragic events in the Middle East, but the drawn-out conflict gave it oxygen – and gave some anti-Semites an excuse. Jewish Australians were also increasingly conflated with the state of Israel, leading to an increase in anti-Semitic incidents. The normalisation of violent protest and intimidating behaviour lowered the threshold for provocative and potentially violent acts...”.⁹

There is also extensive academic scholarship supporting a relationship between hate speech and hate crimes. At **Appendix A** to this submission is a short summary of some of that academic scholarship.

D. The lived experience of Jews in New South Wales

In 2025, the number of reported antisemitic incidents in Australia was approximately three times higher than in any year prior to 7 October 2023.¹⁰

Since 7 October 2023 there has been repeated vilification, intimidation and incitement of violence against Jews in NSW.

The Sydney CBD (and other landmarks including the Sydney Harbour Bridge) have been subject to near weekly marches where phrases including “Death to the IDF”,¹¹ “Intifada”¹² and “From the River to the Sea”¹³ have been shouted.

Vilification outside of the protest marches has also become commonplace. Some of the most serious examples include:

- (a) on 9 October 2023 hundreds of pro-Palestine supporters marched on the Opera House shouting phrases including “Fuck the Jews” and “Where’s the Jews”;¹⁴
- (b) on 8 December 2024, groups of people celebrating the downfall of Syrian dictator Bashar al-Assad took to the streets in Sydney chanting “Khaybar, Khaybar, ya yahud! Jaish Muhammad soufa ya’oud!” being a widely recognized antisemitic war cry referencing the 7th-century Battle of Khaybar, where the Muslim army, led by Muhammad, defeated, killed, and expelled Jewish tribes from the town of Khaybar, located in modern-day Saudi Arabia.

⁸ See also Bathurst Report [3.6]; [3.12] – [3.19]; [3.23] - [3.29].

⁹ Director-General of Security, Mike Burgess AM, ‘Director-General’s Annual Threat Assessment 2025’, 19 February 2025.

¹⁰ Executive Council of Australian Jewry, Anti-Jewish Incidents (2025) <https://www.ecaj.org.au/wordpress/wp-content/uploads/ECAJ-Report-Anti-Jewish-Incidents-Australia-2025.pdf>

¹¹ <https://combatantisemitism.org/cam-news/mass-sydney-anti-israel-demonstration-rife-with-antisemitic-slogans-terror-glorification-and-incitement-to-violence/>, see video.

¹² <https://www.instagram.com/reel/DSxCjYVkjDM/>

¹³ <https://honisoit.com/2021/05/from-the-river-to-the-sea-palestine-will-be-free-thousands-commemorate-al-nakba/>

¹⁴ <https://www.abc.net.au/news/2024-02-02/nsw-police-opera-house-protest-video-analysis/103418582>

In a modern context, the chant is interpreted as a call for violence and the destruction of Jews on a global scale, invoking the historical event as a threat;

- (c) on 19 September 2025 a UNSW lecturer stood on Bondi Beach and screamed at another person "A good Zionist is a dead one".¹⁵
- (d) on 19 September 2025, at the same event, on Bondi Beach, activists called for "intifada" and "long live the resistance".¹⁶
- (e) on 22 December 2025 (8 days after the Bondi Beach terrorist attack) anti-Israel activists gathered at Town Hall to reaffirm their commitment to "globalising the intifada".¹⁷ Such calls have been reported to have been repeated since that date.

The vilification has not abated despite political condemnation. It has continued even after the Bondi Beach terrorist attack.

The above surge in vilification has correlated with a surge in antisemitic hate crimes, including the firebombing of synagogues and preschools, the targeting of Jewish individuals, the doxing of creatives and other acts of violence.

The weekly calls for violence at anti-Israel protest marches have correlated with and normalised actual violence towards Jewish persons.

E. The existing legislative landscape

Both New South Wales and the Commonwealth have legislation outlawing hate speech.

That legislation has been recognised as playing an important role as part of a wider strategy for maintaining social cohesion.¹⁸

It has also been recognised that vilification offences can have a symbolic, educative and deterrent function and that the importance in "drawing a line in the sand" should not be overlooked.¹⁹

The existing legislative landscape was comprehensively summarised at Appendix C to the Bathurst Report.

Subsequent to the Bathurst Report, NSW Parliament passed an additional offence of publicly inciting hatred on ground of race (s.93ZAA of the *Crimes Act 1900*).²⁰

The existing New South Wales offences (sections 93Z and 93ZAA) both include a "mental element".

Section 93Z makes it an offence for a person to "intentionally or recklessly" threaten or incite violence towards another person.

¹⁵ <https://www.dailymail.co.uk/news/article-15113477/university-dr-naama-carlin.html>

¹⁶ https://www.instagram.com/reel/DOXrRC_Er4H/?igsh=MWtzMjY1dmQzaXNrcQ==

¹⁷ <https://www.theaustralian.com.au/nation/politics/progaza-ghouls-insult-to-the-victims-as-they-chant-globalise-the-intifada/news-story/13c560944a19a55eff627c9413240f58>

¹⁸ Bathurst Report [3.54].

¹⁹ Bathurst Report [3.57].

²⁰ *Crimes Amendment (Inciting Racial Hatred) Bill 2025*

Accordingly, a person will not be found guilty of an offence under section 93Z unless it is proven they:

- (a) intended to incite or threaten violence by their act;
- (b) realised that threatening or inciting violence was a possible outcome of their act but did the act anyway (recklessness).²¹

Section 93ZAA makes it an offence for a person to “intentionally” incite hatred towards another person. Therefore, proof of actual intent is necessary.

There is currently no Commonwealth or NSW legislation of which the JBD is aware that directly criminalises the use of specific hateful phrases. There is also no NSW or Commonwealth strict liability offence for hate speech.²²

F. The context for the proposed reforms

In the wake of the Bondi terrorist attack, the Premier announced his intention to specifically ban the phrase “globalise the intifada” and “other hateful comments and statements made in our community”.²³

The Premier’s announcement triggered immediate resistance from anti-Israel activists who asserted that phrases such as “globalise the intifada” should not be banned because they are not hate speech and have alternative meanings, including a “call for international solidarity and protest”.²⁴

The proposed reforms are opposed by leading anti-Israel activist groups including the Palestine Action Group Sydney, Jews Against the Occupation ‘48 and the Black Caucus.²⁵

The fact that prominent anti-Israel activist groups oppose the reforms, and some argue that continued calls to “globalise the intifada” are appropriate, even after the Bondi Terrorist attack (being a manifestation of that call), only serves to emphasise the need for reform which outlaws specific phrases.

The reactions of the anti-Israel activist groups show a number of things which demonstrate the need for reform:

- (a) those activists do not believe the hateful phrases they use breach the law, or consider there to be sufficient ambiguity to afford them protection;
- (b) the current laws have proven ineffective in abating hate speech. That remains the case even after the Bondi terrorist attack;
- (c) in the absence of either (i) a successful prosecution, which allowing for appeals, is likely to take more than 12 months, and is likely to only capture one specific hateful phrase; or (ii) law reform which brings absolute clarity to the matter, the activists have signalled no intention to abate their hate speech;

²¹ *Aubrey v R* [2017] HCA 18 at [46] – [49].

²² At least so far as can be identified in Chapter 5 of the *Commonwealth Criminal Code 1995* or Part 3A of the *Crimes Act 1900*.

²³ <https://www.sbs.com.au/news/article/chris-minns-bondi-attack-hate-speech-laws/c2q2u3v8v>

²⁴ <https://www.sbs.com.au/news/article/chris-minns-bondi-attack-hate-speech-laws/c2q2u3v8v>

²⁵ <https://www.theguardian.com/australia-news/2025/dec/23/activist-groups-to-challenge-nsw-protest-laws-on-right-to-free-speech-grounds-ntwnfb>

- (d) even a successful prosecution is unlikely to have the same deterrent effect as law reform because the mental element in the current offences introduces ambiguity and uncertainty. In the absence of legislative reform, it does not automatically follow that the use of certain prohibited phrases constitute an offence.

G. The proposed reforms

As stated in the introduction, the JBD acknowledges that it is impossible to identify and criminalise all phrases that are so inherently hateful by their nature that they lead to incitement of hatred and threaten community safety. However, the difficulty is comparable to the recent amendment to section 93ZA which introduced the current form of ban on “Nazi symbols” and section 93ZB which introduced the offence of displaying a “prohibited terrorist organisation symbol”.

The JBD’s recommendation to this inquiry draws on the approach adopted in those provisions, and the manner in which the definitions in the Commonwealth Criminal Code (to which those sections cross-refer) cater for minor variations to those symbols or attempts to circumvent the relevant offence.

The proposed amendment also, in a manner broadly²⁶ consistent with sections 93ZA and 93ZB, permits a defendant to raise and prove that they had a “reasonable excuse” for using or displaying a “hateful phrase”.²⁷

In a manner consistent with sections 93ZA and 93ZB of the *Crimes Act*, the JBD recommends that a new offence be inserted in Part 3A of the *Crimes Act* to the effect that

- (1) A person who displays or uses, by public act and without reasonable excuse, a hateful phrase commits an offence.
- (2) A reasonable excuse means the display or use of a hateful phrase, done reasonably and in good faith —
 - (a) for an academic, artistic or educational purpose, or
 - (b) for another purpose in the public interest.
- (3) A prosecution for an offence against this section may be commenced only by—
 - (a) the Director of Public Prosecutions, or
 - (b) a police officer.
- (4) In this section—

public act has the same meaning as in section 93Z.
- (5) **hateful phrase** means the words:
 - a. “Globalise the intifada”;
 - b. “Long live the intifada”;

²⁶ Broadly because the defence of “reasonable excuse” has been particularly defined, rather than defined in a non-exhaustive manner as in section 93ZA.

²⁷ The same form of wording as in section 93ZA is adopted with the expectation that proof of committing the offence “without reasonable excuse” is not an element of the proposed offence, but rather a defence to it, and a matter in respect of which the defendant bears the onus: *R v Kahtan ABDUL-WAHAB No 1* [2025] NSWLC 5

- c. "There is only one solution, intifada, revolution";
- d. "Resistance by any means necessary";
- e. "From the river to the sea";
- f. "Death to the IDF";
- g. "Min il-ṣayyḥ la-il-ṣayyḥ, Falastīn 'arabiyye" (Translated from Arabic as from water to water, Palestine is Arab);
- h. "Khaybar, Khaybar, ya yahud, Jaish Muhammad soufa ya 'oud" (Translated from Arabic as Khaybar, Khaybar, oh Jews, the army of Muhammad will return)

or a phrase that incorporates those words, or so nearly resembles them that it is likely to be confused with, mistaken for, or used in substitution for a hateful phrase.

For the avoidance of doubt, a hateful phrase is a hateful phrase for the purposes of this section in whatever language the words are said or displayed.

H. Justification for selection of the above phrases

While the JBD acknowledges that it is impossible to specifically identify and criminalise every hateful phrase, it is appropriate to specifically criminalise the above identified phrases for the following reasons:

- (a) the phrases identified are phrases that have been commonly displayed and used in NSW (and globally) by the anti-Israel movement;
- (b) the specific identified phrases are so inherently hateful by their nature that they lead to incitement and threaten community safety. In particular:
 - (i) the phrases "Globalised the intifada", "long live the intifada" and "there is only one solution, intifada, revolution" are calls to bring the sort of death and destruction by way of acts of terrorism, including suicide bombings, that marked the second intifada between 2000 and 2005 in Israel to the streets of Sydney. It may be that the Arabic word "intifada" has a more benign meaning of "shaking off", but when expressed in the context of the Israeli-Palestinian conflict, the phrase cannot reasonably be understood as having that more benign meaning. Rather, it can only be reasonably understood as a direct reference to the campaign of terrorism against innocent civilians by Palestinian terrorist movements (including Hamas) against Israel between 2000 and 2005. Calls for indiscriminate terrorism against Jewish people (like that that occurred at Bondi Beach) have no place on the streets of New South Wales and are so inherently hateful that they lead to incitement of hatred and threaten community safety such that they should be criminalised;
 - (ii) "From the river to the sea" and its Arabic equivalent (from water to water, Palestine is Arab) is a call for ethnic cleansing of Jewish persons from the entirety of the land of Israel (from the Jordan River to the Mediterranean Sea). It leaves no room for any part of the land to be populated or governed by Jews. Rather it demands that the geographical area from the "river to the sea" be Palestine and be free (of Jews). That is in circumstances where in no peace plan, other than the complete ethnic cleansing of Jews from the entirety of the land will the whole area between the river and the sea be Palestine. A call for the whole land to be Arab or free (of Jews) is a

chant that is so inherently hateful by its nature that leads to incitement of hatred and threatens community safety. Calls for genocide and ethnic cleansing have no legal place in the streets of New South Wales;

- (iii) "Resistance by any means necessary" is a direct call for violence. While a call for "resistance" itself *may* be justifiable depending on the circumstances, the use of the words "by any means necessary" is a direct call for violence. There is no place on the Streets of New South Wales for a call for the sort of violence exhibited in Bondi;
- (iv) A more recent chant that has emerged following the 2025 Glastonbury Festival is "death to the IDF". The chant is a direct call for death. It is by its very nature hateful and incites hatred and threatens community safety and has no place on the streets of New South Wales;
- (v) Finally, the Arabic chant "Khaybar, Khaybar, ya yahud! Jaish Muhammad soufa ya'oud!" is a particularly anti-Semitic and violent Arabic chant referencing the battle of Khaybar referencing a battle during the times of the prophet Muhammad, where Muslims slaughtered Jews and subjugated them. It is by its very nature hateful and incites hatred and threatens community safety and has no place on the streets of New South Wales.

There is real utility in banning the display or use by public act of these hateful phrases so that there is absolute clarity that these phrases are unacceptable on the streets of New South Wales. Specifically banning these phrases should also serve a symbolic and educative function in clearly delineating that the people of New South Wales will not stand for chants of this nature and also provide a deterrent function which will strip the anti-Israel movement of commonly used hateful, intimidatory and violent chants lowering the level of hate and incitement (or at least restricting it) at any future protests and directing such protests and chants to calls for legitimate political aims, rather than violence and hate.

I. Constitutional issues

Term of reference (e) asks the Committee to consider the Constitution and the implied freedom of political communication. Certain groups have already foreshadowed a constitutional challenge should legislation outlawing specific phrases be passed.

Recently, in *R v Kahtan ABDUL-WAHAB No 3* [2025] NSWLC 7, Donnelly LCM considered whether section 93ZA(1) of the *Crimes Act 1900* infringed the implied freedom of communication about governmental or political matters.

Although a decision of the Local Court, it is plain from the decision that detailed submissions, including by the Attorney-General for the State of New South Wales, were made. The Court's analysis is instructive, and this analysis draws on that decision.

In *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520 at 561 the High Court held that freedom of communication on matters of government and politics is an indispensable incident of the system of representative government.

Gageler CJ, Gordon and Beech-Jones JJ recently described the "system" in *Farmer v Minister for Home Affairs* [2025] HCA 38 at [36] as:

"...a system in which electors are able to exercise a free and informed choice when choosing their representatives and, for them to be able to do so, a system in which there is a free flow of political communication."

As set out by Gageler J in *Brown v Tasmania* [2017] HCA 43; (2017) 261 CLR 328 at [156] in determining whether a law is unconstitutional, there are three questions to be asked:

1. Does the law effectively burden freedom of political communication?
2. Is the purpose of the law legitimate, in the sense that it is compatible with the maintenance of the constitutionally prescribed system of government?
3. Is the law reasonably appropriate and adapted to advance that purpose in a manner compatible with the maintenance of the constitutionally prescribed system of government?

1. Does the law effectively burden freedom of political communication?

The JBD considers that it is by no means clear that criminalising the hateful phrases effectively burden freedom of political communication.

Criminalising the hateful phrases does not ban or criminalise the holding of a protest itself. Nor does it criminalise the sorts of common chants directed at bringing about political ends, for example "Sanction Israel" or "Stop arming Israel".

Rather, the prohibition is aimed at particular phrases which are so inherently hateful by their nature that they lead to incitement of hatred and threaten community safety and which, on their face, do not appear to involve any form of political communication.

It is, for example, difficult to understand how calling for an "intifada" on the streets of New South Wales or for the army of Muhammad to return and slaughter Jews is in any way political communication.

2. Is the purpose of the law legitimate?

A legitimate purpose is one which is compatible with the system of representative government provided for by the Constitution.²⁸

It is long established that "seeking to prevent ... vilification is a legitimate end of Government. A law seeking to prevent the incitement of such conduct seems to me compatible with the maintenance of the constitutionally provided system of Government. It does not seem to me that debate, however robust, needs to descend to public acts which incite hatred, serious contempt or severe ridicule of a particular group of persons."²⁹

Therefore, if the purpose of the law is to prevent phrases that are so inherently hateful by their nature that they lead to incitement of hatred and threaten community safety, it appears that if the law did effectively burden freedom of political communication, it would be for a legitimate purpose compatible with the maintenance of the constitutionally prescribed system of Government.

²⁸ *McCloy v State of New South Wales* (2015) 257 CLR 178; [2015] HCA 34 at [31].

²⁹ *Sunol v Collier [No 2]* [2012] NSWCA 44 at [52].

Of course, there are many other legislative incursions into freedom of political communication for the purposes of preventing incitement of hatred and threatening community safety which are constitutional.

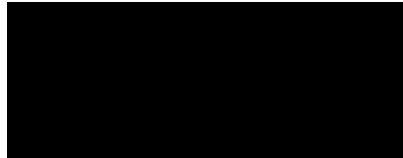
3. Is the law reasonably appropriate and adapted to advance that purpose in a manner compatible with the maintenance of the constitutionally prescribed system of Government?

To the extent that the provision is found to effectively burden freedom of political communication it is direct and targeted to particular phrases which are commonly used at protest rallies and which are so inherently hateful that by their nature they lead to incitement of hatred and threaten community safety. The prohibition otherwise does not seek to restrict protest activity or political communication.

The prohibition is targeted at criminalising particular phrases which mean that legitimate expressions of political views which do not express hateful ideas and incite hatred are not criminalised. For that reason, the JBD considers that the banning of particular phrases is a reasonably appropriate and adapted approach consistent with the maintenance of the constitutionally prescribed system of Government.



David Ossip
President



Michele Goldman
Chief Executive Officer

Appendix A – Summary of some academic scholarship concerning the link between hate speech and hate crimes³⁰

Article	Summary
Sebastian Adena, Ruben Enikolopov, Maria Petrova, Veronica Santarosa and Ekaterina Zhuravskaya, 'Radio and the Rise of the Nazis in Prewar Germany' (2015) 130(4) Quarterly Journal of Economics 1885.	Demonstrates that exposure to Nazi radio propaganda increased support for the Nazi Party and, following consolidation of power, led to measurable anti-Jewish actions such as denunciations and persecution, evidencing a causal link between propaganda and real-world harm.
Nico Voigtländer and Hans-Joachim Voth, 'Nazi Indoctrination and Anti-Semitic Beliefs in Germany' (2015) 112(26) Proceedings of the National Academy of Sciences 7931.	Shows that systematic Nazi indoctrination causally increased anti-Semitic beliefs that persisted for decades, illustrating how sustained propaganda entrenched hostility that underpinned discriminatory and violent conduct.
David Yanagizawa-Drott, 'Propaganda and Conflict: Evidence from the Rwandan Genocide' (2014) 129(4) Quarterly Journal of Economics 1947.	Uses radio signal variation to show that exposure to RTLM broadcasts calling for violence significantly increased civilian participation in killings, providing strong causal evidence linking inciting speech to mass violence.
Allan Thompson (ed), The Media and the Rwanda Genocide (Pluto Press, 2007).	Synthesises empirical and testimonial evidence demonstrating that hate radio and print media played a central role in mobilising perpetrators and accelerating the scale and intensity of genocidal violence.
Matt Schissler, 'Facebook and the Rohingya Genocide in Myanmar' (2024) Journal of Genocide Research (advance online publication).	Analyses the role of social media in amplifying dehumanising anti-Rohingya narratives and legitimising violence, contributing to conditions that facilitated mass atrocities.
Karsten Müller and Carlo Schwarz, 'Fanning the Flames of Hate: Social Media and Hate Crime' (2021) 59(4) Journal of the European Economic Association 2131.	Employs Facebook outages and local variation to demonstrate a causal relationship between online anti-refugee hate speech and violent hate crimes, including arson attacks on refugee housing.
Matthew L Williams, Pete Burnap, Amir Javed, Han Liu and Sefa Ozalp, 'Hate in the Machine: Anti-Black and Anti-Muslim Social Media Posts as Predictors of Offline Racially and Religiously Aggravated Crime' (2020) 60(1) British Journal of Criminology 93.	Finds that spikes in online hate speech are temporally and geographically associated with increases in offline hate crimes, supporting an online-to-offline violence pathway.

³⁰ Generative AI was used to identify academic literature and summarise it. Human checks were performed to confirm each academic article in Appendix A exists and the summary of the article is accurate. Inclusion of an article in this list does not imply endorsement of the methodology or conclusions in the listed articles. The Appendix has been produced to demonstrate that academic scholarship has studied and identified links between hate speech and hate crimes.