

**Submission
No 85**

MEASURES TO PROHIBIT SLOGANS THAT INCITE HATRED

Organisation: Amnesty International Australia

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Submission to the New South Wales Legislative Assembly
Committee on Law and Safety

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Submitted by
Amnesty International Australia

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About Amnesty International

Amnesty International is a global movement of more than 11 million people in over 172 countries and territories - the world's biggest human rights organisation - who take injustice personally.

We campaign for a world where human rights are enjoyed by all. We investigate and expose the facts, whenever and wherever abuses happen. We lobby governments as well as other powerful groups such as companies, making sure they keep their promises and respect international law. By telling the powerful stories of the people we work with, we mobilise millions of supporters around the world to campaign for change and to stand in the defence of activists on the frontline. We support people to claim their rights through education and training.

Our work protects and empowers people – from abolishing the death penalty to advancing sexual and reproductive rights, and from combating discrimination to defending refugees' and migrants' rights. We help to bring torturers to justice, change oppressive laws, and free people who have been jailed just for voicing their opinion. We speak out for anyone and everyone whose freedom or dignity are under threat, and we advocate for laws and policies that ensure people's human rights are respected.

1. Language used in the Terms of Reference

- 1.1. Amnesty International Australia is concerned about the language in the Terms of Reference (TORs) for the current inquiry. The TORs ask that the Committee on Law and Safety inquire into and report on “the use of slogans that are directed at certain communities to intimidate those communities and instill fear of violence.” The only slogan given as an example of the type that the Committee should consider is the phrase “globalize the intifada”. This implies that use of the phrase “globalise the intifada” is *directed at certain communities in order to* intimidate them and instill a fear of violence. Ascribing such direction and intention to all instances of the use of this phrase isn’t supported by evidence. This is a phrase with contested meaning, and for a balanced approach, Amnesty International Australia draws the Committee’s attention to Arabic speaking and Palestinian organisations for an explanation of those communities’ understandings of and uses of the phrase both historically and currently.
- 1.2. We also note that the TORs at (a) state that the Committee should consider “the threat that the use of phrases like “globalise the intifada” poses to community cohesion and safety”. At (b) the TORs refer to such phrases as “so inherently hateful by their nature that they lead to incitement of hatred and threaten community safety.” These TORs appear to dictate a predetermined position – that the specific phrase cited is inherently hateful by its nature and that it is a threat to community safety – prior to the Committee completing its inquiry. Amnesty is concerned that this position is not supported by adequate evidence and may make it difficult for the Committee to approach the question of slogans that incite hatred impartially, or to make findings contradicting the position in the TORs.

2. Opposition to bans on political speech and protest

- 2.1. Amnesty International Australia opposes any disproportionate restrictions to the rights to freedom of expression and assembly. This includes bans on phrases or slogans that have historically been used in the exercise of the right to peaceful protest as such blanket bans are not compatible with human rights. These rights are protected under international law and are essential mechanisms through which individuals and communities demand justice, accountability, and to hold the powerful to account. In accordance with human rights principles, any restriction on these fundamentally important rights must pursue a legitimate aim, be lawful, necessary and proportionate, and be applied without discrimination.

3. Concerns regarding expansion of executive powers

- 3.1. Amnesty International Australia remains deeply concerned by the expanded executive powers introduced through the *Terrorism and Other Legislation Amendment Act 2025*. These amendments significantly undermine the rights to peaceful assembly, freedom of expression, and the Constitutional right to freedom of political communication. In particular, the introduction of *Public Assembly Restriction Declarations* enables the Police Commissioner or Deputy Commissioner to prohibit public assemblies in designated areas

without prior judicial authorisation. Assemblies subject to such declarations are deemed unauthorised by default, granting police unwarranted and unnecessary discretionary powers, and eroding the essential role of courts in safeguarding human rights.

4. International human rights obligations

- 4.1. The rights to freedom of expression, peaceful assembly, and association are clearly protected under international human rights law, including the *International Covenant on Civil and Political Rights* (ICCPR), to which Australia is a State Party. Any legislative or executive action restricting these rights must comply with Australia's international human rights obligations and human rights principles.¹
- 4.2. States parties to the ICCPR have certain positive duties to facilitate peaceful assemblies and to promote an enabling environment for the effective exercise of the right of peaceful assembly without discrimination.
- 4.3. However, the rights to freedom of assembly and expression are not absolute. In accordance with article 20 of the Covenant, peaceful assemblies must not be used for advocacy of national, racial or religious hatred, or for incitement to discrimination, hostility or violence (art. 20 (2)). Incitement to discrimination, hostility and violence on the grounds of race is also prohibited under article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination.
- 4.4. The Rabat Plan of Action suggests a high threshold for defining restrictions on freedom of expression. It outlines a threshold test requiring consideration of the social and political context, status of the speaker, intent to incite the audience against a target group, content and form of the speech, extent of its dissemination and likelihood of harm, including imminence.²
- 4.5. In accordance with human rights principles, *restrictions on freedom of assembly should be content neutral, and not related to the message conveyed by the protest.*³

¹ See the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, available at <https://docs.un.org/en/E/CN.4/1985/4>.

² See <https://www.ohchr.org/en/documents/outcome-documents/rabat-plan-action>.

³ UN Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21), see <https://docs.un.org/en/CCPR/C/GC/37>. Also see 7 Alekseev v. Russian Federation, para. 9.6

5. Constitutional principle of implied freedom of political communication

- 5.1. Amnesty International Australia notes the recognition of the implied freedom of political communication as a fundamental constitutional principle. Under this doctrine, laws burdening political communication must serve a legitimate purpose, and be reasonably appropriate and adapted to achieving that purpose. As established in *Lange v Australian Broadcasting Corporation*, any such law must be compatible with the maintenance of a representative and responsible system of government. Criticism of war crimes, crimes against humanity, genocide, occupation, apartheid, or other human rights violations is a vital exercise of a fundamental human right in Australia. It must not be conflated with hate speech, violence, or intimidation, which are legally distinct, and validly addressed through criminal sanctions.
- 5.2. Measures targeting specific slogans deeply embedded in peaceful anti-genocide, anti-apartheid, and anti-occupation movements are neither reasonable nor proportionate. Such measures would unjustifiably burden political communication, and undermine the fundamental right to political communication, a cornerstone of our democratic system of government.
- 5.3. Amnesty International Australia is concerned about the language used in the Terms of Reference (TORs) for the current inquiry. In particular, we note that the TORs ask that the Committee on Law and Safety inquire into and report on “the use of slogans that are directed at certain communities to intimidate those communities and instill fear of violence.” The only slogan given as an example of the type the Committee should consider is the phrase “globalise the intifada”. This implies that use of the phrase “globalise the intifada” is directed at certain communities to intimidate them and instill a fear of violence. Arriving such direction and intention to all instances of the use of this phrase isn’t supported by evidence. It is a phrase with contested meaning, and for a balanced approach, Amnesty International Australia draws the Committee’s attention to Arabic speaking and Palestinian organisations for an explanation of communities’ understanding and use of the phrase.
- 5.4. Within the context of the Palestine solidarity movement, banning phrases such as “globalise the intifada” would represent an unjustified response that serves no legitimate public safety purpose, and indeed, risks exacerbating social division. The Arabic term *intifada* translates to ‘uprising’ or ‘struggle’ and, in the Palestinian context, refers to resistance against unlawful occupation and systemic oppression by the State of Israel. For many Palestinians and their supporters globally, the phrase is used to call for international solidarity, building collective resistance to apartheid and occupation, using political, legal and economic pressure to achieve justice and accountability. Characterising the phrase as a call for inciting violence ignores its meaning in Arabic, long-running political and historical meaning, unreasonably conflating legitimate political dissent with incitement to violence. Such attempts to criminalise or suppress such pro-Palestinian expressions target peaceful protest and dissent.

- 5.5. There is an insufficient connection between banning peaceful political slogans and achieving community safety or social cohesion. Amnesty is deeply concerned at the way the Bondi tragedy has been conflated with peaceful, pro-Palestinian protests in Australia. There is nothing on the public record indicating the men responsible for the killing of 15 people at Bondi were in any way associated with marches protesting the genocide against Palestinians, including the March for Humanity. Public commentators and politicians seeking to connect these serve to further endanger Palestinian Australians and Muslims who understandably and justifiably wish to speak out against the State of Israel's actions in the Occupied Palestinian Territory. It erodes Australia's proud history of peaceful protest and does not address the real issue of antisemitism behind the Bondi attack. Less restrictive and more effective alternatives exist to address hatred and antisemitism. Blanket bans on phrases and slogans would impose a disproportionate burden on peaceful Palestine advocacy, and would not address the root causes of antisemitism, or allow people to live free from violence, discrimination, and vilification.
- 5.6. Under the current law (*Crimes Act 1900 (NSW)*) it is an offence to publicly threaten or incite violence against a person or group on the grounds of ethno-religious origin. However, the conduct must incite or threaten violence, not merely offend. Amnesty is of the view that this provides adequate protection against harmful speech for religious communities.
- 5.7. Hate speech laws necessarily need to strike a balance between freedom of expression and protection of various communities from harm. It is acknowledged that offence is a type of harm - and all Australians are protected and may make a complaint under the *Racial Discrimination Act 1975 (Cth)* about conduct reasonably likely to "offend, insult, humiliate or intimidate" with exceptions to protect freedom of speech. However, if governments legislate to criminalise speech that might be considered offensive with no exceptions for legitimate freedom of speech or protest, Amnesty is concerned free speech and the right to protest - for example, to speak out against a foreign government actively committing genocide - will be seriously and unjustifiably restricted.
- 5.8. Victoria's new vilification laws include two new criminal offences for the most serious hate speech conduct. The incitement offence requires the speech to "encourage hatred against, serious contempt for, revulsion toward or severe ridicule of another person or group of persons" to meet the threshold. The offence requires that they "threaten another person or group with physical harm or property damage because of a protected attribute, intending that the person or a person of the group will believe the threat will be carried out, or believing they will probably believe it will be carried out." These are appropriately designed to target serious conduct, not offence, for criminal sanctions.

6. Addressing hate without suppressing fundamental civil and political rights

- 6.1. Amnesty International Australia strongly urges the New South Wales Government not to respond to the Bondi tragedy by further suppressing protest rights or legitimate political expression. Instead, the Government should adopt a principled, evidence-based approach to combating antisemitism, racism, hatred and violence in all its forms, one that addresses root causes, rather than curtailing fundamental freedoms.
- 6.2. The Australian Human Rights Commission has developed a landmark national plan to end racism, following a comprehensive three-year consultation process involving with hundreds of community organisations, service providers, government departments and agencies, subject matter experts and relevant community members. The National Anti-Racism Framework includes 63 recommendations for a whole-of-society approach to eliminating racism, providing a comprehensive roadmap for governments, business and community organisations to address all forms of racism. Amnesty urges all governments to adopt recommendations made in the report.
- 6.3. All people have the right to live free from racism, discrimination, vilification and violence, and these rights are best protected through inclusive, rights-respecting policies, rather than unwarranted restrictions on freedom of speech that restrict the peaceful and legitimate expression of views.
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