

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

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Submission to the Justice, Integrity and Community Safety Committee

Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 (Qld)

Introduction

The Australia Palestine Advocacy Network (APAN) thanks the Committee for the opportunity to make a submission.

APAN unequivocally opposes antisemitism. Antisemitism is racism and must be confronted decisively and effectively. APAN also opposes anti-Palestinian racism, Islamophobia, anti-Arab racism, anti-Indigenous racism, and all forms of racial and religious discrimination. All forms of racism must be addressed comprehensively, consistently and without selectivity.

Therefore, APAN opposes this Bill in its current form.

While responding to serious violence and rising hate is a legitimate objective, the Bill introduces expansive executive powers and broad criminal offences that risk suppressing legitimate political expression and disproportionately impacting communities already experiencing heightened scrutiny.

Measures to address racism and hate-based violence must be precise, proportionate and anchored to clear intent. They must protect communities from violence without undermining democratic freedoms or creating new forms of discrimination.

This submission addresses the provisions concerning prohibited expressions, symbol regulation, expanded police powers and preparatory offences.



1. Racism Must Be Addressed Comprehensively

Racism in Australia takes multiple forms and primarily rests on the fact that Australia remains a settler-colony. Thus First Nations people are the first and primary targets of racism in Australia. This fact must guide any community anti-racist response. Additionally, Palestinian, Muslim, Arab, Jewish, and other migrant, refugee, racialised and faith communities have also experienced vilification, threats, discrimination, hostility and surveillance.

Effective legislative and community responses to racism must operate universally and start from the foundation of tackling Australian settler-colonialism. It must not elevate the protection of one settler community in a way that exposes another to disproportionate scrutiny or criminalisation.

Communities are strengthened when their concerns are treated seriously, fairly and consistently.

2. Palestinian Communities Are Already Experiencing Heightened Scrutiny

Since October 2023 and before, Palestinians in Australia and those advocating for Palestinian rights have experienced increased surveillance at protests, police examination of slogans for potential criminality, workplace complaints triggered by political and cultural speech, and public characterisation of Palestinian solidarity as extremist or threatening.

Community members report that their identity, culture and political language are treated as inherently suspect.

In this context, expanding ministerial power to proscribe “prohibited expressions” does not occur in a neutral environment. It operates within a climate where certain racialised communities already experience heightened enforcement and suspicion.

This Bill is clearly designed to increase that scrutiny, surveillance and prohibition on Palestinian expression. The real-world discriminatory effects of this must be acknowledged and carefully considered.

3. Criminalising Contested Political Language

The Bill empowers the Minister to proscribe “prohibited expressions” where satisfied they are regularly used to incite discrimination, hostility or violence toward a relevant group.

Public commentary surrounding the Bill makes clear that expressions such as “globalise the intifada” and “from the river to the sea” are among those intended to be targeted.

These phrases are political slogans used in the context of advocacy for Palestinian rights, self-determination and equality. They are used at protests, in political debate and in discussions concerning international law and state policy.

They do not have a single fixed meaning. Their meaning depends on context, speaker intent and audience.

Criminal law cannot operate by fixing one contested interpretation of a political slogan and applying it universally to all speakers.

If a person uses any words with the intention of inciting violence against Jewish people or any other group, existing criminal offences addressing threats and incitement are already available.

What this Bill proposes is different. It allows the executive to proscribe political language in advance and criminalise its public use irrespective of the speaker’s intent.

That approach will criminalise political advocacy and will not prevent violence.

For many Palestinians in Australia, these expressions relate to lived experience of displacement, occupation and demands for equal rights. Criminalising such language renders aspects of Palestinian political and cultural identity legally precarious and proscribed.

Legislation aimed at addressing antisemitism and other forms of racism must target deliberate incitement to harm. It must not become a mechanism for suppressing contested political speech.



International and Constitutional Safeguards on Political Expression

Australia is bound by the International Covenant on Civil and Political Rights, which protects freedom of expression under Article 19. Restrictions may only be imposed where they are lawful, necessary and proportionate.

Article 20(2) requires prohibition of advocacy of hatred that constitutes incitement to discrimination, hostility or violence. This is a high threshold requiring advocacy and incitement or national, racial or religious hatred, not mere controversy or political opposition¹.

The Rabat Plan of Action requires consideration of context, speaker, intent, content, extent of dissemination and likelihood of harm. It does not support blanket prohibitions on slogans that carry multiple meanings.

The United Nations Special Rapporteur on Freedom of Opinion and Expression has warned against blanket prohibitions on pro-Palestinian expression and emphasised case-by-case proportionality.

Blanket bans on expressions that are not intrinsically incitements to violence risk discriminatory effect.

The Australian Constitution protects an implied freedom of political communication. Laws burdening political communication must be proportionate to achieving a legitimate objective.

Political protest and debate concerning foreign policy sit at the core of protected communication.

A regime that allows the executive to proscribe contested political slogans irrespective of intent raises serious constitutional concerns.

Legislation aimed at addressing antisemitism and other forms of racism must therefore be tightly confined to intentional incitement to violence or serious harm.

¹

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, article 19 and article 20.



4. “Substantially Similar” and Resemblance Provisions

The Bill extends liability to expressions that are “substantially similar” to proscribed expressions.

This creates serious legal uncertainty.

Political movements evolve language. Minor variations are common. A substantially similar test makes it unclear where lawful speech ends and criminal liability begins.

Resemblance standards applied to symbols create similar risks.

Palestinian cultural symbols including flags, keffiyehs, colours and imagery are frequently misinterpreted. A resemblance-based framework increases the risk that ordinary cultural and political expression becomes subject to investigation.

Laws addressing racism must not be used to produce racially disproportionate enforcement outcomes.

5. Criminal Liability Based on Potential “Offence”

The proposed offence applies where an expression could reasonably be expected to make a member of the public feel menaced, harassed or offended.

Political speech often causes offence. That is inherent in democratic discourse.

Lowering the threshold to potential offence risks converting political discomfort into criminal liability.

Criminal law should target intentional incitement to violence or serious harm, not speech that provokes disagreement.

The inclusion of “offended” significantly lowers the threshold for criminal sanction and will chill lawful protest.



6. Absence of a Clear Intent Requirement

The offence does not require proof of intent to incite violence or serious harm.

Without an intent requirement, liability may turn on audience reaction rather than deliberate advocacy of harm.

Serious criminal penalties must be reserved for intentional incitement to violence.

7. Expanded Stop, Search and Seizure Powers

The Bill extends warrantless stop, detain and search powers to suspected prohibited expression offences.

These powers are intrusive and risk escalating protest environments.

When legislation addressing hate-based conduct is paired with expanded police discretion, safeguards are essential to prevent discriminatory enforcement. These safeguards are - evidently deliberately - missing from the legislation.

Protection from racism must not come at the cost of equal treatment before the law.

8. Inadequate Time for Public and Parliamentary Scrutiny

The Bill was introduced on 10 February with submissions closing on 17 February and the Committee due to report shortly thereafter.

This provides less than one week for civil society, legal experts and affected communities to analyse complex criminal provisions and expanded executive powers.



Legislation that expands criminal liability and burdens political communication requires careful and inclusive consultation.

Compressed timeframes limit meaningful participation and restrict considered constitutional analysis.

Where legislation affects core democratic freedoms, heightened procedural safeguards should apply.

9. Executive Power to Prescribe Political Expression

The Bill delegates to the Minister the power to proscribe expressions by regulation.

Where criminal liability attaches, core elements of offences should be contained in primary legislation and subject to full parliamentary scrutiny.

Delegating criminalising authority to the executive risks politicising enforcement and reducing democratic accountability.

Criminal law must be certain, foreseeable and enacted through transparent parliamentary processes.

Recommendations

APAN recommends that the Committee:

- Abandon this legislation as it currently stands.
- Extend the consultation period for potential legislation to allow full constitutional and human rights scrutiny.
- Undertake meaningful consultation with First Nations communities, Palestinians, Muslim communities and Jewish communities before proceeding with any legislation to deal with racism.



If the legislation is to be proceeded with - against our strong objections - we recommend that the Committee:

- Remove “offended” as a triggering threshold.
- Require proof of specific intent to incite violence or serious harm.
- Remove or substantially narrow “substantially similar” and resemblance provisions.
- Limit warrantless stop and search powers to clearly defined and serious conduct.
- Include explicit safeguards protecting political advocacy, protest speech and cultural expression.
- Remove ministerial power to prescribe expressions by regulation and require any such prohibitions to be enacted through primary legislation.

All forms of racism must be confronted decisively.

But laws that chill lawful political speech or disproportionately impact already scrutinised communities will not strengthen social cohesion. They risk eroding democratic freedoms and deepening division.

APAN urges the Committee to abandon this Bill, and if not, to amend the Bill to ensure that efforts to combat all forms of racism are effective, rights-protective and consistent across all communities without expanding executive power in ways that pit communities against each and increase the racism faced by other communities; and which undermine democratic freedoms.

Australia Palestine Advocacy Network

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