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

Submission No: 308

Submission By: Freedom for Faith

Publication: Making the submission and your name public

16 February 2026

Justice, Integrity and Community Safety Committee

By e-mail: jicsc@parliament.qld.gov.au

Submission on the 'Antisemitism' Bill (Qld) 2026

Who are we?

1. This submission is on behalf of, and co-signed by:

   Freedom for Faith affiliates:

   - Australian Christian Churches
   - Presbyterian Church of Australia
   - Queensland Baptists
   - Seventh-day Adventist Church

   In collaboration with:

   - Queensland Churches Together
   - Anglican Church, Diocese of the Southern Cross
   - Foursquare Australia
   - International Network of Churches
   - Fellowship of Independent Evangelical Churches

2. The submission was coordinated by Freedom for Faith, a Christian legal think tank that exists to see religious freedom for all faiths protected and promoted in Australia and beyond. Freedom for Faith is led by people drawn from a range of denominational churches including the Anglican Church Diocese of Sydney, The Catholic Church, the Australian Christian Churches, Australian Baptist Churches, the Presbyterian Church of Australia, and the Seventh-day Adventist Church in Australia. It has strong links with, and works co-operatively with, a range of other faith groups in Australia.

3. We welcome the opportunity to make this submission and we give consent for this submission to be published. Our contact details are as follows.

Freedom for Faith

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Executive Summary

4. We are concerned that the Bill creates a powerful speech-restricting scheme that turns largely on Ministerial discretion, attaches serious criminal penalties to a very low threshold for offending speech based on whether a 'reasonable' member of the public would be offended, and provides very ambiguous exemptions.

Concern about the consultation timeline

5. We are deeply concerned about the rushed nature of the legislation and the extremely compressed timeline for consultation.

6. This bill is significant legislation that contains great risk for unintended consequences—particularly in the potential to restrict fundamental human rights of religion, belief and speech.

7. We are particularly concerned about the timeline given the recent precedent from the Federal *Combatting Antisemitism, Hate and Extremism Bill 2026.* In that case, the Government brought legislation with equally little consultation or notice, and equally short time for analysis and submissions. The Federal Labor Government suffered justified criticisms from the Coalition Opposition for the rush, and it is disappointing to see a Liberal National Government copying the mistake.

8. The comparison is especially apt since the Federal hate speech provision was withdrawn because it constituted significant over-reach by criminalising speech which fell short of an incitement to violence and therefore faced wide-spread opposition across the political spectrum.

Legislative background

A) Federal

9. In January 2026, the Commonwealth Government released an exposure draft of the *Combatting Antisemitism, Hate and Extremism Bill 2026*, a similar omnibus bill, which included hate speech legislation.

10. While there was resistance to many elements of the legislation from various quarters, the hate speech section (creation new section 80.2BF) received strong opposition from all sides of the political spectrum.[1]

[1] E.g. Liberty Victoria, the NSW Council for Civil Liberties, and Freedom for Faith:
https://libertyvictoria.org.au/wp-content/uploads/2026/01/Review-of-the-Exposure-Draft-Legislation_-Combatting-Antisemitism-Hate-and-Extremism-Bill-2026.pdf
https://freedomforfaith.org.au/wp-content/uploads/2026/02/FFF-Combat-Antisemitism-Hate-Submission.pdf

11. Notably, an open letter from 27 major faith leaders was sent to the Prime Minister outlining their concerns about the legislation, including:[2]

- The rushed timeline and lack of consultation with faith communities
- The imprecision and subjectivity of the law, given the high criminal penalty
- The lack of adequate protection for genuine religious and ethical disagreement, debate and teaching

12. The objections were strong enough that the Government chose to split the omnibus bill, advanced the "proscribed organisations" and "gun reforms" sections separately, and dropped 80.2BF entirely.

13. It is important to note that the scope of the original Federal bill was limited to only race and ethnicity. Even then the objections to the legislation were strong. As the Faith Leaders' Letter highlighted, if the legislation had been expanded to cover a broader range of protected attributes, then the Bill would have criminalised the expression of some religious beliefs.

B) NSW Review

14. In December 2025, the NSW Legislative Assembly Committee on Law and Safety was referred an inquiry into similar proposals to ban hate speech.[3]

15. The Committee specifically examined the broad regulation-based format of prohibiting expressions that is the basis of the Queensland legislation, as well as the subjective assessment of harm.

16. The Committee perceived constitutional risks to these approaches in the threat to the implied freedom of political communication. Instead, the Committee recommended legislating for each prohibited expression, rather than giving the Minister discretion. They also recommended specifying the objective harm linked to a prohibited expression within that legislation.

17. The Committee's conclusion is significant for the current legislation under consideration:

> 4.3 The High Court has recognised that the implied freedom of political communication is not absolute, and that it will not invalidate a law if that law is:
>
> - for a legitimate purpose, and
> - reasonably appropriate and adapted to that legitimate purpose
>
> […]
>
> 4.11 The Committee sought independent legal advice on this matter and understands that if legislation is unduly broad, it may not be appropriate and adapted to its purpose. For example, stakeholders noted that legislation proscribing phrases that

[2] https://freedomforfaith.org.au/wp-content/uploads/2026/02/Joint-Faith-Leaders-Letter-re-Antisemitism-Hate-Extremism-Bill-2026.pdf
[3] https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=3167

were deemed offensive, without reference to an incitement of violence, may be unduly broad.

4.12 We also understand that allowing the specification of additional proscribed phrases, through a further regulation or legislative instrument, may increase the likelihood of a successful challenge. The Committee recognises the importance of legitimate political expression and does not recommend proscribing other phrases that are non-violent expressions of Palestinian solidarity, even if they may be offensive to some people.

4.13 On this basis, the Committee recommends that the NSW Government consider proscribing the one phrase only ('globalise the intifada'), where that phrase is used as an incitement of violence, to ensure that any proposed legislation does not go further than necessary, while also protecting the Jewish community from harm.

[…]

4.15 If additional phrases were to be considered in future, the Committee is of the view that these phrases should be brought before Houses of Parliament again for consideration.

4.16 On balance, having considered the advice, the Committee is of the view that any legislation to proscribe this phrase should consider:

- including a causal element that specifically links the use of the phrase with a particular harm (for example, the incitement of hatred, or harassment, intimidation or violence),
- identifying or declaring the particular harm associated with the phrase within the text of the proposed legislation, and
- ensuring that it is reasonably appropriate and adapted to serving the legitimate purpose of protecting the community from harm.

Religious freedom in Queensland Law

18. The Universal Declaration of Human Rights recognises freedom of religion and freedom of speech as fundamental human rights. These rights are articulated in the International Covenant on Civil and Political Rights to which Australia is a signatory (ICCPR Art. 18 and 19).

19. In Queensland law, the ICCPR has been (partially) implemented in the *Human Rights Act 2019 (Qld)*:

> 20 Freedom of thought, conscience, religion and belief
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> 1. Every person has the right to freedom of thought, conscience, religion and belief, including—
>
> a. the freedom to have or to adopt a religion or belief of the person's choice; and
>
> b. the freedom to demonstrate the person's religion or belief in worship, observance, practice and teaching, either individually or as part of a community, in public or in private.

2. A person must not be coerced or restrained in a way that limits the person's freedom to have or adopt a religion or belief.

21 Freedom of expression

1. Every person has the right to hold an opinion without interference.
2. Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Queensland and whether—
   a. orally; or
   b. in writing; or
   c. in print; or
   d. by way of art; or
   e. in another medium chosen by the person

13 Human rights may be limited

1. A human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

20. We note that the limitation provisions in section 13 of the *Human Rights Act 2019* (QLD) are not entirely consistent with the ICCPR—at least with respect to the freedom of thought, conscience and belief. Whilst Article 19 (which relates to freedom of expression) has a lower threshold for limitations on speech, the expression of religious belief is subject to a higher threshold by virtue of Article 18. Article 18 requires that the manifestation of religious belief can only be limited where this is "necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others".

21. The Siracusa Principles for interpreting the ICCPR, which were adopted by the United Nations in 1985, explain that "necessary" requires a limitation to:[4]

> (a) be based on one of the grounds justifying limitations recognized by the relevant article of the Covenant;
>
> (b) responds to a pressing public or social need;
>
> (c) pursues a legitimate aim; and
>
> (d) be proportionate to that aim.

22. We are concerned that these proposed laws have the potential to impose limitations on religious speech in ways which are neither "demonstrably justified" for the purposes of the *Human Rights Act 2019* (QLD) nor "necessary" as required by Article 18 of the ICCPR.

Concerns regarding the proposed legislation

[4] *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*

A) Wide Ministerial discretion to proscribe expressions by regulation

23. A "prohibited expression" is determined by what is prescribed by regulation, and that regulation is made following a Ministerial recommendation. In practice, this empowers the executive to expand the category of criminally prohibited speech without any Parliamentary oversight or review.

24. Under amended section 52C(3) an 'expression' could be made unlawful with up to two years in prison by prescription in regulations where the Minister 'is satisfied … the expression

> (a) is widely known by the public as being solely or substantially representative of an ideology of extreme prejudice against a relevant group; or
>
> (b) is widely known by members of a relevant group as being solely or substantially representative of an ideology of extreme prejudice against that group' (subsection 52C(3)).

25. 'Also, the Minister' may make such a regulation 'only if the Minister is satisfied the expression is regularly used to incite discrimination, hostility or violence towards a relevant group' under proposed subsection 52C(3A).

26. It is not clear whether both subsections 3 and 3A must be satisfied in order for the Minister to make a regulation prescribing an expression. It appears to be the intention that subsection 3 and 3A provide separate statutory pathways to prescription. The Explanatory Notes only mention subsection 3A in the list of matters that must be satisfied in order to prescribe an expression. In that case, all that would be required is that the Minister must be 'satisfied the expression is regularly used to incite discrimination, hostility or violence towards a relevant group'.

27. The technical definition of discrimination (both direct and indirect) under the *Anti-Discrimination Act 1991* (Qld) ('ADA') enfolds actions that are exempt under the religious bodies exemption at section 109(1). This means that the actions of religious institutions (and their agents) would fall within the scope of 'discrimination' for the purposes of the new section 52C, even though these actions are lawful by operation of the ADA exemption. For example, it could be argued that the expression "Jesus is the only way to salvation" is discriminatory towards other religions, and that the expression "God made only two sexes—male and female" is discriminatory towards those who hold that sex and gender are fluid. These expressions are not unlawful for the purposes of the ADA, by virtue of section 109(1), but nonetheless fall within the scope of 'inciting discrimination' for the purposes of the proposed subsection 52C(3A).

28. Similarly, we are also concerned that "inciting … hostility or violence" will be extended beyond physical harm to include psychological distress or emotional impact. While mental harm can be real and significant, treating offence, fear, anxiety, or trauma responses as "violence" risks collapsing important legal distinctions and further lowering the threshold for punitive state intervention into speech.

29. There is legal precedent for the proposition that "actual bodily harm", which traditionally was understood to flow from physical force or violence, can now include harm flowing from violence to one's mental health. For example, the New South Wales Court of Criminal Appeal stated in *Shu Qiang Li v R*: [5]

> A further matter is that, if the victim had been injured psychologically in a very serious way, going beyond merely transient emotions, feelings and states of mind, that would be likely to have amounted to "actual bodily harm" (see R v Lardner, unreported, NSWCCA, 10 September 1998.)

30. 'Violence' and 'actual bodily harm' are conceptually synonymous. As such, the argument can be made that inciting someone to take an action that might cause psychological injury is inciting violence for the purposes of the proposed subsection 52C(3A).

31. Our concerns for religious speech are best illustrated by example. If a religious minister say that that Christians raise their children according to Scriptural teaching on sexuality, would this be 'inciting violence' against their children? This is because, on one account (which we contest), raising a child according to Scriptural teachings is psychologically harmful. Since the Minister urged the raising of the child according to such teaching, he or she is 'inciting violence'.

32. Other key concepts that trigger proscription—such as whether an expression is "widely known" as representative of an ideology of "extreme prejudice" are contestable, culturally contingent, and likely to vary across communities within Queensland.

33. Even with consultation requirements and a satisfaction test, the core decision remains highly discretionary on ambiguous grounds. This creates a real risk that proscription becomes reactive to political pressure or media cycles, rather than being confined to clearly defined, objective criteria.

34. The problem is not merely theoretical. Once a regulation is made, all members of the public are expected to know that an expression has been prescribed, and to avoid not only that expression but also anything that "so nearly resembles" it that it may be confused with it. This resembles an expanding "grey zone" around proscribed speech that is difficult to navigate in real life and invites inconsistent enforcement.

35. This grey zone creates an opportunity for bad faith complaints. Activists who are closely following Government bulletins will be equipped and incentivised to seek out those who they disapprove of to catch them using newly prohibited phrases, or make accusations to the Police that a phrase used "so nearly resembles" a proscribed expression. As seen in other jurisdictions, Police are often ill-equipped to discern these distinctions and will err on the side of laying charges. This will create an unacceptable chilling effect on free speech.

[5] [2005] NSWCCA 442 [45].

B) Criminality set at a very low threshold, amplifying the discretion problem

36. Once an expression is declared to be prohibited, it attracts a criminal offense that has an extremely low bar:

> **52DA Recital, distribution, publication or display of prohibited expressions**
>
> (1) A person who publicly recites, publicly distributes, publishes or publicly displays a prohibited expression in a way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended commits an offence, unless the person has a reasonable excuse.

37. The offence is not limited to conduct *intended* to menace, harass, incite violence, or discriminate. Instead, criminal liability arises where a person publicly recites, displays or publishes a prohibited expression "in a way that might reasonably be expected" to cause a single member of the public to feel menaced, harassed or offended.

38. The test is not the same as an objective "reasonable person" test. The test requires only that there is a reasonable expectation that a "member of the public" might "feel" "menaced, harassed or offended". That member of the public need not be reasonable or reflect common social norms. They may hold very strong views on such issues and be easily offended. The test only requires that it might be reasonably expected that such a person might feel offended.

39. The concept of feeling "harassed" is an equally low bar. In Re Susan Hall; Dianne Susan Oliver and Karyn Reid v A & A Sheiban Pty Ltd; Dr Atallah Sheiban and Human Rights and Equal Opportunity Commission the Federal Court said:

> The word "harass" implies the instillation of fear or the infliction of damage; as is indicated by the definition of the term in the Macquarie Dictionary: "1. to trouble by repeated attacks, incursions, etc., as in war or hostilities; harry; raid. 2. to disturb persistently; torment, as with troubles, cares, etc."[6]

40. If harassment includes "disturbing persistently", then it is equally "reasonable" to expect that some members of the public would "feel" "harassed" by (for example) the regular teaching of main-stream religious views about other faiths, gender or sexuality.

41. This is a very low and subjective harm threshold for criminal punishment—especially when paired with:

- no requirement that anyone actually heard or saw the expression;
- a broad conception of "public" that includes visibility/audibility from public places; and
- an evidential burden on the defendant to raise a "reasonable excuse".

[6] *Re Susan Hall; Dianne Susan Oliver and Karyn Reid v A & A Sheiban Pty Ltd; Dr Atallah Sheiban and Human Rights and Equal Opportunity Commission* (1989) 85 ALR 503, 531; [1989] FCA 72; 20 FCR 217 (15 March 1989) [9]).

42. Note that this legislation covers not only race, but also religion, gender and sexuality—some of the most controversial topics in modern society. These are areas with strongly held opposing beliefs, where claims and counter-claims of harm and offense are common. Such is the controversy and polarisation around those issues that any kind of comment or regular public teaching (noting that a place of worship would be "public") could be expected make one member of the public or another "feel" "offended" or "harassed".

43. The effect of the extremely low bar of the criminal provision is that, once a phrase has been declared to be prohibited, almost any use of that phrase will automatically be criminalised (barring the very limited "reasonable excuse" defence).

44. Together, these features materially increase the risk of over-criminalisation and chilling effects. People will self-censor—particularly in politically contested or emotionally charged contexts—because they cannot confidently predict what a court might later view as "reasonably expected" to offend, nor whether they can prove that they had a reasonable excuse. The practical consequence is that the scheme can deter legitimate speech, including robust public debate, commentary, theological discussion, satire, reporting, and advocacy—precisely the areas where democratic societies need speech protection to be strongest.

C) "Reasonable excuse" is not an adequate safeguard

45. While the legislation lists examples of "reasonable excuse" (e.g., genuine educational, historical, legal, religious purposes, and public interest), this is significantly weakened by the condition in that "the person's conduct was, in the circumstances, reasonable for that purpose."

46. There is recognition of the uncertainty and ambiguity in the term "reasonable" within the law. For example, in *Bropho v Human Rights & Equal Opportunity Commission* ('*Bropho*') French J recognised the vagaries of the "reasonable" test when his Honour said (with reference to clause 18D of the *Racial Discrimination Act 1975*):

> … the judgment which the Court is called upon to make in deciding whether an act falls within clause 18D has the character of judicial opinion and assessment in the application of legal standards of ill-defined content. In difficult or borderline cases judicial opinions may differ.[7]

47. Similarly, in declining the appeal from the Federal Court, Gleeson CJ stated

> The issue of whether the conduct in question in this case was reasonable and in good faith involved a matter of judgement on which minds might differ.[8]

48. Placing the burden of proof on an individual to prove the reasonableness of their statements is fact-intensive, assessed after the event, and depends on a court later deciding whether the person's conduct was "reasonable in the circumstances".

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[7] *Bropho v Human Rights & Equal Opportunity Commission* ('*Bropho*') [2004] FCAFC 16 (6 February 2004) [76] (French J).

[8] *Bropho v Human Rights & Equal Opportunity Commission* HCA Transcript 9 (4 February 2005) (Gleeson CJ).

49. This is particularly concerning as it will place judges in the role of determining if religious teaching was “reasonable”. 'Secular judges are ill-equipped to determine if religious conduct is reasonable from a religious perspective and it is highly likely that perverse interpretations will result which will have the effect of restricting religious freedom. It is also problematic, in principle, to have secular judges which are agents of the state to effectively decide the nature and effect of religious doctrine.

50. In combination with the broad Ministerial discretion and the extremely low bar for criminal offense, the ambiguity of the exemption will lead to unclear legislation with unpredictable results, attracting a potential 2-year sentence.

51. As a result, this legislation would place the burden and risk on speakers—particularly volunteers, community leaders, journalists, academics, clergy, and activists—who are unlikely to have legal advice at the time. The result is a predictable “better safe than sorry” effect, where people avoid lawful discourse because the consequences of getting it wrong are severe.

D) Implications on religious freedom

52. This legislation raises significant risks to the fundamental freedoms of belief, speech and religion.

53. Firstly, the ‘”reasonable excuse” test is highly inappropriate to be applied to religious speech. It is recognised to be ambiguous, is in violation of international standards, and contradicts established Queensland legislation.

54. The International Covenant on Civil and Political Rights permits the limitation of religious speech only as “necessary” for limited circumstances. The *Human Rights Act (Qld) 2019* has a lower bar, yet still requires limitations to be “only to reasonable limits that can be demonstrably justified”. In both formulations, the burden is upon the law that is limiting speech or religion to prove that it is necessary or reasonable.

55. In contrast, the “reasonable excuse” test flips the burden of proof onto the speaker, to prove that their use of an expression was reasonable. This is a clear violation of the principles of religious freedom in the *Human Rights Act* and *ICCPR.*

56. Secondly, the inclusion of other protected categories—especially religion, gender and sexuality—significantly increases the risk of this legislation impinging on religious freedom in a way that is not proportionate to its purpose.

57. While we acknowledge that this is not the expressed intention of the current Government, this legislation allows future Ministers to declare through regulation that controversial religious teachings are prohibited expressions.

58. There are documented attempts by main-stream advocacy organisations to have traditional religious teaching declared to be extremism or hate speech. For example, Equality Australia have argued that traditional Christian teaching on sexual ethics is ‘directed towards certain communities’ and instil fear of violence (including psychological harm). In its submission to the INSLM Review, Equality Australia submitted that the

definition of extremist ideology should be drafted to include the following scenarios (emphasis added):[9]

- [where] The beliefs may prescribe the idea of an 'ideal' society composed solely of people who are cisgender and/or heterosexual, and *"traditional" mother/father parented families.*
- [where] The beliefs may be aimed at being propagated across and influencing broader society, *causing fear* amongst LGBTIQ+ people.

59. Their submission further argued that harm should be extended to psychological harm.

60. It is not inconceivable that future Governments will be lobbied to declare traditional religious teachings from a wide range of faiths to be prohibited expressions due to such claims of harm. Expressions that could be targeted in this way include:

- Only one faith leads to salvation and non-believers will face judgement
- God made humanity male and female, and these are unalterable realities
- Sexual expression should be limited to within faithful heterosexual marriage

61. We hold deep concerns that this legislation creates a precedent for future significant erosions of religious freedom simply through regulation.

Conclusion

62. Criminal offences should be drafted with high legal certainty, narrow scope, and clear connection to preventing serious harm. A regime that allows the executive to proscribe expressions by regulation, and then criminalises public use on the basis that it might reasonably offend, is not a proportionate or precise way to address hateful speech. It risks capturing speech that is controversial or upsetting but not harmful in the sense typically required to justify criminal sanctions.

63. In line with the legal advice provided to the NSW Parliament, the law as proposed also risks infringing the implied freedom of political communication and thus being rendered unconstitutional. As consistently held in the leading cases of *Lange*, *McCloy* and *Brown*,[10] a law will infringe the implied freedom where there is a burden on political speech, the law does not have a legitimate objective, or if it does, the law is not reasonably appropriate and adapted (proportionate) to that objective. This law clearly burdens political speech by enabling the criminalisation of 'prohibited expressions'.

64. Furthermore, this law directly targets the political and religious speech which undergirds Australia's process of representative democracy, so it arguably lacks a legitimate objective. Even if there is some legitimate object such as community safety, the law is

[9] Equality Australia submission to the INSLM Review of the definition of a 'terrorist act' in section 100.1 of the Criminal Code Act 1995 https://www.inslm.gov.au/system/files/2025-10/equality_australia_dtreview.pdf

[10] Lange v Australian Broadcasting Corporation (1997) 189 CLR 520.
McCloy v New South Wales (2015) 257 CLR 178.
Brown v Tasmania (2017) 261 CLR 328.

clearly disproportional to the achievement of that object as it is not reasonably appropriate and adapted to the achievement of that object.

65. The unfettered Ministerial discretion means that the law could potentially capture almost any speech on any topic. The extremely low bar of 'feels offended' means it is difficult to imagine any debate not being caught by it. Though there is a defence of reasonable excuse, it is narrow, difficult to meet, subject to interpretation, and shifts the burden to the accused. There is a term of imprisonment imposed if found guilty and so the penalty is significant. The chilling effect on speech far outweighs the harm this law is seeking to address, and is likely to be challenged.

66. We urge the Government to withdraw this section of the omnibus bill and begin a wider consultative process to develop more balanced legislation.

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