

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

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Introduction

This submission raises concerns regarding the compatibility of the *Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026* (the Bill) with fundamental human rights and criminal justice principles, particularly in relation to the proposed *prohibited expressions offence*.

The submitter strongly supports decisive action to combat antisemitism and protect Jewish communities from discrimination, vilification and violence. Antisemitism is a serious threat to community safety and social cohesion and must be addressed through effective and principled legal frameworks. However, legislation aimed at addressing hatred must also uphold the rule of law, civil liberties and long-standing safeguards within the criminal justice system.

Committee relevance

The Justice, Integrity and Community Safety Committee has responsibility for scrutinising legislation affecting:

- criminal offences and enforcement
- fundamental rights and liberties
- justice system integrity
- compatibility with the *Human Rights Act 2019 (Qld)*

The proposed prohibited expressions offence directly engages these matters by criminalising speech, reversing evidential burdens and expanding police and prosecutorial discretion.

Human Rights framework

The Bill engages the following rights under the *Human Rights Act 2019 (Qld)*:

- Freedom of expression (s 21)
- Equality before the law and non-discrimination (s 15)
- The right to a fair hearing and the presumption of innocence (s 31)

These protections reflect Australia's obligations under the *International Covenant on Civil and Political Rights*, particularly Articles 19 and 26.

Under section 13 of the *Human Rights Act*, any limitation on these rights must be reasonable, demonstrably justified and proportionate to a legitimate objective.

Phrase-Based criminalisation and freedom of expression

The Statement of Compatibility acknowledges that the Bill limits freedom of expression by prohibiting the communication of particular phrases. While preventing discrimination is a legitimate objective, criminalising specific expressions is a blunt and imprecise mechanism.

Freedom of expression extends to political speech, protest, journalism, academic discussion and artistic expression, including speech that may be offensive or controversial. A phrase-based offence fails to account for:

- context
- intent
- audience
- whether actual harm or incitement has occurred

As a result, the offence risks capturing lawful expression, including criticism, quotation, reporting or political advocacy, none of which necessarily amount to antisemitism or discrimination.

Such an approach is inconsistent with established criminal law principles that offences should be clearly defined, narrowly targeted and directed at preventing concrete harm.

Presumption of innocence and evidential burden

The Bill places an evidential burden on the accused to establish a 'reasonable excuse' defence. The Statement of Compatibility describes this as a minor limitation on the presumption of innocence. This submission disagrees.

Shifting the burden of proof in a criminal offence based solely on speech is a significant erosion of fundamental justice principles. It exposes individuals to prosecution for expression unless they can later justify themselves, increasing the likelihood of:

- self-censorship
- selective enforcement
- chilling effects on lawful civic participation

This concern is squarely within the Committee's integrity and justice oversight role.

Conflation of expression with discriminatory conduct

Discrimination, vilification and hate crimes are matters of conduct that result in tangible harm or risk. Queensland law already criminalises:

- threats and harassment
- incitement to violence
- discriminatory conduct causing harm

By criminalising the use of specified phrases irrespective of conduct or outcome, the Bill collapses the distinction between harmful behaviour and expression. This risks undermining the coherence of Queensland's anti-discrimination and criminal law framework and weakening the focus on genuinely dangerous conduct.

Enforcement, integrity and legal certainty

Phrase-based offences invite inconsistent interpretation and enforcement. Decisions about context, meaning and intent will fall heavily on police and prosecutors, increasing the risk of:

- inconsistent application
- politicisation of enforcement

- erosion of public confidence in hate crime laws

From an integrity and community safety perspective, laws that lack precision can undermine trust in the justice system and reduce cooperation with law enforcement.

Conclusion and recommendations

The objective of combating antisemitism is essential and supported. However, the prohibited expressions offence, as drafted, raises serious concerns regarding freedom of expression, the presumption of innocence and legal certainty.

The Committee is urged to recommend that the Bill be amended to:

- remove or substantially narrow phrase-based criminal offences
- refocus the law on harmful conduct, threats and incitement
- preserve the presumption of innocence
- ensure compliance with section 13 of the *Human Rights Act 2019 (Qld)*

Protecting communities from hatred and preserving fundamental justice are complementary objectives. Legislation should strengthen both.

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