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

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The *Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026*: insufficient and undemocratic.

The *Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026* (the Bill), as introduced into the Queensland Parliament on 10 February 2026, is inadequate in both form and substance. Due to an insufficient regard for Queensland's Parliamentary institution based on the rule of law and several safeguards that support good policy-making, the Bill represents an undemocratic proposal to restrict freedom of expression that will not succeed in its stated objective of protecting community safety and social cohesion. The following submission will support this conclusion through reference to proper democratic process, critical analysis and academic commentary.

Note: *This submission is made with regard to the proposed amendments to the Criminal Code Act 1899 (the Code), the Police Powers and Responsibilities Act 2000 (PPRA) and related subordinate legislation. Other amendments proposed by the Bill are not within the scope of this submission.*

1. Insufficient regard to FLPs and human rights

The proposals in the Bill does not have sufficient regard to the rights, liberties and human rights of individuals as enshrined in the *Legislative Standards Act 1992* (LSA) and *Human Rights Act 2019* (HRA). Specifically, section 4 of the LSA provides a non-exhaustive list of considerations to be made in deciding whether legislation (and subordinate legislation) has sufficient regard to such rights and liberties, as well as the institution of Parliament itself. These are Queensland's fundamental legislative principles (FLPs).

The Bill does not have sufficient regard to the rights and liberties of individuals, as required by the FLPs in LSA section 4(2)(a), as the the Bill is not unambiguous and is not drafted in a sufficiently clear and precise way (LSA section 4(3)(k)). The wording of the proposed Code section 54DA, particularly subsection (1), leaves far too much up to subjective interpretation in the element of 'a way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended.' Despite being an objective test that would be put to the court to decide on the facts of a case, this leaves an unacceptable level of grey for any person to decide, especially given the social divide of opinion on matters such as peaceful protest.

Furthermore, proposed Code section 54DA(3), while not an overt reversal of the burden of proof for the purposes of the LSA, is quite overt in its intent to suppress freedom of expression in practice on account of the broad and vague wording used by the proposed offence provision (proposed Code section 54DA(1)). The proposed amendments to police powers under the PPRA for searching persons and vehicles without a warrant (sections 19 and 20 of the Bill) are perhaps even more egregious in this regard.

The justifications given for the restrictions placed on the human rights enshrined by the HRA are also insufficient. The right to freedom of expression is clearly too harshly restricted, given the arbitrary nature of the power made by proposed Code section 52C(1A). The rights to property and to privacy are also blatantly offended by the proposal for strengthened police search powers in the PPRA. The intention of the proposal seems to be to blur the line between peaceful protest and actual menacing, harassing or offensive behaviour. The problem here are the operative words; who is to truly decide what is criminally menacing, harassing or offensive? The inclusion of all 3 of these words makes it clear that this element seeks to be construed as broadly and confusingly as possible. The stark presence of ambiguity here makes justifying a direct restriction of human rights a nigh absurd endeavour.

Something not discussed in any explanatory memoranda is the overall alarming amount of power afforded to subordinate legislation under the proposed framework. Expressions and symbols may be prohibited by regulation. That is, without Parliamentary scrutiny being required - effectively undermining the institution of Parliament in what would be significant decisions to selectively

police freedom of expression. This is in direct contradiction to sections 4(4)(a) and 4(4)(b) of the LSA. This is further discussed below, under heading 3.

2. Ostensible false equivalence amongst prohibited symbols

The recent changes to the *Criminal Code (Prohibited Symbols) Regulation 2024* (the Regulation) pose a genuine risk of equating innocent Islamic imagery with widely-known Nazi imagery in a way that is dangerous in the absence of proper explanation. On 13 February 2026, less than two years after its original passing into law, the Regulation was amended by the *Criminal Code Prohibited Symbols Amendment Regulation 2026* (the Amendment Regulation) to include nine symbols purported to relate to Islamic terrorism.

The Nazi Hakenkreuz (commonly referred to as a 'swastika') is arguably the most well-known symbol of extreme hatred in the world, with a history that is understood and condemned by the majority of Australians.[1] The knowledge of the symbol and its justified status as socially unacceptable has come as the result of the extensive presence of World War II and the Holocaust in the Australian education system since those horrific events took place. Along with that has come learning of the crimes committed under the symbol and the victims of the deplorable violence. This level of community education and understanding, while commendable, has not yet occurred with other symbols, including those representing Islamic terror groups. To present such symbols as simply on par with the swastika and other Nazi imagery without context is irresponsible. No less than antisemitism, Islamophobia runs rife through Australia. If something as simple as food certifications can be the target of racist sentiment,[2] then it is no stretch to imagine that grouping Islamic symbols, having been appropriated by terrorist groups, with Nazi imagery may result in further demonisation of Muslim culture and the Arabic language in general.[3]

While these symbols may represent legitimately hateful groups, this context should be explained at the time of their prohibition, lest this gap in knowledge be used as fuel against the vast majority of Australian Arabs and Muslims who participate in their religion, language and culture peacefully. The lack of detail in the explanatory memoranda in this legislation will be discussed further in the next section.

3. Insufficient explanatory memoranda

The explanatory memoranda included alongside the Bill and related subordinate legislation do not adequately explain nor justify the decisions made in the process of making the respective proposals. As discussed above, simply stating that "symbols associated with an organisation that is recognised as a prohibited terrorist organisation in Australia" achieves the policy objectives of the Code in the explanatory note for the Amendment Regulation does nought to actually explain the reasoning behind the prohibition of the specific symbols. While the LSA does not specifically call for detailed notes on the provisions of subordinate legislation,[4] it again calls into question the regard had to FLPs throughout the decision making process; since there is no debate required to make these amendments to the Regulation, a dangerous precedent has been set for simply banning symbols with no unambiguous and publicly available justification required. This is clearly insufficient regard to the institution of Parliament and blatantly undemocratic on its face. No amount of media statements from the Queensland Government can replace the objective background information, policy justification and democratic debate that should form part of the legislative process.

The same point should be made in regard to the explanatory memoranda of the Bill. At no point in the entire package are the expressions planned to be prohibited by the Code in new section 52DA, nor is the particular subordinate legislation that will prescribe them, actually identified.

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[1] https://www.theguardian.com/australia-news/2021/may/11/most-australians-want-the-nazi-swastika-banned-survey-suggests

[2] https://classic.austlii.edu.au/au/journals/IntJlCrimJustSocDem/2015/30.html

[3] See, for example, https://thediplomat.com/2015/12/language-religion-and-terrorism-in-australia/

[4] See LSA section 24.

Educated guesses may be made based upon media statements;[5] again, this is no replacement for legitimate justification of a restriction against free speech. With this legislation being urgently rushed through the Parliamentary process, it appears that the plan is for the Government to slogan their way into curbing civil liberties. Representative democracy demands that the public be informed of the specific justification for the decisions of representatives.

4. Selective racial vilification laws

It is well established in academia that selective racial vilification laws are not the answer to racism in a jurisdiction.[6] These types of laws were markedly absent from the recommendations of the The National Anti-Racism Framework released by the Australian Human Rights Commission in November 2024.[7] Selective racial vilification laws will prove only to create intersectional divides between marginalised groups; Australia is vastly multicultural, and singling out one culture to protect, ostensibly more than another, is not the way forward.

What might an Indigenous Australian think when they see they are not being protected by a selective law? What might an Australian Muslim think? What might an Indian Australian, or Asian Australian, think? The point here is that it is entirely ridiculous and mistaken to categorise racism. Its evils are felt by too many to count, so it must be combatted all as one, and done so in a broad way such as that proposed by the National Anti-Racism Framework.

5. Sincerely, a Queenslander

The issues above have so far been discussed in an objective fashion. However, I feel obliged to comment on my thoughts as a citizen. This display of disregard for FLPs, human rights, academic consensus and democratic process deeply offends me on a personal level as a Queenslander. I was born in Queensland, studied in Queensland, and have lived, worked and voted exclusively within Queensland. Unfortunately, the proposals made by the Bill make me embarrassed to admit those things that I would otherwise take great pride in. The beauty of our state should be reflected in the respect for the principles of democracy and freedom of expression that Queenslanders have fought and bled for throughout our storied history. The curbing of civil liberties in the name of misguided policy is not a step in that direction; it will only drive us further into the chaos of social division.

This submission opposes the Bill due to the matters discussed throughout. This submission instead calls on the Justice, Integrity and Community Safety Committee to uphold and defend Queensland's democratic structure by considering the values of free speech, democratic scrutiny, civil liberty, political participation, the rule of law and safeguarding the Queensland community's fundamental right to political communication.

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[5] https://statements.qld.gov.au/statements/104460

[6] https://www.ssi.org.au/ssi-statement-selective-hate-speech-and-migration-laws-risk-undermining-social-cohesion/ and https://www.humanrights.unsw.edu.au/research/commentary/does-albanese-government-hate-speech-law-give-us-what-we-need

[7] https://humanrights.gov.au/__data/assets/file/0021/47334/NARF_Full_Report_FINAL_DIGITAL_ACCESSIBLE.pdf