

THE MUSLIM ✓OTE

Submission on Proposed NSW Laws to Prohibit Political Slogans

Submitted to:

The NSW Legislative Assembly on Law and Safety

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Executive Summary

This submission challenges the NSW Government's proposal to prohibit certain slogans and expressions on the asserted grounds of public safety, social harmony, and the prevention of hate. It concludes that the proposal lacks legal foundation, is unsupported by evidence, fails established legal standards, and is fundamentally misaligned with its stated aims.

At the centre of the proposal is a series of false assumptions. No evidence has been produced to establish a causal link between the targeted language and violence or antisemitism in New South Wales. The proposal relies on conjecture, subjective and biased interpretation, and perceived offence. This failure of evidence is compounded by the premature attribution of motive following the Bondi attack, where investigations have not yet concluded, and no connection has been established between the perpetrators and protest movements, slogans, or the language now being targeted for prohibition.

The submission further demonstrates that the proposal rests on a **mischaracterisation of Palestinian resistance**. Palestinians have an inherent right to self-determination and resistance. Terms such as "intifada" reflect this natural right, yet they are claimed to be inherently violent by Chris Minns, despite their established linguistic, historical, and legal meanings as resistance. International law recognises that people living under occupation possess an inherent right to resist domination. Criminalising expressions of resistance disregards this legal framework and undermines the Palestinian right to self-determination.

A consistent pattern of **selective enforcement** is also identified. Chants that symbolise resistance and holding parties involved in genocide accountable are targeted for restriction, while explicit dehumanisation of Palestinians by Israeli political leaders and even locally here in Australia is ignored. This disparity reflects political alignment and power. Such selective application undermines equality before the law and erodes the legitimacy of any claim that the proposal is neutral or cohesion-driven.

The submission challenges the state's **misdiagnosis of antisemitism**. Peer-reviewed research shows that antisemitism intensifies in conditions of mass violence, genocide denial, moral collapse, and political hypocrisy, not as a product of protest language or resistance movements. Suppressing speech, therefore, addresses the symptom rather than the cause and risks exacerbating, rather than reducing, social harm.

The proposal also relies on an **undefined and unmeasurable concept of "social harmony"**. No definition, baseline, or metric has been provided by the NSW government to show how

harmony is harmed by the targeted language or improved by its suppression. Law is being applied to a vague understanding of a social concept, resulting in discretionary enforcement and a loss of legal certainty.

Finally, the submission situates the proposal within a broader context of **political partisanship and international legal obligation**. Australia is a party to the Genocide Convention and the Arms Trade Treaty and is bound by preventative duties following the International Court of Justice's finding that genocide is plausible in Gaza. Suppressing domestic speech while refusing to confront genocide findings or discharge international obligations represents a failure of moral and legal coherence.

Taken together, these issues demonstrate that the proposed restrictions do not strengthen public safety, social cohesion, or the rule of law. They weaken them. The submission urges the Inquiry to reject the proposal and reaffirm principles of evidence-based lawmaking, equality before the law, and protection of democratic space.

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1. Introduction

This submission addresses the NSW Government's stated intention to prohibit certain political slogans, including the phrases "intifada" and "global intifada", on the basis that such language allegedly gives rise to antisemitism and hate.

The proposal represents a profound shift in the relationship between the state and the expression of ordinary citizens seeking justice. It does not merely regulate conduct. It seeks to criminalise language, interpretation, and meaning. This approach raises serious concerns under international law, Australian constitutional principles, human rights standards, and basic standards of equality before the law.

Any assessment of the proposed legislative response must begin with a wider view of how the state has approached recent events. Law does not operate in isolation from context, nor should it be shaped by the momentum of public fear or political urgency. The legitimacy of restricting speech, protest, or political expression depends on whether the underlying facts have been established and whether the response is proportionate to demonstrable harm.

Where that foundation is absent, the risk is not merely overreach, but the entrenchment of law based on assumption rather than evidence. This concern is not abstract. It is illustrated directly by the events that followed the Bondi attack and the national response that unfolded before key questions of motive and causation had been resolved.

The danger of premature attribution and reactive lawmaking

At present, we do not know what motivated the Bondi attack. Despite the intensity of public commentary and political response, the factual basis required to make definitive claims about motive has not yet been established through a completed legal process. In a system governed by the rule of law, this uncertainty matters. Motive is not determined by feeling, media narrative, or political pressure. It is determined by evidence tested through investigation and, where appropriate, judicial proceedings. The rapid national reaction to the *so-called "fake explosives caravan"* illustrates the risks of acting before facts are settled. Initial public statements and media coverage treated the incident as a serious terror-related threat, contributing to heightened fear and urgency. Subsequent clarification revealed that the threat was not what it had first appeared to be. The incident became a case study in how quickly assumptions can harden into perceived reality, and how difficult it is to undo the social and political consequences once that has occurred.

This episode demonstrates why time is not a luxury in matters of public safety and lawmaking, but rather an essential safeguard. When governments respond to incomplete information with legislative action, errors and distortions are likely outcomes. Laws shaped by untested assumptions embed subjectivity into legal frameworks that are meant to be objective. Once enacted, such laws do not easily retract themselves when initial narratives collapse.

Investigation must precede interpretation, and evidence must precede attribution. That is, legal processes must be allowed to run their course and evidence established before conclusions are drawn about motive, ideology, or broader social causes. To reverse this order is to allow fear and conjecture to substitute for proof. This is not an argument for inaction but rather for disciplined governance. Reactive lawmaking based on unresolved incidents risks misdiagnosing the problem it seeks to address and may entrench measures that target speech, protest, or communities without any demonstrable link to the harm in question.

The Bondi case underscores a broader principle. When serious violence occurs, the pressure to “do something” is intense. But the legitimacy of any response depends on whether it is grounded in fact rather than inference. Legislation introduced before investigations conclude undermines public confidence, signalling that political reassurance has been prioritised over legal certainty. In this context, restraint is not weakness; it is faithfulness to the rule of law and a constitutional necessity.

The Bondi attackers have no causal relationship with protests or slogans

The Bondi attack has been repeatedly invoked to justify urgency around speech restrictions, yet there is no evidence to support the claim that the perpetrator was influenced by protest movements, attended demonstrations, or ever used the word “intifada”. Public reporting and official statements to date have not established any link between the attack and political rallies, slogans, or organised activism. There is no indication that the attacker engaged with protest spaces, was exposed to protest rhetoric, or drew motivation from the language now being targeted for prohibition. This absence of evidence is not a minor omission. It goes to the core of whether the proposed response is rationally connected to the harm it claims to prevent. When a violent act is used to justify restrictions on speech, the least that is required is a demonstrable causal relationship between that speech and the act itself. In this case, no such relationship has been shown. To proceed as though it exists is to substitute narrative for fact. It risks attributing violence to political expression without proof and, in doing so, diverts

attention from the actual drivers of the attack, whatever they may ultimately be found to be. Lawmaking built on such assumptions does not enhance safety but instead misdirects it. If the Bondi attack is to be referenced at all in support of new restrictions, it must be done with evidentiary discipline. Where no evidence exists that protest language influenced the attacker, deploying the tragedy to curtail lawful expression constitutes an abuse of the event to legitimise restrictions that bear no rational connection to the harm in question.

This submission argues that the proposed ban is legally unsound, selectively applied, politically partisan, and morally inconsistent. It proceeds in the absence of evidence linking the targeted language to violence or hatred, relying on assumption rather than proof. The result is a narrowing of legitimate dissent, particularly in relation to genocide, occupation, and international crimes.

2. The stated basis: “Global Intifada”

The Premier has stated publicly that the phrase “global intifada” is one of the reasons for the proposed legal change. The justification offered is that the phrase is inherently violent and incites antisemitism. This premise is flawed. The term *intifada* is an Arabic word meaning “uprising” or “shaking off”. It has been used historically across the Arab world to describe resistance and protest, something that every human being must be afforded when subject to actions of those who seek to do harm.

Crucially, **meaning in law is not determined by political discomfort**. The proposed ban collapses linguistic meaning into presumed motive, without regard to context, reality, international law or any other dynamic.

Further, **no evidence has been presented** that the phrase “global intifada” has caused violence in New South Wales. No causal link has been established between the phrase and antisemitic acts. *The Premier conducted a press conference and offered a view about the chant “intifada” that was not grounded in fact or data. No statistic was offered, nor any indication other than his personal view that this chant amounted to hate and violence.* The proposal, therefore, fails the most basic test of necessity and proportionality.

3. Resistance and international law

International law draws a clear and long-established distinction between occupation and resistance. This distinction is not rhetorical, and it is not political. It is legal. It sits at the centre of the post-Second World War international order and reflects an attempt by the global

community to prevent the normalisation of domination, annexation, and permanent subjugation of peoples.

Under international humanitarian law and the law of self-determination, **an occupying power does not possess a legal right to resist the population it occupies. Occupation is not a reciprocal relationship. It is a condition created by force and sustained through control.** The occupied population holds rights. To reverse this relationship is to invert the law itself.

By contrast, an occupied people possess an inherent right to resist domination, including through struggle. This right exists precisely because occupation strips a population of normal avenues of political participation, sovereignty, and legal protection. Resistance, in this context, is not treated as an aberration. It is recognised as a foreseeable and lawful response to sustained foreign control. This principle is foundational to the international legal system that emerged after 1945. It reflects the global rejection of colonialism, conquest, and racial hierarchy as legitimate bases of governance. *International law does not regard occupation as neutral or legitimate. It treats it as an unlawful and coercive condition that imposes strict duties on the occupier and affirms enforceable rights for the occupier and corresponding rights of resistance and protection for the occupied.*

The legal basis for this distinction is firmly grounded in multiple international instruments. The Charter of the United Nations affirms the right of peoples to self-determination as one of the organisation's core purposes. This was not an abstract aspiration. It was a direct response to the catastrophic consequences of imperial domination and the denial of political agency.

This principle is reinforced in Common Article 1 of the International Covenant on Civil and Political Rights and Common Article 1 of the International Covenant on Economic, Social and Cultural Rights. Both instruments state unequivocally that all peoples have the right to self-determination and that, by virtue of that right, they freely determine their political status and pursue their economic, social, and cultural development. These covenants do not carve out exceptions for military occupation or geopolitical convenience.

United Nations General Assembly resolutions further affirm the right of peoples under colonial domination and foreign occupation to self-determination. These resolutions recognise that domination maintained by force cannot generate legal entitlement. They also recognise that resistance to such domination is a political expression rooted in the denial of lawful governance.

Importantly, the right to resist occupation does not require approval from the occupying power. Nor does it require endorsement from third states. Rights under international law are not conditional on permission from those who violate them. To suggest otherwise would render the concept of self-determination meaningless.

Expressions that articulate resistance to occupation are therefore not only lawful, but also protected. It falls squarely within the category of speech that democratic systems are expected to safeguard, particularly where the subject matter concerns grave breaches of international law, prolonged denial of rights, and mass civilian harm. This protection is not theoretical. It exists because international law recognises that suppressing expression under conditions of occupation compounds injustice rather than alleviating it. Silencing resistance does not restore order. It entrenches domination.

Words of resistance are not inherently criminal. They do not derive their meaning from fear or from the interpretations imposed upon them by those in positions of power. They derive their meaning from historical experience and legal context. Across the world, movements opposing colonial rule, apartheid, and foreign domination have relied on a shared vocabulary to articulate claims to dignity and freedom. To treat such language as presumptively violent is to erase this context. It is to sever domestic law from international norms and to ignore the legal foundations upon which modern human rights protections rest. It replaces legal analysis with moral suspicion and substitutes evidence with inference.

There is a profound danger in collapsing resistance into criminality without reference to law. Once political expression opposing occupation is framed as inherently suspect, the line between lawful dissent and prohibited speech disappears. What remains is not public safety but enforced silence. International law does not require states to agree with the content of resistance movements. It requires them to recognise the legal reality that occupation produces resistance, and that expression of that resistance is part of the lawful struggle for self-determination. Domestic laws that ignore this reality place themselves in tension with the international system they claim to uphold. To preserve the integrity of both domestic and international law, it is essential to maintain this distinction. Resistance is not the same as terrorism, and speech is not the same as incitement. Occupation is not a neutral backdrop. It is the very condition that gives rise to the rights international law seeks to protect.

When governments reframe resistance language as a threat to cohesion or safety, they shift the function of law. Law ceases to be a framework for rights and responsibilities

and becomes a tool for narrative management. The question is no longer whether speech causes demonstrable harm, but whether it unsettles prevailing political alignments. That is not a legitimate basis for restriction in a democratic society. There is also a cumulative effect. Once one category of language is recast as inherently suspect, the logic does not remain confined. The same reasoning can be extended. Other movements, other causes, and other forms of dissent can be captured by the same framework. History shows that restrictions introduced in moments of moral panic rarely remain narrow or temporary. They expand, normalise, and become embedded in governance. An example of this includes the actions of the UK government after the 2005 London bombings. The UK government reframed political dissent and resistance language among Muslim communities as indicators of extremism risk. Under the **Prevent** strategy, lawful, non-violent, and political speech was increasingly treated as a precursor to danger. Academic analysis shows that, **Prevent** did not focus on demonstrable harm; it focused on whether speech challenged prevailing political narratives, particularly around foreign policy and war and that Law and policy shifted from enforcement to pre-emptive narrative control.

Over time, political expression becomes conditional on acceptability rather than legality. The space for genuine dissent narrows, not because society has reached consensus, but because disagreement has been made costly. This process also undermines trust in law itself. Communities subjected to selective scrutiny come to see law not as a neutral arbiter, but as an instrument wielded against them. Compliance gives way to alienation. Silence replaces participation. These outcomes do not strengthen cohesion. They corrode it.

It is important to be clear about what is being protected and what is being lost. The right to speak in opposition to occupation, domination, and mass harm is not a marginal liberty. It is central to the idea that law exists to restrain power, not merely to regulate behaviour.

When that right is curtailed, accountability weakens. Power becomes less answerable, not more. Maintaining the distinction between resistance and criminality is therefore not an indulgence. It is a legal necessity. It preserves the integrity of both domestic and international law. It ensures that speech is assessed according to evidence and intent, not political anxiety. It protects the principle that law responds to harm, not to discomfort.

Resistance language unsettles because it is meant to. It exposes contradictions and challenges moral narratives, forcing societies to confront realities they would rather turn away from. Democracies that are confident in their values do not respond to such challenges with prohibition. They respond with debate, accountability, and lawful engagement. To

abandon this approach is to concede something fundamental. It is to accept that stability is achieved through suppression rather than justice, and that order matters more than truth. That concession does not strengthen democracy.

4. Selective enforcement and discriminatory silence

The legitimacy of any law that regulates speech depends not only on its stated purpose but on how evenly and consistently it is applied. Where regulation targets one form of expression while ignoring or tolerating another, particularly where the latter is more explicit and harmful, the law ceases to function as a neutral safeguard. It becomes an instrument of selective enforcement. The NSW Government has proposed banning Palestinian political slogans on the basis that they allegedly give rise to hate without evidence to this effect. Yet no equivalent action has been taken against explicit dehumanisation used by Israeli political leaders and Zionist advocates in public discourse. This omission is not incidental and reveals that the government's response is shaped by who holds power, not by who is being harmed.

Palestinians have been publicly described, in widely reported statements, as “human animals”, “savages”, “sub-human”, and as a collective enemy without distinction between civilians and combatants. These are not marginal or obscure remarks. They have been made by senior officials and amplified through international media. They are unambiguous in their meaning and effect. Dehumanisation is not a metaphor, but instead a recognised precursor to mass violence. Such language strips an entire population of individuality and moral worth. It removes the civilian from view and collapses people into an abstract threat. In international law and genocide studies, this form of rhetoric is not treated as opinion. It is treated as a warning sign. It creates the conditions under which collective punishment becomes acceptable and civilian harm is normalised.

Despite this, no legislative urgency has been shown to prohibit or condemn such language within New South Wales. No public statements have been issued asserting that this rhetoric poses a threat to social cohesion. No proposals have been advanced to regulate or restrict its circulation. No equivalence has been drawn between this dehumanisation and the political slogans now under scrutiny. The contrast is stark. Palestinian speech that articulates resistance is treated as presumptively dangerous, while language that explicitly dehumanises Palestinians is treated as politically inconvenient at worst, and acceptable at best. This disparity exposes the proposed laws as selective in both scope and application.

Selective enforcement does not require explicit bias to operate. It functions through omission as much as action. When one category of speech is policed aggressively and another is ignored, the law sends a clear message about whose dignity is protected and whose is negotiable. This asymmetry undermines the core principle of equality before the law. Laws that regulate speech must be justified by reference to harm, not identity. When harm is tolerated because it flows from power, while dissent is punished because it challenges power, the law loses its claim to legitimacy.

Dehumanising language has a direct and demonstrable relationship to mass civilian harm. It prepares the ground for violence by recasting people as objects, obstacles, or enemies beyond moral consideration. If the stated aim of speech regulation is to prevent hatred and protect cohesion, then this language should be the primary concern. Instead, the focus has been placed on Palestinian expression. This choice cannot be explained by reference to severity, clarity, or consequence. It can only be explained by political alignment.

The law cannot function as a moral shield for power. When it does, it ceases to be law in any meaningful sense. It becomes a mechanism for disciplining the powerless while insulating those whose words carry the greatest capacity for harm.

If speech laws are to exist, they must be applied consistently and grounded in evidence of harm. They must address the most dangerous rhetoric, not the most politically inconvenient. Anything less is not regulation in the service of cohesion. It is discrimination by design. Law cannot be legitimate if it protects power while punishing the oppressed. Where this occurs, the problem is not merely the content of the law, but the values it reveals.

5. Antisemitism correlates with genocide

The Premier has asserted that slogans such as “global intifada” give rise to antisemitism. This claim rests on a serious misreading of how antisemitism actually emerges and intensifies in societies (Bleich et al. 2017; Fine 2010). It mistakes the symptom for the cause (i.e. the Premier is blaming what people are *saying* for a problem that is actually being caused by deeper political and social conditions) and, in doing so, directs state power toward suppressing speech rather than confronting the conditions that produce hatred (van Dijk 1992). There is a well-documented global pattern that cannot be ignored: antisemitism rises during periods of mass violence, atrocity, and genocide (Herf 2005; Bleich et al. 2017). This is not conjecture, and it is not controversial within serious scholarship (Fine 2010). Periods marked by large-scale civilian killing, impunity, and moral dissonance generate social strain

(Straus 2004). When governments respond to such strain by denying, excusing, or sanitising violence, resentment does not dissipate; it metastasises (van Dijk 1992; Gerteis, Hartmann & Edgell 2020).

This rise does not occur because resistance movements generate hatred. It occurs because states and institutions collapse Jewish identity into the actions of Israel. When governments present Israel as the representative of Jewish people everywhere, while simultaneously defending or minimising its conduct, they fuse identity with state violence. This is not an act of solidarity; it is an act of **erasure** (i.e. when governments speak and act as though Israel represents “the Jews”, they overwrite the diversity, independence, and plurality of Jewish people with a single political identity). It places Jewish communities in the line of fire of political anger that should be directed at state power. Compounding this failure is the defence or minimisation of mass civilian killing. When governments speak about atrocity in the language of inevitability, necessity, or unfortunate collateral damage, they abandon moral clarity and signal that some lives are negotiable. That signal does not reassure the public, but instead destabilises it, telling people that the rules they are asked to live by are not the rules governing power.

At the same time, legitimate political outrage is suppressed rather than channelled. Protest is restricted, language is policed, and solidarity is framed as a threat. Extensive peer-reviewed research demonstrates that this approach does not reduce social tension but instead exacerbates it (Hirschman 1970; della Porta 2013). Anger that cannot be expressed openly does not disappear. When institutional avenues for dissent are closed, grievance is displaced into informal and often more destructive channels, increasing the risk of radicalisation and social harm (Klandermans 1997; Tilly & Tarrow 2015). The suppression of lawful political expression, therefore, undermines public safety rather than protecting it, as unexpressed outrage seeks alternative outlets that are less visible, less accountable, and more dangerous (Gurr 1970; della Porta 2013). These dynamics together produce a combustible environment. Hatred does not emerge from protest. It emerges from moral collapse and political hypocrisy. It emerges when people are told to remain calm while witnessing mass death, to moderate their language while institutions refuse accountability, and to accept restraint while power exercises none.

To attribute rising antisemitism to slogans of resistance is, therefore, not only inaccurate but irresponsible. It misdiagnoses the problem, ensuring that the proposed solution will fail. Suppressing words does not address the structural conditions that generate hatred. It merely

provides the appearance of action while leaving the underlying drivers untouched. There is a further danger in this framing. By focusing on slogans as the alleged cause of antisemitism, the state absolves itself of responsibility for the environment it has helped create. It deflects attention from its own choices, including diplomatic alignment, selective condemnation, and the refusal to name or confront mass civilian harm. Antisemitism is then positioned as something caused by activists rather than something exacerbated by political decisions.

This approach also harms Jewish communities. When governments conflate Jewish identity with the actions of a state accused of grave international crimes, they expose Jewish people to backlash while claiming to protect them. This does not safeguard Jewish communities. It uses their safety to shield political power rather than to confront violence consistently. This phenomenon is evident in how definitions and policies, such as the IHRA Working Definition of Antisemitism, have been applied in Australia and elsewhere. Legal scholars and community organisations have documented how these definitions distort Jewish identity with support for a foreign state, leading to censorship of legitimate critique while claiming to protect Jewish people. This reframing focuses on preserving political alignments rather than addressing genuine harm, exposing those with minority identities to backlash for state actions they do not control.

A credible response to antisemitism requires confronting genocide, not silencing those who oppose it. It requires separating Jewish identity from state violence, not binding them together. It requires allowing political expression to function as a pressure valve, not sealing it off and watching resentment build. Failing to acknowledge this relationship produces the wrong solution. It leads to speech bans rather than accountability, surveillance rather than justice, and symbolic action rather than moral leadership. It creates a situation in which antisemitism is publicly condemned while the conditions that fuel it are actively sustained.

The state cannot regulate its way out of a crisis it refuses to name. Antisemitism will not be reduced by criminalising resistance language while genocide is denied, excused, or treated as an inconvenience. ***Premier Chris Minns instructed ministers and caucus members that they “have no business talking about Israel or the Middle East” (Crickey, 2024), signalling a top-down constraint on public comment about Gaza within his own government and effectively shutting down independent ministerial voices on an issue that deeply affects communities in New South Wales.*** The only path that leads away from hatred is the restoration of moral coherence. That requires honesty about violence, consistency in the application of principles, and the courage to confront power rather than discipline dissent.

Anything less is not a strategy to combat antisemitism. It is a strategy to manage appearances while allowing harm to continue.

6. International findings of genocide

Multiple international bodies have concluded that Israel's conduct in Gaza constitutes genocide (Albanese, 2024; United Nations Office of the High Commissioner for Human Rights [OHCHR], 2024). This is not a matter of political opinion, activist rhetoric, or partisan alignment. It is the outcome of formal legal processes carried out by institutions created precisely to assess allegations of mass atrocity when states refuse to do so themselves (Albanese, 2024). The International Court of Justice has determined that claims of genocide are plausible and has ordered provisional measures to prevent further harm (International Court of Justice, 2024). This finding was not symbolic. It was issued after examining evidence, legal submissions, and the applicable framework under the Genocide Convention (International Court of Justice, 2024). The Court did not need to reach a final determination to act. Plausibility alone was sufficient to trigger urgent legal obligations, consistent with established international legal doctrine on genocide prevention (Albanese, 2024).

That threshold matters. The Genocide Convention exists to prevent irreparable harm, not to offer post hoc commentary after annihilation has already occurred. Its purpose is preventative by design, imposing obligations on states at the moment a serious risk of genocide becomes apparent, rather than waiting for final proof after mass destruction has taken place (Schabas, 2009). When the world's highest judicial body determines that genocide is plausible, the appropriate response is not delay or deflection, but heightened scrutiny and accountability.

In its Order on provisional measures of 26 January 2024, the **International Court of Justice** held that at least some of the rights claimed by South Africa under the Genocide Convention were plausible and that there was an urgent risk of irreparable prejudice to those rights (International Court of Justice, 2024). The Court reached this conclusion after examining extensive factual material, legal submissions, and the applicable framework of the Genocide Convention. It did not purport to make a final determination on responsibility, nor was it required to do so. Under established international law, plausibility alone is sufficient to trigger immediate legal obligations aimed at preventing further harm (Schabas, 2009).

Australia is a **party to the Convention on the Prevention and Punishment of the Crime of Genocide** and is therefore bound by its preventative obligations. Those obligations are not passive, and they are not discretionary. Once a serious risk of genocide is established as

plausible by the International Court of Justice, states parties have a duty to act within their capacity to prevent further harm. This includes ensuring that their own conduct does not contribute, directly or indirectly, to the commission of prohibited acts. Australia is also a **state party to the Arms Trade Treaty (ATT)**, which imposes clear obligations to assess and prohibit arms transfers where there is an overriding risk that the weapons would be used to commit or facilitate genocide, crimes against humanity, or war crimes. The ICJ's finding of plausibility, coupled with repeated warnings from United Nations bodies, necessarily elevates Australia's legal responsibilities under both instruments. In this context, characterising Gaza as merely an "international issue" beyond domestic concern is legally untenable. International law expressly requires states parties to internalise these obligations in their domestic decision-making, including in matters of foreign policy, arms exports, and political conduct. To ignore these duties while restricting domestic speech in response to public outrage is a failure to discharge binding international obligations at the very moment they are most clearly engaged.

Alongside the Court, the **United Nations**, through its Special Rapporteurs and independent investigative mechanisms, has repeatedly warned that acts committed in Gaza may amount to genocide, crimes against humanity, and war crimes. In March 2024, the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, **Francesca Albanese**, concluded that there were reasonable grounds to believe that acts of genocide were being committed, describing the situation as one that met the legal and factual indicators set out in the Genocide Convention (Albanese, 2024). Similar warnings have been issued by other UN mandate holders and expert bodies operating under the auspices of the Office of the High Commissioner for Human Rights, all applying established international legal definitions and evidentiary standards (OHCHR, 2024).

These warnings are not rhetorical interventions. They are the product of formal mandates, legal expertise, and investigative methodologies developed specifically to assess the gravest violations of international law. Such findings are issued cautiously and only where thresholds grounded in treaty law (e.g., Geneva Conventions, The Arms Trade Treaty) and customary international law are met. Taken together, they reflect a growing and credible consensus among independent legal experts that genocide and other mass atrocity crimes in Gaza are real and ongoing. To disregard these determinations, or to treat them as merely political opinions, is to misunderstand both the function of international law and the preventative obligations that arise once plausibility has been established.

In this context, suppressing protest and political language is not a neutral act. It is a deliberate political choice. When governments move to restrict speech precisely at the moment when genocide findings emerge, they are not protecting cohesion. They are managing discomfort. They are choosing to discipline public response rather than confront the implications of the evidence. This choice has consequences. It signals that international law is something to be cited selectively rather than upheld consistently. It tells the public that legal findings are acceptable only when they do not challenge political alliances or moral narratives. It teaches that accountability is conditional and that outrage must be moderated to preserve diplomatic convenience.

Suppressing language in response to genocide findings also distorts the role of protest in democratic societies. Protest exists to surface moral urgency when institutions fail to act. It is a mechanism through which citizens respond to evidence of grave injustice. To restrict it at the point of maximum relevance is to invert its purpose and to hollow out democratic participation. The refusal to engage honestly with genocide findings also corrodes the credibility of domestic lawmaking. Laws that restrict speech in the face of international legal alarm cannot plausibly claim to be motivated by concern for harm prevention. They operate instead as tools of containment, designed to limit the political fallout of evidence rather than address the evidence itself.

There is an obligation on the government and on every part of the government, including councils, to comply with international law. Good faith does not mean suppressing legitimate dissent. It means acknowledging the gravity of the allegations, allowing open discussion, and ensuring that public institutions are not complicit in denial. History offers a clear lesson. ***For example, in every instance where mass atrocity has later been acknowledged, early warnings were dismissed as exaggeration, activism, or destabilising rhetoric. This occurred in the Holocaust, Rwanda, Bosnia, and Myanmar, where credible warnings were sidelined in the name of political stability until the scale of harm could no longer be denied. The present moment follows the same trajectory, where legal and humanitarian alarms are treated as political noise rather than as triggers for prevention.*** In each case, those who spoke out were told to moderate their language, to wait for certainty, or to trust institutions that were already failing. The cost of that restraint was measured in lives. The present moment demands a different response. When international law determines acts as genocide, the appropriate role of a democratic government is to widen the space for scrutiny, not narrow it. It is to protect the right to speak, not criminalise it. It is to confront power, not

shield it. Suppressing protest and language signals acquiescence, telling victims and observers alike that evidence can be acknowledged in courtrooms while being neutralised in public life. That contradiction cannot stand. If genocide findings are to mean anything, they must be met with openness, accountability, and courage. Anything less is not restraint. It is abdication.

7. Australian legal precedent

Claims that criticism of the state of Israel is inherently antisemitic have been explicitly rejected in recent Federal Court jurisprudence in Australia. The Federal Court has affirmed that robust political criticism of a state, its policies, or its ideological foundations, even when expressed in strong language, does not by itself constitute racial or religious vilification merely because the subject matter is uncomfortable or politically charged.

In *Wertheim v Haddad* [2025] FCA 720, Justice Angus Stewart of the Federal Court of Australia examined a series of sermons delivered by a Sydney preacher that contained statements about Jewish people and references to Israel. In his reasons for judgment, Justice Stewart made a clear legal distinction between unlawful discriminatory conduct and political criticism. He stated that political criticism of Israel's actions, including the conduct of the Israeli Defence Force and the ideology of Zionism, "is not by its nature criticism of Jews in general or based on Jewish racial or ethnic identity." The judge drew on comparative case law to underline this point, noting that the ordinary reasonable listener would not understand political criticism of a state's behaviour as an attack on all Jewish people merely because the subject matter intersects with Jewish identity (Birchgrove Legal, 2025).

The Federal Court's reasoning is significant because it upholds a fundamental distinction between **political speech about a state and hatred of a people**. Without this distinction, any criticism of a government's policies could be reframed as racial or religious hatred simply because those policies relate to a group's identity. That outcome would severely constrict political communication, chill dissent, and violate core principles underpinning Australian law. This legal precedent is essential for any assessment of proposed speech restrictions. It confirms that:

- Criticism of a state or government is not synonymous with discrimination against a protected group.
- Political ideas, ideologies, and conduct, even when intensely contested, are subject to protection in public discourse.

- The Racial Discrimination Act must be interpreted in a manner consistent with free expression, ensuring that robust debate remains lawful.

The proposed NSW laws, by contrast, would risk codifying the opposite proposition: that certain political language is presumptively harmful and thus subject to state prohibition. That approach directly contradicts the Federal Court’s articulation of the law in *Wertheim v Haddad*, where the court reaffirmed that political criticism is not inherently antisemitic. If the state can criminalise political expression based on perceived impact without evidence of actual discriminatory conduct, it places itself at odds with the way Australian law has been interpreted by senior courts. Such a shift would not only be at odds with the Federal court case but would empower authorities to suppress dissent on the basis of political interpretation rather than observable harm.

Equally important is the legal context in which these principles operate. Australian courts have recognised that freedom of political communication, though not absolute, forms an implied part of the constitutional system of representative government. This doctrine ensures that political speech cannot be unreasonably restricted without justification. Laws that single out specific slogans because they are uncomfortable or socially “contentious” fail to align with this constitutional framework.

To be precise, the Federal Court in *Wertheim v Haddad* did not hold that all speech about Israel is beyond legal scrutiny. The court did find that, on certain facts, the impugned sermons contained unlawful racial discrimination. However, the court’s reasoning underscores that **the unlawful element was rooted in explicit disparagement of Jewish people, not in the mere fact of criticism of a state’s conduct**. This distinction is legally critical. It means the object of analysis is conduct that harms a protected class, not the subject of political dissent. This legal principle is not a loophole. It is a safeguard. Without it, any critique of a foreign state, foreign policy, or international conduct could be captured by laws intended to prevent racial hatred. It would be a profound departure from the way Australian law, and democratic legal systems generally, differentiate **idea from identity, critique from discrimination**.

The proposed legislation risks embedding precisely that departure: replacing evidence-based harm thresholds with subjective interpretations of political expression. That is not law; it is censorship by proxy.

8. Protest, resistance, and human dignity

For people facing mass violence, occupation, and credible annihilation, speech is often the last remaining form of resistance and means by which people can call for justice. When homes are destroyed, borders sealed, institutions dismantled, and lives rendered disposable, language becomes one of the few tools left to people to assert their humanity and call for solidarity. To attack that speech is an intervention that sides with power against those who have been stripped of every other form of agency.

Protest and resistance are not luxuries of stable societies. They are necessities that emerge when ordinary mechanisms of justice fail. International law recognises this reality.

Democratic tradition depends on it, and suppressing protest at the point where injustice is most acute is not a safeguard against disorder, but rather a declaration that order matters more than truth and comfort more than life.

To prohibit words of resistance is to deny agency to the oppressed. Agency is not merely the ability to vote or to petition. It is the capacity to name one's condition, to describe harm as harm, and to reject the narratives imposed by those who benefit from domination. When the state decides that certain political expressions are unacceptable because they challenge power too directly, it removes this capacity. People are reduced from political subjects to managed populations.

Suppressing resistance language also narrows the space for moral witness. Moral witness is the act of speaking plainly about injustice in the face of pressure to remain silent. It is how societies have historically confronted slavery, apartheid, colonial rule, and genocide. Witness does not ask for permission because permission is rarely given by those who benefit from injustice. *When law is used to close this space, it signals that witnessing suffering is acceptable only when it is quiet, abstract, and politically harmless.*

This narrowing of space has a further effect. It protects perpetrators from accountability. Accountability does not arise automatically from legal institutions. It is produced by pressure, scrutiny, and public insistence. Protest is one of the mechanisms through which that insistence is made visible. When protest is curtailed, those responsible for harm gain insulation. Their actions recede from public view, reframed as complex, unfortunate, or unavoidable. Silence is enforced, to enable complicity without criticism.

History offers no support for the idea that justice emerges from restraint imposed on the oppressed. Movements that have reshaped the moral landscape of the world did not begin

with approval from authorities. They began with language that unsettled power, challenged legitimacy, and exposed contradictions. The civil rights movement, anti-colonial struggles, opposition to apartheid, and resistance to authoritarian rule all relied on speech that was labelled disruptive, divisive, or dangerous at the time. Those labels are familiar because they serve a familiar function. They shift attention away from injustice and toward tone. They recast moral urgency as social threat. They invite the public to focus on how something is said rather than on what is being done.

There is also a profound inconsistency at work. States routinely celebrate resistance when it aligns with their interests. Historical struggles against tyranny are praised in retrospect, their slogans memorialised and their language sanitised. For example, resistance, protest and boycott were important elements in the dismantling of apartheid in South Africa. This end to apartheid is now regarded as an essential, moral victory. Yet when resistance is contemporary and inconvenient, the same forms of expression are recast as threats.

The attempt to suppress words of resistance, therefore, represents more than a policy choice. It is a statement about whose voices matter and whose pain is tolerable. It asserts that order takes precedence over justice and that stability is more valuable than accountability.

9. Political inconsistency and partisanship

The Premier's approach to this issue has not been bipartisan, balanced, or even-handed. It has been marked instead by a clear pattern of political alignment that undermines any claim of neutrality in the proposed regulation of speech. This matters because lawmaking that restricts political expression must be grounded in principled consistency. Where power is exercised selectively, the law becomes partisan by design. The sails of the Sydney Opera House were illuminated in solidarity with Israel. This was not a minor gesture. It was a deliberate act of state symbolism, executed at the country's most visible civic landmark, signalling identification, alignment, and moral affirmation. Such gestures carry weight precisely because they are rare and reserved for moments of perceived moral clarity.

No equivalent gesture was made for Palestinian civilians. There was no illumination for children buried under rubble, for families displaced en masse, or for a population facing starvation and annihilation. This absence was not an oversight. It was a choice. In moments of profound human suffering, silence is not neutral and communicates whose lives are publicly grievable and whose are treated as background noise. The imbalance extends beyond symbolism. No condemnation of genocide has been issued by the Premier of NSW Chris

Minns. This omission persists despite findings by international bodies that genocide is plausibly occurring. When a leader refuses to name mass atrocities while simultaneously moving to restrict the language used by those who oppose it, the direction of power becomes unmistakable.

There has also been no meaningful acknowledgement of Palestinian suffering. Not as a central concern, nor as a moral crisis, nor as a human catastrophe demanding urgency. Instead, Palestinian existence appears only as a problem to be managed indirectly through speech regulation and protest control. This framing reduces an entire people to a source of political inconvenience. This asymmetry matters because it shapes the context in which laws are proposed and interpreted. Law does not operate in a vacuum and is read against the backdrop of political conduct. When the same government that publicly aligns itself with one side of an international conflict then seeks to criminalise the language of the other, the claim that such laws are motivated by social cohesion becomes untenable.

It is one thing for Premier Chris Minns to express solidarity with Israel. The other issue is that such solidarity has been expressed only in one direction, while suffering has been ignored in the other. This one-sidedness erodes trust in the legitimacy of any subsequent restrictions on speech. It suggests that the law is being used to entrench a political position rather than to protect the public from harm. Bipartisanship in this context does not require neutrality on international affairs. It requires consistency in principle. If mass civilian death is condemned in one context, it must be condemned in all. If dehumanisation is treated as unacceptable, it must be addressed wherever it appears. If protest is framed as dangerous, the danger must be demonstrated rather than assumed.

Instead, what has emerged is a pattern where power is exercised with speed and certainty when Palestinian advocacy is involved, and with hesitation or silence when Palestinian suffering is at issue. Such inconsistency has real consequences and communicates to the public that some forms of grief are legitimate while others are suspect. Lawmaking that emerges from such a posture cannot credibly claim to be motivated by concern for harmony or safety. It is motivated by the desire to control narrative and contain discomfort.

Further, when governments use law to reinforce one-sided narratives, they weaken the legitimacy of the legal system itself. Citizens begin to perceive law as a tool wielded selectively by those in power, creating a destructive perception that corrodes compliance and trust. A genuinely principled approach would require confronting the full scope of

human suffering, applying standards consistently, and allowing political expression to function as a means of accountability rather than a target of control. That approach has not been taken.

This failure of even-handedness is not peripheral to the debate; it is central. Lawmaking carried out under conditions of visible partisanship cannot claim neutrality. When symbolic power, moral language, and legislative force all move in the same direction, the result is not balance; it is bias institutionalised. That reality must be acknowledged plainly. The proposed restrictions on slogans are not isolated legal measures. They are the culmination of a pattern of conduct that privileges one narrative, erases another, and seeks to regulate dissent rather than address injustice.

10. Defining and measuring social harmony and cohesion

At present, neither the state nor Chris Minns has offered a clear definition of social harmony. It has not been explained whether harmony refers to *the absence of protest, the absence of discomfort, reduced public disagreement, or reduced reports of hate incidents*. These are not equivalent conditions. *A society can be deeply divided yet peaceful, vocal yet stable, critical yet cohesive*. Without clarity, the concept becomes elastic, expanding or contracting depending on political need. This elasticity is precisely what makes it unsuitable as a basis for restricting rights.

In legal terms, restrictions on expression must pursue a legitimate aim and must be necessary and proportionate to achieving that aim. Necessity cannot be demonstrated without definition. Proportionality cannot be assessed without a baseline. *If social harmony is invoked as the justification, the state must be able to articulate what harmony looks like in operational terms and how the proposed restriction is causally connected to its preservation*. In the absence of such articulation, the law is being asked to enforce an aspiration rather than prevent a harm.

Closely connected to this problem is the question of measurement. If social harmony is said to be under threat, how is that threat identified? What indicators demonstrate its decline? Are there empirical measures, longitudinal data, or comparative benchmarks showing that particular slogans, protests, or forms of speech reduce cohesion? No such measures have been provided. Nor has any evidence been offered that restricting political language improves social harmony. Without metrics, the claim becomes unfalsifiable. Any dissent can be characterised as disruptive, and any suppression can be described as restorative.

This lack of measurability has serious consequences. It shifts decision-making away from evidence and toward discretion. When the object of regulation cannot be measured, enforcement inevitably relies on subjective judgment. In practice, this means decisions are shaped by political sensitivity, public pressure, or perceived alignment rather than demonstrable impact. History shows that in such environments, minority speech and unpopular viewpoints bear the greatest burden, not because they cause greater harm, but because they are easier to regulate.

There is also a deeper conceptual flaw in treating social harmony as something that can be produced through prohibition. Social harmony is not generated by silence. It emerges from trust in institutions, consistency in the application of principles, and confidence that grievances can be expressed without penalty. Suppressing lawful political expression may reduce visible disagreement, but it does not resolve underlying tensions; it displaces them. A society that appears calm because dissent has been constrained is not necessarily cohesive. It may simply be restrained. If the state wishes to rely on social harmony as a justification for legal restriction, it must meet a higher standard. It must define the concept with precision, identify how it is measured, demonstrate how it has been harmed, and show that the proposed response addresses that harm in a direct and proportionate way. None of these steps has been taken. In their absence, “social harmony” functions not as a legal standard but as a rhetorical device, invoked to legitimise control rather than to address evidence-based risk.

The consequence of this approach is predictable. Law is no longer used to respond to clearly defined harms but to manage perception and discomfort. This undermines legal certainty and weakens public trust. A system committed to the rule of law cannot regulate its way toward an undefined social ideal. It must instead protect the conditions that allow cohesion to develop organically: equal application of principles, openness to dissent, and restraint in the use of coercive power.

11. The State’s Conduct has led to a 740% rise in Islamophobia

The state’s silence in the face of openly dehumanising language directed at Palestinians is analytically significant. Public commentary describing Palestinians as having a “black heart” (The Australian, 16 January 2025) constitutes racialised dehumanisation. It attributes inherent moral corruption to an entire people, not based on conduct, but on identity. This is classic hate speech. What matters here is not only that such a statement was made, but that it

circulated publicly, was not condemned by senior political figures, did not trigger legislative urgency, and was not framed as a social threat.

A 740% per cent increase in Islamophobic incidents does not occur in a social vacuum. Spikes of this scale are consistently correlated, in Australia and internationally, with periods of heightened political rhetoric, securitised framing, and sustained negative media narratives about Muslims (Cesari, 2012; Meer & Modood, 2009). Such increases are not spontaneous eruptions of prejudice. They are socially produced. When public discourse repeatedly associates Muslims with threat, extremism, or risk, hostility becomes normalised. The repetition itself does the work. Over time, suspicion hardens into assumption, and assumption into belief and action.

This pattern is well established in social research. When governments frame Muslim communities primarily through the language of security and extremism, Islamophobia rises. When political leaders speak loosely or persistently about “Islamic extremism”, “radical sermons”, or the need to “close legal gaps” in relation to Muslim communities, public hostility increases. When media outlets amplify these frames without evidence or proportionality, repetition gives them legitimacy. The correlation between rhetoric and Islamophobia is strong because it operates through identifiable mechanisms. Political and media actors set the agenda by determining which issues are foregrounded and how they are framed, shaping what the public comes to associate with danger. State language then legitimates these associations by conferring authority on suspicion, exclusion, and heightened scrutiny. At the same time, an asymmetry of scrutiny takes hold. Muslims are discussed and evaluated collectively, while others are treated as individuals. This produces group stigma rather than individual accountability. A 740% per cent increase in Islamophobic incidents aligns precisely with the activation of these mechanisms operating in tandem.

Further, when one group’s language is policed aggressively, and another group’s dehumanisation is ignored, the state is signalling whose dignity is protected and whose is expendable. Islamophobic rhetoric and surveillance are treated as necessary tools of safety and prevention. Anti-Palestinian hate speech is treated as opinion, noise, or an unfortunate by-product of debate. One produces law while the other produces silence. This unevenness fundamentally undermines claims that proposed speech restrictions are motivated by social cohesion rather than by control.

Conclusion

At its core, this proposal is not about public safety or social cohesion. It is about how power responds when confronted with moral challenge. The attempt to prohibit slogans associated with Palestinian resistance rests on speculation rather than evidence, misinterpretation rather than law, and political discomfort rather than demonstrable harm. It treats language as the problem while leaving the conditions that generate outrage untouched.

What emerges across this submission is a consistent pattern. Expressions of resistance are scrutinised and regulated, while dehumanising language directed at Palestinians is tolerated or ignored. Genocide findings by international bodies are met with silence, while domestic speech is met with urgency. Protest is framed as destabilising, while the destabilising effects of mass civilian harm are left unaddressed. These choices are not neutral. They shape whose suffering is acknowledged, whose speech is permitted, and whose conscience is treated as a threat.

The danger of this approach lies not only in what it restricts, but in what it normalises. Democratic space narrows not because consensus has been reached, but because dissent has been made costly. Over time, this erodes trust in institutions and weakens the very cohesion such laws claim to protect.

New South Wales faces a choice. It can uphold principles that apply equally, grounded in law, evidence, and consistency, or it can pursue a path that privileges power, suppresses accountability, and criminalises political conscience. History is clear about where such paths lead. Justice is not advanced by silencing those who name harm. It is advanced by confronting it directly, without fear, and without exception. The proposed restrictions should be rejected, not because they are controversial, but because they are unsound. They do not strengthen the rule of law, but instead, compromise it.

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