

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

Introduction

The Queensland government, led by Premier David Crisafulli, has proposed legislation that would make it a criminal offence to publicly use the phrases "from the river to the sea" and "globalise the intifada". No other specific expressions have been mentioned to date. Importantly, the named phrases do not appear in the published Bill.

The full title of the Bill is the *Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026*.

I oppose the Bill insofar as it creates an offence punishable by a fine of \$25,000 or two years imprisonment for reciting, distributing, publishing, or displaying a prohibited expression in public. I do not express any opinion on the balance of the Bill.

Criticism – Legal and Democratic Principle

Laws which effectively enact criminal offences by regulation are anti-democratic and constitute bad law. This approach erodes parliamentary sovereignty by allowing the executive, rather than elected representatives, to create crimes, thereby undermining representative government.

Freedom of political expression should not be inhibited by criminal laws unless that expression can be demonstrated to cause serious harm to others.

The objectives of the Bill are said to be to:

- strengthen the prohibition of the public use of hate symbols, ensuring it effectively combats their promotion and protects community safety and social cohesion;
- prohibit the use of expressions that incite discrimination, hostility, or violence towards certain groups;
- protect faith communities by ensuring people are not intimidated while accessing places of worship.

The effect of the legislation, however, is to permit the creation of a criminal offence by regulation. The elements of that offence are:

- reciting, distributing, publishing, or displaying in public;
- a prohibited expression;
- that might reasonably be expected to cause a member of the public to feel menaced, harassed, or offended.

Only the first element is within the control of the accused person. The second element, which fixes the criminality, is determined by regulation, and the third element is a matter of judgment. No evidence is required that anyone actually heard or saw the prohibited expression, or was offended by it. In legislation the purpose of which is to defend social cohesion by criminalizing expression that may "cause a member of the public to feel menaced, harassed or offended", it is a gross offence to logic to include a provision that renders irrelevant the fact of whether a member of the public has actually heard or seen the prohibited expression.

Expressions are capable of a wide range of meanings depending on circumstances and upon who it is that is hearing or seeing them. The prohibition of expression is a matter for parliament, and not for executive government.

The accused carries the onus of proving any defence. There is no justification for this reversal of the onus of proof when the issues involve the conflict between freedom of political expression and allegations of potential serious harm, which are matters of fine balance.

Criticism on Political Grounds

Section 18C of the Australian *Racial Discrimination Act 1975* makes it unlawful to publicly offend, insult, humiliate, or intimidate another person or group based on their race, colour, or national or ethnic origin. Section 18C does not create a criminal offence, but merely gives rise to the possibility of a declaration that the conduct is unlawful and, possibly, a compensation order.

The LNP, Liberal, and National parties have criticised and sought the repeal of section 18C of the *Racial Discrimination Act 1975* for many years. In 2015, the State Council of the LNP passed a resolution calling on the government to repeal section 18C. The Constitution of the Liberal Party (National) is cited in support of the proposition that section 18C is at odds with the party's belief in "freedom of thought, worship, speech and association".

The proposed amendment to add section 52DA to the *Criminal Code*, elevating conduct that was merely unlawful to a criminal offence, is a complete abnegation of the principle of freedom of speech and expression by the government, and an extreme *volte-face* from its stated and long-held principles.

There is a widespread belief in the Australian community that the actions of the Israeli government in Gaza are genocidal. Although contested, this belief is supported by substantial evidence (see Schedule 1) such as to render criticism of the Israeli government, and its U.S. government supporter, a valid political position for which to advocate. The supine position of the Australian government in the face of the genocide is a valid target for advocacy and protest. Supporters of the Israeli government's action in Gaza falsely conflate criticism of that action with antisemitism in order to silence the rising tide of concern in Australia about the genocide.

It is beyond denial that the proposed law is targeted at advocates for justice for Palestine. The name of the Bill and the expressions to be prohibited declare it. One may question a phrase such as "Israel has the right to defend itself" because it is frequently used as justification for the deaths of over 70,000 people in Gaza, most of them civilians and a large proportion of them children. Why is it not a phrase to be prohibited? It is because the legislation is designed to silence protest and advocacy for Palestine.

The Explanatory Notes to the *Summary Offences and Other Legislation Amendment Bill 2019* (see extract in Schedule 2) provide a convenient summary of the principles applicable to the conduct of that advocacy and protest.

SCHEDULE 1

The International Court of Justice has found a plausible case of Genocide and issued an order for Israel to take action to prevent Genocide. A final determination is pending. In response, Israel has rejected the findings and refused to

comply with the interim orders which, in itself is evidence of Genocidal intent.

UN Special Rapporteur on human rights in the Palestinian territories (Francesca Albanese)

UN Independent International Commission of Inquiry on the Occupied Palestinian Territory

UN Office of the High Commissioner for Human Rights

A range of UN experts

Have all determined the Israeli action to amount to genocide

Amnesty International, Human Rights watch and the International Commission of Jurists have determined the Israeli action to amount to Genocide.

Clear statements of members of the Israeli government demonstrate Genocidal intent

And the evidence of our own eyes tells us that what Israel is doing is Genocide.

Schedule 2

Summary Offences and Other Legislation Amendment Bill 2019 -Explanatory Notes - Policy objectives and the reasons for them

Protest activity has been used as a vehicle by many Australians to advocate for legal and social change. Peaceful assemblies allow interest groups to express their views to the wider public and, in particular, may allow the concerns of minorities to be voiced, heard and potentially acted upon. The right to peacefully assemble has been held as a defining characteristic of a democratic society as it encompasses a number of fundamental rights including the freedom of expression, the right of peaceful assembly and the freedom of association.

The right of peaceful assembly has long been recognised in international human rights law through Article 21 of the International Covenant on Civil and Political Rights. This right has been enshrined in Queensland through the *Peaceful Assembly Act 1992* (PAA) and is also acknowledged within the *Human Rights Act 2019* (HRA).

The PAA provides that a person has the right to assemble peacefully with others in a public place. This right is subject only to those necessary and reasonable restrictions required to ensure public safety, public order; or the protection of the rights and freedoms of other persons.

The protection of the rights and freedoms of other persons includes the rights of members of the public to enjoy the natural environment and the rights of persons to carry on business.

The PAA operates to exempt participants in authorised public assemblies from civil or criminal liability for any obstruction of a public place. This exemption only applies to assemblies that are peaceful and held substantially in accordance with any relevant conditions outlined in a notice or order under that Act. As the PAA only applies to public places, it does not affect laws involving trespass, such as the right of a person in, or entitled to, possession of land to request a trespasser to leave the land or to remove a trespasser from the land.

The PAA highlights that the right to assemble peacefully is not absolute. There must be a balance between the rights of those participating in a peaceful assembly with considerations about public order and safety and the rights and freedoms of others. A person purporting to exercise the right to assemble peacefully does not have the right to completely disregard the

rights and freedoms of others.