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SUBMISSION TO INQUIRY INTO EXPOSURE DRAFT OF THE COMBATTING ANTISEMITISM, HATE AND EXTREMISM BILL 2026

Committee Secretary

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I thank the committee for the opportunity to contribute to this inquiry.

The terrorist attack at Bondi on 14 December 2025 was motivated by antisemitism. 15 innocent lives were taken by murderers whose minds were corrupted by a sickening hatred. It is clear that there are extremists in Australia who wish to terrify our Jewish community. It is the duty of this Parliament to respond in a manner which improves social cohesion while, to an appropriate extent, protecting the rights guaranteed by the Australian Constitution and the various international agreements that Australia is a signatory to. The exposure draft of the *Combatting Antisemitism, Hate and Extremism Bill 2026* contains some inoffensive (if largely performative) changes, as well as some that have concerning effects which may require further consideration or redrafting. The haste of the government in seeking to pass this bill is reminiscent of the passage of the *Criminal Code Amendment (Hate Crimes) Act 2025* which, despite only being used 4 times since they were enacted[1], were rushed through the Parliament in the wake of the Dural caravan saga, which was subsequently identified as a 'criminal con-job' by the Australian Federal Police. It is clear that swift action is required, but swift does not need to mean ill-considered. In addition, I do not understand

[1] https://www.abc.net.au/news/2025-12-19/hate-speech-laws-used-four-times-since-february/106148170

why gun reform, migration changes, customs changes and hate speech amendments have been combined into a single bill. This decision can only be explained by looking at it through a lens of political cynicism, which I think cheapens this Parliament's response.

Proposed section 80.2BF of the *Criminal Code*

The offence provision under this section, which is one of the more prominent new offences introduced by the Bill, leaving aside its overly broad drafting, is concerning in its partiality. The use of the phrase 'race, colour or national or ethnic origin' will offer protections to groups who are considered ethno-religious groups, but not to religions alone. According to evidence given to the committee by representatives of the Attorney-General's Department during the hearing held on 13 January 2025, this will mean that an offence against this provision could be committed against Jewish or Sikh people, but not Christian or Catholic people. A report by the Australian Human Rights Commission in 2015 noted that "current interpretation of the [*Racial Discrimination Act 1975]* stops short of considering the Muslim faith as encompassing an 'ethnic group'"[2], so Muslims would also, presumably, not be protected under 80.2BF(1). The inconsistency of the attributes protected by this provision, in terms of both religion and other attributes, is disconcerting. As I have been preparing the submission, it has been floated by the government that they may be open to extending these protections after this bill has been passed[3]. Those who believe this have short memories[4].

Another element of this section, which has received attention in the media, is subsection 80.2BF(4), which provides a defence in the case of 'conduct that consists only of directly quoting from, or otherwise referencing, a religious text for the purpose of religious teaching or discussion'. The note below this subsection lays the burden of proof with the defendant in the use of this defence. While this subsection is well-intentioned, many religious texts have passages which can be read as a call for violence. The interpretations of these passages developed by scholars of respective faiths could be relied upon as a defence, when the true purpose of the use of the passages is as a cover for radicalisation. Further, given paragraph 80.2BF(1)(b) requires it to be proven that a person had intent to incite hatred or disseminate ideas of superiority or hatred, any innocent quotation of or reference to scripture would appear to fall short of the proof of intent under that paragraph anyway. I would be open to either tightening this subsection, such as by removing ', or otherwise referencing,', or removing the subsection entirely.

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[2] https://humanrights.gov.au/resource-hub/by-resource-type/publications/freedom-discrimination-report-40th-anniversary-racial, p. 5

[3] https://www.theguardian.com/australia-news/2026/jan/14/labor-considering-extending-new-hate-speech-protections-to-lgbtq-australians-and-religious-groups

[4] https://www.sbs.com.au/news/article/devastating-prime-ministers-abandonment-of-religious-discrimination-bill/ek7auzxfi

Schedule 2—Migration amendments

Items 3, 6 and 9 of Part 1 of Schedule 2 amend the character test for non-citizens applying for, or holding, a visa. This lowers the threshold for a visa to be denied or cancelled by the Home Affairs Minister. In a case where there is a significant risk that a non-citizen may engage in criminal conduct, harass, molest, intimidate or stalk someone, vilify a segment of the community, incite discord or represent a danger to the community or a section of the community, the Minister would only need to be satisfied that there is a significant risk that the non-citizen **might** engage in one of the aforementioned categories of conduct, rather than **would**. For most of these elements, I approve of a lower threshold for the denial or cancellation of a visa. The concern I have is with 'inciting discord'. We have seen, in recent times, that anti-genocide voices have been 'cancelled' for their views. The campaign launched against Antoinette Lattouf comes to mind[5]. Were a similar group of people dedicated enough, similar campaigns could be launched against anti-genocide visa holders. It is my view that, for the 'inciting discord' limb of the character test, the higher threshold of 'would' should be retained.

Conclusion

There are further concerns I have with this bill that I will note in brief. In Part 4 of Schedule 1, proposed section 114A.6 requires that the AFP Minister must arrange for the Leader of the Opposition to be briefed before the Governor-General can list a prohibited hate group. Would this mean that, so long as the briefing was 'arranged', the listing could occur before the briefing did? Also, what of the crossbench? Given minor parties and independents may be required to consider (and, perhaps, vote on) the disallowance of one of these prohibited hate group regulations, what information shall they be provided with to reach a decision on such a matter? I am also concerned by the broadness of the definition of what a hate crime is in Part 4, as well as the limited checks on the Home Affairs Minister's ability to designate prohibited hate groups.

There are more reservations that I have which I have not had enough time to properly digest in order to include in this submission. There are sections of this bill that I have no immediate concerns about. I have no doubt that the rush to pass this bill will result in poorer legislative outcomes than if it were properly considered, as has been the case in the past. If the Parliament is unwilling to give more consideration to this bill, I hope that we may produce the best possible legislation in the time we have or, if the final version of this bill poses an unacceptable risk to the rights of Australians, that we do not legislate yet and return to these matters swiftly, but with due consideration.

Recommendations

[5] https://www.smh.com.au/business/workplace/secret-whatsapp-messages-show-co-ordinated-campaign-to-oust-antoinette-lattouf-from-abc-20240115-p5exdx.html

1. **That the Senate and House of Representatives consider whether better outcomes would be achieved if the Bill were put through a more considered process of deliberation and scrutiny, rather than rushing it through during the two-day January sitting.**
2. **That the Bill be split into at least two bills, to separate the disparate aims of this omnibus Bill.**
3. **That the Bill be amended to provide consistent protection from hatred under proposed section 80.2BF.**
4. **That the Bill be amended to tighten or remove the religious teaching defence under proposed subsection 80.2BF(4)**
5. **That the Bill be amended to retain the higher 'would' threshold of the character test for the 'incite discord in the Australian community or in a segment of the community' limb.**
6. **That the Bill be amended to ensure that, if MPs are required to consider the disallowance of a prohibited hate group regulation, they are adequately informed about the regulation and the prospective hate group, regardless of their political affiliation.**