

## Combating Antisemitism, Hate and Extremism Bill 2026

Founded in 2001, the Asylum Seeker Resource Centre (ASRC) is Australia's largest independent aid and advocacy organisation for people seeking asylum and refugees, supporting and empowering people at the most critical junctures of their journey. Our services include legal, casework, housing, medical, education, employment and emergency relief. Based on what we witness through our service delivery, we advocate for change alongside refugees to ensure their rights are met and they can live in safety and with dignity.

The ASRC's legal team, the Human Rights Law Program, has considerable experience in migration law representing refugees and people seeking asylum at all stages of the refugee determination process.

### **INTRODUCTION**

The ASRC welcomes the opportunity from the Parliamentary Joint Committee on Intelligence and Security to provide a submission regarding the *Combating Antisemitism, Hate and Extremism Bill 2026* (the Bill).

We welcome tougher penalties for people engaging in extremism and inciting hatred to protect our community, including Jewish Australians against antisemitism, tightened firearm checks and a national buyback scheme.

However we caution that these important objectives must be counterbalanced with the vital need to protect human rights, particularly of marginalised groups, and to avoid limiting necessary forms of political expression.

Our concerns are primarily based on Schedule 2 and the proposed changes to the *Migration Act 1998* (Migration Act) and on provisions that risk eroding procedural fairness and freedom of political communication.

### **Migration amendments (Schedule 2)**

The ASRC cautions that some proposed changes to the Migration Act 1958 (Migration Act) go significantly further than current provisions and risk harming and restricting the human rights of people seeking asylum and refugees.

#### **Change risk threshold of "would" to "might"**

It is extremely concerning to see provisions weakening the thresholds under which a person can have their visa refused or cancelled. The proposed amendments would enable the cancellation or refusal of a visa on the basis of a lowered threshold that a person "might" engage in criminal or dangerous conduct.<sup>1</sup> The Migration Act currently requires the Minister to be positively satisfied that

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<sup>1</sup> Expanding the power to cancel a Temporary Safe Haven visa under s 500A and the general 'character' powers under s 501 of the Migration Act. See also: 5C(1)(d), 500A(1)(c), 501(6)(d), 500A(1A), 501(6A).

there is a risk a person 'would' engage in the conduct. This moves the decision making into the realms of speculation.

Cancellation or refusal of a visa on character grounds has serious and life altering consequences for refugees and people seeking asylum. This includes detention or deportation, including to third countries such as Nauru. The Bill also proposes to broaden the powers to permanently exclude people from Australia.<sup>2</sup> These decisions should not be made on a vague and imprecise notion of what someone "might" do in the future.

### 'Association' provisions

We are concerned by the broad definition of 'association' in the proposed Bill and the unintended and unfair consequences it is likely to have on people seeking asylum.

The Bill facilitates refusing and cancelling a person's visa and disclosing identifying information, on the grounds that they have engaged in 'spreading hatred or extremism.' This includes past or present 'association' with a 'terrorist organisation, a state sponsor of terrorism, or a prohibited hate group' where the association provided support to the 'purposes' of the organisation. 'Association' has been defined to include situations in which a 'person meets or communicates with the organisation.' The Bill suggests that 'the association may consist of a single meeting or communication.'<sup>3</sup>

We are highly concerned by the broadness of this definition. There is a risk it could capture people who were compelled or had no choice but to interact with a particular group (especially if they were living in a region controlled by the group) or by past interactions with people or organisations before they were associated with hate groups.

The association provisions could capture the following examples:

- Persons living in Southern Lebanon in areas controlled by Hizballah who have engaged with social services, health care or schools operated by Hizballah.<sup>4</sup>
- Persons living in Taliban controlled areas of Afghanistan<sup>5</sup>.
- A person who attended a single rally, meeting, or prayer vigil organised by someone who is now linked to a hate group.
- With regards to communication
  - A person who is in an email chain, Whatsapp or other online messaging group with a person now linked to a hate group.
  - A person who likes or re-posts something online by a person later linked to a hate group.

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<sup>2</sup> The Draft Bill proposes to broaden the exclusion provisions under Special Return Criterion 5001 to persons who have been refused a visa on character ground – not just those who have had their visa cancelled under character provisions.

<sup>3</sup> Proposal to amend s5(1) of the Migration Act 1958

<sup>4</sup> Hizballah was designated as a terrorist organisation under Div 102 of the Criminal Code Act 1995 (Cth) on 10 December 2021. Australian National Security, 'Listed Terrorist Organisations' available <https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations>

<sup>5</sup> <https://publications.parliament.uk/pa/ld5801/ldselect/ldintrel/208/20808.htm>

In regards to proposed amendments to sections 5C (1B) and (IC), 500A (1A)(b), 501(6)(6A)(b), and in 501 (11)(11B) we object to the fact that the Minister does not need to consider whether the association is ongoing. This sets a highly concerning precedent.

These provisions could have the foreseeable outcome of denying legitimate asylum claims on the basis of vague and nebulous definitions.

### Impact on freedom of speech

There are real risks posed by the Bill to people seeking asylum and refugees and their ability to communicate freely and critique the regimes they have fled from.

'Spreading hatred and extremism' is vaguely defined to include the making or endorsement of 'public statements' (including online) involving 'the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin,' where the entry of the person to Australia would involve 'harm' to the community or a segment of it. It is unclear how the Minister will interpret these highly politicised concepts.

### Including nationality as a protected attribute (Schedule 1, Part 7, s63)

Nationality is not typically included in anti-vilification laws as a protected attribute in Australia. Its inclusion here poses the risk that people seeking asylum and refugees could have this provision used against them for legitimate criticism of foreign regimes.

We are concerned the provisions could cover examples of legitimate political expression including:

- Statements from Palestinian refugees regarding the state of Israel
- Uyghur people expressing opposition to the People's Republic of China, and its control over the Xinjiang region
- Kurdish people raising concerns about the actions of members of the Türkiye government

Naturally these statements could cause 'harm' to members of dominant groups in the Australian community. It is concerning that they could therefore trigger the operation of the expanded disclosure, refusal and cancellation powers. This could risk migration laws being used as a tool in inter-community conflicts.

These provisions could lead to the paradoxical circumstances where making statements critical of a foreign regime or otherwise engaging in political activism could be both the basis of a legitimate refugee claim and a basis on which your visa or claim could be dismissed.

### Chilling effect

The risk of the speed in which this Bill has been drafted and the potential broad application of many of its provisions could have an overall chilling effect on democratic speech and civil society, with especially high risks being borne by already marginalised communities such as migrants, refugees and people seeking asylum.

Legitimate political critique and expression may be silenced by fear from individuals and groups of these laws being used against them. This has the potential to limit our implied freedom of political communication under our constitution.

## Other concerning provisions and elements

### Prohibited hate groups and lack of procedural fairness

The removal of procedural fairness in the declaring of prohibited hate groups is concerning, given the low threshold for a group to be proscribed and subjectiveness of the terms.

For example there is nothing in place to prevent authorities using reports from countries lacking the rule of law, where police reports could have been concocted to impugn a group - for example a separatist movement or minority groups advocating for their rights from overseas. Neither the group nor the people seeking asylum who were previously part of such groups would have procedural fairness to challenge a decision made on this basis.

### Reversal of the presumption of innocence

The reverse burden on presumption of innocence at s 11.4A.4(5) is a concerning development and would put an unfair burden, especially on challenges brought by people seeking asylum. It is also contrary to the International Covenant on Civil and Political Rights and our own *Legislation Act 2003* s 12(2).

### At risk groups not protected by the Bill

We note that some attributes have not been classified as protected attributes from hate, including religion, gender and sexuality. This means people vilified for example on the basis of Islamophobia would not be protected by these laws, despite the rising incidents of Islamophobic attacks. Similarly people from the LGBTIQ+ community have noted that they have not been included in this legislation despite facing increased risks of hate fuelled attacks. First Nations people are also not mentioned or afforded any specific protection under the Bill.

## Conclusion

The aims of this Bill to protect vulnerable groups from the rise of extremist hate are extremely important. We urge the Government to pursue these aims in a way that ensures protection for all marginalised groups who are at risk from increasing hate and counter balance it with the need to protect free speech and human rights.

The ASRC supports the evidence-based gun control recommendations captured in this bill, as a stand-alone bill focused on a national gun buyback scheme and tighter background checks for access to firearms as an immediate additional first step the Government should take.

We must take the time to ensure the consequences of the wide ranging mechanisms in this Bill don't harm and disenfranchise people seeking safety.

The causes of extremism are complex and manifold. While criminal law and gun control are part of the solution, we must also address the root causes of all forms of racism, including antisemitism. We note that the National Anti-Racism Strategy prepared with deep consultation by the Australian Human Rights Commission has not yet been adopted by the Government and presents an excellent opportunity to tackle hate and extremism at all levels of society. We recommend the government immediately begin implementation of this strategy.