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NEW SOUTH WALES JEWISH BOARD OF DEPUTIES LTD

The Representative Voice of NSW Jewry

ועד הקהילה היהודית בנ. ס.ו.

President: David Ossip



The NSW Law Reform Commission
Locked Bag 5000,
Parramatta NSW 2124

19 April 2024

Attention: Tom Bathurst AC KC

Copy by email: nsw-lrc@dcj.nsw.gov.au

Dears Sirs and Madams,

Serious racial and religious vilification

Introduction and context

The NSW Jewish Board of Deputies is the official elected representative roof-body of the Jewish Community in New South Wales, with 56 major Jewish organisations in NSW as its constituents. It is recognised by the NSW State Government, its agencies, the media and other ethnic and religious groups as the representative body of the Jewish Community and speaks on its behalf on all matters affecting the status, welfare and interests of New South Wales Jewry.

We appreciate the opportunity to make a submission to the Commission to assist with the review of and report concerning the effectiveness of section 93Z of the *Crimes Act 1900* (NSW) in addressing serious racial and religious vilification in NSW.

Regrettably, Antisemitism, is again becoming part of acceptable discourse and unsurprisingly, but alarmingly it has resulted in threats, harassment, intimidation and violence. Such conduct has not been restrained, impeded or deterred by current laws.

Antisemitism broadly consists of hostility, discrimination, prejudice or hatred towards individual Jews or Jews as a group, their religion, history and peoplehood.¹ Allowed to continue and fester, it will erode the social cohesion that has helped make our country the harmonious multicultural society that it is.

Pressure has been placed on a range of organisations to sever ties with Jews. By way of example, a world-renowned Jewish expert on trauma and mental health,² the former Dean of the Department of Aerospace

¹ The most widely accepted definition of antisemitism is the 'Working Definition of Antisemitism' adopted by the International Holocaust Remembrance Alliance (IHRA) on 26 May 2016: <https://holocaustremembrance.com/resources/working-definition-antisemitism>, viewed 14 April 2024. On 13 October 2021, Australia pledged "to embrace the definition of antisemitism adopted by the International Holocaust Remembrance Alliance" <https://www.ecaj.org.au/australia-pledges-to-embrace-the-ihra-working-definition-of-antisemitism/>, viewed 14 April 2021.

² See e.g., <https://www.australianjewishnews.com/israeli-speaker-disinvited-from-conference/>, viewed 18 March 2024. Subsequently on 18 March 2024, the Executive Director of the Australia & New Zealand Mental Health Association has apologised to Israeli trauma specialist Dr Moshe Farchi and the Australian Jewish community for the decision to disinvite Dr Farchi from the Frontline Mental Health Conference on the Gold Coast earlier this month: <https://www.jwire.com.au/dr-moshe-farchi-received-apologies-for-being-uninvited-to-gold-coast-conference/>, viewed 19 March 2024. See also: A McBeth, J Noland and S Rice, *International Law of Human Rights* 2nd ed, 2017 at 100-101.

Engineering at the Technion,³ and a renowned Australian Jewish musician⁴ were “cancelled” by host organisations after being intimidated into doing so by those who would wish to deny Jewish people their rights of free speech and free expression.

The harm is not new, but it is becoming severe. The Annual Reports on Antisemitism in Australia published by the Executive Council of Australian Jewry have shown a marked rise in the number of reported antisemitic incidents year on year since 2016.⁵ There was an unprecedented 738% increase in the number of reported antisemitic incidents in Australia in October and November 2023 compared to the number for the same two months in 2022.⁶

Back in 2007, Associate Professor Suzanne Rutland and the late Emeritus Professor Sol Encel conducted a study of Antisemitism in government schools in South Western Sydney. Common behaviour included drawing swastikas on their desks. Racism was seen as wrong conduct, but anti-Jewish prejudice was not.⁷

The problem carries forward to universities. More than fifteen years later, a study undertaken by the Monash University Social Research Centre reported in July 2023 that:

"Antisemitism is affecting how Jewish students approach their appearance while at university. It is not uncommon for these students to hide their Jewish identity when on campus. The extent of hiding their Jewish identity is higher among those who have previously experienced antisemitism in a university setting. These antisemitic experiences are affecting Jewish students both within a classroom environment and externally of the class setting. Students were largely dissatisfied and faced many barriers when trying to raise a complaint with their university in response to antisemitic behaviour. The majority of those

³ <https://www.theaustralian.com.au/higher-education/university-of-melbourne-caves-as-israeli-academic-silenced/news-story/98e35ca8addaa76437c3d39988ab1e55> viewed 14 April 2024

⁴ See e.g., <https://www.theaustralian.com.au/nation/deborah-conway-says-she-wont-be-silenced-by-antiisrael-activists/news-story/1daf1d819a5caf522eb3f6ddfecfcabc>, viewed 18 March 2024; <https://www.perthnow.com.au/entertainment/music/shmone-israeli-night-at-kapara-in-fremantle-cancelled-due-to-protests-c-13905033>, viewed 20 March 2024.

⁵ The reports can be accessed via: <https://www.ecaj.org.au/antisemitism-report/>.

⁶ Julie Nathan, 'Preliminary statistics concerning surge in antisemitic incidents following Hamas atrocities in Israel on 7 October 2023', Executive Council of Australian Jewry, 15 December 2023: <https://www.ecaj.org.au/wordpress/wpcontent/uploads/ECAJ-preliminary-report-antisemitic-incidents-since-Oct-7-attack-1.pdf>, viewed 21 March 2024. The incidents include but are not limited to assaults (many of which targeted identifiably Jewish individuals) and threatened assaults, bomb threats and other threatened harm to Jewish schools and community centres; intimidation of Jewish university students; assaults and bullying against Jewish school students; <https://www.theaustralian.com.au/nation/qas-you-kill-you-surge-in-antisemitism-incidents/news-story/478aefb7b8baddacaa56775a8b519cbe>, viewed 18 March 2024.

⁷ Teachers and families spoke to them in confidence. The teachers reported a veneration of Hitler and antipathy to Jews with statements such as “Hitler did the right thing”, “Hitler did not go far enough”. One student asked: “Why do all the teachers hate Hitler. After all, he only killed Jews?” Rutland, S. (2007) “Jews and Muslims ‘Downunder’: Emerging dialogue and challenges” University of Sydney - with a Sydney high school teacher, June 2006. Name withheld on request. In one all boys’ school, the teacher said the boys’ favourite video-clip that they watch on their phones is of American journalist Daniel Pearl saying “I am a Jew, my mother is a Jew...” and then watching him being decapitated. In an all girls’ school, a student came to the teacher saying, “My friend pulled her mobile phone apart yesterday and when I asked her why, she said that the Jews control all the communications and that they could listen in to her conversations – is that true Miss?” These students also expressed the belief prevalent throughout the Muslim world that the Jews were responsible for September 11. Also see: Kunde, B. (2007) “The Children of Abraham living apart: The psychology and sources of Muslim Youth antisemitism in Sydney”

*who did raise a complaint were dissatisfied with their university's response. Many students won't raise a complaint as they don't believe complaining will make a difference.*⁸

At the University of Sydney, Jew-hatred has crossed the threshold into physical incidents.⁹

Part 1 – Incidents involving calls for violence against Jews – (Terms of reference 1, 4, 5 and 6)

Since section 93Z commenced operation on 13 August 2018, the following incidents (by way of example), have occurred and been reported to the police. As far as we are aware, these incidents have not led to anyone being charged and prosecuted.

1. On 12 June 2019, the self-styled [REDACTED] published a post on his page on the Gab platform, stating "*it is time to legalise the Kike Cull*".¹⁰ The word 'kike' is a highly derogatory term for Jew and the word 'cull' refers to an organised, targeted, mass killing, usually in the context of controlling the population of feral animals such as kangaroos and wild horses. The comment was accompanied by the hashtag #bringonrahowa,¹¹ which is an abbreviation of 'Bring on Racial Holy War.'
2. On 11 May 2021, following an outbreak of hostilities overseas between Israel and Hamas, a group named Hizb ut-Tahrir Australia (HTA) held a street demonstration at Lakemba which attracted about 200 people. The speakers included [REDACTED] and [REDACTED]. [REDACTED] HTA posted a video of the demonstration, 61 minutes in length, on its social media page on Facebook under the heading "HT Australia was live, Tuesday, May 11, 2021 at 8:45pm" at: <https://www.facebook.com/hizbaust/videos/343963317351487>. The video has since been removed from Facebook, but as at 8 April 2024 can be viewed at: <https://www.memri.org/reports/antisemitic-chants-hizb-ut-tahrir-australia-protest-support-palestinians-oh-allah-give-us#:~:text=In%20a%20Hizb%20ut%2DTahrir,channel%20on%20May%2011%2C%202021>. During the street demonstration, as recorded on the video, a prayer leader shouted the following (translated into English):

We will sacrifice our souls and our blood for you, Al-Aqsa!" (chanted three times at 38:00, and again one time at 40:30)

"Yes, that's why the blood of youth is boiling, the blood of youth is boiling; the blood of the ummah is boiling." (at 43:40 minutes)

"O Allah, give us control over the necks of Jews!" (at 55:08 minutes)

"Destroy, destroy the Jews! Destroy, destroy the Jews!" (at 59:41 minutes)

⁸ Jewish University Experience Survey , July 2023 available at: <https://www.zfa.com.au/survey/>, viewed 18 March 2024.

⁹ <https://www.theaustralian.com.au/higher-education/jewish-students-uneasy-for-new-year-as-israeli-flag-torn-down-at-sydney-university/news-story/d780fb6e652c967ddb8e8b28a4cd620e>, viewed 18 March 2024.

¹⁰ [REDACTED]

¹¹ <https://gab.com/tags/bringonrahowa>

The words "*We will sacrifice our souls and our blood for you, Al-Aqsa!*" legitimise, and express a readiness to engage in, acts of violence and suicide as a method of political action.

The words "*the blood of youth is boiling; the blood of the ummah is boiling*" is an attempt to justify feelings of anger and acts of violence by Muslims, especially young Muslims, towards Jews.

The reference to "*the necks of the Jews*" is a threat of execution by beheading. The public call to "*destroy the Jews*" has been made many times over the centuries in many parts of the world by many different people, resulting in the persecution and murder of Jews as a group.

The effect of interspersing political speeches with religious chants and prayers is to cast the contemporary conflict between Israel and the Palestinians as part of an eternal cosmic battle between Muslims and Jews, as personifications of good and evil. The message is that the religious identity of Muslims supersedes all their other identities, including their Australian identity, and that all Muslims, wherever they may live, are therefore obliged by their religious faith to fight this battle against the Jews in the literal sense, as an army would fight, and not merely through political action. This message emerges from statements also recorded in the video which we have extracted in **Annexure 1** to this Submission.

The event was brought to the attention of the NSW Police. As far as we are aware, no prosecution was recommended.

3. On 9 October 2023, the NSW Government agreed to light up the sails of Sydney Opera House in the Israeli flag colours of blue and white. The NSW Premier said that this was "*in solidarity with the Jewish Communities across New South Wales*", following a terrorist attack by Hamas in Israel two days previously that killed 1200 people and in which Hamas took more than 250 hostages. A protest, including a march on the Opera House, was organised for that evening by the Palestine Action Group, with the endorsement of the Students Representative Council at the University of Sydney. Prime Minister Anthony Albanese called for the march in Sydney to be abandoned, saying the killing and capture of innocent civilians should be condemned. The NSW police accompanied the protesters on a march from the Town Hall to the Opera House forecourt. Protesters lit flares and fireworks and threw them onto the forecourt steps. Footage showed the protesters chanting "*F**k the Jews*", among other grossly antisemitic slogans. The chant "*F**k the Jews*" occurred in a context in which NSW Police had advised the Jewish community to stay away from the Opera House in anticipation of the protesters turning up there, because the police believed there would be a risk of physical harm to Jews if they attended.¹² Many videos of the incident were published online.¹³
4. On 15 December 2023, Muslim preacher, [REDACTED] in Bankstown during a sermon called "*This is the barbarity, this is the inhumane nature of this Israeli-*

¹² 'Flares ripped at pro-Palestinian rally outside Sydney Opera House in protest while sails in the colours of Israeli flag', *ABC News*, 10 October 2023: <https://www.abc.net.au/news/2023-10-10/pro-palestine-sydney-rally-flares-protest-opera-house-light-up/102954158>

¹³ For example at <https://www.theaustralian.com.au/nation/politics/we-know-what-was-said-propalestine-protesters-used-aborrent-terms-at-opera-house-protest/video/4fd36e4b423d8bb4d5a4efe1fe229f4f>

*Zionist state ... [The Israel-Palestine conflict] has to be a spark for the umma (Muslim community) and a spark to the final solution...*¹⁴ The reference to the "final solution" is no accident.¹⁵

5. In a December 22, 2023 Friday sermon at ██████████ Lakemba in Sydney, Australia which was streamed live on the mosque's Facebook page, ██████████ spoke about the "characteristics of the Jews." He described Jews as criminals, terrorists, and Zionists, but qualified that not all Jews were like this, "*just most of them.*" He continued to say that they are characterised as being bloodthirsty and treacherous. ██████████ continued to say that the Jews are cowards and that they fled "*like rats*" from the mujahideen in Gaza.

There also are incidents of threats, and advocacy, of harassment or intimidation against Jews on public transport, which have not been reported to Police. We give but two examples.

- a. On 30 October 2018, on a public bus between Bondi Junction & Dover Heights, two teenage boys harassed a female Jewish teenager. The abuse included words to the effect: "*It's a shame that Hitler didn't kill all the Jews. ... We would go back and make sure he wipes them all out.*" The boys exited the bus at the same time as the Jewish student and followed her for two blocks.
- b. On 27 October 2023, a Jewish man on tram no.16 to Uni of Melbourne was abused in the following reported terms: "*If I could get a hold of a machine gun I'd gun down 10,000 of you tomorrow*", "*I'm going to blow a hole through your synagogue*", "*Jews aren't people, they're pieces of shit*", "*If Hitler had done it right, he would have gotten rid of all of you, and the human race would have no trouble*", and "*Who do you think you are as Jews? Whatever you're capable of feeling, the Palestinians are capable 100 times*".

Part 2 – Record of prosecutions under s. 93Z – (Terms of reference 2, 6 and 7)

According to testimony given by the NSW Director of Public Prosecutions (DPP), Sally Dowling, before a NSW Legislative Council Budget Estimates hearing on 6 March 2024:¹⁶

- Her office received 13 briefs of evidence from police for prosecutions under s.93Z of the *Crimes Act 1900* (NSW), since its enactment.
- Two briefs were returned to the police. The reasons for doing so, have not been disclosed.
- In the other 11 of those matters her office made a recommendation to police to lay charges.
- In two of those 11 matters charges were laid. The matters proceeded summarily and resulted in convictions in the Local Court. Both of those convictions were subject to appeal, and one of them

¹⁴ <https://www.theaustralian.com.au/nation/antisemitic-sydney-cleric-jews-bloodthirsty-monsters-who-ran-like-rats/news-story/7bda4143f0d28ff4dc1d4efc7f42efa7>

<https://www.theaustralian.com.au/commentary/why-are-antisemitic-screeds-ethnic-hatreds-being-tolerated-in-australia/news-story/0fa7be4f14e424c00e0d00848844dab1>

<https://www.theaustralian.com.au/nation/jewish-leaders-take-on-hate-clerics-amid-government-law-enforcement-inaction/news-story/2e0142e682c294faf04a8eaceaccf22a8>

¹⁵ <https://m.youtube.com/watch?v=HpCsW61bsqI>; <https://www.dailymail.co.uk/news/article-12873669/Islamic-preacher-Muslim-army-anti-Israel-Sydney.htm> viewed 4 April 2024

¹⁶ Portfolio Committee No. 5 - Justice and Communities, Wednesday 6 March 2024, Transcript pp. 53-55 and 83: [https://www.parliament.nsw.gov.au/lcdocs/other/19194/Transcript%20-%20UNCORRECTED%20-%20HIGHLIGHTED%20FOR%20QON%20-%20PC5%20-%20Budget%20Estimates%202023-2024%20\(Daley\)%20-%206%20March%202024.pdf](https://www.parliament.nsw.gov.au/lcdocs/other/19194/Transcript%20-%20UNCORRECTED%20-%20HIGHLIGHTED%20FOR%20QON%20-%20PC5%20-%20Budget%20Estimates%202023-2024%20(Daley)%20-%206%20March%202024.pdf)

has been overturned on procedural and not substantive grounds (failure of the police to get the approval of the DPP before prosecuting) on appeal. The result of the other appeal is pending.

- No charges have been laid or prosecutions commenced in the other 9 matters. No public explanation has been given for this.

In Australia, Western Australia is the only jurisdiction in which there has been a successful prosecution for criminal racist conduct targeting Jews, before a 12-person jury.¹⁷ The defendant was convicted under Sections 77 and 80B of the Criminal Code. The relevant provisions are extracted in **Annexure 2** to this Submission.

Part 3 – Legal analysis of shortcomings of s. 93Z – (Terms of reference 6 and 7)

In 2018, Part 3, Division 8 (s.93Z) of the *Crimes Act 1900* (NSW) was enacted, replacing former sections 20D, 38T, 49ZTA and 49ZXC of the *Anti-Discrimination Act 1977*. Section 93Z makes it a criminal offence, punishable by up to 3 years imprisonment and/or a fine, for any person to intentionally or recklessly *threaten or incite violence* towards another person or a group of persons because of their race, religious belief or affiliation, sexual orientation, gender identity, intersex status or HIV/AIDS status. The legislation was passed by both houses of the NSW parliament with cross-party support and was assented to on 27 June 2018. As noted earlier, it commenced operation on 13 August 2018.

In December 2023, the previous requirement that any prosecutions under section 93Z needed to be approved by the DPP was removed. Attorney General Michael Daley MP explained that the time taken to refer matters to the DPP and obtain approval may have acted as a disincentive for laying charges. Other relevant background appears in the NSW Law Reform Commission's 'Background note on section 93Z', dated 8 March 2024.¹⁸

In essence, s.93Z proscribes any act which intentionally or recklessly threatens or incites violence towards another person or a group on the ground of a protected attribute such as race or religion.

As regards the meaning of "incites", the Background Note observes:

"The courts have held that inciting violence means to encourage it or spur it on: Sunol v Collier (No 2). It is not necessary for a person to actually be incited to violence."

In any prosecution, the court needs to assess the effect of the accused person's conduct on an ordinary member of the class of persons to whom the conduct was directed, taking into account the circumstances in which the conduct occurred,¹⁹ and the court needs to be satisfied beyond reasonable doubt that an ordinary member of that class was being urged on to violence, whether or not an act of violence was then committed.

¹⁷ *O'Connell v Western Australia* [2012] WASCA 96; *DPP v Brendon Lee O'Connell* (File No. IND 1767 of 2009); *Criminal Code Act Compilation Act 1913* (WA), Chapter XI. O'Connell was sentenced to 3 years imprisonment. There have been no reports of similar serious incidents.

¹⁸ Accessible via: <https://lawreform.nsw.gov.au/current-projects/section-93z/background-note-on-section-93z-of-the-crimes-act.html>

¹⁹ We have applied the reasoning in *Veloskey & Anor v Karagiannakis & Ors* [2002] NSWADTAP 18 (27 June 2002) at [21] and, specifically, the Appeal Panel's analysis of the concept of "incitement".

In common parlance, any speech which on its face includes a call to violence, or to harassment or intimidation of the target group should fall within the reach of our criminal law.

Further, advocacy, praise or glorification of violence, harassment or intimidation, each constitute incitement, even if an ordinary member of the class of persons to whom the conduct was directed would be unlikely to be urged on in the circumstances.

In practice, a message to members of an audience urging them to engage in violence is often conveyed by verbal signals and symbolism employing vague language and allusions to a particular cultural, religious or ideological context, where the message is subliminally suggested but is not stated expressly. Even in some of history's most extreme and paradigmatic examples of incitement of racially or religiously motivated violence, evidence of an intentional or reckless incitement to violence - to the criminal standard - has been missing, and this remains true in the contemporary context. As a Senate Standing Committee Report concluded in 2014:

It is no longer the case that explicit statements (which would provide evidence to meet the threshold of intention) are required to inspire others to take potentially devastating action in Australia or overseas. The cumulative effect of more generalised statements when made by a person in a position of influence and authority can still have the impact of directly encouraging others to go overseas and fight or commit terrorist acts domestically. This effect is compounded with the circulation of graphic violent imagery (such as beheading videos) in the same online forums as the statements are being made. The AFP therefore require tools (such as the new advocating terrorism offence) to intervene earlier in the radicalisation process to prevent and disrupt further engagement in terrorist activity.²⁰

Although the Senate Standing Committee was referring specifically to how members of an audience are typically moved to engage in terrorism, the Report's detailed dissection of this process is equally applicable to the promotion of all other forms of violence.

Section 93Z fails to capture conduct that employs subtle linguistic and symbolic signals that trigger emotions which move people to engage in violence. In our view, if the legislation is to be effective, it needs to be re-formulated in a way that will allow a prosecutor the practical prospect of securing a conviction of a person who engages in the kind of communication described by the Senate Standing Committee.

All Australians should be able to live free from acts which intentionally or recklessly incite, promote, advocate, or glorify harassment or intimidation on the prescribed grounds, even if that harassment or intimidation does not have violence as its object.

There also is a need for a lesser offence to proscribe intentional or reckless public conduct to incite, promote, advocate or glorify hatred, serious contempt, or severe ridicule on the prescribed grounds, because where only incitement to violence is proscribed, there is no protection against other obvious forms of harm. That harm is in the impairment of citizens' ability to go about their daily lives with a sense of safety and security. Such a sense of security is fundamental to the enjoyment of democratic rights and society.

One of the world's leading experts on legal protection against racial hatred, Professor Kathleen Mahoney argued in the first issue of the Australian Journal of Human Rights 30 years ago that free speech is enhanced when vulnerable groups are protected from serious harm through racial hate speech.²¹

It is necessary for Australia's social cohesion that all members of the community be able to make a meaningful contribution to, and to develop a sense of belonging in, the society in which they live. Failure by the state to provide this security for minority groups can have devastating consequences. We know as much from history. We are seeing it again in Australia now.

It is essential that in any reform of section 93Z the elements of each offence are set out simply yet with precision to enable prosecutors to manage their work efficiently and to not create unnecessary barriers to prosecutorial willingness.

Reform is needed to protect all citizens' basic right to go about their daily lives free from racial hatred and the diminished capacity of those affected to participate in society which has occurred as expressions of racial hatred, including Jew-hatred, go unpunished.

Part 4 - The availability of civil vilification provisions in the Anti-Discrimination Act 1977 (NSW) – (Term of Reference 3)

In our view, Division 3A of Part 2 of the *Anti-Discrimination Act 1977* (NSW) has had a diminished role to play since the introduction of Part IIA of the *Racial Discrimination Act 1975* (Cth). Our only reform recommendation would be to bring the NSW provisions into line with the Commonwealth legislation.

Part 5 – Recommendations

Of the illustrative examples provided above, all have occurred in public but none have been the subject of prosecution.

- Incidents 1 and 2 involved calls for violence against Jews.
- Incidents 1, 2, and 3 also involved calls for harassment or intimidation of Jews.
- The two public transport incidents involved actual or threatened harassment or intimidation of Jews.
- All of the incidents involve promotion or advocacy of racial hatred towards Jews.

We recommend that the statutory provisions are broadened:

1. in s.93Z, by adding to the verb "incites," other verbs such as urges, promotes, advocates or glorifies;
2. in s.93Z, by adding a new offence that would proscribe the *harassment or intimidation* of a person or group because of their actual or presumed race, religious belief or affiliation, sexual orientation, gender identity, intersex status or HIV/AIDS status; and

3. by enacting a new s.93ZA, which would create a new lesser or minor offence that would proscribe the *public promotion of hatred or animosity towards, contempt for, or ridicule of*, another person or a group of persons because of their actual or presumed race, religious belief or affiliation, sexual orientation, gender identity, intersex status or HIV/AIDS status.

Yours sincerely,



David Ossip
President
NSW Jewish Board of Deputies

Annexure 1 – Further statements made during the Hizb ut-Tahrir Australia street demonstration

"We speak today from Sydney in Australia, by many accounts half the world away from Al-Aqsa, that the majority of us in our audience today were born here or were raised here and we could at any point be busy in ourselves with anything other than the defence of the Muslims, the defence of the holy land of Islam; that at any point we could have been swallowed by the assimilation machine in this country and regarded ourselves first and foremost as Australian. But our gathering today as Muslims gather in other places in this country, and as Muslims gather in their thousands, in their millions in the West and in the East, who identify themselves first and foremost as Muslims, as followers of the beloved, may Allah's prayers and peace be upon him.... This is our struggle, and we will fight in our times, with our efforts, believing strongly in the help of Allah" (Between 5:20 and 11:56 minutes).

"It's not enough for us to gather and just express a solidarity... [T]he caliph unites the body of the Muslims, that gathers its resources, that orders its armies to move in defence of the Muslims." (Between 13:00 and 16:05 minutes).

"O free people in Palestine! O stationed fighters, both men and women! O heroes! You have known that the struggle involving Al-Aqsa is an ideological struggle. ... You have set compass, the compass right for the eternal struggle with the Jews. You have fulfilled your promise to Allah." (Between 24:00 and 26.07 minutes)

"Yes, we can lose a struggle, we can lose a war, we can lose thirty struggles, hundred struggles, but one day we will win, and if we win one time it is their end forever." (36:46 minutes)

"We are not here in solidarity. We are not supporting someone... We are one in Palestine, in Kashmir, in Chechnya, in Syria, in Iraq, in everywhere around the world, we are one, no-one can one split us from each other." (39:08 minutes)

Annexure 2 – Extracts from the Criminal Code, Western Australia

Section 77 provides:

Any person who engages in any conduct, otherwise than in private, by which the person intends to create, promote or increase animosity towards, or harassment of, a racial group, or a person as a member of a racial group, is guilty of a crime and is liable to imprisonment for 14 years.

Section 80B provides:

Any person who engages in any conduct, otherwise than in private, that is likely to harass a racial group, or a person as a member of a racial group, is guilty of a crime and is liable to imprisonment for 3 years.

Section 76 is the definitional section applicable to ss 77 and 80B. Relevantly, it states:

***animosity** towards means hatred of or serious contempt for;*

***harass** includes to threaten, seriously and substantially abuse or severely ridicule;*

***racial group** means any group of persons defined by reference to race, colour or ethnic or national origins;*