

**Submission to the United Nations Special Rapporteur on
freedom of peaceful assembly and of association**

**Stigmatising narratives and implications
on the exercise of the rights to freedom
of peaceful assembly and association**



Melbourne Activist Legal Support

8 July 2024

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Acknowledgement of Country

MALS acknowledges the centuries of Aboriginal struggle against genocide and colonisation. We acknowledge that police and the legal system in this country remain a core component of colonisation, which continues to target and incarcerate Aboriginal people disproportionately. All activists in Australia today owe a huge debt to Aboriginal activists throughout our history who fought for basic human rights and social, legal and political change.

Melbourne Activist Legal Support

We support activists defending their own civil and political rights. Melbourne Activist Legal Support (MALS) is an all-volunteer Incorporated Association of lawyers, barristers, and human rights advocates. We train and deploy Legal Observer Teams at protest events, monitor and report on public order policing, provide training and advice to activist groups on legal support structures, and develop and distribute legal resources for activist movements. We provide support and field legal observer teams upon invitation, according to our capacity. We work with law firms, community legal centres and various local, national and international human rights agencies to stand up for civil and political rights. MALS is independent of political parties, groups, organisations and individual campaigns.

Introduction

The relationship between stigmatising narratives around social movements and increasing repression of the right to assemble in Australia is characterised by two key factors:

- **discursive containment:** shifting the way protests are talked about by stigmatising protesters as non-performing members of society, discrediting their causes as misguided, and claiming protest activities are unacceptable; and
- **structural containment:** changing how protests are governed and legislated through formal bodies to monitor, contain and criminalise protest (Jarzabkowski et al. 2023:19, 20).

This submission outlines how the concentration of media ownership, the agenda-setting power of the media, the policing of protests, and the criminalisation of protesting drive discursive and structural containment to amplify stigmatising narratives about certain groups of people, damage the social legitimacy of protest and build public support for the repression of the right to freedom of assembly.

Discursive containment

The increasing concentration of media ownership has resulted in the near-monopolisation of the Australian media environment. This has resulted in partisan political views dominating the public sphere, including the perpetuation of racist narratives and the stigmatisation of social movements. This is enabled by the quid pro quo nature of the relationships that exist between media owners, private businesses, and government figures who work in conjunction to control the national news agenda to protect their economic and political interests.

Concentration of media ownership and its impacts on news content

The emergence of digital media has disrupted traditional methods of print and broadcast news production and consumption. This has resulted in a shifting media environment that impacts how and where Australians access news content:

- 52% access news more than once a day;
- 66% use television to access news, with 42% using television as their main source;
- 52% access news via online and social media, with 25% saying this is their main source;
- 37% consume news via radio, with 9% using radio as their main source; and
- 28% use newspapers to access news, with 6% using them as their main source.

(Wilding et al. 2020:6)

Although 66% of Australian news consumers say they access news content to stay 'up to date', the impact of private media ownership on news content is a common concern for many, particularly regarding issues around bias, sensationalism, and vested economic and political interests (Centre for Media Translation 2018:41; Wilding et al. 2020:6).

The Australian media landscape is dominated by a handful of privately owned profit-driven media corporations that enjoy a near-monopoly on the production of news content across print, radio, and digital media platforms:

- national and metropolitan print media is dominated by Rupert Murdoch's News Corp, which owns 59% of the print media readership market, and Nine Entertainment which holds a combined 23% readership share (Brevini and Ward 2021:4);
- News Corp and Nine Entertainment control Australia's two national newspapers and the two daily newspapers in Sydney and Melbourne, and News Corp, Seven West Media, and Australian Community Media own the daily mastheads in other capital cities (Brevini and Ward 2021:57);
- 79% of Australia's free-to-air and subscription revenues are collected by Nine Entertainment, Seven West Media, News Corp, and News Corp-owned Foxtel, with 40% of that revenue going to News Corp (Brevini and Ward 2021:73); and
- 95% of Australia's metropolitan radio licences are owned by just three media outlets- News Corp (including ARN and Nova), Nine Entertainment, and Southern Cross Media and their associated entities (Brevini and Ward 2021:76).

The concentration of media ownership in the hands of such a small number of privately owned corporations has raised significant concerns regarding the impact this will have- indeed, is already having- on Australia's democratic institutions.

Generating 'an unprecedented level of public interest' and informed by a wide range of stakeholders including former Prime Ministers, academics, media and journalism experts, media monitoring researchers, civil society organisations, journalists, and members of the public, a 2021 parliamentary inquiry into media diversity in Australia identified News Corp as a key actor driving these concerns. The inquiry surfaced several issues regarding how News Corp operates including:

- presenting stories that 'skewed in the direction of crisis, controversy, scandal, character assassination and demonisation of alternative points of view';
- operating in 'an aggressive, partisan way to drive particular agendas, whether it is fermenting antagonism and animosity towards Muslims... [or its] campaign against effective action on climate change';
- inciting Islamophobia by 'regularly seek[ing] to incite animosity towards minorities, particularly Muslims', and perpetuating and legitimising racism through 'blatant race-baiting' which has drawn criticism from Muslim communities across Australia;
- demonising narratives about certain 'sectors of our society including Lebanese Australians, African Australians,... and environmental activists [that] work to divide our society and incite violence';
- fuelling racism by promoting content that 'normalises white supremacy, using both overt and covert racism to reinforce racial inequity [that] legitimises racist attitudes in the general public, which in turn legitimises acts of racism in its various forms'; and
- directing staff to 'cover issues in certain ways to fit a predetermined agenda [and permitting] a tolerance for racist attitudes informing its content' and running 'vilification campaigns against individuals that held certain progressive socio-political views' (Commonwealth of Australia 2021a).

Concerns about the racist vilification of Muslims in Australian news media are supported by recent research which found major Australian news media outlets engaged in greatly imbalanced reporting of the war in Gaza that depersonalised, dehumanised, and demonised Palestinians (Carland 2023; MediaWatch 2024). Such media representations impact people's view on the validity of the Palestinian

perspective by manipulating the social construction of understandings about who is valued, credible, and relevant, and who isn't. Concerns about the dehumanisation of Palestinians in the Australian media 'are not merely semantic squabbles; they can and do lead to "destructive outcomes" regarding the way people are viewed and treated in real life' (Carland 2023:23). This includes negative public attitudes towards Palestine support efforts such as pro-Palestine protests, which are inflamed by the media's promotion of stigmatising narratives that incite fear and moral panic about Palestinians and the broader pro-Palestine protest movement.

CASE STUDY 1:

Hate comes to university campus but hides its face (McKenzie et al. 2024)

Relying heavily on the fact that Hizb ut-Tahrir (HT) has been designated a terrorist organisation in the United Kingdom (UK), this story incites fear around HT's Australian chapter by linking the group to Palestine solidarity encampments in Australian universities. The story identifies and provides personal details about several individuals linked to HT Australia, including names, photos, locations they frequent, and social media groups, and uses speculation and loaded language to invoke a particular view about the group.

The story's headline and social media promotions by *The Age* and *60 Minutes* (Figures 1,2 and 3) make explicit links between HT and pro-Palestine university protests; however, the story contains very little information about the protests themselves. Further, in an attempt to incite fear and frame HT as a 'sinister' actor, the story claims HT is 'infiltrating' the protests. This contradicts descriptions of HT's actions as occurring openly and in public elsewhere in the story.

Although it promotes the interpretation that HT is a terrorist group, the story is peppered with statements aimed at protecting the newspaper from potential legal repercussions related to the thinly veiled accusations it makes about HT and certain individuals:

It is not suggested Bhuiyan's extreme views are endorsed more broadly by [the] protest movement...

While there is no suggestion Hizb ut-Tahrir has any official role in the regular weekend rallies...

This masthead is not suggesting Hizb ut-Tahrir supporters are terrorists or that all its members condone terrorism.

There is no suggestion the group's Australian chapter is involved in terrorism.

Despite HT publicly rejecting the adoption of violence and differentiating itself from groups such as Islamic State (IS) and al-Qaeda (Mamouri 2015; Karagiannis and McCauley, 2006), the story features calls from politicians and pro-Israel organisations for Australia to label HT a terrorist organisation:

... prompted calls from the Coalition and the Zionist Federation of Australia for the Albanese government to urgently investigate the possibility of proscribing Hizb ut-Tahrir as a terrorist organisation in Australia... "On face value, Hizb ut-Tahrir has met that test and the Albanese government must urgently investigate proscription to protect Australians from violent extremism."

The story also quotes extremism scholar Richard McNeil-Wilson who says HT is adept at using 'front groups to mask their operations'. The quote is accompanied by a hyperlinked disclaimer that McNeil-Wilson 'is a strident critic of the British decision to proscribe Hizb ut-Tahrir'; however, the story fails to include pertinent details from the linked article, which criticises the UK's designation as a terrorist organisation as politically-driven, counter-productive, and harmful to civil and democratic rights:

But the ban is highly problematic. It is predicated on labelling a demonstrably non-violent group as terrorist. It is grounded in wider racialised counterterror legislation that has targeted Islamic activism and framed Muslim politics as uniquely dangerous... Ultimately, the ban will likely cause more harm than good – to Muslim communities, to civil and democratic rights, and to counterterrorism itself – and is a likely indication that other non-violent organisations may soon come under the security lens. Its actioning should be understood in the context of a UK Government and a Conservative Party that is itself in decline, and a demonstration that proscription – and, indeed, most of the party's counterterror policy – is a political act, often less focussed on preventing violence than it is on courting votes... It is an ominous sign that non-violent groups are increasingly coming under an expanding counterterror lens, and a painful demonstration of how reactive politics so often drive counterterror legislation (McNeil-Wilson 2024)

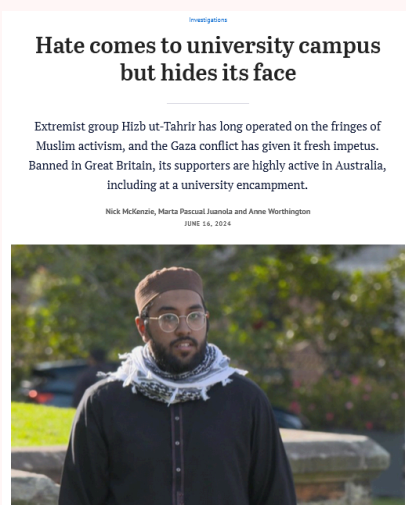


Figure 1: article in *The Age* newspaper



Figure 2: *The Age* post on X (2024a)

The story then ends with a direction for readers to watch a television version of the story: 'For more, watch *60 Minutes* on Sunday night at 8.05 pm.'

This story illustrates the role the media plays in producing and promoting stigmatising narratives that demonise Palestinians and the pro-Palestine movement, vilify groups and individuals as dangerous terrorists, and incite feelings of fear and hatred regarding identified political targets. By conceptualising extremism as terrorism and 'reproducing the same signifiers and meanings for non-violent extremism as previously existed for terrorism', the media encourages the public to view the pro-Palestine movement through a securitised lens (Onursal 2019:1). This has significant real-life implications as it contributes to the creation of a hostile environment for pro-Palestine activists and implicitly advocates for counter-terrorism practices to be applied to protesters.

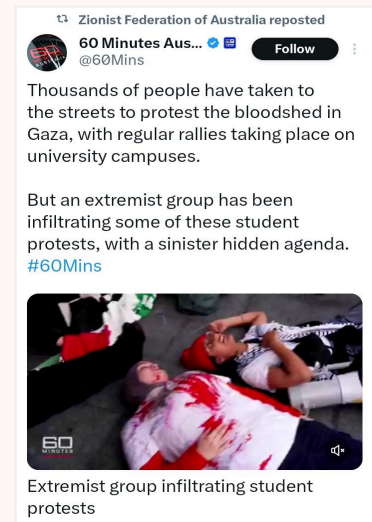


Figure 3: *60 Minutes* post on X (2024) (reposted by Zionist Federation of Australia)

Similarly, media representations of climate action protesters reflect people's concerns about the undue influence of political and private interests on the reporting of news stories about action on climate change and climate change activism.

Recent studies into the way the Australian media reports on climate action protests found that:

- stories on climate action protests are often dictated by a media outlet's partisan leanings and a tendency to convey protests as inconvenient or disruptive, which results in the perpetuation of negative stereotypes of climate activists (Gulliver 2019a);
- coverage is typically characterised by the use of words related to negative emotions around anger and anxiety, negative sentiments around risk, power, and money, and negative stereotypes about protesters (Gulliver 2019b:14);
- coverage is mostly unfavourable and focused more on themes around protest, protesters and activists, disruption, police, arrests, profits, jobs, government, and the energy industry; and less on themes around climate, change, global action, student movements, energy, and the future (Gulliver 2019b:12);
- extreme language is used more often in reports of disruptive protests while neutral language is used in reports of less disruptive protests (Esau, Meyer et al. 2024);
- extremism frames (e.g.: law, trespass, unlawful, guilty, defendant, court, arrest, disturb, block, hinder) and crime and legality frames (e.g.: Marxist, extremist, Antifa, terrorist, hard left, eco-fascist, militant, raucous, vandal, anarchist) are used more often than a climate justice frame (e.g.: solidarity, international, unity, wealth, nations, unions, apartheid, Indigenous, elder, treaty) (Esau, Meyer et al. 2024).

The concentration of media ownership in Australia leads to a lack of access to diverse views and perspectives and results in partisan political narratives becoming dominant. The extensive reach of the four media conglomerates that control the information received by Australian news consumers, particularly News Corp, enables the perpetuation of racist narratives, the stigmatisation of individuals and groups, and the discrediting of alternative political views. Via coordinated editorial positions and the widespread dissemination of news stories skewed to particular political positions that benefit owners' economic and political interests, Australia's privately owned media giants have immense power to rally public opinion against social movements, community groups, and individuals and to influence and shape the public's attitude towards the legitimacy of protest.

The agenda-setting power of the media

A major influence on the way the media frames political stories is **partisan media bias** (PMB), which refers to the media's presentations and choices in keeping with particular political interests or ideologies (Shultziner and Stukalin 2020:376). Alongside journalists and editors, the PMB of a media organisation is determined by its owners and stockholders who can influence decisions on which stories to report and how they are reported to protect economic or political interests rather than the public good, and government figures who can direct the framing of news stories in the media (Shultziner and Stukalin 2020:376).

As a matter of course, media advisors attempt to control the content of news stories by providing valuable 'insider' access to people, places, and information to journalists who are willing to frame news stories to the benefit of these powerful government figures (McKnight 2015:24). In turn, the media's production and promotion of biased political rhetoric serves to construct a particular version of 'reality' that aims to influence public opinion (Baum and Potter 2008:40).

In the case of news stories about assemblies and demonstrations, particularly those aimed at disrupting the status quo, research has found that journalists often apply a framework known as the **protest paradigm** when reporting on such protest actions. The protest paradigm illustrates how the media reports on protests to criticise and belittle social movements, hinder their ability to mobilise people and affect change, and limit their power as civil society actors (Shultziner and Stukalin 2020:375). This is achieved by employing the following frames:

- **news frames:** how aspects of perceived reality are presented to promote a particular interpretation such as common protest frames 'crime' and 'riot';
- **reliance on official sources:** the use of 'official' sources, which ostensibly offer prestige, efficiency, and objectivity to news coverage, to privilege the perspectives and voices of those in power above those who challenge power;
- **invocation of public opinion:** differentiating between protesters and the general public to indicate protesters' deviance and opposition to mainstream values to invoke certain opinions on protesters, for example, focusing on the appearance and behaviour of protesters, especially violations of the law;
- **delegitimisation:** failing to explain the purpose and context of protests, which contributes to their delegitimisation and leads the public to perceive protests as futile or irrational; and
- **demonisation:** creating 'moral panic' by exaggerating threats and focusing on the negative aspects of protests such as property damage, traffic disruptions, violence, and redeployment of police resources, etc. (Brown and Harlow 2019; Harlow et al. 2020).

More broadly, stigmatising narratives about social movements and protesters can serve to set the news agenda for media consumers across the country. In a 2021 parliamentary inquiry into media diversity in Australia, former Australian Prime Minister, Mr Kevin Rudd, observed how traditional media and online media dominated by mainstream news outlets reproduce and amplify certain content that can 'set the agenda' for daily news across the country through a process whereby stories in print media are reproduced on radio and television, then further amplified on online platforms, leading to the widespread dissemination of skewed narratives (Commonwealth of Australia, 2021b).

**CASE STUDY 2:
Reporting of a pro-Palestine student protest**

An example of how the media applies the protest paradigm and sets the news agenda to promote stigmatising narratives that demonise protesters and their cause is demonstrated in the way a story on a student protest in Melbourne opposing Israel's attacks on Gaza on 24 November 2023 was produced and reproduced by major media outlets throughout the day: the story first ran on the front page of Nine Entertainment's *The Age* newspaper in Victoria (Figure 4), was then picked up by national television programs, then reproduced on radio, and then further spread through online platforms.

In a regular segment featuring Jason Clare, Education Minister, and Sussan Ley, Deputy Leader of the Opposition, the host of the morning television program *Sunrise* on the Seven West Media-owned 7 Network, Natalie Barr framed the story in terms of disruption and racism, failed to include the protesters' perspective, and asked loaded questions. In response to these questions, Ley used language that delegitimised the protest, invoked moral panic, and demonised the student protesters as antisemitic:

There is some pretty poisonous stuff circulating, completely inaccurate. It's being picked up, it's being used by activists, it's being pushed at our school children, and unfortunately it's causing some of the problems that we're seeing, and social harmony in Australia starts very much - well, it starts in kindergarten, ... We need all levels of government to step up, call out antisemitism where we see it, and bring our country together (Clare 2023).



Figure 4: front page of *The Age* newspaper (2024b)

The *Sunrise* interview was then reproduced online by *skynews.com.au* (Figure 5), the website of Sky News Australia, a media outlet which is owned by News Corp (Wu 2023). The story was also picked up on radio shows around the country. In New South Wales, shadow Education Minister, Sarah Henderson, spoke to Chris O'Keefe, radio host on Nine Entertainment's 2GB Radio, about the student protests. Henderson used particularly inflammatory language to demonise the student protesters and the pro-Palestine movement in general, deny protesters' political agency, and invoke support for legal action to be taken against the protesters and for repression of the right to assemble:

Not only are students being used as political pawns – it is also potentially unsafe. Only a number of days ago in Sydney, we saw a pro-Palestinian protest in Botany turn violent. There were two dozen arrests and frankly, school principals who encourage or condone attendance of students at these protests are breaching their duty of care to students.

They are manipulating children and frankly, they are brainwashing children because I am sure there are students there who don't even know what 'From the River to the Sea' means. And to hear that there were signs, like the one you just described of pure hatred against Jews is absolutely disgusting.

They fuel not just division in our community, but antisemitism... There are strong anti-vilification laws in each state and territory in this country. This is pure hatred. This is vilifying the Jewish community and Australian Jews. Why hasn't action been taken?

Jacinta Allan the Premier of Victoria who only a week ago was basically saying students have a right to protest... But frankly, I think the police and the authorities really need to look closely at this conduct and take appropriate action. There must be consequences for this type of hatred in our community (Henderson 2023).

News Corp's *news.com.au* online newspaper ran a story reproducing comments made on the radio by Neil Mitchell, a host on Nine Entertainment-owned 3AW, a major radio station in Victoria (Figure 6). Mitchell dismissed the concerns of Palestinian students and accused the protesters of calling for genocide:

'From the river to the sea'. They don't get it. Similar euphemisms necessarily imply genocide, those kids were chanting for genocide... This isn't a political debate. This is hatred. It is justifying what this country has classified as a terrorist organisation. It is chanting in support of genocide. These kids may well be of Palestinian background, [but it] doesn't excuse it. They're putting themselves out there as legitimate protesters and deserve to be called out. Someone is winding them up. Somebody is feeding them this nonsense, and I suspect it is the left and the university groups (Blair 2023).



Figure 5: *skynews.com.au* article

The *news.com.au* article also platformed a discussion of the story on Sky News Australia's *Chris Kenny Tonight* television program, which included Mitchell's comments. The program also featured Canberra Radio 2CC host, Stephen Cenatiempo, and News Corp columnist Louise Roberts (Figure 7). Cenatiempo invoked public opinion against the cause by using the words 'disgust' and 'disgrace' to describe the protests, promoted a specific interpretation of reality by accusing schools of 'indoctrination', delegitimising the students' motivations:

I fear for the future... we have serious problems with our education system with students who clearly can't afford a day off school because they're not learning anything of any value,... teachers that are teaching them this absolute rubbish, none of these kids really know what they're talking about... the carry on with this occupied land stuff, I mean, let's be fair dinkum about this,... for some reason we've got a generation that thinks this started in 1947... What sort of mental health damage are we doing to these kids by indoctrinating them with this kind of rubbish? (Kenny 2023)

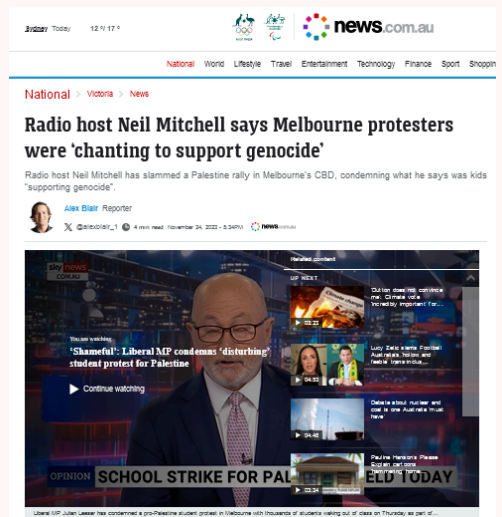


Figure 6: *news.com.au* article

Roberts incited fear around the safety of pro-Palestine protests and proffered a particular interpretation of the driving forces behind the protest:



Figure 7: *Chris Kenny Tonight* television program

It's dangerous for school children to be there when they've got anarchists and professional protesters just waiting for it all to kick off, you know, throw a Molotov cocktail in there and create chaos. (Kenny 2023)

Program host, Chris Kenny, also questioned the intelligence of the students and delegitimised protest as a tactic:

It is frightening the ignorance here... if you want to protest against [sic] Palestinian lives then the appropriate way is to yes, get together, sit on the steps of Parliament House, have a vigil or something. (Kenny 2023)

CASE STUDY 3: Reporting of Extinction Rebellion protests

Another illustration of how the media sets the news agenda and applies the protest paradigm to promote negative narratives that stigmatise protesters and delegitimise protests comes from 2019 when similar stories about Extinction Rebellion (XR) climate action protests dominated the news cycle for days.

On 7 October 2019, Seven West Media Director of News and Current Affairs and Seven West Media Editor in Chief, Anthony De Ceglie (2019), posted to Twitter (now X) the following day's front page of *The West Australian* newspaper (Figure 8). The front page acknowledged XR's intention to protest in front of the newspaper's office in Perth on 8 October 2019 to demand the newspaper's owner, Seven West Media, disclose its mining interests.

On 8 October 2019, the story was picked up by 7News Perth television and shared on its Facebook page (7News Perth 2019). The story, which referenced *The West Australian's* front page, served to demonise protesters by featuring images of protesters blocking roads and focusing on the arrests of protesters for trespassing and blocking roads in Perth and other XR protests in Sydney, Melbourne, and Brisbane that day (Figure 9).



Figure 8: Anthony De Ceglie's Twitter post

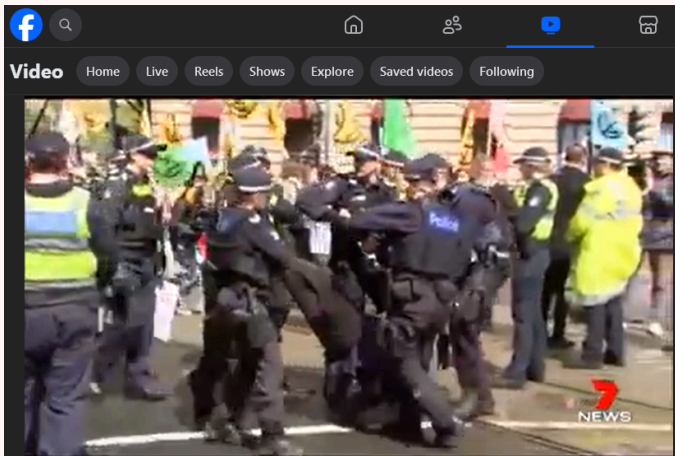


Figure 9: 7News Perth Facebook post

On 9 October 2019, Kerri-Anne Kennerly, host of Channel 10 television program *Studio 10*, commented on the XR protests and called for the use of violence against the protesters:

Put 'em in jail, forget to feed them,... Personally, I would leave them all superglued to wherever they do it. The guy hanging from the Story Bridge. Why send emergency services? Leave him there until he gets himself out. No emergency services should help them, nobody should do anything and you just put little witches' hats around them or use them as a speed bump. (Zhou 2019)

On 11 October 2019, SBS published an online article about the protests with a headline focused on the arrest of protesters and claiming the Perth CBD was 'shut down'. The story featured images of protesters blocking roads and being arrested, invoked public opinion against the protests by mentioning angry talkback radio callers, and included quotes from police as well as Peter Dutton, Home Affairs Minister at the time and current leader of the opposition Liberal Party, who labelled the protesters 'radicals' and 'outliers' (Truu 2019).

Also on 8 October 2019, *A Current Affair*, a television program on Nine Entertainment-owned Channel 9, featured the story of a person who was unable to drive to her recently deceased mother's apartment because the road was blocked by protesters. 9 News then reproduced the story on its website (Figure 10) which, apart from a brief quote from an XR spokesperson at the end of the story, featured solely quotes from the person who was critical of the protesters:

"I heard that these d----- were here yesterday so I've come along this morning, and they're here again! Fuck the environment, people are more important. They think [protesting] is so important but what is important is the everyday, good Australian people just trying to go about their everyday lives. It's not fair." (Butler 2019)



Figure 10: A Current Affair story on 9 News website

The protest paradigm is employed to perpetuate stigmatising narratives about protesters by communicating to the public that the causes of protests are misguided, that protesters do not act properly as citizens, and that exercising the right to assemble is unacceptable. The mutually beneficial relationships that exist between government figures and dominant media outlets not only allow for these stigmatising narratives about social movements and activists to be repeated and reinforced to a wide audience across the country in a constant cycle of production and reproduction, they also give these media outlets the power to set the news agenda and control the information media consumers see— and don't see— to manipulate public understandings of 'reality', influence and shape public attitudes towards protests and protesters, and coerce public support for partisan political positions.

Structural containment

There is a concerted effort in Australian news media to produce and perpetuate stigmatising narratives that aim to demonise protest movements, incite public opposition to protesters, and devalue the role of protest as a legitimate tool of political action. This lays the foundation for the employment of structural containment through three forms:

- the identification of some protest groups as extreme or terrorist organisations;
- the coordination of law enforcement and intelligence to respond to and shut down some types of protests; and
- legislative changes that criminalise some protest activities (Jarzabkowski et al. 2023:20).

The **soft repression** of discursive strategies that silence activists, marginalise opposition ideas, and ridicule and stigmatise social movements provides a foundation for building public support for the employment of **hard repression** that ‘will not be seen as unjust or as a disproportionate overreaction by the general public’ (Jämte and Ellefsen 2020:400).

Stigmatising narratives and the policing of protests

Police in Australia reproduce, reinforce, and are influenced by stigmatising narratives about activists and social movements. Police deliberately magnify anti-protest and anti-protester frames to defend and normalise the use of excessive and disproportionate force against protesters, shield themselves from responsibility for and deflect criticism of police human rights abuses, expand impunity for their actions, and reduce the political space within which protest is seen as acceptable and increase the costs of protesting outside of this space (Mahoney 2004:14).

The prevalence in the public sphere of negative protest discourses, particularly around climate action and pro-Palestine protests, has emboldened police to shift their operations from soft repression towards hard repression of the right to assemble and the structural containment of protest, confident in the knowledge that the general public will likely accept such actions as justifiable. For example, in recent years Australia has seen:

- several incidents of discriminatory policing to limit pro-Palestine protesters’ right to assemble and favourable policing to facilitate pro-Israel protests (Melbourne Activist Legal Support 2024a; Melbourne Activist Legal Support 2024b);
- the strategic incapacitation of climate action protesters via the inappropriate application of counter-terrorism laws and organised crime laws against protest movements, police surveillance of previous protest participants, and the use of civil litigation to coerce people against exercising their right to protest (Bucci 2022; Disrupt Burrup Hub 2024a; Parliament of New South Wales 2022);
- police abandoning their obligations to work within state, national, and international human rights frameworks and using high numbers of pro-Palestine protests to justify calls for restrictions on the right to assemble such as protest permit systems, designated protest areas, increased move-on powers to stop people protesting, and requiring protest organisers to pay for traffic control (Australian Democracy Network 2024; Elliott 2024; Gatt 2023:10; Moore 2024);
- police regularly abusing their power to employ excessive force against pro-Palestine protesters including the unlawful use of chemical weapons, and disproportionate

mobilisation of police resources including mounted police, riot police, and surveillance units (Melbourne Activist Legal Support 2024a; Melbourne Activist Legal Support 2024c);

- the obstruction and arrest of internationally-recognised Human Rights Defenders including journalists and independent legal observers (Legal Observers NSW 2023; Melbourne Activist Legal Support 2024a; News Wires 2019); and
- crowd control at protests used as a justification for the militarisation of police equipment including so-called non-lethal weapons such as semi-automatic kinetic impact projectile rifles and flashbang distraction devices, and the deployment of sophisticated surveillance technology (7News Melbourne 2022; Henriques-Gomes 2018).

CASE STUDY 4:

Victoria Police media messaging about protests

On 30 October 2019, Victoria Police released a media statement defending the actions of its officers after they pushed and pepper-sprayed people protesting in front of a mining conference, resulting in protester being hospitalised with a broken arm, claimed their actions were in line with police training, and labelled the protest 'unlawful' and a waste of police resources (Figure 11):

Whilst we respect the rights of people to peacefully protest, the unlawful action undertaken today is a drain on police resources from across greater Melbourne. (Australian Associated Press 2019)

Dan Andrews, Victorian Premier at the time, defended the police in parliament later that day:

I will always support the right of every Victorian, if they so choose, to peacefully protest. But there is a big difference between peaceful protest and what we saw yesterday and potentially today.

Opposition leader, Michael O'Brien, backed Andrews' comments and dehumanised the protesters as 'ferals':

[Police were] trying to make sure that these ferals can't stop people going about their lawful business in this state.

Despite Victoria Police's insistence that their actions at the protest were proportionate and lawful, the Victorian State Government is currently the subject of a landmark class action relating to the police's use of pepper spray against protesters (Police Accountability Project 2022).

On 19 September 2021, after several large anti-lockdown protests were held in Melbourne during a Covid-19 lockdown period, Secretary of The Police Association of Victoria (TPAV) Wayne Gatt defended the Victoria Police Chief Commissioner's extremely problematic decision to pre-emptively shut down public transport to stop people travelling to the city by inciting fears about the protesters:

Had he not taken that decision, our members would have been confronted with thousands upon thousands of protesters, and those scenes [at other protests] would have been amplified... I'm not going to allow my members to be criticised for the actions of these criminals yesterday, they did the best they could. (SBS News 2021)

A year later, on 19 August 2022, The Police Association of Victoria (TPAV) republished a story on its website from the News Corp-owned Herald Sun newspaper, which used the protests as a justification to equip all officers with riot gear:

...violent lockdown protests have exposed risks to the force... violent anti-lockdown protests during the pandemic have highlighted the vulnerability of police on the ground and the need for a boost in personal protective equipment for all officers... protests have increased in frequency and volatility during the pandemic... [and police] have not been provided adequate safety equipment. (The Police Association of Victoria 2022)

The article highlighted TPAV's calls for all police officers to be urgently provided with riot equipment including face-shield helmets, long batons, and gloves with knuckle protection.

On the same day, 7News Melbourne, owned by Seven West Media, aired a news story repeating TPAV's claims and featuring Gatt confirming that TPAV was using the upcoming state election to get commitments from candidates to increase riot equipment for police:

Victoria police defend actions at Imarc mining protest after activist hospitalised

Officers use capsicum spray to break up blockade and arrest a dozen climate protesters outside a mining conference in Melbourne

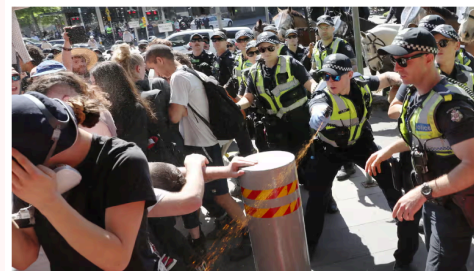


Figure 11: Guardian article featuring police statements

We're saying that governments today, or a future government for Victoria, you need to put your money where your mouth is and make sure that our police are protected.... The priority of anyone that wants to be in government must always be keeping our community safe. (7News Melbourne 2022)

The story, which was also published on 7News Melbourne's Facebook page, featured images of large anti-lockdown protests and scores of riot police moving through the Melbourne CBD accompanying Gatt's comments about community safety (Figure 12). Sky News Australia also aired a similar story, which they also published on their Facebook page (Sky News Australia 2022).

After an Extinction Rebellion (XR) protest on 12 March 2024 as part of a week of action, 7News Melbourne aired and published a story on Facebook featuring Victorian Police Commissioner Shane Patton who framed the protests as 'unauthorised' and called for additional police powers similar to those in other states by invoking moral panic about their ability to respond to other matters:

Do I want [police] tied up on that? Can I use them better than being at public order protests? Absolutely. That's why we're looking across Australia and seeing what the jurisdictions have so we can go back to the government and talk with them. (7News Melbourne 2024)



Figure 12: screenshot from 7News Melbourne story

We respect the right for individuals to protest peacefully, however, we will not tolerate those who intentionally block roads or major arterials and not only disrupt the lives of the community and impact our economy but also our emergency services who need to respond to urgent incidents. (Busch 2024)

In the TPAV Journal in April 2024, Gatt made several claims that mischaracterised protest, demonised protesters, called for restrictions to the right to protest, and dismissed the notion that the right to assembly is an essential civil and political right:

The modern Melbourne protest [is] a protest held in the Melbourne CBD that is designed to draw in those with an alternative ideology, for an abusive and violent clash, with swathes of police caught in the middle as futile moderators... I'm talking about people who turn up to protests with the sole intent of causing disharmony and confrontation and baiting their ideological enemies, using the guise of democracy as a lure.

Five years ago, we called for consideration of a permit scheme like the one that currently operates in NSW, to ensure that these assemblies posed less risk of harm to others in the community... [permits] ensure that parameters are put in place to make the planned assembly lawful, rather than [a] free-for-all,

The community is growing sick and tired of watching police act helplessly as onlookers to these frequent instances of unsanctioned chaos. (Gatt 2024:9)

On 13 April 2024, *skynews.com.au* published a story about an upcoming global day of pro-Palestine actions on 15 April (Figure 20), which framed protesters as uncooperative and disruptive, and featured comments from Victoria Police:

A [Victoria Police] spokesperson confirmed that individuals or groups are refusing to provide information to the police ahead of the protest, as protesting groups often do... "It is expected to involve a range of protest groups, none of which have provided the locations of the protests to Victoria Police. As such, we have had to pull resources from a number of regional police stations, as well as specialist areas, in preparation for protests at numerous locations. This includes the Mounted Branch, Public Order Response Team, Search and Rescue Squad, Highway Patrol and Transit police. (Roulston 2024)

The story was accompanied by a segment of Sky News' *Steve Prive* television program, which echoed the police's concerns and included leading questions about public opposition to the protests and comments from other Sky News commentators who delegitimised the cause of the protests, called protesters 'the great unwashed' and 'intellectually vacuous', and used inflammatory language to falsely assert the right to assemble does not apply to disruptive protests:

The next day, Patton's comments were reproduced online in a Daily Mail Australia, which also included a quote from a Victoria Police spokesperson:

We respect the right for individuals to protest peacefully, however, we will not tolerate those who intentionally block roads or major arterials and not only disrupt the lives of the community and impact our economy but also our emergency services who need to respond to urgent incidents, (Stevens 2024)

On 16 March 2024, the *Herald Sun* newspaper ran a story on its website about the arrest of protesters at another XR protest, including a quote from a Victoria Police spokesman who falsely insinuated that the right to assemble does not include protests that block roads:

Victoria police forced to pull regional resources as pro-Palestine protesters refuse to provide location info ahead of Monday's rally

A global pro-Palestine rally has been planned for Monday, but in a bid to cause maximum disruption, the activists have refused to disclose protest locations to Victoria Police – resulting in a massive strain on resources.

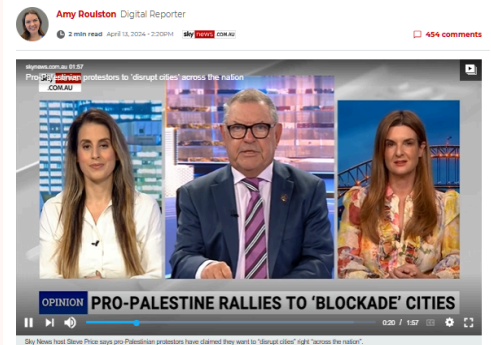


Figure 13: *skynews.com.au* story

They're not doing this for any other reason than they hate the country that they live in... they're just lost people looking for something to do during the day... you may have a right to protest but you do not have a right to interrupt the rest of us going about our daily lives. (Roulston 2024)

On 18 April 2024, three days after the global day of action protests, the *Herald Sun* newspaper ran a story on its website (Figure 14) including several comments from Victoria Police CBD Commander Mark Galliot, who invoked concerns about public funding by claiming policing of the regular pro-Palestine protests was costing tens of thousands of taxpayer dollars, incited fears about police's inability to respond to serious crime due to being diverted to the protests, delegitimising the cause of the protests, and insinuating the right to assemble is contingent on engaging with police beforehand.



Figure 14: *Herald Sun* story

It's the community that gets affected by these pop-up protests. The (police) out in the suburbs are there for a specific reason, they want to make a difference in their local community but they keep getting dragged into the city to manage a protest. Melbourne relies on the trams and trains coming in, that all gets affected ... the hospitals especially are impacted by these protests (too).

If you don't tell us your plans, or you don't want to engage, if you're anti-police as many of those groups were on Monday, we then have to plan for the worst. It impacts the broader community because we have to put more numbers to it because they don't tell us what they're doing.

They're not passionate about the cause, they're passionate about being angry at something. The ones that are not passionate about the cause are a very small group that hijack legitimate causes and because of their actions ultimately detract from the broader group's message.

As you see with the numbers, 21 protests a week ... they're not getting their message across. (Hodge 2024)

The story was accompanied by a video segment from Sky News' *The Kenny Report* television program repeating Victoria Police's comments about the protests.

Stigmatising narratives and the criminalisation of protest

Australia has seen a spate of anti-protest legislation introduced across the country in recent years. Though these laws can effectively stifle the right to assembly in general, many target climate action protesters in particular in order to protect agricultural and economic activities (Jarzabkowski et al. 2023:21).

Many of these legislative changes were preceded by many months of stigmatising narratives perpetuated in the media by police, legislators, and private interests. At times, particular high-profile protest events were used to justify the introduction of specific laws such as:

- the Summary Offences and Other Legislation Amendment Act 2019 in Queensland, introduced in response to Extinction Rebellion protests, which outlaws the use of lock-on devices (Jarzabkowski et al. 2023:29);
- the Police Offences Amendment (Workplace Protection) Bill 2022 in Tasmania, which was introduced due to climate action protests on logging sites and 'extends the offence of public annoyance to include unreasonably obstructing the use of a street' as well as creating new types of aggravated trespass: that which obstructs a business activity, risks the safety of a person, or obstructs a business activity by a corporate body (Hay 2022:1);
- the Road and Crimes Legislation Amendment Bill 2022 in New South Wales, introduced nine days after a Blockade Australia protest and passed within three days, which bans protesters from blocking major roads and other critical transportation infrastructure and imposes harsh penalties including fines of up to AU\$22,000, two years in prison, or both (Jarzabkowski et al. 2023:21); and

- the Sustainable Forests Timber Amendment (Timber Harvesting Safety Zones) Bill 2022 in Victoria, triggered by ‘dangerous protest tactics’ in tree harvesting zones, which prevent protests in timber logging safety zones and give authorities additional powers to search and people and vehicles and issue move-on orders (Jarzabkowski et al. 2023:32).

Although some of these legal changes target certain protest tactics and not protesting per se, many of them are ambiguous in scope, and contain nebulous wording and broad definitions, which provides an opportunity for their harsh penalties to be applied to a wide range of activities. As such, these legislative actions serve to stigmatise, delegitimise, and legally contain certain forms of protest while reinforcing dominant narratives about the ‘right’ way to protest, who is allowed to protest, and which reasons for protesting are seen as valid.

CASE STUDY 5: Responses to Disrupt Burrup Hub protests

31 July 2023

- A Disrupt Burrup Hub activist is pulled over by gun-wielding police in their car and released without charge (Bucci 2023a).
- A magistrate rejects a police application for an order to stop DBH activists communicating with each other while on bail for charges related to other protests targeting Woodside (Australian Associated Press 2023a).

1 August 2023

- A crew from ABC’s *Four Corners* program film a planned protest by DRH activists outside the home of Meg O’Neill, CEO of Woodside (Bucci 2023b).
- The protesters are met with a counter-terror police sting resulting in the arrest of four activists (Touma 2023).
- Western Australia (WA) Premier Roger Cook says the activists are “extremists” attempting to “terrorise” (Australian Associated Press 2023b).
- While this was taking place, police raided the home of another DBH activist- the third time in three months- by entering their home through a window and demanding they hand all their communication devices to the police (Disrupt Burrup Hub 2023a).

2 August 2023

- ABC (2023) issues a statement confirming staff were not involved in the protest.

4 August 2023

- ABC announces that ‘in response to concerns that have been raised, the ABC is conducting a detailed examination of the circumstances surrounding this matter’ (ABC 2023).

11 August 2023

- Anderson (2023) issues a statement saying the *Four Corners* story intends to ‘examine changes and amendments to anti-protest laws around the country and how they are being enforced... [and] seeks to critically examine the tactics by protest groups’, that ABC staff did not ‘collude with or encourage the protestors’ or enter any private property, and confirming that, guided by newsworthiness and journalistic principles, ‘the *Four Corners* team will continue to develop this story in the public interest’.

14 August 2023

- Seven West Media is accused of leading the charge against DBH activists by describing them as ‘extremists’ and ‘eco fanatics’, publishing a letter of complaint from Premier Cook to Ita Buttrose, ABC Chair, on the front page of *The West Australian* newspaper, and claiming ‘the ABC got it very wrong’ despite the media giant being given exclusive access to report on similar climate action protests in 2019 and 2021 (Meade 2023).
- DBH activist, Matilda Lane-Rose, criticises *The West Australian* for vilifying her on the front page of the newspaper three days in a row (Figure 15) with the headlines ‘Rebel Without a Clue’, ‘unrepentant eco warrior’ and ‘Thick as Two Planks of Wood’ (Meade 2023).



Figure 15: front pages of *The West Australian*

25 August 2023

- O'Neill obtains violence restraining orders (VROs)-- which are 'primarily used to protect women and children from family violence perpetrators'-- against three DBH activists who protested outside her home including a gag order that 'prevents them from "making any reference" to O'Neill via email, message apps or social media' (Human Rights Law Centre 2023).

6 October 2023

- WA Police's counter-terrorism State Security Investigations Group serves the ABC with an 'Order to Produce' demanding it hands its footage over to the police (Disrupt Burrup Hub 2023b).
- More than 40 civil society groups including Amnesty International Australia, the Human Rights Law Centre, and the Australian Democracy Network, join the Media, Entertainment and Arts Alliance (MEAA) to call on the ABC not to comply with the police order 'saying that the demand undermines press freedom and urging the broadcaster to protect its journalists' sources' (Meade and Morton 2023; Privacy International 2023).
- DBH release a statement saying 'the ABC will breach specific undertakings of anonymity given to people who participated in a Four Corners story about climate protest... breaking a fundamental principle of media ethics - the protection of sources' if it complies with the order (Disrupt Burrup Hub 2023b).
- MEAA Federal President Karen Percy calls the order 'a direct threat to press freedom' with the MEAA House Committee publishing a statement:

To be seen to be cooperating with the release of footage would not only be morally and ethically wrong; it would seriously damage the ABC's reputation for creating valuable, public-interest journalism and make the position of ABC journalists much more difficult. Journalism has a long and storied history of resisting legal compulsion when it is against the public interest. We demand immediate assurances that the ABC executive will not hand the vision to WA Police. (Media, Entertainment and Arts Alliance, 2023)

9 October 2023

- ABC television airs the *Four Corners* story, *Escalation* (Four Corners 2023).
- ABC publishes an accompanying story on the ABC News website (Cohen, Clark & Welch 2023).

10 October 2023

- DBP claims that WA Police has announced they 'may offer the ABC an "exit plan" by "reducing the scope" of the Order to Produce that demands the ABC surrender all footage captured in production of the Four Corners investigation' (Figure 16) (Disrupt Burrup Hub 2023c).

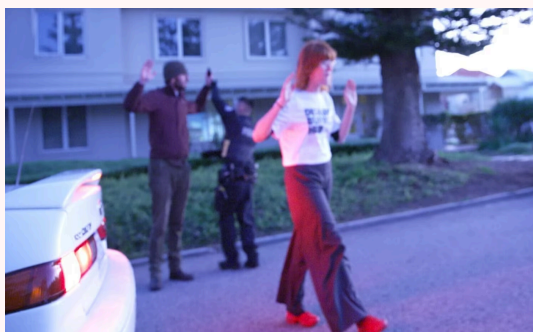


Figure 16: footage from Escalation

20 October 2023

- ABC staff call on the ABC not to hand over its footage to the police (Figure 17) and publish photos on social media holding up signs that say 'Don't Hand it Over' and 'Don't Break Trust in Aunty' along with the hashtag #PressFreedom (Knox 2023).

21 November 2023

- A police prosecutor is forced to withdraw an application to have DBH charges heard in the district court, which is usually reserved for more serious matters where punishment could be more severe if convicted, after failing to justify the application to the Magistrate (Australian Associated Press 2023c).

24 November 2023

- ABC hands its footage over to the police, resulting in the arrests of three more activists (Bucci 2023c).

28 November 2023

- WA Police seize the mobile phones of five DRH activists after searching two of their cars and issuing them with 'move on' orders without charge; DBH barrister says police refused to explain under what power they were acting, and questions the lawfulness of the seizures (Disrupt Burrup Hub 2023d).

12 February 2024

- Woodside launches a Strategic Lawsuit Against Public Participation (SLAPP suit) against DHB activists who set off a non-toxic and non-flammable 'stink bomb' in the foyer of Woodside's headquarters building in July 2023 (Disrupt Burrup Hub 2024e).

24 April 2024

- Three DBH activists disrupt Woodside's Annual General Meeting and challenge company leaders about the impact Woodside's planned gas field expansions would have on their children, invoking them by name (Disrupt Burrup Hub 2024a).

2 May 2024

- Two DBH activists who are both under 18 years old send Premier Cook a Concerns Notice claiming that Cook defamed them when he said their actions were 'despicable', an 'exercise of intimidation', and saying their protest 'was a direct threat and that threat should be taken seriously by the police' (ENB Staff 2024; Disrupt Burrup Hub 2024b).

6 July 2024

- An interview with DBH activist, Joana Partyka, confirms they are facing up to 35 years in jail when she stands trial on 17 July 2024 after being charged with 'seven counts of causing bodily harm or danger, one act of creating a false belief of danger, one count of conspiracy to commit an indictable offence, and two counts of refusing to obey a data access order' (Gregoire 2024).



Figure 17: ABC staff action

Conclusion

Australia's performance with regard to the strength of civil and political rights is declining:

- Human Rights Measurement Initiative's annual Rights Tracker (2023) study found that Australia had a below-average performance compared to similar countries, achieving a score of 6.4 out of 10 on the rights to freedom of assembly and association, down from a top score of 7.1 out of 10 in 2019;
- Civicus Monitor, which tracks civic space (i.e.: democracy, civic participation freedom of assembly, freedom of association) in countries around the world, has consistently assessed civic space in Australia as 'narrowed' since dropping from 'open' in 2018 (2023); and
- in its submission to Australia's third Universal Periodic Review by the United Nations, the Australian Human Rights Commission (2021) noted concerns about negative impacts on human rights resulting from the introduction of new counter-terrorism laws, including 'declared areas' offences that criminalise entry into a specified area without having committed any other offence or intending to do so, control orders which place significant restrictions on freedoms of movement, assembly, and association, and broad 'stop, search and seize' powers, and recommended that the government amends Australia's counter-terrorism laws to ensure they do not unduly limit human rights.

The right to freedom of assembly is essential to a functional and resilient democracy. Action must be taken to ensure *all* Australians are not disempowered by reductions in the political space within which they can assert this right.

This requires efforts to address the forces that drive discursive and structural repression that allow the proliferation of stigmatising narratives to damage the social legitimacy of protest, which in turn enables the practical and legislative repression of the right to assemble.

In particular, the role of independent human rights observers in providing detailed, accurate, evidence-based accounts of protests is one way that dominant, stigmatising discourses about protest and protesters can be countered (Millar 2019). Human rights observer accounts can provide both journalists and the public with objective, rights-based reporting of protests and serve as a valuable counterpoint to anti-protest narratives promoted by government figures, police, and the media.

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