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POSITION STATEMENT ON THE RIGHT OF PEACEFUL ASSEMBLY

Re-Endorsed by Annual Conference 2025

NSW Nurses and Midwives' Association

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Position Statement on the Right of Peaceful Assembly

PURPOSE

The purpose of this document is to provide guidance to members around their right to peaceful assembly.

BACKGROUND

The right of peaceful assembly, the right to organise and collectively bargain, and the freedom of association are universal moral rights codified in international law ^{1,2,3} and hallmarks of free, functioning, democracies. These rights underpin the very existence of unionism.

Both peaceful assembly and civil disobedience have long played a role in countering authoritarian regimes, protecting against government overreach, and highlighting social injustice.

There are many examples of social causes that were precipitated by peaceful assembly and civil disobedience, in cases where governments were an impediment to social progress, justice, and equality. These include: women's right to vote in the UK and USA, civil rights in the United States of America, achieving the eight-hour working day, the rights of sex and gender diverse people across the world, the peace movement against the Vietnam War, and the movement for Aboriginal and Torres Strait Islander land rights in Australia.

Criminalising such assembly is unhealthy for democracy. The world would be worse off if the social movements listed above, amongst others, were subject to increased penalties and criminalisation.

Trade unions have long defended civil liberties such as the freedom of assembly, the freedom of association, and the right to protest.

Erosion of the right to protest and of peaceful assembly in NSW

Over recent years the right to protest has been incrementally diminished by the NSW Parliament, on occasion with support from both major parties, leading to severe legislative limitations being imposed on all citizens in NSW. In 2016 the Baird Coalition Government passed the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016.⁴

The Act increased penalties for and restrictions upon protesting on inclose lands (including public hospitals) and removed protections for genuine protests or organised assemblies against police move-on orders giving police broad discretionary powers to criminalise a protest. Whilst protections for

“industrial disputes” were not removed these laws undoubtedly have the potential to impinge upon unionists rights to protest workplace laws and disputes that may not be strictly categorised as lawful industrial action.

Under these laws nurses and midwives could potentially be charged for holding protests, or participating in peaceful assembly, on hospital grounds calling for nurse-to-patient ratios.

Civil society, including the Law Society of NSW (LSNSW), the NSW Bar Association, and Unions NSW were outspoken against these amendments with the LSNSW saying “it appears to encroach upon and limit fundamental rights to assemble and protest. The laws were opposed by the Australian Labor Party in the Parliament but was passed with the support of the Liberal and National Parties.

In response to increasing protests drawing attention to the climate emergency in 2022 the Perrottet Coalition Government passed the Roads and Crimes Legislation Amendment Act 2022.⁵ The Act criminalised all unauthorised protests that obstructed major roads or facilities, punishable by a fine of up to \$22,000 per offence and/or 2 years imprisonment.

These penalties are excessive to the problem they seek to remedy and are fundamentally undemocratic. They put those that undertake civil disobedience for causes supported in good faith at significant risk of losing their freedom.

Nursing and midwifery professional standards

The Nursing and Midwifery Board of Australia’s (NMBA) professional standards⁶ outline the practice and behaviour expectations of all nurses and midwives in Australia. These standards outline that nurses and midwives should promote health and wellbeing and understand and apply the principles of public health. Nurses and midwives should also participate in health advocacy for community and population health in a way that addresses health inequality.

Nurses and midwives must not participate in unlawful behaviour and understand that unlawful behaviour may be viewed as unsatisfactory professional conduct or professional misconduct and have implications for their registration.

Evidence-based practice

The NMBA expects nurses and midwives to use their professional judgement and the best available evidence in making practice decisions, including when promoting views on social media or in the public domain. Nurses and midwives should consider their professional obligations when engaging in peaceful assembly and/or civil disobedience.

POSITION

- The NSW Nurses and Midwives’ Association stands in solidarity with the trade union and civil society movement in condemning laws that prohibit people’s rights to peaceful protest or of peaceful assembly.

- The NSW Nurses and Midwives' Association will be vigilant against the concentration of government power being used to silence healthy dissent. Not only is this a moral duty but it is in keeping with long established international law designed to promote healthy democracies and protect the people.
- The right to peaceful protest or of peaceful assembly is a long-standing tradition and has delivered many significant societal improvements, including women's right to vote, the 8-hour workday, and marriage equality.
- The NSW Nurses and Midwives' Association supports the positive right for all workers to have the ability to take industrial action.
- The NSW Nurses and Midwives' Association has a long-standing commitment to many social justice movements, including women's rights, refugee rights, climate change action, and marriage equality.
- The NSW Nurses and Midwives' Association supports the right of peaceful assembly and peaceful protest in meaningful and effective locations.
- Nurses and midwives should be aware of their professional obligations and the NMBA professional standards when considering joining a peaceful protest or assembly that could be deemed unlawful.

REFERENCES

1. Article 20, Universal Declaration of Human Rights, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948); available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
2. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, opened for signature 1 Jul 1949 (entered into force 18 Jul 1951); available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098
3. Convention concerning Freedom of Association and Protection of the Right to Organise, opened for signature 9 Jul 1948 (entered into force 4 Jul 1950); available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/freedom-association-and-protection-right-organize-convention#:~:text=Workers%20and%20employers%2C%20without%20distinction,own%20choosing%20without%20previous%20authorisation>
4. Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016; available at: <https://legislation.nsw.gov.au/view/pdf/asmade/act-2016-7>
5. Roads and Crimes Legislation Amendment Act 2022; available at: http://classic.austlii.edu.au/au/legis/nsw/num_act/raclaa2022n7369/
6. Nursing and Midwifery Board of Australia, 2021; <https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards.aspx>