

Parliament of Victoria

Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023

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No. 7 | October, 2023

Bill Brief

Parliamentary Library & Information Service

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Executive Summary

Despite the introduction of a Victorian ban on Nazi symbols in 2022, Victoria and the rest of the country have seen a marked rise in public activity from extreme far-right groups. The public display of the Nazi salute in March 2023 on the steps of Parliament House has been seen by many as a strong indicator of the growing problem of the far right and evidence of the need for legislation to prevent harm being caused by the display of Nazi symbols and gestures.

The Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023 aims to expand upon the 2022 ban on the public display of the Nazi Hakenkreuz, or 'hooked cross' (also known as the 'Nazi swastika'), not only to include other Nazi symbols but also ban the display or performance of the Nazi salute in public.

This Bill Brief outlines the Bill and summarises the context and debates that have contributed to its development. There has been a growing concern around extremism in the state in the wake of increased far-right activity seen in relation to the COVID-19 pandemic. The Victorian Parliament has also recently reviewed the state's anti-vilification protections in an inquiry that found reform was needed to protect vulnerable communities. The Bill will also be debated in a wider context of reform taking place across the country, with most other Australian states and the Federal Parliament passing or debating similar Bills to ban Nazi gestures and symbols. This brief outlines the similarities and differences in these laws and how they compare to the Victorian Bill.

The 2022 ban on Nazi symbols has been widely supported across the community and political spectrum, and many agree its expansion to include Nazi salutes will send a clear message to the far right that the targeting of vulnerable communities won't be tolerated. Whilst many report that antisemitism and vilification of other vulnerable groups in Victoria are on the rise, some experts have raised concerns as to whether a ban on Nazi symbols and gestures will meet the threat of far-right violence and intimidation.

Introduction

In March 2023, a rally outside Parliament House in Melbourne garnered national and international attention when several people performed the Nazi salute and chanted far-right and neo-Nazi slogans. The group were later identified as members of the far-right National Socialist Network, and had arrived during a rally by anti-trans activists. The event was widely condemned by political parties, community groups and religious leaders, with many Jewish and LGBTIQ+ groups labelling the scenes as particularly shocking and harmful. The salutes were labelled ‘as frightening as being threatened with a gun’ for Holocaust survivors, and many commented on the inability of Victoria Police to arrest or move-on the group performing the salute.¹

The rally came amid a noted increase in far-right activity in public in Victoria and growing debates over the ability of the state’s anti-vilification laws to protect vulnerable community groups from harm. Parliamentary inquiries into anti-vilification protections in 2019 and extremism in Victoria in 2022 both warned of a growing risk of harm to vulnerable Victorians from vilification, harassment and discrimination, particularly in Jewish communities and LGBTIQ+ communities but also other religious and cultural groups and Aboriginal and Torres Strait Islander peoples.

In response to rising threats of antisemitism and far-right extremism, the Victorian Parliament had banned the display of the Nazi Hakenkreuz—or ‘hooked cross’, often called a ‘swastika’ or ‘Nazi flag’—in December 2022, through the *Summary Offences Amendment (Nazi Symbol Prohibition) Act 2022*. Despite this, calls for more expansive bans on Nazi symbols and gestures in public have persisted, particularly around the Nazi salute.

Several states have since moved to ban Nazi symbols, and the Federal Parliament is currently debating similar laws. However, only the Tasmanian Parliament has passed laws banning the Nazi salute and other Nazi gestures. This comes as the same group again performed the salute outside Parliament House in May 2023 at an anti-immigration rally, and as far-right groups have been reported attending and disrupting events across the state throughout the year.

In January 2023, the Victorian Government indicated it intended to expand the ban on Nazi symbols to include the Nazi salute and other gestures, after a series of public displays of the salute targeted Australia Day and Holocaust Remembrance Day events.²

The Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023 (the Bill) was introduced on 29 August and will expand on the ban of Nazi symbols established by the 2022 amendment Act to include Nazi salutes and other Nazi gestures in the list of offences. The Bill has been broadly supported across the political spectrum and by the majority of stakeholders, but some have raised concerns regarding its effectiveness.

This Bill Brief details the provisions of the Bill and provides a summary of some of the recent events and debates that have influenced its introduction and the responses from various stakeholders. It also provides a jurisdictional comparison of similar laws across Australia’s states and territories and at the federal level.

¹ ABC News (2023) ‘Victorian government may consider amending laws after Nazi salutes at Parliament rallies’, ABC News, 19 March.

² A. Park (2023) ‘Holocaust Remembrance Day’, ABC Listen, 27 January.

1 | Background

Growing antisemitism

There have been widespread reports of increasing antisemitism in Australia for the past decade. The Executive Council of Australian Jewry (ECAJ) documented a 6.9 per cent rise in antisemitic³ incidences from 2021 to 2022, on top of a 35 per cent rise from 2020 to 2021.⁴ Whilst the ECAJ reported a 10 per cent decrease in total antisemitic incidents nationally in 2020⁵ (which the ECAJ said was likely due to lockdowns), there was an increase in ‘serious incidents, such as physical assaults, verbal abuse, and intimidation’.⁶ Antisemitic incidents have also increased in the United States, the United Kingdom and Germany.⁷

In Victoria, the Jewish Community Council of Victoria (JCCV) and Community Security Group Victoria (CSGV) found an overall increase in antisemitic incidents from 2019 to 2022.⁸ The Legislative Assembly Legal and Social Issues Committee’s (LALSIC) inquiry into Victoria’s anti-vilification protections also found that data on vilification incidents are largely underreported, meaning that these reports are likely a significant underestimation of the true scale of antisemitism.⁹

A noted increase in antisemitic sentiment in Victoria in 2020 and 2021 has been attributed to COVID-19 restrictions.¹⁰ This was reflected in other jurisdictions, with increases in 2021 but a decrease in 2022, suggesting an association of antisemitism with anti-lockdown sentiment.¹¹ The conflation of anti-lockdown sentiment with antisemitism was exacerbated, for example, by reports of several people breaking lockdown rules by attending an engagement party in August 2021, some of whom were Jewish.¹²

There were widespread reports of vilification and abuse towards Victoria’s Jewish community after the event, causing then Premier Daniel Andrews and then Chief Health Officer Brett Sutton to publicly condemn the ‘unacceptable and evil’ commentary.¹³ Melbourne’s lockdowns and vaccine mandates for construction industry workers were also met with several large and often violent protests in 2021, at which members of far-right and

³ Both the ECAJ and the JCCV/CSG reports use the International Holocaust Remembrance Alliance’s working definition of antisemitism. The definition is used internationally by most major organisations including the Victorian government. However, the definition has been criticised because it ‘doesn’t distinguish between legitimate critiques of Israel’s occupation of Palestine and antisemitism’. N. Carlin (2021) ‘How COVID has shone a light on the ugly face of Australian antisemitism’, *The Conversation*, 22 September.

⁴ J. Nathan (2022) *Report on antisemitism in Australia 2022*, Edgecliff, Executive Council of Australian Jewry.

⁵ J. Nathan (2020) *Condensed report: Antisemitism in Australian 2020*, Edgecliff, Executive Council of Australian Jewry

⁶ N. Carlin (2021) ‘How COVID has shone a light on the ugly face of Australian antisemitism’, *The Conversation*, 22 September.

⁷ R. Contreras (2023) ‘Antisemitic incidence hit record in 20223, AGL says’, *Axios*, 23 May; Community Service Trust (2023) *Antisemitic Incidents Report, January-June 2023*, London, Community Service Trust; Bundesverband RIAS e.V. (Federal Association of Departments for Research and Information on Antisemitism) (2023) *Annual report: Antisemitic incidents in Germany*, Berlin, Bundesverband RIAS e.V.

⁸ Jewish Community Council of Victoria & Community Security Group Victoria (2023), *Victorian antisemitism report – 30 June 2023*, Melbourne Jewish Community Council of Victoria & Community Security Group Victoria.

⁹ Legal and Social Issues Committee (2021), *Inquiry into anti-vilification protections*, final report, Melbourne, The Committee, March.

¹⁰ N. Carlin (2021) op. cit.

¹¹ The Centre for the Study of Contemporary European Jewry & Anti-Defamation League, *Annual Antisemitism Worldwide Report for 2022*, Tel Aviv, The Centre for the Study of Contemporary European Jewry, Tel Aviv University.

¹² E. Young (2021), ‘Simply evil’: Victorian authorities slam anti-Semitism as state records 24 new local COVID-19 cases’, *SBS News*, 17 August.

¹³ C. Houston (2021), ‘Jewish community faces ‘wave of hatred’ after illegal gatherings’, *The Age*, 14 September.

neo-Nazi groups were alleged to have been present and to have helped organise.¹⁴ This ran alongside a marked increase in right-wing extremist activity during the COVID-19 pandemic in Australia.¹⁵

Antisemitism has also been widely reported in Victorian schools. In September 2023, a Federal Court ruling found staff from a government-run school in Melbourne's south-east failed to protect five Jewish students from antisemitic discrimination, bullying and harassment, including displays of the Nazi salute.¹⁶

Growing vilification of other communities

Groups and individuals displaying antisemitic behaviour also frequently promote harmful content targeting Muslim communities, LGBTIQ+ communities and Aboriginal and Torres Strait Islander peoples. These communities have similarly reported increasing instances of targeting and harassment, and have reported feeling enhanced risk from extreme far-right groups.¹⁷

The National Socialist Network's display of Nazi salutes in June 2023 was seen by many to be targeted at LGBTIQ+ people counter-protesting the anti-trans rally, specifically targeting transgender Victorians (see below). The Online Hate Prevention Institute identified it as 'a transphobic incident, rather than an antisemitic one'.¹⁸ The rally caused many to argue for including gender and sexuality in the protected attributes under anti-vilification laws (see below).

A study from the Trans Justice Project showed that 47.9 per cent of transgender people in Australia have experienced verbal abuse in the past 12 months, and one in five have experienced physical abuse.¹⁹ In 2022, several councils across Victoria were forced to cancel 'drag queen story time' events after organisers received threats from far-right groups.²⁰

The Scanlon Institute's social cohesion survey found that negative attitudes towards a particular religion in 2022 were most commonly directed towards people of Muslim and Christian faiths.²¹ They also found 68 per cent of Australians hold negative feelings or attitudes towards one or more religious or non-European immigrant groups.²² The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) reported a 22 per cent increase in race discrimination complaints in 2021 compared with 2020.²³

¹⁴ B. Doherty & C. Cassidy (2021), 'Melbourne descends into chaos as police arrest 62 and fire rubber pellets at anti-lockdown protestors', *The Guardian*, 21 September.

¹⁵ All Together Now (2020) *Right-Wing Extremism and COVID-19 in Australia*, Cherrybrook, All Together Now; D. Klepper & L. Hinnant (2021) 'Far-right using COVID-19 theories to grow reach, study shows', PBS, 17 December.

¹⁶ N. Precel (2023) 'Victoria ordered to pay compensation over Brighton Secondary College antisemitism', *The Age*, 14 September.

¹⁷ Legal and Social Issues Committee (2021), op. cit.

¹⁸ Online Hate Institute (2023) *Submission to the Senate Legal and Constitutional Affairs Legislation Committee, Inquiry into Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023*, April, Canberra, The Committee, p. 9.

¹⁹ Trans Justice Project (2023) *Fuelling Hate: Abuse, Harassment, Vilification and Violence Against Trans People in Australia*, Trans Justice Project and Victorian Pride Lobby.

²⁰ C. Kelly (2023) 'Councils call off drag storytime and LGBTQ+ events in Victoria after far-right threats', *The Guardian*, 13 May.

²¹ J. O'Donnell (2022) *Mapping Social Cohesion*, Scanlon Foundation Research Institute.

²² *ibid.*

²³ Victorian Equal Opportunity & Human Rights Commission (2021) *2020-2021 Annual Report*, Victorian Equal Opportunity & Human Rights Commission, Carlton.

Security threats of neo-Nazism

In 2020, neo-Nazis were identified by the national security agency ASIO as one of Australia's most challenging security threats.²⁴ The far right's status as a threat to safety gained prominence following the 2019 Christchurch attacks, in which an Australian man killed 50 people at two mosques in New Zealand in an attack motivated by white supremacist and extreme right-wing ideologies.²⁵ In 2021 a report found a dramatic increase in recruitment drives by far-right groups particularly targeting young men during the pandemic.²⁶

While ASIO's Director-General of Security Mike Burgess has stated that the increase in publicly visible symbols and salutes associated with the far right does not necessarily correspond with an increased risk in violence from these groups, he emphasised the link between public displays of the salute and symbols and recruitment.²⁷ Some experts have said that banning the symbols will address these groups feeling emboldened to use them in public, whilst others argue that a ban may actually have the opposite effect and amplify the extreme far right's message.²⁸

Prominent displays of Nazi salutes and symbols

The frequency and total number of displays of symbols and gestures associated with far-right ideologies and movements in Victoria is difficult to quantify and is often affected by under-reporting. The ECAJ reports on several categories of antisemitic incidents, many of which could include instances of the Hakenkreuz. In 2022 this included 'vandalism' (11 incidents), 'graffiti' (125 incidents) and 'posters, stickers' (123 incidents).

Since 2021, reports of posters and stickers increased by 70 per cent and graffiti by 18 per cent, while there was a significant decrease in reports of physical assault. However, the ECAJ and other groups warn that the incidents they record represent only a proportion of the total antisemitic incidents that occur across the country.²⁹ The *Victorian Antisemitism Report* from CSGV and JCCV³⁰ (which draws in part on data from ECAJ's reports) also shows marked increases in the incident categories of 'symbol/paraphernalia' and 'gesture' from 2021 to 2022, but slight decreases in 'stickering' and 'graffiti', although both these categories saw marked increases from 2020 to 2021.³¹

Despite the difficulties in accurate reporting of instances of Nazi symbols and salutes, several experts and community representatives have noted an increase in their use. The ECAJ reported on the noticeable increase in Nazi symbols in public since 2016 in its submission to the Senate inquiry into the opposition's Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023.³² President of the Australian Jewish Association David Adler noted increased use of Nazi symbols particularly in relation to the pandemic.³³

²⁴ A. Greene (2020) 'Neo-Nazis among Australia's most challenging security threats, ASIO boss Mike Burgess warns', *ABC News*, 24 February.

²⁵ P. Spoonley (2019) 'Christchurch mosque shootings must end New Zealand's innocence about right-wing terrorism', *The Conversation*, 15 March.

²⁶ C. Agius et al. (2020) *Right-Wing Extremism in Victoria: Applying a Gender Lens to Develop Prevention and Deradicalisation Approaches*, Melbourne, Victorian Government, Department of Justice and Community Safety: Countering Violent Extremism Unit and Swinburne University of Technology.

²⁷ A. Greene (2020), op. cit.

²⁸ G. Barton (2023) 'Why government action to thwart neo-Nazi groups is far more difficult than it appears', *The Conversation*, 18 May.

²⁹ J. Nathan (2022), op. cit.

³⁰ The CSG and JCCV report also includes instances of the Nazi salute in its definition of 'Abuse, harassment, intimidation or threats of violence' category.

³¹ Jewish Community Council of Victoria & Community Security Group Victoria (2023), op. cit., p. 5.

³² Executive Council of Australian Jewry (2023) *Submission to the Senate Legal and Constitutional Affairs Legislation Committee, Inquiry into Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023*, April, Canberra, The Committee.

³³ These are just a few examples; for more, see B. Kwan (2021) 'Victorian is making the public display of Nazi symbols illegal'; *SBS News*, 2 September; A. Oboler & J. Beinart (2023) *Online Antisemitism in Australia 2023*, Melbourne, Online Hate Prevention Institute.

The 2019 parliamentary inquiry into extremism in Victoria noted a rise in public activity from the extreme far right since 2016, which corresponds with an increase in the use of symbols and gestures as a recruiting tool.³⁴ The ECAJ said a ‘notable feature’ of 2020 was ‘the number of incidents involving the public display of Nazi symbols and the public sale of Nazi memorabilia’.³⁵ The JCCV noted the ‘increasingly brazen presence of neo-Nazi affiliated individuals distributing antisemitic posters, stickers, and graffiti in suburbs with large Jewish populations’.³⁶

There has also been an increase in high-profile cases of the display of symbols associated with the far right, including the Hakenkreuz, that have received significant media attention. The most notable instance was a house in Beulah in the Mallee region that flew a Nazi flag with the Hakenkreuz in January 2020.³⁷ Despite it ultimately being taken down, Victoria Police’s inability to lay charges or direct the family to remove the flag led to much debate,³⁸ in part leading to the 2022 amendments on symbols.³⁹

Other notable incidents include a group of around 20–30 men, allegedly members of the neo-Nazi group the National Socialist Network, seen performing Nazi salutes and chanting racist slogans on a camping trip in the Grampians on Australia Day in 2021⁴⁰ and the defacement of the Cranbourne Golf Club with a Hakenkreuz in May 2020.⁴¹

A spate of graffiti including Hakenkreuz and other far-right sentiment marked the 2022 state and federal election campaigns in Victoria, echoing a similar wave of antisemitic graffiti in the 2019 federal election campaign. One of former federal Treasurer Josh Frydenberg’s campaign posters was defaced with a Hakenkreuz in his electorate of Kooyong in Melbourne’s east in April 2022, as were those of his opponent Monique Ryan and candidate for Macnamara Josh Burns’.⁴²

Victorian MP David Southwick’s campaign posters were similarly defaced in October 2022 in Caulfield, a Melbourne suburb with a large Jewish community.⁴³ Similar defacements were seen in Queenscliff on the posters of Bellarine candidate Donnie Grigau.⁴⁴

Despite the ban on Nazi symbols coming into effect in December 2022, there have been several reported instances of the Hakenkreuz being displayed in public in 2023. The symbol was seen spray-painted on a wall in Bet Bet in August,⁴⁵ painted on a building in North Geelong in May,⁴⁶ carved in glass at Sandringham College in May,⁴⁷ and drawn on a basketball court at a Toorak primary school in January.⁴⁸ The Hakenkreuz was also included in a spate of antisemitic graffiti across Wangaratta in April.⁴⁹

³⁴ Legal And Social Issues Committee (2022), *Inquiry into extremism in Victoria*, final report, Melbourne, August, The Committee, p. 18.

³⁵ J. Nathan (2020), op. cit., p. 3.

³⁶ Jewish Community Council of Victoria & Community Security Group Victoria (2023), op. cit., p. 9.

³⁷ S. Corsetti (2020) ‘[“Disgusting behaviour”: Daniel Andrews slams Nazi flag at private property in rural Victoria](#)’, SBS News, 14 January.

³⁸ A. Darling, S. J. Bell & M. Neal (2021) ‘[Calls for cross burning neo-Nazis camped in The Grampians to be classified as a terrorist group](#)’, ABC News, 28 January.

³⁹ N. Hutchins Minister for Police and Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support (2022) ‘[Second reading speech: Summary Offences Amendment \(Nazi Symbol Prohibition\) Bill 2022](#)’, *Debates*, Victoria, Legislative Assembly, 26 May, p. 1721

⁴⁰ A. Darling, S. J. Bell & M. Neal (2021) op. cit.

⁴¹ R. Eddie (2020) ‘[Golf Club vandals spray swastikas on fourth green in ‘chilling’ attack](#)’, *The Age*, 21 May.

⁴² M. P. Juanola (2022) ‘[“Obscene”: Josh Frydenberg election signs defaced with Nazi symbols](#)’, *The Sydney Morning Herald*, 4 April.

⁴³ A. Argoon & R. Cavanagh (2022) ‘[Neo-Nazi Jimeone Roberts blasted for posting anti-Semitic posters in Caulfield](#)’, *Herald Sun*, 2 August.

⁴⁴ J. Flynn (2022) ‘Disgust at election vandalism’, *Ocean Grove Voice*, 7 October, p. 7.

⁴⁵ C. Harrison, (2023) ‘Nazi swastikas painted on local road cause outrage’, *Maryborough Advertiser*, 15 August, p. 3.

⁴⁶ M. Murray (2023) ‘Outrage at swastika graffiti’, *Geelong Advertiser*, 18 May, p. 7.

⁴⁷ A. Carey, (2023) ‘School Swastika vandalism’, *The Age*, 29 April, p. 7

⁴⁸ Herald Sun (2023) ‘Swastika on school playground’, *Herald Sun* January 6, p. 26.

⁴⁹ R. Malcolm (2023) ‘Graffiti spree’, *Wangaratta Chronicle*, 24 April, p. 1.

Inquiry into anti-vilification laws

In 2019 the LALSIC announced an inquiry into Victoria's anti-vilification protections.⁵⁰ This was partly in response to a Bill introduced by Reason Party MP Fiona Patten to amend the *Racial and Religious Tolerance Amendment Act 2001* (Vic) to extend the list of protected attributes under the Act.⁵¹ The committee filed its report in March 2021 and the Government responded in September 2021.

During the inquiry, a ban on Nazi symbols was discussed in depth and ultimately formed one of the Committee's recommendations. A targeted ban on the Hakenkreuz was supported by submissions and statements from the Anti Defamation Commission, the Association of WW2 Veterans from the ex-Soviet Union, and the Islamic Council of Victoria.

During the inquiry, the Human Rights Law Centre (HRLC) stated that it preferred a principles-based approach rather than specifically targeting the Hakenkreuz, stating it would future-proof the laws to make them applicable to other 'equally offensive and harmful symbols'.⁵² A similarly broad approach was advocated by the Victorian Multicultural Commission and the Union of Progressive Judaism.⁵³ JCCV warned that banning the Hakenkreuz would simply lead groups to use another symbol, such as the 'white power' hand signal or the SS 'sig rune' symbol.⁵⁴

While the committee recommended making the display of the Hakenkreuz an offence, rather than broader legislation against 'symbols of hate', it also recommended the government 'monitor the public display of other hateful symbols to determine whether a broad-based offence should be established'.⁵⁵ The government supported this recommendation, promising to introduce legislation criminalising the Nazi Hakenkreuz and monitor the display of 'other hateful symbols'.⁵⁶

A key finding of the inquiry was also the need for more harm-based provisions in anti-vilification laws. The inquiry found a greater focus should be placed on the negative effects of vilification on communities, regardless of whether that vilification incites hatred in other people.⁵⁷ This is reflected in the 2022 amendments and the 2023 Bill, which balances the display and intent of the alleged offender with the harmful effect the symbol has on those who see it.

Inquiry into extremism in Victoria

In February 2022 the Legislative Council's Legal and Social Issues Committee announced an inquiry into extremism in Victoria, following a motion moved by the Greens in 2021 and a succession of large-scale anti-lockdown and anti-vaccine mandate protests in Melbourne in November 2021. The inquiry specifically investigated the rise of the far-right extremist movements, partly in the context of the COVID-19 pandemic, as well as their impacts on and risks to multicultural communities in Victoria.

The report found that there has been a resurgence of far-right extremism in Victoria since 2015 and 2016, and that racism, Islamophobia and antisemitism are common elements of far-right extremist messaging and activities.⁵⁸ The inquiry also found that both real and perceived threats from far-right extremist groups are causing harm to LGBTIQ+

⁵⁰ Legal and Social Issues Standing Committee (2019) *Spotlight on anti-vilification protections*, media release, 2 October.

⁵¹ *Racial and Religious Tolerance Amendment Bill 2019*

⁵² Legal and Social Issues Committee (2021), op. cit. p. 174.

⁵³ *ibid.*, p. 175.

⁵⁴ *ibid.*, p. 176.

⁵⁵ *ibid.*, p. xxvi.

⁵⁶ Victorian government (2021) *Government Response to the Recommendations of the Legislative Assembly Legal and Social Issues Committee's Inquiry into Anti-Vilification Protections*, government response, Melbourne, The Committee, September, p. 11.

⁵⁷ Legal and Social Issues Committee (2022), op. cit.

⁵⁸ *ibid.*, p. xiii.

communities.⁵⁹ The committee recommended community engagement solutions and public education campaigns over bans of symbols or gestures associated with the far right.

2022 amendments

Based on the recommendations from the inquiry into Victoria’s anti-vilification protections, the government introduced the Summary Offences Amendment (Nazi Symbol Prohibition) Bill 2022 (the 2022 amendments) on 11 May 2022. The Bill was designed to prohibit the use of the Hakenkreuz in public, making it an offence with a maximum penalty of 120 units, 12 months’ imprisonment, or both. It provided several exceptions to the offence, including displaying the Hakenkreuz in good faith for cultural or religious purposes, in academic, educational and publishing settings, in fair and accurate reporting, in opposition to Nazism and fascism, in the course of duties of law enforcement officers and in the legal system. Exemptions also apply for displays of the symbol in tattoos and other body modification procedures.

The Bill was introduced by then Minister for Police and Minister for Crime Prevention, the Hon. Natalie Hutchins. The Minister cited the Beulah case in her second reading speech and drew attention to ‘the particular harm caused by the symbol for not only Jewish Victorians but also ‘Aboriginal and Torres Strait Islander People, LGBTIQ+ people, people with disability and other racial and religious groups’.⁶⁰ The Bill was developed in close consultation with Hindu, Buddhist and Jain communities in order not to affect those groups’ use of the swastika in their cultural and religious practice.⁶¹

After the Bill was introduced, it was widely supported by Jewish community groups, Buddhist, Hindu and Jain groups, LGBTIQ+ groups, legal services and advocates, and passed through the Parliament with largely bipartisan support.⁶² Concerns were raised that a ban may actually further embolden far-right groups, who often thrive on narratives of being oppressed by the state, and that it may challenge the presumption of innocence.⁶³

The Bill received Royal Assent on 2 June 2022 and came into effect on 29 December 2022, allowing time for an education campaign about the cultural and religious use of the swastika in Buddhist, Hindu, and Jain communities to roll out.⁶⁴ Despite this, the first information session held by the Buddhist Council of Victoria as part of the campaign did not take place until March 2023.

Between December 2022, when the 2022 amendments came into effect, and June 2023 there have been 12 recorded offences of intentionally displaying a Nazi symbol.⁶⁵

Developments since 2022 amendments

Despite a ban on the Hakenkreuz coming into effect on 29 December 2022, antisemitic incidents have been increasing across the state, as have instances of the use and display of the Nazi salute. More attention has also been placed on extremism and the far right in Victoria, both as a security threat and as a threat to the safety of various vulnerable communities.

⁵⁹ *ibid.*, p. xiv.

⁶⁰ N. Hutchins (2022) *op. cit.*, p. 1722.

⁶¹ *ibid.*

⁶² AAP (2022) ‘[Victoria has banned the Nazi swastika. Faith groups say their ‘sacred symbol’ will be liberated](#)’, *SBS News*, 22 June.

⁶³ Liberty Victoria (2022) ‘[The proposed ban of the swastika in Victoria](#)’, *Liberty Victoria*, 17 May.

⁶⁴ Victorian Government (2023) ‘[Fact sheet: Nazi symbol prohibition](#)’, Victorian Government website; D. Andrews, Premier (2022) [Nazi Hate Symbols Now Banned In Victoria](#), media release, 21 June.

⁶⁵ Crime Statistics Agency (2023) ‘[Recorded Offences](#)’, CSA website.

Displays of Nazi salutes

Despite the ban on Nazi symbols coming into effect in December 2022, there have been several highly visible displays of Nazi salutes in Victoria in the past year.

In January 2023, a group of about 30 men were photographed performing the salute with a flag representing the far-right European Australia Movement at Elwood Beach.⁶⁶ Later that month a First Nations mourning ceremony organised at Merri-bek City Council in Melbourne's north to mark the landing of European settlers in Australia was attended by a small group of people performing the Nazi salute.⁶⁷ Other instances were documented in Knox and Geelong.⁶⁸

The most notable instances were larger protests and counter-protests in Melbourne outside Parliament House. On 18 March 2023 around 30 men were seen performing the Nazi salute along Spring Street and on the steps of Parliament House. The group, later identified as the National Socialist Network, had arrived during a controversial rally organised by anti-trans activist Kellie-Jay Keen-Minshull (also known as Posie Parker), which was also met with a significant trans rights counter-protest. The protest drew attention from international press⁶⁹ and led to the Victorian Government announcing the ban on Nazi symbols would be expanded to include Nazi salutes.⁷⁰

Jewish community groups condemned the protest and added their support for LGBTIQ+ communities,⁷¹ as did the Victorian Government and state opposition.⁷² The rally was cited as a motivator for the federal government to bring in its own bans on Nazi symbols, with federal Member for Macnamara (encompassing St Kilda, Caulfield and Port Melbourne) Josh Burns saying, 'Personally it was confronting to see such a brazen display of neo-Nazi hate and glorification in our beautiful city'.⁷³

The scenes were seen as a direct attack on the LGBTIQ+ community, as the group held a banner that criticised transgender people and was alongside a rally organised by an anti-trans activist.⁷⁴ The legal director at LGBTIQ+ advocacy group Equality Australia, Ghassan Kassisieh stated after the protest that 'without offences in Victoria that deal with serious vilification, the police have no powers to deal with Nazi salutes or hate speech directed at trans people'.⁷⁵ The Trans Justice Project found that 23.6 per cent of transgender participants reported more or significantly more anti-trans in-person hate during the period Keen-Minshull was touring Australia.⁷⁶

After the Victorian Government announced its plans to ban the salute, the scenes from March were repeated in May when an anti-immigration rally saw about 25 people performing the Nazi salute outside Parliament House in Melbourne.⁷⁷ The group was met by counter-protesters and turned violent when objects were thrown towards the group performing the

⁶⁶ B. Travers & J. Gailberger (2023) 'Horror as group of men perform Nazi salute near popular Elwood beach', *Herald Sun*, 17 January.

⁶⁷ H. Timms (2023) 'Extremists storm Merri-bek First Nations mourning ceremony', *News*, 26 January.

⁶⁸ A. Brennan (2023) 'Victoria Police called to The Bavarian restaurant following neo-Nazi salute', *News*, 24 April; C. Bunting (2023) 'Passionate locals attend pro-immigration, anti neo-Nazi rally at Geelong's City Hall', *Geelong Advertiser*, 26 July.

⁶⁹ Reuters (2023) 'Australia's Victoria state premier condemns Nazi salute', *Reuters*, 19 March; N. Frost (2023) 'Australian State Moves to Ban Nazi Salute After Clashes at Rally', *The New York Times*, 21 March.

⁷⁰ A. Ore (2023) 'Victoria to ban Nazi salute after 'disgusting' scenes at anti-trans protest', *The Guardian*, 20 March.

⁷¹ D. Aghion (2023) *Media statement*, Jewish Community Council of Victoria, media release, 20 March.

⁷² A. Ore & J. Beazley (2023) 'Daniel Andrews says Nazis 'aren't welcome' as Victorian government considers 'further action' following salutes', *The Guardian*, 19 March.

⁷³ P. Karp (2023) 'Australia to ban Nazi symbols but not the salute, Mark Dreyfus says', *The Guardian*, 7 June.

⁷⁴ C. Kelly (2023) 'LGBTQ+ advocates call for stronger legal protections across Australia after attacks', *The Guardian*, 30 March.

⁷⁵ *ibid.*

⁷⁶ Trans Justice Project (2023), *op. cit.*

⁷⁷ N. Bucci (2023) 'Neo-Nazis clash with police and counter-protesters at anti-immigration rally in Melbourne', *The Guardian*, 13 May.

salute. Police made several arrests and deployed capsicum spray, and two men were later charged with theft, resisting and assaulting police, and discharging a missile, among other charges.⁷⁸ After the event, the Anti Defamation Commission called for the federal government to classify neo-Nazi groups as terrorist organisations,⁷⁹ and both the Victorian government and state opposition renewed their commitment to ban the Nazi salute.⁸⁰

ASIO warns of rising threat of far-right extremism

A few weeks after the May rally, ASIO's Mike Burgess again warned of the rising frequency in public displays of neo-Nazi materials in evidence to a Senate estimates hearing.⁸¹ Burgess argued the public appearances were more an effort at recruitment than an indicator of a rising risk of terror activities from the groups,⁸² but stated that responding to threats of ideologically driven terrorism now made up 30 per cent of their counterterrorist case load and that the majority were right-wing groups.⁸³

⁷⁸ L. Abbott & A. McMillan (2023) 'Neo-Nazis clash with police at Parliament', *The Sunday Age*, 14 May, p. 5.

⁷⁹ G. Dyett (2023) 'Anti-Defamation Commission wants neo-Nazi groups categorised 'terrorist organisations'', *SBS News*, 13 May.

⁸⁰ A. Yu & P. Hosier (2023) 'Federal government labels neo-Nazis 'political lunatics' following violent clash at anti-immigration rally', *ABC News*, 13 May.

⁸¹ C. McLeod (2023) 'ASIO boss Mike Burgess questioned on scale of neo-Nazi threat in Australia', *News*, 23 May.

⁸² T. Lowrey & N. Al Nashar (2023) 'ASIO warns neo-nazi groups are seeking to recruit more members', *ABC News*, 23 May.

⁸³ M. Burgess (2022) 'Transcript of hearing: Mike Burgess, Director-General of Security, Australian Security Intelligence Agency', *Estimates*, 23 May, Canberra, Legal and Constitutional Affairs Legislation Committee.

2 | Second reading speech

The Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023 was introduced to the Legislative Assembly on 29 August 2023. Minister for Police and Minister for Crime Prevention the Hon. Anthony Carbines delivered the second reading speech on 30 August 2023.

The minister focused on the Bill's purpose of reducing harm in the community to vulnerable groups, particularly Jewish communities, Holocaust survivors and LGBTIQ+ communities, saying: 'The intent of this Bill is to send a clear message denouncing Nazi ideology and the use of its gestures and symbols to intimidate and incite hate'.⁸⁴ The minister stated it was a step towards promoting 'tolerance and inclusion' and acknowledged the ongoing support of Buddhist, Hindu and Jain groups and their use of the swastika as a symbol of 'purity, love, peace and good fortune'.⁸⁵

The minister pointed to several instances in which the Nazi salute was performed in Victoria in 2023, including the events following the anti-trans activist rally on the steps of Parliament House in March. He also drew attention to repeated reports of the rise of antisemitism across the state and ongoing persecution of LGBTIQ+ groups.

The minister explained that the Bill seeks to address a gap in the federal Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023 (Cth), currently before parliament (see below) regarding the display of Nazi symbols, as that Bill does not aim to prohibit the Nazi salute. He also identified the particularity of the Nazi salute and symbols as 'inextricably linked with the genocide of the Holocaust and atrocious crimes against humanity'.⁸⁶

The minister outlined the exemptions to the offence provided for within the Bill in detail (see below) and demonstrated how the Bill was further responding to recommendations from the inquiry into Victoria's anti-vilification protections. This included the provision that no injury or harm needs to be proven in order for an act to constitute an offence, and that the penalty is in line with other vilification offences under the *Racial and Religious Tolerance Act 2001* (Vic).

⁸⁴ A. Carbines, Minister for Police and Minister for Crime Prevention (2023) '[Second reading speech: Summary Offences Amendment \(Nazi Salute Prohibition\) Bill 2023](#)', *Debates*, Victoria, Legislative Assembly, 29 August, p. 3224.

⁸⁵ *ibid.*, p. 3225.

⁸⁶ *ibid.*

3 | The Bill

Adding gestures and display of gestures

The Bill seeks to add the Nazi salute to offences detailed under the *Summary Offences Act 1966* (the Principal Act) and includes both the action of the salute and the display of the salute (such as an image or sticker). New section 41K(1A) makes it an offence ‘for a person to intentionally perform a Nazi gesture in a public place or in sight of a person in a public place, if the person knows, or ought to reasonably know, that the gesture is a Nazi gesture’.⁸⁷

A Nazi gesture is defined as the Nazi salute and any other gesture performed by the Nazi Party. The definition is an expansion on the definition of Nazi symbol provided in the 2022 amendments, which defined the prohibited symbols as ‘symbols associated with the Nazi ideology’.⁸⁸

Extending prohibited symbols

The Bill also seeks to extend the application of the offence of displaying Nazi symbols beyond the Hakenkreuz to include other symbols. The Bill amends section 41J of the Principal Act to expand on the definition of ‘Nazi symbol’ to include any symbol used by the National Socialist German Workers’ Party from 1920 to 1945.⁸⁹ The Explanatory Memorandum explains that these symbols include the bolts symbol (sig runes) and the ‘death’s head’ (Totenkopf) used by the Schutzstaffel (SS) but are not limited to these symbols. This is an expansion on the 2022 amendments, which only prohibited the Hakenkreuz.⁹⁰ Clause 6 also sets out a definition of the Nazi Party to include the party’s paramilitary units and other organisations associated with the party, such as the Hitler Youth.⁹¹

The purpose of these amendments is to mitigate the risks of someone using a similar symbol and then claiming not to know it had been ‘associated with Nazi ideology’.⁹²

Expansion of ‘public place’

The Bill also seeks to expand the definition of an offence occurring in a public place, if it occurs on private property but in view of someone in public.⁹³ This is to incorporate instances where symbols or displays of the salute are carried out on private property but are visible from public property—for example, flying a flag in a person’s front garden. This expands the offence to include places that might otherwise be called ‘private’ under the Principal Act, such as non-government schools, universities and TAFEs.⁹⁴

Offence

A proposed new section 41K(1A) will make it an offence to intentionally perform or display a Nazi gesture in public. The offence is not retroactive, and so individuals cannot be charged if they committed the gesture before the date the Act comes into effect.

The Bill will also require the Director of Public Prosecutions to be consulted before the Act can be used to charge children.

⁸⁷ Explanatory Memorandum, Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023, p. 3.

⁸⁸ *Summary Offences Amendment (Nazi Symbol Prohibition) Act 2022* (Vic) s 41k(1)(a).

⁸⁹ Explanatory Memorandum, Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023, p. 2

⁹⁰ *Summary Offences Amendment (Nazi Symbol Prohibition) Act 2022* (Vic) s 41J.

⁹¹ Explanatory Memorandum, Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023, p. 2

⁹² *ibid.*, p. 3.

⁹³ *ibid.*

⁹⁴ *ibid.*

Fault elements

Under the Bill, the offence of performing or displaying a Nazi salute has two fault elements: intent and knowledge.

Intent

Clause 7(3) introduces section 41K(1A), which defines the offence as '*intentionally* perform[ing] a Nazi gesture',⁹⁵ designed to avoid a person being charged for inadvertently performing the salute.

Knowledge

The knowledge element of the offence is captured in clause 7(2) of the Bill, which defines a Nazi gesture as 'any gesture performed by the Nazi Party'.⁹⁶ The knowledge element means that the offence is committed if a person 'knows or ought to reasonably know' the gesture is a Nazi gesture (as defined by clause 6(1)), or 'that a reasonable person in the position of the person who displayed the symbol or gesture would have known that it is a Nazi symbol or gesture'.⁹⁷

This amendment ensures that a person cannot circumvent the offence by claiming they did not know it was associated with Nazi ideology,⁹⁸ but also allows for instances where the symbol or gesture is performed or displayed inadvertently, such as by a child or a person with cognitive impairment.

Penalty

The maximum punishment proposed for the offence is 120 penalty units, 12 months' imprisonment, or both. For the financial year 2023–24, one penalty unit is equal to \$192.31, meaning the maximum penalty totals around \$23,077.⁹⁹ This is the same as the penalty for display of the Hakenkreuz outlined in the 2022 amendments. No injury or harm needs to be proven as a result of the offence, which is in line with recommendations from the 2020-21 LALSIC's inquiry into anti-vilification protections.¹⁰⁰

A person directed to remove the material by police who does not comply may be liable for 10 penalty units, or approximately \$1,923.¹⁰¹

Exemptions

Several exemptions apply to the proposed offence, most of which are the same as the exemptions under the existing offence relating to Nazi symbols. However, several exemptions that are afforded to the display of Nazi symbols are not afforded to the performance or display of Nazi gestures.

The Bill clarifies that the exemptions impose an evidential burden, meaning a person accused of the offence must provide evidence that one of the exceptions applies to their performance of the gesture or display of the gesture or symbol.

⁹⁵ *ibid.*

⁹⁶ Defined in section 41J of the Principal Act and amended with Clause 6 of the Bill (see above).

⁹⁷ A. Carbines, (2023), [Second reading speech: Summary Offences Amendment \(Nazi Salute Prohibition\) Bill 2023](#), *op. cit.*, p. 3226.

⁹⁸ Explanatory Memorandum, Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023, p. 2, p. 3.

⁹⁹ Department of Justice and Community Safety (2023) [Penalties and values](#), DJCS website.

¹⁰⁰ Legal and Social Issues Committee (2021), *op. cit.*.

¹⁰¹ A. Carbines, Minister for Police and Minister for Crime Prevention (2023), [Second reading speech: Summary Offences Amendment \(Nazi Salute Prohibition\) Bill 2023](#), *op. cit.*, p. 3227.

Use for academic, artistic or educational purposes, or publishing or reporting within the public interest

Displaying or performing the Nazi salute will not be considered an offence if it is done in good faith for academic, artistic, or educational purposes or for publishing or reporting within the public interest. This is to allow uses of the gesture such as in performances, historical books or materials, or for journalists covering people performing the salute. For example, the gesture would be allowed under the Act on the cover of a history book about the Second World War or Nazism, or in a performance of a play in which Nazis are characters.

This is the same exemption as that afforded to displays of Nazi symbols.

Tattoos

An exemption will also apply to individuals with tattoos or other body modification processes (such as scarification or branding) depicting the Nazi salute, even if it is visible to the public. This reflects a similar exemption for Nazi symbols. This exemption was made to reflect human rights considerations regarding bodily integrity and practical difficulties in enforcing the offence should it apply to tattoos.¹⁰²

Law enforcement officers

Similar to the offence of displaying Nazi symbols, the Bill seeks to allow the performance or display of the Nazi salute if it is done in good faith by a law enforcement officer and/or a member of an intelligence agency in the performance of their duties, such as when under an assumed identity.

Justice system officials

A similar exemption applies to the performance or display of Nazi gestures in the course of official duties for the administration of justice, such as when giving evidence in court.

Cultural and religious display

The 2022 amendments banning the display of Nazi symbols provided an exemption for displaying the swastika (often considered identical to the Hakenkreuz) when it is displayed in good faith for religious and cultural reasons. This was to allow for the display of the swastika by Buddhist, Hindu and Jain communities, for whom the symbol is an important symbol of prosperity, peace, and good fortune.

No such exemption will apply to the performance or display of Nazi gestures. This is because there is no evidence of reasonable and genuine reasons to perform the gesture to reflect cultural or religious beliefs.

In opposition to Nazism and fascism

The 2022 amendments banning the display of Nazi symbols provided an exemption for displaying the swastika (often considered identical to the Hakenkreuz) when it is in opposition to Nazism and fascism – such as displaying a Hakenkreuz with a line through it, or with words opposing fascism under it. The Bill seeks to expand this exemption to include other Nazi symbols.

The Bill provides that a person does not commit an offence if they *display* a Nazi gesture in good faith in opposition to Nazism, neo-Nazism, or fascism, but not the *performance* of the gesture. The exemption would apply, for example, to a placard depicting a person performing the Nazi salute with a line crossing it out or anti-Nazi words beneath it, but it would not apply to a person performing the salute in opposition to fascism or Nazism. This is because

¹⁰² A. Carbines, Minister for Police and Minister for Crime Prevention (2023) ‘Statement of compatibility: Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023’, *Debates*, Victoria, Legislative Assembly, 29 August, p. 3218.

there is no evidence a person might perform a salute to demonstrate their opposition to Nazism or fascism, and the Bill seeks to avoid neo-Nazi groups using this exemption to circumvent the ban.¹⁰³

Police powers

The Bill seeks to expand powers afforded to police under the 2022 amendments to direct a person to remove a Nazi symbol to include displays of Nazi gestures. This can be done on private or public land, and allows police to apply for a warrant to search a premises if they reasonably believe there is a display of a Nazi gesture in view of the public. Police are also afforded powers to arrest a person performing a Nazi salute under the *Crimes Act 1958*, and to direct a person to remove the display of a symbol or gesture.

Prosecuting children

The Bill will ensure that written consent of the Director of Public Prosecutions is obtained before prosecuting a child for the offence of performing or displaying a Nazi salute or gesture. The Bill seeks to amend section 41K(6) of the Principal Act to expand the existing provision that already applies to Nazi symbols in this regard.

Commencement

The Bill would come into operation the day after it receives Royal Assent.

¹⁰³ A. Carbines, Minister for Police and Minister for Crime Prevention (2023), [Second reading speech: Summary Offences Amendment \(Nazi Salute Prohibition\) Bill 2023](#), op. cit., p. 3226.

4 | Other jurisdictions

Victoria was the first state to pass laws outlawing Nazi symbols, but almost all other states and territories have since introduced similar legislation. So far only Victoria and Tasmania have introduced or passed laws prohibiting the Nazi salute (see below), and the federal government is currently considering laws that outlaw Nazi symbols as a means to reduce the threat of far-right terrorism. A summary of different laws and Bills relating to Nazi symbols and salutes across Australia as of September 2023 can be found in Table 1.

Federal parliament

Federal opposition Senator Michaelia Cash introduced the Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023 to the Senate in March 2023¹⁰⁴ aimed to prohibit the display of Nazi symbols, which included the Nazi salute. The Bill was referred to the Senate Standing Committee on Legal and Constitutional Affairs, which recommended the Bill not be passed and that a government Bill be introduced ‘as a matter of urgency’.¹⁰⁵

Several community groups—including those representing the Jewish faith and LGBTIQ+ groups—expressed support for the opposition’s Bill, although some suggested that legislation alone would not reduce the threat of extremism.¹⁰⁶ The Bill was opposed by Liberty Victoria, whose president said the law could infringe civil liberties and would not contribute to stopping the spread of far-right ideology.¹⁰⁷ ASIO’s submission to the inquiry stated that the Bill would ‘assist law enforcement in early intervention’,¹⁰⁸ having previously argued at a Senate estimates hearing that a ban would help with the rising threat of far-right extremism.¹⁰⁹ The Bill is currently before the Senate.

In June 2023 the federal government introduced the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023 (the federal Bill). The federal Bill proposes amending the *Crimes Act 1914* and the *Criminal Code Act 1995* to effectively make the public display of prohibited symbols and the sale and trade of goods bearing these symbols a criminal offence, among other acts. The Bill does not include the Nazi salute or other gestures in its prohibited symbols.¹¹⁰ The Bill identifies both Nazi symbols and Islamic State symbols as prohibited symbols, including the Hakenkreuz, the ‘SS bolts’ and the Islamic State flag, and carries similar exceptions to the Victorian Bill, such as the use of the swastika by religious groups.

The federal Bill is largely a response to the rising threat of extremist terrorism and violence as a security threat and has been designed to complement similar state laws being developed (see below). It responds to extremist groups using the public display of symbols to aid with recruitment and ‘to signal their ideology to a wide-reaching audience, to recruit and inspire behaviours from like-minded individuals and to establish in-group belonging’.¹¹¹ It also makes it a criminal offence to share and possess material without needing to prove it is

¹⁰⁴ In May 2023 an almost identical Bill was introduced to the House of Representatives as a private member’s bill by Opposition MP Julian Leeser: the Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023 [No. 2]. The Bill is currently before the House of Representatives.

¹⁰⁵ Legal and Constitutional Affairs Committee (2023), *Final report: Inquiry into Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023*, May, Canberra, The Committee, p. 24.

¹⁰⁶ *ibid.*

¹⁰⁷ C. Mcleod (2023) ‘New federal laws to ban the display of Nazi symbols on the table in Canberra’, *The Daily Telegraph*, May 2.

¹⁰⁸ Australian Security Intelligence Organisation (2023) *Submission to the Senate Legal and Constitutional Affairs Legislation Committee, Inquiry into the Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023*, April, Canberra, The Committee, p. 2.

¹⁰⁹ M. Burgess (2022) ‘Transcript of hearing: Mike Burgess, Director-General of Security, Australian Security Intelligence Agency’, *Estimates*, 23 May, Canberra, Legal and Constitutional Affairs Legislation Committee.

¹¹⁰ The Bill also makes it an offence to carry, possess, or control ‘violent and extremist material’ and increases the maximum offence for advocating or praising a terrorist act.

¹¹¹ Explanatory Memorandum, Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023 (Cth), p. 3.

associated with the planning of a violent act. The federal Bill also includes online posting of symbols and bans trade of merchandise bearing the symbols, both areas where the states have limited power.

The federal Bill is distinct from the Victorian Bill in that it does not legislate against the Nazi salute or any other Nazi gestures. In his announcement of the federal Bill, Attorney-General Mark Dreyfus stated that policing and criminalisation of the salute is best left to the states to police ‘what is essentially street activity’.¹¹² This was identified as a shortcoming of the Bill.¹¹³ Federal Opposition Leader Peter Dutton said that the federal Bill ‘only deals with half the problem’ in failing to ban the salute.¹¹⁴

The federal Bill was referred to the Parliamentary Joint Committee on Intelligence and Security in June 2023. Hearings are still underway, but over 150 submissions have been made by a variety of religious and community groups (in particular Jewish and Muslim groups), antique and memorabilia collectors, legal and human rights experts, and media organisations. In their submissions several groups identified the lack of inclusions in the Bill to prohibit the Nazi salute and other gestures. The ECAJ submitted that it was regrettable that the Bill didn’t cover Nazi gestures,¹¹⁵ while the Australian Jewish Democratic Society submitted that ‘banning one hand signal will result in the use of another, or the invention of a new signal ... legislation will not take care of this problem, offensive as it is’.¹¹⁶ The Police Association of Victoria stated it would prefer a wider ban to include ‘hateful conduct beyond hate symbolism’.¹¹⁷

Australian Capital Territory

The ACT Government introduced a ban of the public display of Nazi symbols in August 2023 through the *Crimes Legislation Amendment Act 2023* (the ACT Act). The ACT Act created a new offence to publicly display a Nazi symbol, which it defines as a Hakenkreuz or ‘a symbol that so nearly resembles a Hakenkreuz that it is likely to be confused with or mistaken for a Hakenkreuz’.¹¹⁸

The ACT Act does not prohibit the Nazi salute, nor other symbols used by neo-Nazis and far-right groups.¹¹⁹

The maximum penalty is the same as in the Victorian Bill, 120 penalty units or 12 months’ imprisonment or both. The ACT Act has similar exemptions to the offence, including academic, artistic, religious or scientific purposes, cultural or educational purposes, fair and accurate publishing and reporting, and uses in opposition to fascism and Nazism.¹²⁰

¹¹² P. Kohn (2023) ‘Attorney-General launches Federal Bill’, *Australian Jewish News*, 7 June.

¹¹³ P. Wertheim (2023) ‘The federal government’s ban on Nazi symbols is a step in the right direction, but it needs to go further’, *ABC News*, 13 June.

¹¹⁴ P. Dutton & S. McDonald (2023) *Leader of The Opposition – Transcript – Joint Doorstop Interview with Senator Susan McDonald*, media release, 8 June.

¹¹⁵ Executive Council of Australian Jewry (2023) *Parliamentary Joint Committee on Intelligence and Security, Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023*, July, Canberra, The Committee.

¹¹⁶ Australian Jewish Democratic Society (2023) *Parliamentary Joint Committee on Intelligence and Security, Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023*, August, Canberra, The Committee, p. 2.

¹¹⁷ The Police Association of Victoria (2023) *Parliamentary Joint Committee on Intelligence and Security, Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023*, July, Canberra, The Committee, p. 3.

¹¹⁸ *Crimes Legislation Amendment Bill 2022* (ACT) cl7A.2(1)

¹¹⁹ *Crimes Legislation Amendment Bill 2022* (ACT)

¹²⁰ *ibid.*

New South Wales

New South Wales passed laws in August 2022 to ban Nazi symbols but currently has no offence for the Nazi salute. The *Crimes Amendment (Prohibition on Display of Nazi Symbols) Act 2022* (the NSW Act) prohibits a ‘Nazi symbol’, which was left deliberately broad to ‘capture not only the more well-known symbols such as the Hakenkreuz or the Nazi flag but also a range of other, lesser-known Nazi symbols’.¹²¹ The NSW Act has fewer exemptions than the Victorian Bill, only including academic, artistic or educational purposes or ‘any other purpose in the public interest’ in the list of ‘reasonable excuses’, as well as stating that displaying the swastika in connection with Buddhism, Hinduism or Jainism does not constitute an offence.¹²² The offence carries maximum penalties of 100 penalty units, 12 months’ imprisonment or both for an individual and 500 penalty units for a corporation.

The NSW Act does not specify salutes in the offence, but the broad definition of ‘Nazi symbol’ means it is possible to prosecute the Nazi salute under the Act. In March 2023, three men were charged under the NSW Act after they allegedly performed Nazi salutes at an Australia Cup football match.¹²³ A hearing is scheduled for the men in May 2024, and many are viewing it as a ‘test case’ to determine whether Nazi salutes are captured under ‘Nazi symbols’.¹²⁴

Northern Territory

As of September 2023, the Northern Territory Government has made no announcement of legislation to ban Nazi symbols or salutes. In 2020 a man was visited by police and forced to take down a large neon Hakenkreuz displayed on the fence of his property in Darwin. Darwin City Council were unable to direct the man to remove it, who eventually took it down after a visit from the police. The Northern Territory’s anti-discrimination laws were updated in 2020 for the first time in 30 years¹²⁵ and made it an offence to act in a way that was ‘reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or group of people’ because of a personal attribute.¹²⁶

Queensland

The Queensland Government introduced the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023 (the Queensland Bill) in March 2023 and it remains before the parliament. The Bill proposes sweeping amendments to anti-vilification laws, including amendments to the state’s criminal act, anti-discrimination act, police powers act and summary offences act.

While it does not make specific mention of Nazi symbols or Nazi salutes, the Queensland Bill is designed to ‘prescribe symbols or images (‘prohibited symbols’) that are representative of an ideology of extreme prejudice against a relevant group’¹²⁷ and prohibit their public display ‘in a way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended’.¹²⁸

The Bill seeks to prohibit the Nazi salute not as a symbol (as in the NSW Act) but by including it in a provision that would prescribe serious vilification. The offence would require

¹²¹ G. Upton (2022) ‘[Second reading speech: Crimes Amendment \(Prohibition on Display of Nazi Symbols\) Bill](#)’, *Debates*, New South Wales, Legislative Assembly, 21 June, p. 9075.

¹²² Crimes Amendment (Prohibition on Display of Nazi Symbols) Act 2022 No 37 (NSW), s 1(1)

¹²³ S. Zemek (2023) ‘[Football fans charged over alleged Nazi salute](#)’, *News*, 5 March.

¹²⁴ V. Rugari (2023) ‘[Three Sydney United 58 fans charged under new Nazi symbol law](#)’, *The Sydney Morning Herald*, March 5.

¹²⁵ A. Perera & M. Abram (2022) ‘[Northern Territory parliament passes anti-discrimination law reform amid fierce backlash](#)’, *ABC News*, 23 November.

¹²⁶ Anti-Discrimination Amendment Act 2022 (NT) s20A(1)(a) (p. 12)

¹²⁷ [Explanatory notes](#), Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Bill 2023 (QLD), p. 3.

¹²⁸ *ibid.*, p. 4.

proof beyond reasonable doubt of ‘incitement’. But a government spokesperson stated, ‘whether the offences will apply to certain behaviours or situations will depend on the specific circumstances in each case’.¹²⁹

The maximum penalty for the offence will be 70 penalty units or six months’ imprisonment. The offence is intended to capture a broad range of circumstances, including the public display of tattoos and the public distribution or publication of prohibited symbols online.

The Queensland Bill carries exceptions for uses of the prohibited symbols similar to those in the Victorian Bill, but differs on the inclusion of tattoos.

South Australia

One Nation Member Sarah Game introduced the Summary Offences (Nazi Symbol Prohibition) Amendment Bill 2022 (the South Australian Bill) to the South Australian Legislative Council in June 2022, which was then referred to a select committee of the Legislative Council, where it remains. The South Australian Bill proposes to prohibit the public display of Nazi symbols, which are defined similarly to ACT’s definition but also includes ‘any other symbol prescribed by the regulations’.¹³⁰

The Bill carries a similar maximum penalty as the Victorian Bill—12 months’ imprisonment or \$20,000—and has similar exemptions. Tattoos are exempt from the offence if they are in place prior to the Bill passing, and the Nazi salute is not included in the offence.

Tasmania

Tasmania became the first state to ban the Nazi salute when it passed the *Police Offences Amendment (Nazi Symbol and Gesture Prohibition) Act 2023* (the Tasmanian Act) on 31 August 2023. The Tasmanian Act also bans Nazi symbols. The Tasmanian Act is very similar to the Victorian Bill, with the only major difference being the maximum penalties for conviction.

The Tasmanian Act has similar definitions for ‘Nazi symbol’, ‘Nazi gesture’ and ‘public place’. Similar to the Victorian Bill, the Tasmanian Act allows several exceptions, including cultural and religious reasons, educational settings, and uses in opposition to fascism for display of Nazi symbols, and similar provisions for the Nazi gesture, including no exemption for performing the gesture in opposition to Nazism and fascism¹³¹ and similarly places an evidential burden on the accused to prove an exemption should apply.¹³²

The offence under the Tasmanian Act carries a lower maximum jail time than the Victorian Bill: three months’ jail (six months for repeat offenders) and 20 penalty units (40 for repeat offenders). The Tasmanian Act expands the powers of police to arrest a person they reasonably believe is committing an offence and to apply for a warrant to search a premises.

The Tasmanian Act specifically mentions the display of a Nazi symbol or the salute in online places, including social media and websites in its definition of ‘public acts’.¹³³

¹²⁹ E. Gillespie (2023) ‘Queensland to ban Nazi swastika tattoos as part of crackdown on hate symbols’, *The Guardian*, 16 March.

¹³⁰ [Summary Offences \(Nazi Symbol Prohibition\) Amendment Bill 2022 \(SA\)](#), 35A(1)

¹³¹ [Fact sheet](#), Police Offences Amendment (Nazi Symbol and Gesture Prohibition) Bill 2023

¹³² E. Archer, Attorney-General (2023), ‘[Second reading speech: Police Offences Amendment \(Nazi Symbol and Gesture Prohibition\) Bill 2023 \(No. 2\)](#)’, *Debates*, Tasmania, House of Assembly, 24 May, p. 55.

¹³³ *ibid.*, p. 56

Western Australia

The Western Australian Attorney-General John Quigley announced in January 2023 that the government would draft and propose legislation to ban Nazi symbols.¹³⁴ Since the announcement, various government members, including former Premier Mark McGowan, have indicated the ban would include tattoos and have specifically identified the Hakenkreuz.¹³⁵ As of September 2023, no legislation has been proposed, and there has been no mention of Nazi salutes in government announcements.

¹³⁴ J. Quigley, Attorney-General (2023) [Government to ban display and possession of Nazi symbols](#), media release, 18 January.

¹³⁵ M. Swinbourn, Minister for Electoral Affairs (2023), '[Questions without notice: Nazi symbols–Legislation](#)', *Debates*, Western Australia, Legislative Council, 13 September, p. 4507; M. McGowan, Premier (2023), '[Questions without notice: Nazi symbols–Legislation](#)', *Debates*, Western Australia, Legislative Assembly, 22 March, p. 1305.

Table 1: Laws and Bills relating to Nazi symbols and gestures in Australian states and territories as of 2 October 2023

	Bill/Act name	Includes salutes?	Maximum penalty	Status	Similar exemptions to Victoria?
Victoria	Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023	Yes	120 penalty units or 12 months' imprisonment or both	Before parliament	--
Federal	Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023	No	12 months' imprisonment	Before parliament	Yes
Australian Capital Territory	Crimes Legislation Amendment Act 2023	No	120 penalty units or 12 months' imprisonment or both	Passed as law	Yes
New South Wales	Crimes Amendment (Prohibition on Display of Nazi Symbols) Act 2022	No*	100 penalty units or 12 months' imprisonment or both for an individual or 500 penalty units for a corporation	Passed as law	Yes, except for law enforcement officers and in the legal justice system, and opposing fascism and Nazism
Northern Territory	None	--	--	--	--
Queensland	Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023	Yes†	70 penalty units or six months' imprisonment	Before parliament	Yes, except for tattoos
South Australia	Summary Offences (Nazi Symbol Prohibition) Amendment Bill 2022	No	\$20,000 fine or 12 months' imprisonment	Before parliament (committee)	Yes
Tasmania	Police Offences Amendment (Nazi Symbol and Gesture Prohibition) Act 2023	Yes	20 penalty units (40 for repeat offenders) or three months' imprisonment (six months for repeat offenders) or both	Passed as law	Yes
Western Australia	None, government commitment only	--	--	--	--

*Three charges have been made for performing the salute under the NSW Act

†As an act of aggravated nuisance

International jurisdictions

Nazi symbols and salutes are banned under legislation in many international—mostly European—jurisdictions through either criminal law or laws addressing hate speech and discrimination.

Germany and Austria passed laws banning the salute and Nazi symbols almost immediately after the Second World War, and it remains a criminal offence in both countries and can earn a prison sentence. The German law does not specify the Nazi salute but includes it as ‘flags, insignia, uniforms, slogans and forms of greeting’ from groups that have been deemed as ‘unconstitutional’.¹³⁶ Austria has signalled it may strengthen its anti-Nazi laws after it proved difficult to prosecute uses of Nazi symbols and slogans during protests against COVID-19 restrictions in 2021.¹³⁷ The salute is also a criminal offence in the Czech Republic.¹³⁸

Similar laws are in place in Slovakia and Poland, which carry prison terms as potential penalties, but the gesture does not constitute a criminal offence.¹³⁹ In the UK there is no specific law banning the salute but its use can be captured under public order and propaganda laws.¹⁴⁰ The UK *Public Order Act 1986* bans symbols and behaviours that are threatening, abusive or insulting if intended to stir up racial hatred, as well as the display of materials that are likely to cause harm or distress.¹⁴¹ Several people have recently been charged in the UK under the Act for performing the salute in public, including at football games.¹⁴² Other instances of the salute have brought about charges under the *Communications Act 2003* (UK).¹⁴³

The salute is captured under hate crime laws in Sweden and Switzerland. These laws were tested in 2014, when a Swiss court ruled that the salute was only illegal if it was used to spread racist ideology, and legal if it was used as a personal statement of individual convictions. This meant a man was acquitted when he was alleged to have raised his arm in a salute for 20 seconds during a demonstration in 2010.¹⁴⁴

¹³⁶ *Strafgesetzbuch 1998* (Ger), s 86a.

¹³⁷ F. Murphy (2022) ‘Austria plans to tighten law banning use of Nazi symbols’, *Reuters*, 15 November.

¹³⁸ Associated Press (2014) ‘Swiss court rules that Nazi salute may be ‘personal statement’, not racism’, *The Guardian*, 22 May.

¹³⁹ A. Sehmer (2015) ‘In which countries is it illegal to perform the Nazi salute?’, *Independent*, 20 July.

¹⁴⁰ Legal and Social Issues Committee (2021), *op. cit.*

¹⁴¹ *Public Order Act 1986* (UK)

¹⁴² Crown Prosecution Service (2022) ‘Newcastle fan pleads guilty to Nazi salute’, Crown Prosecution Service website, 27 April.

¹⁴³ BBC News (2018) ‘Man guilty of hate crime for filming pug’s ‘Nazi salutes’’, *BBC News*, 20 March.

¹⁴⁴ Associated Press (2014), *op. cit.*

5 | Stakeholder responses to the Bill

There was significant response and commentary after the Victorian Government's 2022 amendments. Banning the Nazi symbol was largely supported across the political spectrum, with both the Opposition and the Greens releasing statements to condemn the performance of salutes in March and to support the 2022 Bill when it was introduced.

The protests in March and May outside Parliament House, plus Tasmania's introduction of Nazi salute laws, added pressure to the government to introduce the Bill. The responses below indicate support or opposition to bans of Nazi symbols and salutes in principle, not necessarily the Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023.

Political party responses

The ban on Nazi symbols in 2022 received bipartisan support from the major parties in Victoria and broad support from the crossbench, with only the Liberal Democratic Party opposing the Act on the grounds of free speech.¹⁴⁵ This support has mostly been carried over to the proposed Bill regarding Nazi salutes.

Despite the focus on neo-Nazis and far-right groups and the associated threat of terrorism and violence, the Victorian Government was keen to emphasise that the Bill is a means of reducing harm to Victoria's cultural and religious communities.¹⁴⁶

The Liberal-Nationals opposition did not release a formal statement supporting or opposing the Bill, but strongly supported a ban on the salute when it was proposed earlier in 2023. Leader of the Opposition John Pesutto and Deputy Leader David Southwick—whose campaign materials had been defaced with Nazi symbols in the 2022 election campaign (see above)—released joint statements immediately following the 13 May protests, in which they committed to working with the government to instigate a ban.¹⁴⁷

David Southwick also made a joint statement with Shadow Minister for Police Brad Battin following the 18 March protests supporting the police response and urging the government to increase police powers to deal with people performing the salute.¹⁴⁸ After the Bill was announced in August 2023, David Southwick stated that 'banning the Nazi salute is an important step in the right direction, but the government needs to give Victoria Police the training, resources and funding to enforce it'.¹⁴⁹

The Victorian Greens called for an expansion of anti-vilification laws following the March 2023 protests, stating that while they welcomed the earlier commitment from the government to consider banning the Nazi salute, 'it needed to be part of a broader response to the growth of these dangerous, anti-trans movements', specifically identifying the need for more protections for LGBTIQ+ communities.¹⁵⁰ The party repeated this sentiment following the Bill's introduction in August, welcoming the proposed reforms but stating that 'Labor has kicked the can down the road for far too long'.¹⁵¹

¹⁴⁵ J. Quilty (2023), 'Second reading debate: Summary Offences Amendment (Nazi Symbol Prohibition) Bill 2022', *Debates*, Victoria, Legislative Council, 21 June, p. 2180.

¹⁴⁶ J. Symes, Attorney-General (2023), *Nazi salute and symbols to be banned in Victoria*, media release, 28 August.

¹⁴⁷ J. Pesutto & D. Southwick (2023) *Joint statement on neo-Nazi protest*, media release, 13 May.

¹⁴⁸ D. Southwick & B. Battin (2023) *Joint statement on neo-Nazi incident*, media release, 18 March

¹⁴⁹ B. Hill, (2023), 'Nazi salute ban advances', *Australian Jewish News*, 1 September, p. 5.

¹⁵⁰ G. de Vietri (2023), *Victoria's anti-vilification laws must be expanded to protect LGBTIQ+*, media release, 21 March.

¹⁵¹ T. Cosoleto & C. Goode (2023) 'Ban on Nazi salute, symbols one step closer in Victoria', *AAP*, 29 August.

Responses from community groups

The Bill has been broadly supported by community groups, who say that the Bill at least goes some way to acknowledging the harm the salute can cause for already vulnerable members of the community. However, some have raised concerns regarding potential impacts on Buddhist, Hindu and Jain communities, the long list of exemptions that might be used to circumvent being charged, the potential for the ban to amplify far-right extremist groups, and the restrictions the Bill places on personal liberties and free speech. The Bill has been opposed by some legal experts and historical collectors' groups.

Jewish community and advocacy groups

The 2022 amendments received broad support from a range of Jewish community groups, and it is expected that similar support will meet the salute ban. The Anti Defamation Commission has been vocal in its support for a ban of the salute, stating that whilst the ban wouldn't completely eradicate antisemitism or other religious and cultural discrimination, 'it says we are standing up for democracy, we are standing up for inclusivity and respect and we are saying no to hatred'.¹⁵² Other organisations to support the Bill include the Executive Council of Australian Jewry, the Australia/Israel & Jewish Affairs Council and the Jewish Community Council of Victoria.¹⁵³ Jewish LGBTIQ+ group Aleph also strongly supported a ban when it was proposed earlier in the year.¹⁵⁴

Although not commenting specifically on the Victorian Bill, many Jewish community and advocacy groups have expressed doubt a ban on symbols and salutes would be effective in reducing harm to the community. Speaking on the federal Bill, Australian Jewish Democratic Society representative Larry Stillman said neo-Nazis 'don't care if they are in jail' and that more focus is needed on education and root-cause solutions.¹⁵⁵ The group have instead advocated instead for long-term community engagement with disenchanted citizens likely to be infiltrated by neo-Nazi groups.¹⁵⁶

Other religious and cultural groups

The Buddhist Council of Victoria and the Hindu Council of Australia both supported the 2022 amendments,¹⁵⁷ which were developed in close consultation with these groups (as well as the Victorian Jain community) to ensure use of the swastika as a religious symbol was not banned under the Act.¹⁵⁸ These groups have released significant community education campaigns since the passing of the 2022 amendments, distinguishing their use of the swastika from the banned Hakenkreuz. The 2022 amendments were also supported by the Ethnic Communities Council of Victoria.¹⁵⁹

The Islamic Council of Victoria raised concerns regarding the federal Bill, as did the Australian Muslim Advocacy Network, stating the proposed symbol ban posed a risk of further conflating Islam with Islamic extremist groups by outlawing sacred symbols that have been co-opted by these groups.¹⁶⁰

¹⁵² T. Stayner (2023) 'Victoria bans Nazi salutes', *SBS News*, 29 August.

¹⁵³ Executive Council of Australian Jewry (2023), *Disgraceful neo-Nazi display in Melbourne CBD*, media statement, 19 March; B. Hill (2023) 'Holocaust survivors consulted over development of new laws', *The Australian Jewish News*, 31 August;

¹⁵⁴ Aleph Melbourne (2023) *Aleph Melbourne condemns neo-Nazis at anti-transgender rally*, media release, 18 March.

¹⁵⁵ (2023) 'Nazi swastika sparks fear of physical danger in society's fringes' *Border Mail*, 3 May, p. 17.

¹⁵⁶ Australian Jewish Democratic Society (2023) *op. cit.*, p. 5

¹⁵⁷ Buddhist Council of Victoria (2022) 'Swastika education awareness campaign', BCV website.

¹⁵⁸ N. Hutchins Minister for Police and Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support (2022), *op. cit.*

¹⁵⁹ Ethnic Communities Council of Victoria (2021), *ECCV supports proposed Nazi symbols ban and anti-vilification protections*, media release, 2 September.

¹⁶⁰ Islamic Council of Victoria (2023) *Parliamentary Joint Committee on Intelligence and Security, Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures)*

Uniting Church Australia raised free speech concerns during the inquiry into anti-vilification protections:

Are we trying to prevent people who might see a public display of a hateful symbol being harmed by it? Are we trying to say people who hold hateful views should not be allowed to publicly express them?¹⁶¹

LGBTIQ+ groups

LGBTIQ+ advocacy groups, including the Victorian Pride Lobby, largely supported the announcement of a ban on Nazi symbols in 2022.¹⁶²

The March 2023 rally was attended by many LGBTIQ+ advocates to counter protest the anti-trans groups, and the men displaying the Nazi salute were holding a specifically anti-trans banner. LGBTIQ+ advocate groups and other community groups therefore strongly condemned the salute and called for more protections for Victoria's LGBTIQ+ communities, specifically identifying the harm caused by the salutes.¹⁶³

Other groups

GetUp! and the Asylum Seeker Resource Centre have also supported in principle a ban on symbols and salutes.¹⁶⁴ At the inquiry into Victoria's anti-vilification protections, the Victorian Association of WW2 veterans from the ex-Soviet Union strongly advocated for the ban.¹⁶⁵

Civil liberties group Liberty Victoria (LV) has expressed concern about the Bill's potential to infringe on personal liberties and has questioned whether criminalising symbols and gestures would be effective against far-right extremism. LV instead advocates for 'addressing social and structural issues' that are fueling the rise of the far-right.¹⁶⁶

Responses from legal and extremism experts

Most legal and far-right extremism experts agree that banning the salute would be useful in minimising harm to Victoria's vulnerable communities, but warn that it is only a first step to eradicating extremism. Deakin University political sociologist Dr Josh Roose has flagged potential challenges in enforcing the ban and the tendency of far-right groups to adapt their gestures to avoid detection and arrest.¹⁶⁷

The HRLC and the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) support a ban on symbols and salutes in principle but advocate a broader approach, rather than a specific ban on Nazi symbols.¹⁶⁸ This has been echoed by the Online Hate Institute,¹⁶⁹ and the AVERT Research Network.¹⁷⁰ The decision to ban the salute was also supported in a

Bill 2023, July, Canberra, The Committee; Australian Muslim Advocacy Network (2023) [Parliamentary Joint Committee on Intelligence and Security, Review of the Counter-Terrorism Legislation Amendment \(Prohibited Hate Symbols and Other Measures\) Bill 2023](#), July, Canberra, The Committee.

¹⁶¹ Legal and Social Issues Committee (2021), *op. cit.*, p. 176

¹⁶² S. Thomas (2021) '[Victoria to strengthen laws to protect LGBT community from hate](#)', *Star Observer*, 2 September.

¹⁶³ Equality Australia (2023) [Trans, LGBTIQ+, multicultural, faith and women's organisations condemn Victorian protests](#), media statement, 19 March.

¹⁶⁴ Legal and Social Issues Committee (2021), *op. cit.*

¹⁶⁵ *ibid.*

¹⁶⁶ Liberty Victoria (2023) [Liberty Victoria statement on the anti-trans and Nazi protestors](#), media statement, 20 March.

¹⁶⁷ J. Roose (2023) '[Would a law banning the Nazi salute be effective – or enforceable?](#)', *The Conversation*, 20 January.

¹⁶⁸ Victorian Equal Opportunity and Human Rights Commission (2020) Submission to the Legal and Social Issues Committee, *Inquiry into anti-vilification protections*, January, Melbourne, The Committee.

¹⁶⁹ Legal and Social Issues Committee (2021), *op. cit.*

¹⁷⁰ AVERT Research Network (2021) [Submission to the Legal and Social Issues Committee, Inquiry into extremism in Victoria](#), May, Melbourne, The Committee.

joint statement by the Commissioner for LGBTIQ+ Communities, the Victorian Multicultural Commission and the Victorian Equal Opportunity and Human Rights Commission.¹⁷¹

The Lowy Institute opposes the ban, doubting its effectiveness to curb far-right extremism by pointing to the fact that Germany has outlawed Nazi symbols and salutes for decades and yet still faces a rising far-right movement.¹⁷²

¹⁷¹ R. Allen, T. Fernando, & V. Ngyuen (2023) *Joint statement from the Commissioner for LGBTIQ+ Communities, the Victorian Multicultural Commission and the Victorian Equal Opportunity and Human Rights Commission*, media release, 20 March.

¹⁷² L. Khalil (2023) *Commentary: Banning the Nazi salute opens a Pandora's box*, The Lowy Institute website, 29 March.

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Suggested citation

E. Florence (2023), *Summary Offences Amendment (Nazi Salute Prohibition) Bill 2023*, Parliamentary Library & Information Service, Melbourne, Parliament of Victoria.

Acknowledgements

The Parliament of Victoria Library acknowledges the Traditional Owners of the lands on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past and present, and we value Aboriginal and Torres Strait Islander history, culture and knowledge.

The author would like to thank Angus Tonkin, Annie Wright, Ben Reid, Caleb Triscari, Caley Otter, Debra Reeves and Marianne Aroozoo for their assistance in the preparation of this paper.

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Bill Brief

Parliamentary Library & Information Service

ISSN: 2204-4779 (Print) 2204-4787 (Online)