

## Response to Proposed Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023

### About Multicultural Youth Advocacy Network Australia (MYAN)

MYAN is the national peak body representing the rights and interests of young people from refugee and migrant backgrounds in Australia, and those who work with them.

As of 2019, 25% of young people aged 15–24 in Australia were born overseas and 300 languages were spoken in Australian homes. MYAN’s vision is that all young people from refugee and migrant backgrounds are supported, valued and thriving in Australia. MYAN works in partnership with young people, government, and non-government agencies at the state and territory and national levels to ensure that the needs of young people from refugee and migrant backgrounds are recognised and addressed in policy and service delivery.

MYAN provides expert policy advice, undertakes a range of sector development activities, and supports young people to develop leadership skills. MYAN has developed the National Youth Settlement Framework to support a targeted and consistent approach to addressing the needs of newly arrived young people settling in Australia.

MYAN remains committed to contributing to the protection and strengthening of Australia’s multiculturalism. It is fundamental to our vision and core business and we value working collaboratively government and the community in achieving this. A strong multicultural and socially cohesive Australia is fundamental to our success as a nation, and particularly significant for young people who arrive in Australia as refugees and migrants, and those born in Australia to refugee or migrant parents.

MYAN acknowledges the traditional custodians upon the lands on which we work and pay respect to their Elders past and present. We acknowledge that Sovereignty was never ceded and recognise that this land was, is, and always will be Aboriginal Land. We work towards reconciliation with, and self-determination for the First Peoples of this country.

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## About this submission

MYAN welcomes the opportunity to make a submission regarding the proposed Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023. This submission provides a national perspective, drawing on the MYAN's experience working with young people aged 12-24 from refugee and migrant backgrounds, and our state and territory partners across Australia.

MYAN supports a ban on the public display of Nazi Symbols, acknowledging the racism, hatred, and division these symbols perpetuate which significantly impacts the wellbeing of individuals, including young people from diverse backgrounds.

## Background

The use of Nazi symbols (including symbols, flags, uniforms and salutes) and their explicit association with racist, fascist, and extremist ideologies pose a significant threat to the principles of inclusive democracy and multicultural harmony. A strong multicultural, inclusive, and socially cohesive Australia is fundamental to our success as a nation, and MYAN remains committed to contributing to the protection and strengthening of Australia's diversity, inclusiveness, and multiculturalism. This is fundamental to our vision and core business and we value working collaboratively with government and the community in achieving this.

These symbols, particularly when used by far-right and white nationalist groups, undermines the sense of safety and security for all individuals living in Australia, particularly for those who have historically been targeted by Nazi policies of genocide, mass murder, and persecution, including Jews, Roma people, the disabled, and LGBTIQ individuals.

The recent far-right and neo-Nazi presence at protests across Australia has had a significant impact on the young people we work with, including young LGBTIQ+ people particularly affected by their explicit and hateful anti-LGBTIQ+ rhetoric. It is imperative that Australia takes a strong stance against the use of Nazi symbols, and in particular against the groups that use them and their associated ideologies to incite violence, promote hatred and install fear.

Australia's diversity is a strength. However, to fully capitalise on this strength, it is essential that everyone in Australia has the opportunity to participate fully, safely, and equally. Unfortunately, hate poses a significant threat to this goal. Hate is a destructive and divisive force that creates significant barriers to socio-economic and civic participation and inclusion. Whether directed at someone for their race, religion, gender, sexual orientation, or disability, hate increases inequality and entrenches disadvantage.

Although white nationalistic ideology has existed in Australia since colonisation<sup>1</sup>, since 2001 Australia has witnessed the formation and rise of numerous alt-right or neo-Nazi groups including the True

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<sup>1</sup> Champion. K (2019) A "lunatic fringe?" The persistence of right wing extremism in Australia Perspectives on Terrorism, Volume 13 Issue 2.

Blue Crew, the United Patriots Front, the Conservative National Party, the Antipodean Resistance, the Soldiers of Odin, Identity Australia, Reclaim Australia, the National Socialist Network, and the Lad's Society, amongst many others.<sup>2</sup> These groups are known for combining online organisation with intimidating street activity.<sup>3</sup>

Research has identified a number of commonalities shared across these contemporary groups. Although there can often be division between and within these groups<sup>4</sup>, they perceive themselves as speaking on behalf of the 'common person', and share some or all of the follow characteristics:

- False ideas of biologically or culturally separate races and false narratives of threat to the imagined "white nation".
- A nostalgic, ultra-nationalism view of Australia, where 'true Australians' shared values and cultural characteristics that are threatened by 'outsiders' who are the 'risk' to Australia's social fabric, including non-white immigrants, Muslims, and those who support Aboriginal land rights, multiculturalism, environmentalism, human rights and animal rights.
- Anti-Semitism.
- A stereotyping and deep opposition toward Islam, Muslims and Muslim cultures.
- A belief that immigrants must assimilate into a 'unitary' Australian culture.
- A general disdain for progressive people and ideas.
- A strong sense of heterosexual gender distinction whereby men are 'heroic' protectors of 'capable but vulnerable' women and thus have a general disdain for feminists and their supporters and the LGBTIQ+ community.
- General distrust in government and government systems.
- A willingness to defend the state against what they consider to be poor government policies that threaten the integrity of the nation (including democratically elected governments).
- A strong support of national defence including a willingness to support violence and militant activities in defence of nation and their perceptions of national culture.<sup>56</sup>

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<sup>2</sup> Ibid.

<sup>3</sup> Markus, Andrew (2018) The far right's creeping influence on Australian politics Available at: <https://theconversation.com/the-far-rights-creeping-influence-on-australian-politics-93723>

<sup>4</sup> Ibid.

<sup>5</sup> Human Rights Council of Australia (2020) Submission to the Senate Legal and Constitutional Affairs References Committee Inquiry into Nationhood, National Identity and Democracy Available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Nationhood/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Nationhood/Submissions)

<sup>6</sup> Lewis, J., Lewis, B., Cameron, R., Pond, P., Ghumkhor, S. and Mohamud, M.H., (2017) Mediating Extremist Violence: A Report on the Role of Media, Far-Right Politics and Gender in Extremist Violence and Social Cohesion in Victoria. Melbourne, Vic, Australia: Community Resilience Unit of the Department of Premier and Cabinet.

Far right extremist groups adopt sophisticated recruitment and radicalisation techniques, including the deliberate targeting of young people, similar to those seen among jihadists.<sup>7</sup> The ability to display Nazi and fascist symbols emboldens white supremacy by making their hate filled, racist intentions clear and aids public recruitment drives.

Nazi symbols, when used to incite hatred and violence, have no place in a diverse society. Outlawing their public display represents an important step towards the creation of a safer and more cohesive Australian society.

### **Recommendations and considerations for the Committee**

1. Overall, MYAN believes that legislation banning the public display of Nazi hate symbols and empowering the police to remove and confiscate hate paraphernalia is a useful tool in countering the proliferation of extremist ideologies, but more action is required to tackle the growing problem of far-right extremism in Australia. MYAN's key concern is that the anti-Semitic, racist, homophobic, misogynistic and ableist foundations of these movements presents a critical risk to Australia's community cohesion.
2. MYAN condemns extremism and hate speech in all its forms, and while we support the banning of Nazi symbols, we also call for stronger legal responses to hate crimes and racial vilification in Australia, including taking steps to criminalise hate speech in federal law, and more effort to regulate systems and forums that promote hateful ideologies.
3. MYAN recommends that the Committee conduct a thorough investigation into any limitations and challenges that other states in Australia have encountered after implementing similar bans on Nazi symbols. Additionally, MYAN recommends that the Committee engage in a more comprehensive consultation process prior to implementing this change.
4. Should the Bill pass, we recommend the inclusion of clear provide exemptions or exclusions for the display of certain symbols when the purpose is clearly not to promote hatred to avoid instances of incorrect reporting being made by the public i.e. for religious or educational purposes. For example, the swastika in certain formats has, for centuries, been a religious and cultural symbol in several eastern and European traditions. Similarly, the use of Nazi symbols to educate the public about the appalling history of Nazism or for other genuine academic, research, scientific or artistic purposes, or other purposes in the public interest, should not be proscribed.

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<sup>7</sup> Human Rights Council of Australia (2020) Submission to the Senate Legal and Constitutional Affairs References Committee Inquiry into Nationhood, National Identity and Democracy Available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Nationhood/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Nationhood/Submissions)

5. Similarly, we recommend the inclusion of a provision that explicitly allows for the display of Nazi symbols appropriated by groups that were persecuted under the Nazi regime to defend the rights and dignity of those groups, for example the pink triangle which has been used by the LGBTQI+ community as a symbol of LGBTQI+ activism.
6. The proposed offense relates solely to the display of Nazi symbols and does not encompass other symbols of hate. White supremacists and other extremists have long been fond of signs, symbols, logos and emblems, the meanings of which are not always obvious to the uninformed observer. Australia must remain vigilant in its efforts to combat hate symbols and their associated ideologies. It is recommended that the scope of this offense be broadened to include all symbols that promote violence, terrorism, or genocide.
7. Thus, legislation would need to be flexible enough to accommodate the constant evolution of new hate symbols.
8. Any such expansion must be accompanied by a provision that mandates consultation with relevant bodies/persons before listing a symbol of hate. This will ensure that the regulation is well-informed and responsive to the intricate nature of specific symbols.
9. The proposed offense is limited to "public display." According to the Explanatory Memorandum, "public display" is intended to encompass any form of communication of symbols to the public or in a public place. This suggests that the Bill will likely be interpreted to include both online and offline publication.

To strengthen the Bill, we recommend it definitively cover online publication where harm in Australia can be established. This would ensure that the Bill is comprehensive and effective in addressing the issue of public display of prohibited symbols. We recommend, similar to the Queensland Bill, expanding this to explicitly include a greater range of actions including *"publicly distributes, publishes or publicly displays a prohibited symbol."* Similarly, as research indicates that social media has "emboldened the expression of right-wing extremist views and perspectives" we recommend the government take urgent measures to address online radicalisation and right wing extremism propaganda by limiting its appeal, and reducing access to extremist material on-line.

10. MYAN recommends that this proposed Bill could be expanded to address and strengthen laws that deal with hate crimes and vilification, including providing stronger protection for individuals who are the targets of hate crimes. Hate crimes have no place in our society, and perpetrators must be held to account; yet Australia lacks a clear and consistent definition of hate crime. The laws that protect Australians from different forms of hatred are diverse, and the differences between states and territories mean people can be reluctant to report hate crimes as they are unaware of any protections under these laws. MYAN recommends that hate crimes based on a person's individuals who are targeted due to their disability, race,

religion, sexual orientation, or gender identity or expression should be treated as criminal offenses as they are in other Commonwealth countries.

For example, Scotland has implemented various laws that provide additional protection to individuals who are targeted due to their disability, race, religion, sexual orientation, or transgender identity. This means that the courts and law enforcement can take these crimes more seriously when it can be proven that the perpetrator acted with malice and ill-will towards the victim based on their association with a protected group. The Scottish parliament has recently introduced a new bill that adds age-based hate crimes to the list of protected groups. This is a significant step towards ensuring that all individuals are protected from discrimination and violence, regardless of their age. Scotland is setting an example for other countries to follow. It is crucial that we continue to prioritize the protection of vulnerable groups and hold perpetrators accountable for their actions.

11. We recommend that the Australian Federal Government invest in an immediate review of Australia's terrorism laws to ensure they are equipped to respond to the threat of right-wing extremism.