




Speech By
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MEMBER FOR MOGGILL

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**CRIMINAL CODE (SERIOUS VILIFICATION AND HATE CRIMES) AND OTHER
LEGISLATION AMENDMENT BILL**

 **Dr ROWAN** (Moggill—LNP) (4.00 pm): I rise to address the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023. There is no place in our society for those who wish to cause extreme harm and are motivated by serious hatred and contempt of others, be it on religious, racial, sexuality or identity grounds. Equally, there is simply no place in our society for the display or distribution of heinous symbols of hatred and discrimination that vilify and harm others. It is within this context that the Queensland parliament is considering this legislation.

It must also be noted that the Queensland parliament is debating this legislation at a time when Australia and the world are seeing a sudden rise in the display and use of abhorrent symbols of violence on the basis of race and religion with the recent appalling and deplorable actions of the Hamas terrorist organisation. The images of hatred we have seen from rallies across Australia in support of Hamas terrorists in recent days must be condemned. Elected representatives in particular cannot stand silent or be soft or even reserved on this matter. There can be no ambiguity and no hesitation to call out the appalling actions we have seen and continue to see with respect to the Hamas terrorist organisation and various rallies in support of it here in Australia.

On 29 March 2023 the former attorney-general and minister for justice introduced this legislation into the Queensland parliament specifically to amend the Anti-Discrimination Act 1991, the Criminal Code Act 1899, the Police Powers and Responsibilities Act 2000 and the Summary Offences Act 2005. As articulated by the Legal Affairs and Safety Committee in report No. 49 of the 57th Parliament, the objective of the legislation is to specifically implement recommendations 7, 8, 9 and 16 of the committee's previous report No. 22, *Inquiry into serious vilification and hate crimes*. In its detailed consideration of this legislation, the Legal Affairs and Safety Committee identified a number of matters and issues raised by various stakeholders, along with matters pertaining to legislative compliance including the Legislative Standards Act 1992 and the Human Rights Act 2019. Other issues identified included but were not limited to the attributes that are to be protected, the definition of a public act in the context of serious vilification, the removal of the requirement for a Crown Law officer's consent, the increase in the maximum penalty to three years imprisonment, as well as a number of issues related to prohibited symbols, including a prohibition by regulation not legislation, the reversal of the onus of proof, impacts on freedom of expression and allowing police to search a person or vehicle without a warrant. I also note there were other matters raised pertaining to the need for training and education and improved data collection and reporting in relation to serious vilification and hate crimes. Accordingly, in its report tabled on 30 June 2023 the committee made nine recommendations, including that the legislation be passed, with further recommendations so as to ensure that the legislation is implemented in a manner that achieves its objectives.

Central to this legislation is a new prohibited symbols offence where the public display, public distribution or publication of prohibited symbols in circumstances that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended is banned unless the person has

a reasonable excuse. Such symbols of hate that have already been canvassed for prohibition—and rightly so—are those related to both the Nazi and ISIS ideologies. I note also that existing offences will be amended so as to provide for a new circumstance of aggravation for offences including common assault, going armed so as to cause fear, threatening violence, assault causing bodily harm, wilful damage, trespass and public nuisance. Importantly, those who commit these offences while motivated either in full or in part by hatred or serious contempt based on race, religion, sexuality, sex characteristics or gender identity will face increased penalties including longer custodial sentences.

These laws serve as a shield against hatred, vilification and discrimination, enabling individuals to freely live where they are not subject to harm based on their race, religion, gender or sexual orientation. Such laws provide protection for our most vulnerable communities whilst also serving as a powerful deterrent, dissuading potential offenders from engaging in discriminatory and hateful acts. Indeed, the intent of this legislation has been broadly supported by stakeholders who contributed to the consideration by the Legal Affairs and Safety Committee including the Queensland Law Society, Queensland Family and Child Commission, PeakCare, the Aboriginal and Torres Strait Islander Legal Service, Equality Australia, the Caxton Legal Centre, the Multicultural Queensland Advisory Council and Multicultural Australia.

That being said, and as I referred to earlier in my contribution, there are a number of matters and concerns that have been raised in relation to specific provisions of this legislation. In particular, I wish to reflect on the prohibited symbols offence. It is important to understand that, contrary to the practice of other jurisdictions, there are no specific symbols that are banned within this legislation. Rather, this legislation provides for the relevant minister to make a determination on such symbols through regulation instead. Whilst the minister will be required to consult with the chairperson of the Crime and Corruption Commission, the Human Rights Commissioner and the Commissioner of the Queensland Police Service before the minister proscribes a prohibited symbol by regulation, a number of submitters raised important concerns. As outlined in the committee's report, Professor Graeme Orr, an expert in parliamentary and electoral law at the University of Queensland, submitted—

... it is not clear why the ordinary principle that criminalisation of conduct is a matter for Parliament is not followed in this Bill. Legislating to ban particular symbols would involve more representative and public debate about public misuse of such symbols. It would provide a pre-emptive veto of any misuse of executive proposals to prohibit such symbols. Such debate might in itself be educative in condemning extreme symbols, as well as limiting the potential for executive misuse of the power in the Bill.

Similar sentiments were shared by the Queensland Council for Civil Liberties, which reiterated its view that the fundamental principle that creating criminal liability should not be made by regulation and that the decision to criminalise conduct should be made by the parliament to ensure democratic accountability.

As a number of pivotal world events have demonstrated, particularly over the last few years, there can often be much conjecture as to what can fairly be considered as messages or symbols of genuine hate as opposed to just being messages or symbols that one may find uncomfortable or disagreeable. That is why there are those who are concerned that such laws can potentially be unevenly applied and even lead to overreach and unnecessary censorship. It is therefore crucial that these laws are enforced and exercised fairly and impartially, maintaining an appropriate balance between protecting individuals from hate speech and preserving the right to express unpopular or controversial opinions.

In concluding my contribution today I wish to reaffirm the Liberal National Party's absolute stance against any form of vilification and strong support for such vilification to be eliminated. Robust hate crime and vilification laws are important to safeguard the principles of equality and respect in a diverse society. Queensland and Australia can be proud of our rich heritage and diverse multicultural communities. They are cause for celebration and never vilification. Whilst concerns about freedom of expression and potential overreach are understandable, there must be a careful and nuanced approach to this legislation in order to strike a balance that protects both individual rights and the collective wellbeing of our society in its entirety.

Finally, I want to thank all stakeholders who contributed to the Legal Affairs and Safety Committee's consideration of this legislation and the committee members including the deputy chair, the Liberal National Party's member for Currumbin, as well as the member for Scenic Rim and members opposite. I acknowledge the shadow minister, the member for Clayfield. Given the events of a little bit earlier, I acknowledge the members for Greenslopes, Thuringowa and Lytton and the security services for the assistance they provided.