



Speech By
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MEMBER FOR CURRUMBIN

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

 **Mrs GERBER** (Currumbin—LNP) (12.15 pm): As the deputy chair of the Legal Affairs and Safety Committee, the 2022 inquiry into serious vilification and hate crimes, which resulted in the bill before the House, was a profound experience. Hearing from Queenslanders who have firsthand experience with serious vilification and hate crimes left a lasting impact on me personally. It was clear then and it remains clear now that more needs to be done to protect all Queenslanders from this heinous behaviour. I love our diverse communities and I want to see them protected from discrimination, vilification and hate. There is no place in our community for people being vilified simply because of their race, religion, gender, sexual orientation or nationality.

Before I get into the details of the bill, I want to acknowledge the horrific offences currently unfolding in Israel and utterly condemn the abhorrent attacks by the militant Hamas on Israel. To our Jewish community, which during the course of our inquiry into serious vilification and hate crimes told us about the vilification and hate crimes committed against them, this is yet another abhorrent blow. The people of Israel are under attack by a terrorist organisation and I want our Jewish community and the people of Israel to know that we are here for them during this dark hour. The killing and capture of innocent civilians should be condemned. For our own communities I want to reiterate that discrimination, vilification and hate have no place in our society.

I note that this bill will amend the Anti-Discrimination Act 1999, the Criminal Code, the Police Powers and Responsibilities Act 2000 and the Summary Offences Act 2005. In short, the bill aims to implement the legislative reforms recommended by the committee's inquiry into serious vilification and hate crimes, specifically recommendations 7, 8, 9 and 16: by removing the requirement for written consent of a Crown Law officer before commencing a prosecution for serious vilification; by establishing a circumstance of aggravation for existing offences in the Criminal Code and Summary Offences Act where the criminal conduct is motivated by hate or serious contempt for a person based on one of the protected attributes of the person or the presumed protected attributes of the person; by relocating the section in the Anti-Discrimination Act that deals with serious vilification, namely section 131A, into the Criminal Code; and by establishing a criminal offence that prohibits the display of hate symbols, including those relating to Nazi and ISIS ideology, with considered exceptions to the prohibition.

This House should also note that the committee's report of January 2022 contains 17 recommendations and this bill enacts only four of those recommendations. Further, the implementation is delayed. The former attorney-general said that it would be introduced in 2022 and we have had to wait until the end of March of this year to see it introduced. One of the committee recommendations that the government is not acting on in this bill is around expanding the attributes currently protected under the anti-vilification provisions to include disability. Many stakeholders raised the need to include disability as a protected attribute under sections 124A and 131A of the Anti-Discrimination Act, these being the current sections in the Anti-Discrimination Act that deal with vilification and serious vilification on the grounds of race, religion, sexual identity or gender identity.

It is important to understand here that vilification and discrimination are not the same. Vilification is more serious and involves someone expressing hatred, disrespect or ridicule for people because of who they are and encouraging other people to think or do the same. Accordingly, an extremely obvious omission from protection is people suffering from vilification on the grounds of disability or impairment. I note that disability is a protected attribute in the ACT and in Tasmania. Queensland Advocacy Incorporated, in calling for expanding the protected attributes to include disability, observed—

People with disability face ongoing vilification and harassment on the basis of their disability. This includes physical and verbal abuse and can be perpetrated by strangers, organised groups or people known to them.

However, this bill does not amend the attributes to include people with a disability or impairment. Rather, it relocates the section of the Anti-Discrimination Act that deals with serious vilification and hate crimes into the Criminal Code. The minister and the Department of Justice and Attorney-General have advised that the work to expand protected attributes will be done with the review of the Anti-Discrimination Act following the *Building belonging* report. However, given the section that deals with serious vilification—that is, section 131A—will no longer be in the Anti-Discrimination Act, I am concerned that the attribute list should have been dealt with now. Further, given the same attribute list has been used for the new circumstance of aggravation on existing offences and the new criminal offence prohibiting the display of hate symbols, it seems to me that the work to properly expand the list of protected attributes should have been done now in this bill in order to get the offence provisions right from the beginning.

I turn to the new offence provision prohibiting the display of hate symbols. The bill provides a framework to prohibit symbols or images that represent an ideology of extreme prejudice against a particular group based on the protected attributes I have already discussed. The new offence will capture a broad range of circumstances including public display of tattoos and public distribution or publication of symbols online that are deemed prohibited. There are exceptions, of course, including: for educational reasons; for a genuine artistic, religious, historical, legal or law enforcement purpose; for a public interest purpose; or to oppose the ideology represented by the prohibited symbol.

It is important to note that the bill before the House does not proscribe specific symbols as banned; rather, it provides that the minister can make the decision to proscribe a symbol or image as prohibited through regulation. During the committee process submitters raised concerns with this power resting with the minister and being able to be exercised through regulation, making the point that the creation of serious criminal offences should be by legislation, not regulation. The Queensland Law Society stated that it is their long-held position that the highest levels of parliamentary oversight are appropriate in this circumstance such that the prohibition should be made by legislation and not regulation. The Queensland Council for Civil Liberties stated—

Finally, and most critically the law allows the Minister to prescribe by regulation the prohibited symbols. This violates what is in our view a fundamental principle that the key concepts creating criminal liability should not be made by regulation. The decision to criminalise conduct should be made by the Parliament, to ensure democratic accountability.

Others pointed out that there should be consultation with relevant stakeholders. Under the bill the minister must consult with the chairperson of the Crime and Corruption Commission, the Human Rights Commissioner and the Commissioner of the Police Service before prohibiting a symbol via regulation. However, Multicultural Australia requested that consultation be extended to encompass the views of the relevant communities. The subjectivity of the new offence provision was also raised by a number of submitters as potentially problematic, with concerns that it leads to a low level of criminality because the test is subjective rather than objective.

Notwithstanding all of the specific concerns that I have raised here today, overall the bill was largely supported by submitters including the Queensland Law Society, Queensland Family and Children Commissioner, PeakCare, Aboriginal and Torres Strait Islander Legal Service, Multicultural Queensland Advisory Council and Multicultural Australia. The bill will be supported by the LNP.

Lastly, I want to reiterate the importance of education, because the issue of hate and vilification cannot simply be dealt with by the passing of more and more laws restricting freedoms. Recommendation 17 is that government develop community education campaigns in conjunction with organisations such as Multicultural Australia to educate the community about vilification and hate. We need to provide more and better education to our community and we need to be integrating this education in our schools. We must remain focused on the root causes of these types of crime. Education plays an important role in combating hate crimes and vilification in Queensland.

In short, vilification of any Queenslanders or the targeting of Queenslanders based on their race, religion, sexuality or gender identity—and, I would submit, their disability—is a blight on society. It must be called out and corrected as a matter of great urgency. I want to take the opportunity to once again thank everyone who submitted testimony throughout the committee inquiry and consideration of the bill. Your willingness to share your personal experiences has proven invaluable. It enabled us to gain a

comprehensive understanding of the spectrum of vilification and hate crimes as well as the profound impact these incidents have on our entire community. Your voices have illuminated a path towards a more inclusive and empathetic society.

Finally, I want to acknowledge the former member for Stretton. The committee's report is dedicated to his memory. The late Duncan Pegg was, as I think everyone in this chamber will agree, a strong advocate for an inclusive Queensland society regardless of race, religion or ethnicity. I personally share that view with him along with a deep commitment to eliminate hate and prejudice in our community.