



Speech By
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MEMBER FOR MACALISTER

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

 **Mrs McMAHON** (Macalister—ALP) (4.09 pm): I rise to speak in support of the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill. I commend the Legal Affairs and Safety Committee for its report No. 22, *Inquiry into serious vilification and hate crimes*, which was tabled in January last year. The bill before the House gives effect to four of the 17 recommendations from that report. I note the previous contributions of members in relation to the amendments that outline the process for proscribing prohibited symbols. I think we can all agree that there is hate in some of the symbols that we have seen. What will be proscribed in legislation will have a good and lasting impact on the peaceful amenity of Queensland, particularly for some of the more persecuted members of our community.

I was proud to be a member of the Legal Affairs and Community Safety Committee that inquired into and reported on the Human Rights Bill that was passed last term. For a jurisdiction to have a human rights act requires a level of social maturity and a level of social responsibility. It is the hallmark of a society that seeks to value all members of society equally, regardless of the diversity of the population. The Human Rights Act refers to a number of protected attributes, that is, characteristics that signify a level of vulnerability within a broader community. A mature, sophisticated community and society appreciates and embraces diversity. It understands the richness that comes from it and those with such attributes. We are determined to ensure that everyone is treated with equal levels of dignity and peaceful amenity.

I note my office, and probably those of others, received correspondence around the concept of freedom of speech, particularly the freedom of misinformation under the guise of freedom of expression, as our federal colleagues consider some bills. I note that there is tension within the larger concepts of human rights. One that was acknowledged at the time of the introduction of the Human Rights Act is the right to freedom of expression and the right to freedom from discrimination. It is important to note the comments made by the then anti-discrimination commissioner and now Human Rights Commissioner, Scott McDougall, about the balance between freedom of speech and freedom from discrimination. That was echoed in the Queensland Human Rights Commission submission on this bill, which states—

International law requires that given the significance of the right to freedom of expression, restrictions must be exceptional, subject to narrow conditions, and strict oversight. Any limitations must meet three conditions: legality, legitimacy, and necessity and proportionality.

... the right to freedom of expression carries with it special duties and responsibilities, and may therefore be subject to restrictions ...

Overall, the Queensland Human Rights Commission—which steadfastly believes in and promotes the rights and freedoms of individuals, and the right to freedom of thought, conscience, religion and beliefs—considers that the amendments and the new offences provided for in this bill satisfy the criteria for restricting these rights.

Queenslanders deserve to have a life free from discrimination, a life of safety and security in their homes and in public life and a life free from violence and intimidation. Put simply, freedom of speech does not override a person's freedom from discrimination and vilification. I note that within the Queensland human rights framework there are two types of vilification: unlawful vilification and serious vilification. The first is a civil matter dealt with by the Human Rights Commission. The second is a criminal matter dealt with by police. That is what this bill focuses on.

It was interesting to note that, during the inquiry, the committee heard that since 2021 there had been only five charges laid for serious vilification in Queensland under the current framework—five. Considering the amount of animosity and debate that has occurred in public spaces since that time, that is a remarkably small number. The reasons cited were twofold: firstly, being under the Anti-Discrimination Act, police were unfamiliar with the offence; secondly, even if police were aware of the offence it required written approval from the Director of Public Prosecutions. Police would instead opt for the lesser and more generic public order offences, making it difficult to track and record hate offences in Queensland and difficult to ensure that that level of offence was appropriately dealt with.

It should be noted that when introduced the Queensland Human Rights Act did not include provisions for an offence, unlike other jurisdictions. What we have in this bill is the mechanism that creates the offence provision in the Criminal Code under new section 52A. Serious vilification is what this bill is referring to. Serious vilification uses a threat of harm to a person or their property or incites others to threaten physical harm to a person or their property.

I note that the amendments also include circumstances of aggravation in a range of Criminal Code offences. I understand that several submitters asked for an additional extension to those offences. Certainly I think there is benefit in including offences such as wilful damage graffiti. When I was a police officer that was probably the most common form of racial vilification that we would encounter. Now there will also be circumstances of aggravation in section 6 of the Summary Offences Act, that is, general public disorder offences.

I would like to refer to the irony of submitters using this inquiry into serious vilification to argue their right to freedom of expression. They felt that this bill would deny their freedom of belief and speech to loudly and publicly deny the existence and rights of other groups of people, that is, to dehumanise and to negate their existence. What cannot be denied is the violence and vitriol that follows from that. Hate speech is not just about offending or insulting someone. Those offences exist already. At its core, hate speech is about dehumanising, silencing and negating a person's or group's human rights based on a range of characteristics. I would ask those who are outraged or concerned about the curtailing of their freedom of expression or freedom of belief how often they are singled out in public because of the colour of their skin, their practised religion or presumed religion or because of who they hold hands with.

Many people within those communities are already marginalised and vulnerable. They come from a place of fear. They come from a history of trauma. They know they are different. Believe me, they know. We cannot know the strength it takes to step into a society when you are markedly different and there is prejudice against your mere existence. We cannot know of the anxiety that exists when just leaving the house every day and to then be confronted with visual and verbal displays of animosity and hate that questions your very existence, let alone your peaceable existence.

In this Mental Health Week, we need to examine the impact we, as legislators in this place, have on the wellbeing of Queenslanders. Every piece of legislation we pass has an impact. Ensuring that Queenslanders who are vulnerable and who are the target of hate and violence are safe is a key role for people in this House. It is a key role. One of the main reasons why I stood to be a member of this House was to pass legislation like the one before us today. This is a bill that I am proud to commend to the House.