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9 May 2023

Committee Secretary
Senate Legal and Constitutional Affairs Committee

By email: legcon.sen@aph.gov.au

Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023

Response to Question on Notice

1. At the hearing before the Senate Legal and Constitutional Affairs Committee on 2 May 2023, Michael Stanton, President of Liberty Victoria, took a question on notice from Senator Scarr with regard to reviewing the Hindu Council of Australia's submission on the Bill.¹
2. Liberty Victoria maintains its primary written submission, supplemented by evidence before the Committee, in opposition to the Bill and the prohibition of Nazi symbols.

¹ 2 May 2023, p 28.

3. However, if the display of Nazi symbols is to be criminalised, having regard to the Hindu Council of Australia's submission, Liberty Victoria agrees that:
 - (a) The legislation should refer to the 'Hakenkrauz' rather than the Swastika, and the term 'Nazi Swastika' should be avoided; and
 - (b) There should be a preamble or introductory section noting the significance of the Swastika to the Buddhist, Hindu, Jain and other religions, noting the misappropriation of the symbol by the Nazi Party of the Third Reich, and making it clear that it is not unlawful to display the symbol in the course of bona fide religious activity.
4. We note this approach has been taken in Victoria in the *Summary Offences Amendment (Nazi Symbol Prohibition) Act 2022* (Vic). However, for the reasons advanced in our primary written submission, any defence should not have to be established on the balance of probabilities.
5. It is submitted that this approach would not impede public education and awareness about the prohibited symbol(s). Despite the term Hakenkrauz being used in the Victorian legislation, it is clear that the media and public has understood this to be a ban, in common terms, on the Swastika. Indeed, using the term Hakenkrauz could itself be seen to have an educative role, in ensuring that people understand the symbol had a long and revered history by other cultures before the misappropriation by fascist ideology.
6. If you have any queries regarding this response, please do not hesitate to contact Michael Stanton, President of Liberty Victoria, through the Liberty Victoria office at info@libertyvictoria.org.au.

Liberty Victoria

9 May 2023