



18 April 2023

To

Senate Committee
Federal Parliament

RE: Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023

The Hindu Council of Australia (HCA) and the Srimad Rajchandra Mission Dharampur Australia (SRMD) are providing a joint submission to ensure symbols of hate, including Nazi representations, are banned, whilst also protecting symbols of religion for display.

The Hindu Council of Australia is the peak representative of the Hindu community in Australia, engaging with Government at all levels, as well the community and civil society. HCA works for a strong, cohesive, and active Hindu community in Australia, that live in harmony and peace with other communities.

Srimad Rajchandra Mission Dharampur Australia is the Australian arm of Shrimad Rajchandra Mission Dharampur, India. SRMD Australia is driven by empathy, love and care of motivated volunteers delivering high quality, charitable and sustainable interventions realising Mission's motto. SRMD is a Jain religious organisation and represents Jainism at the Multicultural NSW Religious Forum.

We note that the measures proposed in this Bill have been developed following consideration of similar legislation that exists in New South Wales. As you will be aware, the NSW Jewish Board of Deputies (JBD) and the HCA played a significant role in the formation of the NSW legislation.

In addition, we have been working in partnership with the JBD, the peak-body of the Jewish community in NSW. As with the NSW Legislation, the JBD has played a vital and supportive role to enable this submission supporting the proposed amendment.

The HCA welcomes and supports this important amendment to the Criminal Code and supports the aims of this Bill.

The display of Nazi symbols – particularly the Hakenkreuz, which resembles the Hindu Sacred Swastika symbol – is of great concern to the members of the Hindu and Jewish communities of NSW. As those who developed this Bill note, the Sacred Swastika has immense significance to the Hindu, Jain, and Buddhist communities.

The Nazi regime misappropriated the Sacred Swastika symbol as a symbol of hate. It is anti-democratic and represents religious and cultural discrimination and continues to cause significant harm.

The proposed legislation is critical to ensuring our democratic and multicultural values are not eroded, whilst simultaneously protecting our minority communities.

The Bill will support the following outcomes:

Taking action against extremist activity in Australia

Violent extremism is on the rise in Australia. The Director-General of the Australian Security Intelligence Organisation, Mike Burgess, recently noted that his organisation is devoting significant resources to counter the rise of politically motivated violence - particularly from the authoritarian Right in Australia. Right-wing extremism and radicalisation now makes up 20% of counter-terrorism investigations. It is well documented that teenagers are among those most at risk of becoming radicalised by neo-Nazi groups in Australia.

We also understand that there has been rising numbers of antisemitic incidents in Australia, a key indicator that extremist right-wing groups are a rising threat to the community.

These groups use Nazi icons, gestures and symbols to support their collective identity and rally others to their cause. They wear Nazi symbols and fly flags at recruiting, training and bonding activities. They promote, enable and encourage attacks against minorities, destabilising Australia's proud multicultural society.

A ban on Nazi symbols demonstrates that Australia is taking a strong stance against extremism and Neo-Nazi groups. It provides law enforcement with an effective tool to inhibit the activities of right-wing extremist groups.

Ensuring the horrors of the past are not repeated

The Holocaust is one of the greatest tragedies of modern history. As we move further away from the events of this dark time, it is essential that we do not allow the lessons of history to be forgotten, and the events repeated.

Allowing the normalisation of Nazi symbolism facilitates forgetting, which in turn increases the risk of history being repeated. It is crucial that the Australian Government conveys a strong message that Nazi symbols, and the beliefs associated with them, are not acceptable.

We support banning these symbols of hate – Nazi symbols – and to distinguish the Sacred Swastika, a symbol of purity, love and peace, separate from the Hakenkreuz.

Better Education about, and freedom of, the holy Hindu Sacred Swastika

The Hindu and Jewish communities strongly support the distinction between the hate symbol of the Nazi Hakenkreuz, and the peaceful, holy Hindu Sacred Swastika. Many Hindu homes have a Sacred Swastika displayed outside their homes, drawn on the entrance during festivals such as Deepavali.

The more frequent the display of the Hakenkreuz, the more confusion there is regarding the Sacred Swastika – especially in Australia’s multicultural society. The Hindu, Jain, Buddhist and Jewish communities are committed to reducing this confusion by ensuring that the Sacred Swastika, a symbol of peace which was hijacked by the Nazi regime, is dissociated from the Nazi Hakenkreuz.

The offensive display of the Hakenkreuz should be a criminal offence. The peaceful display of the Sacred Swastika by faith communities must be exempt. However, the understanding of the difference between symbols must be broadened. There is a crucial need for educating Australians on the difference between the two symbols.

The need for Australia-wide legislation

Those who fought against Hitler may well have understood that the symbols of Nazi Germany were the symbols of an enemy power and a genocidal regime. However, this understanding fades with time.

Legislation should fill the void which exists in sections of the community at risk of radicalisation. We believe that enacting explicit legislation against Nazi symbols will help combat hate and vilification.

We welcome the amendment to the Criminal Code and submit as follows:

Recommendations

This Code Amendment is a useful tool in the fight against hate. We submit for your consideration the following recommendations that may enhance its effectiveness:

Alignment with world’s best practice

Nazi symbols are banned in 12 countries worldwide. We recommend that Australia aligns itself with countries such as Germany, Ukraine, Russia, Austria, and France who have taken this step with long-standing legislation. In these countries exemptions for artistic or educational purposes are granted, while the use of these symbols for the promotion of National Socialism, propaganda or at public events are banned or regulated.

Preamble

Before Section 81.1 of the Criminal Code, **include** a Statement for this Division (as a preamble to the amendment of the Bill) as follows:

In enacting this Division, the Parliament recognises the continued importance of the Sacred Swastika as an ancient and auspicious symbol of purity, love, peace and

good fortune in Buddhist, Hindu, Jain, and other religions. The Sacred Swastika has had immense significance to these faiths for millennia, long before it was misappropriated by the Nazi party and Third Reich in Germany. The misuse of the Sacred Swastika is an affront and cause of deep regret to people of the Buddhist, Hindu, and Jain religions. The Sacred Swastika continues to be embraced by members of these religions and can be found in places of worship, architecture, and religious books, as well as in commercial and personal settings such as people's homes.

The distorted version of the symbol is also known as the Hakenkreuz (meaning twisted or hooked cross in German). The Hakenkreuz became a symbol of the Third Reich, under which heinous crimes were perpetrated against humanity, particularly the Jewish people. The Hakenkreuz is a symbol of antisemitism and hatred and of an ideology fundamentally incompatible with Australia's multicultural, multi-ethnic and democratic society.

Nazi Symbol Definition

In supporting this important amendment, we make the following three recommendations to the Committee.

Firstly, Section 81.1 of the *Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023 Explanatory Memorandum* makes note that the term "Nazi symbol" is not a defined term in the Bill, and is instead given its ordinary meaning in order to ensure that the full range of symbols associated with Nazi ideology and the Nazi party are captured by the prohibition. While the example list given in the Explanatory Memorandum is extensive, it would benefit from the inclusion of the *Parteiaadler*, the Party Eagle.

We submit that any association of the religious and ancient term Swastika with Nazi **must always be** avoided at all times. We note that under the first bullet point, the Hakenkreuz is referred to as *Nazi Swastika*, which is incorrect and must be reworded to the following:

- The Nazi Hakenkreuz or hooked cross.
- The Broken Sun Cross

In addition, we recommend that consideration be given to newly arising symbols that clearly reference Nazi symbols. Neo-Nazi groups often create new symbols that, although they may not represent them identically, bear clear reference to Nazi symbols, in order to draw upon the ideology. This tactic is often taken to avoid prosecution through legislation such as the *Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023*. As such, we recommend that this legislation be able to prosecute symbols that arise alongside historic Nazi symbols.

Finally, as forementioned, antisemitism and discrimination is not only fuelled by symbols, language is also critical. The Nazi Regime utilised a number of key phrases that are seeing a resurgence in Neo-Nazi groups and on social media. It is thus our

recommendation that language also be taken into consideration as part of this prohibition. Phrases such as “blut and boden” (blood and soil) and “blut and ehre” (blood and honour) have clear Nazi lineage and when used in a contemporary context reference the abhorrent ideology of this regime. Language is critically important as an identifying feature key when utilised alongside Nazi-adjacent symbols that reference Nazi symbology without being an exact Nazi symbol.

The recommendations serve to expand the scope of this bill to ensure that not only existing symbols are prohibited, but that new symbols referencing the Nazi ideology cannot take their place. Unfortunately, this is an evolving arena and we must ensure that there is no place for these dangerous ideas to take root.

In Section 81.1 (2) we recommend an additional subsection as follows:

- (a) Nazi symbol means a symbol of a cross with arms bent at right angles in a clockwise direction, also known as a Nazi Hakenkreuz

In Section 81.1 (3) (b) add following wording as highlighted in bold

- (a) The **use of** Swastika symbol for a genuine **religious, cultural**, scientific, educational, or artistic purpose; or

In Section 81.1 (4) add following wordings as highlighted in bold

To avoid doubt, the **use of Swastika** symbol in connection with **Buddhist, Hindu** and **Jain religious settings** does not constitute the **public** display of a Nazi symbol.

The Hindu Council of Australia also wish to express our disappointment on the wording noted in the speech of Hon Michaela Cash (Senator – Western Australia – Deputy Leader of the Opposition in the Senate) while moving this Bill, Ms Cash notes:

“When we talk about the Nazi symbols we are talking about a symbol or action commonly associated with the Nazi party. It includes the Nazi swastika, the Nazi salute, Nazi uniforms and other types of symbols...”

The HCA requests that any future references to Nazi symbols use appropriate wording of either **Nazi symbols** or **Nazi Hakenkreuz**.

Conclusion

We thank the Senate Standing Committees on Legal and Constitutional Affairs for the opportunity to make a submission in relation to this important issue. By banning the display of Nazi symbols, the Australian government will be able to enforce an expectation that these symbols cannot be used as a rallying point for violence and hatred.

Having these offences readily available to law enforcement agencies will assist in educating the community about the reprehensive nature of these acts and reinforces that Australia does not tolerate them.

These amendments will be an important step in bringing together and maintaining a peaceful and harmonious multicultural society in Australia.

We are available should you wish to discuss any of the issues raised in our submission.

Yours sincerely

Surinder Jain