



AUSTRALIA/ISRAEL & JEWISH AFFAIRS COUNCIL

ABN: 39 631 231 251

NATIONAL CHAIRMAN
Mr Mark Leibler AC
EXECUTIVE DIRECTOR
Dr Colin Rubenstein AM

5 May 2023

Committee Secretary
Senate Legal and Constitutional Affairs Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: LegCon.Sen@aph.gov.au

Dear Committee Secretary

I refer to your 2 May 2023 email seeking a response to the Online Hate Prevention Institute suggestion that the Bill be amended so as to make it an offence for a person to publicly display a symbol in a manner that glorifies or promotes a Nazi or Neo-Nazi group, movement, or ideology.

The Australia/Israel & Jewish Affairs Council does not support the addition of the words proposed by OHPI.

We agree with the formal response from the Executive Council of Australian Jewry dated 3 May 2023.

We believe that the expression “Nazi” should include neo-Nazi groups and ideology.

Currently, the Bill would require a prosecutor to prove that the accused person, at the time of the alleged offence, “knows that the symbol is a Nazi symbol”.

It is our view that if a person publicly displays a symbol knowing that it is a Nazi symbol, then that should be sufficient to attract criminal liability, unless one of the exceptions applied.

There would be no justification for a prosecutor to have to carry the additional evidentiary burden of proving, to the criminal standard, the motive for, or purpose of, the display, as OHPI’s proposal would require.

It is AIJAC’s view that this would set the evidentiary bar too high.

AIJAC appreciated being invited to give further evidence to the Inquiry into the Criminal Code Amendment (Prohibition of Nazi Symbols) Bill 2023.

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As we said in the written submission and in verbal evidence, AIJAC wholeheartedly supports the Bill and its aims.

During AIJAC's evidence, we made four observations.

We suggested that:

- There should be a definition of a "public act";
- We would like to see the Bill extended to social media;
- We encourage more resources to education and support for law enforcement enabling them to combat these groups; and
- We believe that there is merit in a review/evaluation mechanism after the period of two years to determine the effectiveness of the law.

We would also like to point out that the policy items of "public act"; "social media"; and a "review /evaluation" are covered in the NSW law – The Crimes Amendment (Prohibition on Display of Nazi Symbols) Act 2022.

Furthermore, in response to a query raised by the Chair towards the end of the session, we strongly believe that the bill should not be limited to the Hakenkreuz (the Nazi swastika).

It should be broader, and the question of a Nazi and neo-Nazi symbol should be based on evidence presented in court.

Yours sincerely

Dr Colin Rubenstein AM
Executive Director

Affairs Council (AIJAC)

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