



Honourable Yvette D'Ath MP  
Attorney-General and Minister for Justice  
Minister for the Prevention of Domestic and Family Violence  
Leader of the House

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Our ref: 572305/8, 6852284

14 DEC 2023

Mr Neil Laurie  
The Clerk of the Parliament  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Laurie

I refer to e-Petition 3928-23 tabled in the Legislative Assembly on 14 November 2023 titled *Opposition to the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023*.

On 31 January 2022, the Legal Affairs and Safety Committee (LASC) tabled in the Legislative Assembly, its report *Inquiry into serious vilification and hate crimes* (No. 22, 57<sup>th</sup> Parliament) (the LASC Report). The LASC Report contained 17 recommendations, primarily relating to the operation of offences, the improvement of record keeping, reporting of serious vilification and hate crime and community education and engagement.

On 29 March 2023, the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023 (the Bill) was introduced into the Legislative Assembly. The Bill sought to implement four key recommendations of the LASC Report. Those recommendations are:

- **Recommendation 7:** that the Queensland Government investigate the viability of removing the requirement for the written consent of a Crown Law officer before commencing a prosecution for serious racial, religious, sexuality or gender identity vilification under section 131A (Offence of serious racial, religious, sexuality or gender identity vilification) of the *Anti-Discrimination Act 1991* (AD Act);
- **Recommendation 8:** that the Queensland Government introduce a statutory aggravation regarding serious vilification/hate crime into the Criminal Code and *Summary Offences Act 2005* (the SO Act) to apply to criminal conduct;
- **Recommendation 9:** that the Queensland Government relocate section 131A from the AD Act into the Criminal Code; and

- **Recommendation 16:** that the Queensland Government establish a criminal offence that prohibits the display of hate symbols, including those relating to Nazi and ISIS ideology, with considered exceptions.

The Bill was referred to the LASC for detailed consideration. On 30 June 2023, the LASC tabled in the Legislative Assembly, its report *Criminal Code (Serious vilification and Hate crimes) and Other Legislation Amendment Bill 2023* (No. 49, 57<sup>th</sup> Parliament) with recommendations arising from its inquiry into the Bill. The Government's response to the Committee's recommendations was tabled on 3 October 2023.

I note that the petitioners request that Parliament vote against the Bill, however, the Bill was passed with amendment by the Queensland Parliament on 12 October 2023, without opposition. It received assent on 19 October 2023. The provisions of the Act are to commence by proclamation. Amendments to the *Ombudsman Act 2001* contained in part 3A of the Act have already commenced.

Upon commencement, the Act will insert section 52C (Prohibited symbols) and 52D (Display, distribution or publication of prohibited symbols) into the Criminal Code.

These sections establish a framework for prescribing a symbol representative of an ideology of extreme prejudice or hatred of a relevant group as a 'prohibited symbol' in a regulation and prohibiting the symbol's display, distribution and publication.

A 'relevant group' means people who share an attribute or characteristic that is based upon the group's race, religion, sexuality, sex characteristics of gender identity.

Before a symbol may be prescribed in a regulation, the Attorney-General must be satisfied that the symbol is widely known as a symbol of such an ideology. The chairperson of the Crime and Corruption Commission, the Human Rights Commissioner and the Police Commissioner must each also be consulted.

The offence will apply if the prohibited symbol is, for example, displayed in a way that might *reasonably* be expected to cause a member of the public to feel menaced, harassed or offended, unless the person has a 'reasonable excuse'.

The offence provision sets out examples of what may amount to a 'reasonable excuse'. Relevant to the petitioners' concern that the offence limits freedom of political speech, the Act provides a specific example of 'a genuine political or other genuine dispute or issue carried on in the public interest' as providing a 'reasonable excuse' if the person's conduct was, in the circumstances, reasonable for that purpose.

A 'reasonable excuse' may also include conduct done for a genuine artistic, religious, educational, historical, legal or law enforcement purpose provided, again, that the person's conduct was, in the circumstances, reasonable for that purpose.

There is absolutely no place for vilification and hate crimes in Queensland and the Palaszczuk Government is committed to strengthening our laws to ensure our diverse communities are better protected. The passage of the *Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Act 2023* supports

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that commitment.

I thank the petitioners for bringing their concerns to the attention of the House.

Yours sincerely

A handwritten signature in black ink, reading "Yvette D'Ath". The signature is written in a cursive style with a large, looping initial "Y".

**YVETTE D'ATH MP**

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