

INQUIRY INTO RIGHT WING EXTREMIST MOVEMENTS IN AUSTRALIA

4 April 2024

Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

Dear Committee Members,

Thank you for the opportunity to make a submission to the inquiry into right wing extremist movements in Australia. This is an important and timely inquiry, given the increased activity and visibility of right-wing extremist actors in Australia.

In this submission, we focus on the following points from the inquiry's terms of reference:

(a) the nature and extent of movements and persons holding extremist right-wing views in Australia, with a particular focus on:

(i) the threat posed by extremist movements, including right wing extremism, [...]

(iii) links between individuals and groups with international movements, [...]

(v) the role of the online environment in promoting extremism;

(b) the terms and operation of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023.

We begin with a brief note on terminology, clarifying our use of terms like “right-wing extremism”. Next, we detail the threats posed by right-wing extremism, outline the challenges violent and non-physically violent right-wing extremist activity poses to democracy and social cohesion in Australia. We then discuss the nature of links between Australian right-wing extremists and the global far right, highlighting Australia's place in the global right-wing extremist movement. This is followed by a discussion of the role of the online environment in promoting right-wing extremism in Australia. We conclude with an examination of the terms and operation of the *Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023*, highlighting several limitations and challenges likely to inhibit the intended implementation of the Act.

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Terminology

The inquiry focuses on “right-wing extremist movements”. Right-wing extremism is part of a broader political family, which we refer to as the far right. We use **far right** as an umbrella term that covers a variety of parties, movements, and activists that are broadly united in their authoritarianism, exclusionary radical nationalism, and racism.¹ We also recognise that political misogyny or male supremacism forms a distinct element within many contemporary far-right movements.² Within this, we understand **right-wing extremism**, or the “extreme right” as those who outright reject democracy *in principle*.³ Moreover, extremist movements believe the success or survival of an in-group (defined by religion, nationality, ethnicity, gender, race, or sexuality), cannot be separated from the need for hostile action against an out-group (e.g. ethnic minorities, queer people, women).⁴ These hostile actions can be violent or non-physically violent in nature, ranging from terror incidents, violence and intimidation, to verbal attacks, hate speech, and other forms of discriminatory behaviour.

It is important to take seriously the challenges posed by right-wing extremist movements to Australia’s democracy and the wellbeing and physical safety of marginalised groups. However, right-wing extremist movements and the racist and anti-democratic politics they represent should not be exceptionalised. The borders between right-wing extremist movements, the far right, and the “mainstream” are more porous than these categories might suggest.⁵ Indeed, as Mondon and Winter note, many right-wing extremist actors today “espouse a racist ideology, but do so in an indirect, coded or even covert manner, by focusing notably on culture and/or occupying the space between illiberal and liberal racisms, between the extreme and the mainstream”.⁶ As such, the far right has become increasingly mainstream.⁷ As a result of the far right’s normalisation, ideas and rhetoric that were once considered taboo have permeated into the mainstream, resulting in an increase in hate speech, racism, queerphobia, conspiracy theories, and misogyny.⁸

Because of this normalisation, caution should be exercised to avoid viewing right-wing extremist movements as the sole or principal agents of white supremacist and anti-democratic politics in Australia, lest the more pervasive and everyday manifestations of racism and authoritarianism that feed right-wing extremism are overlooked.

¹ Andrea L P Pirro, “Far Right: The Significance of an Umbrella Concept,” *Nations and Nationalism* 29, no. 1 (2023): 101–12, <https://doi.org/10.1111/nana.12860>.

² Alex DiBranco, “Mobilizing Misogyny,” Political Research Associates, March 8, 2017, <https://www.politicalresearch.org/2017/03/08/mobilizing-misogyny>; Emily K. Carian, Alex DiBranco, and Chelsea Ebin, eds., *Male Supremacism in the United States: From Patriarchal Traditionalism to Misogynist Incels and the Alt-Right* (Routledge, 2022).

³ Cas Mudde, *Populist Radical Right Parties in Europe* (Cambridge: Cambridge University Press, 2007).

⁴ J.M. Berger, *Extremism* (Cambridge: MIT Press, 2018).

⁵ Katy Brown, Aurelien Mondon, and Aaron Winter, “The Far Right, the Mainstream and Mainstreaming: Towards a Heuristic Framework,” *Journal of Political Ideologies*, 2021, 1–18, <https://doi.org/10.1080/13569317.2021.1949829>; Pirro, “Far Right.”

⁶ Aurelien Mondon and Aaron Winter, *Reactionary Democracy: How Racism and the Populist Far Right Became Mainstream* (London: Verso, 2020), 151.

⁷ Cas Mudde, *The Far Right Today* (Cambridge: Polity, 2019).

⁸ Ruth Wodak, *The Politics of Fear: The Shameless Normalization of Far-Right Discourse*, 2nd ed. (London: SAGE, 2021).

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(i) the threat posed by extremist movements, including right-wing extremism

Liberal democracies around the world are grappling with the resurgence of extreme right-wing politics. Australia has not been immune from this resurgence. The threat of right-wing extremism in this country has accelerated markedly in recent years, with Australia now operating within a climate of heightened risk for extreme-right violence.⁹

Right-wing extremism is anathema to Australian democracy and poses a significant threat to the safety and wellbeing of marginalised communities, including First Nations peoples, women, migrant communities, asylum seekers, and LGBTQIA+ people.¹⁰ The ideologies that underpin right-wing extremism are “hierarchical and exclusionary. They establish clear lines of superiority and inferiority according to race, ethnicity, nationality, gender, religion, and sexuality”.¹¹ The far right is hostile to the principles underpinning liberal democracies, such as protections for minorities, free and fair elections, independent democratic institutions, systems of checks and balances, and freedom of the press, religion, and speech.¹² Extreme right movements take this further, and are hostile to democracy itself, engaging in a range of violent and nonviolent activities to undermine the democratic order.

Internationally, we have witnessed the consequences of anti-democratic, extreme right movements mobilising against free and fair elections. Fuelled by unfounded election conspiracies the January 6 2021 storming of the United States Capitol Building and the 2023 Brazilian Congress attack demonstrate the threat of right-wing extremism to democracy and the rule of law. While Australia has not experienced the same level of extreme right anti-democratic activities as seen in Europe and North America, the recent uptick of election mis-and-disinformation by far-right groups is concerning. The Australian Electoral Commission (AEC) expressed concern in the lead up to the 2022 federal election about baseless voter fraud conspiracy theories “imported from the US” circulating on social media from far-right groups such as Reignite Democracy and minor political parties like the United Australia Party.¹³ The AEC echoed these concerns during the 2023 Indigenous Voice to Parliament referendum, noting an increase in misinformation and threats throughout the campaign.¹⁴ We expect far-right efforts to undermine the legitimacy of Australia’s democratic process to accelerate in future elections.

Although Australia has largely avoided the level of right-wing extremist violence experienced in other countries, the spectre of right-wing extremist violence in this country is very real. In its most recent annual report, the Australian Security Intelligence Organisation (ASIO) acknowledged that ideologically motivated violent extremism – particularly nationalist and racist violent extremism – remains a material national security threat (though we note the critique of religious versus ideological

⁹ ASIO, “ASIO Annual Report 2022-23” (Australian Security Intelligence Organisation, 2023), <https://www.asio.gov.au/system/files/2023-10/ASIO%20Annual%20Report%202022-23.pdf>.

¹⁰ Mondon and Winter, *Reactionary Democracy: How Racism and the Populist Far Right Became Mainstream*.

¹¹ Cynthia Miller-Idriss, *Hate in the Homeland: The New Global Far Right* (Princeton University Press, 2020).

¹² Cas Mudde, *The Far Right Today* (Cambridge: Polity, 2019); Cynthia Miller-Idriss, *Hate in the Homeland: The New Global Far Right* (Princeton University Press, 2020).

¹³ Josh Butler and Sarah Martin, “AEC Alarmed at ‘Dangerous’ Voter Fraud Claims Spreading before Australian Election,” *The Guardian*, April 16, 2022, sec. Australia news, <https://www.theguardian.com/australia-news/2022/apr/17/aec-alarmed-at-dangerous-voter-claims-spreading-before-australian-election>.

¹⁴ Adriana Wainstok, “Threats to AEC Increase as Preparations Are Completed for Voice Referendum,” SBS News, September 22, 2023, <https://www.sbs.com.au/news/podcast-episode/threats-to-aec-increase-as-preparations-are-completed-for-voice-referendum/2ztsz2p7b>.

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extremism distinctions below).¹⁵ At its peak during the height of the COVID-19 pandemic, right-wing extremism constituted up to 50% of ASIO's counter-terrorism workload. Although this figure has since receded to around 30% according to agency head Mike Burgess, it represents a notable increase from 10-15% in 2016.¹⁶

Right-wing extremism has violent consequences. Most recently, Australia has witnessed a rise in the visible street presence of neo-Nazi groups such as the National Socialist Network (NSN). The NSN has violently clashed with police and counter-demonstrators in Sydney and Melbourne. The violence of the extreme right also extends to threats of violence and intimidation against minority groups. Recently we have seen this tactic deployed against LGBTQIA+ communities. Several drag queen story-time events have been cancelled across Australia due to threats of violence made against local councils, families, and performers by right-wing extremists.¹⁷ We also saw violent rhetoric and iconography emerge during the 2021 COVID-19 protests, including the staging of gallows outside of Parliament House and chants of "hang Dan Andrews", referring to former Premier of Victoria Daniel Andrews. The most heinous example of extreme-right violence by an Australian was the 2019 murder of 51 people during an attack on two mosques in Christchurch, Aotearoa New Zealand.

Not all acts of right-wing extremism are physically violent – even if they such actions may carry an implicit threat of violence. This includes, for example, dissemination of racist and hateful speech, the spread of harmful mis- and dis-information and conspiracy theories, or the delegitimising of democratic institutions like elections. Such actions undermine social cohesion and the democratic process, fomenting animosity towards minoritised faith, cultural, or political communities. Such acts may also contribute to a societal context that is more conducive to radicalisation and the propensity for extremist violence. Owing to the mainstreaming and normalisation of far-right actors, ideas, and movements, expressions of non-violent extremism in Australia are increasingly commonplace, occurring in online and offline environments.¹⁸

Both violent and non-physically violent forms of right-wing extremism pose a threat to Australia's pluralist democracy and the safety and wellbeing of marginalised communities. We urge the Committee to not only consider the risk of violent extremism, but also the role of non-physically violent extremism, such as racist and transphobic hateful speech, in undermining the principles of pluralism and tolerance that underpin Australian democracy. We would also encourage the Committee to consider the processes that allow fringe extreme ideas to permeate into mainstream political discourse, as well as the role of the media and mainstream political parties in normalising right-wing extremist rhetoric.¹⁹

(iii) links between individuals and groups with international movements

¹⁵ ASIO, "ASIO Annual Report 2022-23."

¹⁶ Daniel Hurst, "Asio Will Go Wherever Terrorism Threat Is, despite Low Number of Listed Rightwing Groups," *The Guardian*, February 13, 2023, <https://www.theguardian.com/australia-news/2023/feb/13/asio-will-go-wherever-terrorism-threat-is-despite-low-number-of-listed-rightwing-groups>.

¹⁷ Sophie Aubrey, "Monash City Council Cancels Drag Queen Story Time as Neo-Nazis Join Protest," *The Age*, May 4, 2023, <https://www.theage.com.au/national/victoria/monash-council-cancels-drag-queen-story-time-event-20230504-p5d5jn.html>.

¹⁸ Lydia Khalil, *Rise of the Extreme Right: The New Global Extremism and the Threat to Democracy* (Penguin Random House Australia, 2022).

¹⁹ Ruth Wodak, *The Politics of Fear: The Shameless Normalization of Far-Right Discourse*, 2nd ed. (London: SAGE, 2021).

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Links between the Australian and international far right are not new. Though made easier by the popularisation of the internet, and later social media and encrypted messaging services, the Australian far right has had international ties since at least the inter-war period, with historical links between Australian right-wing extremists and international proponents of German National Socialism²⁰ and Fascist Italy,²¹ as well as supporters of apartheid in South Africa and the former state of Rhodesia (now Zambia and Zimbabwe).²² The post-war period also saw the settlement of many European fascist war criminals and collaborators in Australia, further establishing transnational networks of right-wing extremism.²³ Australia's connection to the international far right continues today, manifesting in speaking tours of international right-wing extremists like Canadian white supremacists Lauren Southern and Stephen Molyneux,²⁴ the establishment of Australian branches of international right-wing extremist groups like The Base or the Proud Boys, and, most tragically, the Australian perpetrator of the 2019 Christchurch massacre in Aotearoa New Zealand, whose connections to both Australian and international right-wing extremist movements are well documented.²⁵

Links among and between Australian and international right-wing extremist movements fulfil several functions, providing ideological, discursive, financial, and organisational inspiration and support.

The most obvious links between the Australian and international right-wing extremist movements are ideological. Australian right-wing extremist movements, such as the NSN, are reliant on ideological support, encouragement, and legitimation from the global neo-Nazi movement, even if they may adapt these ideologies to the Australian content. Key texts of right-wing extremism, such as William Luther Pierce's *The Turner Diaries* and James Mason's *Siege* – both American texts regarded as manuals for global neo-Nazi terrorism and influential to the so-called manifestos of terrorists such as Brenton Tarrant (2019 Christchurch mosque shootings) and Anders Breivik (2011 Norway attacks) – have become widely popular among the Australian far right. So too did the Ku Klux Klan leader Louis Beam's concept of "leaderless resistance", which encourages the formation independent, self-organised, small cells or individuals rather than large, formal organisations, to engage in direct action in pursuit of a white supremacist agenda, often with deadly consequences.²⁶

²⁰ David Bird, *Nazi Dreamtime: Australian Enthusiasts for Hitler's Germany* (Melbourne: Australian Scholarly, 2012).

²¹ Gianfranco Cresciani, *Fascism, Anti-Fascism and Italians in Australia 1922-1945* (Canberra: ANU Press, 1980).

²² Evan Smith, "White Australia Alone? The International Links of the Australian Far Right in the Cold War Era," in *Global White Nationalism: From Apartheid to Trump*, ed. Daniel Geary, Camilla Schofield, and Jennifer Sutton (Manchester University Press, 2020).

²³ Mark Aarons, *Sanctuary: Nazi Fugitives in Australia* (William Heinemann, 1990); Jayne Persian, *Fascists in Exile: Post-War Displaced Persons in Australia* (Routledge, 2024).

²⁴ Douglas Smith, "Far-Right Canadian Duo's Vile Rampage against Aboriginal Culture at Sydney Event," NITV, July 30, 2018, <https://www.sbs.com.au/nitv/article/far-right-canadian-duos-vile-rampage-against-aboriginal-culture-at-sydney-event/chukxwu20>.

²⁵ Royal Commission of Inquiry into the terrorist attack on Christchurch Masjidain on 15 March 2019, "Ko Tō Tātou Kāinga Tēnei: Royal Commission of Inquiry into the Terrorist Attack on Christchurch Masjidain on 15 March 2019," December 8, 2020, <https://christchurchattack.royalcommission.nz/the-report/>.

²⁶ The strategy of "leaderless resistance" is often mistakenly framed as "lone wolf" actors in public discourse around violent extremists and terrorism. In framing the likes of Tarrant and Breivik as "lone wolves" they are wrongly separated from the global networks of violent, right-wing extremism that provided the ideological motivation to carry out their attacks.

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Discursively, links between Australian and international right-wing extremist movements provide for communicative exchange, such as shared narratives around Islamophobia and “western civilisation”,²⁷ or the perception of online censorship.²⁸ The Australian far right frequently adopts narratives on political and cultural issues that are prominent within the international far right, particularly the United States. A notable example of these discursive exchanges was Pauline Hanson’s 2018 “It’s OK to be white” Senate motion, which was only narrowly defeated by 31 votes to 28.²⁹ The phrase is a common white supremacist slogan, popularised in 2017 by the American “alt-right” as part of a coordinated trolling campaign originating on the far-right discussion board /pol/ on the website 4chan.³⁰ Recently, we have seen the Australian far right lean into issues such as election integrity and anti-transgender politics, both of which have currency in US far-right circles. Likewise, the far-right antisemitic conspiracy theory “Cultural Marxism”, also originating in the US, has been widely disseminated in Australia, blurring the boundaries between “fringe” and “mainstream” politics in the process.³¹ These examples illustrate how the far right’s transnational narratives and conspiracy theories can be translated, adapted, and used in different national contexts, including Australia.

Financially, these links provide material support for right-wing extremists in Australia, as well as allow Australians to support right-wing extremist movements abroad. This includes Australians fundraising for right-wing extremists like Stephen Yaxley-Lennon (aka Tommy Robinson) in the United Kingdom,³² or donations from the Christchurch terrorist to Martin Sellner, a leading figure in the European Identitarian Movement.³³ Online crowdfunding services like GiveSendGo facilitate the funding of far-right movements around the world³⁴ and have been widely used in Australia.³⁵ For example, a GiveSendGo campaign organised by Thomas Sewell, leader of the neo-Nazi group the NSN, to “Help Build a White Australian Community” has raised AU\$11,554.00 at the time of writing.³⁶

²⁷ Caterina Froio and Bharath Ganesh, “The Transnationalisation of Far Right Discourse on Twitter,” *European Societies* 21, no. 4 (2019): 513–39, <https://doi.org/10.1080/14616696.2018.1494295>; Jordan McSwiney et al., “Sharing the Hate? Memes and Transnationality in the Far Right’s Digital Visual Culture,” *Information, Communication & Society* 24, no. 16 (2021): 2502–21, <https://doi.org/10.1080/1369118X.2021.1961006>.

²⁸ Greta Jasser et al., “‘Welcome to the #GabFam’: Far-Right Virtual Community on Gab,” *New Media & Society*, 2021.

²⁹ Kurt Sengul, “‘It’s OK to Be White’: The Discursive Construction of Victimhood, ‘Anti-White Racism’ and Calculated Ambivalence in Australia,” *Critical Discourse Studies* 0, no. 0 (2021): 1–17, <https://doi.org/10.1080/17405904.2021.1921818>.

³⁰ I Mealey, “Here’s How ‘It’s OK to Be White’ Made Its Way from Internet Trolls to a Vote in Our Senate,” *ABC News*, October 17, 2018, <https://www.abc.net.au/news/2018-10-17/origins-of-its-ok-to-be-white-slogan-supremacists-united-states/10385716>.

³¹ Rachel Busbridge, Benjamin Moffitt, and Joshua Thorburn, “Cultural Marxism: Far-Right Conspiracy Theory in Australia’s Culture Wars,” *Social Identities* 26, no. 6 (2020): 722–38, <https://doi.org/10.1080/13504630.2020.1787822>.

³² Josh Halliday et al., “Revealed: The Hidden Global Network behind Tommy Robinson,” *The Guardian*, December 8, 2018, <https://www.theguardian.com/uk-news/2018/dec/07/tommy-robinson-global-support-brexit-march>.

³³ ABC, “‘High Donation’: Austrian Police Probe Far-Right Figure over Ties to Accused Christchurch Gunman,” *ABC News*, March 26, 2018, <https://www.abc.net.au/news/2019-03-26/austrian-far-right-activist-probe-over-new-zealand-shootings/10942764>.

³⁴ Matthew Wade, Stephanie A. Baker, and Michael J. Walsh, “Crowdfunding Platforms as Conduits for Ideological Struggle and Extremism: On the Need for Greater Regulation and Digital Constitutionalism,” *Policy & Internet*, 2023, [e-pub ahead of print], <https://doi.org/10.1002/poi3.369>.

³⁵ Ariel Bogle, “Policy Brief: Buying and Selling Extremism: New Funding Opportunities in the Right-Wing Extremist Online Ecosystem” (Australian Strategic Policy Institute, 2021), https://ad-aspi.s3.ap-southeast-2.amazonaws.com/2021-08/Buying%20and%20selling%20extremism_v2.pdf?VersionId=sxdjG71eon6eknBYP5x56r13aO988Uye.

³⁶ <https://web.archive.org/web/20240326032652/https://www.givesendgo.com/WhiteAustralianCommunity>

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Organisationally, ties between Australian and international right-wing extremist movements have resulted in the establishment of local franchises of international right-wing extremist groups. This includes, for example, the founding of Australian branches of violent street-level organisations like the Proud Boys, proscribed by the Canadian government in 2021, and the Finnish anti-immigrant vigilante organisation, the Soldiers of Odin, which also emerged in Australia in 2016. Similarly, international neo-Nazi skinhead groups such as Blood and Honour and Hammerskins (known as the Southern Cross Hammerskins in Australia), which have been linked to multiple violent crimes³⁷ have been active in Australia since the 1990s. Most alarmingly, in January 2019 the formation of an Australian branch of the neo-Nazi terrorist organisation, The Base, was announced.³⁸ Australian right-wing extremists have also collaborated with international right-wing extremists in Australia. For example, throughout the 2010s the neo-fascist Australia First Party, a deregistered Australian political party led by long time far-right activist Jim Saleam, have organised several protest actions in collaboration with Australian representatives of the former Greek neo-Nazi political party Golden Dawn.³⁹ Subsequent to that collaboration, Golden Dawn's leadership were convicted in 2020 of running a criminal organisation, along with several members and supporters on charges of murder, attempted murder, and violent attacks on immigrants and political opponents.⁴⁰

Evidently, Australian right-wing extremist movements, and the wider Australian far right, form part of a larger inter- and transnational political project aimed at advancing an anti-democratic and white supremacist agenda. International right-wing extremist movements provide the ideological encouragement and legitimation that helps Australian right-wing extremists remain active. These links provide material support such as fundraising – in Australia and around the world – to support the activities of right-wing extremists. These connections support the exchange of ideas on matters of strategy, tactics, and discourses, providing encouragement and advice on how to refine the activities of right-wing extremists to forward their supremacist and anti-democratic agenda. In this sense, international links help to shape not only the kinds of activities Australian right-wing extremists engage in, but also the potential targets of such activities. Crucially, Australian right-wing extremist movements are not passive actors in international right-wing extremism. As the Christchurch massacre tragically demonstrates, Australian extremists are actively involved in shaping what global right-wing extremism looks like today.

³⁷ ADL, “The Hammerskin Nation | ADL,” Anti-Defamation League, February 6, 2017, <https://www.adl.org/resources/profile/hammerskin-nation>; SPLC, “Blood & Honour,” Southern Poverty Law Center, n.d., <https://www.splcenter.org/fighting-hate/extremist-files/group/blood-honour>.

³⁸ Alex Mann and Kevin Nguyen, “The Base Tapes,” *ABC News*, March 26, 2021, <https://www.abc.net.au/news/2021-03-26/the-base-tapes-secret-recordings-australian-recruitment/13255994>.

³⁹ McSwiney, *Far-Right Political Parties in Australia: Disorganisation and Electoral Failure*.

⁴⁰ BBC, “Greece Golden Dawn: Neo-Nazi Leaders Guilty of Running Crime Gang,” October 6, 2020, <https://www.bbc.com/news/world-europe-54433396>.

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(v) the role of the online environment in promoting extremism

For the purposes of this section, “digital communication platforms” will be used as an umbrella term, under which sit: social media, which refers to platforms and services that allow users to broadcast communications (such as TikTok); social networking sites, which are platforms and services that serve as a functional tool for sharing information where users can communicate with each other, and can be split into mainstream social networking sites (such as Facebook, Instagram and Twitter) and alternative social networking sites (such as Gab, Truth Social and Telegram); messaging apps which are platforms and services that allow for symmetrical mediated interaction (such as WhatsApp, Messenger); websites, which are a set of web pages that sit under a single domain name; email providers, which provide email hosting (such as Gmail and Proton Mail); and forums, which are online spaces structured around, and dedicated to, conversation, often through the development of threads composed of initial posts along with comments and replies.

Mainstream social media platforms and social networking sites remain an important space for right-wing extremists to congregate and organise, and represent opportunities for right-wing extremists within the Australian context to gain exposure to mainstream online discourse, which can afford opportunities to bring about the mainstreaming of extremist discourses.⁴¹ Right-wing extremists are active on a range of mainstream social media platforms, such as YouTube and TikTok, as well as mainstream social networking sites such as Facebook, Instagram and X (previously Twitter).

On mainstream social media and social networking platforms, right-wing extremists still face significant challenges with content moderation, where the platform policies of mainstream platforms preclude certain types of speech. As such, right-wing extremists run the risk of being removed from these spaces (known as “deplatforming”). This ability to platform extremist content illustrates the role that mainstream social media and social networking platforms play as gatekeepers of online discourse. It is important to note that while right-wing extremists do get deplatformed from mainstream platforms, if they adhere to the policies of the platform, they are able to remain in these online spaces.

When deplatformed, right-wing extremists regularly turn to alternative social media and social networking platforms, which are characterised by, amongst other things, more relaxed approaches to content moderation.⁴² Within the Australian context, right-wing extremists have been found to be active on alternative social media platforms such as Bitchute and Odysee, as well as alternative social networking sites such as Gab and Telegram. While right-wing extremists are not deplatformed from alternative platforms in the same way that they are from mainstream platforms, these alternative platforms tend to have smaller audiences, who are in some cases already adhere to right-wing extremist

⁴¹ Jordan McSwiney, “Social Networks and Digital Organisation: Far Right Parties at the 2019 Australian Federal Election,” *Information, Communication & Society* 23, no. 10 (2021): 1401–18, <https://doi.org/10.1080/1369118X.2020.1757132>; Jordan McSwiney, “Recruitment and Mobilization on Facebook: The Case of Australia,” in *Rise of the Far Right: Technologies of Recruitment and Mobilization*, ed. Melody Devries, Judith Bessant, and Rob Watts (Maryland: Rowman & Littlefield, 2021), 23–40; Imogen Richards, “A Dialectical Approach to Online Propaganda: Australia’s United Patriots Front, Right-Wing Politics, and Islamic State,” *Studies in Conflict & Terrorism* 42, no. 1–2 (2019): 43–69, <https://doi.org/10.1080/1057610X.2018.1513691>; Callum Jones, “‘We the People, Not the Sheeple’: QAnon and the Transnational Mobilisation of Millennialist Far-Right Conspiracy Theories,” *First Monday* 28, no. 3 (2023), <https://doi.org/10.5210/fm.v28i3.12854>.

⁴² e.g. Greta Jasser et al., “‘Welcome to the #GabFam’: Far-Right Virtual Community on Gab,” *New Media & Society*, 2021.

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ideology, hampering the opportunities for right-wing extremists to effectively recruit and radicalise non-extremist users.

While social media and social networking platforms are highly important features of the online environment (and typically are the disproportionate focus of scholarship), there are also other, very significant digital communication platforms that are used by right-wing extremists in Australia.

Messaging apps are also an important feature of the right-wing extremist online environment in Australia. Direct messaging using apps such as Telegram (which allows users to directly message each other in a similar way to WhatsApp and Messenger) is not public facing, making it difficult to establish how, and to what degree, right-wing extremists are using messaging apps in Australia. However, these types of apps have been found to be an important part of extremist online environments, and it has been established that right-wing extremists in Australia used Telegram broadly in their dissemination of online propaganda.⁴³

Forums and websites remain important features of the right-wing extremist online environment in Australia. For example, the white power forum, Stormfront, has a 'Stormfront Down Under' channel. However, while Australian right-wing extremists are active in this space, the volume of activity and users is low, especially relative to social networking sites. Prominent neo-Nazi organisations in Australia, such as the NSN, maintained a website, which was used to host long-form articles that developed and explained the ideology and worldview of the organisation. The website was also used as a recruitment tool, listing the requirements for membership along with an email by which prospective recruits could send their details to, reflecting the role that alternative email providers such as Proton Mail have been found to play in the Australian right-wing extremist online environment.

The NSN website was suspended as of approximately July, 2023, highlighting how right-wing extremist websites can be moderated by web hosting providers, who can opt to no longer host websites on the basis of legal compliance, terms of service violation, ethical considerations, or public pressure. This represents an effective way to reduce the presence, and prevent the spread, of right-wing extremist content online, and demonstrates that it is not only social media and social networking sites that play a role in moderating right-wing extremist content in Australia. However, pseudo-news websites such as *The Unshackled* and the *XYZ* represent websites that are able to spread right-wing extremist content, and as such are more difficult to effectively moderate.

The presence of right-wing extremists on mainstream and alternative social media platforms and social networking sites, messaging apps, forums, email services and websites reflect a constellation of interconnected and overlapping communication pathways that form a dense and complex web of interaction. Understanding a) the affordances of each online space; b) how each online space is used; and c) how each online space moderates content, will allow for sustained, targeted and effective strategies for disrupting right-wing extremism in Australia.

⁴³ Callum Jones, Steven Roberts, and Brady Robards, "White Warriors and Weak Women: Identifying Central Discourses of Masculinity in Neo-Nazi Telegram Channels," *Studies in Conflict & Terrorism* e-pub ahead of print (2023), <https://www.tandfonline.com/doi/epdf/10.1080/1057610X.2024.2318813?needAccess=true>; Imogen Richards, Gearóid Brinn, and Callum Jones, *Global Heating and the Australian Far Right* (Routledge, 2023); Alexandra Phelan et al., "Misogyny, Hostile Beliefs and the Transmission of Extremism: A Comparison of the Far-Right in the UK and Australia" (Centre for Research and Evidence on Security Threats (CREST), 2023), https://crestresearch.ac.uk/site/assets/files/4503/23-001-01_misogyny_hostile_beliefs_and_the_transmission_of_extremism_full_report.pdf.

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Further research is also required to understand how misinformation, disinformation and malinformation is utilised by right-wing extremists to insidiously spread their ideology in mainstream social media platforms, and how this kind of content can in some cases effectively bypass content moderation tools.

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(b) the terms and operation of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023

In 2023, there was a Parliamentary Inquiry into the “Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023” with submissions invited by 21 July 2023. The critique of the bill before it passed and came into effect in December 2023 highlights concerns from various stakeholders about its effectiveness, potential for unintended consequences, and adherence to human rights obligations.

1. **Effectiveness and Approach to Criminalisation:** The Law Council raised concerns about the bill’s strategy to criminalise the process of radicalisation, suggesting that such an approach might not be efficient in curbing radicalisation and could overlook the discrimination faced by certain communities.⁴⁴ They recommended structural strategies and explored the possibility of preferring civil penalties over criminal ones. They highlighted that early detection, intervention, and rehabilitation of individuals at risk of radicalisation are more feasible without the looming threat of criminal penalties. Their submission recommended focusing on enhancing civil laws against racial and religious vilification within Commonwealth legislation, rather than extending criminal restrictions to include hate symbols and insignias.
2. **Concerns Regarding Symbol Adaptability:** The Law Council also pointed out issues with the adaptability of symbols. The final Act does criminalise symbols closely resembling the two specifically banned Nazi symbols – requiring a degree of similarity that could lead to confusion with these symbols. However, the challenge of adaptability appears to remain, as right-wing extremists may modify symbols or employ less recognised ones to evade legal constraints, thus potentially diminishing the law’s impact. The use of the Sonnenrad (or Black Sun) by far-right groups, a symbol not covered by the ban, and the adoption of symbols by far-right organisations in Germany that are only loosely similar to the Swastika, underscore this issue.
3. **Impact on Journalism and Activism:** Concerns were raised by the Islamic Council of Victoria,⁴⁵ the Australia Institute,⁴⁶ and others, about how the bill might inadvertently criminalise journalistic or activist activities. Extending these critiques, in its current, final form, the Act’s requirement for journalists to be working for a news organisation to qualify for exemptions can still be seen as too restrictive, potentially leaving freelance journalists and independent activists vulnerable to legal action. This is particularly problematic in relation to the distribution of violent extremist material via a carriage service, which could criminalise the legitimate activities of journalists and activists reporting on, analysing, or condemning right-wing extremist actions.

⁴⁴ Law Council of Australia, “Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023” (Parliamentary Joint Committee on Intelligence and Security, August 14, 2023), <https://lawcouncil.au/publicassets/642fdfa1-2542-ee11-948a-005056be13b5/4409%20-%20S%20-%20Counter-terrorism%20Hate%20Symbols.pdf>.

⁴⁵ Islamic Council of Victoria, “Submission to the Parliamentary Joint Committee on Intelligence and Security: Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures Bill 2023)” (Parliamentary Joint Committee on Intelligence and Security, 2023), <https://icv.org.au/wp-content/uploads/2023/12/ICV-Submission-Counter-Terrorism-Legislation-Amendment-Prohibited-Hate-Symbols-And-Other-Measures-Bill-2023.pdf>.

⁴⁶ Benjamin Walters and Bill Browne, “Submission: Prohibited Hate Symbols and Other Measures Bill 2023” (Parliamentary Joint Committee on Intelligence and Security, July 2023), <https://australiainstitute.org.au/wp-content/uploads/2023/08/Submission-Prohibited-Hate-Symbols-and-Other-Measures-Bill-2023-WEB.pdf>.

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4. **Human Rights and Proportionality:** The bill was critiqued for potential conflicts with human rights obligations, specifically regarding the proportionality of its proposed measures. The broad nature of offenses related to extremist material, without a clear intention to promote terrorism, raises concerns about the risk of undue legal liability for journalists and activists.⁴⁷
5. **Investigative Journalism and Civil Activism:** Liberty Victoria emphasised the importance of social cohesion and trust in institutions over censorship and surveillance.⁴⁸ The organisation advocated for the inclusion of satire under the artistic expression defence and expressed concerns about the appropriation of benign icons and religious imagery for extremist messaging. Satire was not included as a discrete exemption in the final Act.
6. **Legislative Clarity and Overreach:** The Australia Institute and others called for clearer legislation to prevent overreach and argued for the inclusion of educational and rehabilitative measures instead of imprisonment. The final Act only lists prison sentences for several offences outlined. The lack of clarity and explicit protections for legitimate uses of symbols in protest actions was also highlighted by the Australia Institute as a significant shortfall of the bill.
7. **Recommendations and Oversight:** There are calls for more explicit safeguards and clarity in the legislation, particularly regarding the defences available for certain activities and the criteria for assessing public interest. The Committee's recommendations after the Inquiry, such as extending journalistic purpose exemptions and clarifying legislative provisions, aim to address some of these concerns, but questions remain about the adequacy of protections for individuals and the oversight of terrorist organisation listings.⁴⁹

In summary, while the bill aimed to address the issue of hate symbols and extremist material, critics argued that it may not effectively tackle the root causes of violent extremism and could have unintended negative impacts on freedom of expression, journalism, and activism. Several of these concerns are unaddressed and highlight a need for careful consideration of human rights, proportionality, and the practical implications of such legislation.

Our concerns regarding specific clauses in the final act resonate with critique already expressed in submissions to the first inquiry, revolving around issues of clarity, potential overreach, and the

⁴⁷ See: Law Council of Australia, "Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023"; Islamic Council of Victoria, "Submission to the Parliamentary Joint Committee on Intelligence and Security: Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures Bill 2023"; See also: AMAN, "Submissions on Behalf of the Australian Muslim Advocacy Network" (Parliamentary Joint Committee on Intelligence and Security, 2023), <http://www.aman.net.au/wp-content/uploads/2023/08/Sub-117-AMAN.pdf>; AMAN, "Joint Statement on Behalf of Australian Muslim Community," 2023, <http://www.aman.net.au/wp-content/uploads/2023/09/Joint-Statement-on-behalf-of-the-Australian-Muslim-Community-to-PJCIS-01.09.23.pdf>.

⁴⁸ Liberty Victoria, "Review of the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023," July 21, 2023, <https://libertyvictoria.org.au/sites/default/files/230721%20LV%20PJCIS%20Submission%20on%20Hate%20Symbols.pdf>.

⁴⁹ In a July 2023 submission the Online Hate Prevention Institute called for an expansion of the definition of prohibited symbols to include additional symbols associated with hate and extremism, such as the Totenkopf, Sonnenrad, and symbols of groups listed under Division 102. See: OPHI, "Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023" (Parliamentary Joint Committee on Intelligence and Security, July 21, 2023).

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implications for freedom of expression, journalism, and activism. Below, we outline a more detailed examination of these (newer) concerns:

Clarity and Interpretation

- **The Act's Dependence on "Public Interest" and Specific Exemptions:** The reliance of the final version of the Act on concepts like "public interest" and categories for exemptions (such as for religious, academic, or journalistic endeavours) prompts scrutiny regarding their precise definitions and applications. The "public interest" criterion, due to its subjective nature, could result in the law's uneven enforcement, potentially suppressing valid discussions and actions considered at odds with dominant opinions. The lack of clarity about what qualifies as professional journalism or falls within the scope of "religious, academic, educational, artistic, literary, or scientific purposes" may impede the efforts of journalists and activists not connected to larger entities.

Potential Overreach and Impact on Freedom of Expression

- **The Criminalisation of Sharing Violent Extremist Content:** The clauses addressing the dissemination of violent extremist content through communication services are viewed as possibly too extensive, risking the criminalisation of essential activities for public discourse and comprehension. This includes the journalistic coverage of right-wing extremism, scholarly inquiries, and advocacy intended to reveal or combat extremism. The ongoing absence of a requirement for a clear intent to promote terrorism leaves open the possibility of penalising individuals distributing such content for enlightening or critical reasons, including the sharing of investigative stories and counternarratives, aspects not specifically addressed in the criticisms so far.
- **Critique on the Ban of Specific Symbols and Its Flexibility:** The legislative approach to banning certain symbols, aimed at combating hate speech and extremist messaging, faces criticism for its lack of flexibility. It has been noted that right-wing extremists can easily modify symbols to evade legal restrictions, undermining the law's effectiveness. Since the law's implementation, there's been a noticeable decline in the use of the Nazi swastika by right-wing individuals in Australia, both publicly and online. Instead, they have shifted towards alternative symbols like the Sonnenrad (Black Sun) or numerical references such as 51, representing the number of victims in the 2019 Christchurch mosque attack. This pattern mirrors the experience in Germany, which has the longest history of enforcing a swastika ban. There, neo-Nazis have adapted by adopting symbols not covered by the ban.⁵⁰ The situation in Germany also highlights the broader challenges of such legislation. As of 2024, the far-right Alternative for Germany (AfD) party holds 10% of seats in the German parliament, and it has been reported that around 100 right-wing extremists work as parliamentary staffers.⁵¹ Furthermore, a leak from a neo-Nazi record label and clothing store, Midgard, revealed that its sales in Germany significantly

⁵⁰ See for example: Cynthia Miller-Idriss, *The Extreme Gone Mainstream: Commercialization and Far Right Youth Culture in Germany* (Princeton: Princeton University Press, 2018).

⁵¹ Julia Barthel et al., "AfD Im Bundestag: Mehr Als 100 Rechtsextreme Mitarbeiter," BR24, March 12, 2024, <https://www.br.de/nachrichten/deutschland-welt/afd-im-bundestag-mehr-als-100-rechtsextreme-mitarbeiter,U6iXl6t>; See also: Marcus Bensmann et al., "Secret Plan against Germany," Correctiv, January 15, 2024, <https://correctiv.org/en/latest-stories/2024/01/15/secret-plan-against-germany/>.

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surpassed those in the United States, indicating the limitations of German laws in curbing the distribution of such material.⁵²

- **Religious Cut-outs:** Moreover, the risk of mistakenly including harmless or unrelated images underscores the challenge of specifically targeting extremist symbols without affecting cultural or political expressions that share similar imagery. The Act now partially addresses this issue by exempting “religious” uses, potentially safeguarding the display of Buddhist and Hindu symbols that resemble the Nazi Swastika. However, the interpretation of religion itself presents complications. Many white supremacist ideologies incorporate religious aspects, albeit often in a superficial manner, such as Christian Identity beliefs, Odinism, Paganism, apocalyptic and millenarian perspectives, as well as esoteric, occult elements, and Aryanism. It’s important to note that AMAN brought up a concern during the initial inquiry about the ASIO’s problematic dichotomous understanding and distinction between “ideological” and “religious extremism”.

Safeguards and Protections

- **Protections for Artistic and Educational Uses:** The legal protections designed to allow the use of banned symbols for valid religious, academic, educational, artistic, literary, or scientific purposes are seen as potentially lacking. There is an argument to be made that these provisions do not provide sufficient clarity to prevent unwarranted penalties, especially concerning the use of imagery not directly related to Nazi symbols but which might be vaguely linked to an outlawed international entity. This is a particular concern given the dynamic nature of social norms and the changing perceptions of what serves the public interest.
- **Legal Defences and the Concept of Reasonableness:** The legal defences offered raise issues regarding the definition of “reasonable” actions taken by public officials or those assisting them in contexts where prohibited activities might occur. The vagueness of what is considered reasonable could introduce legal grey areas, potentially deterring public officials and others from partaking in essential duties due to fears of legal consequences. Conversely, this ambiguity may also afford too much leeway to individuals involved in behaviours specifically targeted by the law, such as the display of white supremacist gestures and symbols.

Listing of Terrorist Organisations

The criticism regarding the vague definitions and exceptions highlights the necessity of strict oversight processes for designating terrorist organisations and interpreting relevant laws. It’s argued that there should be legislative oversight and well-defined criteria to prevent arbitrary or politically influenced labels that could restrict freedom of speech and civil rights. A concern is the potential misuse of the Act to target individuals discussing or critiquing the Israel-Palestine conflict, possibly stifling legitimate debate and the dissemination of independent news, especially considering Hamas’s designation. This criticism calls for clearer legislation, freedom of speech protections, and checks against excessive authority use. The worries indicate that without thoughtful revisions, the Act might lead to adverse effects, undermining its goals and affecting democratic freedoms and values.

⁵² <https://midgard.antifa.se>; See also: Peter Smith, “The Midgård Leak: Exposing The Global Business Of The Far Right,” *Global Network on Extremism & Technology (GNET)* (blog), January 18, 2024, <https://gnet-research.org/2024/01/18/the-midgard-leak-exposing-the-global-business-of-the-far-right/>.

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Key points for further examination include the Act's sections starting from 80.2K, granting police the power to order the removal of forbidden symbols in public, raise alarms about the extent of police discretion and the possibility of misapplication or abuse of this power. In light of broader issues regarding the criminalisation of certain groups and interpretation of racial and ideological symbols, these provisions challenge civil freedoms and expression rights. The related risks include:

1. **Risk of Excessive Police Authority:** The Act allows police extensive discretion in determining what constitutes a "prohibited symbol" in public areas. This broad leeway might suppress symbols unrelated to terrorism due to visual resemblance, including symbols explicitly opposing harmful ideologies that could be wrongly classified as forbidden.
2. **Impact on Peaceful Organisations:** The history of non-violent organisations being wrongly labelled as terrorist or extremist by law enforcement (e.g., Greenpeace by the FBI and Extinction Rebellion by the UK Home Office) highlights the risk of misusing these sections against groups engaged in lawful protest and activism. This could lead to the gradual criminalisation of peaceful civil disobedience, dampening political debate and opposition.
3. **Vagueness and Subjective Enforcement:** The reliance on police discretion in identifying symbols of racial superiority, racial hatred, or those associated with banned organisations introduces a high level of subjectivity and ambiguity. This is concerning in situations where police opposition to protesters might hinder their ability to distinguish between symbols of hate and those representing resistance or support.
4. **Compliance Timeframe Uncertainty:** The ambiguity surrounding the definition of a "reasonable" period for complying with police orders to remove symbols introduces further uncertainty, potentially resulting in arbitrary enforcement and penalisation of individuals who cannot meet police expectations for symbol removal.
5. **Exclusion of Expressions of Activism and Solidarity:** The Act's exemptions for religious, academic, educational, artistic, literary, or scientific purposes conspicuously exclude activism or solidarity expressions at public gatherings. This exclusion raises additional concerns regarding the safeguarding of political expression and the right to protest, especially for events that might utilise symbols to convey political statements or support for marginalised communities.
6. **Potential for Criminogenic Effects:** ASIO's submission to the previous inquiry noted that the legislation would assist law enforcement in "early intervention", however in the absence of funded and effective de-radicalisation programs focused on right-wing extremism, this early intervention may only have the effect of intensifying the anti-establishment sentiments of a person prosecuted, as well as solidifying their identity against perceived oppression.
7. **Technical capability and Enthusiasm for Enforcement:** Pre-existing legal frameworks around offensive behaviour did exist in most, if not all, jurisdictions prior to the passage of this legislation. Indeed, on each of the high-profile occasions of Nazi saluting which precipitated this new legislation, the perpetrators were also engaging in conduct that could easily have been prosecuted. For example, legal observers at the March 2023 "Let Women Speak" rally organised by Kellie-Jay Keen-Minshull (aka Posie Parker) noted that neo-Nazis protesting in

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support of Keen-Minshull chanted “kill paedo freaks” and yelled obscenities at counter-protesters, in clear violation of Section 17 of the Victorian Summary Offences Act.⁵³ That police took no action raises questions about how this legislation might be employed.

Overall, the introduction of clauses from 80.2K into the Act present a nuanced challenge to civil liberties, particularly regarding freedom of expression and the right to peaceful protest. The broad discretion granted to police, coupled with the potential for misinterpretation and the exclusion of certain forms of protected speech, underscores the need for clearer guidelines and safeguards to prevent the misuse of this provision and to ensure that enforcement does not infringe upon fundamental human rights.

⁵³ MALS, “Statement of Concern: Policing of Opposing Anti-Trans & Trans Rights Rallies,” March 20, 2023, <https://mals.au/2023/03/20/statement-of-concern-policing-of-opposing-anti-trans-rally-trans-rights-rallies/>.

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