



Australian Government
Department of Home Affairs

Department of Home Affairs submission to the inquiry into right wing extremist movements in Australia

Legal and Constitutional Affairs References Committee

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Introduction

The Department of Home Affairs (the Department) is pleased to contribute to the Legal and Constitutional Affairs References Committee's inquiry into right wing extremist movements in Australia.

The purpose of this submission is to provide the Legal and Constitutional Affairs References Committee with an overview of the nature and extent of ideologically motivated violent extremist movements in Australia, the terms and operation of the *Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Act 2023* (the Act), and measures to counter violent extremism in Australia.

The Australian Government is committed to keeping the community safe from all forms of violent extremism. A key focus of the Department's work is addressing threats to community safety, and meeting the needs of individuals, including young people, who are vulnerable to violent extremist influences in our community.

Early intervention affords the best chance of a positive outcome. The Department works closely with our Commonwealth, state and territory counterparts, and community partners, to ensure the Government has the right resources to address threats to community safety, and to meet the needs of young people vulnerable to violent extremist influences.

Nature and extent of right wing extremist movements in Australia

Democratic impact

In a global context of mounting challenges to democracy, the Department has identified critical elements of Australia's democratic resilience, including trusted institutions, credible information and social inclusion, which act as a powerful safeguards against anti-democratic efforts of violent extremists.

Ideologically motivated violent extremism—and its nationalist and racist violent extremism (NRVE) subset—is hostile to democracy in Australia, with leading researchers describing it as 'a radically anti-democratic movement.'¹ In addition to actual or threatened violence, NRVE ideologies undermine trust in democratic institutions, erode social cohesion, stoke anti-multicultural sentiment, and reject equality—all enduring strengths of Australia's democracy. NRVE groups encourage intolerance, xenophobia and racism which places our social fabric under strain.

¹ Waldek, L, Smith, D, Iqbal, M & Droogan, J, 16 August 2021, 'Right-wing extremism weaponises democracy against itself', *The Sydney Morning Herald*, <<https://www.smh.com.au/national/right-wing-extremism-weaponises-democracy-against-itself-20210816-p58j5g.html>>.

NRVE groups have directly targeted democratic institutions. In a high profile example, groups targeted at least 15 Victorian councils over their support for the LGBTQIA+ community. NRVE groups have sought to disrupt democratic council processes through intimidating behaviour, false and misleading information and threats of violence. In one case, involving the Monash City Council, protestors besieged the chambers, disrupting council proceedings.²

COVID-19 restrictions were exploited by extremist groups to undermine trust in democratic institutions and exploit cracks in social cohesion. In the Australian Security Intelligence Organisation's 2021 Annual Threat Assessment, the Director-General of Security noted the way in which NRVE groups were able to use COVID-19 restrictions as propaganda, by portraying the government as overreaching and 'globalisation, multiculturalism and democracy as flawed and failing.'³

The role of the online environment in promoting extremism

Terrorists and violent extremists continue to exploit social media and the online environment to expand their audience, spread propaganda, promote hateful narratives, connect to networks, encourage violent acts and radicalise and recruit individuals.

The Department has also seen terrorists exploit digital platforms to plan, execute and broadcast terrorist attacks.

While mainstream digital and social media platforms are maturing their moderation efforts, terrorists and violent extremists are migrating to niche and 'alt-tech' platforms that are either unable or unwilling to effectively moderate content.

The nexus between online violent extremist content and youth radicalisation to violent extremism remains a concern. Young people are particularly susceptible to radicalisation when exposed to violent extremist propaganda online, as these narratives can resonate with feelings of alienation, unease about the future, and mistrust of authority. Violent extremists are also exploiting online gaming platforms to radicalise and recruit an increasingly younger cohort of internet users.

In the event of a live streamed or viral terrorist incident, the Department is responsible for administering Australia's domestic online crisis response protocol, the Online Content Incident Arrangement (OCIA). The OCIA outlines the responsibilities and arrangements for removing or blocking harmful online content between the Department, the National Emergency Management Agency, the Office of the eSafety Commissioner, relevant law enforcement agencies and industry partners.

² Chou, M, Busbridge, R & Moffitt, B, 24 May 2023, 'Why are far-right groups targeting local councils – and what can councils do to manage the threat?', *ABC News*, <<https://www.abc.net.au/religion/why-are-far-right-targeting-australian-local-councils/102388990>>.

³ 'Director-General's Annual Threat Assessment', *Australian Security Intelligence Organisation*, 17 March 2021, <<https://www.asio.gov.au/resources/speeches-and-statements/director-generals-annual-threat-assessment-2021>>.

Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Act 2023

On 14 June 2023, the Attorney-General introduced the *Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023* (the Bill) to Parliament. The Bill was passed by Parliament on 6 December 2023 and received Royal Assent on 11 December 2023.

The Act amends the *Criminal Code Act 1995* (Criminal Code) to:

- establish criminal offences for the public display of Nazi and terrorist organisation symbols, and the trading of goods that bear a prohibited symbol
- establish a criminal offence for the performance of a gesture, that is the Nazi salute, in a public place
- establish criminal offences for the use of carriage services for violent extremist material, and possessing or controlling violent extremist material obtained or accessed using a carriage service
- expand the offence of advocating terrorism to include instructing on the doing of a terrorist act and praising the doing of a terrorist act in specified circumstances; and increase the maximum penalty for the offence of advocating terrorism from five to seven years imprisonment
- amend the *Criminal Code and Legislation (Exemptions and Other Matters) Regulation 2015* to remove the three year sunset requirement for instruments which list terrorist organisations.

By preventing illegitimate uses of prohibited symbols, and the performance of the Nazi salute in public, the Act seeks to protect social cohesion and allow for early intervention and diversion of individuals who may be in the early stages of radicalisation to violent extremism.

Establishing criminal offences for the use of carriage services for violent extremist material addresses an identified gap in the legislative framework, where it was previously not a crime to view, possess or distribute violent extremist material where planning or preparation for a terrorist act had not yet commenced. This amendment will support a broad range of work in the Department to prevent terrorist and violent extremist exploitation of the internet, and will assist with early intervention to allow for greater opportunities for disruption, diversion and rehabilitation.

Expanding the offence of advocating terrorism to include instructing on the doing of a terrorist act and praising the doing of a terrorist act, and increasing the maximum penalty for this offence from five to seven years imprisonment, aligns with the potential severity of the offending and reaffirms the seriousness of this offence. Glorifying terrorists or terrorist acts can incite others to imitate or seek to engage in similar behaviour. In some cases, this may further a person's radicalisation to violent extremism.

For further information on the terms and operation of the Act, please refer to the Attorney-General's Department's submission to the Legal and Constitutional Affairs References Committee's inquiry right wing extremist movements in Australia

Border control of prohibited hate symbols

The Australian Border Force (ABF) is Australia's frontline border law enforcement agency and customs service. The ABF's responsibilities include the targeting, detection, seizure, storage, and related enforcement activity for controlled goods that are being imported and exported, while facilitating the movement of legitimate trade and travel.

The ABF continues to observe an increasing volume of goods entering Australia featuring iconography connected to NRVE groups (and collectors), and in particular Nazi imagery. The importation into Australia of Nazi memorabilia, both historically genuine items and modern recreations, has not abated with the passage of the Act. Where these goods are imported in quantities which indicates the goods are likely to be traded, the ABF refers the goods to the Australian Federal Police to consider investigation under the Criminal Code.

Customs legislation

The Act does not amend customs laws. Regulation 4A of the *Customs (Prohibited Exports) Regulations 1956* and Regulation 3 of the *Customs (Prohibited Imports) Regulations 1958* (the Regulations) prohibit the import and export of objectionable goods. The Regulations are limited to tangible objectionable goods, including publications such as magazines and books. The Regulations do not prohibit online content or electronic goods, unless the objectionable good is contained on a tangible good, such as a hard drive or phone.

Determining whether terrorism or extremist material is an 'objectionable good' for the purposes of import or export under the Regulations requires the goods to:

- describe, depict, express or otherwise deal with matters of crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be imported or exported; or
- promote, incite or instruct in matters of crime or violence; or
- advocate the doing of a terrorist act.

The Regulations therefore do not prohibit the import of goods that display terrorism-related symbols or insignia, such as flags or crests. However, material that does meet the current definition of objectionable goods—for example, publications that advocate the doing of a terrorist act—may contain symbols and insignia.

Measures to counter violent extremism in Australia

Australia's approach to countering violent extremism covers the spectrum between broader social cohesion policy and traditional counter-terrorism and law enforcement approaches.

The Countering Violent Extremism Sub-Committee of the Australia–New Zealand Counter-Terrorism Committee is responsible for the development of nationally coordinated policy, the development and maintenance of specific countering violent extremism capabilities, and the provision of strategic advice to counter the risk of violent extremism.

Comprising representatives from each Australian state and territory, and New Zealand, the Sub-Committee identifies, develops and proposes policy and program initiatives that prevent individuals becoming or remaining violent extremists and/or address the social impacts of violent extremism.

The Department is responsible for working with state and territory counterparts, and broader community partners to deliver programs that aim to:

- disengage people from violent extremism
- rehabilitate and reintegrate violent extremist offenders
- prevent the exploitation of the internet by terrorist and violent extremists
- provide positive narratives to counter the appeal of extremism.

Countering violent extremism intervention programs delivered in Australia aim to provide holistic, tailored, case-managed approaches to addressing the factors that contribute to an individual's radicalisation to violent extremism, regardless of ideology.

The types of support that are delivered under an intervention program can include health and psychological services, as well as education or religious mentoring—with the ultimate aim of ensuring an individual remains engaged within their community.

Countering violent extremism communications programs deliver positive alternative narratives to build the resilience of vulnerable individuals, including young Australians, against terrorist and violent extremist narratives, propaganda and messaging online.

The Department also regularly engages with international counterparts and research institutes on Australia's approach to addressing violent extremism.

Youth-focused initiatives

In recent years, Australia has seen an increased prevalence of youth and youth with complex mental health issues, including neurodiversity, within our terrorist and violent extremist caseloads.

The earliest possible intervention, alongside diversion efforts, will afford the best chance of a positive outcome and meet the needs of young people vulnerable to violent extremist influences.

The Department is committed working closely with our Commonwealth, state and territory counterparts, and community partners to deliver youth-focused research, training, programs and initiatives that addresses the issue of youth radicalisation to violent extremism.

The Department acknowledges that this requires a whole-of-nation approach that deepens engagement with partners in sectors such as youth, health, social services and education settings, and the Australian community.

Conclusion

The Government remains committed to keeping the Australian community safe from all forms of violent extremism, including ideologically motivated violent extremism.

Australia's countering violent extremism programs aim to address the factors that contribute to an individual's radicalisation to violent extremism, and incorporate support such as health and psychological services, education and religious mentoring. Early intervention of a person radicalising to violent extremism affords the best chance of diversion and a positive outcome.

The Department continues to work with Commonwealth, state and territory, and community and industry partners to address threats posed by NRVE groups, and violent extremist groups more broadly, including their impact on young people.