



**MULTICULTURAL
AUSTRALIA**
it's who we are

Submission to the Inquiry into Serious Vilification and Hate Crimes

Legal Affairs and Safety Committee

12 July 2021

Legal Affairs and Safety Committee

Parliament House

Brisbane QLD 4000

Email submission: lasc@parliament.qld.gov.au

The Committee Secretary

Re: Serious Vilification and Hate Crimes Inquiry

Multicultural Australia is pleased to provide this submission to the Legal Affairs and Safety Committee in its Inquiry into Serious Vilification and Hate Crimes in Queensland.

As a member of the Cohesive Communities Coalition, Multicultural Australia strongly supports the strengthening of protections under law in order for Queensland communities to live safely and taking steps to ensure hate crimes do not go unreported or unprosecuted. The current Inquiry is a very significant step forward for Queensland and Multicultural Australia is committed to ensuring that diverse voices are represented in this important conversation.

Multicultural Australia exists to create a welcoming and inclusive community for all new arrivals to Queensland. As Queensland's lead settlement service provider for migrants and refugees, we have been welcoming refugees, people seeking asylum, international students, and other new arrivals for over 20 years. We work to create a fairer, more prosperous society for all Queenslanders. We work closely with diverse multicultural communities in Queensland from new and emerging communities to the more established communities. We are deeply committed to creating and promoting positive conversations about inclusion and preventing situations that may foster exclusion and hate in our community.

Multicultural Australia strongly endorses the Options Paper developed by the Cohesive Communities Coalition: *Serious vilification and hate crime: The need for legislative reform*. Our submission is premised around this options paper and offers further information based on our long-standing service experience and community contact. Additionally, Multicultural Australia has engaged extensively with our community and service stakeholders through a dedicated public campaign '**Be Heard**' - to maximise community awareness of the Inquiry and ensure that the Legal Affairs and Safety Committee hears diverse community voices on this issue.

People from minority religious and racial communities face vilification or hate speech within our

communities and in our public spaces. Hate crimes have a significant negative impact on victims and society at large. They create fear among the targeted groups undermining community cohesion, and have significant adverse mental health, and psychosocial impacts on victims and their families, and communities. Equally serious and worrying is its role in the rise of violent extremism.

Multicultural Australia is seeking stronger legislative protection for Queenslanders to be able to live safely; for effective and timely responses by police and courts for hate crimes so that our diverse communities have trust in our systems and are willing to report instances of crime. The *Anti-Discrimination Act 1991* (Qld) provides a strong statement on the right to be free from discrimination, harassment, and harm – while balancing the right to freedom of speech. In addition to advocating for criminal law reform on hate crime and serious vilification, Multicultural Australia advocates for the *Anti-Discrimination Act* to be further strengthened, so as to reflect community expectations in an increasingly diverse Queensland and help build a safe and inclusive community.

Our recommendation is for the consideration of a range of (civil and criminal) legislative and non-legislative solutions to address existing gaps and shortfalls in Queensland, including a holistic and culturally capable program of community support to ensure appropriate access to justice for minority communities and for public messaging, education and prevention programs to address anti-social behaviour and promote community cohesion.

Multicultural Australia would be happy to assist with any further information concerning this submission. For any further communication, please contact Rose Dash (Chief Client Officer, Multicultural Australia), RoseD@multiculturalaustralia.org.au or 07 3337 5400.

Yours sincerely,

Christine Castley
CEO, Multicultural Australia

Multicultural Australia Public Campaign: *Be Heard*

A community campaign organised in response to the Queensland Parliament Legal Affairs and Safety Committee's inquiry into racial vilification and hate crimes.

The campaign ran from 11 June to 12 July 2021, with an intent to raise awareness of the Inquiry within diverse communities across Queensland and secure voices of people that might not normally engage. At identified 'safe' locations and with the assistance of trusted intermediaries, community members were able to share their experiences of hate crimes and vilification in Queensland.

Through the campaign we received 41 community submissions – a sample of what is a common experience of living with racism, discrimination or vilification in the community.

'...go back to your country...'

'...my mother had onions thrown at her and her hijab pulled off...'

'Never been to Police...'

'I don't understand the process of reporting it ...'

Summary

Hate crimes, racism, and discrimination have wide ranging impacts on individuals and communities. They adversely affect individuals' wellbeing and ability to participate in society and erode trust and respect within our communities. Hate crimes can be an 'extreme manifestation of intergroup tension, conflict and animosity'¹, with targeted groups in society deprived of safety and a sense of belonging. People from minority religious and racial communities all too frequently face vilification or hate speech within our communities. This happens in public spaces - on our streets, in our neighbourhoods, and in the media (including online communities). Multicultural Australia, our clients, and our community partners are acutely aware of the far-reaching impact of racism, vilification, and hate crime in Queensland and Australian communities, noting that any attempt to quantify the scale of this impact is likely to be understated due to under-reporting by victims and failure to act or specifically record hate crime data by public safety responders.

Through our service experience and community contact, Multicultural Australia is aware that hate crimes, racism and discrimination continue to regularly occur in the Queensland community – with significant impacts on people's wellbeing and on their ability to participate in society. We equally remain aware that these incidents are largely under reported. These are due to a combination of factors – including the lack of or inadequacy of existing legislative recourse available and community confidence in reporting crimes of this nature.

Our submission is premised around the following:

- I. Describing the nature and extent of hate crimes and serious vilification in Queensland;
- II. Options to address shortfalls in Queensland's legislative scheme; barriers to reporting crime, and lack of support for minority communities in reporting hate crimes.

A discussion on the above points is presented below.

Nature and Extent of racism, hate crime and serious vilification in Queensland

Information about the scale and extent of racially motivated behaviour is not authoritatively

¹ Mason, Gail (2019). A picture of bias crime in New South Wales. *Cosmopolitan Civil Societies: an Interdisciplinary Journal*. Vol 11 (1)

available. For crimes of such serious nature and impacts on communities, there is a significant shortcoming in data collection and reporting. Further, any reporting of crimes or data collection itself is also hampered by low rates of community reporting – with hate crime victims often reluctant to report these.

Our submission seeks to interrogate some issues based on available research/information and our service experience, including: (1) the nature of the problem and an estimation of scale, (2) Multicultural Australia's public campaign to inform the current inquiry.

Nature and scale of racism, hate crime and serious vilification:

There is a significant body of research demonstrating negative health impacts associated with racism even when it might not constitute vilification or intimidation – including physiological symptoms, psychological harm, and conditions such as depression, anxiety, substance abuse, hypertension, nightmares, post-traumatic stress disorder, and in some cases, psychosis and suicide².

Australians are broadly supportive of cultural diversity – yet some groups seem to attract a great deal of negativity, with Muslim Australians, Middle Eastern, African, South Asian (Indian, Pakistani or Sri Lankan), and Jewish Australians perceived to be 'significant out groups'³. Information on the scale and prevalence of hate crimes is not available through official registers – more through community organisations or surveys, and some government/non-government agencies.

In the absence of accurate data, we used research, surveys, and our service delivery experience to inform our understanding. For example, the 2020 Scanlon Foundation Mapping Social Cohesion Report provides evidence of relatively high levels of negative opinion towards Asian Australians – and evidence of high levels of concern indicated by Asian Australian respondents (some similar findings with regard to some Middle Eastern and African national groups)⁴.

A recent report by the Harmony Alliance and Monash University - the first of its kind national study, surveyed 1392 migrant and refugee women across Australia. While not a representative sample, this study provides a sample snapshot of the experiences of this cohort⁵. Nearly 40% of

² Soutphommasane, Tim (2014). "Two Freedoms: freedom of expression and freedom from racial vilification", Alice Tay Lecture in Law and Human Rights. The lecture cites a range of resources. [Two Freedoms: Freedom of expression and freedom from racial vilification | Australian Human Rights Commission](#)

³ See *n. 1*

⁴ See https://scanloninstitute.org.au/sites/default/files/2021-02/SC2020_Report_Final.pdf

⁵ Segrave, M. Wickes, R, and Keel, C. (2021) Migrant and Refugee Women in Australia: The Safety and Security

the migrant and refugee women in this study reported that they believed their victimisation as a result of theft, burglary, threatening behaviour or property damage was motivated by bias and/or prejudice. In the sample, women who had experienced general victimisation viewed the police as less procedurally just and fair than the rest of the sample. This failure of confidence has very real implications for developing strong, trusting relationships with police and the justice system.

Absence of accurate reported information on racially-motivated behaviour and hate crimes not only makes it difficult to register the full scale of the issue – but it also impacts any ability to provide a significant commentary on the changing trends of hate crimes.

There has been however, a significant rise in reporting⁶ on racism and hate crimes in the wake of the COVID-19 pandemic. The devastating impacts of the pandemic have been exacerbated for some community groups targeted by racially motivated incidents. Asian Australians particularly experienced significant racism. The Asian Australian Alliance survey found that a significant majority of those who experienced an incident of COVID-19 related racism did not report it to the police⁷. Likewise, the 2020 Scanlon Foundation Mapping Social Cohesion Report highlighted concerns; the highest proportion of concern about 'discrimination experienced by ...friends and/or members of ... local community ... during the COVID-19 pandemic...' was indicated by those born in an Asian country (55%); and a high proportion of Chinese Australians (59%) responded that the problem of 'racism in Australia during the COVID-19 crisis', was 'a very big problem' or 'a fairly big problem'.⁸

Temporary visa holders recorded similar experiences during this period. In a wide-ranging survey, temporary migrants shared over 1,600 personal experiences of racist verbal harassment, physical abuse, or being shunned in public spaces, workplaces and housing, and targeted derogatory and xenophobic slurs. Experiences of physical assaults (including serious assault) were also reported. Respondents from a range of nationalities were regularly told to go home and "get out of Australia"⁹.

Multicultural Australia has tracked client concerns and experiences around racism, hate crimes and serious vilification over many years, and provided support to the best of our ability as part of

Survey. Monash University. [Migrant and refugee women in Australia: The safety and security study \(monash.edu\)](https://www.monash.edu/multicultural-australia/research/migrant-and-refugee-women-in-australia-the-safety-and-security-study)

⁶ See [Here's what you told us about racism in Australia during the coronavirus pandemic - ABC News \(Australian Broadcasting Corporation\)](https://www.abc.net.au/news/2020-05-14/here-what-you-told-us-about-racism-in-australia-during-the-coronavirus-pandemic/12111114)

⁷ COVID-19 Coronavirus Racism Incident Report. Reporting Racism against Asians in Australia Arising due to the COVID-19 Coronavirus Pandemic. Asian Australian Alliance Pty Ltd. [COVID19-racism-incident-report-Preliminary-Official.pdf \(diversityarts.org.au\)](https://www.diversityarts.org.au/files/COVID19-racism-incident-report-Preliminary-Official.pdf)

⁸ See n.4

⁹ Berg, Laurie and Farbenblum, Bassina As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19 (MWWJ, 2020). [As+if+we+weren't+humans+Report.pdf \(squarespace.com\)](https://www.squarespace.com/as-if-we-weren-t-humans-report)

our case management services to assist clients to report these incidents. However, any support is often materially constrained by the reluctance of victims to report incidents to the police, and by lack of adequate response by Queensland Police Services (QPS) in many instances. Our service experience indicates the pernicious nature and significant harm of such behaviour. The clients and communities we work with include people from refugee backgrounds with prior experience of exclusion and harm around particular attributes (i.e., race, religion, political opinion, etc.) For these cohorts, experience of hate crimes and vilification can have devastating compounding impacts that exacerbate pre-existing trauma and mental health symptoms, impact an individual, family, or group's sense of safety, and can be a significant barrier to settlement stability and success. Some examples are noted below.

Some examples of what we have heard from Multicultural Australia Clients and Staff

Members of Multicultural Australia staff at their work-break, and near our workplace, being called "nigger" by members of public.

Staff members note profiling when they visit shops (retail staff following them or not acknowledging them at all – or only acknowledging their 'Caucasian' partners).

Multicultural Australia staff supporting refugee youth to participate in sporting activities, noting the racial targeting and bullying that the young students are being subjected to, by other mainstream school students.

Staff noting the significant profiling and targeting of a newly arrived refugee community in regional Queensland. The community members are visible and easily identifiable – and targets of assault and abuse. They have been attacked in parks and public spaces and their cars broken into. The community members have limited English and understanding of abuse hurled – but our cultural advisory staff report that these include an (incorrect) identification of the community as 'Muslims' and subjecting them to the familiar "go back to ..."

A client approaching Multicultural Australia Case Manager for assistance, after being attacked by some youths and told to "go back to..." The client noticed police standing nearby, who did not intervene. Police later asked him to lodge a complaint. Client approached Multicultural Australia staff to assist with this complaint. This incident happened very recently, in fact, in the

middle of our Be Heard campaign to record community experiences of hate crimes.

Client reported to Multicultural Australia Case Manager, that they met with the police who met with the client to take details to file a report and collected the evidence of attempted robbery which resulted in the client being stabbed by an intruder in their residence. Client stated that they advised police "my family and I left Iraq to seek safety, have I known I would be unsafe in Australia, I would not come here", to which the police officer responded, "you have every right to return to Iraq if you wish".

Mohammed and his brothers were playing in a park after school. A group of Caucasian boys began vilifying and spouting hate speech at Mohammed and his brothers. Mohammed had very limited English and could not respond. Violence ensued; Mohammed was the target of physical violence by these boys. Instead of adult intervention, the father of one of these Caucasian boys arrived and escalated the violence which resulted in Mohammed becoming unconscious. Passers-by, from the migrant community, called the police and an ambulance. The police did not attend. Mohammed was taken to hospital. The police visited Mohammed's residence the next morning. They could not communicate due to language barriers, so left the residence, went back to the station and called the family's Multicultural Australia Case Manager. The Case Manager advocated for the police to attend Mohammed's residence with a NAATI qualified and/or Translating and Interpreting Services (TIS) phone interpreter. This reportedly, did not happen. Case Manager subsequently supported Mohammed and his father to attend the police station and provide a statement of the attack. The Case Manager assisted the police officer to utilise a TIS interpreter for the statement. No charges were filed, instead Mohammed was encouraged by the police officer to "hit back" if it happened again.*

**Name changed*

Maysa was walking towards her workplace, wearing a headscarf, and heard shouting from a man standing in his driveway. She did not hear what he was saying because she was on the other side of the road and his voice was drowned out by the noise from a truck that was turning. She later learned from a colleague who witnessed the incident that the man had yelled to her, "Go back to your country". She felt upset and pointed out that she was just walking along the footpath, and not doing anything to disturb the man.*

**Name changed*

An Iraqi family husband (Yusuf), wife (Maryam*), teenage son (Abdul*) and 7-year-old son*

(Zaid) settled in Brisbane:*

- *Maryam* presented to her Multicultural Australia Case Manager in a very anxious state and in tears. She described feeling unsafe in the community because cars had honked and people had yelled out insults as she walked to the shops and school with her sons, wearing her hijab. On one occasion, someone in a car pulled up at the lights and yelled insults through a megaphone.*
- *Abdul* told his mother he was 'embarrassed' to be with her in public because when they were out and people 'stared', 'made comments', or 'honked and yelled comments'. Maryam* was worried about her son's behaviour, because he was getting increasingly angry and yelling back at people, which was unusual for him. She was worried that it might escalate into physical conflict.*
- *Her younger son, Zaid*, asked his mother not to pick him up at school because he was embarrassed, and thought he would get teased about her hijab. Zaid* became anxious and clingy at home, and often had nightmares. The family's case manager referred him to the Child and Youth Mental Health Service.*
- *Maryam* told her children to be calm and not to mind the comments of others, but on the inside, she was hurt and anxious about her sons. She became fearful of leaving the house and was afraid of becoming depressed. Her Case Manager referred her to a mental health prevention program. She was later assisted to access a mental health treatment plan from her GP and a referral to a psychologist.*
- *Abdul* reported racism at the local shopping centre when staff had refused to serve him, and experienced racist verbal comments and gestures in the street and from passing cars. People had thrown rubbish at him. A bus driver refused to stop at his stop. He felt that he was not accepted by the community and reported that he was upset and alone. He was linked to music therapy at his school to help cope with the stress.*
- *The family made the decision to relocate to Sydney, in the hope that the stronger presence of different cultures will mean people are more accepting of different cultural backgrounds.*

**Names changed*

Multicultural Australia Public Campaign: *Be Heard*

Multicultural Australia created the community campaign, ***Be Heard***, in response to the Inquiry into racial vilification and hate crimes – to raise the profile of the Inquiry within diverse communities

across Queensland.

The Inquiry's willingness to accept video and audio submissions provided a significant boost to our effort to engage diverse cultural communities across Queensland. A range of locations (Safe Spaces) were identified where community members could drop in to share experiences that would be recorded for the Inquiry.

The *Be Heard* campaign ran from 11 June to 12 July 2021. A range of resources were created to support the campaign - informational flyers on the purpose of the campaign and the Queensland Parliament Inquiry; details of all Safe Space locations and written questions designed to prompt respondents' stories of racial vilification and hate crimes. Significantly, a video of community representatives from diverse cultural and linguistic communities sharing their own stories was created - to encourage other community members to share their own experiences of racial vilification and hate crimes.

Multicultural Australia resourced the ***Be Heard*** Campaign with internal funding and staff who volunteered their time to facilitate interviews and act as support people at each of the campaign's Safe Spaces. JMC Academy and 4EB also partnered with Multicultural Australia throughout the campaign to provide voluntary videography and audio recording services. Multicultural Australia also arranged for assistance from World Wellness Group to provide culturally appropriate mental health services (e.g., counselling, referrals) for both respondents and staff seeking further assistance if they required confidential and qualified support due to their contributions in the submission process.

Sharing highlights: *What was significant about the campaign?*

The campaign was created and delivered to allow diverse minority community group members to feel safe about sharing their stories. A range of safe spaces and trusted intermediaries were identified to support community members participate in the campaign.

Safe spaces were established at geographically and culturally accessible locations for multicultural communities across South East QLD, in partnership with supporting organisations including - 4EB, TAFE Queensland, Multicultural Community Council Gold Coast, Access

Community Services, Redbank Plains Community Centre, Toowoomba Multicultural Centre, Banyo Library, Islamic College of Brisbane, Holland Park Mosque, and Zillmere Community Centre. Additional interviews were conducted at the Islamic Women's Association Australia and at a Community Leaders gathering at the Brisbane Multicultural Centre.

Through the campaign, 41 video, audio and written submissions were recorded, these submissions have been provided separately to the Committee – along with all the campaign resources, supporting materials and media report. These stories and submissions would otherwise not have reached the Inquiry.

Sharing insights: *What we heard from the campaign*

Across the board, staff at campaign safe spaces, noted a strong sense of hesitation and/or fear among many respondents around coming forward with stories and comments on racial vilification and hate crimes they and their families and friends had experienced. A common theme in interviews was the respondents' certainty of significant underreporting of racial vilification and hate crimes by the majority of individuals in each of their cultural communities. Each respondent had direct experiences of racial vilification, or race related hate crimes, and knew of multiple other incidences their friends and family had been subjected to – most of these incidents were not reported to police or any other authority figure.

Summarising the nature and extent of hate crimes (sharing community experiences)

An analysis of available information on hate crimes indicates significant research around the harmful impacts of such crimes. However, information on the scale and extent of such crimes is not easily available. We have provided an indication of an increase in reporting of hate crimes and racism during the COVID-19 pandemic. These are mainly community surveys and responses – and not from any official register or reported crime figures. The *Be Heard* campaign was designed to ensure minority community members could share a specific incident and/ or a sample of what is their regular experience of living with racism, discrimination or vilification in the Queensland community. Examples from Multicultural Australia's service experience indicates the (seemingly) persistent nature of people's experiences around these crimes. Many of these examples were reported only to trusted staff or community members and had not progressed to

a formal reporting stage at the request of the victim.

Considering Legislative Reform and Barriers to reporting hate crimes

As noted earlier, Multicultural Australia is a member of the Cohesive Communities Coalition – and we strongly endorse the Options Paper presented by the Coalition: *Serious vilification and hate crime: The need for legislative reform*. We are seeking stronger protections under the law for Queensland communities to be able to live safely - for a rigorous oversight of the way that hate crimes are policed and also for our diverse communities to be able to trust our systems and report instances of crime. Further, we are keen to see a community wide campaign on hate crimes, discrimination and vilification so diverse communities have visibility of the law and ways to access recourse when they encounter such crimes.

We would like to draw attention to (1) Queensland's existing legislative scheme and gaps; (2) barriers to reporting hate crimes; and (3) lack of services and supports for minority communities, in reporting hate crimes.

Queensland – current legislative scheme and options

Queensland's current laws on hate speech and vilification are inadequate, under-utilised by law enforcement agencies, and are further rendered ineffective because of low levels of reporting and community confidence.

The Cohesive Communities Coalition's Options paper lists problems with Queensland's existing legislative scheme including:

- The absence of actual hate crime laws leading to low reporting, victim vulnerability and compromised data.
- The existing offence of serious vilification not being used to respond to criminal incitement.

Current legislation - s131A of the *Anti-Discrimination Act 1991* (serious vilification) - does not cover the majority of harassment experienced by targeted communities and is unduly hampered

by the requirement for approval by a Crown Law officer. As the Coalition's Options Paper notes, this has significant impact on offending behaviours due to perceived impunity, low reporting of crime due to low community confidence, poor victim protection and deterrence outcomes, and severely compromised data collection.

Egregious examples of racially or religiously motivated assault, damage to property, harassment etc. do not get prosecuted for the bias element behind the incidents. While the incidents might be prosecuted for the assault, damage to property etc., there is no acknowledgment of the hate element of the crime for the victim (or their identified group).

Legislative reform is needed to address the additional culpability arising from the direct mental harm and trauma to the victim's *inherent sense of safety and human dignity* and the broader harm to the sense of safety and wellbeing in affected communities arising from a range of actions, whether it be physical or verbal abuse or attacks on buildings or places of worship. The insidious impact of the offending behaviour warrants a justice system response that provides options beyond simple offences such as public nuisance or trespass, or general property offences such as wilful damage or graffiti.

Hate crime laws for Queensland must be effective to inspire confidence in the community. They should act as a clear statement on the value of diversity and inclusion and send a clear message about standards of behaviour that will not be tolerated in Queensland. Legislative reform on hate crime laws needs to explicitly acknowledge the discriminatory hate element of the crime for the victim and victim's group; include mechanisms to provide for the immediate and sustained safety of the victim; act as a clear deterrent of hateful language and acts; and be readily enforceable by police both as an immediate response and also in response to the risk of further instances of harm.

The Queensland civil law framework in combatting vilification is very important for the recognition it affords to the harms of vilification, and the ability to report. The *Anti-Discrimination Act 1991* (Qld) prohibits vilification on the basis of race, religion, sexuality or gender identity. Vilification anywhere in Queensland is unlawful, if it is a public act. Targets of vilification can make complaints to the Queensland Human Rights Commission (the Commission), and complaints about serious vilification can be made to the Police (or a civil claim to the Commission, or both). The Commission also provides an *Online Racism Reporting Tool* for targets of vilification or abuse, who do not wish to make a formal complaint.

However, this framework relies solely on victims to instigate complaints; and this can be a burden for some individuals and communities. We believe this could be remedied by allowing concerned members of the community (i.e., witnesses of unlawful vilification or agencies acting on behalf of individuals or target groups) to make complaints; and by providing the Queensland Human Rights Commission with authority to self-initiate complaints where they may become aware of conduct likely to be deemed unlawful.

Barriers to reporting hate crimes

Hate crimes and victimisation studies indicate an under-reporting and under-recording of issues. Research indicates bias crime is less likely to be reported to police than non-bias crime. There can be a range of reasons for not reporting to the police – shame, language barriers, or a failure to recognise the incident as a crime at all. Victims must also be familiar with the concept and be willing to communicate the behaviour to the police¹⁰.

Barriers to reporting hate crimes and hate incidents can include **internal** and **external** factors. Internal barriers can include internalisation or lack of awareness; while external barriers can include a fear of consequences, a lack of trust in statutory authorities or accessibility¹¹.

Police are often the first point of contact for individuals seeking support and recognition of their victimisation based on race, religion, ethnicity, sexuality, etc. In Multicultural Australia's experience, many community members do not feel confident in approaching or reporting to police. This can be the result of their prior experiences with authority or an expression of their mistrust. Many of Multicultural Australia's clients from immigrant and refugee backgrounds have fled countries where they might have been actively persecuted by authorities who did not act in a protective role. In such instances, community members need to feel confident to report such crimes – and in turn, receive empathetic and respectful hearing of their cases. Often community members report how their experiences have been diminished or dismissed in their reporting to the Police¹². These experiences are further compromised all too frequently because of a lack of access to interpreter services to support timely and appropriate reporting of and responses to an incident.

¹⁰ See n. 1

¹¹ Vergani, Matteo and Navarro, Carolina (2020). Barriers to reporting Hate Crime and Hate Crime Incidents in Victoria: A Mixed method study. Centre for Resilient and Inclusive societies. [CRIS-Report_Barriers-to-reporting-hate-crimes_final.pdf \(cmv.net.au\)](#)

¹² See [To protect our communities from hate crimes, we need better laws - ABC Religion & Ethics.](#)

In our experience, community members are much more comfortable reporting instances of hate crimes to community services or trusted individuals including settlement case workers and trusted community contacts (i.e., community leaders and community association representatives). This points to a significant community need to continue to establish and build strong links between community groups and the Queensland Police Service. Police Liaison Officers (PLOs) play an important role in this respect and consideration should be given to additional recruiting, resourcing, use of and support for PLOs.

Complementary action needs to include building the capacity of the Queensland Police Service (QPS) itself to assist community groups monitor and report hate crimes within their groups and local areas. It is important that the QPS is able to recognise and respond to the increasing diversity of the Queensland community and understand the varying nature of harm inflicted upon them. This includes seeking out cultural guidance and an understanding of minority communities represented in Queensland. Further, there should be regular training of frontline staff in developing their cultural capability and interpreting service access should be embedded as standard practice in supporting those with limited English. The QPS workforce should also be reflective of the population it serves. An additional component could include providing QPS with specialist training and understanding around identifying hate crimes and providing appropriate responses. Importantly, direct consultation must be undertaken with culturally diverse communities in the development of QPS operational policies and procedures on responding to anti-social behaviours related to hate crime and serious vilification.

Community supports for minorities

Hate crime victims can include those further disadvantaged in the community – economic factors, language, and cultural barriers as members of new and emerging communities, accessibility issues as a result of their disability, etc. Many such community members are least likely to report their experience of hate crime and seek support services. Support requirements of communities can include - legal assistance, assistance for reporting an incident to police or human-rights organisations, counselling and other mental health services, psychosocial support, and community education specifically related to the experience of hate victimisation. However, many such groups are considered 'hard to reach' in our community, and their support needs are often not considered or offered. Young people from minority communities also require particular attention and support, preventative education in our schools and with young people – highlighting clear standards of behaviour, the harms of hate victimisation and promoting the benefits of diversity - is a significant strategy to secure long term benefits in the community.

In Multicultural Australia's experience, there is limited resources and dedicated supports available to members from new and emerging community members to assist them in seeking support for hate crime victimisation. Individuals need to access culturally safe and appropriate advice and assistance (in relevant language) to understand the nature of crime, their legal and support options, including ability to access victims of crime support.

Through our community conversations, we also understand that multicultural community members and leaders are keen to hold appropriate conversations with relevant authorities including media, police, emergency service responders and legal advocates. This stems from a community interest and willingness to commit time and effort to providing information and cultural advice on significant cases or towards improving police practice.

Summarising legislative gaps and barriers to reporting hate crimes and support needs for minority communities

Community experiences of hate-based crimes and barriers to reporting indicates the urgent need for legislative reform in Queensland to specifically target anti-social behaviours related to hate crime and serious vilification. For such laws to be effective, they must be both specific and symbolic – including addressing immediate safety needs, acknowledging the discriminatory hate element and its impact on vulnerable individuals and communities.

Recommendations:

Premised around the above submission, Multicultural Australia provides a range of recommendations:

Options for legislative reform: consider a range of options as below (these were developed in consultation with the Cohesive Communities Coalition – Legal Sub-Group):

- Introduce a statutory aggravation regarding hate/bias into the *Criminal Code Act 1899* (QLD) and *Summary Offences Act 2005* (QLD) to apply to criminal conduct.
- Adopt a harm-based test for determining this hate/bias aggravation that does not rely on establishing the perpetrator's state of mind. A statutory hate/bias aggravation should apply where the criminal conduct:
 - Expresses hate; incites hatred, serious contempt, or severe ridicule, or directly

discriminates against a group identified based on a protected characteristic; and

- Is reasonably likely to cause a person from a group, identified on the basis of that protected attribute, to have a reasonable fear for their safety or security of property.
- Specify penalties for this form of aggravated criminal conduct in the Criminal Code regarding each base offence, including public nuisance, Wilful Damage (property), Threatening violence, Stalking, Armed to cause fear, Assault and Grievous Bodily Harm, Deprivation of liberty.
- Include a general provision regarding aggravation in the Criminal Code to allow for judicial discretion where police have not identified the aggravation but a judge considers it to be appropriate.
- Mandate police to mark it as a hate crime on the first charge sheet where the aggravation is present.
- Specify in the Criminal Code that when a crime is done for hate and another reason, it should still be considered a hate crime.
- Expand the attributes protected by the *Anti-Discrimination Act 1991* (Qld) to include ethnicity, national origin, disability and gender, acknowledging that vulnerabilities exist across these domains and can be difficult to separate in a hate crime
- Increase section 131A's penalty to 3 years and financial element, remove the Crown Law officer approval requirement, move it from the Anti-Discrimination Act to the Criminal Code to heighten its visibility, and revisit its effectiveness in a few years.
- Increase section 131A's penalty to 3 years and financial element, remove the Crown Law officer approval requirement, move it from the Anti-Discrimination Act to the Criminal Code to heighten its visibility, and revisit its effectiveness in a few years.
- Introduce a new standalone criminal offence for publishing or distributing material online that stirs up, maintains or normalises hatred.
- Consider the need for a statutory defence to such a new criminal offence to provide explicit protection for legitimate free speech, in line with the exceptions provided to section 124A of the Anti-Discrimination Act.

Other legislative options:

- Consider non-criminal options to enhance enforcement of existing incitement to hatred laws, such as giving the Queensland Human Rights Commission additional powers to issue notices to platforms or to investigate complaints and issue fines.
- Introduce a new species of Order, along the same lines as a Peace and Good Behaviour Order or Domestic Violence Order, to address behaviour that falls short of criminal offences, but which if repeated, a breach of the order of the court is penalised. Such an order could protect:
 - A previously targeted group or individual;
 - Culturally or religiously significant places (e.g. places of worship).

Data collection and reporting:

- Ensure appropriate reporting, data collection and publication of hate crimes data. Publish prevalence data to encourage community awareness and more reporting.

Hate crime victims and offender strategies

- Develop a restorative justice strategy in relation to hate crimes in consultation with affected communities.
- Invest in diversion options and community justice conferencing options for hate crime offenders.

Specialist support, education, training and awareness raising:

- Support specialist advocacy services or a legal clinic dedicated to hate crime, human rights, discrimination and vilification for culturally and linguistically diverse clients of limited socio-economic means. Additionally, private lawyer expertise in this field should be identified to make it easier for community members to seek advice.
- Legislate for a hate crime scrutiny panel involving police and community advocates as an ongoing mutual education process to guide improvements in practice and increase communication on high impact cases.

- Prioritise a program of education, training, and awareness raising within the Queensland Police Service – on identifying hate crimes and supporting diverse communities through monitoring and reporting of such crimes. This includes a review of police operational policies and procedures as they relate to responding to anti-social behaviours related to hate crime and serious vilification in consultation with ethnic and faith-based community leaders.
- Implement a community-wide awareness campaign on hate crimes, human rights, discrimination and vilification for diverse communities across Queensland.
- Encourage preventative education within schools and local areas that specifically explains the psychological, neurological, social and economic impacts of racism, vilification and discrimination.