

## Victorian Multicultural Commission: Supplementary submission to the inquiry into anti-vilification protections



The Victorian Multicultural Commission (the Commission) welcomes the opportunity to provide a supplementary submission to the inquiry into anti-vilification protections. This submission reiterates the key positions put forward in the preliminary submission with supplementary focus on:

- racism emanating from the COVID-19 pandemic; and
- the current global 'Black Lives Matter' movement which has mobilised the community to combat racism and the shocking number of First Nations People who have died in custody since 1991.

### Initial submission summary

- Communities are genuinely concerned about the prevalence and rise of vilification.
- National and international research indicates racism contributes to isolation, poorer health including mental health, feelings of vulnerability and it undermines peoples' sense of belonging and ability to participate in the wider community.
- Consensus that there is a profound under-reporting of hate conduct and vilification
- While there is awareness of the existence of legislation there is limited knowledge of the protections and redress available.
- Freedom of expression is important but not an absolute.
- Support the expansion of attributes to protect more people.
- Support the need to address and respond to online hate.
- Improve data collection on incidents of vilification and hatred.
- Improve support for victims of vilification/hatred.
- An ongoing community education and awareness program is essential as legislation alone cannot solve this issue.

Firstly, the Commission reiterates the key positions and recommendations in its initial submission.

### Supplementary key positions

Since its initial submission and presentation to the Parliamentary Inquiry, the Commission has conducted additional consultations through its Regional Advisory Councils and held a series of roundtables with community leaders and representatives.

One of the recent roundtables was co-hosted with the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) with representatives of Victoria's Chinese and Asian communities. The roundtable discussed:

- The impacts that COVID-19 generated racism has had on individuals and community cohesion;
- Reporting racism and navigating through the existing systems;
- How the two Commissions or government can better respond to racism, in particular with regards to ongoing community education and awareness; and
- Ideas on programs or initiatives that can support communities and address community cohesion.

The Commission also had a discussion with the Asian Australia Alliance and received further feedback from their survey and their findings. Those insights are also included below.

### Key findings from the consultations included:

- People are reluctant to report.
- The incidents occur online or in public places such as shopping centres.
- A significant number of reports were from women.
- Increased anecdotal evidence of racial slurs, hate and vilification particularly against people from Australian-Chinese and Asian backgrounds, compromising their sense of safety and sense of belonging which has led to isolation, distress and fear.
- People of Asian backgrounds observing instances of racial vilification on the news are fearful and distressed to leave their homes even for essential needs such as groceries.
- Need for political leadership to:
  - take a firm and consistent position against racism and vilification; and
  - send a positive message to multicultural communities.
- Need for practical initiatives to assist employers and workplaces to address hate conduct and vilification, and support their Asian-Australian staff, clients and stakeholders.
- Concerns for the mental health and wellbeing of Asian-Australian communities impacted by COVID-19 related hate conduct and vilification, particularly in the workforce and in recruitment/re-employment during COVID-19 recovery phase.
- The role of Victoria Police in dealing with reported hate conduct and vilification and how they can better support victims and increase community safety particularly in public spaces.
- Communities also called for an immediate, comprehensive and long-term implementation of an anti-vilification/racism campaign, that:
  - is developed in partnership with affected communities
  - develops positive messaging and promotes goodwill news stories
  - comprises of supportive mainstream and social media campaigns that shares stories and creates awareness of the effects of hate conduct and vilification
  - supports the VEOHRC and similar agencies to fight systemic racial vilification
  - builds the evidence base and improves data collection methods on the experience and prevalence of hate conduct and vilification.

The issues raised and recommendations suggested from community representatives were consistent with the Commission's initial submission's recommendations.

### Recent initiative

The VMC is working with the VEOHRC to better inform the public of reporting complaints of racism. The VEOHRC has produced translated information that will be disseminated to communities through the two Commission's networks. In addition, a series of information training sessions will be held for community leaders and advocates to be better informed about the legislation and the reporting processes.

### 'Black Lives Matter'

The death of George Floyd in Minnesota, USA, on 25 May 2020 generated a global Black Lives Matter movement. In Australia, this movement has led to a series of protests across the nation that has incorporated a call for action against the shocking number of First Nations People who have died in custody since 1991.

The Commission is committed to supporting anti-vilification measures and interventions that protect human rights, inclusion and provide equality of opportunity for Victoria's multicultural communities. As such, the Commission acknowledges the 'Black Lives Matter' movement as a key champion of change and is committed to working with Victoria's Indigenous and multicultural communities in raising awareness and combatting racism.

## Conclusion

Since the enactment of the Racial and Religious Tolerance Act in 2001 much has changed both globally and within Australia with respect to the prevalence of racism and vilification through a range of factors and developments. Not a comprehensive list and not in any particular order, but these have included:

- the Black Lives Matter movement;
- the shocking number of First Nations People who have died in custody;
- the racism that has been generated through the COVID-19 pandemic, particularly towards Victoria's Chinese and Asian communities;
- increased levels of anti-Semitism;
- increased incidents of Islamophobia;
- Scanlon Foundations Social Cohesion Survey findings showing increased levels of survey respondents reporting having experienced discrimination, some from ethnic, cultural and faith backgrounds significantly more than others.

Given our increasing multicultural and multifaith society it is critically important to ensure that the protections against racism, vilification and hate conduct are as strong and as clear as possible. This can enable greater participation by all and improve social cohesion.

The Commission's initial submission recommendations are restated below:

The VMC:

1. Supports the expansion of attributes to protect more people by including gender, gender identity, sexual orientation, sex characteristics and disability.
2. Recommends better protections that address and respond to online hate.
3. Advocates for improved data collection on incidents of vilification and hatred including improved outcome measures and indicators that more effectively monitor the effectiveness of legislation, programs and services.
4. Recommends the improvement of appropriate support for victims of vilification/hatred.
5. Recommends that relevant stakeholders implement an ongoing community education and awareness program covering both awareness of racism, vilification, hate crimes and their impacts on individuals and communities as well as how to utilise avenues of redress.
6. Recommends that health and mental health impacts of racism be better acknowledged and responded to within justice, policing, health, human services, employment and education portfolios and sectors.
7. Freedom of expression is a critically important right that requires protection, but it is not an absolute and that an appropriate balance is required to protect against vilification and the incitement of hatred and/or violence.

Legislation:

8. To streamline legislation, and on the assumption that the attributes covered would be expanded, that Victoria's vilification laws should be consolidated, possibly within the Equal Opportunity Act 2010 as part of a suite of laws to promote diversity and equality in Victoria.
9. A harm-based civil provision should be introduced that focuses on the harm caused by hate conduct rather than incitement of a third party.
10. The threshold for the serious vilification offences should be lowered and simplified.
11. The serious vilification offences should be incorporated in the Crimes Act to promote stronger enforcement of hate crime in Victoria.
12. The burden of enforcement should be shifted from individuals by empowering the Victorian Human Rights and Equal Opportunity Commission to more effectively regulate vilification and by introducing a positive duty for organisations to take proactive steps to prevent vilification.
13. Expansion of the definition of hate conduct to include Actions against a person in addition to incitement against a group of people.