

17 December 2019

Committee Manager  
Legislative Assembly, Legal and Social Issues Committee  
Parliament of Victoria  
Parliament House, Spring Street  
EAST MELBOURNE VIC 3002  
Email: [avpinquiry@parliament.vic.gov.au](mailto:avpinquiry@parliament.vic.gov.au)

**Re: CMY's response to the Committee Inquiry into Anti-vilification Protections**

Dear Committee Manager,

The Centre for Multicultural Youth (CMY) is a Victorian not-for-profit organisation supporting young people from migrant and refugee backgrounds to build better lives in Australia. Our vision is that young people from migrant and refugee backgrounds are connected, empowered and influential.

Victoria is home to one of the most culturally and linguistically diverse populations in Australia, with almost one in every two young Victorians either born overseas or with a parent born overseas.<sup>i</sup> Diversity is not only a characteristic of our community, it is a significant asset and strength, and capitalising on this requires that everyone participates fully and equally. One of the most significant threats to full and equal participation is hate. Hate is destructive and divisive. Whether directed at someone for their race or religion, or their gender, sexual orientation or disability, hate creates barriers to participation and inclusion, increasing inequality and entrenching disadvantage. Laws that condemn and actively discourage the incitement and expression of hate are a critical component in the makeup of an open and tolerant society and send a clear message that such behaviour and attitudes are not acceptable and are something against which our society is willing to take action.

CMY welcomes this inquiry as an important and timely opportunity to re-examine anti-vilification legislation. Hate speech and vilification cause considerable harm, and can be particularly damaging for young people. Through our work with young people and communities from refugee and migrant backgrounds across Victoria we see the direct and lasting effects of racism and hate. Such experiences have profound and enduring negative impacts on mental health and relationships, lock young people out of social and economic opportunities thus entrenching disadvantage, and deprive society of the benefits of diversity and the assets and contributions these young people could make.<sup>ii</sup>

Victoria has in place a range of mechanisms aimed at protecting Victorians from experiences of discrimination. In 2002, the *Racial and Religious Tolerance Act 2001 (Vic)* (the RRTA) was added to the suite of protections as an important legislative framework aimed at protecting people from vilification based on their race or religion, and in so doing promoting racial and religious tolerance in Victoria. However, almost

two decades on from the adoption of the RRTA we are witnessing some of the highest rates of reported discrimination, racism and hate crimes, here in Australia and across the world.<sup>iii</sup>

Across CMY's programs we do not systematically capture and report on experiences of racism and discrimination, hence we are unable to quantify or provide direct evidence of the depth and breadth of experiences of hate speech and vilification experienced by the young people we work with. However, we are concerned to see the stories and experiences of many of the young people and communities we work with reflected in current research, which shows that experiences of racism and discrimination have been increasing in recent years across Australia.<sup>iv</sup> CMY are also deeply concerned at the reported prevalence of hate speech and vilification in our society. A recent media report, quoting Victoria Police data, claims around three offences each day are flagged as motivated by prejudice, while the most recent Islamophobia Register Australia report found that 28% of all reported incidents were 'generic' expressions of anti-Muslim sentiment (i.e. not interpersonal), such as graffiti and stickers that publicly threatened Muslims and incited violence.<sup>v</sup>

The increasing prevalence of hate crimes and experiences of racism are cause for considerable concern for all of us. In order to address these concerns, CMY recommends that this Committee:

1. Review and explore measures to increase the accessibility of redress mechanisms for the victims of racial or religious vilification. This should include consideration of mechanisms that are youth-centred and community oriented.

The RRTA aims to provide an important protection against the harms caused by vilification and hate however current mechanisms for redress are inaccessible. The low number of successful vilification cases and convictions since the introduction of the RRTA attest to this.<sup>vi</sup>

Anecdotally, CMY is aware that young people we work have experienced or witnessed vilification and hate speech, however we are unable to provide any evidence of the number and breadth of such experiences. Instead, we can confirm that young people will often share experiences of racism and discrimination with people they trust (e.g. youth and social workers, teachers, family and peers). However even with the support of these trusted persons young people are often very reluctant to report to authorities via formal mechanisms, including police.<sup>vii</sup>

Underreporting of hate crimes and related incidents is a recognised problem worldwide.<sup>viii</sup> From our work with young people from refugee and migrant backgrounds here in Victoria we understand that there are a range of interconnected factors and barriers that contribute to underreporting. These include but are not limited to:

- the highly formal nature of reporting processes (young people can be discouraged by a lack of familiarity with and/or understanding of formal processes and procedures, additionally formal settings can be uncomfortable and/or challenging for some young people preventing their engagement);

- a belief or experience that reporting processes can place an unfair burden on the reporter/victim coupled with the high threshold of evidence required to prove a case of vilification;
- a failure of reporting processes to adequately address (or mitigate) the power imbalances young people and people from marginalised communities face in the context of formal reporting;
- the belief that the punishment/response to the reporting is likely to be insufficient (i.e. relative to the injustice the young person has experienced) and/or concerns that reporting may serve to further antagonise the accused.

In addition to addressing issues of accessibility of reporting mechanisms and processes under the RRTA, it would also be beneficial to explore alternative models of redress, such as conciliation, that could complement formal legal mechanisms while actively involving the community and working from a youth-informed perspective. An example is the group conferencing model. This model is taken from the community-oriented model based on restorative justice principles that is utilised in Victoria's youth justice system.<sup>ix</sup> The opportunity for young people to be supported by community through this process, and for victims and perpetrators to hear directly from one another, offers opportunities for rehabilitation and healing, as well as providing important educative functions. Another model that could provide additional positive benefits is the Community Justice approach.<sup>x</sup>

In addition to addressing the mechanisms by which victims may seek redress, CMY believe the Committee should also explore strengthening the socialisation of Victorian's to the RRTA, including (and perhaps more importantly) to the principles and ideas that underpin it. Socialisation, critically the understanding and valuing of societal values and norms in relation to respect for diversity, is critical to ensuring that the tolerance the RRTA seeks to achieve is part of Victoria's community narrative and understanding.

2. Recommend to the Victorian government that protections from hate speech and vilification are expanded to include other personal attributes, such as gender, sexual orientation or disability.

CMY is concerned by the experiences of serious harm resulting from hate speech and vilification directed towards members of the LGBTIQ community, women and people with disability. We recognise that race and religion converge with a myriad of other attributes in the lives of young people from refugee and migrant backgrounds to create multifaceted, intersecting identities. These intersecting identities can result in young people experiencing complex patterns of disadvantage and inequality that cannot be addressed by responding to one attribute in isolation. Addressing this requires responses and interventions that are flexible and capable of looking beyond one facet of a person's identity and focusing on the points of intersection.

In exploring the expansion of protection from vilification to other groups we ask that the Committee keep intersectionality in mind and consider where and how other legal mechanisms may serve protected groups more appropriately. Additionally, we ask that the Committee ensure definitions of gender are not binary.

CMY support the Victorian Equal Opportunity and Human Rights Commission (the VEOHRC) in their calls for reform of Victoria's vilification laws to expand protections to other personal attributes, such as gender, sexual orientation or disability.

3. Explore how state legislation could better address online vilification and hate speech, with specific consideration of the needs and interests of young people from refugee and migrant backgrounds, and the role families and communities can play in building resilience.

Young people today are more connected and engaged with digital technology than any previous generation. This growth in digital engagement comes at a time when online bullying, hate and incitement are on the rise.<sup>xi</sup> Research shows that young people represent a disproportionate number of those experiencing online vilification.<sup>xii</sup> Troublingly, despite growing digital literacy and awareness of online safety, at least one report shows that online incidents are three times less likely to be reported to the police than offline incidents.<sup>xiii</sup> In our work with young people CMY have witnessed firsthand the prolific growth in the use of online platforms to spread hate, often targeted towards already marginalised communities, and the incredible harm it can cause.

In exploring how state legislation could strengthen the protection of young people online, CMY encourages the Committee to consider the particular needs of young people from refugee and migrant backgrounds. Specifically, we would like to see investment in partnerships with communities and young people that build online skills and digital literacy in order to promote online safety and inclusion.

We would welcome the opportunity to contribute to the inquiry and would like to extend an open invitation to the Committee to hear directly from young Victorians from refugee and migrant backgrounds on this issue.

Yours sincerely

Carmel Guerra OAM  
CEO  
Centre for Multicultural Youth

---

<sup>i</sup> CMY. (2019 forthcoming). *A young and multicultural Victoria: The 2016 Census*. Melbourne: CMY.

## Endnotes

<sup>ii</sup> CMY. (2014). *Everyday Reality: Racism and young people*. Melbourne: CMY, p. 7

<sup>iii</sup> Markus. (2017). *Mapping Social Cohesion: The Scanlon Foundation surveys 2017*. Melbourne: Monash University, p. 59; Iner, D.(ed). (2019). *Islamophobia in Australia Report II (2017-2018)*. Sydney: Charles Sturt University and ISRA.

<sup>iv</sup> Wyn, Khan & Dadvand. (2018). *Multicultural Youth Australia Census Status Report 2017/18*. Melbourne: Youth Research Centre, University of Melbourne. Markus. (2017). *Mapping Social Cohesion: The Scanlon Foundation surveys 2017*. Melbourne: Monash University.

<sup>v</sup> Iner, D.(ed). (2019)., p. 5

<sup>vi</sup> According to Victoria Police data there are around three offences each day that are flagged as motivated by prejudice, however according to Victoria's Equal Opportunity and Human Rights Commission, since the commencement of the RRTA, there have been fewer than 35 report of vilification , Kristen Hilton, notes that since the introduction of the RRTA "only three cases of vilification have been successful before the Victorian Civil and Administrative Tribunal and only one criminal offence of serious vilification has been successfully prosecuted". VEOHRC. (2019). Victoria's anti-vilification laws to be reviewed by a Parliamentary Committee of the Legislative Assembly, Media Release, 11 September 2019. Available from <https://www.humanrightscommission.vic.gov.au/home/news-and-events/commission-news/item/1837-victoria%E2%80%99s-anti-vilification-laws-to-be-reviewed-by-a-parliamentary-committee-of-the-legislative-assembly>. Cohen & Mitchell. (2019). Hate crime laws rarely used by Australian authorities, police figures reveal, 3 May 2019, ABC. Available from <https://www.abc.net.au/news/2019-05-03/hate-crimes-rarely-prosecuted-in-australia/11055938> . VEOHRC. (2019). *Fact sheet 2 on reforming hate laws: How is the RRTA enforced?*. Melbourne: VEOHRC

<sup>vii</sup> For further insights on issues with reporting racism see: CMY. (2014). *Everyday Reality: Racism and Young People*. Melbourne: CMY; Haile-Michae & Issa. (2015). *The more things change the more they stay the same: Report of the FKCLC Peer Advocacy Outreach Project on racial profiling across Melbourne*. Melbourne: FKCLC; CMY. (2014). *Fair and accurate: Migrant and refugee young people, crime and the media*. Melbourne: CMY.

<sup>viii</sup> Iner, D. (ed). (2019)., p. 3

<sup>ix</sup> Department of Justice. (2019). *Youth Justice, Youth Justice Group Conferencing*. Available from <https://www.justice.vic.gov.au/justice-system/youth-justice/youth-justice-group-conferencing>

<sup>x</sup> Department of Justice. (2019). *Community Justice, Theory and Practice*. Available from <https://www.neighbourhoodjustice.vic.gov.au/knowledge-centrecommunity-justice-theory-and-practice/community-justice>

<sup>xi</sup> Jakubowicz, A. (2017). Alt\_Right White Lite: trolling, hate speech and cyber racism on social media. *Cosmopolitan Civil Societies: an Interdisciplinary Journal*, 9(3): 41-60.

<sup>xii</sup> Iner, D.(ed). (2019)., p. 10

<sup>xiii</sup> Iner, D.(ed). (2019)., p. 12