

TRANSCRIPT

LEGISLATIVE ASSEMBLY LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Anti-Vilification Protections

Melbourne—Thursday, 28 May 2020

MEMBERS

Ms Natalie Suleyman—Chair

Mr James Newbury—Deputy Chair

Ms Christine Couzens

Ms Emma Kealy

Ms Michaela Settle

Mr David Southwick

Mr Meng Heang Tak

WITNESSES

Ms Carmel Guerra, Director and Chief Executive Officer,

Ms Akeer Garang, Youth Volunteer, and

Mr Shashwat Tripathi, Youth Volunteer, Centre for Multicultural Youth (*via videoconference*).

The CHAIR: Good afternoon, and welcome to the Legislative Assembly's Legal and Social Issues Committee Inquiry into Anti-Vilification Protections. Before I begin I would like to acknowledge the traditional owners of the land on which we are meeting. I pay my respects to their elders past and present and the Aboriginal elders of other communities who may be here today.

All evidence taken at this hearing is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Assembly standing orders. Therefore the information you provide during this hearing is protected by law. However, any comments repeated outside the hearing may not be protected. Any deliberate false evidence or misleading evidence to the committee may be considered contempt of Parliament. All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. All transcripts will be made public and posted on the committee's website.

Can I now introduce, from the Centre for Multicultural Youth, Carmel Guerra, the Director; Akeer Garang, a Youth Volunteer; and Shashwat Tripathi, Youth Volunteer. I do apologise for my pronunciation of your names. Would you state your name when you begin providing your evidence for the record. Thank you so much for being here and taking the time to provide evidence on this matter. Who will begin? Carmel will begin providing evidence. Thank you so much.

Ms GUERRA: Thank you, everybody, for the opportunity to speak today. Some of you I know, some of you I do not. We thought today what we might do is use our 15 minutes with me providing a couple of overview points, and then I wanted to hand over to Shashwat and Akeer to speak directly about their experiences and thoughts from young people's perspectives on what they think can be done. I might just start with some overall comments. Of course we welcome this inquiry and the investigation into this in what was a most important issue at the time and in this COVID environment is even more important than I think it has ever been.

Firstly, we wanted to also endorse the expansion of the protections to include other personal attributes. As you probably saw in our submission, we think that because it provides a basis of understanding of the broader cumulative intersections of a young person's life and the forms of discrimination that they experience. But I want to spend a bit of time on a couple of issues that I think are more pertinent to the group of young people that we speak to.

The key issue and what we are seeing is the low or under-reporting and engagement with redress measures. We think for many of the young people we worked with that the threshold for vilification is unnecessarily high. As we highlighted in our submission, some of those particular barriers you will be familiar with, but just to state a few of them for the record. One is the lack of familiarity or, even more so, the lack of trust in the formal mechanisms that exist under which people and their families would complain; a belief that it is an unfair burden and potentially retraumatising for many of them who have been vilified or experienced racial or religious discrimination to relive it through the existing mechanisms; and also I think finally, the one that anecdotally we suspect is a key driver is that the outcomes are unlikely to influence whether that behaviour will happen again or actually in fact whether it may further antagonise the accused. That is coming from a range of resource documents but also our own experience.

We would really like to see increased accessibility of redress mechanisms to review and explore the measures to improve the situation for victims of vilification. This should include a rethink of these mechanisms being community oriented and youth centred, because we believe there is a limited knowledge of the protections and redress available to the community, which leads to the under-reporting. We think that VEOHRC—the human rights commission—should be able to initiate investigations themselves. I think it is a system trusted by people and communities, and that really the burden is not just on the young person to make a complaint, because that also individualises the circumstance. We would like VEOHRC to be empowered or given additional tasks to play a role in actually initiating those investigations beyond those very limited circumstances that are currently available.

The second final point that I will make before I hand over is about online vilification, which of course for young people is at the heart of where a lot of this vilification is occurring now. Again anecdotally, we are currently keeping a record of what we are hearing from young people and their experiences. We were staggered actually when we read the e-commissioner's report when it said that one in seven adult Australians aged between 18 and 65, or 14 per cent, were the target of online speech. So, for us, I think that is where this plays out the most. We know that young people also, in experiencing racism online, are often the group who face the greatest barriers to safe digital participation and engagement because of low digital literacy skills. So we think that that requires an important education and awareness program that really talks to the vulnerability of this group and moving forward on some strategies. So we would explore better state legislation to really look at online vilification and hate speech with real consideration to the impact it is having on this particular group, and we also suggest investing in some kind of initiative that involves partnerships with community and young people in some of this problem-solving exercise.

Finally, I probably would be remiss if I did not say on behalf of the many young people and communities we work with that they do not want to see that the multicultural communities, who are one of the victims of this form of vilification, should also be seen to be resolving the problem. They are part of it, but that is much broader. Secondly, young Australians and young people are the leaders in building social cohesion and are doing a lot of work on the ground, so we should ensure that their involvement is not tokenistic. And we see that whatever occurs has to be legislative and community education together.

I might leave it there—I think I have gone 1 minute over—so I can give the two young people their 5 minutes each.

Mr TRIPATHI: Thank you, Carmel. I am very honoured to be here. Lovely to meet you, everyone. My name is Shashwat Tripathi and I am working for the Centre for Multicultural Youth as a Youth Adviser and a public speaker. I am 19 years old and I am a second-year bachelor of arts student, and I am majoring in politics and international studies at the University of Melbourne. Today I am here to share my personal experience, my personal lived experience, as a queer person of colour. I would like to reiterate the fact that identity is multidimensional and complex, and we do not choose these multidimensional identities. When these intersecting identities interact with each other it can be really hard to navigate the resulting challenges. If the law seeks to protect my race and religion and chooses not to protect my gender or sexual orientation or disability, then I am not protected at all. It is important to understand that people of colour, especially from refugee and migrant backgrounds, who have genders, sexual orientations and disabilities different than the status quo already face exclusion and discrimination within their communities. They are doubly marginalised in this sense. Their position in the social hierarchy is already threatened or challenged. If there is no law that protects me from acts of vilification, and my community and family already does not support me enough, then where should I go? Where should I seek my protection from?

The reasons why they do not speak up—I would like to point out three important reasons: number one, lack of information. Marginalised communities do not even know that there is something called vilification. A lot of them are not even aware of this term. They do not even know that it is a human right to their integrity that they should seek support and help from the government. We need more awareness. We need educational campaigns. We need people to understand that it is their right to seek help from the government. But then—point number two—there is a lack of support, from my personal experience. A large number of queer and disabled young people do not want to speak up because they already feel guilt within their hearts that they are bringing shame to their communities or families and they do not want to create more trauma to them. If they are already so mentally stressed, they are not able to pull up this fight against the whole vilification process because—point number three—the process of vilification is really abstruse and really inaccessible.

If I wanted to go to court, I would be daunted to lead this battle all by myself. They do not have resources and they do not have money in the first place. How will I go there and lead this fight all by myself? I would require support for that, and if the law is weak and the framework within which these laws operate is weaker, then I am already losing this battle. At this point I would like to conclude my thoughts and hand over to Akeer. Thank you, everyone.

Ms GARANG: Thank you, and thank you all for having me today. My name is Akeer. I am also a CMY Youth Volunteer. I also work for CMY in the YRIPP program. I am 24 years old, and I am a South Sudanese young person. I would like to again resonate what my peers said, Shashwat and Carmel. Today I think I would like to kind of highlight some of the discrete experiences that young people experience with vilification and share one of my stories in terms of when I was a young person going through this.

I think for young people who are culturally and linguistically diverse vilification in the school grounds is a normative experience. I remember when I was a young person around primary-school age my first experience of vilification was having young people mock me for my lack of English skills. They would play with my hair and ridicule my braids and say that they looked like snakes on my head. They would look at my dark complexion and call it 'poop skin', 'dirty' and 'unwashed'. As a young person my first thought was not to report to teachers or parents or seek out support in that formalised sense, because for me what that would do was draw more attention to my difference and it would further act for kids to ridicule me. Instead what I did—and I think what really highlights the effect of vilification on young people who are of diverse backgrounds—is I actually distanced myself from my difference. I stopped speaking my language at home; I refused to speak it to my parents or to my grandparents. As a result I actually lost the ability to speak my native language fluently.

The impact that this had on my sense of self and belonging was profound. For young adolescents who experience vilification in the schoolyard, what happens when vilification incites an internal sense of repugnance for your own difference? How can we then empower those young people who have internalised this to seek support? I think the current structures that exist in schools to educate young people and support them in that process are not robust enough, because they do not seek to speak about racism in a way that actually reflects how people experience it. I think in order for that to be redressed young people, as Carmel put it in her submission, need to be at the centre of this conversation, and it needs to be done in a way that is authentic and robust.

As a South Sudanese young person I would also be remiss not to highlight the fact that for young people living currently the media is a big source of vilification; indeed we are subjected to racist stereotypes persistently in the media. My little brother, who is 16 years old, he is tall, dark, baby faced. He has the distinct characteristics of a South Sudanese youth, and that makes him an archetypal member of an African gang. He once told me that he would refuse to go into Coles past 9 o'clock because he did not want to be followed and watched. That sort of experience for a young person who was born in Australia, who has an Australian accent, who embodies Australian values—I thought that for him the experiences of vilification would not exist because he had integrated, as they say you need to assimilate or integrate in order to not experience vilification, but that was not the case.

When we look at this legislation in terms of how it can actually protect young people who experience this type of vilification, what mechanisms are there for us to bring a claim against the media when they are protected by their own external legislation? How robust is this legislation to interact with other protections for the media? Or how about when it is coming from politicians? What kind of power as young people do we have to challenge politicians and to come forth and say that telling us to go back to where we came from excludes us from society, and for these young people who were born here, where are they going to go?

So I think thinking critically about what vilification looks like for CALD young people and how they are empowered to seek support and what that would mean in terms of how they belong with their peers in their schools and in broader society is really important. Thank you.

The CHAIR: Thank you, Akeer, for sharing your experience and some of your stories. If there is no further evidence, I will move to questions from members.

Ms SETTLE: Thank you very much for sharing your experiences. It is lovely to see you, Carmel. I am from Ballarat and we have a wonderful CMY up in Ballarat and I know what fantastic work they do in the community. So I really appreciate hearing from you. It is interesting with these committee things; you get to learn a little, you learn things and look at it in a different way, and of course it had not occurred to me that the online stuff would very much belong in younger people's lives in terms of vilification. So I am really interested in the idea that we need to skill up young people about how to manage in that space. Can you tell me a little bit about how you think that would be done? Who would resource it? And I guess my only concern with it is: is

that just putting that back, almost victim blaming, so they have to learn to deal with vilification, rather than teaching the rest of the world not to vilify online?

The CHAIR: Carmel, were you going to answer that question?

Ms GARANG: I am happy to go in the meantime, if that is all right. I think your point around young people needing upskilling in the social space is quite interesting in the fact that young people are probably the experts in that social space. I can give you an example of how they are currently actually using that space to challenge a lot of this vilification that is happening for them in their everyday lives. You will find that young people are using their cell phones and social media to show awareness to what they are experiencing in their everyday lives, and where they are not finding support in formal mechanisms, they are finding support online. So you will find them uploading videos of racism that is happening out in the public, and you will hear young people sharing their stories online and supporting each other in that sense. So I think young people are very much upskilled in using online forums, and if anything maybe it is about thinking, ‘How can we then move some of the formal things that are happening with legislation into young people’s spaces online?’.

Ms SETTLE: Perhaps I misunderstood that. I have got two teenage boys, so I am well aware of their skills at social media. It was from the background briefing document. One of the suggestions had been about building online skills and literacy to promote safety, which was from CMY. But that is an interesting concept, actually using it as a tool to let younger people know what their course of actions are.

Ms GUERRA: Yes, maybe if I can follow that, Michaela, I think it is probably a two-pronged attack. I think that, as Shashwat and others have raised earlier, there are groups of young people who are very well informed, with high digital capability, but we also know with some of the groups that are more marginalised, where English as a second language is more of an issue, the access to digital equipment and information is probably less than others, so we are probably particularly concerned about informing young people about their rights in a way that is structural and maybe in a way that is consistent information. And it might be something like the human rights commission, the eSafety Commissioner and community groups like CMY being very creative about how we educate young people about the online issues associated with whether it is cyberbullying or racial vilification online, because I am not sure that young people—even though they are really digitally savvy, what else we are finding through this whole COVID-19 is the lack of information they have about what to do and how to redress situations that confront them. They do not know the next steps of what to do.

So, firstly, it is awareness and then, secondly, as we have raised, it is having trust in the system to complain anyway, and those two kind of go together for us. At the moment there is a complete lack of trust in the existing systems that make them want to do anything about it. So I think some kind of initiative that gave the tools to the young people and their families at the same time as having the legislative things in place that meant that the perpetrators knew there was a legislative backing would be the best way to do it. You would need to do both of them at the same time.

Mr SOUTHWICK: Thank you to our presenters. Shashwat and Akeer, you are both so articulate. If I could say that, as an idea as part of launching our report, if we wanted to get young people in front of something to be able to demonstrate what we are trying to do, we have got two absolutely perfect examples of that, so thank you for the way that you have expressed yourselves today because it really does typify what we are trying to do in some of these changes. Akeer, I just wondered, in terms of the learnings that you had in your school days could you maybe tell us what you think some of the changes could be in the schools to provide a better experience than you ended up having and that many other young kids are experiencing at the moment—from various different backgrounds.

Ms GARANG: Yes. So I think it can be challenging because depending on each school and their characteristics that approach can have different consequences, unintended consequences. When I was in primary school I went to a school that was predominately all white, and I was actually one of the only black kids in that school. I think in terms of having education around inclusivity and diversity and racism as part of the curriculum would be an approach that at times in that setting could cause me to kind of stick out as different, so thinking about creative ways to think about that. But more generally speaking, definitely promoting or having more curriculums that focus on racism in a structural and real sense, not in a way that can tend to be quite flowery and talking about multiculturalism in a broad sense but that kind of speaks to the real experiences of racism, the experiences of the vilification of the young people and how that has real impacts on

those victims' lives and their experiences of belonging and identity. I think that would be a really good approach.

In high school and in primary school, when I was going through it, I do not really think there were many resources around that addressed some of the issues that I was experiencing. Part of the issue, I guess—young people were not necessarily coming forward and highlighting that there was an issue in schools about what was going on, so maybe schools were not aware that they actually needed to respond, because of under-reporting. Maybe it would be a case of first getting a sense of how pervasive it is and getting schools to think about looking at their schools critically and what is happening in their schools and then making up a curriculum that suits their particular school's circumstances as well.

Mr SOUTHWICK: Thank you, Akeer, and maybe, Shashwat, if you could also tell us from your perspective. And also around teachers and teacher education, is there more work that needs to be done in supporting teachers and school leaders in understanding and looking out for some of these things?

Mr TRIPATHI: Thank you for the question. As a key set, I think it is super, super, super important for us to acknowledge that there is no racial literacy curriculum in the Australian educational sector at all. We have general discussions about multiculturalism, which is (a) a good step to start, but I think it is definitely not enough. Racial literacy is a broad concept. It is a systematic, structural way of teaching the community about how different races should interact—not 'should' interact, rather 'how' they should interact and how it is important to be sensitive, to be aware that there are different multicultural spaces and how to accommodate that. We need to train and equip teachers with this sensitive knowledge. We need to train and build this sense of understanding that children come from different backgrounds, and backgrounds are a significant complement in identity formulation. A lot of people do not understand this fact that where they come from really influences their productivity and how they perform in schools and how they perform at universities. There is general understanding, which is a part of the whole racial literacy structure—a real, genuine mechanism. That is why it is so important to put that in place in schools, even at universities. When we are talking diversity and not just in terms of different people existing together in the same space but also different people participating in that space and contributing to that space and how they do that. This is a part of the racial literacy program that we really need to put.

Ms GUERRA: Natalie, is it okay if I just add to that and give you an example. At the moment the education department has started some of this work, David. We are currently doing a podcast project for the education department aimed at teachers with young people at the centre, talking to them about how to address issues around racism in the classroom through a different net. So I think we need to congratulate them for at least starting that and others, but it is very uncoordinated and is not linked to a whole-of-government approach—that would be our perspective. But something that could come out of this inquiry could be a very much more strategic response that has schools at the centre of it as well.

Ms COUZENS: Can I thank all of you for your presentation and your submission. It is really valuable, and we do appreciate that. And your presentation today—as David said, the young people presenting today are extraordinary, so thank you very much for your time. You made comments about the media and politicians in relation to African gangs in particular. How do we address that in this committee in making recommendations to help prevent that sort of vilification?

Ms GARANG: Thanks for your question. That is a very, very complex question and one we have really been thinking about in our communities in terms of how we counter some of these narratives that are coming forward. I think at this time I am finding it a little bit hard to answer that, but what we have found is that some of the barriers that come up in these discussions are the ideas around freedom of speech and freedom of the media and how there is not any clear guidance around racialised media reporting and what that looks like that is consistent in different codes of conduct within the media; there does not seem to really be a consistent framework for how the media should report on crimes that involve diverse young people or diverse people in the community.

I think I am definitely one for encouraging the idea that the media should report on what is happening and what the community interest is—definitely. But the media also needs to be aware that tone, dog-whistle politics and some of the emphases that are used when reporting on young people of these backgrounds do vilify, do create fear and do create a sense that we are to be feared and threatening. So I think for the media it is really having

some very clear frameworks and guidelines around what that reporting looks like for racialised young people, having input from young people explaining how some of what they have done in the past affects them and using some of these stories and some of these experiences as a framework for how the media reflects on what their practices are. Then it would be a case of having, I guess, a framework within legislation but also having codified practices within the media. How that would work I am not really sure, but I think that needs to be considered, yes.

Ms COUZENS: I think it was obvious a couple of years ago when there were media reports of African gangs doing all sorts of things in—I think it was the western suburbs; I cannot remember now. And then it was proved that they were not all African gangs. Young African males in particular were being targeted. I suppose I was interested in what your views are or if you have ideas on how we might address that. So thank you for your comments. I know it is very complex, and that is something that we as a committee need to address, but it is just about: what are young people thinking about in terms of how this might be addressed?

Ms GARANG: Yes, definitely having some very clear guidelines around it, and calling out what is racism when you just think about these crimes, because when you, like you said, incorrectly identify young people and a certain group, emphasise that in the media and then follow it up with ‘We should be afraid’, that clearly is creating a pattern and a condition where people are being vilified. And then you will find that the media will often resort to saying, ‘It’s just accurate reporting’.

That is what is really frustrating—when they fall back on these really blurry guidelines that create space for where this is legitimate for them to report in this way, and then they get backing from the community because they thought that they should know what is going on in the community and that they should be reporting on so-called racialised reports. So I definitely think in order to not be more divisive and have people feel that the media is being, you know, muzzled and then for that to have the effect of making us even more excluded from this community—because we want to have honest conversations around our young people and the reasons, if they are offending, what the social and structural things are that are happening to lead to that offending. We want that to be happening in the media, but if that is being undermined by just very basic racist and stereotypical undertones and fear and fear mongering, then we are not talking about what is really happening, and we end up actually creating conditions where young people do not have education, cannot get jobs, are vilified in schools so then they self-fulfil this idea of what they are supposed to be.

Ms GUERRA: Actually, Christine, can I add on that in terms of some of the work we have done with the community, again to strengthen what Akeer has been saying, I think the biggest challenge—and we know this issue. I know this issue because I sit on the Youth Parole Board in Victoria; I know this issue intimately. I think what is of concern to the community and young people is the misreporting and the way that the media was allowed to get away with misinformation. I think the community, as Akeer has said, is not afraid to have a conversation about what is going on. But when information is reported that there are African gangs and yet there might be two Africans and they are multicultural young people living in Dandenong, that is what gets concerning, and a legislative framework that does not allow that to happen. You can have your opinion, that is fine, but misinformation, incorrectly quoting the crime statistics is really what I think really sent a whole lot of fear into the community. It was misreported and ill-informed rather than someone having an opinion. You can have an opinion. It is using data incorrectly which is what I think really concerns all of us.

Ms COUZENS: Yes, that is right. And it certainly concerns me as well. I think it is one of the things that we need to be dealing with as best we can, given the complex nature of this whole inquiry really. Thank you.

Ms GUERRA: Well, we would hope that this inquiry hopefully gives you an opportunity to kind of tackle that full on. I do not have the full answer, but I am sure that some of you will be able to create something better than what is now, because, as Akeer has said, I am deeply concerned about a generation of young people that have been vilified.

The CHAIR: Members, are there any further questions? I take that as no. Therefore that concludes the evidence for today. Can I, on behalf of the committee, thank the Centre for Multicultural Youth for all the work that they do, but in particular to Carmel, Akeer and also Shashwat, thank you so much for providing your evidence and your experiences to the committee. The next stage will be that there will be further public hearings and evidence provided to the committee. From that point all the evidence will be deliberated by the committee members and a report will be handed to the government with some strong recommendations, taking

into consideration your evidence today. Thank you again for taking the time to present to us. It was very, very valuable.

Ms GUERRA: Thank you.

Committee adjourned.