LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:
Mr PS Russo MP—Chair
Ms SL Bolton MP (virtual)
Ms JM Bush MP
Mrs LJ Gerber MP (virtual)
Mr JE Hunt MP (virtual)
Mr AC Powell MP

Staff present:
Ms R Easten—Committee Secretary
Ms M Telford—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO SERIOUS VILIFICATION AND HATE CRIMES

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 9 SEPTEMBER 2021

Brisbane

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The committee met at 10.00 am.

CHAIR: Good morning. I declare open the second public hearing for the Legal Affairs and Safety Committee's inquiry into serious vilification and hate crimes. I would like to respectfully acknowledge the traditional custodians of the lands on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds, and waters we all share. My name is Peter Russo, member for Toohey and chair of the committee. The other members with me today are: Mrs Laura Gerber, the member for Currumbin and deputy chair, via videoconference; Ms Sandy Bolton, the member for Noosa, via videoconference; Ms Jonty Bush, the member for Cooper; Mr Jason Hunt, member for Caloundra, via videoconference; and Andrew Powell, the member for Glass House.

On 21 April 2021, the Legislative Assembly agreed that the committee inquire into and report to the Legislative Assembly on matters related to serious vilification and hate crimes in Queensland. The purpose of today is to hear evidence from stakeholders who have made submissions as part of the committee's inquiry. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of the instructions to witnesses, so we will take those as read.

These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from the committee staff, if required. All those present today should note that it is possible you may be filmed or photographed during the proceedings by media, and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobile phones off or to silent mode.

The program for today is published on the committee's webpage and there are hard copies available from committee staff. As this is very similar to parliamentary sitting, I remind people not to use unparliamentary or offensive language, even though you may be quoting a third person. It is important. Prevention is better than the cure in this particular case. I also ask you to say who you are each time you speak for the benefit of Hansard.

CALIMAG, Mr Lloyd, Equity Officer, Council of International Students Australia (via videoconference)

LIM, Ms Belle, National President, Council of International Students Australia (via videoconference)

TANAYA, Mr Kevin, National Secretary, Council of International Students Australia (via videoconference)

CHAIR: Welcome. I invite you to make an opening statement, after which committee members will have questions for you.

Ms Lim: Thank you for the opportunity to appear before the committee today. My name is Belle Lim. I am the president of the Council of International Students Australia. I appear today with Kevin Tanaya, the national secretary, and Lloyd Calimag, the equity officer at CISA. The Council of International Students Australia would like to acknowledge the traditional custodians of the land where we are joining from, and we pay our respects to elders past and present.

The evidence that we provide today will be based on both our lived experiences and the reports of experiences from international students across Australia, including our recent racism survey of 75 responses, of which 20 were from Queensland. The international student community is diverse. In 2021, there are 83,000 international students from 163 countries enrolled in an education institution

in Queensland. Due to the distinct cultural background and the temporary nature of our visas, we observe that international students can become targets of racial vilification or a conduit for proxy racism for those who perceive racism and racist behaviour as acceptable or safe if done towards foreigners such as international students. When attacks do happen, we observe that students are more reluctant or hesitant to report due to fear of any impacts on our visas and due to the perception that Australian laws protect Australians more than people on temporary visas.

In the survey that I mentioned previously, we found that the majority of respondents have felt discriminated against on racial grounds. This manifests itself most commonly through verbal abuse, social exclusion, and cyberbullying. A worrying 16 per cent reported physical altercations. The majority of incidents reported in the survey occurred in public places, with incidents also happening in workplaces, education campuses and accommodation settings.

As various reports have documented, 83 per cent of respondents have observed a significant rise in racism towards international students since COVID-19. While serious vilification occurred at a much lower frequency, more than half of the respondents in our survey reported experiencing heightened fear as well as changing their behaviours because of this fear. This includes avoiding high amounts of contact with strangers, avoiding speaking in non-English languages and even changing their appearance to look less 'ethnic'. Eighty per cent of those who had experienced racism did not report the incident to the relevant authorities; the majority of those who had were not satisfied with the response.

As described in the options paper, the issue of racism is complex and encompasses a broad scope of behaviour. It is my belief that hate crimes and serious vilification can arise from small or minor racist acts that go unaddressed. Conversely, strengthening the legislation and communications against hate crimes will send a signal that the Queensland parliament and authorities do not tolerate racism. No single measure can eradicate racism; however, in our opinion, the suggestions put forward in the options paper will make a significant difference in clarifying the types and scope of hate crimes that can be charged by the prosecutors as well as boosting community confidence that racial vilification is indeed unacceptable and illegal in Queensland.

We further submit that there is a need for building a systematic and accurate evidence base, as well as sufficient funding to legal aid and other initiatives, to tackle racism that can be offered in the multicultural community. I note that a video was circulated online in July this year which depicted two females and one male of Asian appearance being viciously attacked by a group of people in Inala. One of the victims was pushed to the ground and kicked repeatedly, while the attackers can be heard to shout racial slurs. The video was shared with me by an international student. While we are unsure if the victims are international students, we remain very concerned as many international students are of Asian descent or are people of colour. It is very difficult to put into words how much fear that footage instilled in me and my fellow students. We feel vulnerable due to our skin colour and the accents that we speak in. We feel helpless because, like many issues that international students face, our experiences are often not validated in public discourse and are sometimes even met with the response of 'go back to your countries'.

I want to thank the committee for taking the time and effort to conduct this inquiry and for being willing to undertake legislative reform to help keep our multicultural community safe. We are happy to answer any questions. Thank you.

CHAIR: Thank you, Belle.

Mrs GERBER: You spoke about your survey results. I did not quite catch the figures that you were talking about. Are you able to run me through those survey results and the response that you got in relation to your surveys?

Ms Lim: Yes, certainly. For this survey we received 75 responses, so it is not a huge number; however, there is a lot of information in there. What we received showed that a high percentage—90 per cent—of respondents reported experiencing discrimination on racial grounds. Most of them come from verbal abuse, social exclusion and cyberbullying. However, a small percentage—16 per cent—also reported physical altercations. I can send a written report to the committee, if the committee is interested. The other key result that we observed was that 80 per cent of respondents observed a significant rise in racism towards students since COVID-19. Also, over half of the respondents showed that they have experienced heightened fear and have changed their behaviours accordingly to avoid being seen as different or foreign to avoid these kinds of attacks.

Mrs GERBER: How many people were surveyed and how did you do the survey? Was it electronic? Was it on Facebook? How was participation encouraged?

Ms Lim: We mainly shared the survey on social media, like Facebook, and we encouraged international students to put that in. However, because this kind of survey nature can be quite sensitive we avoid going into too many details that might be triggering. Mainly, we did share it on Facebook.

CHAIR: Thank you, Belle.

Ms BUSH: Thank you for attending. I have a couple of questions and we have limited time, so I will try to be quite specific. In the experience of increased vilification occurring, is that particular to one cultural background or religion? Are you seeing one particular cohort of people being targeted more than others?

Ms Lim: From the reports I have received, different groups of students experience different kinds of attacks. Two main groups jump to my mind. The first is the Asian group, of East Asian appearance, and this is because of COVID-19 and how it is called the 'Chinese virus'. Students felt pressured at the start that they could not wear a mask outside because it drew unwanted attention to them. That is one group. We also know about the incident of the two Chinese international students in Melbourne who were attacked physically. The other group is the Middle East or Muslim community and the kind of racism that they experience.

Ms BUSH: Is that experience of the students you are representing occurring more or less on campus or in the community?

Ms Lim: From the survey we ran, we found that most of the incidents occur in the community. We observed that on campuses there is more of an understanding that this kind of action is not acceptable. Discrimination acts still do occur, but the incidents that are serious vilification happen much less there than in public places.

CHAIR: Unfortunately, that brings to an end this session. I would like to thank Belle, Lloyd and Kevin for their contribution, written submission and attendance. Belle, in relation to the results of the survey, is it possible for you to email that to the secretariat?

Ms Lim: Certainly, we will do that.

CHAIR: Is it possible to do it by 5 pm on Friday, 17 September?

Ms Lim: Will do.

CHAIR: Thank you everyone. Have a great day.

Ms Lim: Thank you very much; you too.

APPLEBY, Mr Jerome, FamilyVoice Australia (via videoconference)

D'LIMA, Mr David, Spokesperson, FamilyVoice Australia (via videoconference)

CHAIR: Good morning. During your evidence today we would ask that you please refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I invite you to make an opening statement. Can you be conscious of time? This session is due to finish at 10.35.

Mr D'Lima: Thank you so much for the opportunity to appear on behalf of FamilyVoice Australia. Our organisation stands for family, faith and freedom. These are very important as we look at this whole question of free speech. In family we need the opportunity for parents to freely discuss with their children and raise their children in accordance with their views and to ensure they are tolerant and respectful of others but nevertheless very willing and able to speak up.

That takes us to the matter of faith. In our culture we need the opportunity to have freedom of faith and that includes not only freedom to hold faith but also to share it, to defend it and to test it in the marketplace of ideas. That requires freedom of speech and freedom of association. We enjoy freedom of speech in parliament almost in an unfettered manner and also in our courts, but, unfortunately, in society in recent decades we have had a real diminution in freedom of speech and even freedom of association. This is because of the elevation of individual rights while forgetting the common good and forgetting the wider needs of society. That is most unfortunate because all progress requires freedom—even the freedom to offend. It is certainly the case that many inventions or innovations began as ideas that were offensive to reason until we thought them through, tested them and found that they were in fact very valuable.

We need civil dialogue where we can quietly express our views and subject them to scrutiny and reason. That freedom is being undermined. Part of the problem of that, of course, is that we will see a contraction of social discourse. Ultimately that will mean that we can simply smile at each other and not say anything that would possibly in any way be construed to be offensive. I do not think that would be a helpful situation. Traditionally, we have enjoyed legislation that deals with tangible damage—for example, defamation or sedition—but instead now we have moved towards this nebulous notion of feelings of hurt. (Inaudible).

With those opening remarks, I want to highlight a couple of portions of our submission, if I may. At section 3 on page 1 of our submission we quote the United Nations Human Rights Committee statement as follows—

Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society.

Professor Augusto Zimmerman, at the conclusion of his remarks, which are on the bottom of page 1, says in quoting Dr Ben O'Neill of the University of New South Wales—

The final result—

of this contraction—

... 'is the loss of a liberal society—the establishment of governments that act in the name of "human rights" but use this to enforce mandated viewpoints and "acceptable" opinion'.

Then (inaudible) facing Senator Claire Chandler, Archbishop Julian Porteous and, finally, the so-called two Dannys—pastors Danny Nalliah and Daniel Scot. In the case of Senator Claire Chandler, she found herself in trouble in Tasmania having written an opinion piece in the newspaper. Though the senator was fully prepared to defend that, presumably right up to the High Court, the matter was withdrawn, but at huge personal cost and angst as the senator had to consider defending herself against the accusation made.

Really quite remarkably, Archbishop Julian Porteous, who is the leader of the Catholic faith community in Tasmania, simply issued a document in order to instruct his own flock—not an unreasonable proposition, one would have thought—but he found himself in trouble with Greens candidate Martine Delaney. Action was proceeded against the archbishop simply for instructing his own people in the doctrines of their association.

Finally, the two Dannys, as they are called, found themselves in trouble in Victoria under the Racial and Religious Tolerance Act. I think it took some five years and huge amounts of money. They had to fly in from elsewhere to face the proceedings. They were found guilty by VCAT—the Victorian Civil and Administrative Tribunal. They appealed to the Supreme Court of Victoria, where they were vindicated. Presumably they would have taken that right up to the High Court if necessary.

Not everyone is as strong as the individuals we have mentioned here. Bernard Gaynor is another. I will not take time to highlight that situation. You can read it in the submission. Not everyone has such a thick skin. Unfortunately, when we see even high-profile people being brought to court and accusations being made against them, ordinary Australians will certainly think twice before expressing their view. What we witness through this process is a contraction of freedom of faith and freedom of speech and an undermining of the family. With those remarks made, I invite any questions or comments from the committee.

Mrs GERBER: Thank you for your submission and for coming in via video link. We appreciate it. Is there anything you could inform the committee of specifically around legislative change that might be appropriate? Could the committee hear from you about where you think this inquiry should be going?

Mr D'Lima: In section 6 we advocate the approach taken by the Hon. Mark Latham in the New South Wales upper house. He is working to try to remove some of the constraints upon anti-discrimination proceedings so that there is much more discretion with respect to how they run. That is a recommendation that we in particular commend to the Queensland parliament. My colleague, Jerome, might have something to add.

Mr Appleby: Often the punishment is the process. There should be more power to stop these matters beginning in the first place when they are frivolous or vexatious. It should be mandatory that they are rejected rather than there be a discretion. If it is frivolous it should be rejected out of hand so that people do not have to go through this entire process to begin with.

Mr POWELL: Thank you for your written and public submissions. It is much appreciated. I think you have nailed the one challenge that we have as a committee and that is trying to balance out respectful discussion and debate on issues and matters. The committee's hearings are around serious vilification and hate crimes. You and I would agree that some of the testimony we have heard is unacceptable. They are not respectful debate or discussion on differences of opinion; they are serious vilification and hate crimes. Is there anything you can add around how we can clearly distinguish one from the other?

Mr D'Lima: Parliament can only legislate, so in a sense what else can you do but legislate? However, parliament does not necessarily have to legislate. While there are some serious expressions of views out there, the solution, unless it relates to defamation or sedition, is one that ought to be handled in the marketplace of ideas and within families and communities.

What I mean by that is, instead of resorting to law, which is always a very blunt instrument which has winners and losers and which involves the courts—Bernard Gaynor, for example, has had to sell his house in order to fund his legal proceedings. Instead of resorting to the blunt instrument of the law, it is much better in our view for communities to sort this out—for families to be encouraged to raise their children so that they will express themselves vigorously but without hatred or incitement of violence.

When we have situations of racial intolerance—there have been high-profile cases, for example, within Australian Rules football recently—the solution is not litigation. The solution is to sit down and talk, to have dialogue between the Indigenous community and mainstream Australia, for us to learn from each other and learn how to speak respectfully. We need better encouragement for families and better programs in schools. We really need to avoid the bluntness of the legal remedy.

Ms BOLTON: You have spoken about the need for families and the community to be able to have those conversations. You also touched on education. What do you believe is the essential component to create a society that balances that need for freedom of speech versus freedom from humiliation or vilification? Is there something specific within our education system that could be done?

Mr D'Lima: Unfortunately, the mainstream education system in Australia is increasingly intolerant of Christianity, which is the founding religion in our Australian context. It has been said that the Bible is the central text of western civilisation. It is unfortunate that we have been moving away from Christianity especially in schools, so that does not help.

It is especially problematic for families who do have a faith component to their integrity and their existence. What it really means for schools is that we ought to be able to look at all sorts of possibilities and find out what are the views of Muslims and Hindus and people of no faith et cetera and present that to children so that they can see what is going on. We do need respect but also the ability to scrutinise and to have vigorous discussion and to do so in a manner where we shake hands afterwards.

The notion of the debating society has really been lost because of this contraction of free speech. Instead of us listening to what someone else has to say, we either ban them from our universities or do not allow them in our primary and secondary schools, so the opportunity even to hear what someone has to say—hear them express it earnestly and then say, 'I may disagree with that, but thank you for sharing'—has been lost and it is getting worse.

We need to face this squarely and ensure that education is exactly what education should be—a free forum for the expression of ideas. It is a great pity that our universities, which should be places of free inquiry, are now shutting down debate and not even allowing guest speakers who say things which are not determined to be politically correct.

Mrs GERBER: Can I make sure that I am understanding the basis of your submission—that is, if someone is using words essentially to vilify or hate on another person and the intent of that is to harm that person or that culture or that person's belief system—perhaps using a carriage service to menace or harass—the current laws that we have around defamation federally are sufficient to provide the community with the protection they need? On top of that, we need education. We need to look at the way we deal with this in community, in our education networks. Is that essentially what you are saying?

Mr D'Lima: Yes, essentially that is the case. It is very difficult to prove motive. It is extremely difficult to know that. To try to objectify that or provide objective means for analysing it really deprives the individual of their freedom to say, 'Yes, I used robust language, but (inaudible) I did not intend real harm.' We have laws already which will deal with that. It is an offence for one person to threaten violence against another and to make them feel unsafe. We already have that remedy. However, instead of saying, 'I am feeling offended by that,' if we just say, 'Well, then clearly there is a case to answer,' that is taking it far too far.

Mr Appleby: On page 2 of our submission we also highlight the current law and how broad that is.

Mrs GERBER: Some of that response was breaking up for me via my video feed. I want to ensure all the audio was being heard and being picked up by the committee process.

CHAIR: There were some small glitches which we unfortunately cannot do much about. The answer did make sense.

Mrs GERBER: Perhaps we could send the transcript to the witnesses.

CHAIR: We always send the transcript to the witnesses. That is done as a matter of course.

Mrs GERBER: Just so these witnesses know perhaps to keep an eye on the transcript, as that was glitchy. You might need to have a look at it and make sure that it has been accurately recorded.

CHAIR: David, when you were speaking there was a freeze or a gap. Just be aware of that when you are reading the transcript of the proceedings. This concludes this session. Thank you for your evidence. Thank you for your written submission. We will now take a short break and resume our hearing at 11 am.

Proceedings suspended from 10.36 am to 11.00 am.

SPENCER, Mr Mark, Director of Public Policy, Christian Schools Australia (via videoconference)

CHAIR: Welcome. During your evidence today, we ask that you please refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. Thank you for that. We invite you to make a short opening statement, after which the committee members will have some questions for you.

Mr Spencer: Thank you, Chair. I want to, firstly, express my thanks to the committee secretariat for all of their hard work to make this happen. There was a lot of work in the testing the other day that got us here. That is certainly appreciated. I know they do a lot of hard work and probably do not get recognised, so I just want to put that on the record, if I may.

CHAIR: Thank you.

Mr Spencer: I also express our sympathy and appreciation of the committee. You have a hard job ahead of you, we believe—trying to juggle and balance and find a good solution around what are some fundamental human rights, the rights that are essential to who we are as individuals and some really foundational rights for a contemporary, livable democracy, a pluralist democracy in which we live—a wonderful multifaith, multiethnic nation that we are in Australia. It is not an easy task.

We certainly stand entirely opposed to hate speech, to vilification and to the hateful actions that are outlined in the options paper. Some of the examples of actions that they provide are abhorrent, and I think everyone would agree on that. The challenge, of course, is to try to find ways of practically and effectively addressing those actions in a way that also has regard to the fundamental human rights around freedom of speech, freedom of expression, freedom of religion, freedom of association. Those are the essential rights and principles which are not quite captured in a personal story—as can often be the case with the vilification that is received—but are equally as important.

All of those rights—the need for protection from vilification, the need for freedom of speech and expression—are all fundamental to who we are as Christian schools and as Christians and believers. They are all drawn from our underlying Christian principles that our society is based on. We do not envy you your task. We appreciate your commitment to it and thank you for the opportunity to speak to it today.

CHAIR: Laura, do you have a question?

Mrs GERBER: I can pass to Andrew. I monopolised the last session so if Andrew has any questions I will pass to him.

Mr POWELL: Thank you for your submission and for making yourself available today, Mark. I am going to put the same question to you that I put to the previous people who appeared before us. I think the line we are trying to walk here is one between an element of freedom of speech but then also very clearly trying to clamp down on serious vilification and hate crimes. I think all witnesses who are appearing before the committee would agree that some of the testimonies we have received are downright appalling. They are not the kinds of statements that anyone in this country should be making to anyone else. Is there any advice you can give us as to how we define or delineate the differences between having a robust and respectful conversation on differences of opinion versus actually vilifying or expressing a hate crime?

Mr Spencer: At the risk of putting more work onto schools, I think that is partly our job as educators—to help people to understand how to have civil conversations in our democracy. I think the way forward here is less about legal responses and more about educative responses to allow us to find ways to disagree agreeably, to use that phrase. We often seem to shy away from having difficult conversations nowadays for fear of offending people. In many cases, that means we are not practised and we do not have a mechanism for having those difficult conversations.

We are concerned about particularly the non-crime hate aspect or proposal in the options paper. I think that was our greatest concern based on the experience in the UK. Certainly, some of the comments by the academics Professor Aroney and Dr Taylor in their submission talking about the creep in the international law around what is considered to be hate speech or vilification is concerning. We need to be able to have robust conversations. That is the way we resolve issues: by having those conversations, not by not having them because we are afraid of vilification. Incitement to actions of violence is unacceptable, but below that I think we need to be very cautious about what we make unlawful.

Mr POWELL: Thank you. That is all for me.

Ms BUSH: Thank you, Mark. You mention that there has been an expansion of what is considered to be hate speech now. Maybe this is more of a comment. Some might say that is a signature of a changing society around that. I am interested in your views on that.

Mr Spencer: I was referring particularly to the submission by Professor Aroney and Dr Taylor. They talk about that from an international law perspective, which I do not claim to be an expert on. They are academics who work extensively in that area. They point to how that has changed in international law. As a social phenomenon, we certainly seem to be less willing to have people exchange views in a way that is both civil and robust. Some of the debates that go on in parliament—where you can have those robust differences of opinion but walk away at the end of the day without having vilified each other—are to be commended. It is whether we can have those discussions in other forums, whether we can have those discussions in the public square. Social media probably is not a good space to have those, unfortunately. Twitter is definitely not a good place to have those, it seems. It is being able to find ways to have robust conversations, build bridges with each other, work towards reconciliation and understanding, rather than immediately going to legal recourse, which really does not in the long run find those ways forward.

Ms BUSH: You would accept, though, that there is a point where robust conversations simply do not work and there are some people who do need to be pulled up criminally, or otherwise civilly, for their comments as inciting hatred?

Mr Spencer: Absolutely, and we would absolutely support that. The law draws a line currently. We think it is probably about the right space. You would have seen from our submission that our concern was really about what is in the UK and is described as the non-crime hate incidents and the way they get reported and carried forward. That sort of lowering of the bar is of particular concern. It is what probably prompted most of our concern in our submission.

Ms BUSH: Your submission says that you are urging the committee to reject the proposal in recommendations 2 and 7. They are the recommendations around the new species of order and also the hate scrutiny panels; is that correct?

Mr Spencer: Yes.

Ms BUSH: I know it is written here, but I just want to hear from you directly on the hate scrutiny panels and the concerns you have there.

Mr Spencer: Again, what we are talking about is hypothetical at the moment, or proposals. We are obviously drawing the inference that from the options paper they seem to be similar to what is outlined in the UK. The advice we have had from colleagues over there and other organisations we relate to over there is that those panels are often really unaccountable, that there is a lack of transparency about them, that there is a very low bar in terms of what might be considered to be a 'non-crime hate incident'—I think that is the terminology over there—and that they follow you around on your police records without any effective mechanism for having them reviewed or removed. The comments in the one judgement around that—which I think we reference in our submission in the High Court decision there—were quite roundly criticised as being completely inconsistent with those fundamental British values of free speech and robust discussions.

Ms BUSH: Thank you.

Ms BOLTON: Good morning, Mark. Further on from your comments regarding that as a society we have moved into a realm where there is less respect for robust debate than previously, what do you believe has been a contributor to this and its role in the increase in vilification and hate speech, including on social media?

Mr Spencer: Social media has clearly been identified as not helping traditional conversations. There is the ease of being a keyboard warrior, of hiding behind an anonymous name on social media, particularly on Twitter. We have seen numerous examples of some extraordinarily offensive campaigns being run on social media against public figures, MPs and others. There is absolutely abhorrent behaviour there but it is easy to do because you can hide; you can be brave behind the keyboard, with the anonymity of not being targeted for that. When you actually have face-to-face conversations—when you can eyeball people—it is much harder to have that same level of vitriol.

Ms BOLTON: I suppose what I am asking is what you believe has been a contributor as to why we are not having those communications that we used to have.

Mr Spencer: Our increasing online presence is certainly one of those and that is a means of communication. There certainly is philosophically a change in the sense of where we get our identity from and the nature of our identity, how we construct our identity, and the language we use around that and the expectations we have around that. There is some interesting philosophical work and academic

research around the nature of identity—how we derive our identity. It used to be who we were in the community, what we did, how we conducted ourselves. Now it is far more internalised and far more a sense of wanting to confirm our own choices around identity and who we are. That seems to have heightened the awareness and sensitivity to those who may not share that same view.

Ms BOLTON: Further on from the contributors as to why we are not having that respectful, robust debate—we will put social media to one side because we have heard at previous hearings about the impacts of that—what do you believe has contributed to this increase in vilification and hate crime within our society in terms of socio-economic, fears, those other realms? We have heard many examples which are horrific.

Mr Spencer: At the risk of showing our theological colours, as Christian schools I suppose we have to put the position that as we have moved away from our shared Judaeo-Christian values as a society we seem to have shifted into a far more contended discourse around who we are as a nation and what is acceptable behaviour and we have opened ourselves up to far more disputation around that. The common values we share as a nation that constrain our behaviour—acceptability within our society looking to be working within our particular agreed moral and ethical framework—have shifted. We certainly see that within our Christian schools, and I can think of a couple in particular in the eastern suburbs of Melbourne. One that I know very well has over 140 different ethnic communities represented in their student population. We did some research into the quality of relationships between students and between staff and students amongst the school community and they rated the highest in terms of the quality of their relationships. They all come together despite their different backgrounds and different contexts around their shared faith. We see that as actually being a unifying feature: shared values and shared faith can bring people together despite their differences and they can actually live in a harmonious and really positive community in that school, for example.

We are not going to come to the point where we all agree on our faith as a nation; that is probably a step too far. We certainly actively work with other school faith communities—Islamic schools and Jewish schools—around the country. Providing those avenues for greater dialogue and understanding with other communities at an integrational level we have found valuable, as have some of our students. It is about defining other ways as a nation to find out and work with one another rather than trying to work against each other or just resort to litigation.

CHAIR: I would like to thank you, Mark, for your attendance and also for your written submission. It is obvious that a lot of work and a lot of thought went into your written submission. That brings this part of the session to a close.

FURLONG, Ms Ella, Queensland Co-Chair, Australian Lawyers for Human Rights

CHAIR: Good morning. During your evidence today—and I am not suggesting that you would do this—because this is very similar to a parliamentary hearing we ask that you not use unparliamentary language such as swearing or offensive terms, even if you are quoting something or someone else has told you something. I thank you for that. We invite you to make an opening statement, after which the committee members will have some questions for you.

Ms Furlong: I would like to begin by acknowledging that we are meeting on Aboriginal land—land that was never ceded, land that is and always will be Aboriginal land. I pay ALHR's genuine respect to Aboriginal and Torres Strait Islander people and in particular to Aboriginal and Torres Strait Islander elders.

Good morning, members of the committee. I am the Queensland convenor for Australian Lawyers for Human Rights. ALHR is a national association of solicitors, barristers, judicial officers and law students who are active in practising and promoting awareness of international human rights standards in Australia. ALHR is grateful for the opportunity to attend this inquiry as a witness.

Our submission is focused on the vilification and hate crimes experiences of lesbian, gay, bisexual, transgender and intersex people. The LGBTIQ communities are among the most at risk of experiencing the issues the subject of this inquiry. In our submission we relied on the recent 2020 report *Private lives 3: the health and wellbeing of LGBTIQ people in Australia,* which found that, among other things, in the preceding 12 months 34.6 per cent of LGBTIQ respondents had experienced verbal abuse due to their sexual orientation or gender identity, and almost one in 25 LGBTIQ respondents reported that they had experienced a physical attack or assault with a weapon, which is defined to include knives, bottles and stones, due to their sexual orientation or gender identity. Also significant is that trans and gender-diverse participants reported a much higher level of harassment and abuse than cisgender participants.

While we welcome the fact that Queensland is only one of four Australian jurisdictions to offer vilification coverage to at least some members of the LGBTIQ communities, the vilification provision, being section 124A, and the serious vilification provision, being 131A of Queensland's Anti-Discrimination Act, are no longer best practice. ALHR is of the view that it is necessary to amend these provisions to ensure all people are afforded the protection envisaged by section 15 of the Queensland Human Rights Act and article 26 of the International Covenant on Civil and Political Rights, to which Australia is a signatory. Both of these seek to afford the right to protection from discrimination.

In our submission ALHR recommended that the committee consider, first, modernising the definition of 'sexuality' with reference to the definition of sexual orientation in the federal Sex Discrimination Act to ensure the prohibition against vilification applies to all sexualities including pansexuality. This would include a person's sexual orientation toward persons of the same sex or gender identity and persons of a different sex or gender identity including non-binary individuals. Second is supporting an amendment to the definition of 'gender identity' akin to the definition in the ACT's Discrimination Act, which ensures vilification prohibitions apply to people with non-binary gender identities. Currently, schedule 1 of the Queensland act provides for persons who identify as a member of the opposite sex or of indeterminate sex to seek to live as a member of a particular sex. This current definition should be expanded to protect people whose gender identities are neither exclusively male nor female. Third is supporting an inclusion of sex characteristics for the purposes of sections 124A and 131A, again, akin to the definition in the ACT's Discrimination Act to extend to intersex people.

We are concerned that the current vilification protections in the legislation before your committee almost completely omit reference to intersex people. The ACT in its Discrimination Act includes sex characteristics alongside other attributes such as race, gender identity and sexuality. ALHR notes for the benefit of the committee that the ACT definition is supported by ALHR following our consultation with Intersex Human Rights Australia.

Finally is supporting the redrafting of the titles for chapter 4, part 4 and chapter 5 of the act to ensure the headings, which are currently confined to racial and religious vilification, extend to coverage for vilification on the basis of sexuality and gender identity. We think it is imperative our legislation operates to fully protect members of the lesbian, gay, bisexual, trans and intersex communities from vilification and hate crimes for who they are. This is an opportunity for Queensland to do so. I would like to thank the committee for its consideration of ALHR's submission and recommendations.

Mrs GERBER: Thank you for appearing today and for your well thought out submission. Can I take you back to the survey results? Can you step us through those survey results? Did I hear correctly that 30 per cent of respondents said they had experienced some sort of serious vilification or hate crime?

Ms Furlong: This report is called *Private lives 3*. I understand that this has been running for a couple of years: the first being in 2005, the second being in 2011 and the third being in 2020. It was not our study, an ALHR study. We have relied on this report. In terms of some of the figures that we think were of particular relevance, we found by looking at this report that 34.6 per cent of LGBTIQ respondents had experienced verbal abuse due to their sexual orientation or gender identity. I have a few additional stats. The other one I mentioned was that one in 25 LGBTIQ respondents reported they had experienced a physical attack or assault with a weapon on the basis of their sexual orientation or gender identity. There are a few other—

Mrs GERBER: The reason I was asking around that is: we have heard from a lot of other community members talking about them going out to community and doing surveys. For instance, we just heard from a representative of international students saying that they did a survey and over 80 per cent of those students were the subject of some sort of vilification or hate crime. The statistics that you were quoting seemed quite low to me in comparison with what we have heard from other representatives. I just wanted to delve a bit deeper into that and now I see it was not actually a survey; you are pulling bits out of a report. That clears that up a little bit for me.

Ms BUSH: Thank you so much for your submission and attending today. A few submissions have advocated for similar views as yours. I was interested in the recommendations that you have made. Could you explain to the committee—if they were enacted—the difference that would make in a practical sense to the communities you are representing?

Ms Furlong: I think inclusivity is one of the primary factors behind our recommendations. You will probably note that a lot of our recommendations are inclusion based. I think this is important because with our first one, for example, there are more sexualities than heterosexual, homosexual and bisexual, and the definition simply does not include reference to those people. Where we have other legislation—this is federal legislation—that does include a wider range of sexualities and acknowledgement of those, I think that is really important for Queensland in terms of those people knowing they are protected and showing them they are included in the conversation, particularly the conversations around intersex people.

As we mentioned, there is not much reference to them at all. I do not wish to speak on behalf of the intersex community—and there are some fantastic human rights organisations such as Intersex Human Rights Australia who can better speak to these issues—but we have consulted with them. It is important to listen to what they are saying about language on sex characteristics. Where our conversation and our legislation is inclusive, we can show that these crimes are not tolerated toward particular groups of people and also make them feel protected and secure—protected by Queensland legislation I think is really important. That is probably the primary basis, as I said previously.

Ms BUSH: In one way it would be a signal to people who are intersex, for example, that their rights are protected and that might encourage reporting and coming forward? Would that be your view?

Ms Furlong: Absolutely, and also not leaving any wiggle room so there is no ambiguity in who is protected by these provisions. I think it is really important, potentially, for people perpetrating these acts as well to understand that they are not on, that they are engaging in criminal activity or otherwise activity that contravenes a piece of legislation. I think that is important as well, not only for the inclusion of people but also for perpetrators.

Ms BUSH: You spoke about broadening the definition to be a bit more pursuant to the Sex Discrimination Act. I can see that you have referenced the Yogyakarta principles. Do those principles capture the definitions as well as the Sex Discrimination Act, for example?

Ms Furlong: I think that is a fantastic document. While they do capture a lot of things, we still need that when it comes to Queensland legislation. I do not think it is enough just to rely on principles, because it is kind of a guideline—not a legislative document that can be relied on to protect people in the eyes of the law. I think that makes a big difference. I really welcome those principles and I think it is a fantastic document.

Ms BUSH: Do you think the definitions in those principles would be helpful—to enshrine in legislation the definitions of LGBTIQ communities?

Ms Furlong: I think they are helpful. Perhaps this is something I might take under advisement. As we cite in our submission, there is a fair bit of conversation about the appropriate terminology that is preferred by Intersex Human Rights Australia. We might need to come back to the committee, if that is okay. I would not want to say that they are in themselves acceptable if intersex groups are not correctly acknowledged per what Intersex Australia has advised us.

Mr POWELL: Thank you for your submission and for attending today. We have started hearing from a number of submitters that, whilst definitely wanting to clamp down on serious vilification and hate crime, there is a concern that we may overreach and start impinging on broader freedom of speech and other human rights of that nature. In fact, some submitters have indicated that we already exceed our responsibilities under international human rights laws and things like the International Covenant on Civil and Political Rights and that we are starting to stray into too broad definitions that are then subject to abuse that may be enforced to merely protect people from offence or expression they disagree with rather than serious vilification or hate crime. Is there any comment you would like to make in regard to that?

Ms Furlong: I am not an expert on international law either, but I do think times have really changed and we are forever learning and forever growing as a society and listening to people who have previously been ignored and discriminated against. We are not making these submissions so that people are not offended. These are very real and very serious crimes that have been committed against the LGBTIQ community. Queensland has a very interesting history when it comes to LGBTIQ rights in particular. I think this is a symbol of our growth as a society. We are not walking on eggshells here. These are very serious crimes. Recognition of people's gender identities and sexual orientation is a basic human right—that they feel safe. I really do not think we are overreaching. I think it is a really important next step. Society will continue to evolve and we will continue to listen to previously marginalised groups and make adjustments. That is the point of what we do as lawyers and as members of parliament. We have to make sure our law evolves with our society. I do not think we are overstepping at all.

Mr POWELL: Even if that is ahead of international standards in some cases?

Ms Furlong: I cannot comment on whether it is ahead of international standards, because I would have to really delve into them. What we are asking for is consistent at the very least with federal legislation and legislation enacted in other states. That is probably a good indicator for us to take. If the Australian Capital Territory, Tasmania or the Commonwealth are ahead of the time, isn't that fantastic? I do not know if we are, but if we are then I think that is something to be proud of and not tear down.

CHAIR: That brings to a conclusion this part of the hearing. Ella, are you taking a question on notice?

Ms Furlong: Yes. I will come back to the committee about whether the Yogyakarta principles that we referenced at footnote 11 are guidelines that we completely would like to rely on and whether they are inclusive of intersex people in the same way that Intersex Human Rights Australia has advised us.

CHAIR: Are you able to do that by 5 pm on Friday, 17 September?

Ms Furlong: Absolutely.

CHAIR: Thank you. Thank you for your submission and for attending today to give evidence.

Ms Furlong: Thank you very much to all of you.

BANKS, Ms Robin, Member, Australian Discrimination Law Experts Group (via videoconference)

SWANNIE, Mr Bill, Member, Australian Discrimination Law Experts Group (via videoconference)

CHAIR: Good morning. During your evidence today, we ask that you please refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I thank you for that. I invite you to make a short opening statement, after which committee members will have some questions for you.

Mr Swannie: We are grateful for this opportunity to address the committee on the issue of reforming Queensland's vilification laws. As outlined in our submission, anti-vilification laws are justified and necessary in a democratic multicultural society. They are entirely consistent with principles of equality and they are necessary to enable all members of society to participate in employment, education and other social, cultural and economic aspects of society on an equal basis. Anti-vilification laws promote personal autonomy and human dignity by protecting people from the serious and ongoing harms of vilification or hate speech.

In our submission we recommended two major changes to the civil anti-vilification laws in the Queensland Anti-Discrimination Act. Firstly, we recommend expanding the grounds on which vilification is prohibited. We recommended expanding the grounds to include all the grounds on which discrimination is currently prohibited, which are listed in section 7 of the act. Secondly, we recommended changing the test for vilification from one requiring incitement to a victim focused and harm based approach, and we suggested that section 18C of the Racial Discrimination Act could provide an appropriate model for changing the test of vilification. We argue that the focus of vilification laws should be on the likelihood of harm being caused to members of target groups—those are the direct harms of vilification—rather than requiring incitement of an audience or a third party.

There are two reasons an incitement based test is not an appropriate test for vilification laws. The first reason, on a practical level, is that these laws set an almost impossible standard for complainants to satisfy and, therefore, those types of laws are not likely to be used in practice. Secondly, as a matter of principle, the most serious harms of vilification are the harms caused to members of target groups rather than the effect on the audience who may hear or see the vilification. Therefore, the focus should be on the harms to the target groups rather than on the effect of an audience.

In relation to the criminal offence of serious vilification, we note that these provisions seem to be seriously under-utilised at the moment. There is abundant evidence set out in the options paper by Cohesive Communities Coalition that serious vilification is widespread in Queensland but it is not currently being prosecuted. We recommend that the requirement for the Attorney-General to consent to prosecutions be repealed. We also recommend that Queensland police receive training in the offence of serious vilification. We also recommend that the offence of serious vilification be removed from the Anti-Discrimination Act and put in the Queensland Criminal Code.

In relation to enforcement and remedies, we recommend no change to the remedies which are currently available under the Queensland Civil and Administrative Tribunal Act. These remedies are similar to the remedies available in other jurisdictions for vilification. We recommend that there be no change to those remedies. We note that civil vilification laws are enforced by individuals who are the target of vilification and that they make those complaints using their own resources and time. We strongly urge the committee to consider making changes to make sure there is proper access to justice for complainants and there are no procedural barriers to people making complaints such as costs orders or barriers of those types.

We regard community education as being very important. Vilification, like discrimination, is often based on prejudice and on stereotypes. These attitudes are learned and can also be unlearned, so education is particularly important for members of groups who are subject to vilification. We know from experience that members of target groups are often unaware of their rights and are often unaware of how to enforce the rights they do have.

Finally, we argue that the Queensland Human Rights Commission is well placed to provide community education to relevant communities and to provide the education which is needed. Therefore, we urge this committee to consider and to inquire into whether the commission has adequate resources and adequate powers to carry out that educative role. Thank you.

Mrs GERBER: Thank you for your submission. Can I ask you about that last point you raised? Do you have adequate resources to be able to carry out the education that is needed and, if you do not, what do you need?

Mr Swannie: Who is that question to?

Mrs GERBER: It is a question to whoever is most appropriate to answer it. You made the opening statement so if you would like to answer the question feel free, but if your colleague wants to answer the question that is fine as well.

Ms Banks: I am happy to answer it. I think the question you are asking is a question for the Human Rights Commissioner's office in Queensland. We are a national group that has expertise in discrimination law. It is rare for the statutory authorities to have sufficient resources to do the kind of education work that Bill referred to.

I guess there are two aspects to it: there is the aspect about ensuring that people who are the targets of vilification know that they have rights; but, more broadly, I think it is important to be aware that there is a very important normative effect of widespread education about the prohibitions in discrimination law or, in this case, in relation to vilification and that requires not just education for potential target groups but also education for the broader community and to send a really clear message to the community that the parliament has prohibited this sort of conduct and it is a social norm that the parliament has indicated is of value in Queensland. I think the question about resources directly needs to be asked to the Queensland commissioner, but the general sense is—and I was the commissioner here in Tasmania for a number of years—the resourcing is usually inadequate to cover the kind of advertising or promotional campaigns that are needed to send that kind of message.

Mrs GERBER: Does your organisation assist in trying to fill the void for some of that resourcing in terms of the education that you might try to provide to various community organisations?

Ms Banks: I think the simple answer is no. We are a completely voluntary organisation. We are a network of experts in discrimination law. While we commonly make submissions to parliamentary inquiries and we hold an annual meeting and conference with people who are concerned about discrimination, equality and related issues, we do not have any resources to undertake community education campaigns.

Mrs GERBER: Thank you. That is where I was trying to go.

Ms BOLTON: Mr Swannie, in your introduction, to summarise, would I be incorrect in that what you are saying is it is increased education, resourcing and a couple of tweaks versus increased legislation?

Mr Swannie: Slightly. I think the legislation does need to be improved. I think the incitement test is a problem. It is a test which is used not just in Queensland legislation but in many states' vilification laws. The Victorian parliament looks like it is going to adopt a test which is similar to 18C in the federal Racial Discrimination Act. I think it is important to get the legislation correct and make a test for vilification which is understandable to the general public or which can clearly be communicated through education. Education is an important part, but I think reforming the laws, and particularly reforming the test for vilification, is very significant because education will not be very effective if the legislation itself is ambiguous, if it is impossible to really communicate that to the public, and for the public to understand the standard of conduct which is required.

Ms BOLTON: Thank you.

Ms BUSH: So I can understand your submission correctly, your position is to retain 131A in the ADA but also create a new offence of serious vilification in the Criminal Code?

Mr Swannie: No. Our submission is that the offence of serious vilification should be removed from the Anti-Discrimination Act and that would highlight the seriousness of the offence.

Ms BUSH: Thank you. That helps me understand. Some people have drawn our attention to the word 'serious' in 'serious vilification', suggesting that that is a threshold that is subjective and can be difficult to attain. What are your views on that?

Mr Swannie: The criminal offence is very different, in the types of conduct it captures, from the civil prohibition. My understanding is it does not turn on the word 'serious' because it is actually defined. I think there has to be physical harm or damage to property to actually meet that definition of serious vilification. The word 'serious' I do not think is an issue. I think the type of conduct which is caught by the criminal offence is quite different from the type of conduct caught by the civil prohibition.

Ms BUSH: In the occurrence of spitting, for example, where would that sit? Do you see that being charged more as a common assault?

Mr Swannie: It could be a common assault. In fact, some of the conduct which meets the definition of serious vilification could also be another criminal offence, including ordinary assault. I am not in a position to say whether spitting at someone or near someone would, in fact, breach that prohibition so I will not comment on that directly.

Ms BUSH: I am just trying to place your submission in the other things that we have heard.

Ms Banks: I think the important distinction—and I am sure you have had this said—is: even if it is already an offence under the Criminal Code in some way or another, the distinguishing feature that we are seeking, that I guess any of these laws are seeking, to address is the targeted nature of it or the prejudice based nature of conduct. A person may spit on another person just because they do not like that person. That is quite a different thing from it being targeted at a person because of a personal characteristic like their race, their disability or some other characteristic. I think that is always the distinguishing feature to keep in mind: this is about conduct that has a link to a personal characteristic that the person cannot control and it is an expression of some sort of contempt or hatred or disgust or some other form of prejudice based conduct.

Ms BUSH: Thank you. I cannot see it, but have you made any recommendations around adding that as an aggravating factor in the Penalties and Sentences Act? Have you turned your mind to that?

Ms Banks: We have not in our submission.

Mr Swannie: No, we did not.

Ms BUSH: Your position is not for a new species of order similar to a DVO or a peace and good behaviour order?

Mr Swannie: Our position is, in relation to the civil prohibition, that the remedies that are available are adequate. They are very similar to the remedies which are available in other jurisdictions in Australia. I think the problem with the proposed new types of remedies which we saw in the options paper is that they seem to be some sort of hybrid between criminal types of orders and civil types of orders and I think there are problems in those types of orders. I think at the moment there is a clear distinction between the criminal offence and the penalties that are available for that and the criminal prohibition and the type of remedies available to that. I think the proposed remedies which I saw in the options paper tend to blur that distinction between civil orders and criminal penalties.

Ms Banks: There are good reasons not to blur that distinction in discrimination law because the body that is dealing with Anti-Discrimination Act provisions is the Civil and Administrative Tribunal. Once you start having the penalty imposition then you raise a whole lot of immunities for defendants—what would become defendants effectively—and it distorts the way in which discrimination law operates, which is supposed to be a civil jurisdiction where people can try and resolve matters and there is reasonably open disclosure in the process. Once you put a criminal penalty in, open disclosure becomes a much more tricky species of conduct.

Ms BUSH: We heard from people earlier this morning about the importance of the marketplace of ideas and why some people have suggested that that is sufficient. I am interested in your views on that.

Mr Swannie: There is a lot of literature in terms of the balance between free speech on the one hand and vilification laws on the other. I think it is fairly widely accepted that free speech is an important value, but anti-vilification laws are also very important and they are important particularly to particular members of minority groups who may not have a large say in terms of the marketplace of ideas. We have seen through many reported vilification proceedings that they often involve a dynamic between a very powerful media spokesperson on one hand and a member of a minority community on another. So the marketplace of ideas is a valuable thing, but I think vilification laws actually help to make a more level playing field, where members of minority groups are protected from harassment and intimidation and they also get to voice and express their views which are important for them being full members of society.

Ms Banks: One of the impacts of vilifying or the kind of conduct we are talking about is to shut down those communities from seeking to participate openly in our democracy. If you do not prohibit this kind of speech, it distorts the marketplace in a very damaging way because large groups are silenced.

CHAIR: That concludes this session. Thank you for your written submission and thank you for giving evidence today to the committee.

BENN, Ms Melia, Convenor, National Human Rights Special Interest Group, Australian Lawyers Alliance (via videoconference)

CHAIR: Welcome. During your evidence today, I ask that you please refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I thank you for that. I invite you to make a short opening statement, after which committee members will have some questions for you.

Ms Benn: Good afternoon. My name is Melia Benn and I am a barrister at Endeavour Chambers here in Cairns. I am a Mamu and Gunggandji woman, born and raised in Cairns and my community links back to Yarrabah. I wish to pay my respects to the elders past, present and emerging of the Gimuy-walubara Yidinji people, who were the first lawmakers and caretakers of the land from which I am speaking today.

I am from the Australian Lawyers Alliance. Who we are is mentioned in our paper on page 4, but essentially we are a national association of lawyers, academics and other professionals who are dedicated to protecting and promoting justice, freedom and the rights of the individual. We estimate that we have 4,500 members who represent up to 200,000 people each year in Australia. I am the national convener for the Human Rights Special Interest Group and we have representatives from each state and territory save one. We convene on a bimonthly basis, including on topics such as the one I am appearing for today.

I do wish to say that I was deeply concerned, as was the rest of my special interest group, about the reports that came through in the paper. As an Indigenous woman myself, I have experienced the types of sentiments that were presented in the paper. Of course, it is always sad to see various types of discrimination, serious crime and hate crime as was in the paper. I wish to acknowledge that on behalf of the people who were brave enough to tell their stories. That is the only introduction that I wish to make.

Mr POWELL: Melia, thank you very much for your submission on behalf of the organisation and also for appearing before us today. Please correct me if I am wrong, but my reading of your written submission is that there is a level of support for what the committee is considering but there is a concern that if it overreaches it could be open to abuse and that that would be targeted at existing marginalised communities such as Aboriginal and Torres Strait Islanders in that police may use those additional powers or courts may use those additional offences to extend that onto Aboriginal and Torres Strait Islander people. Is that correct?

Ms Benn: That is correct. I will find the exact part of the paper. We do support that there would be a circumstance of aggravation to be attached to substantive offences. There already are things like that for, say, domestic violence offences. People are arraigned on that and it is an aggravating feature when they are sentenced. In terms of creating a standalone offence for that, we hold concerns and this is in the same way as laws against having alcohol restrictions into communities, things like coercive control against women and that being a standalone offence. I can put it in a similar analogy to those. Why we have concerns is that First Nations people have a history of distrust and a proven history of being treated differently and having laws that are usually created to protect them being used against them and that can actually have adverse effects on them not only as an individual but also as a community as a whole. Essentially our submission is that having a carceral provision to answer things like this is not always the best practice.

Ms BUSH: The question I had was around your response on the introduction of the new order and how you would anticipate that potentially being misused against Aboriginal and Torres Strait Islander communities. Certainly I am not doubting your words, but I am trying to think about those unintended consequences and in practice what that might look like.

Ms Benn: I think the concern comes from the way that the police or the courts have conducted themselves historically. It is not always to be purposefully going against what the underlying message is trying to be or the protection is trying to have, but historically it has had the actual opposite effects where it actually contributes to the continual disadvantage, the continual incarceration and then, therefore, more mistrust against the police and courts within communities.

Ms BUSH: Similarly, in terms of the recommendation around the approval from the ODPP to commence prosecution, you have concerns that if that was removed it would give not unfettered but more discretionary decision-making to police without the oversight of the Public Prosecutions approval?

Ms Benn: Yes, that is right. In terms of police laying a charge, they are not lawyers. Obviously they have experience in the court system, but they are not lawyers themselves in terms of how they would run that prosecution. It is always better, in our submission, that you would have the overarching power go to someone who is a lawyer and would be able to sit back and consider all the circumstances before laying that charge. It is an added layer of protection before you would be able to lay the charge.

CHAIR: One of the criticisms that has been made of the overarching protection under section 131A is that it is actually delaying action being brought against perpetrators of hate crime and vilification. There are competing interests here. I am not disputing what you are saying, because we witness quite often the unintended consequences against marginalised groups in the community. I am concerned about how we deal with the fact that some of our submitters are saying that it prevents people from bringing an action.

Ms Benn: Perhaps I will take that question on notice because it probably has a multilayered response in terms of how you would combat the delay, balancing against whether it becomes then an unutilised section or charge. Perhaps it is something that would evolve over time as opposed to cutting it straightaway, and watching and seeing how the other recommendations, if they are implemented, would play out. Ultimately, I will take that question on notice.

CHAIR: Thank you. In relation to some other aspects of suggested amendments, how does it sit having an amendment to the Penalties and Sentences Act, for example, to say that if someone commits an offence that has a racial aspect to it that is reflected in any penalty, a bit along the lines of the domestic violence legislation?

Ms Benn: By having it as a circumstance of aggravation, it would appear on the bench charge sheet or on the indictment, depending on what the substantive charge is. Automatically that puts the judicial officer who would be presiding over the matter on notice of why this particular offence—say it is a grievous bodily harm or assault occasioning bodily harm—responds to a person who has been targeted and assaulted in that way, or whatever the substantive charge is. Therefore, the judicial officer is on notice of why this matter in particular is more serious. My understanding of having it on the indictment or the bench charge sheet is that they are able to gather more statistics in terms of that particular offence and when it has connections to a circumstance of aggravation like domestic violence, or in this case it would be the vilification part. I know that as a part of the domestic violence circumstance of aggravation it has been helpful in statistics and those statistics are obviously used for prevention measures in the future.

CHAIR: I do not know whether there have been any submissions on this particular point, but I am interested in getting your view: there are provisions in the Criminal Code for non-contact orders, for want of a better description. I cannot cite the section. Do you think some aspects of that being included in the Criminal Code—where there has been an offence proven in the court and there are non-contact provisions similar to those for other offences, especially ones arising out of domestic violence—would be workable in relation to these particular offences?

Ms Benn: So I am understanding your question correctly, is your question that at the moment if there are a bunch of offences and then they have also breached the contact order—and at the moment the court always has to consider whether you extend that order or not—whether there would be a contact order for these types of offences? I have not turned my mind to that so could I take that question on notice as well? I think that is an important question and I would like to answer it.

Ms BOLTON: Through some of the hearings we have heard concerns regarding increasing legislation and powers, and you have given an example of that. Do you see increased education and celebrating our differences as a key area that we need to concentrate on?

Ms Benn: Absolutely. I think that education and prevention measures are always better than being on the other end of policing and having to put people in front of courts and judicial officers for their behaviour. Yes, definitely, I think it is a huge part. I think that Australia as a country has never reconciled with its First Nations people. That has contributed to not being able to accept and celebrate other nations that have come to Australia. The more that we are educated in that way and demonstrate to generations coming forth that this is how we behave, this is how we accept other people, it is only going to make our country better, stronger and richer.

Ms BOLTON: We heard examples earlier of the types of education campaigns that have been utilised. Is there something that you have seen that you believe should be introduced as part of this journey?

Ms Benn: I am sorry, I am getting some feedback on my end. Could you repeat the question?

Ms BOLTON: Do you have an example of how you believe we should take that education forward? Instead of the standard materials that have been utilised in the past, what do you believe is something we really need to introduce into this journey going forward?

Ms Benn: I think the curriculum in schools needs to be from a very young age, including into day care centres and the like, so that children are educated sooner that this is the way that you treat people and celebrate people's diverse backgrounds. I think social media, as much as it has been talked

about in this sitting today as being really quite awful for these types of crimes, can be very powerful for education, especially when you are targeting younger groups of people. It can be something that can be subliminally messaged as a positive thing from a very young age, but it is something that needs to be demonstrated to toddlers onwards.

CHAIR: That concludes this session. I thank you for taking the time to address the committee. In relation to the two questions that you kindly took on notice, could you have the answers to the secretariat by 5 pm on Friday, 17 September?

Ms Benn: Certainly.

CHAIR: Thank you once again for your written submission and your time today.

MITCHELL, Mr Bill OAM, Principal Solicitor, Townsville Community Law (via videoconference)

CHAIR: Welcome. We commence today by asking that you not use unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I thank you for that. We invite you to make a short opening statement, after which committee members will have some questions for you.

Mr Mitchell: Thank you for the invitation to appear before the committee today. I will make a brief opening statement. I firstly acknowledge that I am on the lands of the Wulgurukaba and Bindal peoples and pay my respects to their elders past, present and emerging.

As you will see from our submission, it is our view that hate speech in Queensland is not adequately understood, nor are its manifestations adequately addressed. Further and more generally, hate crimes, whilst present in our community, are absent from our regulatory policy and (inaudible). Firstly, it is based on a contextual perspective. We really need to know more about the prevalence and nature of hate crimes and in particular their impact and their harm.

From a community perspective, we need to understand and remove barriers to reporting and complaint. We also need to increase resourcing and competence within complaint and response systems, within support systems and within law enforcement. From a technical perspective, the act certainly needs some updating and amendment to make it responsive, contemporary, inclusive and also human rights compatible. From a public policy perspective, we need to consider increasing the scope of protections, and this should include considering increasing the scope beyond simple hate speech through to a broader idea of hate crimes.

I would like to support these considerations with some examples of where our current law is deficient. In our view, the act fails to protect against hate crimes more generally; that is, it fails to protect for offences that are beyond hate speech. The act fails to protect against hate crimes, or even hate speech, that are motivated by or reflect common structure of inequalities such as sexism, ableism and ageism. The act also fails to recognise obvious intersections in life course or common discriminatory conflation, such as conflations between age and disability. The act's provisions are consistently misconstrued by those who are empowered to enforce it, including law enforcement and QCAT.

The act's current form is incompatible with human rights when seen through the guarantees of recognition and equality before the law, including rights without discrimination and guarantees of equal and effective protection.

Finally, I think the act's relationship with free expression probably warrants judicial attention; however, in the process of amendment, human rights scrutiny processes would likely confirm our view that the prohibitions against hate speech are compatible with human rights. I am happy to take questions on our submission. Thank you.

Mr POWELL: My apologies, Bill. I have just gone back through your submission again and it may just be a technical issue at our end, but you made reference in recommendation E that—

> Government should consider implementing the strategies listed in the United Nations Strategy and Plan of Action on Hate Speech (Annexed) at a broader all-of-government policy level.

I am having trouble tracking down that plan again. Are you able to give us a brief snapshot of what is included in that?

Mr Mitchell: That is probably something that would take a little bit of time to run through. It was annexed to the submission that I got back from the—

Mr POWELL: We will track it down at our end, so apologies, but I just wondered, for the sake of today and *Hansard*, whether there is a way to summarise it.

Mr Mitchell: No, my apologies. I do not have it in front of me either. It is not attached to the copy I have, so my apologies. I could certainly come back to the committee with some thoughts about how we might look to implement that. One example of how the Queensland government is already doing this is through its age-friendly strategy. I have noted that for some reason we do not think the treatment of older persons should guarantee the same rights as we have in existing provisions and the age-friendly strategy is one example of a public policy that actually does look to increasing visibility, increasing tolerance and reducing discrimination against that particular group. We already have some policies that may well fit very neatly into that global plan to reduce hate speech. In my submission, I have drawn attention to a number of examples of where older persons, both during the COVID pandemic but also more generally, experience very negative hate speech on a regular basis, and that is primarily through social media. Part of the overall view of the UN has been to say, 'Well, older people

are lighter users of social media,' notwithstanding the very large number of people who do use social media, and there does need to be a plan to encourage them to use it in a way that will then also create positivity in the broader social media landscape.

Each of the three examples I have given—older age, disability and gender—has a state-level plan which could be looked at as a tool for improving understandings of the common causes of vilification. For older people, it is very clear it is ageism. Of course, for people with disability, at the root of that is ableism. We already understand the concepts that are driving these behaviours. We need to make sure that our existing plans take account of this additional issue within the community.

Mr POWELL: Bill, the other thing we have been trying to grapple with as a committee is, obviously, trying to clamp down on very obvious matters of serious vilification and hate crime. No-one will condone that and no-one wants to condone that; it needs to be pulled up short. However, we are getting written and verbal submissions around concerns that if we overreach we start impinging on things like freedom of speech. You alluded to that briefly in your statement then, and you have a bit more in your written submission. Is there anything you would like to add in this hearing now that you might unpack a bit from your perspective?

Mr Mitchell: Absolutely. I think the Human Rights Act and human rights more generally have two principal applications to this inquiry. The first one is the question of whether or not vilification laws are compatible with human rights, and we look at the question of whether the right to free expression should be limited in cases where vilification laws would intrude. We would say that the person's right to live a good life, free from violence and abuse and free from all sorts of intrusions into their wellbeing that vilification causes, overrides the individual right to free expression, particularly where the vilification is at that more serious end. I think one of the things the law has grappled with is the tripartite test of ridicule at the lowest level through to really hatred at the far end.

I would say—and it is our position, as it is the Human Rights Commission's position—that these laws are incompatible with each other. They certainly can work together and they do in other jurisdictions. I think the initial views of some of the experts, like Professor Aroney, are that in fact the High Court would probably uphold these laws, both under the political communication test and under the free expression test. We do not think they are incompatible at all.

Parliament has an obligation to protect everybody's human rights, and one person's right to free expression will never be absolute in such a way that it overrides someone else's right to safety within the community. That is the first point I make. The second point is that, really, as the act stands, it is incompatible with human rights because we should be giving a guarantee of equality of protections for the law, and we have a number of people who do not have that equality of protection under the existing provisions and they do not have a right to treatment for vilification and incitement, and I include older persons, gender and disability in that, so we are only protecting a limited class of people.

It was very discouraging to see the Victorian parliament's report recommending a breadth of new attributes which should be protected under these same sorts of laws and yet they did not even consider age. We have had examples of 'coffin dodgers', 'boomer removers'—all these very negative stereotypes of older persons freely flowing through social media during the pandemic. There is a very strong argument that on one hand these laws will be compatible with human rights, but we need to adjust the laws in a way which will make them enforceable and guaranteed for everybody.

CHAIR: I have a couple of questions, Bill. The first one is in relation to unforeseen consequences to First Nations people as a result of this and perhaps the Queensland police force not being as even-handed with the use of any introduction. Do you have a view or any comment on my statement?

Mr Mitchell: It is not for me to speak on those issues, really, but I would make one observation. Queensland police have to deal with a range of manifestations of interpersonal violence, and I think it is apparent to all of us that there are areas they can improve in, which are areas which require specialist intervention, for example family and domestic violence. We have suggested in our submission that the importance of these laws and the so far limited application of them and enforcement of them really means that there needs to be a shift in terms of the competence of the police that are dealing with these laws. In many ways, the cybercrime aspects of policing are far more suited to this area than street policing. I think the Police Service can definitely find the ability to train, resource and respond to these things in a way that is professional, competent and upholds everyone's right to equal justice.

CHAIR: The only other thing the committee has been grappling with is the eSafety Commissioner and how we work with that legislation, being Commonwealth. I understand there recently was a piece of legislation passed to give the eSafety Commissioner more powers. Do you have any knowledge, Bill, or am I stretching it a little?

Mr Mitchell: No, I am sorry. I know there is a debate happening about the extent to which the Human Rights Commission might act as a regulator in this area. I think this is a (inaudible). There is a reticence to say that the commission ought to have a regulatory role within our society. I think there are many examples where agencies have both a complaint and a regulatory role. The ACCC is a classic example. We do not have any problem with the ACCC receiving complaints about consumer issues, and it has a different regulatory role across its jurisdiction. I think it is worth the committee exploring how the commission itself can increase its role in being more proactive.

Obviously, the cases that you see on section 124 are very limited. Ironically, almost all of them relate to the offline environment; they do not actually relate to the online environment. We have to ask: why is that the case when, clearly, vilification is occurring in social media and the online environment far more frequently, I would think, than in the offline environment?

The question that needs to be explored by the committee is: what is the commission's role and should it have this regulatory role? I do not go so far as to say it should be able to hand out protection notices and things like that, but it does have to be more responsive. Communities and people are moving far more quickly across information than they ever did, so it cannot be a static entity. It needs to be able to respond.

CHAIR: A lot of the comments on social media are keyboard warriors who are not announcing who they are and saying terrible things against different groups. We had a submitter who said that there would be no issue with there being legislation that would direct Facebook or Twitter to take down an offending comment or page. Purely from a legal point of view, do you think we could do something that would be workable?

Mr Mitchell: The High Court in Voller said just yesterday that a media outlet is responsible for the comments on its Facebook page and if they facilitate and, in fact, encourage comments that are, in that case, defamatory—of course, there are many parallels between defamation laws and vilification—then they are responsible. I think we are now at a stage where we can say that online content is going to be regulated more strictly to ensure that people are not harmed by it, particularly the anonymous publication of hate speech.

It is discouraging to see that complaints about this sort of thing have not come to fruition, but I think the High Court's decision in Voller is very instructive for this committee in terms of the likely outcome for a similar vilification matter, were it to get to the High Court testing the boundaries of state law. It is a very interesting decision and a very important one for this committee. It is very timely, given it was handed down only yesterday.

CHAIR: Yes. You got the jump on us! Is it B-O-L-L-A-R-D?

Mr Mitchell: Fairfax Media v Dylan Voller is the decision of the High Court where they have confirmed the lower court's decision that a media organisation will not be able to avoid liability for defamation because another anonymous poster put a Facebook comment on their Facebook page.

CHAIR: Okay.

Mr Mitchell: It is starting to tighten the net around what we know to be hateful acts online. Whilst that is a common law response to defamation, there are many parallels with the clients we see. Unfortunately the law of vilification, for many people, is a poverty driven version of defamation. People who are wealthy with high reputation will take defamation proceedings. Unfortunately, for vulnerable people who are targeted by hate speech, often their only recourse is these sorts of laws. It is a different public policy—I am not conflating them—but I think there are some parallels to be drawn.

Ms BOLTON: Earlier you mentioned perpetrator commonalities and I think you referred to a report. Is that similar to the CMHC report?

Mr Mitchell: I am not sure which the CMHC report is. Is that the one that was annexed to the inquiry terms of reference?

Ms BOLTON: No, the one we were provided with was *Causes and motivations of hate crime* by the CMHC.

Mr Mitchell: Are you asking about perpetrator commonalities?

Ms BOLTON: Yes. You mentioned that the commonalities are well known. I was wondering which report you were referring to.

Mr Mitchell: There is a lot of references in our submission to some academic works. There are some very obvious commonalities in terms of things arising in line with an event of a public nature, whether it be a terrorist attack or a local or domestic crime.

I listened to the African community talking about the media around the two young women on the COVID flight. There are commonalities around circumstances that give rise to the actions but, unfortunately, the commonality for perpetrators tends to be entrenched in one of those areas, whether it be racism, ageism or ableism. I think a lot of it is motivated by deep-seated envy, greed and jealousy. There is a very good piece in the UN's paper about where hate comes from. The research shows that, unfortunately, people experience vilification in different ways. The trans community is shown to experience it in a very deep way, but that is not limited to them.

I guess we do not know much about the impacts on people with disability and older persons, because we do not have a complaints system that allows those areas to be protected. During the last couple of years, older people have had concerns about the way they are viewed and talked about as expendable, I guess you would say. Obviously, older persons do not have a use-by date, but that is kind of the way some of the content goes. The commonalities tend to focus on people using the 'other'. There is a piece in our submission about the process of othering, which is how you get to vilifying people.

CHAIR: That brings to conclusion this part of the session. I would like to thank you for your written submissions and for taking the time to join the committee. Have a good afternoon.

Mr Mitchell: Thank you very much.

CHAIR: We will now take a break and resume our hearing at 2 pm.

Proceedings suspended from 12.37 pm to 2.00 pm.

ALEXANDER, Ms Matilda, Chief Executive Officer, Queensland Advocacy Inc.

PHILLIPS, Dr Emma, Principal Solicitor and Deputy Chief Executive Officer, Queensland Advocacy Inc.

CHAIR: Good afternoon. During your evidence today I would ask that, because these proceedings are similar to parliament, you refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. We invite you to make a short opening statement, after which the committee will have some questions for you.

Ms Alexander: Thanks for the opportunity to take part in this public hearing. We would like to begin by acknowledging the traditional owners of the land upon which we meet today, the Turrbal and Jagera people, and acknowledge the experience of First Nations Australians with disability and the intersectional disadvantage they experience. We pay our respects to elders past, present and emerging and in particular our president, Byron Albury.

Dr Phillips: QAI is an independent, community based advocacy organisation and a community legal centre that advocates for vulnerable people with disability. Our mission is to promote, protect and defend the fundamental needs and rights of the most vulnerable people with disability in Queensland. Our management committee is comprised of a majority of persons with disability whose wisdom and lived experience is our foundation and guide.

QAI has over 30 staff working across our mental health, human rights and NDIS advocacy programs. Our human rights team provides advocacy and social work support to people whose human rights are impacted. This includes people who have experienced harassment and vilification on the basis of their disability. QAI's work with our clients underpins our understanding of the challenges, needs and concerns of people with disability and informs our campaigns at state and federal levels for changes in attitudes, laws and policies.

Ms Alexander: In our submission, QAI made four key recommendations: firstly, that disability or impairment be included in the list of attributes protected from vilification and serious vilification; secondly, that consideration be given to models of regulation and enforcement that are not solely reliant on individual complainants; thirdly, that consideration be given to amending the definition of 'public act'; and, fourthly, that consistent and timely reporting of vilification decisions be prioritised. As the second two of these recommendations are largely procedural, I will not be addressing those in my opening statement today.

Currently the vilification of people with disability is not protected in Queensland. Only race, religion, gender identity and sexuality are protected attributes. This is different from other Australian jurisdictions, which can be seen to include disability vilification. In advocating for the inclusion of protections against disability vilification in law, QAI recognises that people with disability face ongoing vilification and harassment on the basis of their disability.

Disability vilification is often intersecting with vilification on the basis of other attributes such as race, religion, gender identity, sexuality or gender. Disability vilification is distinct from but can be related to discrimination on the basis of disability. However, many instances of disability vilification are not covered by existing discrimination laws. Vilification has a detrimental impact on the lives of people with disability and can lead to fear and avoidance of public spaces.

Our submission contains many examples of disability vilification. We currently have no laws that provide accountability for these harms. Repeated exposure to such actions without the knowledge that there is justice via a legal recourse makes the participation and enjoyment of public life difficult for people with disabilities. This is ultimately preventing the development of a full and inclusive society, which is the overarching objective of the Convention on the Rights of Persons with Disabilities.

Our second recommendation was in relation to the need for public responsibility to address vilification more broadly. Vilification is grounded in broader societal problems such as racism, homophobia, sexism and ableism that are a community responsibility to address. Broader society plays a part in entrenching these problems, whether through unconscious bias, irrational hate or political opportunism. We as a society cannot expect the people most harmed by vilification to keep being the ones responsible for stopping it and gaining redress.

There are some excellent examples of proactive public interventions to ensure the rights of vulnerable populations are exercised, as detailed in our submission, taken from both here in Australia and overseas. For example, in Australia we have the eSafety Commissioner and the Fair Work Ombudsman, both of whom have much broader powers to achieve the purpose of their respective legislations than the comparative powers vested in the Human Rights Commission in relation to vilification.

Imagine if a person of any race, religion, sexuality, gender identity or ability could report a website that was generating hate speech to the Queensland Human Rights Commission, which would then have the power to investigate, make a finding—of course after allowing procedural fairness—and issue a removal notice to the site, the hosting provider and the perpetrator. Imagine also if the Queensland Human Rights Commission could conduct an investigation of their own volition into an extremist group known for spreading hate—to stop these materials before they were widely distributed. We see the Fair Work Ombudsman conduct very efficient and effective interventions in relation to the underpayment of wages. The production and distribution of hate should be investigated and stopped with similar vigour.

If the goal is a society free from vilification, the current barriers to complainant-led solutions include: firstly, the correct identification of the respondent where they may have used a moniker or be a stranger or an alias; secondly, the requirement to articulate the complaint accurately in writing; thirdly, the time commitment of bringing an action to the tribunal and potentially appeal; fourthly, the trauma of repeatedly facing a respondent they know to hate them for who they are; fifthly, exposure of the complainant's individual name and details to what is often an organised, hostile and dangerous opponent; and, sixthly, the need for legal skill in crafting an argument and responding to relevant exemptions.

At the moment, even a complainant's win in QCAT resulting in an order to remove material then relies on the complainant to bring further action if the material is not removed. Sometimes these cases take years to reach a final decision in the tribunal or court, and even then responsibility can fall back on the victim to ensure compliance. Much of the vilification case law shows repeated noncompliance with orders to remove or the subsequent publication of fresh vilifying material requiring the commencement of a new action.

Keeping our world free from such hate is an exhausting and unnecessary burden on a person who identifies with one of these key attributes. This is why QAI calls for consideration of a statutory regulatory body responsible for compliance and enforcement of vilification laws in Queensland, whether this is the Queensland Human Rights Commission or an alternative body. We need to do better as a society on the whole and cannot expect those most vulnerable to hate to be the only people empowered to hold back the flood.

Mrs GERBER: I have a point of clarification. Am I understanding your written and oral submission correctly in that you are saying that you think the current legislative framework around hate crimes and serious vilification is sufficient and we just need a statutory body to enforce it properly, or is there some further expansion you want to make in relation to the current framework around hate crimes and serious vilification?

Ms Alexander: I do not think the current definition is sufficient because we have said it should also encompass disability. Certainly adding in regulatory powers with a statutory body is a way to expand the effect of those current definitions. We have also talked about the need to vary the definition of 'public act', currently contained in those provisions. It talks about a public act. We have talked about the need to expand that definition of 'public act'. Was there a more specific amendment you wanted to ask about?

Mrs GERBER: We have heard a lot from submitters in relation to whether or not the offence provisions need to be changed and how that would look—whether it is an aggravation element added to it or whether it is a separate offence. I was hoping to hear from you as to whether or not you had turned your mind to how that might look in terms of the Criminal Code and the legislative instrument that might be proposed as a result of the inquiry.

Ms Alexander: We did turn our minds to that. Our submission did talk about the over-representation of people with disability in the criminal justice system and the lack of utility in criminalising people with disability who may express these kinds of views. We all want to end hate, but we do not necessarily think that additional criminal penalties are the most effective way to do that. We tried to think a little outside the box instead of going with harsher penalties.

Many of our clients, particularly with an intellectual impairment, going through our justice support program, for example, have views which are quite unusual and the way to deal with those views is not to put them in prison where racist views, homophobic views and problematic views and more likely to become entrenched. We tried to think a little outside the box and say, 'We all agree we want to stop the hate. We all agree that that is of vital importance and the current laws are not doing that.' What we have done is think more broadly: other than just stacking on more criminal responses, what can we do that is actually going to be effective in stopping hate?

CHAIR: I pick up on the last bit around what we can do and dovetail that with unforeseen consequences for the people whom you represent. It is hard balancing act, is it not? I do not want to put words in your mouth.

Ms Alexander: It is, but these are quite simple things that we are asking for. There was Rita Markwell, who spoke about her matter that went all the way through to the tribunal and an order that a bunch of material gets taken down. We do not know whether that material is going to get taken down. Imagine if the Queensland Human Right Commission had the power to enforce that and take down that material. Nobody has that power at the moment. It is such a simple thing. That will stop that level of hate being out in there in the community.

CHAIR: Do you think it is a simple process to give the Human Rights Commissioner the power to do that? Is it a bit more complicated than that?

Ms Alexander: I should not have used the word 'simple'.

CHAIR: No, I am not being critical. One of the things suggested to us is that that power be given to a statutory body—at the moment it is the Human Rights Commission but it may be another statutory body; we are grappling with that. Could we recommend that a law be passed that would enable a statutory body to order a group like Facebook to take down a page?

Ms Alexander: Absolutely. That is what the eSafety Commissioner can currently do.

CHAIR: That is where the disconnect comes. We say the eSafety Commissioner can do it, but doesn't that mean that the person who has been vilified has to then take the second step? The first step is, yes, you have been vilified, but then there are no powers for that statutory body to make an order that Facebook remove the page. They then have to go to the eSafety Commissioner and go through a whole separate process. Have I got that right or is that not true?

Ms Alexander: Currently the eSafety Commissioner does not have any powers over vilification as such. I am just talking about replicating similar powers to what the eSafety Commissioner has in their jurisdiction on a state level, as a model—also the Fair Work Ombudsman's powers of investigation.

CHAIR: Yes.

Ms BOLTON: Have there been any studies or reports done specifically on vilification and hate crimes towards people with a disability?

Ms Alexander: There have been studies done of violence and abuse towards people with a disability that have found a disproportionate rate of violence and abuse. There have been studies done of discrimination towards people with a disability but nobody has studied disability vilification. It is still fairly new in the jurisdictions that do provide those legal protections. Disability harassment has been covered under the Disability Discrimination Act for quite a while.

Ms BOLTON: You spoke about material on Facebook. Are you able to give us an example of what would be posted regarding vilification or hate crime against a person with a disability?

Ms Alexander: I can but not without using unparliamentary language. All the examples are quite—if you do a Google search for 'jokes about people with disability', there are so many jokes that call people with a disability 'vegetables'. I do not want to—

CHAIR: There are posts that contain offensive and demeaning language towards people with a disability that you can find by doing a simple Google search.

Ms Alexander: Exactly. I put in our submission an example of a cafe that had a joke about a person that was very offensive. That is in our submission.

Dr Phillips: This type of language is reported to us very frequently by clients. It is part of their experience of life, unfortunately. We do know that people with disability are over-represented in terms of the reporting of discrimination. That has certainly been one aspect of that.

CHAIR: For want of a better description, the threshold of your submission would be to transfer powers from the eSafety Commissioner to the Human Rights Commission. One of the things that seems to come about is that the person who has been vilified, or the group of people who are vilified, in the examples you have just given does not have the resources to bring about an action or a complaint. The next step is, for example, for the Human Rights Commissioner to independently—if something is reported to them as an organisation—take up the cause for the individual or individuals.

Ms Alexander: Yes. They could, for example, issue a notice. If you look at the way the Equality Commission for Northern Ireland works, they have the power to enforce the laws. They conduct investigations. Then if they are satisfied through that investigation that an organisation is committing or has committed unlawful acts—they have a certain level of fact finding—then they can serve a 'non-discrimination notice' directing the organisation not to commit further unlawful acts.

CHAIR: Is there a link to that document that you are looking at?

Ms Alexander: I have mentioned it in the footnotes. It is footnote No. 13—Allen 2019. Before issuing the notice they warn the organisation about its intentions and give procedural fairness, time to respond. Then the person who has been accused of the vilification has an appeal process. Then there can be an undertaking from that or they can take further action. In this case, it would go to the Queensland Civil and Administrative Tribunal for a confirmation of that order.

Dr Phillips: Having a regulatory enforcement model like that has a really powerful effect. At the moment a key problem is that not only are we placing the onus on disempowered people who are often needing to focus on recovering from the experience but it shifts the onus on them to initiate and pursue a complaint. It also sends a really important broader message about the emphasis that we as a society place on vilification and hate language.

Ms Alexander: It might not replace the need for an individual complaints mechanism because it would not necessarily provide redress where that person has been individually harmed. They may wish to still pursue an individual complaint mechanism. It would sit alongside that.

CHAIR: Just going back to the document you refer to, you say it is referred to in footnote No. 13.

Ms Alexander: Of our submission—Allen 2019.

CHAIR: You referred to that document coming from Ireland.

Ms Alexander: That is a case study within this paper, *Addressing discrimination through individual enforcement*. It is on page 24 of that paper.

CHAIR: I am with you. If I go and look at this document by Allen, I will find what you are talking about?

Ms Alexander: You will find the case study of the Irish example. I can leave this with you as well, if that is helpful.

CHAIR: Does the committee give leave to table that document? There being no objection, leave is granted. That brings to an end this part of the hearing. Thank you for your attendance and thank you for your written submission.

SMEED, Ms Brittany, Senior Lawyer, Human Rights and Anti-Discrimination, Legal Aid Queensland

CHAIR: Welcome. You may have heard me talk earlier about refraining from using unparliamentary language such as swearing and using offensive terms, even if you are quoting a third party. You may commence by making a short opening statement, after which the committee members will have questions for you.

Ms Smeed: Thank you for inviting me to speak on behalf of Legal Aid Queensland today. To begin I wish to acknowledge and pay respect to the traditional owners of the land upon which we meet—the Jagera and Turrbal people. In doing so, I recognise that First Nations people continue to experience racial discrimination, vilification and hate crimes in many areas of life. For example, as we noted in our submission, in recent years we have seen a rise in the use of social media to incite vigilante violence, particularly around Townsville where this behaviour has been overwhelmingly directed at Indigenous youth.

I also want to acknowledge the community leaders who spoke at the first day of this hearing and shared experiences from their communities. Those stories confirm that hate crimes and vilification do continue to occur in Queensland on the basis of race, religion, sexuality and gender identity. Many community groups noted that, despite the protections that currently exist, the behaviour continues to occur and it is largely tolerated by our society. For example, we heard a lot of accounts of bullying and harassment that people experienced from a young age in the school environment.

I wanted to draw your attention to an example from earlier this year which was reported in ABC News of some Indigenous students at Cairns State High School who protested against the use of racial slurs by teachers and other students on the National Day of Action against Bullying, and in response the school actually ordered them to stay home from school for a number of days. I ask: is it any wonder then that by the time people reach adulthood they may not have any confidence in the mechanisms that exist for reporting hate crimes and vilification?

We have heard many stories about people who have reported these incidents to the police only to be told that the police cannot do anything, there is not enough evidence and they are not willing to prosecute their complaint. In our submission we have provided a case study from a client who experienced racial and sexuality vilification and that shows the extent he had to go to by pursuing his own peace and good behaviour order and initiating his own QCAT proceedings before his complaint was actually addressed.

Given the evidence we have of the lack of actual prosecutions under this section of the act, I think it is apparent that the current laws do not do enough to protect individuals and the community from this behaviour. Our submission has identified a number of issues with the offence as it currently exists under section 131A. We have made suggestions about how it could be amended to remove some of those practical barriers that may make it difficult for the police and prosecutions to proceed under that section.

However, another issue we have identified is that the current system places all of the burden on the individual victim to report hate crimes and vilification and take their own further steps to pursue justice. Our system attempts to treat these hate crimes and instances of vilification as an isolated problem that occurs on an individual level and requires an individual response, when actually there is a need to acknowledge that this behaviour does not occur in a vacuum. It is behaviour that is influenced by and also felt by our wider community.

An issue that I think has escaped proper scrutiny is the role of social media and news organisations in providing platforms for the expression of these hateful views. We have seen a worrying rise in the use of the internet for the purpose of engaging in vilification. Often this is done anonymously to avoid accountability. Just yesterday the High Court delivered its decision in Fairfax Media v Voller, finding that news media organisations are responsible as publishers under defamation law for hateful comments that are made on their Facebook pages. It is our submission that anti-vilification laws which are somewhat modelled on defamation law should similarly hold publishers accountable.

In addition to this online space, there is a need to acknowledge there are other environments in which those in a position of power have the ability to control and eradicate hate crimes and vilification. Obviously the police have a major role in the regulation of public space, but there is also a need to recognise this conduct occurs in other environments like the workplace, at school and higher education, and in housing and healthcare settings. Creating positive obligations that capture third-party bystanders, particularly those who can actually exercise some control over that environment in which

this behaviour occurs, may better achieve some of the underlying goals of the Anti-Discrimination Act. Ultimately we consider that vilification is a problem that affects all of us as a community, and there is a need for that to be better reflected in the legislation and policing response.

Just before I conclude, I wanted to clarify one matter raised in our submission. I just wanted to note that we did suggest a three-year period of imprisonment was an appropriate penalty. However, that was only premised on the understanding of the need for the police to be able to obtain warrants and access information that is posted online. We do not really have a preference for increasing the penalty. I think people have raised valid concerns about that. It is more about empowering that policing response. If that can be achieved in another way, that would be preferable. Otherwise, I welcome any questions you have about the matters contained in our submission.

Ms BOLTON: Over the couple of hearings we have had, there has been a concentration on the bill in terms of its legislative nature. However, what has come up is the thought that, instead of increased legislation and regulation, we actually need to focus on prevention, intervention and education. Do you have any thoughts on that?

Ms Smeed: Yes, I do. I believe there is room for that work to be done, and that is something we have acknowledged in our submission; however, there are also some deficiencies with the legislation as it currently exists. It is not responding to the harm that is being caused and I think there is a need to focus on rectifying that to address those harms. I mentioned issues that arise in the schooling environment and other environments where maybe other people who are present could have greater obligations to take some positive steps to prevent this behaviour from arising. Certainly in the policing context there is some room for education, cultural competency and those things that are discussed in our submission.

Ms BUSH: The second recommendation of the options paper talks about an introduction of a new species of order particularly around a peace and good behaviour order. I notice in your submission you talk about some of the inadequacies of that. Could you expand on that and your views of whether that would be a sufficient recommendation or whether it goes far enough?

Ms Smeed: Certainly. In my experience, peace and good behaviour orders cannot be obtained in a timely manner and that really undermines the purpose of those types of orders, which is to protect people. If people are concerned about immediate threats, this option will deliver an outcome in six to 12 months. That is not soon enough. In the domestic violence context, DVOs can be obtained in a much faster manner. If something could be modelled around the DVO mechanism, then perhaps that would be more suitable.

Ms BUSH: We have heard from other submitters that people can just lay charges, they do not go to court, it is not really contested, it is never proven but people can be stigmatised on orders of hate or inciting hatred. Where is that balance between allowing people a lower level threshold of reporting and getting some sense of security and safety but allowing for a natural justice process where people can challenge the veracity of the complaint so that they do not have a complaint hanging over their background?

Ms Smeed: I assume what you are referring to is in the domestic violence context where it is very easy to obtain an order which may not be premised on sufficient facts. In this case, perhaps a middle ground would be for QCAT to be able to grant urgent injunctive orders. Under section 144 of the Anti-Discrimination Act they can do that already. However, it is not directed at acts of vilification and I think it would need to be bolstered to properly protect someone. The issue remains, though, how the police then enforce that order—so if someone is breaching it, what is the policing response? I think that comes back to: why are the police not responding to these types of complaints in the way we would expect them to?

Ms BUSH: Thank you.

Ms BOLTON: We have heard a couple of times about the difference between serious vilification and vilification and that it can be subjective. At a hearing the other day we brought up the situation that, as a culture and as Aussies, our sense of humour has been, I suppose, a standard mechanism of communication but over time it has translated and may be part of that subjective vilification—that is, it is not deliberately intended but it is taken as that because that filter has not evolved as a society. Would you say that—and I am going back to education—what could be deemed as having a joke or a particular way of communicating in the good Aussie way has not moved on with the times?

Ms Smeed: That is a bit of a difficult question to answer. What I would say is that it is not a light threshold to show serious vilification. The civil threshold is slightly less but it still requires severe hatred, contempt or ridicule. I do not think we could say any well-meaning joke would meet that threshold. I

think we are all aware of the kind of behaviour we do want to address. In fact, in parliament there is a mechanism for dealing with that type of speech through the unparliamentary language rules. We are really asking for a similar mechanism in public life.

CHAIR: Nevertheless, we have seen some fairly concerning speech in our parliaments, haven't we?

Ms Smeed: Yes, I would say so.

CHAIR: One of the issues I was trying to get my head around was if, for example, a provision in the Penalties and Sentences Act could be amended to identify an offence as having vilification or racism. Do you think that could be workable?

Ms Smeed: So you are saying as a sentencing consideration rather than as an element of an offence?

CHAIR: Yes.

Ms Smeed: I have thought about this option. I think there are a couple of issues. The first is that police are not recognising this behaviour as being an act of vilification. They are not recognising that it is a hate crime. In some cases they will prosecute it as public nuisance or some other summary offence. If they are not picking it up at the prosecution stage, how is it getting before the judge and being considered as a sentencing consideration? What I think may address that better is having it as an aggravating circumstance of existing summary offences.

One thing I did want to address is that the current provision under 131A requires you to show inciting of either violence or property damage. That can be quite hard to do, because people can do things that really do strike fear into others without expressly threatening property damage or violence. Perhaps rather than rely on that threshold, we have existing offences that we recognise are harmful and then we can add onto that the aggravating circumstance that it has a hateful component that is driving the conduct as well. That can then also be reflected in bench charge sheets. It comes before the judge in that manner. I think that would better address those concerns, yes.

CHAIR: Just to be clear, you are suggesting that goes in the Criminal Code or in the—

Ms Smeed: In the Summary Offences Act, I think. There are a number of offences—public nuisance, assault. I saw an example recently of trespass which had a hate crime element. There are quite a few different existing offences that it is relevant to.

CHAIR: I think in the Criminal Code there is an offence that, say, arises out of maybe a domestic circumstance where there is a criminal offence of an assault, wilful damage et cetera. Judges have those orders that they sometimes issue to say that the defendant is not to have any contact with the victim for a period of time. Do you think that is a mechanism that could also be used in this area?

Ms Smeed: I think that would be appropriate, yes.

CHAIR: I have a question in relation to the removal of offensive symbols—as a standalone offence in the code, as a subsection where the wilful damage appears?

Ms Smeed: Yes. I have seen this has already been done in some other jurisdictions. I have not seen a lot of data around prosecutions for that. It is not something I have seen frequently in Queensland. I also note some concerns have been raised that certain symbols may have other meanings in a religious context or for historical or other genuine purposes. I am not sure I could make further comment about the need for that in Queensland.

CHAIR: That is okay. Thank you for your written submission and for coming to talk to the committee. It is very much appreciated.

GREENWOOD, Ms Kate, Barrister, Prevention, Early Intervention and Community Legal Education Officer, Aboriginal and Torres Strait Islander Legal Service

CHAIR: Welcome. You may have heard me say earlier that we ask that you do not swear or use offensive terms, even if you are quoting someone else. I thank you for your cooperation on that point. I invite you to make a short opening statement, after which the committee will have some questions for you.

Ms Greenwood: I thank the committee. I make this submission on behalf of the Aboriginal and Torres Strait Islander Legal Service, which has offices all over Queensland. We pride ourselves on our submissions being rooted in the experience of practice as well as knowledge of the law as it applies to our particular client group. On a more personal level, I spent two years working at a German university so I have some experience of the response to Neo-Nazi materials and an awareness of some of the issues from other jurisdictions.

The Royal Commission into Aboriginal Deaths in Custody made a recommendation on racial vilification. Its response was very much focused on a reconciliation model and a mediation model. The thrust of our submission basically follows two lines. The first one is, in our view, the existing offence ought to be left in place but there are a number of intermediate offences relying on existing crimes on the books that can be used to fill in the gaps which currently exist in Queensland law.

The second one is to recognise the particular challenges brought on by social media and social media pile-ons. I think the committee has already heard that the High Court, while not ruling on the particular content, ruled that Facebook had, in fact, published the comments of third parties and was responsible as the publisher for those comments. We do see a little bit of movement in the social media space, as of I think yesterday.

Mrs GERBER: I have no questions, but thank you very much for your well-informed submission and your oral submission.

Mr POWELL: It is less a question but an acknowledgement and a thankyou, Kate. One of the things I have been grappling with throughout this committee hearing is trying to balance freedom of speech with serious vilification and hate and prosecuting as such. I want to commend you on that section in your written submission where you discuss that and give us a couple of ideas around how we can make sure we get that balance right. That is not actually a question but a thankyou for that.

CHAIR: I do not know if you heard the evidence from this morning—

Ms Greenwood: Some of it, yes.

CHAIR:—about the concern in relation to unforeseen consequences of passing legislation on First Nations people. Would you like to comment on that?

Ms Greenwood: I was part of the racial vilification working group. Certainly I was quite shocked at the lack of response to what I saw were clear instances of commit public nuisance whereas for many of our clients simply saying one swearword in public can lead to a commit public nuisance offence being brought against them. Certainly we are very conscious of the fact that, misapplied, it may end up being used against the very groups that should be protected. That tends to happen in a situation where a racial slur gets directed at someone who then responds verbally aggressively. In those sorts of circumstances I would be very much advocating to go down the restorative justice path and mediation.

Where there are clearly problems—the rise of extremist groups who are constantly putting even implied threats, and I saw a number of photos of the sites of synagogues or other places of worship where, because of my living in Northern Europe for seven years, I recognised some of those symbols as being quite threatening and quite direct whereas they were not recognised as such nor were they acted upon. That is what led to the recommendation that there should be a circumstance of aggravation, for example, in a commit public nuisance where quite serious threats and offensive comments are being made. That should be recognised when there is a campaign of that sort of behaviour going on. However, two people in a street exchanging barbs is probably much more suited to a mediation process.

CHAIR: The example which comes to my mind is where a First Nations person is being apprehended for being asked under the move-on powers to move on or disorderly behaviour and then says something in response to what is happening. Is that an unforeseen consequence of recommendations that the committee may make to strengthen the vilification laws?

Ms Greenwood: Broadly, yes, that could be. Again it comes down to the means by which these laws are administered. Plenty of times I have represented a client who has used one word in a public space yet an example used at the racial vilification working group was that members of a congregation

moving in and out of a car park nearby were constantly being harassed, stopped from being able to go into the place of worship and abused yet no charges were laid. You have a very different sense of when it is appropriate to bring a criminal charge and when it is not. Yes, I agree.

Whatever approach should be taken, there should be a very strong restorative justice component to the low-level stuff. Our submissions have been very much directed towards the concerted attacks: putting threatening symbols and graffiti on the side of buildings. It is that sort of campaign of abuse which goes towards people going in and out of a particular building which we have written towards.

I may also briefly defend the equivalent of the peace and good behaviour order which essentially I proposed. I have, in the course of private practice, brought a couple of these but they are not perfect in that they do not cover all the existing circumstances. The delays, such as they are, are a matter of listing delays. There is nothing inherent about a peace and good behaviour order that would introduce a level of delay; it simply comes down to listing. It could be quite an effective order in its own right.

The reason that was brought about was that in Sydney there was a persistent and vexatious person who constantly was attacking a particular community, but because they were so mentally unwell I think they were discharged—I do not think they got a proper conviction—but you still have the need to protect the community and to protect the building that that community congregated around. An equivalent to a peace and good behaviour order would then create a level of protection so that if this person returns it is easy to call the police and say, 'There's a court order and this person shouldn't be here,' and for the police to then respond in an appropriate manner to get them away from that site and to protect that group.

A peace and good behaviour order approach also addresses the situation where person A may be harassed today but person B will be harassed tomorrow and person C will be harassed the day after that. So how do you come up with an approach that actually protects them because of their membership of a group? That was one option that we put in our submission.

Mr HUNT: I would be very keen to drill down and explore your experiences living in Northern Europe around some of the Nazi icons and symbolism. Clearly the laws in Germany brook no misunderstanding. It does not just encompass what we would identify as the swastika but also encompasses the death's head, the SS siegrunes and those sorts of things. Can you outline how some nations have managed to be very robust and I think quite correct in clamping down on those sorts of symbols without managing to have any sort of negative effects on education or other cultures that use similar symbols and that sort of thing?

Ms Greenwood: Yes, and of course the classic example is that the swastika is the Hindu symbol of life simply flipped over; one is clockwise and one is anticlockwise. I was just doing a quick check before coming down and talking to a colleague also from Northern Europe. The Nazis basically appropriated that Hindu symbol because of the Aryan source of that symbol. They also appropriated many Viking symbols which are used innocently in other countries, in the neighbouring countries around Germany. I can leave this paper for the committee. There was one which is basically a Celtic cross. If you go to many an old Australian graveyard you will find many of these crosses, which have no Nazi overtones whatsoever. There does need to be some level of recognition that some symbols may be quite innocuous. As with everything else, context is everything. The context in which that symbol is used is what would make that criminal.

The police met with the racial vilification working group, and one of the problems they highlighted is that they do not know and understand what some of these symbols mean in order to identify them as a threat or a problem. In the UK that problem has been largely addressed by a racial vilification working group or community group that advises the police on community policing. If they are missing some quite serious symbols, then that is where that gets picked up and dealt with and then it becomes a matter of proof in a prosecution that this symbol has that meaning, which is not as hard as it sounds. There are academics, for example, who can quite easily say, 'This is what that means.'

Mr HUNT: I can see the document on your desk now. I can see some that seems quite, as you say, innocuous and some of them—the double siegrune and the totenkopf and whatnot—are just overt and there is no room for misunderstanding. Thank you. That was very useful.

CHAIR: Do you mind tabling that?

Ms Greenwood: No, absolutely not. There is some writing at the bottom. A friend was very kindly translating for me. They are fairly factual.

CHAIR: It is tabled.

Ms BUSH: We have heard a lot of representation from culturally and linguistically diverse communities and LGBTIQ communities around their responses. These are my views. Proportionately, I feel like we are quite light on our submissions on the experience of Aboriginal and Torres Strait

Islander people. It would be a real failure I think for the committee to finalise a report and not make sure that our First Nations people's voices are embedded in this report. I state that to you as an opportunity to share, in your experience, what would make a tangible difference for Aboriginal and Torres Strait Islander people in being able to flag complaints, run complaints and get some type of justice for what we know is their experience of vilification.

Ms Greenwood: That was something I noted coming from the racial vilification working group. They were dealing with much more overt acts. I can give some examples, without wishing to double down on Townsville too much, where I was helping a client who was being stalked by some people in a deliberate attempt to rattle and frighten her. I ended up helping her find an efficient way of documenting all of that so that a complaint could be brought. Of course, there was that awful incident recently where vigilantes simply picked on that woman for her skin colour, and no other reason, and killed her. She had nothing to do with anything. There are other campaigns of malicious complaint so that someone is forced to move away from where they are living and can often end up being listed so that they do not get any future public housing. There are some quite insidious behaviours which do not necessarily have the same high level of visibility that a totenkopf would have. It is a problem. It is a less overt problem than I think many of the other groups are dealing with.

One other issue is that the communities are extremely good at mediation and healing. That is a strength in our communities which really has not been given enough acknowledgement or support around. The communities themselves contain some of the solutions to this problem. The other issue is that with racial vilification you have a huge range of very extreme behaviour, and sometimes behaviour that is not necessarily racial vilification but is interpreted as such and is more amenable to mediation and restorative justice.

In terms of my story, I am so pale that I am sure I can be seen from space and I, too, have had a bus driver say, 'If it were not for the fact you were looking at your phone and your face was illuminated by the light from your phone I would not have seen you and would have driven straight past.' Obviously you have to be there, you have to hear the tone of voice and the context of all of it, but there may be some stuff which may be quite innocent. Certainly in that case that driver was being innocent and maybe if he had said the same thing it may have been interpreted differently. There may be a different driver who is just being deliberately obnoxious. These sorts of low-level issues can be dealt with through restorative justice.

There are other more serious ones. Sometimes people have suffered deprivation of liberty. When being assaulted, it is very clear that the motivation for the assault is the colour of their skin. Those are the sorts of more extreme examples where we would agitate for a circumstance of aggravation where there has been a racial element around it.

CHAIR: That concludes this session. I thank you for attending. Thanks for your written submission.

BURTON, Ms Bridget, Director, Human Rights and Civil Law, Caxton Legal Centre

CHAIR: Good afternoon. You may have heard me say this earlier, but we ask that you refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I thank you for that. Would you like to commence by making a short opening statement, after which the committee will have some questions?

Ms Burton: Good afternoon. I also acknowledge the traditional owners of the land we are meeting on today, the Jagera and Turrbal people. Quite separately, I want to pay specific respects to the community leaders and community members that we heard from on Friday. I watched a couple of hours of that hearing, although I could not watch the whole thing. It was particularly moving to see people relate their experiences of vilification without using the language to which they themselves had been subjected out of respect for this place. In this place you have important, robust, intense debates. Laws are made here and difficult work is done here, and it is done almost entirely without using language which incites ridicule, contempt and hatred. I accept what you said earlier to Brittany about there still being some quite bad language. In this place, those with power remind others who are here that there are standards and that those standards will be upheld. This inquiry is an opportunity to extend those standards and the responsibilities associated with upholding those standards to the other places where people gather physically and virtually to live their lives and share opinions and ideas.

Knowing I was appearing after my colleagues from the other centres, I thought I would spend some time talking about the judgement that a lot of us have mentioned that was handed down yesterday. The High Court made the decision in Fairfax Media v Voller. We mentioned it in our submission as a pending matter. That case looked at the responsibilities of media outlets that post stories on Facebook under which members of the public made comment, in the comments section. They had made comments about Mr Voller. He commenced defamation proceedings not against the individual commenters or against Facebook but against the media outlets that posted the stories. In the lead judgement, Chief Justices Kiefel, Keane and Gleeson wrote—

… the acts of the appellants in facilitating, encouraging and thereby assisting the posting of comments by the third-party Facebook users rendered them publishers of those comments.

I wanted to sit that quote next to another, from the Queensland vilification case in 2007 of GLBTI v Wilks. In that case the decision-maker said—

To use the forum provided by the newspaper to publish such material to a population which may include people who are 'reluctantly tolerant' of homosexuals, objectively incites those if not others to cease tolerance and proceed down the path of hatred, ridicule and contempt.

After reading the Voller case yesterday, I had another look at the QPS Facebook page which we mention in our submission. I am singling out the QPS not to have a go—the problem is extremely widespread—but because this inquiry is also asking why people do not go to the police with these things. There is a post from a couple of days ago informing us that two teenagers were charged with murder. No race is mentioned in the post itself and there is a stock photo of two white hands in handcuffs. However, in the comment section we find these comments: 'Should be a picture of black hands', 'It's common knowledge who they are', 'Deport them immediately. I, for one am fed up with the representatives of the Africa community making excuses', and 'They are imported savages'. There was another post late yesterday involving a stolen car in Townsville—no mention in the post of race or age—but in the comment section assumptions are made that we are talking about Aboriginal children, and then this: 'Nothing a few Glock rounds can't fix.'

Is it really necessary for a person who has been made less safe by comments such as that and who may now be frightened to mount risky, exhausting litigation to see if a court or tribunal will order those comments be removed and, speaking from experience, to maybe wait nine years for that decision? The current regime no longer fits the way we live. This inquiry is a rare opportunity, which I do not think we will see again, to shift away from a framework that makes those worst affected by vilification and hate speech do all the hard work and carry all the risk on behalf of the whole community and to replace that with clear, functional, useable state powers and responsibilities across a range of departments and agencies. Preventing hate crimes by acting on hate speech should be the serious, everyday business of us all. I will take any questions you have about our submission and anything else you wanted to ask me.

Mr POWELL: Thank you, Bridget, for your submissions, both written and verbal. I want to unpack a bit about what you were just referring to. Obviously we are looking at the Voller case as well and trying to understand the implications of that. Obviously in the example you just used, the flow-on would be that the police are now having to look at those kinds of statements and remove them from

their feeds. Given that it is an individual making those statements, what sort of penalty should be incurred by them and what are you thinking in terms of offences that could be laid against the individual who leaves those sorts of comments?

Ms Burton: We think it is a whole suite. Our submission really traverses a lot of territory in terms of recommendations. Some of the recommendations are legislative reform; some are other more practical things that can be done. We mentioned the same thing in our submission before this legislative advance from yesterday. There are two things. One is getting these things out of the public domain. It must be the No. 1 priority and it has to happen really quickly. The second is what you do in terms of addressing the behaviour as a behaviour. It is interesting the lack of regulation we have in the public spaces of the internet compared to the public spaces of the street. It seems to me that there would be room for similar offences—if they had said that walking down the road compared to saying it online. There is no difference in the behaviour; there is no difference in the impact. In fact, it is more; it is broadcast. It is the same sorts of things. I do not know why we cannot use the existing offence ranges to deal with those.

Mr POWELL: Is it also your contention that the individual the comment is referring to is hardly going to take the commenter through this process, or through an improved process, so there should be a third party monitoring these kinds of activities and they are the ones that pursue the potential offence?

Ms Burton: I mean, they have already told the police they have said this. They have said it directly to the police. It does not really need a third party to point it out. Not everything that the police act on is on behalf of a third party. I think there is a need for the possibility of independent regulatory action. In our submission we have said that we think the Human Rights Commission and the police could work more closely together around this sort of thing. It does not really matter whether it is the Human Rights Commission, the Queensland Police Service, a third party or a different commissioner. It should not need an individual person to say, 'I am not safe and therefore please address this.' If the person has made the comment directly to the Queensland police, it should be able to be addressed without that.

Mr POWELL: In the instance where it is direct to the police, yes, but we also are talking more broadly where these comments could end up on my Facebook page. Is it me who then has to try to pursue the matter or is it another? I guess that is where a potential third party could be useful.

Ms Burton: Making it possible for as many people as possible to raise these things. Bystanders are very important when it comes to any kind of particularly racist behaviour and other sorts of harassment and vilification behaviour. Often it will be bystanders who step up and take action if they see it in the street. There should be a mechanism by which anybody can report and make complaints and that things will be taken seriously and investigated at that stage.

Mrs GERBER: Have you envisaged that that would also apply to community group Facebook pages—an administrator who is just a community member? Have you turned your mind to that? There are a number of different nuances in relation to the internet and social media space, but that is one thing that has been raised during the committee process.

Ms Burton: I think it is going to take a minute to digest what the Voller decision means for influencers, for people with large social media platforms and profiles whose business relies on comment traffic but who do not really care what is in it. I think it is long overdue that this kind of platforming of views is addressed. I hope it will mean that where there is conduct that occurs on a community Facebook page that someone else administers, yes, that person would be responsible. If you have created that platform then you have to take some responsibility for how that platform is then used.

Ms BUSH: It sounds like—and I respect that we are all digesting what has gone on in the last 48 hours—it is not dissimilar to the defamation laws that would suggest that if you are a hoster of a page and you allow for defamatory content to be published you are, in fact, a publisher and there is some obligation on you to be moderating that. It sounds like what you are suggesting is: would it not stand, if you were going to allow a post that enables public commentary, that there is an obligation to be monitoring and pulling commentary that is inciting hate?

Ms Burton: Yes, and there are mechanisms by which they can do that. We have got so used to the general population making comments on everything all of the time and that has become a thing that we just accept happens, but we do not have to accept that. It does not have to happen. There are mechanisms on most social media platforms whereby you can choose what you promote.

CHAIR: You gave a very fulsome explanation about this in your opening remarks. Some of the behaviour you would expect would be able to be managed by the owner of the Facebook page. How could the law help, for example, a Facebook page such as the Queensland police Facebook page, which obviously puts up information that the public are entitled to know about but then we have individuals obviously doing the wrong thing? Obviously those types of comments need to be actioned almost, in my view, immediately. How do we get to the point that you have a mechanism whereby there is some immediacy?

Ms Burton: Obviously the High Court judges were also in need of guidance around what are the options. There is a mechanism whereby the comments are all hidden until they are released by a moderator. I think that was probably a significant development. Queensland Police Service has 1.1 million people follow it. It is a huge platform. Queensland government departments use these platforms to communicate really important information—they rely on people's engagement to share pictures of missing kids—but there are mechanisms within that platform and most other platforms to moderate the comment section or to turn it off or to reduce the volume of comments that are shared or to reduce the audience for those comments. People might make comments but only their own friends can see those, not other members of the public, because it is really that broad distribution that has the real danger.

CHAIR: For example, if you have a page that has a million followers, you can actually quarantine what is coming to that page until you have had a responsible person vet what they are and then only allow the ones—

Ms Burton: That is my understanding. I imagine each of your social media managers are currently trying to work out how to turn that on.

Mr POWELL: What do you mean social media manager? That is me!

Ms BUSH: You are looking at them.

Ms Burton: Yes, my understanding is that that can be done and probably should be done.

CHAIR: I will take it one step further, Bridget: not 'probably should be done' but 'should be done'.

Ms Burton: Yes.

CHAIR: Because it is a really easy mechanism to manage.

Ms Burton: Yes, and there are things like this in lots of places—things that are easy to do but are just not being done because we have allowed a culture to flourish in Queensland where it is okay to be a little bit racist and it is okay to be a little bit ableist. This is a really valuable opportunity to reset that for the whole of government. It is not just about the police doing better; it is about a range of government departments. We have also made recommendations about what the Human Rights Commission can do better with their existing powers about what other departments can do within their existing framework as well as reform.

CHAIR: We have run out of time, but I commend you on your fulsome written submissions and appearing here today before the committee. I would like to thank you and the committee would like to pass on their thanks. Keep up the good work.

Ms Burton: Thank you for having me.

MANWARING, Mr David, Principal Solicitor and Legal Services Manager, TASC National

FUENTES, Mr Jake, Solicitor, TASC National

CHAIR: I now welcome representatives from TASC National. I invite you to make an opening statement. Earlier you may have heard me asking people to refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting a third party. I thank you for your cooperation on that point. If you wish, you can start by making a short opening statement.

Mr Manwaring: I acknowledge the elders on whose land we meet today. My name is David Manwaring and I am the principal solicitor at TASC National, a community legal centre that provides services to South-West Queensland. Ours is one of the largest rural community legal centres currently. I will not give a long statement because you have our submission before you, but I want to give an overview of TASC's position.

Basically, our main view and consideration into the current vilification and hate laws is that they are not effective in providing protection. There needs to be a broadening of the definition of a 'public act' and, along with any subsequent or considered change in the legislation, there needs to be complementary systemic education and awareness campaigns and early intervention strategies imposed as well. What we really need is strong community engagement and a comprehensive policy response. The reason for this is that the law cannot act in isolation; the social context also has to be addressed. Thank you, Chair.

Ms BOLTON: Recommendation No. 8 in your submission refers to the systemic and parallel education that is needed within our community and schools. I think this has been a fairly common theme in our hearings. With us coming into Path to Treaty, what do you believe can be changed or improved within state and Commonwealth government programs and initiatives that could actually break through the vilification and hate crimes towards our First Nations people?

Mr Manwaring: That is a very good question. I might have to take that one on notice, thanks, and get back to you. I am sorry about that.

Ms BUSH: I commend the work that TASC does. David, you mentioned broadening the definition of an act that occurs in public. I am interested in your views on what that would be broadened to. For example, some people have submitted workplaces and education settings. Do you have a view on that?

Mr Manwaring: Yes, I would agree with that. Within our submission we mentioned also where someone does something in a private act but they have encouraged someone else to do the public act that would go to the vilification and hate laws. It is someone encouraging someone else to do an act that could be seen as vilification and hate. They are a silent party but they are encouraging somebody else so effectively they are avoiding—

Ms BUSH: They are inciting. The incitement is occurring privately but the act is a public act.

Mr Manwaring: Yes. I am not sure how we would do that when it is a private act, but that sort of behaviour could be included in the broadening of the definition of a 'public act'.

Ms BUSH: Your first recommendation about merging civil and criminal offences into a unified and robust summary offence is interesting. Could you unpack that a little more for me?

Mr Manwaring: Probably the reason we considered having one summary offence was because of the confusing and complex nature of having the civil and the criminal offences. People who come to us for assistance find it very confusing. They may go to the Human Rights Commission to make a complaint and have been told, 'No, we can't deal with that; you need to go to the police,' and vice versa. A lot of people do not even know that there is a criminal provision available for vilification and hate. The thought was really just to simplify the process, whether it is making it one summary offence or keeping both the civil and the criminal offences. It is about simplifying the processes and having better referral pathways between the QPS and also the Human Rights Commissioner. I think in our submission we mentioned having a liaison person or somebody in that sort of role. If that was not possible, then perhaps empower the Queensland Human Rights Commissioner with the ability to refer matters directly for serious vilification back to the QPS and vice versa.

Ms BUSH: Your recommendation, if I understand it, is similar to others, which is remove it from the ADA and out of the civil proceedings and push it into the criminal realm to indicate the seriousness of the nature of that offence?

Mr Manwaring: Yes, that is correct.

Ms BUSH: Thank you. That helps.

CHAIR: Didn't you say leave the civil part where it is?

Mr Manwaring: No—

CHAIR: Remove it altogether?

Mr Manwaring: I gave two options.

Mr Fuentes: That was one of the recommendations. I think the crux of it is to simplify the process. To give you an example, we had a client about a week ago who had experienced some discrimination. They are from South America. They went to purchase a caravan and a verbal dispute occurred. I had referred them to the Human Rights Commission. I said, 'Give them a call and make the complaint.' They said, 'No, we have actually made a complaint to them before.' I said, 'Have you made a complaint to the police?' They said, 'Yes, we have made a complaint to the police before.' They do not have any faith in the process or the systems that currently exist. What we would like to see is, hopefully, the process and the result simplified so that way people who are experiencing vilification and hate crimes have some sort of recourse that they can have faith in that it will actually happen and not just be some lip-service from police or lip-service from lawyers or lip-service from the commission.

Ms BUSH: Whether or not we accept the nomenclature around serious or not serious, the vilification gets lifted into a criminal response?

Mr Manwaring: Yes.

Ms BOLTON: We heard earlier about some of the societal factors that are contributing to vilification, serious vilification and hate crimes, including the internet and social media platforms. With your clients, have you seen any patterns that would identify what may be contributing within your region and those that you are working with?

Mr Manwaring: No, I cannot say that we have particularly seen too much of that happening. Basically, our clients do not come to us to make a complaint about the vilification or hate. That comes out through our conversations with them about their legal matter. They will say, as my colleague indicated before, that they have gone to buy a caravan and the sales rep has been quite inappropriate in their response to this person and then we unpack that a little further. Normally, the people we deal with do not actually realise that they have any remedy for this type of action or behaviour. It is usually just through the conversations that we have with them that they do learn that.

Ms BOLTON: How do you identify that it is related to race or religion or that it is based on some kind of a sector versus a standard response? For example, every day in our office we may get complaints about a process or about a response but it is not identified as vilification. Sometimes it is identified as a system failure. How would you determine which was which with your clients? How could you ascertain that it would come under vilification or serious vilification—the response of someone buying a caravan—versus what any person would go through and say that they were treated inappropriately but it was not attributed as they are your standard white middle-aged Australian who is impacted in a similar way?

Mr Manwaring: How it manifests when our clients relate it to us is that it becomes personal. It does not become part of a process and it becomes personal based on an attribute that that person may have. They may be of Asian descent. They may come from a particular religion. Unfortunately, it can be because they suffer some form of disability or impairment. It is the actual comments that are said to that person that we are able to distinguish from other forms of inappropriate behaviour. It is when they actually isolate the attribute and they constantly bombard our client with comments around that particular attribute.

Mr Fuentes: Just to extend on the client example that I referred to, the words that were used were, 'I can't properly understand you. Go back to your country.' On the surface it may seem like an insignificant comment, but that person may go home and may then—who knows?—commit some domestic violence, get angry at their child or go and self-harm. There might be several things that flow from something that, while not simple, can be something as little as that. If we could figure out a way to have some recourse for those types of behaviours, it could improve our culture, our society, to some degree.

CHAIR: Do any of your clients have issues in relation to comments that may have been made on social media? Have you come across any of that or is it more face-to-face?

Mr Manwaring: Occasionally we do. We will have clients who will say that the other party is making derogatory comments about them on Facebook and basically demeaning them, undermining their character and that sort of thing. It is not significant, but it is enough for us to realise that there is some impact on our clients.

CHAIR: How do you deal with it?

Mr Manwaring: Most of the time currently, our clients do not necessarily want to do anything about it because they do not want to inflame the situation. They want to get to the bottom of their other legal problem, which is maybe to get money back or to get some other remedy, so they would prefer to focus on that as opposed to addressing the situation where they have been cussed or besmirched online. Occasionally we have clients who see us who do wish to pursue it and, as we said, we will help them with making a complaint to the Human Rights Commission or, if it is appropriate, we will refer them to the QPS, the Police Service.

CHAIR: Have you had any experience with the eSafety Commissioner, the Commonwealth?

Mr Manwaring: No, we have not. TASC has not.

Ms BUSH: David, you have touched on it a couple of times now—the under-reporting of this type of behaviour and alternative reporting options that might be available. I know it is a very broad question, but I am interested in your insights around what options might be available, reporting through third parties or—

Mr Fuentes: I will touch on it quickly and then I will pass on to David. When I was researching this, I noticed that QPRIME, the data system for police, has the ability to record a component or an element of discrimination for any of their criminal offences. Perhaps it is something as simple as providing some training to QPS so that way they can better ascertain and identify elements of serious vilification and hate crimes, and then we could collect better data on whether or not it is prevalent. David probably has some other ideas as well.

Mr Manwaring: That was the main one I was going to talk about—the better recording of it. When someone does make a complaint, often they do not go up and say, 'Look, I have been vilified. People are displaying hate to me.' They normally go to the police to report some sort of assault—trespass or something like that—and then that gets entered on the police database system as assault—you know, trespass—but then there is no further breakdown of that data to be able to say why that has assault occurred or what manifestation has caused that to occur. TASC and also some of my police friends have made statements that it would be better if the QPRIME software could be updated so that they could have further dropdowns within that provision in which they could say, 'We believe this was an assault but it may have been'—and then have 'hate', 'vilification' or some other dropdown mechanism. Then when you run a report on statistics, you will be able to drill down to, 'This is as a result of vilification or hate'; 'This was assault because they were drunk'—something like that. Currently it is all compiled into the one. When you run these statistics on assault, there is no real distinction.

Ms BUSH: In terms of the CLCs or some of the funded NGOs—I know this is asking for opinion, but do you think they categorise hate crime, vilification, racism in some of the complaints that maybe do not make the threshold of a QPS report? I am just thinking about the under-reporting of that type of behaviour. How do we find that and measure that?

Mr Fuentes: We have recently discussed the way that we collect data. Collecting data is a huge part of what we do there. We are at the moment looking into amending our data collection system so that way we can actually record whether or not there is an element of discrimination involved or vilification or hate. At the moment, the only thing we can do is look through our file notes, for example, or look through our action notes and take notes and say, 'Okay, this had an element of discrimination.' When we looked through our system, we had only had in the past four years eight sessions where we had identified an element of discrimination which means that, from our point of view, we are not collecting the data very well either, which is something we have identified and something we are looking to improve on now.

Ms BUSH: I think what we are hearing, it is fair to say, is that, while there are a lot of issues that get reported, the overriding issue is an assault, spitting, graffiti but actually what is under that—motivation—is something else.

Mr Fuentes: Yes.

Ms BUSH: Thank you. That helps me understand.

CHAIR: Thank you for your attendance and your written submissions. That concludes this session. Have a good evening. Sorry, you took a question on notice. Are you able to provide an answer to the secretariat by Friday, 17 September? If you need a hand with the question, we can help you.

Mr Manwaring: Yes, if I could get a copy of the question again.

CHAIR: Yes, that will be helpful.

Mr Manwaring: Yes, that will be great, thank you.

CHAIR: Thank you very much.

KER, Ms Gail, Chief Executive Officer, Access Community Services

TUIALII, Miss Marisha, Multicultural Youth Queensland Council Leader, Multicultural Youth Queensland

WARIS, Mr Ahsin, Multicultural Youth Queensland Council Leader, Multicultural Youth Queensland

CHAIR: Thank you for your attendance. You may have heard me mention that we ask that you refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting a third party. Thank you for your cooperation on that. I invite you to make an opening statement. Then we will ask some questions.

Ms Ker: I start by acknowledging the traditional owners of the land on which we are gathered and pay respect to elders past, present and future. Thank you for your time this afternoon, committee. We look forward to presenting our work to you.

I saw Chris Gardner, the real-life character portrayed in the Will Smith movie *Pursuit of Happyness*, speak at an international business leaders forum in Sydney some years ago. He powerfully reminded me and the other 2,000-plus national business leaders attending this forum that people should not start their lives with plan B. He further reinforced that we should especially be encouraging our young people to have, or at least go for, their plan A. Today I want to pose this question to the committee: if your experience of life is one of being consistently targeted based on your difference, feeling hated, feeling as if you do not belong and that you are the victim of exclusion and discrimination, is it even possible for our culturally and linguistically diverse community members, especially our young people, to even dare to conceive or to consider having an A plan?

Good afternoon. I am Gail Ker. I am joined by my colleagues and I thank them for their participation. They represent council members of Multicultural Youth Queensland. Today we want to propose that hate be replaced with hope for those experiencing what is far too often occurring on a daily basis, and at least on a very regular basis: the excruciating experiences of having your hope, safety and belonging challenged, denied and withdrawn. This unacceptable exclusion and constant abuse and targeting of our diverse community members is leading to some of the worst outcomes seen in terms of poor mental health, escalating suicide rates, reduced ability to feel safe and to have a voice and appropriate levels of support to raise issues and concerns, and not feeling able to contribute or benefit from what it means to be part of our Queensland society, either socially or economically.

The costs are huge, not only in terms of human suffering and degradation but also in real financial terms. The cost of providing increasing mental health services is alarming, to say the least, and that is not to forget the loss of productivity which in turn reinforces feelings of being and doing less than is possible or desired. Surely we want to improve how we engage, capture and include the contributions made by those who can and want to work and be part of a safe and inclusive community more effectively.

Frighteningly, this loss of hope is happening in our educational institutions, on our transport systems, on online social media platforms and in our workplaces. We must have the courage, the commitment and a real investment in providing the practical solutions to change these unacceptable situations and poor outcomes. We all benefit when we strive to put an A plan in place for everybody, regardless of age, race, disability, gender, sexual orientation or faith beliefs.

We would like to put forward four solutions which I will provide a brief summary on, and if the committee permits, we would love to further elaborate on these in your Q and A session: firstly, that we introduce more accessible hate crime legislation and roll it out with training programs that empower QPS to utilise the new legislation; secondly, that practical support to and for victims is provided to reduce the under-reporting barriers by establishing and monitoring a legitimate, independent reporting system for hate crime; thirdly, that cultural responsiveness training and awareness raising platforms be implemented and delivered in a practical, in-place, solutions based process; and, fourthly, that culturally appropriate reporting processes be established.

As I said, for each of those four recommendations, my colleagues and the very numerous people that we consulted in putting our submission together consistently raised real cases that alluded to those four recommendations. I ask for your guidance on how you would like to approach that.

CHAIR: Do either of the representatives from the youth council wish to make an opening statement, or do you want to go straight to questions?

Mr Waris: I think what Gail has represented is representing MyQ as well.

Ms Ker: There are some key points to those four and I would invite my colleagues to perhaps elaborate on those.

Miss Tuialii: The first recommendation that was made was to make hate crime legislation and to roll out training programs to empower QPS. As of right now, MyQ is supported by Access Community Services and we stand firmly with the recommendations that were made by the Cohesive Communities Coalition—so things like the Western Australia Criminal Code section 80 and Anti-Discrimination Act section 131A be expanded.

The second point under that first recommendation is that training be made available for QPS workers, and that is things like cultural safety and awareness-raising training, respectful relationships education and things like that. The second recommendation I will leave to Ahsin to expand on.

Mr Waris: We want to provide some practical support for victims and really reduce the amount of under-reporting that a lot of our youth members are reporting on. Point A is rolling out practical solutions which put into practice the myriad policies, plans and strategies that often sit domiciled within institutions and workplaces without real attention to or investment into implementation. For example, establish a workplace buddy system where existing employees are appointed to assist new candidates to navigate and be comfortable in being part of the new place of work. The second point relates to more representation of diversity in workplaces, investment in recruitment practices that attract and offer entry opportunities beyond the usual practice of recruitment, and targeted and more culturally appropriate recruitment strategies that bring to the fore the unique and important skills, qualities, talents and capacities that CALD job candidates bring.

Miss Tuialii: The third one was to make available cultural responsiveness training and awareness-raising platforms to be implemented alongside practical, delivered, in-place solutions and processes. This goes beyond promotion and awareness training, and awareness materials made available online. We enforce practical solutions, so we need culturally appropriate, safe and practical ways for people to make complaints with strong on-the-ground support put in place. Across our consultations, one of the most common themes was that a lot of victims are experiencing racism within their schools and as early as schooling life. We recommend also to put in place school based buddies who assist with the practical process of making complaints and having the ongoing support and protection to do this without fear of reprisal.

Mr Waris: The final point is very similar. It is about culturally appropriate reporting processes. The important step of reporting hate crimes and serious vilification will be greatly enhanced if more culturally appropriate and in-community accessible strategies and support mechanisms are put in place. This needs to include providing follow-through with levels of support that reduce the negativity and fearful aspects that are associated with reporting and establishing an independent body that builds these recommendations into reporting and advocacy strategies that are specifically targeted at CALD issues and needs. They are our four points.

Mr POWELL: Thank you to each of you for your written submissions and for appearing before the committee. You have subsequently unpacked a bit of this in your unpacking of those four recommendations. I was fascinated by some of the recommendations that the young people you interviewed put forward and wonder whether you want to expand on those. I know they are not necessarily your ideas but all of them are very useful—some particularly so, such as having an active hotline or a messaging platform. Did you want to speak to those in particular or do they stand on their own?

Miss Tuialii: What we found when we had our consultations for both MyQ and Access was that the reporting systems in place currently are not effective enough and are not culturally appropriate. The majority of those who came to the consultation said that they do not feel confident enough to report to the QPS or the Human Rights Commission because the complaint system at the moment is not appropriate for the needs they have.

What we mean by that is that waiting times are sometimes too long. The issue of waiting times itself is not the only issue; it is also the fact that there are no support services that are following up with victims making reports. We put forward that hotlines similar to those that we have available for mental health be made available and that apps be created so that it is also youth friendly and accessible for those who have mobile phones, because the majority of us do.

Mr Waris: These suggestions came directly from some of the youth members. Once again, the idea is to cut down the time, because sometimes the response time for someone to make a complaint might be weeks or even months. It is something that a lot of people feel is unnecessary because they do not want to have to go through, first of all, the negative experiences and then have to relive those experiences. Something like a hotline or an app cuts down on that time. With a hotline they can speak

to someone and get some emotional support. With an app it will cut down on the time and allow them to report immediately. Hopefully the app will also implement a system where the reports are getting recorded and there is accurate data to capture what kind of reporting is going on—what kind of vilification is going on.

CHAIR: Laura?

Mrs GERBER: I have no questions, Chair. Thank you very much for your submissions. It was very well written and your oral submission was very informative.

Ms BOLTON: You both mentioned buddy systems. Correct me if I am wrong, but it seemed to be related to either in the workplace or at school in terms of support in the process of making a complaint. Why wouldn't a buddy system apply straightaway from when we first start school, in preschool? That is what happened 40 years ago where I lived. It was fabulous. It was not waiting until they needed support; it was just a standard.

Ms Ker: I think we are such a diverse community now and the diversity has changed so significantly. Language, colour—it is much more visible in our community. I think the fear of being the bystander—it takes a lot of courage to step up and be an advocate for someone without genuine support and training and a recognition that this is a legitimate role. I think there is goodwill in all of us and I think there is good intent. In growing up, that was my experience too, but I think our schools and our workplaces are completely different.

Part of the problem is that some of the issues are not just from fellow students; they are from teachers as well, sadly. It is a whole systemic problem about raising awareness and giving people courage and a voice. That has to be done with support. I think we have relied too long on others stepping up on behalf of a system that really needs to be strong enough to step forward for those who need it. I think it is failing in that way.

Ms BOLTON: This morning we heard that our communication skills have lessened over time, so our ability to make a complaint or have a respectful debate seems to have diminished with time. There is that balance between freedom of speech and freedom from humiliation. Do you actually see that over time that has evolved—that we have lost our voice, regardless of our background, and we have lost that ability to communicate from the advent of us spending so much time online?

Ms Ker: I think some voices have got stronger and they are sadly the voices that detract and undermine those who have not as strong a voice. Communication very much relies on a very strong ability to communicate in English which a lot of young people do not have. We were at a forum a couple of weeks ago and a young year 12 student shared an experience about being called the n-word at school. I asked her what happened when she went home and shared that or whether she went home and shared that with her family. She started to cry because they are as ill-prepared to deal with those issues as she is as a young year 12 student. Worse than that, when she wanted to apply for a scholarship she was told, 'Don't bother.'

It is a very real situation. It is not just young people who are unprepared and ill-resourced to provide that level of advocacy for themselves. They are relying on a family that also struggles with the same systems and the same challenges that they do. It is impacted through a whole family and community system. I genuinely see people are wanting to be included, to be integrated. They want to belong, but they face real barriers to doing that. I think they are the changes that need to happen.

Ms BUSH: When you were going through your dot points and unpacking your four recommendations, I could not see that in your written submissions. Is that something additional that you have that perhaps you could table? I thought there were some interesting points there. I know we have it in *Hansard*, but I could not see it in the submission. I just wanted to make sure I had not missed it.

Ms Ker: We are happy for that to be tabled.

CHAIR: Is that something that you have with you here today?

Ms Ker: We do have it here. I do not think is a problem.

CHAIR: Do you want to table it or email to the secretariat? What is easiest?

Mr Waris: I will give you my copy.

CHAIR: Is leave granted to table the document? There being no objection, leave is granted.

Ms BUSH: Thank you. I thought that was really useful. You have answered a lot of the questions that I had. While I have young people in the room, I am interested in your views around, notwithstanding reporting to police, the reporting structures that we have in education and in workplaces. They are often

environments where lower levels but still significant levels of vilification can play out. I was interested in the views of young people particularly in having a voice and agency and the sufficiency of responses from employers, principals and teachers, notwithstanding they all do a great job.

Miss Tuialii: In terms of the schooling, a lot of schools are ill-prepared for any of the reports made. That is just due to a lack of awareness and a lack of training for not only staff but also some of the support services on campus or within the school grounds. For a lot of young people who have reported to the schools, their matters are handled either by vice principals or teachers who turn them away and say, 'This is the last day of school. It will all be over. Just stick it out.' There is no acknowledgement and no proper support or response made.

In terms of work, the same is done. For those who have made reports of racist acts and they have been fortunate enough to have it investigated, the perpetrators are either transferred to another branch—I think that is the only incident we have heard of where any of the perpetrators have faced any real consequences. Some of the organisations currently have no proper frameworks or any policies in place. I think that is where things are failing in both the schools and the workplaces.

Mr Waris: I think workplaces want to maintain their reputation and schools want to maintain their reputation, so a lot of the time such reports are swept under the rug. Adding to what Marisha has said, sometimes it is the teachers who are the perpetrators. As Gail said, a student was told she has no hope of getting a scholarship or teachers are regularly saying the n-word to her. I think once again the cultural shift is not quite there. A lot of times they will say, 'It is a joke,' or 'It is the last day of school. Why are you going to make a big deal out of this?' They see it as a bit of banter, but in reality to the individual it is a lot more.

CHAIR: That brings to a conclusion this part of the hearing. I would like to thank you for your attendance and for your written submissions.

GALLAGHER, Ms Irene, Graduate, Legal Policy, Queensland Law Society

ROGERS, Mr Dan, Chair, Human Rights and Public Law Committee, Queensland Law Society

SHEARER, Ms Elizabeth, President, Queensland Law Society

CHAIR: Welcome. As you have probably heard me say several times this afternoon, I ask you to refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting a third party. I thank you in advance for your cooperation on that. I invite you to make an opening statement, after which the committee will have questions for you.

Ms Shearer: Thank you for inviting the Queensland Law Society to appear this afternoon. In opening, I would like to respectfully acknowledge the traditional owners and custodians of the land on which this meeting is taking place here in Meanjin—the Turrbal and Jagera peoples—and pay deep respects to their elders past, present and emerging.

As you are aware, the Queensland Law Society is the peak professional body for solicitors in Queensland. We are an independent and apolitical body that promotes evidence based law and policy. We acknowledge that serious vilification and hate crimes impact a range of people in Queensland. In a diverse and multicultural society, anti-vilification laws play an important role in protecting the rights of persons to a peaceful existence free from harassment and vilification.

There are some points in our submission that I will draw your attention to and then we are happy to take questions. First, we support removing the barriers to prosecution of offences under section 131A of the Anti-Discrimination Act including the requirement to obtain consent from a Crown Law officer before commencing proceedings.

Second—and here we differ from some of the other submitters—we do not presently support the introduction of new criminal offences. We recognise that that is a different perspective to some that you have heard. In our view, introducing a new criminal offence is unlikely to in fact resolve many of the challenges associated with addressing vilification and hate crime including the existing barriers to reporting. We say a more systemic approach is needed.

Finally, we would say that, rather than introducing new offences, we support the proposition that serious vilification and hate become circumstances of aggravation for a series of existing offences. We think there is no behaviour that would attract criminal sanction that is not already dealt with under the law, but including these matters as circumstances of aggravation would allow for stronger penalties to be imposed and would also allow for much better data collection of the extent of the prosecutions.

As you know, I am joined today by Dan Rogers, the chair of our Human Rights and Public Law Committee, and Irene Gallagher from our policy team. We are happy to take your questions.

Mrs GERBER: Thank you for your appearance and for your submission. Striking that balance is something that we as a committee have grappled with with each of the submitters. We are appreciative of the amount of time and effort that has gone into your written submission in order to help us. We have heard from some of the other submitters that, essentially, some of the workarounds to putting in another criminal offence would be to give a regulatory body greater powers in order to help communities that are targeted as a whole, particularly online. Have you turned your mind to that in a policy setting? Is there anything you could expand upon in that regard? When I say 'regulatory body', it could be the Human Rights Commission or another statutory body, but either way it is enabling them with some greater powers in order to either remove hate speech or vilification online or take up the prosecution themselves in a QCAT kind of setting as opposed to a criminal jurisdiction. Could you expand upon that for us?

Ms Shearer: I think that is important, because the people who are subject to the most vilification are the people least equipped to independently take action. We do support things like perhaps an additional role for the Human Rights Commission. There is currently a review of the Anti-Discrimination Act being undertaken. That may be something that is progressed further in that review.

I think we draw attention in the submission to the fact that the Fair Work Commission already has a role in relation to behaviour that can be deemed to be bullying and harassing. Certainly we make the point that there is a need for a range of support services to assist people to raise complaints and make them in appropriate forums. In relation to the more serious vilification, we think there is a role for the Queensland Police Service to approach these matters differently with additional training. I am not sure whether you want to add anything, Dan?

Mr Rogers: Lastly, bodies like community legal centres and those that are tasked to assist these vulnerable individuals who wish to make a complaint need to be properly resourced so that they can access the legal avenues that are available to them.

CHAIR: I want to deal with the issue of introducing the aggravating factor. Where do we do that, Dan?

Mr Rogers: As you have heard, we do not support the creation of a new offence. That is because criminalising a complex problem like this is just a bandaid. There are many examples where, as a result of law reform initiatives, there has been an introduction of a circumstance of aggravation. Domestic violence is a classic example.

CHAIR: Where do we put it?

Mr Rogers: In the Penalties and Sentences Act, in section 9.

CHAIR: That is okay. I just wanted to be sure I was heading to the right piece of legislation.

Mr Rogers: You are. Just to expand on that very briefly, when similar reforms were done for domestic violence and assaults on frontline and emergency workers, which was a sentencing council recommendation, it was attractive because it is the adoption in statute of a common law provision that already exists. By putting it in statute, parliament is making clear to the community that they denounce that form of crime if it is motivated by serious vilification or hate and the courts are empowered to impose sentences that are greater, which is what has happened in domestic violence.

I think it has a lot of attraction as an instrument to denounce this sort of conduct by parliament and ensure that courts appropriately respond to it as they will with the whole large array of offences that already exist where there will be that circumstance of aggravation—whether it is assault, wilful damage or whatever else.

CHAIR: Dealing with the wilful damage aspect where, say, hateful slogans or vilification is painted on the side of a railway carriage or on the side of a synagogue or a mosque—

Mr Rogers: It would be charged as an averment in the actual bench charge sheet—wilful damage with averment; it is serious vilification or a hate crime—which would, as the president said, ensure that there is data collection. That is an example of serious vilification or a hate crime. The Penalties and Sentences Act would specifically provide that it is treated as a circumstance of aggravation and a greater penalty would be imposed.

CHAIR: Dealing with another aspect of it, the displaying of, for example, offensive material, flags, the painting of a symbol or banning the flying of the Nazi flag, could that be dealt with as an offence?

Mr Rogers: The society's position is that the existing provision within the ADA is what should remain. We absolutely support the barriers being removed to accessing it, but we do not advocate for the creation of a new offence that would be in addition to any common law or summary offence that might already exist.

CHAIR: What do you say to the fact that we have heard evidence that that is unworkable from an enforcement point of view?

Mr Rogers: Without wanting to be too frank—

CHAIR: Be frank.

Mr Rogers: The creation of new criminal offences needs to have an evidence base. In all the preparation I have undertaken, I cannot see sufficient research or evidence to support the creation of a new offence in order to fix this problem. I think you have heard excellent evidence about broader societal changes, community education—that is a powerful tool—and social investment in CLCs and other organisations. To my mind, that is where your recommendations should properly focus.

CHAIR: Would you agree with the proposition that sometimes legislation does lead to social change?

Mr Rogers: Absolutely. Criminal law is an important instrument of social control and it has existed forever, but it is a small part of it. It assumes that people are thinking rationally when they are making these racist outbursts. They are not. A better way to reduce the instances of what is obviously horrible crime that has an enormous impact is to educate the community and empower the individuals who are actually on the receiving end of it to complain and take steps to have that conduct denounced.

Mr POWELL: I want to take what the chair is asking a little bit further. Elizabeth, you will be pleased to know that you are not the only ones recommending what you are recommending. Even the police themselves acknowledge that they could be doing things better and using the existing laws better, albeit with these aggravations added on.

I was interested in your submission where you talk about experiences in the United Kingdom suggesting that where an offence has been introduced concerns remain about the number of matters ultimately referred for prosecution that do not necessarily address the police's ability to prosecute and do not address the systemic barriers. You go on to say that if they are going to be drafted they need to be appropriately targeted and accompanied by a look at the impacts on the justice system itself. Dan, you were starting to talk about those. Do you want to unpack that anymore here today?

I think they are important points to make. We could go away as a committee and recommend that new laws are added, but unless we are actually empowering the police to do them better, we change some of the system, we encourage the community to report, we change their ability to report—all of those things—we may not achieve a single thing.

Mr Rogers: I think it is a really good question. My view is that focusing not on the offence but on the agencies and individuals that have power and discretion whether to charge offences is a better recommendation. Police have an incredibly difficult job when they encounter offences in public spaces. They have a really broad discretion to charge, to not charge, what charge, a summary offence, an indictable offence, and they are making these decisions often in volatile situations. Empowering those police officers by training them around hate crime would add a lot of value in terms of their capacity to recognise that a particular offence is a hate crime and then charge it with that circumstance of aggravation. By legislating that it is a circumstance of aggravation, it not only tells the police to look out for it; it also tells the community that it is more serious. I think that has a more powerful message than the creation of just another criminal offence which, frankly, is not needed. There are so many options available to capture the kind of conduct that you have heard about in terms of stories.

Mr POWELL: Elizabeth, was there anything you would like to add to that?

Ms Shearer: No, I think essentially our point is that complex social problems are rarely solved by a new standalone criminal offence. It is a matter of complex system changes. The criminal law, as you say, is a strong message about what behaviours society is prepared to sanction criminally. We think the current formulation of that is an appropriate balance between making it clear that certain behaviours are worthy of criminal sanction and, on the other hand, freedom of speech, freedom of thought—all of those things that need balancing. It is such a complex problem, experienced by people who are often the least powerful in our society. It needs all of those other supports and will not be solved, in our submission, by another criminal offence.

CHAIR: The problem that has been highlighted to the committee is that the police do not act when they have received the complaint about vilification—for example, an assault in a supermarket where someone is pushed over or spat on because of the colour of their skin. Those offences, according to the information that this committee has gathered, are not acted on by authorities. Whilst I appreciate where you are coming from in saying that another criminal offence will not help that, in the immediate future how is the community supposed to deal with those matters that the police are not prosecuting? They are saying they do not have the laws to do it.

Mr Rogers: They do have the laws to deal with it. That is classic case of serious assault but, of course, it relies on that person feeling comfortable and confident enough to actually make the complaint. My view is: if parliament were to legislate, that kind of crime is not only a serious assault; it is aggravated serious assault by virtue of being an example of hate crime. Then that person might be more confident to come forward if they know that as a society we are recognising that that is a really serious crime. As I said, the common law already recognises it.

The reference I would like to read into the record in terms of an adoption of a common law provision is a case of R v Irving 2004 QCA 305 where the Court of Appeal said—

> The notion that certain vulnerable classes of people maybe physically attacked—

like the example you gave—

> because of their colour, race, religion, gender preferences or otherwise is one that society, or the Courts that serve it, cannot possibly afford to tolerate. It savours of a form of vigilante mentality, which it is our duty to suppress, so far as that can be done by appropriate punishment.

That is a circumstance of aggravation at common law. Adopting something like that is, in my view, the way to give that person more confidence that the courts will actually treat it seriously.

Ms BUSH: I hear what you are saying and accept that. Unlike a serious assault or spitting, where there is a clear criminal element, there has been a lot of evidence given to us of where there are one-off comments. I am interested in how that is dealt with. If not a peace and good behaviour or some other order, how do we deal with that? Maybe it is not through a criminal sanction.

Ms Gallagher: Addressing those kinds of sentiments would come down to a whole-of-system response. In our submission we have highlighted the need for police training, cultural competency of key organisations and also primary and preventive measures like community awareness programs and education in schools. I think those are the ways that you change the sentiments and address those issues.

Ms Shearer: I think there is also section 124A of the Anti-Discrimination Act with the civil regime for complaint. Certainly more resources supporting people to make civil complaints is also important. In relation to the peace and good behaviour model, our view is that that is not a very effective model as it is because it relies on individuals prosecuting themselves. I would have thought that a supported model, like a complaint through the Human Rights Commission, is more likely to be effective than requiring people to make their own civil prosecutions through a peace and good behaviour process, unless there is significant funding for legal assistance to help them.

CHAIR: Thank you for your attendance. Thank you for your evidence here today and for your written submission. It has very helpful to the committee.

COPE, Mr Michael, President, Queensland Council for Civil Liberties

CHAIR: I now welcome Mr Michael Cope. Good afternoon. Thank you for your attendance, Michael. Would you like to start by making an opening statement? You may not have heard earlier, but we are asking people giving evidence before the committee to refrain from using unparliamentary language—

Mr Cope: I do not think I have any unparliamentary language.

CHAIR:—such as swearing or offensive terms, even if quoting someone else.

Mr Cope: No, I am not doing any of that.

CHAIR: You know the drill. You can make an opening statement and then we will ask some questions.

Mr Cope: Firstly, on behalf of the council I thank the committee for the invitation to appear here today and acknowledge the traditional owners of the land upon which we meet. The issues raised in the discussion paper are difficult ones. They are ones upon which the QCCL to some extent parts company with organisations and people with whom we normally agree. In a number of respects, it has been difficult to respond to the discussion paper because there is no draft legislation to assess.

As our submission makes clear, the law clearly should prohibit violence, incitement to violence and conduct which approximates violence such as harassment or stalking. After that, difficult issues arise of a relationship between such laws and the right to free speech which can only be assessed by reference to the actual language of a statute. The speech we are talking about, asserting that racial groups are in some way inferior, is terrible and it does harm to people. Why should speech which supports and perpetuates those attitudes not be restricted? The problem is that there are so many ways in which speech can be offensive to different people. To quote the American political philosopher Tim Scanlon—

> In order for a consideration to be adequate grounds for restricting expression, the interests involved must be generalizable: Everyone's interests of a given kind must count, and the question is what the result would be of taking all of those interests to count in favor of restrictions on expression. It seems to me to follow, for example, that offense in general cannot be a ground for restricting expression. Too many things offend people. So an adequate ground for restricting expression would have to be narrower.

Furthermore—

> ... a general ban on any expression that questions certain individuals' status as citizens would unjustifiably foreclose discussion of central questions of justice.

As I have said, ultimately, the application of these principles articulated by people like Scanlon can only be properly applied to specific legislation, which unfortunately we do not have before us. That is the end of my opening remarks.

Mrs GERBER: Thank you for your submission. I guess the purpose of this committee inquiry is to inform any potential change to legislation so that you might then have something to consider. In light of that, so I am clear, is it your position that you do not believe that there is any need for new criminal legislation in this space and that the current framework suffices, albeit there needs to be some improvement in the enforcement or use of the current legislative framework that we have in both the criminal and civil jurisdiction?

Mr Cope: That is probably a fair enough summary, although, as the submission notes, we have no objection to introducing hate crimes—the fact that some assault or other act of violence is motivated by race or religion or whatever—as an aggravated offence. We do not have any issues with that. We think that is perfectly acceptable. Overall, at the moment, we would say that in general terms the current laws, one way or another, are adequate to address the issues although, as I say, we also accept that the current restrictions on prosecutions under the current provision in the Anti-Discrimination Act should be removed—131A. We have no issue with increasing the penalty, given the serious conduct which is encompassed in that offence.

Mrs GERBER: If there was an aggravated offence, do you envisage that that would be in the Penalties and Sentences Act in the same way that it is with domestic violence?

Mr Cope: No, I would have thought it would be in the relevant sections of the Summary Offences Act and the Criminal Code in relation to assaults and stalking. That is where we see it being added.

CHAIR: What about the Penalties and Sentences Act, or is that duplicating it?

Mr Cope: I see what you are saying—make it a general matter. I must confess that I have not thought about that. My reaction to it is that it is a thing which is connected with particular offences, but I see the point. I would have to think about that.

CHAIR: That is okay. In relation to section 131A of the Anti-Discrimination Act, the committee has received evidence—and Andrew will pull me up if I get this wrong—that would indicate that the section itself is not helping victims in coming forward and being able to have their matters taken seriously, whether that is a combination of reporting them to the police or going to the Human Rights Commission. We have a body of evidence—and pull me up if I am wrong, committee—that would suggest that people will not come forward and make a complaint, either to the Queensland police or to the Human Rights Commission, because they find the whole process difficult. We are talking about a group of people in our community who face disadvantage by language, socio-economic—

Mr Cope: I understand what you are saying, but it is something that depends on what it is they wish to complain about.

CHAIR: I can break that down, Michael. It could be as simple as, 'I was in the supermarket and the cashier called me a racist name.' It could be as simple as that. Therefore, there is no physical altercation. We heard an example this afternoon of someone trying to buy a caravan and the salesperson was either bordering on being a racist or vilifying because he could not understand the person and made a derogatory comment—'Go back to your own country' or 'Go home'.

Mr Cope: Are we suggesting that those be turned into criminal offences? I would not support that they should be turned into criminal offences.

CHAIR: No, I am not suggesting that.

Mr Cope: In the way that they are providing a service, are they not already covered by a general complaint under the act?

CHAIR: What we are hearing evidence of is that 131A is not workable in the example I gave you.

Mr Cope: I would not have thought that 131A was intended to be used in that example. Is that not an example of just a general breach of the act where the employer should be liable for the employee?

CHAIR: Do you understand the complications of the guy who does not have the resources nor the—

Mr Cope: I understand that. I am having difficulty in addressing your question as I am not sure what you are proposing the remedy is. That is always an issue. I am not sure how you address that. Whatever mechanism you have dealing with it, even if it is a non-criminal one, those people have that same difficulty, do they not? I would have thought that, to some extent, that is a question of the resourcing of the Human Rights Commission and the Human Rights Commission being able to put what it does out into the community in a broader way and having more resources for people to be able to contact people who can speak different languages. I do not know that—

CHAIR: You have answered my question. There being no further questions, that concludes this session. Thank you for your attendance this afternoon, Michael.

GELBER, Professor Katharine, Head of School, Professor of Politics and Public Policy, University of Queensland (via videoconference)

CHAIR: Welcome. I ask that you refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I am not suggesting that you would, but it is just a general warning we have been asked to give to all witnesses. Thank you for your cooperation on that. Would you like to make a short opening statement? Then the committee will have questions for you.

Prof. Gelber: Thank you very much for the invitation to appear as a witness. You have received my written submission. I do not want to repeat all of that. I just wanted to say that, of the proposals that have been made to you by the community members and their representatives, the ones that I support are the ones that I clarified in my submission that I support—for example, the introduction of statutory aggravation for hate crimes and the monitoring and so on of hate crimes. I am content to leave my introductory statement there and to take questions from you. I hope to be of assistance to you today.

Mr POWELL: Thank you. It is great to have you online. Thank you also for your submission. I think increasingly today we have had submissions that have fallen into two camps, and if I do not correctly summarise yours please pull me up. One camp is along the lines of yours, where we are looking at an aggravation rather than new laws and potentially greater education, greater understanding within the police of how to use those laws, greater understanding within the community of how to access and make complaints against those laws and so on. The other side is the one that wants to see new laws added. Certainly in the last hour, the witnesses have fallen I think into the same camp as you. Can you explain to me why you are clearly on that side of the fence and not in adding new laws to our statutes?

Prof. Gelber: I think there are a number of very important elements. One is that the criminal law should only be used to address the most egregious instances of hate speech and hate crimes. That is a general principle of the criminal law—that it should not overreach. If you apply the criminal law to things that do not reach that threshold or you have vague terms under the criminal law, then that is a problem for a democratic country. That is a problem because the criminal law can impose significant penalties, including the deprivation of liberty, and we ought to step carefully on that territory.

I also think there is a great deal of confusion—well meaning often—in the community about exactly what hate crimes are and exactly what vilification is. To my mind, hate crimes are actions that are already crimes under any other definition but which are motivated by prejudice and bias towards a marginalised group. If that is how you understand hate crimes, then you do not need new laws. What you need to do is adjust the way the law is currently applied and the penalties that are applied to the current law in order to remedy that.

The way that I would define vilification—there is a little bit of overlap which I will get to in a moment—is that it is using words to enact discrimination. As a community, we have decided that discrimination is something that we do not want to tolerate, and therefore we have civil laws to combat discrimination. Vilification laws recognise that you can discriminate against someone with your words.

In Queensland and in many other jurisdictions in Australia, we have both civil and criminal laws against vilification. The civil law is used on the most occasions in Australia. The criminal law is very rarely used. I am a supporter of having the criminal laws in place as setting a standard and telling the community that they are supported and protected from that particular offence, but I also do think it is appropriate that the civil law is used the vast majority of the time to deal with this kind of problem.

In the community, I think a lot of people experience what they call hate in a very kind of loose sense. I do not mean by that to undermine the very real stories that you will have heard from the communities about some very unpleasant experiences they have been subjected to. I do think there are a range of options that can be used to address what people might consider to be hate speech or hate crimes against them, and it is your responsibility as lawmakers to ensure the lines are drawn as clearly as they can be between conduct that warrants a civil law response, conduct that warrants a criminal law response—which obviously needs to be more egregious—and conduct which is unpleasant and horrible and which we as a society do not condone, but we do not think the law is the answer to that. There is a category of conduct which we do not condone and we think is unacceptable in society but which we nevertheless would seek to address by other means.

Mr POWELL: That is really excellent. Thank you for that summary. That has very clearly spelt out what we have been hearing over the course of the last couple of days of hearings.

CHAIR: I want to pick up on one element in relation to the last dot point on the last page of your submission, where you say—

… Increasing the penalty for an offence under s131A's penalty to 3 years with a financial element, removing the requirement for approval by a Crown Law officer—

The bit I am trying to grapple with is where you say—

… and moving the offence from the *Anti-Discrimination Act* to the *Criminal Code*.

Prof. Gelber: This has happened, for example, in 2018 in New South Wales. Following a similar inquiry in that jurisdiction, they amended the criminal provisions. The criminal hate speech or criminal vilification provisions in New South Wales were previously contained within the New South Wales Anti-Discrimination Act. They repealed those provisions in 2018 and put a new series of offences into the Crimes Act in New South Wales and they were very similar to section 131A. The new offences refer to publicly threatening or inciting violence. They have a recklessness standard. The primary responsibility rests with the New South Wales police as opposed to resting with the Anti-Discrimination Board for referral. There has been penalty harmonisation across the different attributes as a result. The New South Wales vilification law covers a broader range of categories than some other jurisdictions. As the single offence now has been moved into the Criminal Code and applies equally to all of those grounds, they have been able to harmonise it.

I noticed that late last week the Victorian government released their response to a similar inquiry. They have also suggested that they add a new criminal provision to render unlawful 'conduct that a reasonable person would consider' et cetera. There are reforms going on in other jurisdictions. The argument here is that a criminal vilification provision sits oddly inside an Anti-Discrimination Act that otherwise applies to conduct that attracts a civil penalty and that it will be cleaner for the criminal vilification provisions to be taken out of the Anti-Discrimination Act and put into the Crimes Act where they can be more transparent, I guess, and where police and other authorities would have a better understanding that they make up a part of the criminal law.

CHAIR: Would it be cumbersome to leave 131A in the Anti-Discrimination Act for the purposes of processing civil matters but having—

Prof. Gelber: It is 124A that is the civil provision.

CHAIR: I am sorry, I had them mixed up.

Prof. Gelber: I would suggest that you leave 124A in the Anti-Discrimination Act, you repeal 131A and, at the same time as repealing 131A, you introduce a new criminal provision into the Crimes Act.

CHAIR: Into the Criminal Code, similar to what New South Wales has?

Prof. Gelber: The Criminal Code.

CHAIR: I am sorry, I had that wrong.

Prof. Gelber: That is okay; no problem at all. You have been doing this for days and I am sure it is hard.

Mrs GERBER: Is it your position as well that the restriction in relation to the DPP be removed? Is that part of your recommendation as well, Professor?

Prof. Gelber: I think requiring DPP approval actually is pretty consistent with what happens in other jurisdictions. I was more concerned about the Attorney requiring it. One of the options I believe under 131A is the Attorney-General's approval. I do not think we should require the Attorney-General's approval. I think it should be treated similarly to other crimes and I think it is the DPP who gets to decide if the threshold has been met.

Mrs GERBER: They would decide that anyway when they are accepting a brief of evidence from police in terms of their prosecution policy, but with the current statutory requirement that they sign off on, I think it is, a bench charge sheet, there be a statutory requirement that that be removed. Is that your recommendation?

Prof. Gelber: Yes, I would like to see that removed. I would like to see it treated like any other criminal offence. Yes, that is right.

Ms BUSH: Thank you, Professor. You have explained that really well. In the options paper there was a recommendation around introducing a complementary offence to criminalise the possession, distribution or display of hateful material. I am interested in your views on that particular recommendation.

Prof. Gelber: Western Australia, as I am sure you know, has provisions that are not reflected in any other jurisdiction in Australia. My understanding is that the reason for those provisions being developed in Western Australia is a really specific problem with far-right organisations that were putting up material containing, for example, Nazi swastikas and so on, so they specifically made the display of material a crime. Theoretically, in Queensland, not the possession but the public display of those kinds of symbols that you are referring to should be actionable under section 124A.

There is a view, and I am sympathetic to it, that there are some symbols that are so egregious that asking somebody to do a complaint under section 124A does not really remedy the issue. We know what those symbols are. Obviously, the Nazi swastika is the most obvious of those symbols. There is an argument—and here is where I would actually be sympathetic to the introduction of one new criminal provision if it was considered necessary by the parliament—that you could criminally prohibit the use of those symbols. You would have to be really specific, though. As I am sure some other religious communities have told you, the swastika itself is not the same as the Nazi swastika. You need to be very careful about how you phrase that kind of a provision so that you were not overly broad and you did not accidentally capture things that you did not want to capture.

In many respects, while I am sympathetic to the view, certainly I think the use of the Nazi swastika is an egregious act of anti-Semitism that at the very least is actionable under section 124A and is probably also, depending on the context, actionable under 131A. However, nobody in Australia has ever used and nobody in Queensland has ever used section 131A to prosecute somebody for the display of a swastika. We know that those things exist. We see them in fact more frequently in our community than we used to. Even though I think the law already covers it, in practice it is not working and there is a challenge there for lawmakers.

Ms BUSH: If we move 131A into the Criminal Code, would that be sufficient to open up that type of material? Of course, you also then have an offence of wilful damage—graffiti with an aggravating factor of hate, as another option. In terms of the display of material, it is whether 131A lifted into the Criminal Code would cover that?.

Prof. Gelber: It is my belief that it would. 131A is inciting 'hatred towards, serious contempt for, or severe ridicule of', including by 'threatening physical harm' or 'inciting others to threaten physical harm'. Arguably, the use of the Nazi swastika incites people to threaten physical harm. It is reminiscent, obviously, of the Holocaust. It is deeply anti-Semitic insofar as it suggests that Jewish people have made up the story of the Holocaust. I am not the DPP, but I would not think there would be any problem in using section 131A now or in future as part of the Criminal Code to prosecute the use of that symbol.

Ms BUSH: Finally, do you have a view on Victoria, which has made a recommendation to criminalise Nazi symbolism particularly and to monitor other hate symbols and they are now moving to do that? Do you have a view on that and how that would correlate to Queensland legislation and, again, whether 131A would in situ help that type of offence?

Prof. Gelber: What I would like to see and what we do not yet have is the Queensland police having a database of hate crimes—conduct that reaches the threshold of criminality—and then monitoring it and reporting on it. In the United States, for example, which has the strongest free speech provisions in the world, the FBI both prosecutes and monitors hate crimes and releases annual reports on hate crime statistics around the country. We do not have the statistics in Australia because we do not have a monitoring mechanism. Absolutely, I think it would be better for there to be an explicit requirement that the Queensland police monitor and provide annual data on hate crime statistics on specified grounds. Moving 131A into the Criminal Code and maybe slightly amending it would enable that, along with, presumably, a regulation underneath that to require the police to monitor and do an annual report on hate crimes.

The slight overlap between hate speech or vilification on the one hand and hate crimes on the other is this 131A, which is a speech based provision but it is still a crime. Again, that is an extant law. We do not need to make a new law; we have a law that covers it, in my view. I realise that lots of the communities want new laws, but I think some tweaking of what we have might be better. In general, I think that as a principle, instead of cumulatively passing more and more laws to address complex social problems, we should seek to have clarity and enforceability in the laws that we have.

Ms BOLTON: Professor, earlier in the hearing we heard mention of a growing and evolving society. However, given so many of the organisations we have spoken to and that have submitted to us talk about the increase in these types of vilification and hate crimes, it actually seems like we are not evolving in the right way. I would appreciate your view, given the work that you have done. What do you believe, besides social media, which has been identified as a contributor, has created this situation where we are needing to have this whole inquiry?

Prof. Gelber: That is a really good question with a very complicated answer. I think there has been a shift in global politics over the past 15 years. The language of human rights was deployed very successfully in the second half of the 20th century to establish new human rights standards and new domestic legal standards and resulted in all liberal democracies in the world enacting ant-discrimination laws and so on. It was very successful. In the past 15 years there has been a capturing of that language, in my opinion, by people who want to do the opposite of the original intention of those laws. There are people who are using the language of human rights because they want to discriminate. There are people who are claiming to be victims of rights abuses or of discrimination when they are not, when systemic discrimination does not apply to them. We are in this tussle over who has control over or who owns the property of human rights language and human rights protections.

I do think the entire business model of social media has a lot to do with this, because of the disinformation and the sheltered way in which people get information that reinforces their views but also because the entire business model of the online platforms is on clicks. You get more clicks when you get people emotionally passionate about something and we know that negative emotions can produce strong passions. It is actually their entire business model that is a bigger issue than your inquiry can deal with.

My view is that it would be helpful if there were to be more conversations about the responsibility that is attached to human rights. Human rights always have responsibilities attached to them, the most important one of which is that your own exercise of any human right, including free speech, ceases at the point at which it prevents another person from exercising the same human right. That is why we have vilification laws. We say you can talk about any topic you like but we expect you to talk about that topic in a way that does not harm others.

In fact, international human rights law recognises that in numerous ways. Article 20 of the ICCPR prohibits advocacy of national, racial or religious hatred that incites discrimination, hostility or violence. Hostility is arguably what our section 124A is addressing. But then there is also the International Convention on the Elimination of All Forms of Racial Discrimination, which requires states to make an offence all dissemination of ideas based on racial superiority or hatred, or incitement to racial discrimination, or activities that promote and incite racial discrimination. There are very broad provisions in international human rights law recognising that free speech carries with it responsibilities and that those responsibilities include not racially abusing other people. In the convention against racial discrimination, of course, it is race, but in the ICCPR it is race and religion. Of course, there are other parts of international law that I do not need to go into. There is lots of recognition in international human rights law of the responsibilities.

Of course, the Queensland Human Rights Act allows for reasonable limits to be placed on rights where that is necessary. There has never been a case in Australia of a vilification law making its way all the way to the High Court. They have gone as high as the Federal Court, which has judged that section 18C of the federal Racial Discrimination Act is an entirely appropriate and valid way for the Commonwealth to pursue its obligations under the treaties that I just referred to. That is a kind of longwinded answer, I am sorry. There is certainly the ability for us to take these remedial steps to reinforce and reaffirm to people that when they speak they have a responsibility to do so in a way that does not harm others.

CHAIR: That concludes this session. Professor, thank you for your written submission and for your help in answering our questions here today.

Prof. Gelber: You are very welcome.

CHAIR: We will now take a break and resume our hearing at 6 pm.

Proceedings suspended from 5.14 pm to 6.00 pm.

BUCKINGHAM, Ms Kelly, Regional Manager, South West Region, Multicultural Australia (Toowoomba) (via videoconference)

WAGNER, Mrs Jamie-Lee, Refugee Health Officer, Multicultural Australia (Toowoomba) (via videoconference)

CHAIR: Good evening. During your evidence this evening I just ask that you refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. Thank you for your cooperation in that space. Would you like to start by making a short opening statement, after which the committee members could ask some questions?

Ms Buckingham: Thank you, Chair, for inviting us this evening. It is a great opportunity to provide information on the series matter of vilification and hate crimes. I will just tell you a little bit about Toowoomba. Toowoomba is known for its long history of successfully settling diverse migrant communities. Because of its welcoming character, it is one of the first refugee welcome zones and a model city for peace, showcasing how peaceful communities can be nurtured and encouraged. In the past five years, Toowoomba has welcomed over 2,800 humanitarian entrants through the humanitarian settlement program, and 35 per cent of these arrivals were in 2019 and 2020. It surpassed the Brisbane arrivals for humanitarian entrants, which is pretty amazing for a regional community.

Toowoomba is a success story for regional settlement largely due to the willingness of the community, education, government, business, social enterprise and non-government and non-profit sectors who participate in creating a welcoming, safe and inclusive community. Various sectors employ internal staff to liaise and coordinate to provide for the unique needs of refugee clients accessing their services. These include the Queensland police, Toowoomba Base Hospital and other services. In addition, we have a number of faith and community groups around Toowoomba that provide craft classes, play groups and interest-specific groups.

Notwithstanding the many positive settlement success stories and the abundance of goodwill in Toowoomba, it is unfortunate yet avoidable that members of newly settled communities who have often fled their homeland as a result of persecution, torture and trauma are then met with racism, harassment and intimidation in Australia. This racism, harassment and intimidation is predominantly under-reported largely as a result of language barriers, unknown processes and systems, and a lack of trust and confidence in the system and support for immediate support. The immediate need for community-wide campaigns addressing hate crimes, discrimination and vilification is paramount in addressing some of these important issues. The effects of racism on individual health are pervasive and results in psycho-social stress that basically compromises wellbeing. It really impacts the settlement trajectory and, consequently, is an under-resourced and understated public health issue.

Whilst Toowoomba is an exemplar city for supporting refugees and promoting a welcoming and inclusive community, not all community members are supportive of refugees being settled in Toowoomba. This has placed our organisation, our staff and our community members at risk of antisocial behaviour and racially driven hate crimes. In May 2021 our office at the Toowoomba Multicultural Centre was targeted by the National Socialist Network and stickers were placed on to our office window. This incident I reported through the Queensland Police Service, and an intelligence report was lodged. This neo-Nazi right-wing group has formed in Melbourne and has now spread throughout our major cities and regional towns, with members residing here in Toowoomba. A human rights advocate reported to the media that this group is becoming more militant. Without legislative reform, these groups will continue to grow. The shame associated with racism is often internalised, and not only is it not reported to statutory bodies; it is actually not reported or discussed with families and friends.

A couple of weeks ago I met with a woman from Iraq who arrived in Toowoomba as an international student. She disclosed that, when she was walking on the street with a young child, a particular person in the community threw a soiled diaper at her and told her, 'We don't want you here.' This woman disclosed this to me several weeks ago. She had actually never even told her husband that this had happened to her. She had a whole lot of other stories to share with me with regard to the racism and the violence she had experienced at the hands of perpetrators in my community. Without strong, clear and enforced hate crime rules, victims of crime will continue to not report and the perpetuation of hate filled violence will continue to permeate our communities and erode cultural cohesion. Thank you.

Mrs Wagner: I am a proud First Nations woman and I am here representing our refugees here in Toowoomba. I am a refugee health officer her at Multicultural Australia. Throughout my time in this position I have witnessed the immediate impact that racial vilification and hate crimes have had on the physical and mental health of our clients. While we are a refugee welcome zone here in Toowoomba,

racism is still pervasive in this community. One recent example is the rebranding of Coon cheese earlier this year. When it rebranded itself, our local newspaper put out a poll on Facebook asking what people thought of Coon's rebrand to Cheer cheese with the options: 'Should it stay Coon?' and 'I like the new name'. Over 1,500 people interacted with this poll and over 500 comments were made. Of the 1,500 people who commented, fewer than 200 responded in the affirmative that they liked the new name. In addition to the over 1,300 negative votes, there was a string of flippant and ignorant comments made about the rebrand. Comments such as 'People need to harden up and stop playing the race card for everything', 'Being offended is a choice' and 'Society needs to grow the bloody hell up' were met with agreement and likes.

I can assure you that none of the people who openly disagreed with this rebrand and called for the cheese to be boycotted had ever had this slur yelled at them across a dimly lit carpark, as I have, and been filled with fear and dread about what is to come next or had it drunkenly slurred at them at a Christmas party, making you feel instantly unsafe and unwelcome. These are experiences I have lived through and they are representative of the daily experiences of culturally and linguistically diverse people in our community. This poll taught me that there are 1,300 members of the community that I have lived in my entire life who do not believe that my voice and my right to feel safe and welcome matters. This incident shows the prevalence of passive keyboard warrior racism, the kind we like to think is limited only to the unpoliced depths of the internet; however, allowing racist speech to go unchecked fosters a breeding ground for more explicit action.

Toowoomba is no stranger to racially motivated acts of violence and hate crimes. In 2015 our local mosque was the target of numerous arson attacks. Under the current legislation, these attacks are only prosecuted as arson; however, it is undeniable that these attacks were hate crimes. I say it as a certainty as (inaudible) Islamic community using this facility. It was a worship centre for members of the Christian faith, and during this time no attacks took place. Following these attacks, our local keyboard warriors took to forums to endorse these attacks and vilify those who worship at the facility. Without any consequence for the hate crime portion of this attack, our community has learned that blatant racism and hatred not only goes unpunished but is applauded. With sentiments and acts like these going unchecked in our community, how can we sincerely reassure our clients that Toowoomba is a safe place to live?

Racism is so pervasive in our community that organisations such as E-raced have been founded to combat racism. This organisation aims to educate children about refugees and migrants through storytelling and Q and A forums. The organisation's founder, Prudence Melom, a refugee herself, realised that racist attitudes and behaviours can begin in childhood, and by allowing open forums for children to challenge their beliefs we can create more tolerant school communities. While I am proud of the work this organisation is doing, it also saddens me that I live in a community where racism goes so unchecked that children are learning such negative behaviours.

I would like to also emphasise that implementing policy is not about bowing to minority or silencing free speech; it is about providing equitable access for all Australians to a sense of safety and belonging. If our policy-makers do not prioritise our diverse communities, we are setting them up for failure. Without letting diverse communities know that their right to safety and belonging is prioritised by their government and law enforcers, they will never feel empowered to enhance our communities with their wealth of skills and knowledge.

Until we stop seeing First Nations and culturally and linguistically diverse people as lesser, we will not be able to make meaningful change. We are not just playing the race card for everything; we are finally finding our voices as equal members of our communities. We are tired of being told that addressing racism is a waste of time or being continually confronted with people decrying progress for culturally and linguistically diverse people as a negative for the community at large.

We are ready to start to assert our voices and our right to a safe and fulfilling life; however, we cannot do this without a change in policy. We need policies, legislation and practice that emphasise the weight of our words and how we use them to harm others. We need policy-makers and law enforcers to protect our right to safety and belonging. We need the tools to be made available to succeed, and that starts with the important work of this committee through this inquiry. Thank you for the opportunity to speak today. I hope this inquiry will look favourably into the recommendations provided by Multicultural Australia.

Mr POWELL: Thank you both for your time tonight and for your submissions. They really are much appreciated. Can I express my disgust at some of the activities that continue to occur in our communities. My understanding of Toowoomba is that you have embraced your migrant settlements extraordinarily well and that has brought a real vibrancy to your city and your broader community. Well done to you for the work you do.

In terms of the stories you share, including your own, Jamie-Lee, at any point was there consideration of actually reporting that to the authorities? There are existing laws under which those kinds of offences could have been considered, investigated and potentially prosecuted. If they were not, why weren't they? If they were not, why would we create new laws to potentially capture what is not being reported anyway? Does that make sense?

Mrs Wagner: I would say not particularly for myself but for our clients when these incidents happen, we have clients who have fronted up to the Queensland Police Service eager to make a report, whether it be about something that has happened in the community or even things that are happening in their own home, but there is a severe lack of interpreters and people willing to use interpreters, which just means that most of the time it is put in the too-hard basket. In addition, any sort of trial or hearing that will take place after the fact can be postponed almost indefinitely. We have issues with people who are perpetrators in the community who are still out and about because trials have been delayed and delayed. We have just lost faith in the system and how it works. For us, it is a bigger approach. It is not just, 'Let's put the laws in.' Acceptance that those laws exist will then incite that change to then want to take on the use of interpreters and things like that. All the things are there ready for people to use interpreters—and we are happy to train anyone about how to use that; it is just that we need people to want to take it up.

Mr POWELL: Did you want to add anything, Kelly?

Ms Buckingham: It is a bigger systems issue as well. I can use an example of some Yazidi clients who had their homes broken into at the weekend. When I talked to them I said, 'Did you call the police?' They said yes, but they did not have language support and the police had said they had never even heard of Yazidi. Please do not hear me wrong: we have a great relationship with the police in Toowoomba; they are wonderful and they do a great job. There are system processes when they do not have that understanding and the training with regard to different languages. It might be easy to get another language support but then it is a case of also having the right dialect, so that further compounds that issue. People are scared to report as well. We need to remember that people in authority in their homeland are the ones they fear, so that is a barrier for them as well.

Mr POWELL: What I am hearing is that, yes, laws are important and potentially there is some need to tweak those—and I will come to that—but what is more important is that we actually change the system. Part of that is working with the migrants so that they understand that in Australia law enforcement, whilst not perfect, is a darn sight better than in the country they have come from, potentially; that we need to arrange translators to assist the reporting and the understanding of what has gone on; and that we need to increase the level of comfort in being able to report and also the speed in which those reports are then investigated and acted upon. There is all of that.

We are being informed by witnesses about three options: one, leave the laws as they are and address some of those systemic issues; two, leave the laws relatively alone but add an aggregation for serious vilification and hate crime—use the existing laws but, if it is clearly based on race, religion, gender or whatever, there is an aggregation that increases it; and, three, add a whole new set of laws. Have you put your mind to which of those three scenarios might work best in your situation?

Ms Buckingham: I am confident with regard to the system side of things with regard to supporting refugees and communities through training, cultural competency et cetera. Definitely, we need to identify aggravation. The people these crimes affect need to see that it actually matters. They are a bit tired of being told it does not matter to them or they should get over it or they are being too sensitive—'Don't let it offend you.' It is just that identification that higher up someone is noticing. They matter. What has happened to them is important. They are not just seen as being culturally and linguistic diverse or First Nations in Australia.

Ms BUSH: That was really useful. Like the member for Glass House, I commend the city on what it has done in its particular settlement programs. You have touched on translating and interpreting, which is something I am very interested in. With all of the experience that you have there, I am interested in your feedback on how that is going in terms of the availability of translators, the professional expertise, the cost, the suitability, whether they get conflicted because they know people in the community. I would really like to hear the lay of the land on that.

Ms Buckingham: We could take a couple of hours answering that.

Ms BUSH: I am sure you could.

Ms Buckingham: What we find is that we have people arrive. We have interpreters. Because interpreting is not a full-time role, they build up skill and the next minute they are able to secure a new job and we are back to not having interpreters. If I can use the Yazidi community as an example, the Yazidis arrived. They speak Kurdish Kurmanji. It is not accredited through NAATI. As a result we were

relying on (inaudible). Because we were using interpreters in our community—the schools were using the interpreters; we were using interpreters; medical were using interpreters. They were using interpreters all throughout the community, so it was quite difficult to find qualified interpreters.

I had a situation the other week where one of the hospitals rang me to say that they needed somebody to go in to assist in the private hospital. A man was having an operation and they needed someone who spoke Yazidi. I had to explain that we cannot provide unqualified interpreters to go in because it puts us at risk and it puts them at risk. It could potentially be causing harm in not providing the correct medical information. As such, we have seen services quite stretched. We have had organisations that have started to train people to become endorsed interpreters. Once again, they develop a skill and then they will go into full-time employment. That has been incredibly hard. It has been incredibly hard trying to find interpreters from the right dialect. I am pretty stoked with what we have done.

Mrs Wagner: Yes, and more often than not they will know someone in the community or that person specifically, so that becomes a challenge. In the health space, as far as what it costs, it is very prohibitive. A lot of services just do not want to use it unless it is subsidised and for some services it is just not, which means that the services offered to that client are limited. They are not approaching certain services.

Ms Buckingham: Allied health providers can be quite difficult. We have an example where a physiotherapist rang me. They had six appointments. They said, 'Are you able to bring an interpreter?' I said, 'We don't have the funding for that,' and they were cancelling the appointments. It was through going in there and explaining to them how to use the interpreting services that they now see our clients, which is fantastic.

Mrs Wagner: On the other hand, we have one optometrist in town who was using interpreters but decided that the Yazidi people were not clients they wanted to work with anymore and now will not serve them if they are Yazidi. The quality and the consistency is not there and the cost is there. It is a big struggle.

Ms BUSH: Not every agency is funded for that. Some agencies have to meet that out of pocket if they choose to or they might determine that those clients are not clients that they want to work with which is something you have mentioned. Would you also agree that there are agencies that do not understand the nuances between translating and interpreting?

Mrs Wagner: Yes. We are very deliberate in our language: interpreting is spoken; translating is obviously written. I am going to get on my soapbox. Particularly in health we are finding a gap with government resources. Throughout COVID I think the Queensland government has made four resources in Kurdish Kurmanji and the federal government has done 145 (inaudible). That means that throughout all of COVID this cohort has not had any information about what is going on, and it is really stressful. It is up to organisations like ours to be the information hub.

The Queensland government have put it all in a written format for Kurdish Kurmanji, which our clients cannot read. It is not a written language. At all levels in terms of understanding, interpreters and translating—we have certain people who make up these great posters in Kurdish Kurmanji and we just shake our head and say, 'Sorry, you have wasted your money.' It is just that lack of understanding which then speaks more to the clients about them not being worthwhile.

Ms BUSH: I raise this because I do not think we all appreciate that well enough—the fact that governments are now under pressure to not use family and friends because of a perceived conflict, particularly when it comes to medico legal evidence or in a health setting because of DV and different things. It is a very difficult space. I thought that was important to get out.

Ms Buckingham: Absolutely.

Ms BOLTON: It is wonderful to hear a success story as Toowoomba is. Congratulations. I realise you have outlined some of the issues faced. Has there been an increase in discrimination, vilification and hate crimes in the last two or three years or beyond? If you have had an increase, besides social media—that is constantly identified as being a key contributor to that—what would you say has been a secondary contributor?

Ms Buckingham: We do not have evidence to show that there has been an increase. As I stated before, there was an increase, by 35 per cent, in 2019-20 in the number of refugees coming into Toowoomba. That has surpassed the number of refugees coming into Brisbane. I do not have evidence to show that there has been an increase, but that is something that we can certainly look into through the police if there has been.

We know that we have had issues with young people in the past being discriminated against by the non-refugee community. We have seen an increase in that. I am not sure if that is as a result of the number of refugees that we have coming in compared to what we had previously. It is a difficult one to answer. We have only highlighted a few things tonight, but there are a number of issues that we could highlight.

Ms BOLTON: Jamie-Lee, in your opening address you mentioned the word 'lesser', as in a perpetrator views a First Nations person or a culturally diverse person as a lesser person. During these hearings I have been asking about the types of reports to find out what are the commonalities between perpetrators. So far in what we have been presented, including that they have started classifying the types of perpetrators, none of them have said they view somebody from a culture other than their own as 'lesser'. There has been a host of things, including thrillseekers, defensive, retaliation and mission, which is when they see someone as different. Could you expand on why you used the word 'lesser'?

Mrs Wagner: I would say it is a narrative around people who are particularly linguistically diverse, not speaking the language. I know we had a bit of a challenge when the COVID check-in app rolled out. Our clients could not understand. There were technological and linguistic barriers that just meant that was this big mountain to get over. A lot of us were like: 'Let's just get out our phone and do it.' They were then met at storefronts with very frustrated, tired people who were manning the doors and making sure everyone had checked in. They were very much talking down to our clients and making them feel really insignificant.

Then, from an Indigenous perspective, I was at a dinner party recently and around the table people looked at me and said, 'Jamie-Lee, how do we solve the Indigenous problem?'—like we are just a problem. It is an assumption—or it is that white saviour complex, I would say, where you think you can swoop in and save us all. It is not necessarily overt, in-your-face racism, a hate crime or really attacking, but if that is the undercurrent of what is already there in the community then that is going to feed more of those extreme views.

Ms BOLTON: You are relating to how it makes someone feel versus a commonality of a perpetrator in how they are viewing that person.

Mrs Wagner: I think if you are speaking out against a culture you are thinking it is not equivalent to your own because you are speaking from an elevated place. I think to say that one culture is doing it wrong or that it is not the right way of doing things, you are assuming instantly that you are the right way of doing things. That is why I think I would probably say 'lesser'. You are speaking from an elevated place.

Ms BUSH: I interested in what the refugee welcome zone, which operates in the council, looks and feels like on the ground—the benefits, limitations, issues.

Ms Buckingham: We became a refugee welcome zone in 2013, and it was very much the council community of Toowoomba opening the doors to say that anyone who moved to Toowoomba is welcome. We have been operating (inaudible) and through that we have been able to talk about the supports that we provide to refugees, particularly with regard to what is happening in Afghanistan at the moment. Within a day, the mayor had opened the mayoral chambers and was holding a morning tea for the Afghan community to be able to come in, to be in a safe place, to be able to talk about any needs. As a result, the community has banded together. I think the refugee welcome zone embraces many different avenues within the community, and certainly the Toowoomba Regional Council has been very proactive in ensuring that communities feel that welcome.

Another example of our welcomes is that when we started working with refugees a couple of years ago the police started doing welcome morning teas. Refugees were invited to come in to the police station and we would have morning tea out the back. I have the most beautiful photo of a young Afghan woman standing there with the superintendent of police, wearing his hat. It is a beautiful photo. We have had people in the community—there was one Syrian man who said as a result of these functions he now feels safe and (inaudible) relying on. The point of doing that was that it was a great way of welcoming new Queenslanders into Toowoomba.

Queensland Fire and Emergency Services got a hold of it and said, 'We want to be involved as well.' We started having to alternate between QFES and QPS, which is wonderful. There are a whole lot of examples in the community of how we create welcome as a result of being that refugee welcome zone.

Ms BUSH: I am looking online. It looks like the agreement is initiated by the council.

Ms Buckingham: Yes.

Ms BUSH: But they then need to work with partners like yourselves and state to reach out and do different things. We might need to talk to council, but is there a criteria that has to be attained to get to that level of being a welcome zone?

Ms Buckingham: I am not sure. I am sure there was—I know Warwick has just become a refugee welcome zone as well, but I am not sure with regard to the criteria. Toowoomba Regional Council have recently put out nominations for a multicultural advisory group, and I think that will feed into that as well.

Ms BUSH: I do not want to put words in your mouth, so feel free to say that I have got it wrong, but would you say that the welcome zone has been a bit of a driver of some of those relationships and proactive contributions to building a bit more harmonisation between—

Ms Buckingham: Oh, sure.

Mrs Wagner: I would say it has been quite positive in that the community—no-one is looking down on you. If you are a community organisation that supports refugees, the community understands that it is a big part of our fabric and our tapestry. I think of community sport, even—and we have a lot of churches that have started up programs specifically for refugees. It is just very much in the community. We are very aware that—those extra supports have been made available. Even within QPS, we are about to have two police liaison officers, one for our African community and one for the Middle Eastern community. Just having that on board and just that acknowledgement that good work does not get done here without the voices of those people, it is wonderful. Yes, it continually supports those conversations about extra funding and things like that that need to happen.

Ms BUSH: You have a PLO program there as well?

Ms Buckingham: We have. The PLO program is going to be recruited for. There was somebody in the position. It stopped. We no longer have anyone in position, but I have been assured that there is funding now for two positions, and it is so vital to supporting the refugees.

Ms BUSH: The other area that we have heard about is the prevalence of hate speech or—I do not want to say the 'lower end'—bullying in a school environment. I am interested in your views on whether the refugee welcome zone has played a role in either exacerbating that or assisting in that space, or whether that is neutral.

Mrs Wagner: For us in that regard, the refugee welcome zone obviously has increased numbers. Obviously the department sent us more refugees as a result of being a refugee welcome zone. I would say that within schools it is more so now that there are more refugees, more migrants, so it is meaning those conversations have to happen or change as well. We have one school in Toowoomba that has 61 different nationalities. It is wonderful and, because it is all primary school, the kids are growing up and everyone looks the same to them; they are all just getting along and having a great time. But we found in our high school, particularly when new cohorts come in, there are those teething issues where it is very much 'this is new; we don't understand it' and there is that next level of bullying, racist speech. While being a refugee welcome zone is great, I think bringing more in has just exacerbated things. I think in schools we are seeing a lot more of it, yes.

Ms BUSH: To that point, we focus a lot on the deficit model of when things are not working, but you have mentioned that when a new community comes in there are those teething problems. Are there particular strategies that you see that work well in getting through those teething problems?

Ms Buckingham: For us, particularly when the Yazidi cohort arrived—they had only been placed a couple of years beforehand in Wagga Wagga—it is about organising that cultural intelligence that can then inform how we are going to work with these cohorts. Not that I am saying we want to stereotype them—we do not do that by any means—but with the Yazidi people we had organised people from that cultural group to come to Toowoomba to educate us and stakeholders so that when they arrived it was very much 'build it and they will come', so we were ready for them to arrive. We were able to go into the schools and support schools so that when their young people arrived in the community they were ready to go and they had an understanding of who they were working with.

Ms BUSH: So focusing on the capacity and expertise of the agencies and services first, and then a broader community working as backup?

Ms Buckingham: Absolutely. One of the things that has worked really well for us is where community—in two of the schools in Toowoomba we have youth hubs. They are hubs that are tailored for refugee and migrant youth, and we were able to work with those hubs. However, we are also able to do some other work with regard to mainstream young people. In school holidays we have the workshops and we have had some sporting workshops. We have had opportunities where we can go and talk to people in the school, mainstream students, and educate them on who some of their fellow students are. I think that is really important in supporting that cohesion of them as well.

Ms BUSH: That is really helpful, thank you.

CHAIR: There being no more questions, thank you very much for your participation tonight and for the evidence you have given.

Proceedings suspended from 6.38 pm to 6.46 pm.

CHOWDHURY, Dr Shahead, President, Townsville Islamic Society (via videoconference)

NAZIR, Mr Naseer Mohammad, Vice-President, Townsville Islamic Society (via videoconference)

PRANOWO, Mr Addin, Treasurer, Townsville Islamic Society (via videoconference)

SHAREEF, Dr Omer, Volunteer, Townsville Islamic Society (via videoconference)

CHAIR: Welcome. It is important that you do not use any unparliamentary language such as offensive words or swearing. Some of your examples may involve such things, so it would be good if you could not say those. We thank you for your written submissions. Does anyone want to make a statement to the committee?

Mr Nazir: I will make a statement. An incident occurred twice here in Townsville Islamic Mosque. The incident happened on two consecutive Fridays, after we leave Friday prayers of the main congregation that we have. I walked out of the mosque. I usually park my car across the road near the Christian school. While I was across from the car, another one of my friends was accompanying me as well because his car was parked on the other side across the road. We noticed that one fellow who would be in his mid-50s passed by me and I saw that, with his actions, he was sticking his fingers into his ears like he does not want to hear us. I did not really pay much attention, just that he was passing by. As he passed about, say, 10 or 15 metres away from our car, his words were that—he did mockery of the language that we were using. My other friend is also from Pakistan, so we had been talking in our native language. He started making a mockery of that, and then he started passing racial comments, 'You don't belong here. You should go back to your country. We don't want you,' and such comments.

On the first week when it happened, we basically did not respond back to him and we chose to ignore him. The first time he used these remarks and then when he realised that we did not pay attention, he just walked away.

The person came at the same time as we were standing next to our cars and this gentleman did exactly the same gesture of sticking his fingers into his ears and he started yelling at us and calling us different names and using all the racial remarks. This time I turned around and said to him, 'What's your problem? Come in and talk to me face-to-face.' That is the time when he passed some more remarks and then he ran away. This is an incident which occurred here only two or three months ago. Fortunately, I would say I have not seen him since then. This kind of people—this sort of behaviour is obviously not acceptable, but what happens in the case where these kind of people who have this sort of mentality can aggravate and damage the property, either my personal property because I am trying to cross the road or—

CHAIR: Naseer, did you report the offence to the authorities?

Mr Nazir: No, because I do not think there was a recording or any place which would record his face. It just happened so quickly.

CHAIR: Naseer, do you think it is something you should report to the police?

Mr Nazir: This is the million dollar question, to be honest, because even if I complained to the police, I do not have the trust in the system where the police will say, 'We will go and chase him.' The police have actually shown no interest whatsoever where there is a clear case which has been reported to police with all the evidence and witnesses, but the police have not taken that. I am still waiting to hear from the police.

CHAIR: Is that in relation to you, Naseer, or is that in relation to someone else?

Mr Nazir: The police matter that I am talking about?

CHAIR: No. You said that you are waiting for the police to tell you the result of an investigation. Is that in relation to yourself or is it in relation to another member of the community?

Mr Nazir: Yes. That is in relation to myself, my own matter.

CHAIR: So you reported a matter to the police?

Mr Nazir: Yes.

CHAIR: How long ago was that?

Mr Nazir: That is two months ago now, on 16 July. The way I say is that the incident happened where there was—it is an assault case with all the evidences and the matter has been reported to police. There is evidence, there is a witness to it—

CHAIR: Naseer, what type of case was it? I missed what you said.

Mr Nazir: Assault.

CHAIR: Assault.

Mr Nazir: Yes. There is a witness to it, there is a medical report and even the full sequence of events is recorded, but the police have not done anything. What makes me feel like this is that if it was the other way around, if I was involved in assaulting someone, maybe—you know better because you have dealt with Dr Haneef's case—I might have been charged with any kind of charges so far. This leads me to understand that, being an active social member of the community, how can I actually move on and tell the new migrants or the younger generation how can we trust the system as well?

CHAIR: Naseer, I am just conscious of time. Does anyone else want to say anything or contribute? If no-one else wants to contribute, the member for Cooper would like to ask a question.

Ms BUSH: Naseer, sorry, you have said this already, but just to repeat it, the police are investigating a separate assault charge to the one you are referring to, with the gentleman with his fingers in his ears who verbally assaulted you?

Mr Nazir: Correct.

Ms BUSH: If we can focus on the gentleman with the fingers in his ears that verbally assaulted, you mentioned you have not reported that to police. There is absolutely no judgement there. I am sorry for what you have been through. It should not have happened. I am interested in your views in what it would have taken to report that or, alternatively, where else—the question is: if we wanted to start to capture these things in the data, where could we report them? If not to police, where would you be reporting them to? Would they be to a church or to a community group? I am interested in alternative reporting options.

Mr Nazir: I think these sort of things should be reported to the police. We should have a system and we should have a chance that any of the law enforcement agencies must investigate and take the matter to conclusion. Reporting the matter is a different thing, but getting a conclusion, a conclusive result of that, makes a big difference. If I reported to either Dr Shahead or to Addin or to any of my other colleagues, I can warn them—this can be a warning for their personal response or for their personal witness, but it may not result into any positive outcome as when we discuss or when we talk about the society. To make the society to understand and reduce these sort of effects, we must have to do some law enforcement of it, and the law enforcement has to come from the local police. If the police is not interested in it or if they are not willing to investigate, it does not give you confidence and it does not give confidence to the migrants or to the migrant communities. That is my complaint.

Ms BUSH: So your reluctance to report is informed by more serious crimes being reported and not being followed through and not given the time and seriousness that you think they should be given, and that forms a distrust generally which gives you no confidence in reporting other occurrences?

Mr Nazir: Correct.

Ms BUSH: Can I ask about the relationship that the Islamic Society has with the Townsville police? Is there a formal working relationship that has been established?

Dr Chowdhury: Yes, we have a working relationship with the local police. There is actually one liaison officer who is Muslim, and we have regular contact with him. I think they are having some community discussion and we shall send our representative, Dr Hera Oktadiana, to that program. I think it will happen next Thursday. From time to time we invite them to our programs which we have done, I think, during the Ramadan period and other parishioners were there. Also, we have visited the police in Townsville and we have started our community awareness and safety (inaudible). One of the senior members of the police came to us to train especially the young generation about safety. I think it happened in June or July; I cannot exactly remember. So we are having regular contact with them but we never report these kinds of (inaudible).

Ms BUSH: Thank you, that is really helpful.

CHAIR: Is there anyone else there who would like to make a statement to the committee? Can you introduce yourself, Dr Chowdhury?

Dr Chowdhury: Thank you very much, first of all, for giving us this opportunity. I am Dr Shahead Chowdhury. I am currently president of the Townsville Islamic Society. I would like to sincerely thank the chairman and the committee for addressing this issue which has been underlying for a long time.

Basically, it has happened a lot of times with me but I just ignore it because with these kind of things there is no point in wasting my time on these incidents. This is my feeling. My time is much more precious than just running after someone, as long as it is not having a grievous physical or mental consequence on myself. I have that capacity, maybe because of my profession, to brush off all these things.

However, in this community we have a lot of people, especially refugees, who have PTSD, anxiety and depression because of the life they have been through. Even the minor stuff can affect them in a long-lasting manner. If this committee is able to come up with some legislation to address all of the issues so that at least we can feel that we are heard and something is being done so that we feel more comfortable and secure living in society and the wider community, that would be highly appreciated.

Dr Shareef: Thank you for your time. We much appreciate that. My name is Omar Shareef and I am one of the volunteers for the society here. There are a couple of things that I want to add. I want to resonate what Dr Chowdhury said. It is the lack of confidence. I am new to Australia in a way. I have been here 16 months now. We had a similar kind of exercise in the UK as well, where people came forward and they came with all their lived experiences in terms of serious vilification crimes. They came forward on their own but here it became an uphill task for many people to share what they have gone through. The reason they said was, 'We haven't got any help so far. We don't believe this will happen again.' It was that kind of thing. They do not have the confidence. I have to do one-on-one hearings with them to get the information to them. That is what we submitted in the online submission.

I want to know if there is any platform in Australia. In the UK there is something called Tell MAMA UK where hate crime can be reported on an online portal. That becomes a kind of legal evidence when you go to the police and make a case. It is kind of a data collection as well. I want to know if there is anything like that available that can actually instil some form of confidence in people when they encounter these kind of hate crimes so that they can go and record them somewhere.

CHAIR: Dr Shareef, can you expand on that? This is from your experience in the UK?

Dr Shareef: That is right, yes.

CHAIR: Are you able to tell us how it actually works?

Dr Shareef: It is a website called Tell MAMA UK. It is a kind of an online portal where you can actually report hate crime.

CHAIR: For example, how does the community know to use the Tell MAMA site? If there has been a hate crime or vilification, how do they know to go to that site?

Dr Shareef: Basically there are people from the government who encourage the people. They talk to the community members, the community activists, the imams. They were informed about this particular portal being available. Hence, the imams and the other community members were able to cascade this to the common people that if there is any hate crime then this is the portal to go for. That instilled some kind of confidence. It is also helping in changing the policy and legislation to protect people who are vulnerable.

CHAIR: What happens afterwards? For example, if you report it to the app, what is the next step in the process in the UK? Are you aware of what that is?

Dr Shareef: They have to make a case, so the police have to be involved and you have to register a case. Often it has been asked if any evidence could be provided. If there is any CCTV evidence or any witnesses who have shot the abuse themselves then that could be provided. Tell MAMA is a portal that actually collates all the stats, all the data: how many crimes or how many hate crimes happen in any given time, if any kind of spikes happen, if there are any particular patterns to it. There is a bit of science and an art behind it, which also instils some kind of confidence and faith in the public when they have a hate crime.

CHAIR: If someone puts a notification on the app, what is the next step that happens? Does a police officer contact the person?

Dr Shareef: Yes, they would. There are people from there who would contact them to get more information if they need to, but not necessarily everyone. I personally do not have firsthand information, but this is what a couple of my close friends and people whom I know have experienced. I am giving second-hand information.

CHAIR: That is very helpful, Dr Shareef.

Ms BOLTON: Naseer, when you spoke earlier you spoke about a conclusion. What do you believe would be an appropriate conclusion for somebody who verbally abuses someone else?

Mr Nazir: What I meant by a conclusion is if the police or any other of the authorities that are assigned to the inquiry can establish that, yes, the incident has happened and the person is prosecuted and a result comes out of that. If the police just make a report and say, 'We will make an investigation' but then leave it because there is a lack of evidence or whatever, it means that there is no outcome, whether in the favour of the defendant or against the defendant. I am not saying that always it has to go against the defendant. It depends on the circumstances and the evidence. If the defendant or the accused gets punished accordingly, that gives confidence in the system and more people will come out and give this sort of reporting.

In Townsville, I believe, there are around 3,000 or 3,000-plus community members. Having lived in Australia for 26 years, I am 100 per cent sure that there must have been incidents within that community but, as we have seen, nobody other than me has come out and given this evidence. That gives you another perspective of why the public is not keen or confident even to come and report these cases.

As Dr Shareef mentioned, for example, I am a full-time engineer and so is my other colleague and my friend sitting here. We do not have the time to go and stand for hours and hours, chasing the police or any of the law enforcement agencies to take witness statements and then follow it up in the courts. As I said, in my personal case I have done three police visits and made a number of phone calls to the police to take my first statement even though there was clear evidence of violence, there was the medical report and there was an eyewitness to it. The police did not bother. If the police cannot do those kind of investigations, how can they arrest anyone or do the kind of investigations where somebody has been verbally abused or gone through such an experience?

Ms BOLTON: In some of our earlier hearings we have heard viewpoints that prosecution is not the answer in creating a space in Australia where we are free from racial and other forms of discrimination. That includes things for what are considered more minor vilification, such as restorative justice where people come together to sit and get to know one another, to remove the fears that sometimes create the differences. Instead of celebrating the differences, it is the fear of the differences. Would you see something like what Dr Omar Shareef spoke about with the online portal, so that when it is reported there would actually be a form of mediation, would assist in creating a safer and a happier space?

Dr Chowdhury: We do not want any kind of vilification or racial hate crime. It is not our intention that we make a number of complaints or report incidents. Our objective is: by enhancing all these incidents we can make a safer community for everyone, including the minorities—let alone Muslims; there are other minorities as well. That is what we are expecting that this committee can do. For example, Dr Omar Shareef has mentioned the online portal where anybody can report incidents straightaway. That makes it easier for reporting, but somebody needs to follow that up. If we see that somebody is following up about the hate or whoever is doing it and they know it, then the next time they will think twice before doing it. That is No. 1. People will be more aware about the rights of others. More propaganda will make people more educated and this will help to further de-escalate all these situations. That is what we expect from this committee, to implement some kind of legislation and some kind of way for us to report the incidents and for that report to be heard and actioned in the proper manner, so that everyone can live in this society in peace and harmony and give positive input for everyone's flourishment.

Ms BUSH: I am interested in locally what might be the drivers of some of this type of behaviour. You have mentioned a lack of police response as a potential contributor. I am interested in your views on other things that contribute.

Dr Chowdhury: To me, I think it is the lack of knowledge. They are seeing people who are different from them. Their culture may be different and they do not feel comfortable. There are people living in Townsville or in the surrounding small towns who have never been out of Townsville. I know people in Charters Towers, and Townsville is the biggest city to them. I have seen the whole world. Before coming to Australia I worked in three different countries—three different cultures. I have flexibility. When I moved to Townsville 16 years ago I was shocked. I am not telling someone to give up their identity; I am trying to open up people so that they are more accepting of others, others' cultures, others' colour and others' way of living. As long as this is peaceful, it is not harming anyone else.

Ms BUSH: In your observation, are there programs through the council, others or yourselves that are proactively trying to drive that inclusion and understanding—multicultural days, multicultural awards, language days? Give me a sense of what is happening in Townsville around that.

Dr Chowdhury: We are doing certain programs within our community like mosque open days and multicultural food festivals. We also have in Townsville multicultural festivals and multicultural soccer. That is within our resource and our ability, but I do not think that is enough.

Ms BUSH: It sounds like you are driving a lot of that.

Dr Chowdhury: Yes, we are driving all sorts of ideas. I know some in the community are trying to do things, but I do not think that is enough. We are trying within our limitations. There is nothing we can see that is done by the system which is robust to include everyone and to draw the attention of the majority of the community.

Mr Nazir: I would suggest and feel that the media plays a big role as well. About 15 or 16 years ago, I do not know if you remember, there were some serious tensions in New South Wales. I do not think it was racism but there were criminals or people being targeted as either Lebanese Muslims or from the Vietnamese community. There was a big uproar in New South Wales. I grew up in New South Wales. I have been up here for the last three years only. There was a big uproar against that.

The government then made it that the media outlets, in case there was an offence in that category, should not name one particular community, like the Lebanese, Pakistani, Indian or Vietnamese. If they are keen to identify someone they can say Middle Eastern, Asian or Caucasian. What was happening is that when the media was naming them as from the Lebanese or Vietnamese community there was resentment building up against that particular community. That community was feeling targeted just because of one person or one criminal. We know that there are criminals in every society. You cannot blame a whole society or a nation based on one criminal.

If the Queensland government can go on that and try to stop that kind of situation that will probably help to reduce (inaudible). My colleagues and I try to integrate the community and the coming generation of migrants into the Australian community and to live together peacefully and in harmony.

Dr Shareef: I just wanted to agree with what my colleagues have said. It is about education and making them aware of this particular faith. We all know that Islam hatred is growing and is becoming very significant, serious and fatal in some cases as well. There are reasons this is happening. Nevertheless, if people understand what the faith is all about they will know there is a difference between faith and cultural practices. What people see in Afghanistan is not necessarily Islam. That is why it is very important where we live and the time in which we live that there is some education and awareness—that people are taught about the faith of Islam and not just about the culture of wherever people come from.

One is the bottom-up approach and the other one is the top-down approach. Instead of where a crime happens and then working it out, rather we have some educational awareness week or activities around what Islam is. That becomes a top-down approach so people have an understanding. Especially in the UK there were a couple of things happened within the police cadets. The police cadets were invited as part of their finishing time of becoming an officer—just around that time—to come to the mosque and spend almost a couple of hours in the day in the mosque to understand what is in the mosque, how Muslims pray, what they do, what the faith is about. If they have to investigate a female Muslim or men, how do they go about it? These kinds of intricacies about the faith and things like that they talk about. That improved the level of intelligence of the law enforcement agencies when Muslims go with some kind of hate crime. That helped as well.

The teachers were also invited to attend these kinds of awareness programs. They are the people who can talk to the youths who wonder about this faith and things like that. I believe education and creating an awareness of the faith of Islam is very important. That comes from the top down, I guess. As Dr Chowdhury just reminded me, we also invite a couple of schools across the Catholic society of Townsville to come in—whatever schools there that want to come around—and we organise mosque tours with the kids of year 11 onwards. That was successful. That is something we do to make people aware of the faith of Islam and to integrate. Ignorance leads to hostility and violence. That is where we are trying to bridge that. We need help from the government, the system and the law enforcement agency to make this happen.

Ms BUSH: It sounds like to sum that up, which I will not do as eloquently, it needs deliberate and enduring attempts by power holders to get into those systems—schools, workplaces, civic society—to proactively get messages out. As much as you are doing a great job in having an open day, waiting for people to passively come in, you have to reach into those systems via people in power.

Dr Shareef: That is right.

Ms BUSH: In terms of media, if I can go back to that, I am curious about whether you have ever made a complaint about media reporting about particular cultures, races, religions. If you did, how effective was that?

Dr Chowdhury: You mentioned media. I can give you three examples which happened recently during COVID. I mention it because it happened in Brisbane, and then I will come to the local one. There were two African descendant girls last year sometime who partied in Melbourne and then they came to Brisbane. Their faces and names were in the media, but various incidents happened where many similar Australians also did the same thing and there was nothing. It may be subconscious bias of the media—it is a possibility—or sometimes it can be deliberate. I am telling you about the state level. At the local level, I think it was on 30 May we organised a Justice for Palestine walk. At the time I personally emailed at least five media in Townsville, but nobody bothered to respond. You see that. You do not have to be super smart to see the differences. Either this media are afraid of telling the truth or they are biased. Unfortunately, I do not know from our level what we can do. We are all volunteers. We are working here as volunteers, giving our time, our money. I do not know how to address all these issues.

Ms BUSH: Thank you. Finally, I am interested in your views on social media and social media commentary and whether or not that is a driver where you are.

Mr Nazir: Social media is something which is to some extent uncontrollable, but then there should be some limitations and we have seen that. If we as Muslims compare ourselves, the way the things have occurred in the past may not be dissimilar in an Australian context or domain, but in the worldwide domain if something happens against the Jewish community it is highlighted and it is contained. If there is something which is going against the Jewish community, it can be taken down from Facebook, YouTube or any other social media.

When it comes to the Muslims, obviously I cannot say that the Australian parliament or the government should control the worldwide situation, but at least within the Australian domain we should have enough power, and we do have, and influence where we can ask the social media to remove those comments which are creating hatred and causing disturbance within the Muslim community. This is something which we can see as a positive outcome and a positive influence where the Australian government can play its role to reduce the effects of content from YouTube or any other social media like Facebook, Instagram or whatever.

It is like the incident in Christchurch. When that video was shown all around the globe, immediately the New Zealand government acted and they got the content taken out of YouTube and all of the social media. I think the Australian government can do a similar sort of thing and we can remove that. That is one way of educating, because we are not actually spreading that. There are a number of people who get inspired by those kinds of videos, so we need to stop the spread of that so nobody gets inspiration from it.

Ms BUSH: We have heard that today.

Mr Nazir: As we all know, hatred brings hatred, and it also gives a disturbance within the Australian Muslim community. The Muslim kids, especially the kids who are living in a zone which is not highly Muslim populated, can get influenced by their peers in the classes. We do not want to see that. Thank you very much.

CHAIR: That brings to a conclusion this part of the session and it is also the close of today's proceedings. We thank you for your participation.

The committee adjourned at 7.32 pm.