



LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:

Mr PS Russo MP—Chair
Ms SL Bolton MP
Ms JM Bush MP
Mrs LJ Gerber MP (virtual)
Mr JE Hunt MP
Mr JJ McDonald MP
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

FRIDAY, 3 SEPTEMBER 2021

Brisbane

FRIDAY, 3 SEPTEMBER 2021

The committee met at 9.30 am.

CHAIR: Good morning. I declare open the 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 land 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 committee members with me today are: Ms Sandy Bolton, member for Noosa; Ms Jonty Bush, member for Cooper; Mr Jason Hunt, member for Caloundra; Mr Andrew Powell, member for Glass House; and Mr Jim McDonald, member for Lockyer, who is a substitute member until 1 pm for Mrs Laura Gerber, member for Currumbin and deputy chair.

On 21 April 2021, the Legislative Assembly agreed that the committee inquire into, and report to the Legislative Assembly on, matters relating to serious vilification and hate crimes in Queensland. The purpose of today is to hear evidence from stakeholders who 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 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 committee staff if required. All those present today should note that it is possible you might 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 mobiles phones off or to silent mode. The program for today has been published on the committee's webpage, and there are hard copies available from committee staff.

CHEUNG, Dr Kee OAM, Adviser, Chinese Community Crime Prevention Consultative Committee

SHAM, Mr Clement, Deputy Chair, Chinese Community Crime Prevention Consultative Committee

YU, Ms Vicky, Chairperson, Chinese Community Crime Prevention Consultative Committee

CHAIR: Good morning. Would you like to make a short opening statement, after which committee members will have some questions for you?

Ms Yu: Thank you for the invitation to appear before the committee. The Chinese Community Crime Prevention Consultative Committee plays an important role in addressing and assisting the Chinese community in crime awareness and prevention. From time to time, incidents of serious vilification and hate crime are raised by members of the community. Although we acknowledge in many instances this is the behaviour of individuals, through community feedback we believe more should be done to address the ongoing concern of serious vilification and hate crime in the community.

Through our 15 years of experience, we have identified the following points which we believe should be incorporated into the terms of reference for the inquiry. Firstly, we believe that existing practices such as the legal framework and enforcement tools are inadequate, and it is time to review or introduce practical and effective legislation to stop serious vilification and hate crime. We strongly recommend tougher sentences for the offenders and mandatory punishment for those convicted of these crimes.

Secondly, there should be outcome based legislation. Although we support the intent of the legislation, we want to see legislation that will criminalise relevant offences and include enforcement power and the provision of resources for the delivery agencies—namely, the Queensland Police Service, the anti-discrimination commission and the courts—to ensure the legislation will be an effective deterrent for those offences.

My final point is: reducing and preventing serious vilification and hate crime needs more than just legal enforcement. Prevention is always better than cure. Social awareness and children's education on serious vilification and hate crime will deliver the ultimate outcome we all want to see. Once again, thank you for the opportunity to make this statement at the public hearing. Kee may want to add to this statement.

Dr Cheung: In addition to Vicky's statement, I would like to make some general comments in terms of hate crime and racial vilification. We do think that racial hatred is the cause of many evils, and history has too many examples to validate this. Migrants—we are migrants—choose to come to this country and they call Australia home. We are good and loyal citizens. We value the country's democratic beliefs. We respect the rights and obligations of the citizens and obey Australian laws.

People's ethnicity and country of origin should not be the reason for them to be insulted or assaulted. They have done nothing wrong to deserve vilification and hatred. It always hurts when you are on the receiving end of racial remarks or violence. It makes people concerned about their safety in this country. Importantly, our second and third generation of migrants are most likely born here in Australia, and this is the only country they recognise as their own. They are no different to any true blue Aussies.

Mr POWELL: Thank you very much for both your written submission and taking the time to appear before the public hearing today. It is much appreciated. I noted in your written submission that when you surveyed the community you made a couple of statements—

The community does not have sufficient understanding on this topic. Most of them felt that the law must be inadequate, and more concerning is their view that the QPS perhaps has no knowledge or very limited power in handling such conducts.

In your verbal briefing you talked about the need to educate. Is there a step in between changing the law that may involve educating the community and the police about what existing laws there are and whether they could be used more effectively?

Mr Sham: I believe education is our primary agenda in our submission. To answer your question about whether we can have some intermediate step, I think the current legislative framework makes it difficult for education to deliver. Firstly, education is not just about talking. People need to see the consequences. At the moment, the current legislation requires the police to go back to get consent from the racial discrimination act. Most of the time they need to go back to the Criminal Code to find some sort of evidence to prosecute. We all understand that the police and the court system will act according to the Criminal Code, so nothing in terms of racial discrimination is addressed at all. If we look at the statistics from the discrimination commission over the last 20 years, by average we have way less than 10 complaints of that sort being accepted. That is why I think the legislation needs to change first, so that we can give all the powers to the people and make education consistent and effective.

Ms BOLTON: When you speak on education regarding the legislation and around the law, when you were doing your survey was there any feedback on education within schools? We are a very multicultural country. Do you think it sufficient what everyone is accessing at school in terms of understanding the backgrounds and beliefs of different cultures?

Mr Sham: Our survey and the feedback does not cover that part. Most of the outcomes come back to what people have experienced. In our committee's general communication with communities—this may not be correct, but to the best of our recollection—we do not believe that is sufficient either.

Ms Yu: We had a lot of discussions around bullying at school. A lot of things start when kids are little. They think it is fun. They think, 'We are just having fun,' and it is interesting. However, they do not understand what is behind those actions. We believe that education is essential.

Ms BUSH: I have read your submission. Without asking you to repeat some of your responses, can you give me a sense of how many members you represent or how many were included in the interviews and the survey that you have done, just so I can get a sense of the scale of your membership?

Ms Yu: Our submission and our knowledge are based not just on our survey but also on our experiences over the past 15 years. This topic is not just from the survey. Previously, we have always had these discussions at our meetings. To be more precise, we do not have a membership. However, Brisbane

our outreach includes people with Chinese heritage from mainland China, Hong Kong, Taiwan, South East Asia and even includes people with Chinese heritage from Papua New Guinea. It is quite a broad range of residents that we have reached out to.

Ms BUSH: Thank you. That is helpful. That is Queensland wide?

Ms Yu: Yes.

Ms BUSH: It seems from your submission that the majority of the people you represent have experienced racial vilification at some point. Am I right in presuming that from your submission and from your statements?

Mr Sham: Yes, that is correct. To give an interesting fact, when I was with the team preparing the submission, I myself experienced that in the shopping centre. People asked me to go back home. That happened.

Ms BUSH: Is the general theme of people's experience those types of comments—I am being cognisant of language here today—'to go back home' and threats of violence? Can you give me a sense of the range of the experience of people in your community?

Mr Sham: It varies. Some may be minor verbal offence. Some instances involve serious physical abuse such as throwing a punch. I remember some people have thrown an egg at people's cars or when people walked past a vulnerable lady they suddenly yelled at her and that made them have PTSD. That happens quite often.

To give a bit of background, our organisation holds meetings regularly with the police and invites different Chinese organisations to attend. This sort of topic is more than regular. I admit and agree that not everybody will publicly raise these issues. The majority of them do feel—and maybe this is a misunderstanding or a misperception—that the police are inadequate in terms of being quite powerless to help these people.

Ms BUSH: In terms of the people subjected to this type of behaviour, have you noticed a trend towards men over women or an age group over another in terms of the victimisation?

Ms Yu: I do not think we have included an age bracket.

Mr Sham: Or gender. It seems that people do target people who look a bit vulnerable. You are 100 per cent correct. People still insult me.

Ms BUSH: Thank you. That is helpful. In the Criminal Code currently there are some charges around public nuisance and assault. I am interested in your experiences as to why those offences do not get up. Is it because people do not report them—and I have heard some of that—or is it that the evidentiary threshold is not met? Can you fill me in?

Mr Sham: Yes, the understanding is that the evidential threshold is not met. In the case of public nuisance and property damage, at the end of the day they are like summary offences; they are minor offences. A lot of the time it seems the perception is that the police do not feel it is adequate in terms of evidence and worth spending the time investigating it. That is the education part. There is the message that this sort of thing is like an accident; it just happens. They are the types of general themes.

Ms Yu: On that question, we have been working very closely with the Chinese police liaison officers. I will give an example. In the early days of COVID early last year, there were a lot of incidents around COVID and targeting Chinese-looking people. A lot of those instances we found on social media. These people talk to online media. However, none of them were reported to the police. One simple reason would be they do not see the outcome of reporting to the police. They do not see that it will be sorted, so they would not bother to report.

Dr Cheung: Sometimes they say there is the language barrier issue as well.

Mr McDONALD: Vicky, in your opening address you mentioned that the punishment should be outcome focused. I understand restorative justice principles and—my words—a consequence for action. What does 'outcome focused' mean for you?

Ms Yu: Again, as per my response to the previous question, for the majority of residents when they see the end result of reporting such an incident to the police, usually they will find the perpetrators may be released because there is not enough evidence or offenders may receive a very minor punishment, yet they had to go through this lengthy process. It may take months or even longer. That is why they do not see it as being worthwhile to report to the police. These are comments from the community that we received.

CHAIR: This concludes this session. Thank you for your evidence today. Thank you for your written submission and taking the time to appear before the committee today. I now welcome the next witnesses.

CHEN, Mr Johnson, Past President, Queensland Chinese Forum

SHAM, Mr Clement, Vice-President, Queensland Chinese Forum

WONG, Mr Daniel, President, Queensland Chinese Forum

CHAIR: Welcome, good morning. Would you like to make a short opening statement, after which the committee members will have some questions for you?

Mr Wong: Thank you very much for organising the hearing today. I would like to acknowledge the traditional owners of the land and pay my respects to their elders past, present and emerging. I am representing the Queensland Chinese Forum. The Queensland Chinese Forum have been in Queensland for over 26 years. We do not have personal membership. All our members are community members. We currently have about 16 community member organisations and probably a couple of thousand memberships. It depends on the organisations, their size et cetera. They all come from China, Hong Kong, Vietnam, Singapore, Papua New Guinea and Malaysia. They are the regions we represent.

We have done some collection of data and also prepared a submission for the hate crime inquiry which we have already submitted to the committee. Many of the Chinese have been experiencing hate crime in Queensland. Personally, I do not know how many times I have experienced it. They feel like the current system is not helping them to fix the problem. Most of the time they think there is no help from the police or the system. They find if they report to the police they are not sure if it is even worth their time because if they report to the police they will talk to the people but nothing happens. That is why when we collect data they hesitate because somehow—and I do not know how it happened—they think it might not be worth it to be proactive, to make a change. Of course, in our understanding it is a really big step for the hearing today and for the committee to try to change the legislation.

Most commonly, the experience will be more verbal. It is like the f-word and 'go back to your country' and things like that. That is quite common. The majority have experienced that, especially when COVID started and everyone was saying it was the Wuhan virus, so it came from China. It was quite common to hear that in the community. In some cases there have been physical attacks. It depends on the situation.

We are proposing, firstly, to change the legislation and make it a more serious crime because currently not much can be done on the legislative side. On the other hand, of course, is the execution of the bench in terms of how they are going to actually execute. When someone reports to the police, what will the police do or how will they be able to classify it? At the moment it is a minor offence, which means you cannot do anything. It depends on the age group of the offender because the majority is co-related to the teenager. We are also experiencing a lot of incidents; a lot of younger teenagers are committing crime, but there is nothing much we can really do. Even if you catch them, they will be released. This is another topic but it is kind of related because they think they can do whatever they can or they can say whatever they say. That is what has been happening.

The other thing, of course, is education. In terms of education, it is more about—I think there are a few things. It is a little beginning but it is not a one-day thing. It is going to take a long time to change. It is a good beginning. The first thing would be a lot of children in school sing the song, 'You are, we are Australian.' We kind of have a multicultural sense as a country, but how are we actually going to implement that and execute that and make everyone aware so they subconsciously say, 'Okay, yes. We are all together; we are one.' I think that is what we are trying to achieve today and in the future. Is there anything you would like to ask?

Ms BOLTON: Previously the Chinese Community Crime Prevention Consultative Committee as well as you in your submission have made mention of things like good behaviour orders for repeated online abuse. Do you see restorative justice as having a role here where somebody who is perpetrating vilification or hate can actually sit down with that person after an investigation to get a better understanding so there is that connectivity instead of the distance between?

Mr Sham: I believe it would be good if we could achieve such reconciliation, but I believe the ultimate step needs to be laid out clearly so that people understand all the necessary consequences.

Mr Chen: To add to that, I think it would be an ideal situation if we could have some form of a restorative justice system. From our community's perspective, a lot of the times it comes down to a lack of understanding, a fear of the unknown, foreigners or that sort of thing. If we do have a safe and secure environment for everybody to come aboard, whether it is for minor offences or for—not necessarily the serious offences, because it has to be done in a very safe and secure environment. If you are able to stop or get them to familiarise themselves with what is happening in their community in Brisbane

terms of foreigners or multicultural communities, that would go a long way. A lot of the times it is simply a manifestation of their way of dealing with uncertainty and with the fear they have that is instilled by themselves. If you are able to come face-to-face or have a chat about how your action has impacted us and the consequences as a community from that, I think it would definitely go a long way for everybody: local Australians, multicultural communities in Australia as well as potential and future migrants.

Ms BOLTON: Do you believe that something like a buddy system from the time we start school would be advantageous? We had that when I was growing up so that understanding could grow.

Mr Sham: I suppose no suggestion is a bad suggestion. What we are talking about today is our culture. Our culture is to promote the common value that we Australians have, one of which is multiculturalism and those things from our students. That is a really good one. I agree.

Mr POWELL: Thank you again for your written and public submissions. Do you have any idea of the threshold of vilification or crime that you would envisage would allow someone the ability to then go to the police and seek charges to be laid? Clement, you mentioned before when you were collecting your community survey that people would walk past and say things that were incredibly inappropriate and insensitive, but the ability for the police to potentially find that individual on those statements as they walk past you is going to be very difficult. Is there a threshold that you envisage? What sort of actions, what sort of crimes would your community envisage being the ones that, yes, must be reported to police and, yes, the police must act on and, yes, penalties must be applied?

Mr Sham: To answer the question I will use an analogy. I think at the moment the current legislative framework is like us having a toolbox at home but no-one knows how to use it. Perhaps the threshold is really low in reality but no-one knows how to use it. That is the main issue. I think that is why education is key. No matter whether it is the police or any other law enforcement agency or the community, we need to know how to use that legislative framework, so we need to make the threshold easier and more straightforward to use.

Mr Wong: I believe that it is a high threshold, to be honest, because you link together violence and free speech and what goes over the line. We have some samples that say it is not about what they are saying. It is about the mental depression that is caused to the victim. That is more important. Some of the people have only been in Australia for a short time and they have been yelled at on the streets, so sometimes they do not even want to go out. I have some examples here that I can pass to you all for some more evidence later.

CHAIR: Daniel, what do you have there?

Mr Wong: I have sample cases here I can give to you of what people are experiencing.

CHAIR: Do you want to give them to the committee now or do you want to wait until you are finished?

Mr Wong: I will wait until I am finished. That will be easier. Some people have had experiences that have caused mental depression and things like that, making them feel that they are not welcome in the country.

Mr HUNT: A lot of submitters across a range of backgrounds have talked about the value of the classroom in addressing these sorts of issues moving forward. I am in complete agreement with that idea. Are there any specific areas where you think the curriculum is deficient or is there anything specifically you would like to see included in the curriculum to address this? Rather than taking a broad-brush approach to say 'education'—which I think is 100 per cent correct—are there specifics you think are missing or specifics you would like to see included in the classroom?

Mr Sham: That is not part of our submission. I suppose what is missing is that, no matter what skin colour we have, when we are in the classroom of Australia, we are Australian and we are all the same—human. That is a really strong message. We all deserve the same respect.

Mr Chen: To be honest, from our observation, what happens in the classroom is actually not the issue. We could work on the curriculum. We could revise that. We could add to that. It is actually what happens outside the classroom. To be honest, even coming back to the buddy system, the fact that you are going to school has already made a difference to those people who would probably do wrong from early on. It is those children skipping classes—it is those types of people we are trying to target and trying to work with, rather than people who have aspiration through the education system for their future. It is those types of people that we are okay with. We are comfortable with. It is more the other cohort that we are trying to say how can we work with them early on outside or within the school system so that in the future we will not have deeper and bigger questions or issues? It is that aspect. I do not know whether the submission covers it, but I think it is that cohort that we are trying to work with.

Coming back to the earlier point made about the restorative justice system, it is the platform where everybody can come together and get to know each other. Without a forum of some sort, it is very difficult for people to get to know other people from other cultures. School does it well through the buddy system, through the counselling system, through the whole school hierarchy. I do not think that is really the issue or the question at hand.

CHAIR: One of the suggestions in your submission states—

Local MPs should also work with multicultural organizations to conduct regular forums, family activities day to increase awareness of the reform.

As the panel would know, in any given weekend in certain electorates there are multiple functions. I can think of about three that are on in my electorate this weekend that I am attempting to attend. I am interested in how you think that interaction between the local MP and the multicultural groups should work?

Mr Wong: Most of the community events particularly focus on one race. Whatever event the MP goes to is created by a certain group, so they have certain group of people. Sometimes we are missing social cohesion. How do we put people together and make them as one? The race problem—

CHAIR: Daniel, what you are referring to is not to focus on, say, one community group but to bring the broad community groups together in, say, one event?

Mr Wong: Yes.

Mr McDONALD: Chair, you could also share them amongst the other electorates because you are spoilt!

CHAIR: Yes, you are right. It could be a combination of three or four electorates. That is for sure.

Mr McDONALD: Youth who behave badly are regularly taught in the home. Do you see a place for including parents in a restorative justice model?

Mr Wong: It is a really hard question to answer, to be honest. Parents definitely play a role as their children grow up. At the end of the day, I do not know. Personally I believe children do not listen to the parents. That is pretty much how it is.

I understand that the government is trying to do more for teenagers because the system pretty much cannot cope at this stage. I do not have an answer for that. I look at both sides. The majority would be saying increase the penalty for youth crime, but it is definitely not the solution. If that were the case, in the US they would already have solved the problem.

The key issue is we already differentiate them from another group, so they are always there. How do we take them from that group of people—in Queensland, about 400—of major youth crime and then put them back into the community to become normal? We do not think they are normal. They do not think they are normal. We are always having issues.

Mr Sham: In terms of education, everyone has a role. No matter whether they are parents or teachers, they all have a role. To focus on and emphasise this reform, I think the core of the reform is in terms of what to educate. Without this, we do not have the same values and same views in terms of what to educate. I think this reform would serve as one piece to help everyone have something to work on, to operate on, and also to promote the same values so that everybody from different parties or stakeholders are able to educate based on the same values and same views.

CHAIR: That concludes this session. Thank you for your written submission. Thank you for your attendance. Is leave granted to table that? There being no objection, leave is granted.

AHMED SELAT, Mr Faysel, Vice Secretary, Queensland African Communities Council

ANDRIA, Ms Abiba, Public Relations Coordinator, Queensland African Communities Council; and Coordinator, African Youth Support Council

BOL, Mr Beny OAM, President, Queensland African Communities Council

CHAIR: Welcome. Would you like to make an opening statement, and then the committee will have some questions?

Mr Bol: Thank you very much, Chair, and thank you to all the members of the committee. As you probably know, over the past few years the African community in Queensland, and indeed in Australia as a whole, has endured extraordinary and horrific serious incidents of racial vilification, hate speech, workplace discrimination, harassment and intimidation. Those incidents occurred and continue to occur in both private and public spaces—on social media, in mainstream media, on public transport, at workplaces, on the streets and sometimes in neighbourhoods.

The level of vilification and hate speech has increased significantly since 2018 during which some of our young people were involved in criminal offending in Victoria and here in Queensland, especially after the tragic incident that took place at Zillmere and when the two African girls returned to Queensland from Melbourne and breached the COVID-19 rules in 2020.

When the *Courier-Mail* made a warlike declaration of ‘enemies of the state’, that immediately triggered an avalanche of racist attacks against members of the African community. I will mention a few examples that are included in the submission. One example took place at a workplace where a lady was asked, and I quote—

CHAIR: Beny, I know that you will observe this. We are in a hearing that is very similar to parliament. I am not anticipating you will quote any swearing or anything offensive, but if there is an example of that, can you please refrain from using the exact word?

Mr Bol: No worries, thank you. The quote is—

What do you think about the African girls who went to Melbourne and brought COVID-19 to Queensland? Do you guys know much about coronavirus? Were you sick last week because you did not come to work? Somebody told me that you African people don't go to hospital when you are sick.

There was a quote on Twitter—

Typical of this lot. Deport them. Not Australians. They look aliens.

Another quote which was also a tweet—

Certain cultures have lower levels of consciousness.

I was interviewed in the *Australian* newspaper and quoted. After the incident, especially involving our young people, I mentioned very clearly—and I repeated it many times in interviews—that what we are seeing with some of our young people is a collective failure of the system. The system includes our community, our families, service providers and government agencies. If we work together and engage with each other we would probably be able to prevent some of the things we are seeing. After I was quoted I got an email from a gentleman. He said—

It is a failure of your own African culture. After all, as the article's title suggests, these people move here to escape these problems only to find that they brought them with them. These are enduring problems of your culture. May I suggest that you start by looking inward and questioning the values of your own culture before you blame another for your problems.

Then last weekend, we have all seen the incident that took place, there was a reaction and someone made a comment online, saying—

Put all of them in the plane and mid-air drop them off.

You can imagine who they are referring to. Mr Chair and honourable members, the pain, mental health, social and economic impacts that these sorts of targeted racial attacks cause on our people is absolutely enormous.

We must be a state and a country where individuals who break the law are dealt with individually, held to account and face the consequences of their individual choices and actions. For those of us who seek to divide our Australian community on the basis of race or religion or any other forms must also face the consequences of their choices and actions. Thank you, and I would like to ask Abiba to give an example of her experiences and then we would welcome questions.

Ms Andria: Thank you for having us here today. An example that I experienced happened last year around May. I was waiting at a bus stop in Salisbury coming back from uni late in the evening. While I was waiting for the bus the bus driver stopped and said to me, 'Next time you should put a torch on.' He said he could not see me yet there were street lights. I walked onto the full bus. Hearing that, I said, 'Sorry', excused myself and walked onto the bus. I did not take what happened that day seriously.

The following week the exact same thing happened, but this time the bus driver told me that he could not see me. Again it was late at night. When he said that I said to him, 'What do you mean you could not see me? There were lights. If you did not see me then why did you stop?' He said, 'My apologies, you were just too dark.' At that moment I felt so embarrassed and obviously disgusted at his comment. The bus was full.

I walked away thinking did my safety not matter at that time. It was dark. If that bus driver passed me by because he could not see me what could have happened to me that night. I did not want to catch a bus ever again after that. I did not think we still lived in a world where people still looked at us like that. I called the transport department and was online for a minute but quickly hung up because my thought was: what are they going to do? They are not go to do anything about it. They would most likely just say, 'We will forward your complaint to whoever', and then apologise. That is not enough.

I may have experienced this, but who knows how many others have experienced it and have never come forward. Obviously as a woman at night-time that is risky. My safety was the biggest thing in my head and it was not considered at all. Ever since going through that I have not got a lot of respect for bus drivers—not all of them, but some. How can you make a comment like that and think that that is okay and make it publicly so everybody can hear.

Are you telling me that because of the colour of my skin you could not see when there are a lot of street lights and there are also cars passing by consistently? You still could not see me. Are you suggesting that I should put a torch light on so the bus could stop for me? No. I got embarrassed. Like I said, it is a disgusting comment and I did not set foot in a bus almost three months.

CHAIR: I have a question in relation to social media. It seems to be an area where people are able to post vilifying or racist comments without identifying themselves. I was just wondering whether your community has had any experience in trying to report that type of vilification?

Mr Bol: When I was collecting evidence I came across too many instances of these sorts of comments on social media. I actually approached human rights lawyers to look into the possibility of investigating and finding the sources. They were unable to find some, but they could trace someone all the way to the Gold Coast. It is a mixed outcome. Sometimes it is really difficult. Our expectation is that maybe the police may also help preserve the evidence, investigate it and put some resources into that. It is mixed. Sometimes you cannot find the person and sometimes you can trace them.

CHAIR: Do you know whether or not any people in the community have made reports to the eSafety Commissioner—the Commonwealth body—that has some ability to assist with these types of social media problems?

Mr Bol: I organised a workshop last year in regard to safety online. The reason behind that was mainly homeschooling starting for young people. I knew that some parents would struggle to effectively supervise their children and probably would not know what they are doing online and how they could potential put their child's safety at risk from online predators. Most of our people do not have confidence in the system. They do not have confidence in the institutions because the few complaints they have made to the police were either dismissed or not taken seriously. People think this is a waste of their time and complain about what happened. They do not want to expend their energy and resources doing that because they have the negative feeling and opinion that nothing will be done about it and there will be no outcome so why bother doing it. That is a widespread feeling in the community.

Ms BOLTON: Prior to the incident in 2018, had there been any documented increase in vilification or racially motivated slurs? If there was prior to that, what would you say was the main contributor? Were there any patterns? Were there reports on what you believe are the reasons?

Mr Bol: I believe there are many contributing factors, to be honest. When people post things online or the mainstream media publish articles that are critical of certain groups based on their race and culture it will always trigger such reactions from individuals who would otherwise have not done that. It actually sanctions that. That is what we have seen.

Without publication of anything to do with the African community you do not see any significant incidents taking place. There will be racist comments here and there, but that increases significantly as soon as something about Africans is mentioned. Then you see reactions everywhere. There has been some research done, I think mainly in Victoria, over the years before 2018 in regard to the experiences of our African people in terms of workplace discrimination, racism, bullying—all of those things. The evidence is clear that it is a big problem not only in Queensland but Australia-wide.

Ms BOLTON: Social media has basically been the main contributor?

Mr Bol: Yes, absolutely.

Ms BUSH: I will direct me question to Abiba, if you do not mind. Firstly, I deeply apologise for what you have experienced. It is not okay. If you do not mind a personal question, I am interested in bystander intervention. In the situation you gave us with the bus you said the bus was full. I am curious about other people's reactions to that and whether there was bystander intervention.

Ms Andria: Everybody kept quiet. There was an old lady who was sitting at the front and I could see her face change, but nothing was said. That is where that feeling of embarrassment came in. The fact that no-one stood up, it was like did anyone even care?

Ms BUSH: What do you mean by change? How would you describe that?

Ms Andria: I would have appreciated if someone told the bus driver that what he said was not appropriate and was not nice. When we see incidents of racism on buses or public transport you do see some people stand up and make sure the person is all right rather than them walking away thinking in that moment they were not human. For people to not stand up, it seems like that comment to them was okay and they did not see any harm in it. The effect on me was more severe.

CHAIR: That concludes this session. Thank you for your attendance and for your written submission.

GOROGO, Mr Michael, Vice-President, Pacific Islands Council Queensland Inc.

SWAN, Ms Salome, Community Leader, Elder and PICQ Member, Pacific Islands Council Queensland Inc.

VUETI, Mrs Ema, President, Pacific Islands Council Queensland Inc.

CHAIR: Welcome. These proceedings are exactly the same as a parliamentary sitting so we please ask that you do not use unparliamentary language, such as swearing or offensive terms, even if you are quoting someone. That causes great havoc with the broadcasting. I invite you to make an opening statement. After that, the committee will have some questions.

Mrs Vueti: Good morning, members. The Pacific Islands Council of Queensland acknowledges the traditional custodians of the land that we are meeting on, the Jagera peoples, and their leaders past, present and emerging. We thank them for allowing us to be here on their land. We also would like to acknowledge the honourable members who are present here this morning. We thank you all for your service to our state and the support that you have given to our peoples.

By way of introduction, I am Ema Vueti, I am diaspora Fiji, member of the Brisbane community. With me is Michael Gorogo of the PNG Catholic community and also Salome Swan, who is our community elder and Fiji diaspora community leader. It is with great honour that the Pacific peoples here in Queensland acknowledge the Legal Affairs and Safety Committee for inviting us as a witness for today's public hearing. The Pacific Islands Council of Queensland, PICQ, supports the intentions of the Queensland parliament and the state government in this inquiry into serious vilification and hate crime, and we welcome the necessary legislative changes to make our state a safe and liveable place for all people.

As a voice of our Pacific peoples, Maori communities as well, and individuals in Queensland, the Pacific Islands Council was involved in the initial conversations with the CALD community leaders and the Human Rights Commission in 2020. In hearing the stories of the racial vilification and hate crimes of our fellow CALD community leaders, it has confirmed that Pacific community members do have similar stories. The stories shared by our community members in relation to the submission that we have given highlight the need to address racial vilification at the systemic level. In CALD communities today, we still are experiencing levels of racial vilification or joking, we may call it, in workplaces and social settings. Our young people are being singled out by those who are meant to protect them. Our focus today will be around the impact of racial vilification on our young people.

A community member has also quoted, and I will quote her, by saying, 'Racial vilification and hate crime was and to some extent is still systemic.' To her, there was a hideous process when she applied for permanent residency in Australia, as someone who was sent from PNG to a primary and high school in an all-girls private school in Brisbane. She also studied law in a Queensland university and was still asked to do an English test and had to go through four years of being in a bridging visa. As she was experiencing that, it was really difficult for her to get into a job because of her circumstances. Through all of that, she was facing some form of racial vilification.

In strengthening the vilification and hate crime laws, it is important that there is continuous education for all communities around these laws—what the laws mean and how these laws are applied. It is a task that needs to work simultaneously. PICQ believes that strengthening the laws and giving the budgetary allocations to the authorities to enforce these laws will strengthen Queensland's legislative processes. Queensland's population is a multicultural one which needs all communities—including mainstream, not just the CALD communities—working together to make life in Queensland a safe and harmonious one. With that, we thank you so much for the time given to us.

CHAIR: Thank you.

Mr POWELL: Ni sa bula. Welcome. It is great to have you here. I noticed in your written submission that you call for a strengthening of the vilification laws. Has your organisation given some thought as to what that strengthening would look like? Are there specific additional laws you would like to see? Are there additional penalties, broader penalties? The answer can be, 'No, we haven't given thought. We just want to see them strengthened.' I am just interested if you have any input on that.

Mrs Vueti: We have indeed spoken with our legal team and also some of our people working in the Police Service. The strengthening really comes to the policing of this law. One of the comments that has come from our community leaders is that the reason why our community members do not make a complaint or do not go to the police is that nothing gets done. Our children are growing up with that mindset: that when they see the police, they do not go there because nothing gets done. I guess that is something we are hoping this probably addresses.

Mr POWELL: I just want to clarify that in my mind. At the outset, that is encouraging the police to use the existing laws to do something about the complaints made, rather than necessarily introducing new laws. Is that correct?

Mrs Vueti: I am not familiar with what the existing laws have at this stage, but I guess if there is a need to introduce new laws to strengthen what is currently there, then that is also what we are asking for.

Mr POWELL: Thank you.

Ms BOLTON: Welcome. I am just wondering whether you had a chance to read the recommendations that were within the Cohesive Communities Coalition's options report and whether you agree with those recommendations.

Mrs Vueti: Yes. I will just let the committee know that PICQ is part of the group. We have been part of the group since the meeting as I mentioned in 2020. So, yes, we do agree.

Ms BUSH: Good morning. Thank you for coming in. I want to focus on some of the systems that are in place now to report crime, recognising the barriers which I certainly do not dispute. There are systems built in to help with reporting—like police liaison officers, you can make formal complaints with police if they do not take your reporting seriously, and the charter of rights for victims of crime in Queensland. I am interested whether as a community those options have been discussed and whether any attempts have been made to take those things further through those systems.

Mrs Vueti: Our community does understand that those processes are in place. They have been helped by the liaison officers to make the complaints. The system is such that it takes a while and, because it takes a while, people just do not go there. They are looking at the system and saying that, because it takes a while, nothing gets done. I have had numerous community leaders, and some of them have lived here when the laws were mainly for the mainstream. They acknowledge that the laws have changed, but one of the comments from the elders was, 'We can do better.'

Ms Swan: The thing is that I think our Pacific communities are quite laid back, so when we think these kinds of things are wrong they think, 'It'll be okay.' We probably need to let them know that this is not right, that we could do something that would make things better. I think it is with our attitudes. They are quite laid back, as we know. We also need to maybe do more education with our communities and let them know when things need to be called out. I know other communities have experienced more than ours, because we have come in and settled and just gone on with things. There are lots of things that we know individually and personally are not right that people are experiencing, but because of that kind of attitude it does not get called out in public.

Ms BUSH: Thank you.

CHAIR: Michael, do you have anything to add?

Mr Gorogo: I think everything has been said. The only experience I could mention is that my brother was in this sort of situation where he was at the Valley and he stopped a fight but the cops just directed it straight to him. I did not find that out until I had to counsel him at home. It was like, 'Why would you do that?' In our family, we value good morals, respect and everything. I had to counsel him at home and he said, 'But I didn't do anything.' I asked him why he accepted all of the charges, and he said he was just scared. That should say something—that, even though he was innocent, he was scared. I wanted to scold him or say something to him, but he was telling me that he was scared because they were all there and they took him in. I do not know if I should say it was bullying, but it just made him scared so he just said yes to any charges that were against him.

CHAIR: I noticed in your submission that you said that at one point in 2018 there was an attack on your social media where you had to block people from your page. Did anyone report that to anyone?

Mrs Vueti: Unfortunately, no. We just blocked the people and thank goodness that has stopped. I know that other communities and individuals in our community do get harassed. The things that were said on our social media were not nice.

CHAIR: Do you think the community is sufficiently aware of how to go about reporting racism and vilification on social media? Obviously the PICQ was proactive and remains proactive, according to the submission, in keeping an eye on what is happening on your page. I have a double-barrel question. Does the PICQ know how to report online vilification to the authorities?

Mrs Vueti: In our committee we have a team of legal people so when something like that happens we refer to them. The PICQ as an organisation has that. Our community members, though, they do not know. This is where the education comes in, where we will need to inform people about the laws and what they are needing to do.

CHAIR: From a community point of view, how do you think assistance could be given to the community for the community to understand how to navigate their way through reporting serious vilification as it occurs on social media? What would be helpful?

Mrs Vueti: We would welcome the opportunity for training packages that are included within the education processes that these laws will have, because one of our constraints is just trying to get the right people to do the training. Those right people tend to cost unless you are a government department or a huge service. What we normally do is we look at our members like those who are working in services. For example, our community leader here works for Anglicare. When there are initiatives that are there, we tend to ask if they can help us in running workshops. To answer your question, yes, we would welcome having some form of education that not only happens for our community; I think it is also critical that it happens for all communities.

Our focus at the moment, and that is the reason why we put in this submission, is the impact that racial vilification has on our young people. We can start the education right at a very young age, where our children learn how to live with each other. My two are no longer young. When we first came they were always called 'brownies'. I have had to let my kids know that they should tell their classmates that a brownie is something that they like to eat and it is sweet. This is some of the education that needs to take place.

I think it also needs to take place in the homes, in the mainstream homes, because sometimes the conversations we have about another race, our children hear that. I think it is very important that when we are speaking about other cultures and races that we are mindful of the little ears that are listening because that can be taken into the schools as well.

CHAIR: That concludes this session. Thank you for your evidence today. Thank you for your written submission. Your participation is very help. We will now take a short break and resume our hearing at 11.10.

Proceedings suspended from 10.49 am to 11.10 am.

CORREA-VELEZ, Dr Ignacio, Co-Chief Executive Officer, Queensland Program of Assistance to Survivors of Torture and Trauma

FLIHAN, Ms Rima, Engagement and Connection Practitioner, Queensland Program of Assistance to Survivors of Torture and Trauma

CHAIR: Good morning. Would you like to make a short opening statement, after which committee members will have some questions for you?

Dr Correa-Velez: Thank you. Good morning, everyone. On behalf of QPASTT, I would like to thank the Legal Affairs and Safety Committee for the opportunity to appear as a witness at this public hearing. I am here with my colleague Rima Flihan, who is an engagement and connection practitioner at QPASTT and also a respected community leader in the Syrian community. In the written submission we made in partnership with Multicultural Australia and on behalf of the Community Leaders Forum, we focus on the voices of community leaders and community members from culturally, linguistically and religiously diverse backgrounds. Their powerful voices illustrate the harmful racial and religious vilification that members of our diverse communities experience and their frustration in terms of the lack of stronger legislation and proper access to a legal justice system.

In this brief opening I would like to focus on two issues. The first is that experiences of discrimination, including vilification, prevent people from thriving. Prior to joining QPASTT, in my previous life, I was an academic for 18 years at universities. An important part of my work was doing research in terms of refugee integration and settlement and how we can make sure that we support refugee communities really to be part of our community. One of the studies that we did was to follow up for eight years 120 young people from refugee backgrounds since they arrived in Australia. It was an important longitudinal study.

After eight years, one of the analyses we did publish was: what were the factors that really supported young people to complete secondary education? We found after doing that analysis that two factors were key in terms of those young people who drop out of school. The first was that young people who are older when they arrive in Australia are less likely to complete secondary education. The second one was experiences of discrimination. Those young people who experience discrimination over the first eight years in Australia were 1.6 times less likely to complete secondary school. We know what happens with young people when they are unable to complete secondary school: the opportunities for thriving are dramatically reduced. Racism and discrimination prevent young people from thriving and achieving their dreams.

The second point that we want to make as part of our experience at QPASTT is that race based discrimination including vilification leads to trauma. Race based trauma is real and carries psychological and physiological effects, and that includes hypervigilance, flashbacks, nightmares, avoidance, headaches, heart palpitations—very similar to PTSD. We also know that experiences of racism and vilification can lead to intergenerational trauma. For people from refugee backgrounds who have experienced persecution, displacement and serious violation of human rights, finding safety in this country is vital for their recovery. You cannot heal if you do not feel safe. Sadly, many of the clients and communities we work with do not feel safe because they experience racism and discrimination, including vilification. If they do not feel safe, they cannot belong to this country and they cannot thrive.

Finally, justice is fundamental for the recovery of survivors of trauma. This inquiry is about justice. I want to commend the committee for allowing this. Just by doing this inquiry, you are sending a message to diverse communities that we matter. This inquiry is about our fellow Queenslanders from diverse backgrounds being able to trust that they will have access to justice in a timely, appropriate and effective manner when they experience serious vilification and hate crimes. Thank you.

Ms Flihan: Thank you for giving us the chance to speak here today. I arrived in Australia at the end of 2014 as a Syrian refugee with my two children. I have been a human rights activist all my life. When I arrived in this country, I was expecting to feel 100 per cent safe and secure. In one event that I participated in, I was speaking about refugees, doing some advocacy for Syrian refugees and encouraging the welcoming of refugees. I was attacked by a man at a very big event who started saying, 'You are a terrorist. Go back to your country. Go back where you come from.' Media were present and it was in the media. That moment broke me very hard, because I did not expect to face that in this country. I stopped attending any public events for more than one year because it shook me. I faced a very hard situation back in Syria and other countries before arriving here, but in those places I expected those kinds of things. This was very hard for me, because it happened here in Australia.

From what I am hearing from my community and other refugee communities I work with and have friends from, when people who came here as a refugee—they may have fled their country because there were politicians who discriminated or committed a human rights violation against them—

hear a statement from a politician that includes racism or hate speech against a particular group of people based on ethnicity or religion, they feel panicked and afraid because they have lost their safety again. They feel they are not secure again. They expected the opposite in a country like Australia.

Based on that, I think there is a gap in the law. This gap should be filled by putting a very clear line between hate speech and freedom of speech. People should know, regardless of whether it is media, politicians or society in general, that not everything we say comes under freedom of speech if it is going to hurt people or cause damage to people. This line should be clear for everyone.

In school, I think children from an early age should learn more about human rights. If we work on this generation and future generations, I think we will have a safe and welcoming country for everyone. Education is very important. Human rights education should be included from an early age in school. This is what I wanted to add to my colleague's statement.

Mr POWELL: Thank you both for appearing before the committee. Thank you also for your written submission. Ms Flihan, I am sorry for the way you have been treated by others here in this country. It is incredibly disappointing. I am sorry for the impact it has had on you.

In your submission, like a number of organisations, you have adopted the Cohesive Communities Coalition recommendations, one of which is around adopting a harm based or statutory hate/bias aggravation. If you do not have the information that is fine, but how would that work? How would it interact with freedom of speech? How would determining the harm impact on the individual assist that individual in feeling safe and feeling like they have been listened to?

Dr Correa-Velez: Thank you for the question. I have to say from the beginning that I am not a legal practitioner; I do not have any background in law. We are part of the Cohesive Communities Coalition. The legal subgroup made the recommendations and, as part of the group, we strongly support that. I do not feel really qualified to respond to that question in more clear legal terms. My apologies for that.

Mr POWELL: I think you started to speak in your opening statement about how individuals need to be able to feel safe. Expressing the harm that has been inflicted on them may assist them?

Dr Correa-Velez: Yes. I was here earlier in the hearing. I think it is important to have a variety of responses, really. The issue that we see is that our communities do not trust the current legislation and the current systems of reparation. I agree that there should be a wide variety of responses. Sometimes, depending on the seriousness of the offence, having more mediation and different responses is important, not necessarily going to court. Sometimes there is a sense that repeat offenders are not accountable. That is the issue: how can we respond to that?

We have identified from our conversation with communities that there are some legal shortcomings here. One issue is that you need to identify the perpetrator. Sometimes it is really difficult to do that. The second is that you make a complaint but it is the only the police who can start that process and it has to be under the guidance or consent of the Attorney-General or the public prosecutor. Sometimes that is challenging as well. The other issue is the time it takes for the process to get to an outcome. People lose hope, especially young people: 'What is the point of doing this?' We see that response all the time. We encourage them: 'There is legislation here. This is not the same as back in our countries where laws in terms of human rights are very limited.' Sometimes people fear being a public face, especially with the media portrayal of some communities that we heard about earlier in this hearing. I think acknowledging the harm is an important part of that reparation, but sometimes we need more serious consequences for people to be accountable.

Ms BOLTON: Have any studies been done that identify geographical areas throughout Queensland that have a higher percentage of racial vilification or hate? If so, do you think that is based on socio-economic levels?

Dr Correa-Velez: I am not aware of any. I know that when I was working at universities there was an academic in Melbourne, five or six years ago, who was trying to map racist events across Australia. I never saw a publication from that, but it was a mapping of racism in Australia.

Some people believe that we are wired to be racist. I totally disagree with that. We are not wired to be racist; we are wired to see difference. From a very early age we see difference. The meaning of that difference is something that we learn. We learn from our parents. When I spoke to my university students I would say, 'I come from Colombia. There is racism in Colombia, like in many other countries. My grandparents were very racist. I loved them dearly. I lived with them most of my early years. Acknowledging that is a painful process, because you love your grandparents, but you need to understand that at school you learn that this is not okay and then you are able to challenge those

behaviours back home.’ I think it is a whole-of-society effort, to make sure that people understand that there are things that people say that are not jokes anymore. They used to be jokes 30 or 40 years ago, but they are not jokes anymore; they are harming people.

It is so important to have this embedded, as Rima said, in education. We need a better resourced Human Rights Commission that is able to go to schools and teach about the Human Rights Act that we have now and how it is not okay to name people like this. My children were born here but are of Colombian background. When they say, ‘My parents are from Colombia,’ people start saying, ‘Did you bring guns to this classroom?’ When my daughter was at university, in her first a tutorial she was asked, ‘Do you know that at university in this country you cannot bring guns?’ For a 17- or 18-year-old person to face that at their first tutorial is really terrible. She came really distressed to our home. That is not okay; we cannot have an academic doing that. I said, ‘What are you going to do?’ She sent emails to the university, complained and received an apology. That is okay, but we cannot have these things.

This is just a small event compared to the many issues that many of our communities face and that we see every day. We have young people telling us that teachers at the school are using the n-word. A couple of weeks ago we had a youth forum, and young people were telling us that. When they made the challenge, the teacher’s response was, ‘It’s just a word.’ It is happening and it harms young people in particular deeply.

Ms Flihan: Similar to the event that happened with your daughter, there was a young lady studying law at one of the most important universities here. Part of her course involved a case study—I do not know how many hundreds of students there were—that spoke about a terrorist from the Middle East. She is from the Middle East. Linking a terrorist act to an ethnicity or a region means that people who are studying and writing have a stereotype that people from the Middle East are terrorists. We are talking about a case study in law at university.

I think it is very deep in society. I think there is a need to make it easier for people to take action, go to court and sue people for hate speech or discrimination by itself. It is not under criminal law. I think there is a need to change so that people can take action even if the only thing that happened was discrimination or hate speech. Many events happen in society. You cannot locate it geographically because most of it happens through social media and media itself—statements by politicians. The issue is huge and deep. If no change is clearly seen by society, I do not think there will be any positive change in this country.

Mr McDONALD: Thank you both very much for coming along and for a great submission. It was really well set out. Thank you for all the examples. We have heard over and over about the lack of action by police. For the record, I spent 30-odd years as a police officer. I am disgusted at the lack of service delivery, because there are clear pathways police can take in every example that I have heard. I am conflicted about how we fix that. Do you have any ideas? Do we make it simpler for the police, so they can actually write a ticket? I am conflicted with that, because it makes it a lesser action and there is no education element. It is just a ticket. Do you have any thoughts around that?

Dr Correa-Velez: It depends on the seriousness of the event and the offence. As I said before, there should be a variety of alternatives in terms of that. An important point is how we can make sure that we improve the trust between communities and police. I have been here for 25 years and I have seen very significant change within the police in terms of working with our communities. I really commend that, but I think there is still a way to go.

We need to make sure that young people in particular from diverse backgrounds have better relations with police, that they feel safe talking to police, that they feel safe making these complaints. It is not an easy job for police officers. We know that. For some events they could probably get a ticket, but sometimes it is for them to understand that a more serious event needs to go forward and they need to be able to be effective and show outcomes to the community. My understanding is that last year only 34 complaints were made to the Human Rights Commission. That is nothing because people are not really complaining. They are stopped from complaining.

CHAIR: That brings to this session to a conclusion. Thank you for your evidence today. Thank you for your written submission.

CASTLEY, Ms Christine, Chief Executive Officer, Multicultural Australia

HAIDER, Mr Butrus, Youth Engagement Officer, Migrant Youth Vision Project, Multicultural Australia

KHODADADI, Ms Azin, Program Manager, Settlement Engagement and Transition Support, Multicultural Australia

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

Ms Castley: Thank you for the opportunity to be present at this public hearing and to brief the committee on what we see as a very important issue. I am the Chief Executive Officer of Multicultural Australia. My name is Christine Castley. I have with me here today two of my colleagues from Multicultural Australia: Ms Azin Khodadadi, who will speak from a client service delivery perspective; and Mr Butrus Haider, who will speak from a youth engagement perspective. Each of us is also able to speak from a lived experience perspective.

Multicultural Australia is the primary refugee settlement provider for Queensland. We also provide a range of programs targeted at social inclusion, employment, youth engagement programs for refugees, migrants and international students across Queensland. We are deeply committed to promoting positive conversations about inclusion and advocating for action to stop exclusion and hate crime in Queensland.

Multicultural Australia, as the committee knows, is also a member of the Cohesive Communities Coalition. I am co-chair of the coalition, together with Ms Rita Jabri-Markwell, who I believe will be speaking to the committee later today. The coalition is a group of 22 organisations representing culturally and linguistically diverse communities and faith communities. As the committee knows, the coalition has proposed a specific suite of legislative reform options which is reflected in our written submission.

What I did want to highlight as being particularly important as part of that suite is that we are, one, particularly advocating for the introduction of a circumstance of statutory aggravation where there is a hate element to criminal conduct and, secondly, adopting an objective harm based test for determining this hate aggravation that does not rely solely on the perpetrator's subjective state of mind. We also think it is important that there be effective and timely responses by police in courts for hate crimes so that our diverse communities have trust in our systems and are willing to report instances of crime.

Since the start of this inquiry, Multicultural Australia, working with the coalition, has led a public campaign to raise awareness of this inquiry within diverse communities across Queensland. The 'Be Heard' campaign, which is a campaign we initiated, ran from 11 June to 12 July 2021 with the specific intent of engaging the voices of individuals who might not normally engage with a parliamentary inquiry. We provided safe spaces in multiple locations with support staff to assist people to tell their stories.

We thank the committee for agreeing to accept these stories as submissions in a number of formats including written submissions, audio and video recordings. We believe that this unique process for a parliamentary committee inquiry enabled increased access across the state for Queenslanders to share their experiences of hate crime and vilification in Queensland. Through the campaign we received 41 community submissions and extensive supportive media coverage of the issue.

The stories and experiences received through the 'Be Heard' campaign are only a sample of what the Cohesive Communities Coalition and its members experience regularly. It is worth noting that we were also in contact with a significant number of individuals who shared their stories with us but who were not willing to go on public or even private record for fear of reprisal or because they did not believe they would be heard. This last point highlights an important challenge which is that the absence of accurate reported information on racially motivated behaviour and hate crimes means that the full scale of the issue is not fully recorded and therefore not fully understood.

Serious vilification and hate crimes are present in our public spaces—on our streets, in our neighbourhoods, on public transport, in schools and workplaces, and online communities. These crimes perpetuate fear among the targeted group, undermining community social cohesion. It can have significant adverse mental health effects on victims and their communities. We also see that there is a significant productivity loss for our state, and I am sure the committee has heard of many instances of people failing to return to work or school over a long period of time.

In addition to legislative reform, we think it is essential that there be culturally capable specialist supports and a program of education, training and awareness raising including programs specifically targeted at the Queensland Police Service and the courts. We are especially keen to advocate for strong cultural capability training across our justice system, including regular and appropriate use of translators and interpreters to ensure access to justice for diverse communities across Queensland.

We thank the committee for the time and respect it has afforded us. We are especially grateful for the committee's acceptance of audio and video submissions in language from diverse community members. This was a very welcome step that has ensured inclusion of voices that are often missing from these conversations. I will now hand over to Ms Khodadadi and then Mr Haider to speak to you from their perspectives.

Ms Khodadadi: Good morning, everyone. My name is Azin Khodadadi, and I am here today to represent the voice of Multicultural Australia clients and their communities. I am the team leader of one of our programs—Settlement Engagement and Transition Support, the SETS team. My experience directly reflects the experience clients and communities face on the ground.

The SETS team is designed to support and empower humanitarian entrants, other eligible permanent migrants and their communities to address settlement needs in order to improve social participation, economic wellbeing, independence, personal wellbeing and community connectedness. I am here today to speak on serious vilification and hate crimes, as this topic is very close to my heart. Having worked in the sector for the past eight years and being privileged to hear the stories of our clients, as well as having directly experienced racial vilification, has encouraged me to take part in this hearing today.

My direct experience of discrimination and racial vilification includes being called names, having been told to go back to my country, despite knowing Australia as my country for the past 12 years, and even being bullied at a school at a younger age. Of course this was experienced less directly and in a different form at university and various workplaces.

In my work as a settlement case worker and currently as a team leader, I have seen and heard from many of our clients and their communities about their experiences of facing such crimes in the community. Our clients and community members are from diverse backgrounds and many are escaping war, persecution, discrimination and exclusion to seek refuge in Australia. We work closely with individuals to facilitate a positive settlement experience. However, when settlement is overlaid with experiences of racism, discrimination, vilification and serious harm, it affects people in profound ways and destabilises their experiences of settlement in Australia.

For many of our clients, their past experience of authority figures may be the reason they seek asylum or become refugees. During my years of practice I have heard many reports of people having difficulties in approaching the police or justice system in Australia. This experience also coincides with lack of understanding of the justice system or difficulties in communication due to language barriers. When the system is unwelcoming or unresponsive it may permanently affect the way they feel about our systems or indeed lack of confidence to report incidents of crime or abuse.

I am thankful for the opportunity today to share personal and client experiences. I hope the inquiry will favourably look into the recommendations provided by Multicultural Australia in its submission. I would be happy to assist with any questions or information if required.

Mr Haider: I thank the committee for giving us the opportunity to speak. My name is Butrus Haider. I am a social youth worker at Multicultural Australia. I am also a member of the Queensland African Communities Council and also a former president of the South Sudanese Queensland Youth Council. I would like to quickly start by sharing with you an incident that happened to a 14-year-old boy on a public train.

CHAIR: Just before you continue, I ask you to—I am not suggesting that you were going to do this, but prevention is better than the cure on this—refrain from using language which we refer to as being unparliamentary such as swearing or offensive terms. If you are quoting someone else, just be mindful of that. We have some fairly strict standing orders.

Mr Haider: I appreciate that. This 14-year-old boy was going home on a train like any other child in Queensland when he was verbally and racially vilified by an older gentleman. This incident happened when the 14-year-old coughed and the man said, 'Don't bring your ... disease in this country. Go back to where you come from. We don't want you here.' This man hopped off the train and the 14-year-old boy stayed on the train in tears grasping what just happened. This 14-year-old boy sits before you right now advocating for the voices of young people and their concerns.

Although this incident occurred years ago, I am still scarred by those words and fear for any child on a public train on their own. I am not a parent yet, but I am a proud uncle of two nieces and three nephews who were all born in Australia. They were all born at the Mater Hospital and they were all wrapped in the same blanket as any other child, but I am fearful that one day someone will make them feel unsafe and someone will tell them that they do not belong here.

Young people have voiced their concerns on how they feel unsafe in their own state due to the increased level and frequency of racist incidents occurring in the community. This was more evident during the COVID period where another incident occurred where a girl was trying to go get tested and someone spat at her and told her, 'You broke the rule,' just because she looked like someone on TV who broke the rules.

At Multicultural Australia we work with diverse communities, newly arrived refugees, asylum seekers, migrant and international students where we aim to create a fair and prosperous society that welcomes all new Queenslanders. My primary role as a youth worker is to support my young people in their transition to a new country, empower them to achieve their goals and become part of the Queensland and the Australian success story. Unfortunately, when they tell me about incidents of racism, discrimination and vilification, it excludes them from the Queensland and Australian success story.

The law that a society is governed by needs to evolve and adjust and change society's values and the structure of society. Queensland is one of the most diverse states in the country with many people from different backgrounds calling it home, but so many feel unsafe and want change. As stated in our submission in this inquiry, we are seeking stronger legislative protection for Queenslanders to be able to live safely and for effective and timely responses by police and courts for hate crimes so that our diverse communities have trust in our systems and are willing to report instances of hate crime.

I would like to finish with a short quote, 'For evil to flourish, it takes good men and women to say nothing and do nothing.' Racial vilification and serious hate crime is an act of evil that stands against the premise that all men are created equal and that we all belong in this beautiful state we all call home. It also stands against Multicultural Queensland's principle 5, which states—

A shared commitment, among members of the Queensland community, to mutual respect, fair treatment and valuing the diversity of peoples in different in the community fostering a caring, safe and inclusive community.

I am a proud Queenslanders and want to feel safe, just like all the young people I work with and all the young people I speak to who call this place home. So let's not let evil flourish.

CHAIR: Thank you, Butrus.

Mr POWELL: Thank you to each of you for your contributions today and also for your written submission. Christine, can I put the same question to you that I put to the previous group. Please do not think in any way that, in doing so, I am trying to justify any of what you have experienced. It is not acceptable. There is no place for it. I am interested to understand how a harm based test would work alongside other laws that allow a level of freedom of speech. Is there anything you can provide in that regard?

Ms Castley: Yes. In response to that, we would say that with rights come responsibilities, and there is always that balancing act in terms of the harm you do to others in exercising your right and the necessity for you to be able to exercise that right. So there is always that balancing act. What we are trying to achieve with the recommendations that we have made in terms of legislative reform is that we have seen all too often that any attempt at prosecution falls over because the person who is the offender—the alleged offender—is able to argue that there was no intent. Many of the criminal offences that apply in these instances have that element of intent that must be proven.

What we are asking for is that there be a balance within the legislation about an objective standard to assess the harm and the impact, to balance out that intent in terms of how the legislation is framed so that prosecutions do not fail purely over that statement around state of mind. You are then able to establish that objective standard of behaviour or harm, which is basically what we stand for as a community and what we believe is the right thing and to have the legislation reflect that standard that we have set in terms of expectations or behaviour of everyone who lives in a particular community. Where you are able to establish that objective standard of harm—and we speak in our submission, and I am sure many others have spoken, about the compounding impact of that behaviour on a person over and above when it is about a condition that you cannot change and attacks the very heart of who you are as an individual—the compounding impact and the harm that is then imposed on that person should be reflected in the sentence that is then imposed in response to the behaviour.

Ms BOLTON: Good morning, everyone, and welcome, and good to see you again, Christine. In your written submission with regard to the reference to the types of research that has been done, there was the 2020 Scanlon Foundation's *Mapping social cohesion*. As part of trying to get a better Brisbane

understanding of what are the contributors, we have not been able to find out so far if there is any geographical data to show if there is a connection to socio-economic situations in terms of who would be more prone to be a perpetrator. Has there been any work that you know of done?

Ms Castley: No, I do not think so and I think the Scanlon Foundation work—that is one example of a piece—kind of just simply reflected people's behaviours, and this sort of behaviour can be individual. Because you have an individual who engages in extremist or hate crime type behaviour does not necessarily mean that they come from a community if they live somewhere that reflects those same views. In this instance I think the important part to remember is that it is about the behaviour of individuals, which is sometimes magnified by the community that they are in or the groups that they associate with. In terms of trying to establish data, I think we would say the really important piece is this: you generally only know about racial behaviour if someone reports it—racially motivated behaviour—and I will come back to that point that I made in my opening statement about how much of it is under-reported. Even if you tried to, say, pull out any sort of data around where is this behaviour happening, I suspect that it will not give you the full picture because a lot of it is simply not identified.

Having said that, in our submission we do talk about asking the committee to consider asking police to actually record that hate crime element in a particular incident when it happens so that that can also then feed into the process. That certainly, we think, will record where this is happening, and I think your question is a good one because if you then, based on the data that is collected, form a view that there does seem to be a prevalence of this type of behaviour in a particular area, you could ask questions about what is going on in the schools and what is going on in that community and then engage in social cohesion type initiatives or awareness-raising campaigns and those sorts of things which will be about changing the behaviour and also then, I suppose, being very clear about the standards that we expect to operate in our community.

Ms BOLTON: Thank you so much.

Ms BUSH: Christine, it is not in your submission, I do not think, but others have spoken to it—that is, restorative justice. I am curious about your professional views on that given the cohort of victims that you are dealing with and power imbalances and willingness to come forward. I am just curious to know your thoughts on that.

Ms Castley: Yes. Restorative justice can be a very powerful tool and certainly we would advocate for alternatives to criminal sanctions if that can be achieved. The only comment we would make in relation to restorative justice is that some models require that the victim be an active participant in that process and whether that is in fact appropriate. There may be some instances where for the victim, if it is created in a safe way, that can actually be effective and can be part of the healing process for that person to engage with the offender, particularly when you have young people involved. We have seen lots of good restorative justice models in the youth justice system where that has worked well, but I suppose that is the note of caution that we would add. You would have to design the process well. You would have to recognise that it is resource intensive. It will repay your efforts tenfold if you do it right and do it well, but you have to invest in it up-front. You also need to work with the communities that it is going to impact on in terms of the design of that restorative justice model, so that would be our suggestion.

CHAIR: That concludes this session. Thank you for your participation, thank you for your submissions and thank you for your attendance today.

Ms Castley: Thank you again for having us.

Mr McDONALD: Thank you. Butrus, your young people are very fortunate to have you as a great leader.

Mr Haider: I appreciate it. Thank you.

Ms BOLTON: Yes, absolutely.

MAFICO, Mr Nkosana, Member, Multicultural Queensland Advisory Council

SIVARAMAN, Mr Giri, Member, Multicultural Queensland Advisory Council

YU, Ms Vicky, Member, Multicultural Queensland Advisory Council

CHAIR: I now welcome members of the Multicultural Queensland Advisory Council. Good morning. During your evidence today please refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. I invite you to make a short opening statement, after which committee members will have some questions for you.

Mr Sivaraman: Thank you, Mr Russo, member for Toohey. I will open and then I will hand over to my colleagues. I would start by acknowledging the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. Thank you to the committee for the opportunity to be here. We at the Multicultural Queensland Advisory Council are representatives of the communities that we are part of—the diverse communities of Queensland. The council gives a voice to those communities and today is an opportunity for those voices to be heard through us, and for that we are grateful.

Racism cuts. It cuts no matter who you are, no matter what you have achieved or how successful you are—whether you are a partner of a law firm, an academic, an AFL player or successful in business—and it cuts because, no matter what you have achieved, you are made to feel so small. You are made to feel so small because you are reduced to nothing more than the colour of your skin or the country of your origin or the way in which you speak, and we are all so much more than that. We are part of communities that want to thrive, want to contribute to the enormous success that is Queensland and Australia and we want our diversity not just to be tolerated but to be celebrated, but what vilification does is it forces people into retreat, into their shells, into feeling separate from the community at large.

For those who say that they are entitled to freedom of speech, what we say is freedom of speech should not trump freedom from humiliation, and that is the line at which we draw, and protection from humiliation is so limited in the law. If any of you were to call me a curry-muncher, burnt toast, tell me to go back to where I came from—all things that I have heard in my life—I would have less recourse against you than you would against me if I called you a thief, and that is because protection against vilification is much weaker in this country and in this state than protection against defamation. Online platforms have magnified the ability to vilify. People can hide behind their screens and write things that they would never say to me or to others or to anyone else in public and incite others to do the same. One racist seeing another make a comment online gives them the perverse courage to make similar comments and before you know it there is a mob feeding on each other's hate and spewing forth racism.

But the law as it stands does nothing to penalise the platforms that publish this material. The law as it stands does nothing against a person who uses a private messaging service to cause distress or hurt through racism to another. The current law requires the Attorney-General's approval for a prosecution to be commenced against a person who engaged in serious vilification, and the current protections, to the extent that they exist, are rarely utilised. It is for that reason that we have made our submission to this inquiry for better protections for the victims of vilification. This is an opportunity to better protect those who are victimised. It is an opportunity to make people feel safe, as was so eloquently put by others before me. We know this is not the only way that habits, beliefs and practices are changed. We understand that. It obviously has to be accompanied with education, raising of cultural awareness, support of organisations like the ones that have appeared before you today before us, but what this does is it sends a strong message. This kind of change in the law sends a strong message about what we value as a society and a state. I would like to hand over to Vicky first to speak and then Nkosana will speak.

Ms Yu: Thank you, Giri. I would like to echo what Giri has said. We altogether are all Australians. I came to Australia and started my study right from year 8. It has been 20-odd years now. I am proud to call myself an Australian and I believe there are so many people out there who are proud to be an Australian. Hate crimes or the motivation for hate crimes and serious vilification splits people up and we do not want to see that. As a Chinese I am sure you all probably remember the beginning of last year when COVID had just started and at the very beginning Chinese people started to wear face masks which was completely voluntary. However, the majority of those people were being yelled at: 'You are a virus. Why are you wearing a face mask? You are the virus.' That is not good. We do not want to see that.

A lot of times serious vilification and hate crimes are a motivation. However, they will end up in personal attacks and assaults. There are examples of offences where the QPS cannot categorise an offence as a hate crime. They cannot do it; they will all end up as something else. That is also why they do not have the figures or the statistics that show how many offences are really resulting from hate crimes and vilification. That is one main reason why people would think that the police are not doing anything or are not doing enough—that is, all of these perpetrators are still out there and they have not been charged. With this reform of the legislation we really want to see that it is effective. It shows what the police can do. Put it this way: it would be a useful tool for everyone to use.

Mr Mafico: Thanks, Vicky, and thank you, Giri. Good afternoon, committee. My name is Nkosana Mafico. I was born in Zimbabwe and moved to Brisbane when I was 10 years old. The young people that I engage with from African communities are bright, they are energetic and they want to contribute to what makes Queensland so great, but unfortunately racial vilification is a significant challenge for them to overcome. And thank you very much for the warning about language; I have tailored a little bit of that now based on that. The young people that I engage with have been called 'monkeys' or 'coons' more often than they can count.

I have experienced my fair share of racial vilification. Last year when George Floyd was murdered in the US I was at a party and one of the guys at the party mentioned that his mate was in police costume and that we should take a photograph with him kneeling on my neck. This is someone I knew for over 10 years. You can imagine other people who do not have that kind of relationship saying things online or in the street.

What I think this does for young people is it results in a deep lack of belonging. You feel that you cannot embrace your African culture or identity because you are hated for that but you also feel like you cannot embrace the Australian culture and identity because you do not feel welcome—that the people saying these things identify with being Australian. At one end of the spectrum what that results in is that it can produce a range of mental health issues for young people and at the other end of the spectrum it can be a contributing factor in young people engaging in criminal activity, particularly around gangs and getting that sense of belonging in those spaces. I understand that this is a very difficult area in which to legislate. I believe the collective wisdom of the committee and I think the resources available to you can make a difference in countless people's lives.

Ms BOLTON: Mr Mafico, you spoke about when you were at a party. How much do you think what has happened in Australia's history around the types of humour, slang or joking over time has translated into something more? Afterwards you would have spoken to your friend and said how inappropriate his comment was and he might not have even realised. Do you think there is an element in this that there is a lack of understanding of years and years of having a particular way of communicating as a joke and it has now become a serious issue? I am not talking about serious crimes, but those things like the one you have just described?

Mr Mafico: I do think there is Australian humour and it has evolved. In the same sense, I do believe that we all know what is right or wrong. I believe when you are talking about someone who has been murdered and taking a photograph around that, I think people understand that.

Ms BOLTON: It is inappropriate.

Mr Mafico: I think in terms of humour like, 'They said it in the song so I am going to say this particular phrase to you,' people implicitly know what is right and what is wrong. Ignorance is not an excuse. You see it on TV now. You see it in the workplace. You know what is considered appropriate behaviour and what is considered inappropriate behaviour. I cannot link the evolution of Australian culture and humour to then people seeing it as an excuse to say these kinds of things. I think there is a clear line in modern day society, particularly around people and older generations, that this is appropriate and this is not appropriate.

Ms BOLTON: I was not referring to it as an excuse but an inappropriate filter, especially if you are coming from an environment or household that uses that type of humour.

Mr Mafico: Yes.

Ms BUSH: Giri, you probably heard the submission earlier. I am interested in your views, based on the conversations you have had with your membership, on the objective standard rather than the demonstration of intent to cause harm and the difference that that might make in people coming forward and reporting.

Mr Sivaraman: I heard that question from Mr Powell earlier. I do not think we considered it in our submission so I will not speak for the community at large. I am also a director at Multicultural Australia so I can say I support the submission. The issue is kind of linked to what Ms Bolton just said

in the sense that if you say, 'I did not mean to hurt you because I did not know that saying something like "Let me put my foot on your neck and take a photograph" might be offensive' allows people to escape culpability when what you are really trying to do here is set an objective standard. You are saying that some behaviour is simply not acceptable. It does not matter what you intended, it is not acceptable because of the impact it has. I think it is perfectly acceptable to set an objective standard if that is the aim, as is the case here.

Ms BUSH: Thank you for your submission, it was comprehensive and I found it very useful. Criminal action often does require a victim to make a complaint and to stick with that complaint for the duration and not withdraw. I am curious about your views on how that might impact on people reporting and your views potentially on whether, similar to domestic and family violence where an evidentiary threshold is met, police will run a case regardless of a victim's complaint.

Mr Sivaraman: There are probably two ways you can address that. One of the things we said in our submission is that for those who publish material on their platforms there is no recourse at the moment. You may not need a victim. If you can just point to hateful material that has been published on a site and you can prosecute for that reason alone then you do not have to rely upon someone sticking the course. The second is if you introduce some kind of summary offence as well, again you would not need a long, protracted process. I think there are probably ways to deal with that.

CHAIR: One of the issues that has come up is trying to identify the faceless people who say terrible things online whom you cannot identify. I know you mentioned in your opening statement that there is a process, but as a state parliament there are restrictions on the laws we can pass. A lot of that falls into the Commonwealth's area. Do you have any comment on what you think the state could do?

Mr Sivaraman: I have reflected on that. I understand the issue, especially when, for example, you are dealing with giant tech companies. Let us look at industrial manslaughter as an example. If you are a global company and run an operation in Queensland and because you are negligent someone dies, now in Queensland—and it has been the case for a little while—you can be prosecuted for doing that. You cannot get out of it by saying, 'Our operations are overseas. We are a national company and we operate elsewhere.' What happens here can be prosecuted here.

I appreciate that you are much more the criminal law expert than I am, Mr Russo, but, nonetheless, I do not see why it would be any different. That is, if the offence occurs in this state—irrespective of whether it occurs elsewhere—why can you not prosecute? All of those multinational platforms—Facebook et cetera—all have Australian subsidiaries. They need Australian subsidiaries to be able to operate in Australia. The federal government has legislated against them recently anyway saying that if you put up news content you must pay the original sources of that news content which is Australian content. There is precedent for penalty and enforcement against those companies.

Ms BOLTON: I do not want to rehash things, but I am trying to look at prevention more so than punishment. Within a lot of communities you do not see any racial vilification but you see enormous vilification in general. We have seen a lot of this during COVID, whether it is around vaccination or something else. There has been a lot of hate speech online, especially on social media. Do you know of any studies that have started linking the commonality as to why anybody, regardless of background, actually perpetrates this? Have there been any studies on this? COVID-19 has actually amplified this. We have seen some terrible things online that have literally been between communities and nothing to do with race. It is more based on interest. Do you have any knowledge of that?

Mr Sivaraman: I do not know of studies as to what motivates people to engage in hate speech. I do not know if the other two members have anything.

Mr Mafico: No, I have just begun research on this. I have nothing at the moment. I probably will have an answer for you in a couple of months.

Mr Sivaraman: If we could take it on notice we could at least come back to you on that.

Ms BOLTON: I would appreciate that because I think it is important in this journey.

CHAIR: Giri, we will need the answer by 17 September—that is two weeks from today. I do not know whether that is a reasonable time frame?

Mr Sivaraman: That is fine. We can have a look and if we find something we will send it to you.

CHAIR: Thank you. We are happy with that process. If you find something send it, if you do not, do not worry. That concludes this session. Thank you for your evidence and thank you for your submission.

KASSISIEH, Mr Ghassan, Legal Director, Equality Australia (via teleconference)

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

Mr Kasssieh: Thank you for opportunity to speak with you today. For those who do not know of us Equality Australia is a national LGBTIQ+ organisation that was built from the Yes campaign for marriage equality with the support of the Human Rights Law Centre. We work with and for LGBTIQ+ communities, who are among our thousands of supporters, to address discrimination and promote equality for LGBTIQ+ people. We also work closely with allies—faith based organisations, multicultural communities, women’s groups, disability organisations and employer and employee organisations—that support our mission and vision. I am addressing my comments from my particular expertise in policy and legal issues, particularly in discrimination law.

We start with the observation that everyone should be able to walk down any street and participate fully in all aspects of public life with dignity and without fear. While we know there is a growing acceptance and support for LGBTIQ+ people, unfortunately as our submission points to it is not a daily reality for many LGBTIQ+ people. The research suggests an increase in incidence of verbal abuse, harassment and threats of violence against members of our community, along with new forms of hate conduct, particularly online.

Our submission has focused on areas in which Queensland laws could be strengthened to give better expression to our collective values to protect victim-survivors of hate crimes and to ensure we all enjoy a life of dignity and safety. We have suggested things like updating definitions of sexual orientation, gender identity and sex characteristics to ensure all LGBTIQ+ people are protected, along with the inclusion of other groups such as people with disabilities. We have suggested adding a harm based protection which is modelled on the recommendations made by the Victorian parliamentary inquiry into their antivilification laws, some tidying up of other definitions and also including an aggravating sentencing factor when crimes involve prejudice so that crime which is motivated by hate can be recognised by the courts and reflect its harm in sentencing.

Finally, of course laws are not enough. Changing attitudes which lead to hateful conduct requires more than a simple law. That is why we also support and call for a broader strategy to prevent and respond to prejudiced, motivated conduct towards LGBTIQ+ people and achieve the much needed systemic and institutional change required to end hate once and for all. I would be very happy to take any questions.

Ms BOLTON: Good morning. You referred to the fact that there has been an increase in hate crimes towards the LGBTI community. I am very much about looking at prevention as well. How effective do you think the current state or Commonwealth government initiatives, programs and education are? Obviously, if it is increasing, it is not as effective as it should be. What needs to be done in that space?

Mr Kasssieh: We have not seen a comprehensive public education campaign across the country on the importance of addressing attitudes early on through inclusive education programs that address bullying against students based on various attributes, including sexual orientation and gender identity. In terms of the increase, what I am referring to is that the 2020 national Private Lives survey can be analysed against the results from the 2012 national Private Lives survey. That is really the biggest representation of LGBTI people in terms of a survey. We are looking at around 6,800 people who were surveyed.

One of the things we are seeing in that is that it is not just the increase of abuse or harassment. Things are still happening in workplaces, on the street, those sorts of areas, but we are also seeing it go online. One of the things that came out from the Victorian inquiry was looking at the idea of a positive duty, where there is not only more of a proactive emphasis on the individual being able to complain in respect of an individual instance but a more proactive and systemic look at how we create online platforms, our education system, workplaces, engagement with government services or other service providers in a way that people feel included and safe.

Ms BUSH: Your submission was really insightful, so thank you. I am particularly interested in the elements around how sexuality, gender identity and sexual characteristics are defined and the difference that makes for the communities that you represent—particularly looking at the ACT, Tasmanian and Victorian legislation and how far they have gone. Can you unpack that a bit for the committee around the benefits of defining that in the legislation?

Mr Kassisieh: Absolutely. Currently, the Queensland law recognises sexuality and a ground of gender identity which conflates a protection for trans people with potentially a protection for intersex people, but it is not very clear. What other states and territories have done is be very clear about who is protected. So they have updated definitions of sexual orientation to include gay, lesbian, bisexual and queer people. They have updated gender identity definitions to make it clear that it is also about the way that people express their gender. If you are being vilified or harassed on the basis of things you might wear or how you present yourself, regardless of your gender identity—provided it reaches, of course, the high threshold that is set by these laws—that could also be protected.

For gender identity currently, the way it is defined is in a binary way. It recognises, for example, a trans man or a trans woman but it would not necessarily recognise people who are non-binary or whose gender identity or expression does not fit squarely as either male or female. For intersex people, the benefit of a protection specifically on the grounds of sex characteristics is that it recognises that the discrimination and vilification that intersex people experience is about physical characteristics that they hold that make their bodies not conform to either medical or social norms for male and female bodies. For intersex people who may be any sexual orientation or any gender identity, who may identify themselves as heterosexual and male or female, they are being targeted against because of physical manifestations of their sex characteristics. It is really being clear about who is protected and on what basis they are protected so there is no doubt about whether someone has protection or not because they do not strictly fall within the existing defined ways that gender identity and sexual orientation are limited.

Ms BUSH: Has it been the experience interstate that the clearer definition in the legislation assists with prosecution or assists with signalling to potential victims that they can come forward? What I am trying to get to is this: is it the hope that this would expand the definition of who would be captured and who could come forward or would it assist with prosecution?

Mr Kassisieh: In some cases it would make clearer that people can come forward because they see themselves recognised in the law. So it is an important way of saying to people who have experienced this kind of hateful conduct that they are protected. In other cases, it may actually slightly expand the protection to people who do not necessarily fit the existing boxes that are defined in the law but who nonetheless experience that same attack that someone else has experienced because of the way they present their gender or express their identity.

Ms BUSH: That is really helpful.

CHAIR: I am interested in your recommendations on page 8 of your submission if I could just step through them. Recommendation 5 is about a 'harm based civil test', and I have only picked those words out. Could you expand for the committee how that would work in a situation where the person had been charged with assault, with the different standard of proof in relation to criminal offences?

Mr Kassisieh: Sure. I will address it in an example that shows the difference between the harm based test and what we currently have in the law. I will use this example of vandalism on a fence. Say someone vandalises the side of your property with an anti-gay slur or an anti-trans slur. Currently, the law on vilification says this: would the hypothetical audience out there in the community who saw that message be incited to hate the person or the group of people who are referred to in that message? It looks at the conduct and asks whether the hypothetical audience out there feel incited to hate the group of people represented.

What a harm based test would say is this: 'This is your fence and you have been insulted in the way that your fence has been vandalised with the anti-gay or anti-trans things on your fence.' It looks to how you have been affected as being the victim of that message, not the hypothetical audience that might join in condemning you. It is actually, 'How has it impacted on you?' A harm based test says, if you have been seriously intimidated, if you have been humiliated, if you have had profound and serious effects on your dignity or your sense of safety, those things matter as well. The law says, when you cause that kind of harm to someone else, the person who has experienced those harms can find protections in the law. We are not just looking at what the hypothetical audience out there makes of the message but actually what has been done to this person directly.

CHAIR: Recommendation 6 says to 'provide the Queensland Human Rights Commission with powers to launch civil proceedings'. Could you unpack that for the committee, please?

Mr Kassisieh: I think one of the big issues we have is the burden is currently placed on the individual who has experienced the conduct to initiate their own complaint, to take that through. You can imagine for someone who has experienced that kind of conduct there are lots of reasons why they might not want to complain about it. One of the most obvious is you are worried about it continuing or you are worried about being victimised. It is giving a regulator like the Human Rights Commission the

ability to look at systemic issues, to look at where this conduct is happening and to strategically think about responding in a community response. For example, if it is happening on a particular website or a platform, the commission might look to grouping together all of these different instances and, rather than requiring every single one of those people to complain separately, deal with it in a more systemic way by saying to that website operator, 'Can you please provide us details of the people who engaged in this conduct.' You could give them powers to ask for information. You could then give them powers to identify the people who have been responsible.

One of the big issues with online instances of vilification is you do not necessarily know who is behind it. It would give that kind of ability to a regulator—in the way that we do for safe work issues or employment issues. There is someone who has an oversight to the broader systemic issues who can respond in a more strategic and systemic way that does not just rely on an individual to make a complaint where they may be afraid to do that because of the consequences for themselves personally of coming forward.

Ms BUSH: Following up on the chair's question, whilst I recognise that we have precedent for that in other jurisdictions, are you aware of the model you have just talked about operating in this area interstate or internationally that you could point us towards?

Mr Kassisieh: Victoria had a series of provisions around serious and systemic conduct for a period, which was repealed, but the Victorian government has just recently, from my memory, agreed at least in principle to reinstating those kinds of systemic powers. They have also done it recently in respect of conversion practices; so practices aimed at changing or suppressing someone's sexual orientation and gender identity. Again it is recognising that victims might be afraid of coming forward and that you might need, in those serious and systemic cases, the ability for someone to do the investigative work to identify who has been responsible and what should be an appropriate response to that. The Victorian example is the only one off the top of my head.

Otherwise, you might be able to look to, say, the Safework system (so what was known as OH&S laws) that apply in those sorts of commissions. Certainly if you look to the corporate sector, the financial regulators have those kinds of powers in respect of corporate conduct. The equivalents of the ASICs, the AHPRA's and those sorts of organisations have more systemic powers of investigation and inquiry.

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

Mr Kassisieh: Thank you very much for the opportunity.

CORKHILL, Ms Heather, Member, Steering Committee, Rainbow Families Queensland

KANAPI, Mr Trevor, Member, Steering Committee, Rainbow Families Queensland

CHAIR: Welcome. We ask that during your evidence today you please refrain from using any unparliamentary language—and can I just say that I am not telling you this because I expect that it would happen—such as swearing or offensive terms, even if you are quoting someone else. We thank you for your cooperation in this place. If you would like, you can make a short opening statement, after which the committee will have some questions for you.

Ms Corkhill: We are both going to deliver an opening statement. Before we start, I want to disclose that I work for the Queensland Human Rights Commission but my views today are my own and are representing Rainbow Families only and not the commission.

Mr Kanapi: I thank the committee for allowing Rainbow Families to come today. First, I acknowledge the Aboriginal and Torres Strait Islander families as the traditional owners and custodians of the land that we are on today and may respects to elders past, present and emerging. With the indulgence of the committee, I also acknowledge our children and families. We have Mason, Jali, Taran and Violet here today so we certainly agree and support your comments around appropriate language.

Rainbow Families Queensland advocates on behalf of LGBTI+Q parents, carers and prospective parents and their children right across Queensland, including regional areas. Rainbow Families Queensland runs social groups, events, fertility information sessions, advocates and law reform issues, as well as providing a really positive connection with other rainbow families and supporting those families.

The LGBTI+Q community's mental health is in crisis with substantially worse mental health outcomes overall, demonstrated through the research and provided in our submission, particularly amongst our trans, gender-diverse and intersex community members. Like many marginalised communities, a major contributing factor to our poor mental health is the impact of stigma, discrimination and vilification. I want to reiterate that our organisation is coming from really true lived experiences of that. The impacts on our families or for anyone who experiences this is not okay, but particularly when it is with families or our children who experience it through no fault of their own, it goes to another level. Like all parents, we worry about our children but our worries are different from most families.

I also want to mention the intersectionality of our organisation and our community. We are an inclusive organisation. We have families from First Nations, people with disability, different religious beliefs and culturally and linguistically diverse people. At a minimum, it is acknowledging that hate speech can often be compounded by multiple factors within our communities.

Our worries are different, as I mentioned, from most families. Through no fault of our own, our children often have to learn about homophobia and transphobia too early in life and we have to take on the responsibility of building that resilience. Many of our families feel that public places are not safe places and that can often lead to social isolation. That hypervigilance has an impact on our community and it can often make us feel worse.

Ms Corkhill: At this stage there has been a significant field of research that says that our children in rainbow families are actually doing as well as if not better than children in other families. However, a 2014 study found that experiences of stigma related to being in a same-sex parented family, which can include bullying and social isolation, can be a risk factor for the wellbeing of children.

Rainbow Families Queensland collaborated with the Queensland Council for LGBTI Health to work on a community survey in relation to this process. Our community has indicated that 68 per cent had personally experienced vilification within the last five years and over 90 per cent believed that it happened to the LGBTI community as a whole. Hate speech, as Ghassan mentioned in the previous session, seems to be getting worse, evidenced by that Private Lives study. We have even observed this since the passing of marriage equality, with social media and the 24-hour news cycle providing a new platform for vilification like we have never seen before.

I want to touch on the period of the postal survey, which was really a perfect example of this where our capacity to safely and competently parent or children was subject to significant public debate for months. In some of the worst cases, we were called child abusers and paedophiles in vilifying pamphlets, posters, online and in the media.

In terms of what we feel needs to change, definitely I want to support the words of Ghassan from the previous session on the importance of updating definitions in a way that actually reflects our communities and ensuring that they are flexible enough so that when there are changes we do not wait 30 years for these definitions to be updated.

While this inquiry is mostly focused on serious vilification provisions, which of course is important, due consideration should be given to improving the civil vilification provisions in section 124A, simply because some parts of our community are fearful and distrustful of police, which contributes to low rates of reporting. Our communities may in fact be more likely to make complaints through the Queensland Human Rights Commission and this important avenue should not be forgotten through the inquiry process.

Again, I agree with Equality Australia that the harm-based approach recommended by the Victorian parliamentary committee, which reframes that test to prioritise the impact on marginalised communities and social cohesion as a whole instead of looking at the response of a third party to the treatment, is a really important reframe that could happen. We also recommend that the meaning of 'public' is amended to ensure that it clearly extends to schools and workplaces because in the community survey and certainly in some of our own experiences this is where some of the most significant impact in people's lives actually happens. It can be bad enough, of course, for a one-off incident on the street, but one can move past that a lot quicker than if it is an ongoing course of conduct in our schools or in our workplaces.

We also strongly support the need for an injunction, somewhat like a peace and good behaviour order designed to quickly stop vilification. This is particularly important in close living environments where neighbours are the source of the vilifying speech because going to the police may in fact aggravate the situation and so could even going to the Human Rights Commission. Sometimes you need a quick response to something like that.

Legislative approaches, of course, must be complemented with education for the community, for police and for schools. We ask that Queensland create meaningful reforms that send a strong message that hate speech will not be tolerated and that our families and, most importantly, our children deserve safety, respect and dignity. Thank you.

Mr POWELL: A lot of the conversation we have been having today has been around the poor behaviour of adults and serious vilification, hate speech and hate crimes where—not to lessen it—they really should know better and therefore they are welcoming penalty and offence. You both raise, though, how your children are being exposed to this at a very early age. Heather, you talked about the influence in schools. I hope I am not putting your words in your mouth, but you are not suggesting in any way we start prosecuting kids who are behaving poorly.

Ms Corkhill: No.

Mr POWELL: I am interested in how we would break down some of those behaviours in the schools or the bullying of your children. I am open to your suggestions and ideas.

Ms Corkhill: I think one thing would be to start to recognise and actually acknowledge the problem clearly. I know that the Queensland government uses the federal Bullying. No Way! program, which I am sure is excellent in many situations but it is very neutrally focused. It does not necessarily strongly recognise that particular marginalised communities may have a different experience of bullying. Specific education that is around homophobic and transphobic bullying and their impacts for school staff and students is absolutely critical, we believe, and I think also not being scared to start it too young. I understand that children in high school might have things like Wear it Purple Day and events and things where LGBTIQ+ people are celebrated, but often there is that fear of having those conversations with the younger kids. Certainly I have heard in primary schools things like, 'That is so gay'. It is certainly something that is very prevalent still and is not necessarily being addressed in a very systemic way. Particular schools are doing things really well. Sometimes it is beholden on us as parents as well to raise issues and actually get it moving whereas it does not seem to come necessarily from the school or at a systemic level.

Mr Kanapi: As Heather said, looking at the educational side with no bullying but also celebrating the diversity of families within that and recognising that.

Ms BOLTON: Further on from there and your comments about the different experiences of bullying within the education system, and maybe I am looking at this from a naive viewpoint, but if our children are all growing up understanding about acceptance, compassion, inclusion, what is appropriate and what is not—with those values and standards—instead of being specific as in vilification against race or vilification because of choice of partner, if we start differentiating are we not creating further differentiation, in a way?

Ms Corkhill: I think that those approaches such as to racism of a colour-blind approach have been known to fail. If you say we just have to treat everyone equally and you say that over and over again to kids—and I think that is still happening in schools because it is the messages that certainly I

am hearing back—that is just not enough. We have to recognise that, in fact, people are different and that has to be celebrated. As soon as we simply talk in general terms about compassion, understanding and acceptance, it does not seem to be very effective. I do not have the research in front of me but I think there is a field of research looking at what is more effective when it comes to breaking down stigma and discrimination.

Ms BOLTON: In that research, and I have asked this question before, are you aware of any that actually finds common denominators—as in, talking about as children grow to be adults? Is it based on fear or socioeconomic concerns? Is there any commonality or research that you have seen that actually turns someone into a perpetrator?

Ms Corkhill: I think I would have to take that on notice. It is not my area of expertise.

Ms BOLTON: That is fine, thank you.

Ms BUSH: Thank you for attending and for your submission, which again is very comprehensive and really useful. At risk of showing my ignorance, I am curious about the pronunciation of—and I notice Equality Australia had it also—Yogyakarta. Can you explain that to me?

Ms Corkhill: That was the meeting in Yogyakarta, Indonesia. That was the place where internationally renowned experts in LGBTI met and came up with some definitions. I believe it would be well placed for the government to frame it around those internationally recognised definitions of sexuality, gender identity and sex characteristics.

Ms BUSH: Yes, and they are the definitions that were picked up, I noticed, in another jurisdiction in Australia; is that correct?

Ms Corkhill: It has been picked up in the Health Legislation Amendment Bill when it was amended for conversion therapy. They have picked up 'sexuality' and 'gender identity' from those definitions, so it would actually create more consistency to have the same definitions across all legislation.

Ms BUSH: Great. With regard to the peace and good behaviour injunctions that you have mentioned, I am curious again if that is something that has been raised by your membership and whether that would help with the barriers, because I do recognise the barriers in reporting. Would that be helpful or would there still be barriers in reporting that over-the-fence kind of dispute, do you think?

Ms Corkhill: It is just an extra thing that we would have up our sleeve. I think it really depends. We are not one homogenous community; we have all different levels of capacity, education and disadvantage that we experience, so it is hard to say across-the-board. What I have certainly heard about is those terrible situations where you may have transphobic or homophobic neighbours and you cannot escape that situation without perhaps moving and uprooting your family. If that is happening to you, sometimes the police responses have not necessarily been particularly effective because it may not necessarily be unlawful. I do not know if those matters are suitable for conciliation through the Human Rights Commission either, so it seems like an additional option that might be worth looking at.

Ms BOLTON: Do you believe that restorative justice has a role going forward within all of these efforts in terms of engendering that greater understanding?

Ms Corkhill: I think it really depends on the degree of severity and then the individual people involved. Where we are talking about the extreme end of the scale where it involves violence or ongoing abuse, probably not. I think that the Human Rights Commission's conciliation process is a bit like that restorative process already, so I am not sure whether you are talking perhaps within that criminal space. I am not sure whether that is going to be effective, so I do not know.

Ms BOLTON: No, it was more in relation to when we were talking earlier about those minor offences, not violence. It was more the verbals.

Ms Corkhill: Yes, sure. I would have to think about what would be added to the already existing conciliation framework, because if there are parties that are willing to come together and talk about it there is an avenue already within expert fields to do that work. I am just not sure whether it would really bring much in terms of putting resources where they are most needed I think.

Ms BOLTON: Thank you.

Ms BUSH: Heather, in relation to children's experiences at school and the bullying and the 'no way' comment that you were making—and this is something you might be able to take on notice; I am not sure—we always hear about where it fails. I am sure the committee would be interested if you are aware of a school that does have a good practice in this regard. It would be interesting to know what are the elements of that that make it a responsive, good practice school. You might not be able to answer me today but that is perhaps something to think about.

Ms Corkhill: Sure. I probably could give just a shout-out to Miss Carlott at Seven Hills State School because she has just been incredibly supportive in the first year; my daughter is at prep. There were some things being said about our family being weird or different or whatever and coming up to Father's Day she has just done so much with the kids. We have been providing books that she can read. She is doing a lot of activities around different kinds of families and what that may look like. I just think if you have the right teachers and principal dedicated to it, they will just do a great job. It is just about replicating Miss Carlott's approach everywhere.

Mr Kanapi: I also want to give a shout-out. My son Mason is at a Catholic school in South Brisbane, St Sebastian's in Yeronga, and, yes, there were cases where children were told not to play with him because he has two dads and that is not their belief from other parents. The school was fantastic. That came up when the teacher was talking about particularly Mother's Day and around the diversity of families. She brought that into the classroom and had an open discussion with children and said they are all different—some have one parent, some have two and all manifestations in terms of the inclusivity and diversity of families. It was also reinforced right though, as Heather said, with the principal in terms of that support for excluding another child from playing is not okay and that does not happen in this classroom. In terms of beliefs outside of that, that is up to individuals. However, it was reinforced right through that school and also with the children and there was that sort of celebration of different families.

Ms BUSH: Yes, engaging in a conversation. Thank you.

CHAIR: That brings to a conclusion this session. With regard to the question, Heather, that you took on notice, are you able to supply the information to the secretariat by 17 September? We work on the basis that if you find something send it; if you do not just let the secretariat know.

Ms Corkhill: Sure.

CHAIR: Thank you for your written submissions and thank you for coming along today. I hope you have a good rest of the day.

Mr Kanapi: You too. Thank you very much.

Ms Corkhill: Thank you.

CHAIR: We are now going to take a break until 1.50. I just want to indicate that the LGBTI Legal Service that was to address us today unfortunately are unable to be with us today. However, the secretariat will reach out to see if there is another more suitable time when they can address the committee.

Proceedings suspended from 12.50 pm to 1.52 pm.

BURKE, Ms Libby, Chair, Public Affairs, Queensland Jewish Board of Deputies Inc.

POSNER, Mr Howard, Member, Public Affairs Subcommittee, Queensland Jewish Board of Deputies Inc.

STEINBERG, Mr Jason, Vice-President, Queensland Jewish Board of Deputies Inc.

CHAIR: Good afternoon. During your evidence—and I do not expect that you would do this—can you please refrain from using unparliamentary language such as swearing and offensive terms because these hearings are the same as parliament. I invite each of you or one of you to make an opening statement, whatever you are comfortable with, and then after that we will open up for the committee to ask some questions.

Mr Steinberg: I will give an opening statement and then hand back to you. Thank you for inviting us to be here today to share our views on the nature of hate crime and vilification in Queensland. I would like to start by acknowledging the traditional owners of where we are today, the Yuggera and Turrbal peoples and pay our respects to their elders past, present and emerging.

Reform of section 131A of the Anti-Discrimination Act in Queensland is required. Our submission to you highlights that the current laws do not contain strong enough penalties to deter racists and they do not provide the Queensland police, who do an absolutely amazing job supporting our community, with clear enough pathways to address hate crime. The Western Australian legislation provides a good basis for you to consider us following.

By way of history, the Jewish community started in Queensland in 1865, and we have been active members of all parts of society since that day. But hatred, racism and bigotry against Jews, also known as anti-Semitism, is not new. It is a prejudice spanning approximately 3,000 years, which began with the ancient Greeks, perpetrated then by religious extremism and eclipsed by the Nazis in Germany 83 years ago. While anti-Semitism lay dormant after the horrors of the holocaust, it is now back with a vengeance across the globe and right here in Queensland.

Today, most Jewish people in Queensland have experienced anti-Semitism throughout their life and half of those experiences have been abuse and harassment. Only six days ago a member of our community was walking with his young son to the Brisbane Synagogue. He was abused by someone shouting 'Heil Hitler' and giving him the Nazi salute. When approached, the perpetrator attacked and punched the Jewish man simply because he was identified as Jewish—he was wearing a skullcap or a yarmulke. It is an ongoing investigation, but it will be difficult for the police to prosecute this as a hate crime.

Our submission also contains details of right wing extremist groups like the National Socialist Movement, which was the focus of the recent Channel 9 *60 Minutes* report. This group has been active in Queensland targeting our community and peddling their hate with impunity. Similarly, our submission contains information about Mr Raymond Foster of Ipswich, who expressed his vile, racist and anti-Semitic views on multiple social media platforms. While he has been charged under the Commonwealth Criminal Code he has been unable to be charged under Queensland law. I also note that yesterday in the Victorian parliament a similar committee to yours announced that it will be banning Nazi symbols. This was in our submission to you as well, and we commend that to you.

This inquiry is a chance for Queensland parliament to say that acts of hatred against Jews and other vulnerable communities will not be tolerated. All fair-minded Queenslanders will reject and condemn hate crime. Our community, along with other communities, have the right to live without fear and to be safe. Thank you, Mr Chair and committee, for your consideration and we are happy to discuss and answer any questions.

Mr POWELL: Thank you very much for your written submission and for appearing before the committee today. You gave one of the more comprehensive lists of recommendations that we have received in writing and very explicit legislative changes. Did you want to speak to those at all or are you happy for them to stand as they are in your submission?

Mr Steinberg: We are happy to speak to them. I might ask Howard Posner to give an overview of those recommendations.

Mr Posner: The key to our suggestions around legislative changes are, in effect, to largely copy the Western Australian version. For us, the two most important things are these. The first is to remove the word 'serious'. I know that that is somewhat contentious. The difficulty—if you talk about education, messages are more important in education than official classroom education—is that the message at Brisbane

the moment on the Queensland legislation is that serious racial vilification is not okay but racial vilification is kind of a case of boys will be boys, and that is what is wrong, in our view. Racial vilification should be an offence in itself.

Having said that, you need to go the Western Australian way, in our view, because you need to split things done with intent, which is very nasty, and things done unthinkingly and stupidly. You have a lesser and a greater view. If you do something with intent to be racially vile it is a different sort of offence than if you do something that is liable to do that, but you either did not think at all or you thought it was a joke or something like that. We have pretty much copied the Western Australian legislation. That is the basis for why we are saying it. From our point of view, the most important thing is that racial vilification is racial vilification. Lose the 'serious' and split it up so you have the unthinking crime—where you want to send a message to people—and the deliberate hatred.

I should mention—and I apologise for doing so—at this stage I was going to seek leave of the committee to tender a slight alteration to the three clauses. They make no difference at all to the meaning or the penalties. It is simply that we wrote them in terms of 'Thou shalt not'. From a drafting point of view, they need to be written in terms of 'If you do this and that, it is a crime.' It makes no difference to the meaning, but it is better drafted that way.

Mr POWELL: I am happy to move that we receive that amended submission, Chair.

Mr Posner: There is one for each committee member.

Mr POWELL: Howard, please do not interpret this in any way as justifying these kinds of crime, but I am interested to know, particularly with the Western Australian legislation, how it interplays with our freedoms of speech and if there is anything we need to be cognisant of to ensure people still have the right to express themselves but just not in this kind of way.

Mr Posner: Yes. To some degree that is the key argument around all racial vilification legislation: where do you draw the line between freedom of speech and racial vilification? Our view is that racial vilification is racial vilification. The short answer is that it does impinge on freedom of speech. There is no point in pretending. If you pass racial vilification legislation, you are in fact stopping people saying things. If you pass legislation stopping Nazi symbols, you are impinging on freedom of speech, because some might want to put a Nazi symbol up. Unfortunately, there is always a trade-off.

We are not suggesting that stupidity alone is enough. It has to be proved to be racially vilifying. Once it is proved to be racially vilifying, our submission is that that ought to be non-acceptable behaviour. It does not have to be 14 years imprisonment which is why we split it into the unthinking behaviour. From the education point of view, the message needs to be: this is unacceptable.

To use an analogy, if you go back 20 years, slapping a girl on the bottom a few times was not really considered—'Boys will be boys. It's all right.' Now it is not. It is sexual assault, which it always was. Society's view then was 'It's not that serious. Live with it'—and it was wrong. We are suggesting that the idea that it is all right to racially vilify a Sudanese person or a Jew because they are Sudanese or Jewish is not acceptable.

Yes, legislation will impinge on freedom of speech but only in the limited way that you have to first prove it is racially vilifying. If it is racially vilifying, you should not do it. Then you have a series of penalties based on whether you were just stupid or really meant it. The short answer to your question is: it is silly to pretend it does not impinge on freedom of speech, but so be it to some degree. I am not suggesting to close everything down.

CHAIR: Howard, I appreciate that your submissions are in relation to Anti-Discrimination Act.

Mr Posner: Yes.

CHAIR: Is there also room to have amendments to the Penalties and Sentences Act, for example?

Mr Posner: Yes, of course there is. That is the alternative way to go which the community coalition said is a circumstance of aggravation. The problem with circumstance of aggravation is that if you make a circumstance of aggravation to public nuisance, which is where most of these things sit, I dread to think of the reception of the magistracy with having to sort out circumstances of aggravation to public nuisance in a Magistrates Court. It is the lowest level offence. It is the catch-all: you have not done anything wrong but you are a nuisance. If you add a circumstance of aggravation to things like the simplest level of assault without any actual violence or public nuisance, I think you create a legal nightmare in the courts.

CHAIR: You do not need to agree with me, but couldn't you have a provision in the Penalties and Sentences Act that does not relate to public nuisance? You are right: public nuisance is at the low end. For example, if someone committed an assault and the assault was racially motivated, couldn't you have a section in the Penalties and Sentences Act that deals with more serious offences—an offence that carries two years or more? That brings it into—

Mr Posner: Yes, you can lift it up. Yes and it would be a very good idea. The difficulty with going that route—in addition to 131—

CHAIR: This is in addition—

Mr Posner: I understand that. It is separate, yes. There is no problem in doing that, but the experience both here and overseas is that it is very hard to prove racial intent. That is the reason that current 131 has been so rarely used. Yes, if it is a Foster who stands up and says, 'I did it and I wanted to and bring it on'—

CHAIR: And I was motivated by—

Mr Posner: Then it is easy, but that is very unusual. The moment they get in the hands of a defence lawyer they simply say, 'He wasn't thinking.' In practical terms, it is a great idea and I am all for it, but they tend to never get used because it is almost impossible to use racial intent unless the person is publicly advertising that they are doing it.

CHAIR: Or they actually use words. In relation to a stand-alone offence in the code for wilful damage—it is graffiti based but it has racial tones. I cannot remember off the top of my head. You have wilful damage in the code. You could have another—

Mr Posner: Yes. That (a) is practical and (b) would work because the test for whether the graffiti is racially vilifying is an objective rather than a subjective test which is incomparably easier to sheet home. If it is graffiti and if the graffiti is racially vilifying then you do not have to go into the motives of the person doing it. That is easy. It is an easy circumstance of aggravation and probably would be used. Yes, we would be in favour of it.

CHAIR: Is there anything else, Howard?

Mr Posner: No, there is nothing else. I could talk for an hour but no.

CHAIR: What I am trying to say, Howard, I am not—

Mr Posner: I do understand. They stand separately. They both could run or either could run. Our view is still splitting 131A so that you can charge people with things that happen rather than having to prove they meant it is important.

CHAIR: I understand that.

Mr POWELL: Can I make an apology to Libby and Jason. This is good for us in that we have heard a lot of input around why it is important that we change it. This is the most tangible example of how we could change it. We are just trying to unpack that a bit. Apologies that we are directing all our questions at Howard.

CHAIR: Sorry, I should probably declare that Howard and I do know each other.

Mr Posner: We go back a long way.

Mr HUNT: I had two questions but now I will try to morph them into one to get past the chair. One of the submitters from Townsville talked about when the Shoah was taught in school it actually incited and encouraged racist ramifications for her daughter. Is that common? Do you have an idea about how to get around something like that? I found that to be quite disturbing.

Also, with reference to the banning of Nazi symbols, some of them are quite obvious—the SS Siegrunes and the Totenkopf symbols—those sorts of things. The swastika itself I think should go down that same road. Are there ideas about how you build protections around other faiths that use it in a different context? It is a double-barrel question. I do apologise, but I was trying to get around the chair.

Mr Steinberg: I might answer the second question and then ask Libby to talk more about the Shoah implications in a teaching setting. I think the banning of hate symbols is in that exact way. You need to ban it used in a hate context, which means that if it is used in education or from a religious standpoint in the Sikh community that should not trigger any law against it. It is used for hate: that is the way it would be dealt with. Libby, from an education perspective—

Ms Burke: You are asking whether teaching of the Shoah has an adverse effect on students?

Mr HUNT: I was horrified that it had had that impact on this student. Is that common and is there a way of surmounting that?

Ms Burke: From our experience, that is not the case at all. In fact, there are programs like Courage to Care that show just the opposite, that show that when a program on tolerance and standing up to bullying and hatred is implemented at a school level students come away with greater tolerance and acceptance. Our experience is the total opposite of the Townsville submission.

Mr HUNT: That is reassuring.

Ms BOLTON: Earlier we heard about the impacts of social media and the headlines of increasing hate crimes and vilification. Have there been any other from what you have experienced within the societal norms that have contributed to this increase?

Mr Steinberg: We have been tracking anti-Semitic incidents since the board of deputies began in the 1940s. Also at a national level those statistics are collected by the Executive Council of Australian Jewry. The number of anti-Semitic comments on social media is literally through the roof. It is impacting on our communal members because they will put up a post about something and it will get hammered by trolls. That does not make our community feel welcomed or our community members feel safe. I think it is a real challenge not just for Queensland but nationally as well for us to be able to deal with that in a way that stops people peddling hate online.

Ms Burke: We did a survey and 30 per cent of Jewish people in Queensland have experienced online hatred.

CHAIR: That concludes this session. Thank you for your comprehensive submissions. Thank you for providing those amendments, as suggested, to the Anti-Discrimination Act. It was very helpful to the committee.

JABRI-MARKWELL, Ms Rita, Legal Adviser, Australian Muslim Advocacy Group

CHAIR: Welcome. Rita, I do not know if you were here earlier, but because these proceedings are similar to parliamentary proceedings we ask that you do not use unparliamentary language. I doubt whether you would swear or use any offensive terms. Prevention is a lot easier than the cure in this case. It would mean that we would have problems with the recordings. You have the floor. You may commence with an opening statement, which would be very welcome. Then we will have some questions for you.

Ms Jabri-Markwell: Thank you for your dedication to this very important cause. I am a legal adviser with the Australian Muslim Advocacy Network, which works to push back against any infringements on the human rights of Australian Muslims. We made a submission in partnership with the Islamic Council of Queensland. Unfortunately, they are not present today but I am speaking on their behalf as well.

I would like to focus my comments on the legal problem-solving, I suppose. I can quickly speak to the problem that our community is facing, just for the record. It is in our submission. The worst sufferers in our community are women in hijab in terms of the street harassment in public places, shopping centres, public transport, just going about their lives, the ridicule, the contempt, the name-calling, the swearing, the abuse, the threats. It is quite known in our community that as soon as a young girl puts on a hijab she will be expecting to receive public abuse within 12 months. Almost every woman in hijab has received public abuse.

We have a survey by Dr Derya Iner which was published in March this year. It looked at data from over five years between 2014 and 2019. It was a survey of mosques around Australia. It found that 58 per cent of those surveyed mosques had experienced targeted violence in that five-year period. Much of this does not reach the media headlines. A lot of mosques prefer to not publicise it out of fear of making themselves more of a victim. The same applies for women who are targeted. The very common response is to not want to report it to police or report it to anywhere. One of the biggest reasons for not reporting to police is a sense that it is not worth it, in terms of it will not deliver justice, it will not deliver healing and it will probably be a drawn-out process that will deliver nothing. There have been a number of experiences where people have reported to the police and have been told to go home or just to ignore it. That has really fed into the community narrative that the justice system and society is not there to support us or back us as a community. As you know, that has a huge amount of knock-on effects for social inclusion.

It is really important to us to achieve a package through this process that can inspire community confidence. One of our greatest fears is that the Queensland government will walk away with choosing one or two measures which puts something on the books but does not actually deliver justice in more instances of harm. One of our concerns with the Western Australian model is that it has been used extremely rarely. We know that deterrents mean having a good example made out at least a few times, but if justice is only being delivered in a very, very small fraction of cases this will have a very negative effect on community confidence. That is why the community coalition law working group went down the path of opting for something that builds on existing laws and laws that police are very familiar with.

In relation to the Western Australian legislation, I would also like to mention that, apart from the fact that we do not know if it would be used enough, the other concern was that Queensland drafting principles may not support strict liability offences in Queensland because of the issues to do with encouraging criminal laws to have an intent component. However, we understand the problem that was raised by my colleagues right now about the fact that proving motive is extraordinarily difficult and that we do not want to burden the prosecution by adding another component of intent. This is what we have seen throughout the world—that is, prosecutions can be very low when there is that motive requirement for showing hostility or hatred, proving beyond a reasonable doubt that that person hated that victim's group.

We have proposed that the circumstance of aggravation be added to existing criminal offences where the legislature has already decided on the intent and actus reus components of those crimes. We are not proposing a crime that does not have an intent part. All of these crimes—whether it is wilful property damage or assault—have intent parts to them, with the exception of public nuisance, which does not have an intent part. We have proposed that, instead of trying to add to the motive, the test should be a harm based test. It is drawn from discussion that was had in the Victorian parliamentary inquiry context. This is where I think the world is now moving in the hate crime space—to understand that the greatest measure you can take is whether it caused a reasonable fear amongst the victim and the victim group—which is really important, the broader community—for their security of person or their

security of property. That is an objective test. If you can ask that to be applied—and I have to disagree with my colleagues, because I think that can be applied by a magistrate on a public nuisance charge—that would help us to identify where there has been a hate element.

There is a second limb to our test, which is also based in existing law—that is, that there be prima facie, on the face of the conduct, some element of expressing hatred, inciting hatred or discriminating against someone. Our submission goes through a number of different scenarios from different communities that were put through to the coalition—from different types of assaults, to deprivation of liberty, a range of different criminal scenarios. We look at what kind of threshold would pick up and recognise this as a hate crime. That is why we proposed a limb that covers inciting hatred, discriminatory or expressing hatred because it covers a broad range.

An example is if someone assaults a Chinese person because they have brought coronavirus to Australia. If they have said during the course of assaulting that person, ‘You’ve brought coronavirus to Australia,’ and they are physically assaulting them, then that may not be enough to prove hatred. It may not be enough to prove expressing hatred or inciting hatred, but discrimination, which is a harm recognised by Queensland law, could be substantiated in that case. You would have that plus an objective test about the harm that is caused to the community in terms of the reasonable fear that it causes in the community. We think that would be a sound basis to establish a hate crime.

We had 28 recommendations. We have thought about everything in an incredible amount of detail. The coalition was an amazing vehicle for bringing together so many different points of view. On top of that, we had an excellent discussion with Queensland police where we were able to test a number of our ideas and that was incredibly helpful. I am very happy to answer any questions.

Mr POWELL: I had one but you just so eloquently answered it. It was the difference between the submission we just heard about why they have gone down the Western Australian legislation and what you are proposing. You have answered that brilliantly.

Ms Jabri-Markwell: Thank you. Just to add, the Jewish community is very concerned about the penalty size, and I understand that. In terms of our submission and a number of the coalition submissions, you might see a reference to effectiveness principles that we think should be applied by your committee in trying to work out whether you have come up with a good package of recommendations. One of those principles is about immediate and sustained safety for the victim and also deterrents, and more application of the law in more instances of harm. You can start to see the things that you are balancing here. While we understand the need to have strong deterrents and to have a big penalty, we also want justice in more cases because it really lets the community down when they are brushed off and told, ‘It’s nothing. Go home.’

CHAIR: If this was a two pronged approach—in relation to taking on board the things in your recommendations and then taking on board the amendments to the Anti-Discrimination Act—would that go a long way to not fixing the problem but making the public more aware that this behaviour is not acceptable?

Ms Jabri-Markwell: In our submission we did recommend moving section 131A to the Criminal Code and removing some of the barriers that exist at the moment. Is that what you are saying?

CHAIR: Yes. One of the things that has come up in other evidence—and I cannot remember who said this—is that there could be a vehicle whereby the Human Rights Commissioner could bring an action against—

Ms Jabri-Markwell: Yes, I agree with that.

CHAIR: It would be a bit like Workplace Health and Safety bringing an action. If there were amendments like the Western Australian legislation put into the Anti-Discrimination Act, do you believe that would be workable?

Ms Jabri-Markwell: The Western Australian legislation is in the Criminal Code. What you might be thinking about are the parts that are to do with criminalising hatred which goes a bit further. The Western Australian law goes further than what we have in Queensland because at the moment we only criminalise incitement of violence under section 131A. We have suggested in our recommendations that section 131A be moved to the Criminal Code but we have also suggested that you might want to look at adding an extra limb to it that is about, again, reasonable fear to security of person or security of property. That might help to pick up some of those examples where there has not been direct incitement of violence or harm but where it has still been very endangering to a community.

In our submission we talk a lot about disinformation online, which is a major problem for the Muslim community. We are most often dehumanised online through information campaigns that try to portray all Muslims as acting as some kind of homogenous and hostile mass. We cannot do anything

really about those campaigns except make a vilification complaint under our current existing civil laws. We made a complaint against Fraser Anning. The Australian Muslim Advocacy Network made that complaint which was the first successful complaint against a politician in Australia.

CHAIR: I understand that you were the lawyer who did that.

Ms Jabri-Markwell: Yes. There were 141 hate artefacts that were found to vilify us. The problem with the outcome and the problem with the process is that we had to spend 18 months documenting hatred against our own community for an outcome which is not very sustainable. Facebook have decided to delete the 80 posts that vilified us but they will not disband his accounts. Someone who has been found to systematically violate Australian law 80 times is still being supported by Facebook because he has not been found to violate their policies. That to me is wrong because the Australian law should trump Facebook policy.

We do not have any follow-up there except to keep bringing another legal action and another legal action. That is completely psychologically toxic, exhausting and damaging to us as a community. We need our regulators to be able to step in and help, and that is why I support some of the ideas—and we talk about this in our recommendations—that have been put forward by Matilda Alexander, who you might hear from in some future hearings, about these other commissions in Australia that have more far-reaching powers. It is about whether there could be a public advocate who can take some of these actions rather than leaving it to community to fight a public harm.

CHAIR: The Human Rights Commission could be that advocate?

Ms Jabri-Markwell: It could, and we very much support that idea and we think it is very much needed because the reality is that with white nationalism and what we are seeing at the moment online we cannot fight that battle. We cannot fight that public harm ourselves.

Ms BUSH: Switching gears and looking at police responses, particularly around your recommendations to improving the systems within police, hate scrutiny panels and the cataloguing of particular crimes as having a hate crime component, you have met with police. I am interested in whether they and you think that is workable for Queensland.

Ms Jabri-Markwell: Yes, they did. They were positive. They said as long as it is expressed as an education and an improvement tool as opposed to, 'We're here to slap you on the wrist and publicly humiliate you,' and we made it very clear that that is not how it works in the UK. It is an in-house discussion but a very structured discussion using de-identified samples.

Ms BUSH: Thank you.

CHAIR: That concludes this session. Thank you for your hard work, Rita, and for the written submission.

Ms Jabri-Markwell: Thank you.

BLACK, Mr Peter, President, Queensland Council for LGBTI Health

REYNOLDS, Ms Rebecca, Chief Executive Officer, Queensland Council for LGBTI Health

CHAIR: Good afternoon. I do not know, Peter or Rebecca, if you were here earlier, but we ask that you do not use unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. Thank you for your cooperation in that space. I invite either both of you or one of you—whatever you are comfortable with—to make an opening statement.

Mr Black: Good afternoon. Thank you very much for the opportunity to speak this afternoon. I would like to begin by acknowledging and paying our respects to the traditional owners of country across these lands, oceans and waters known as Queensland, and in particular here acknowledge the Jagera and the Turrbal people as the First Nations owners of these lands—lands that were never ceded.

We are the Queensland Council for LGBTI Health, which had previously been known as the Queensland AIDS Council. We have been a home for lesbian, gay, bisexual, transgender, intersex, queer, sister girl and brother boy people and communities in Queensland for over 35 years. We are proud to be a community-led and community owned health and wellbeing service representing the diversity of our communities. The diversity of our communities is particularly important given a topic like this. In many instances we are dealing with the intersectionality of the lived experiences of people within our communities who experience prejudice, discrimination and vilification, sometimes not just on the basis of their gender, sexuality or gender identity but because of their race, religion or other attribute. In the surveys and the conversations that we have been having with our communities across the last several months, this is something that we have heard time and time again.

You have already heard today some evidence from some other LGBTI organisations—Equality Australia and Rainbow Families—and I would like to begin by saying that we echo their submissions and their evidence as well. I want to briefly emphasise a couple of key points, and that is first of all the need to expand the protected attributes referred to in the Anti-Discrimination Act to specifically refer to a person's HIV-AIDS status, sex characteristics and sexual expression while also expanding the definition of 'gender identity' to clearly include non-binary and gender-diverse people. It is very important that the full diversity of our communities is reflected in this legislation. The second point that I wish to make is that, even when dealing with serious vilification, it is important that there remains strong civil options for people to seek redress. One thing that is very common when we talk to our diverse communities across the state is there is in many instances a great deal of fear and mistrust—and in some cases that is most understandable—on the part of law enforcement and police. If the only true mechanism to address serious vilification and hate offences lies with the police, that is not going to be a very effective means to redressing some of these wrongs that are occurring. We support a number of ideas that have come forward today around there being appropriate civil avenues where complainants can go but also potentially the Human Rights Commission having the ability, as was discussed just immediately before, to be able to bring matters to the court if that is indeed necessary.

You have seen our submission and you have also now heard from a number of other LGBTIQ organisations. One thing that we did to inform the work of the submission was to engage, together with Rainbow Families, some community consultations and surveys so that we could hear from our communities and our members about their lived experience, and it confirms what so much of the other data and research has been indicating over the past several years—that is, there has been a significant increase in vilification towards members of our communities and what the survey also revealed, as you would expect, is that this can have significant harm upon the lives of those individuals, their families and their health. It is very important that we bear that in mind as we move throughout this discussion. I am perfectly happy to answer any questions and I know Bec is as well.

CHAIR: Thank you, Peter.

Ms BOLTON: Good afternoon and welcome. In your submission you mentioned that 90 per cent said that there needs to be better education within this space and today I have asked a lot of questions around that. Our previous submitters spoke about things such as bystander education and also the Victorian model that is being done down there to address underlying prejudice in physical world environments. I am trying to get my head around whether, with each sector—and I asked previously that whole thing about inclusion and compassion—there is a mixed response to that given that it is too broad and the belief that it has not worked in terms of all efforts. Do you think that these types of initiatives broadly will help or that we do have to be very specific to whether it is LGBTIQ or whether it is race? Can you give me some indication as in what that education looks like? I will go back to the education.

Mr Black: Certainly. Obviously a whole-of-community response is necessary to tackle this sort of problem and education will need to be an essential element of it. Legislation by itself is not going to be enough. It is not going to magically fix the problem. On the same point, legislation is also an ultimate form of education because it is setting very clear standards and expectations about what is accepted and not accepted in our democratic societies. However, the education piece is crucially important—and, again, I have been listening to some of the discussion throughout the day—and I think it is important that any education is not just at a very broad level around treat everyone equally, treat everyone the same. For education to be effective and for that message to really connect with people, they need to understand the differences and be able to not just understand the differences—we are all different—but also celebrate those differences. That is when that education actually addresses some of the particular challenges that LGBTIQ people face which are different from people living with a disability face which are different from people from different race or ethnic or religious backgrounds. I think an education program needs to be broad enough so that it captures some of that diversity so that people are able to understand it, respect it, appreciate it and celebrate it.

Ms BOLTON: Thank you.

Ms Reynolds: Just to add to that, if we started that frame of looking at the impact of the harm rather than the intent—and I know you have heard so much about it today, so just really starting from that harm piece and stepping backwards from there—at the moment we have ambiguity around that. When you are talking about an education campaign, we are talking about supporters of individual members of our communities who are there when things go pear-shaped or when things go horribly. We are talking of partners, friends, support workers, social workers, organisations. Removing the ambiguity so that they know very clearly what they can do and the pathways that they can take will do an immense amount to address this, and that is a big education piece as well as just in terms of the individual incidents that we are talking about.

Ms BOLTON: Wonderful. Thank you.

Mr POWELL: Thank you both for your written submission. I just wanted to give you an opportunity if you wanted to unpack one of the recommendations you have there that talks about clarifying the meaning of 'incite' or change it to 'urge' to make it clear that a person need not have actually been incited but was capably incited. Did you want to speak to that a bit more?

Mr Black: Yes, of course, and this is also something that the submission of the LGBTI Legal Service goes through in a little bit more detail if you would like some of the legal argument around that. The concern that we have here is that the term 'incite' puts too much of a burden upon people who are seeking the redress in that it suggests that it has to show that people were actually incited rather than simply being capable of being incited. From where we in our communities and organisations sit, there needs to be that additional clarity that even if a person was not necessarily incited in a particular case that language was such that it could have incited and could have caused really significant harm as a result of that and clarifying the legislation in that way will give that clarity that is needed.

Mr POWELL: Thank you.

Ms BUSH: Thank you for your submission. It was a really fantastic read. I am going to focus again on police, particularly around barriers to reporting, which we have already heard a bit about today. However, I am interested in your perspective around what those barriers are for reporting to QPS.

Ms Reynolds: I think at the top of it I would say the amazing police liaison officer program that we have operating here—when it is available to members in our communities across the state, which, I guess, particularly in our more rural and regional areas, is not always the case—and how great a resource those officers can be for our communities in removing some of the physical barriers of people reporting incidents. Historically, and it is not so long ago, hey, that police used law to enact harm against our communities to do their jobs, but this is still in the public's memory and the physical places of police stations are sites of violence. So the PLOs coming out into the community and meeting with people off site is an amazing thing, but it is still something that they are doing today because they recognise that that perception of violence and that harm is still in those places. I think that collective memory is a barrier for people to access the police as a support. Also, as other people have said to you today, the police do not have clear enough definitions and pathways to be able to do stuff meaningfully. Going back to those statistics we put in our submission, when we say that 68 per cent of people have experienced vilification and hate crimes over the previous one to two years, then how do you count that, how do you prove that, how do you demonstrate that and where do you find the energy to keep on doing that and how do police police that? It is an impossible kind of situation that is just adding to the experiences of people within our communities.

Ms BUSH: Thank you, because my question was quite broad and I did not want to sound naive. I am very aware of the background and I was interested if that was still an issue or whether it was more around the police powers to get the evidentiary threshold, because I know police have done a lot around having the PLOs in terms of LGBTIQ. Have they still got those?

Ms Reynolds: They do, absolutely, but I can give you an example in terms of frequency and currency in that at our premises in Brisbane in Teneriffe we offer mental health and support services, social facing support services and we have recently in the last two weeks had a request from a PLO to meet with someone on site at Helen Street so that it is a neutral place that is not seen as aggravating a particular situation, and that is not an uncommon request.

Ms BUSH: Okay.

Ms BOLTON: Going back to the Cohesive Communities Coalition options paper, did you also feed into that paper?

Ms Reynolds: No, we did not formally.

Ms BOLTON: What are your thoughts on the recommendations within that options paper?

Ms Reynolds: I am sorry that I do not have it in front of me to be able to speak to it. We absolutely agree with the different pathways proposed within that. As Pete said at the beginning, there needs to be different approaches so that it supports civil options as well. Can I take it on notice and get back to you, because there is something about the freedom of expression stuff that actually rung very true but I cannot refer to it right at this moment?

Ms BOLTON: That is not a problem. What is your take on restorative justice and its role?

Mr Black: You asked a similar question to Rainbow Families when Heather was speaking. I thought her response was really good in the sense that I think in many ways the work of the Human Rights Commission and that conciliation process is very much a restorative justice type pathway. I think there is a very appropriate and important role for that within any response to combatting serious vilification and hate speech. I also do not think that restorative justice is appropriate in every case, particularly in the more serious cases. Not only is it particularly impractical often to bring people with such strongly held opposing views together to try to go through a mediation or conciliation type process; it can often be counterproductive not just for the parties involved in that but also for the communities that they come from.

Ms BOLTON: So you are saying that what is in place is sufficient at the moment?

Mr Black: Yes.

Ms BUSH: This question is a bit open. Obviously you were listening to the submissions from Equality Australia and Rainbow Families. Do you have anything that you want to pick up from what they were saying or add? I was particularly interested to hear from them about the broadening of the definitions around gender characteristics.

Mr Black: I think that is really important and reference was made to the Yogyakarta principles as part of that. That approach and some of those definitions have already been used in the conversion therapy ban that is in place so it would be helpful to use similar definitions here. The important point at the moment is that the way in which it is currently framed and defined in the act does not actually capture the diversity of our communities. The way that those attributes are defined and set out in the legislation need to be adequate to capture that diversity.

CHAIR: There being no further questions, I thank you, Peter and Rebecca, for providing a very extensive written submission, which is very helpful to the committee, and also for taking the time to be here in person. Rebecca, you volunteered to—

Ms Reynolds: I will absolutely get that back to you.

CHAIR: Could the secretariat have it by 17 September?

Ms Reynolds: No problem at all.

Proceedings suspended from 2.49 pm to 3.01 pm.

KANDURI, Dr Krrishna, Volunteer, Vishva Hindu Parishad of Australia, Queensland Chapter,

MITTAL, Mr Vikas, Volunteer, Vishva Hindu Parishad of Australia, Queensland Chapter

CHAIR: I now welcome representatives from the Queensland chapter of the Vishva Hindu Parishad of Australia. One of the procedures for our committee is that we work along the same lines as the parliament. Therefore, we have been asking witnesses to refrain from using any what we refer to as unparliamentary language such as swearing or offensive terms. I am not anticipating that that would happen, but in this case prevention is better than the cure. You also have to remember that even if you are quoting someone who may have told you something. Would you like to start, either both of you or one of you, whatever you are comfortable with, by making an opening statement to the committee? You can remove your masks when you are speaking.

Dr Kanduri: Thank you very much, Chair, and good afternoon to all committee members. Thanks for this opportunity for us to present our submission here. We both represent the Vishva Hindu Parishad, Queensland chapter. It is an organisation that has been incorporated in Australia. If I translate that into English, it is called the 'World Hindu Council'. That is what we represent here.

Very quickly, Hinduism is one of the largest and oldest religions of the world. Over 1.2 billion people are Hindus. It is the fastest growing religion according to the latest census in Australia. Hinduism has given the world things such as yoga, Ayurveda, the art of meditation and more. Hindus are a hardworking, peace-loving and contributing community wherever they go and they enrich the multicultural fabric of this country and Queensland.

However, of late and for quite some time we have noticed that we are, as a community, being targeted with hate crimes and this has increased, especially as we find a lot of news articles coming up in the media recently with the delta strain outbreak in India. There were a lot of those news items coming up. In our submission we have given you examples. That is briefly my opening statement unless my colleague, Vikas, wants to mention anything else?

Mr Mittal: In addition to what Krrishna just said, a lot comes because there is very little education about what Hinduism is. While there are campaigns and education material available about other cultures and other religions, I think Hinduism suffers from non-representation in the media, government programs and others. It would be good if more education is brought in to help society understand the culture a bit more.

Mr HUNT: My young son has a godparent by the name of Tamil-Selvi Chukkrapuni, so he is well versed in all aspects of Hinduism and he has a particular shining for Lord Ganesha. On the basis of that, my family is familiar with the symbolism around the swastika in the Hindu faith. Earlier I asked some members of the Jewish community about intentions of banning that symbol and they quite explicitly said that for religious and cultural purposes they have absolutely no objection to it. Are you reassured and content with that?

Dr Kanduri: The swastika has been a symbol used by Hindus for centuries. It is a symbol of auspiciousness, as far as we are concerned. If you go to any temple you will find it. When we do prayers at home or in the community we draw the swastika. That is the auspicious symbol for us and it is revered a lot. Unfortunately, it also has the negative connotation to it. In terms of us being able to use it, that would be really helpful because it is something that we own and it has been in our culture for hundreds and thousands of years. For it to be banned or not used or connected with something really bad that happened is something that is beyond our control. As Hindus we would definitely love to use that and we would appreciate it if we are allowed to use it.

Mr HUNT: Certainly the delegation that came in earlier explicitly said that for cultural and religious purposes and also for education purposes there is no issue surrounding that.

Dr Kanduri: Okay.

Mr HUNT: I wanted to make that known to you and find out if that was reassuring for you.

Dr Kanduri: Absolutely. We do not use it anywhere else apart from religious functions. I would like to assure you on that as well, sir.

Mr Mittal: Historically, in the book *Mein Kampf* by Hitler the word 'swastika' was never used. The words used were 'hooked cross' or 'haken kreuz'. When it was translated to English it was translated as 'swastika'. I think that is where the problem lies. If 'haken kreuz' is used in a Hitler since, rather than in a Hindu sense—if those words can be separated—I think the problem will go away. The problem started when we used the Sanskrit word 'swastika' for depicting what *Mein Kampf* said, which was 'haken kreuz'. I think that would really help.

Mr HUNT: That is a very salient point, thank you.

Ms BUSH: I notice in your submission you pick up on the role of the media and that is an area of concern. I was curious about whether you have ever made a complaint to the Australian Press Council or to individual editors and what the response from them was like?

Dr Kanduri: I will give two examples. A few years ago there was an advertisement by the MLA, the Meat & Livestock Association. There was a table with all the religious heads sitting at it. Ganesha was also seated. Meat was being served. Whether he ate it or not is a different matter. For Ganesha to be made to sit at a table where meat is being served was something that, as Hindus, we found very derogatory. We did have a lot of campaigning against it all over Australia. At the end of the day, we requested MLA to remove the advertisement. They refused, is what I got to know. Then representations were made to the advertising ombudsman, who held an independent inquiry into it. Finally I think they requested or asked the MLA to remove it. It has been a long drawn-out process to get this single video removed.

The same thing happened recently when India was going through the pandemic with the delta strain. A news article appeared in the *Telegraph* written by, I think, one of their reporters. While it was supportive of what is happening and why people could not come, especially Indian-Australians or citizens who could not come here, there was no requirement for them to use the symbol of Ganesha being hammered on the head. When we talk about Ganesha, we are going back through thousands of years of worship of that particular deity. When someone sees this kind of derogatory use, that is when it hurts the Hindu sentiments. Again, when you look at online shopping we find a lot of Hindu symbols being used on toilet seat covers or foot mats and those kinds of things.

As an organisation or a community we have not written to the press authority, but in truth we are going to do that. We want to come together and do that. What we have found is overall the awareness is increasing across Hindu Australians. That is how we prefer to call ourselves, 'Hindu Australians'. People are taking action at the individual level, but collective action is also important. At the same time, I think it would be very helpful for the community if the government steps in and brings in some kind of a policy or some kind of legislation, or at least a policy, saying that these kinds of symbols should not be used as that will cause insult to the feelings and sentiments of a certain community. We are about two per cent of the Australian population in terms of religion, so while we may not be significant in number we still have our own feelings and sentiments. That needs to be respected. That is my contention.

Ms BUSH: I see also in your submission you talk about political leadership and you have given a couple of quite horrific examples, including one from the Greens around some of their behaviours. I was curious whether you had written to those individuals or to the Greens political party, whether you had had any success in taking that up with them and what their response was.

Dr Kanduri: An incident happened in the New South Wales parliament. The Vishva Hindu Parishad of Australia, which is stationed in Sydney, took it up with the parliament. Apparently at the end of the day a motion was passed in the parliament asking the particular person who made this comment to apologise to the community. Whether the person apologised I do not know. I am not aware of that. It came out in the media and it was recorded in *Hansard* as well that this motion had been passed in the New South Wales parliament. To that extent I think that is one step closer to success in terms of creating awareness. Unfortunately, what happens is that India is a huge country and there are things that can happen there, but relating us to those things happening in India is something that should not be done.

Ms BUSH: After those types of events or comments are made, do you experience a rise in hate crime or hateful language and conduct?

Dr Kanduri: It does happen sporadically here and there. Another incident took place in Adelaide where a group of Indians or Hindus were playing cricket and the pitch was strewn with beef. Someone had thrown beef on it. They did not know who it was. We were told basically that, instead of finding out who threw the beef on the pitch—the cow is a very sacred animal to us—I think they decided to dig up the pitch so that nobody can play there. It is like they went to that extreme rather than finding out who the culprits were. They did not give the opportunity for the people to go and play there. They removed the pitch completely.

Those are all things that might be simple at a different level but when it comes to the actual person, the individual, it is very sensitive for them. As Vikas said, it will happen over a period with greater awareness and more involvement from the government. That is our belief and we hope it happens.

CHAIR: Have any of the incidents that you are referring to been reported to the authorities—other than the one in New South Wales you spoke about where there was a complaint made and a withdrawal?

Dr Kanduri: I think the Adelaide issue was reported. A few weeks ago—this is hearsay; I was not there when it happened—apparently someone threw eggs into the temple and onto the door of the Ganesha Temple in South Maclean. It has been captured on CCTV. I think the temple authorities thought it was a prank played by somebody so if they have taken it seriously or not, I do not know. I have not spoken to the community members, but I can speak to them and find out. Sometimes these kinds of things go unreported because they do not want to create issues. That is my contention; it is not that they said that. Sometimes it is good not to take action on these kinds of things, but if these incidents continue and become a habit then it might be a bit of a problem.

CHAIR: I understand from a community point of view that you do not want to make a problem appear more serious. You want to try to keep your community safe and not open it up to conflict.

Dr Kanduri: Exactly.

CHAIR: Do you think if amendments were made to the Anti-Discrimination Act or the Criminal Code that the community would feel safer in reporting these things to the authorities?

Dr Kanduri: Definitely, because they will then get the confidence that this is being backed by a law and enforcement. They would definitely do that. It would be a step in my right direction, is my view.

CHAIR: Do you think there is an issue in relation to—and you mentioned this in your evidence—something that occurs on the continent or in India reflecting on the community here? You can disagree with this if you wish, but there seems to be a real difficulty within the broader community outside the Australian Hindus being able to distinguish something that you would find equally disturbing or abhorrent and would not adhere to. Do you agree or disagree with that proposition?

Dr Kanduri: From the perspective of someone who is not a Hindu Australian, for example, they may not be able to see any difference between what is happening there and here and they think it is a reflection of it. As Vikas said, it is important for us to raise that awareness and create that education. We have left the country and come here and we are embracing this as our country. We have been given the opportunity to practise our religion and our culture. We are grateful for that. It would help if the larger community were able to understand that whatever is happening there is not exactly a reflection of the people who are here.

As I said in my opening statement, we are all contributing members of the community. Pretty much all of us are in some way educated. If you look at the statistics from the ABS, that will give you an idea as to what kind of community we are. I think there may be a lack of awareness existing in the larger community. There might be some thinking that whatever is happening there is definitely going to happen here. That is something that we as a community are trying to create awareness of. We would also like the government to step in and help us out to create that awareness.

CHAIR: You and I both know that we were both on the receiving end. It was such a simple thing; we just had dinner.

Dr Kanduri: You saw it for yourself.

CHAIR: Thank you very much for your written submission and for coming along. That brings this part of the hearing to an end.

Dr Kanduri: Thank you very much, Chair and committee. With your permission, can I make one statement?

CHAIR: Of course.

Dr Kanduri: I give you all an open invitation to a Ganesha festival that we are celebrating this Sunday at the Sunnybank State High School. It is your constituency, I think. All of you are welcome to come. It starts at 2 pm.

CHAIR: I will ask the standard question: did you send an email to the office?

Dr Kanduri: I will definitely send you the email. There will be a lot of children. They will all make clay Ganesha. If all of you can come we will be happy and delighted.

CHAIR: I cannot guarantee my colleagues will be able to make it.

Mr POWELL: Not at that short notice.

Dr Kanduri: I understand.

CHAIR: They are all in different parts of the state, but I can be their representative.

KAUR ATHWAL, Mrs Kamaljit, Sikh Nishkam Society of Australia

KAUR BAINS, Ms Manpreet, Sikh Nishkam Society of Australia

SINGH, Mr Gurshej, Sikh Nishkam Society of Australia

CHAIR: Good afternoon. I welcome representatives from the Sikh Nishkam Society of Australia. Thank you for coming today. The way we have been running this is that we invite everybody to make an opening statement or just one person, it is up to you. We are fairly relaxed about how you do that. Then the committee will have some questions for you.

Mrs Kaur Athwal: We have one statement for all of us.

Ms Kaur Bains: Good afternoon, honourable members. We would like to start by paying our respects to the Turrbal, Jagera and Yuggera people, the traditional custodians of the land where we sit today and to elders past, present and emerging. My name is Manpreet Bains and I appear here today with Kamaljit Kaur Athwal and Gurshej Singh, Sikh representatives from the Sikh community.

The Sikh faith originated in Northern India and has followers around the world to the tune of some 26 million. According to the 2016 census, there are just under 18,000 Sikhs in Queensland. Despite Sikhs being present in Queensland for over a century and being hardworking, contributing members of society, working in a range of sectors, including as highly paid, skilled professions, and in various small-scale businesses, including taxis, hospitality and farming, Sikhs are still often the target of vilification due to their unique identity. By unique identity we mean that Sikhs, especially men, do not cut their hair, they grow their beard and they cover their hair with a turban.

In the immediate aftermath of 9/11, the vilification and hate crimes against Sikhs significantly increased across the world and in Queensland as a result of mistaken identity because the Sikh turban and beard were falsely associated with terrorism. Sikhs in Queensland experienced things being thrown at them, offensive language was used in public and they were told to go back to where they came from. Their children were bullied in school—being called terrorists, towel heads and the like. In America Sikhs were attacked and many were shot dead.

The victims of vilification and hate crimes are left feeling intimidated, vulnerable, in fear of their own safety and the safety of their families and often feel like an outsider—feeling as though they do not belong in the Queensland community. The psychological impacts of these experiences leave victims with ongoing trauma. In some cases Sikhs have resigned from work, are afraid to go out or are diagnosed and medicated for mental health illnesses whereas the perpetrators have walked away with no ramifications, no remorse and no understanding of the impact their actions have had on the victim.

We have heard many stories during our consultation with the Sikh community that victims do not feel protected by the current legislation in Queensland for vilification and hate crimes. Victims disclose that in many cases the Queensland Police Service were dismissive of their complaints or advised the victims that they did not have the power to assist. The only right the legislation currently provides to victims is a civil right. There is no corresponding criminal offence currently in Queensland Criminal Code to prosecute such heinous actions. In fact, the onus is put on the victims to pursue civil litigation against their perpetrator with no guarantee of their safety if they choose to do so.

While perpetrators of vilification should be held criminally responsible for their actions, as in all jurisdictions, the solution does not lay solely in punitive measures but must also incorporate awareness and early education about other cultures and faith to create a shift in our communities mindset so that people do not fear the Sikh identity out of ignorance but rather develop a mutual respect for all cultures, whether that be a Muslim hijab or a Jewish kippah or the Sikh turban and beard.

Mr POWELL: Thank you for both your written submission, for appearing today and for your opening statement. One of the things we have been hearing about—and we even asked this of the police themselves—relates to the sufficiency of existing laws. You made the statement that when victims approach the police they say they are not going to pursue it or cannot pursue it and yet we are often told that the laws are there and in some ways it is an inability to action them or follow through on them. We were joined previously by a committee member who was a serving policeman who got quite frustrated that that is what his current colleagues are saying. Are they genuinely saying to you that they cannot pursue that?

Ms Kaur Bains: They can pursue the action in other parts of the Criminal Code—for example, assault or public nuisance—but there is no actual criminal offence for prosecuting against hate crimes. The problem with that is that the crime is being disguised as something else and it is not recognised as a hate crime. For example, if you have someone who is charged with assault against a police officer, Brisbane

when they face the probation and parole board that act of assault is viewed more seriously than common assault. What we are saying is that if it is a hate crime it should be recognised as a hate crime and not disguised as some sort of other crime.

Mr POWELL: It is aggravation that you are seeking?

Ms Kaur Bains: That is correct.

Ms BUSH: Can I pick up on what the member for Glass House was saying. You are talking about an aggravating factor around hate crime, but I think you are also talking about capturing it at a reporting level to police, is that correct?

Ms Kaur Bains: Yes, that is correct.

Ms BUSH: Cataloguing those types of offences. I think you mentioned a central reporting system with police.

Ms Kaur Bains: Yes, because that also gives us the data to show that this is actually happening in the community. That might create a shift to say to education ministers that perhaps we do need to educate our children about racism and other faith—that is, if we have that data that there are X number of hate crimes committed in Queensland per year. At the moment we do not have that data, no.

CHAIR: There has been a suggestion made, and I am interested to see how this sits with you. If someone is exhibiting vilification or hate towards someone verbally, do you think that it would be sufficient for them to be fined or have a ticket issued rather than go through a more complicated court process?

Mrs GERBER: A simple offence.

CHAIR: A simple offence.

Mr Singh: I believe in that case we do not propose for those minor offences that somebody should be charged and go to court. We think something like DV orders—people get issued DV orders and they build their history. If somebody repeats the offence again and again then the court charges them with higher offences. We do not want people to go to court for one offence. That is our take on that.

CHAIR: Thank you. That is clear. Laura, do you have a question?

Mrs GERBER: That was it, Peter. Thank you.

Mr POWELL: That was the question she was going to ask.

Mrs GERBER: I was going to ask a similar question. For a simple offence, would you consider that a process needs to be used by police in a way that achieves an outcome that is more effective essentially in both achieving the social justice needed as well as prosecuting the offence itself? Thank you.

Ms BUSH: We have asked this of other people, so I ask this for consistency. You have recommended here a different type of order or injunction such as a peace and good behaviour order. I am curious on your views around what that would do in terms of removing the barriers to reporting. Do you think that would encourage people to come forward and report or would people still face barriers in reporting to police with that type of order?

Mrs Kaur Athwal: I think some of the barriers would come down if something like that were introduced. Through our consultations at the Sikh place of worship, what we were hearing a lot was: 'What is the point of reporting?' Where they have reported there was not an outcome. Basically the police would say, 'We cannot do anything. Just move on or do something different so you don't get targeted again,' whereas if there is something like that in place then the chance that people are going to make a report would definitely go up.

What we have seen is just the tip of the iceberg. There are a lot of cases out there that people do not even report, especially when it comes to men. Men do not like to say that something has happened to them, especially Sikh men. They are proud men. It does happen. If there were something in place, it would definitely help with the reporting. It would also be a deterrent because they know that something is going to be issued against them. If it is on some record that they have done this, they will think twice about doing it again.

Ms Kaur Bains: If someone is charged with a drug offence, they are recommended for drug rehabilitation. If there was some sort of recognition in our Criminal Code that you have committed a hate crime, instead of sending them to jail, because sometimes jail is not the answer—they come out worse than what they went in—perhaps we could rehabilitate these behaviours and understand why

they are perpetrating these behaviours against people of other faith. I know the Sikh community and other communities that we have spoken to are more than happy to welcome these people into our places of worship and educate them. We are not a community to fear.

Ms BUSH: Just going back to the peace and good behaviour order, have you explored a harassment charge on occasion with police? I am curious whether harassment charges are ever successful in getting up and giving you some level of protection against that repeated—

Mrs Kaur Athwal: During our consultation, nothing came up that there was any harassment orders taken out. To be quite honest, I do not know if people even know that they are there. That is the other thing. They are not fully aware of what is available to them for help in situations like that.

Ms BUSH: Excuse my naivety, but do you have people in the QPS that help with outreach within the communities you work with to try to help encourage that education?

Mrs Kaur Athwal: I am a member of the PEAG, the Police Ethnic Advisory Group. We do have PLOs as well from an Indian background. We do not have a Sikh PLO that I am aware of, but there is a Hindu PLO. We do try to reach out as much as we can to talk to both parties, as a conduit. I do not think there is enough help available, especially after an incident happens. There is nowhere that people can turn to. Parents cannot go to anyone. They go to the school if there is bullying going on. School does not do much. Then they go back to their own community and just talk within the community. There is not any help out there where they can turn to. We are looking at putting a bullying group together—not that we are going to start bullying people, but so people can come to us when there has been an issue and we can give them some guidance, because at the moment there is nothing there to assist them. I do not know if that answers your question.

Ms BUSH: Yes, it does. Sometimes you need a legal advocate or someone to help you navigate through the system and advocate on your behalf. It sounds like the PLOs work but perhaps not enough.

Mrs Kaur Athwal: To a certain extent they do, but not to the extent that they would be beneficial to the community.

CHAIR: Do you have any experience in dealing with the Anti-Discrimination Act or the Human Rights Commissioner? Does your community engage with the Human Rights Commissioner when there have been incidents?

Mrs Kaur Athwal: Yes, we have. I know Scott McDougall quite well. He is now the Human Rights Commissioner. I know when he joined the anti-discrimination commission and all that. When issues are raised within the community, they do access the anti-discrimination commission. Right at the start a lot of people did make the effort to go. Now if I mention it they seem to shy away from it for reasons such as, first, they have to relive the whole thing with the person sitting in front of them because they have to go through reconciliation.

The outcomes usually are: 'Go back and do this in your workplace,' or 'Go back and do that in your workplace.' It is on a trust basis. The commission cannot go back to them and say, 'Did you do it?' That does not give people the confidence that it has been done or that some improvements have been made in relation to their complaints. There are reports to the commission, but I do not think they are 100 per cent satisfactory. That is not taking anything away from the commission. They do a fantastic job.

CHAIR: Where does the Sikh community interact with these inappropriate behaviours? Is it more in the community when they are going about their everyday business—going about their shopping?

Mrs Kaur Athwal: It is happening in public places—if you are out shopping like you just said. It is happening on the buses with our bus drivers. They support a beard and wear a turban and there is mistaken identity. Maybe Gurshej might want to add a little bit to that after me. It is happening in places like that. It is happening in school grounds. It is happening when parents are picking up kids from school or dropping them off. It is happening a fair bit in public places and in workplaces.

CHAIR: I want to go back to the school grounds example. How does the community handle a situation where something has happened at school?

Mrs Kaur Athwal: The majority of the time parents will approach the school and ask them for help. That is the first step that they usually take. They will also talk to friends within the community that this is what has happened. If the school does not do much then they might turn to their friends and ask them for assistance or maybe give them a hand to talk to the school and rectify it or they might come to me or somebody else from our community and say, 'Can you help us out with this?' It is usually not satisfactory.

In terms of what we were talking about earlier, if there are no solutions, it sometimes leaves people very frustrated and it can go the other way. I am not saying that this is happening within our community, but it can go the other way where they might say, 'Okay. We'll deal with it ourselves.' That could be any which way they decide to deal with it. That is not a good justice system that we want in Queensland. There are frustrations with that.

CHAIR: Did you want to add anything to that?

Mr Singh: My point was on whether those incidents are happening in the community or not. We believe that those incidents are happening and they are set to increase because people are seeing pictures of turbaned and bearded people on television with the rise of the Taliban. They picture the Taliban with the Sikhs. We can see the evidence in history. When 9-11 happened and people saw Osama bin Laden giving interviews on TV, they pictured Osama bin Laden with the Sikhs. That is where they took their frustrations out. We think this is the most critical time that these laws should be amended. Amendments should be made so that the community can be protected before anything worse happens.

CHAIR: Thank you for attending and thank you for your written submission. That concludes this session. Thank you very much for coming along.

BYRON, Dr John, Principal Policy Adviser to the Vice-Chancellor, Queensland University of Technology (via teleconference)

CHAIR: Welcome. In relation to your evidence, these proceedings are the same as parliamentary proceedings. I am not suggesting that you would, but could you please refrain from using unparliamentary language such as swearing or using offensive terms, even if you are quoting someone else. This enables us to keep the proceedings flowing. Would you like to make a short opening statement, after which committee members will have some questions for you?

Dr Byron: I was not planning on making a statement, but if it would help the committee for me to give you my 25 words or less version, I could do that.

Mr POWELL: Go for it.

CHAIR: I am happy with 25 words or less.

Dr Byron: I do not think I am going to win a trip for two to Tuscany for this effort, but never mind. I know you will have been hearing a lot of very subtle and nuanced arguments about the considerations surrounding these issues. I wanted to introduce one element that sometimes has been getting a little lost in a parallel debate around the academic freedom at universities measures. I wanted to highlight that there is not a zero-sum game simple linear slider versus constraints on free speech. It just does not really work in that kind of simplistic model. It has become even more apparent in universities where we have been working recently on refreshing the University Foreign Interference Taskforce guidelines.

There has been quite a bit of attention paid to the fact that one person's speech can have the effect of limiting other people's speech. It is not a zero-sum game. It is more nuanced than that. We have to attend to factors of harassment and intimidation that can result in self-censorship and the like that have a net negative effect on free speech—the way that vilification can serve to shut down people's free speech even if it is done in the name of free speech. Basically, that is the purpose of my submission—to introduce that nuance and draw to your attention some of those developments that are taking place in the university sector that might not be within the visibility of the committee.

CHAIR: Dealing with the aspect of free speech, we heard the suggestion earlier today that if it does impact on free speech then basically so be it. I am just trying to relate the evidence rather than anything else.

Dr Byron: Sure; yes, of course.

CHAIR: Could you comment on that, or is that too far out of the ambit of what you wanted to talk about?

Dr Byron: No, I would be happy to comment on that. I think we all in a liberal social democracy have a commitment to, broadly speaking, permitting speech, even speech that we disagree with. How else do you advance your views on things other than to have discussions with people who might not already hold your precise views? In universities we also have an additional and now a legal framework around guaranteeing speech for certain purposes in that context. Academic freedom is a different thing to free speech—very closely related but distinct concepts—and it has a purpose, a pedagogical and a knowledge-making purpose, that benefits society at large so that people's speech acts are protected in an academic environment in perhaps additional ways. It also comes with additional responsibilities inside universities.

I would be reluctant I think—and I do not think that this would be an unusual opinion to hold—to say that free speech is not a consideration that ought to be taken into account in a particularly important way. I do think that wellbeing of participants, particularly minority participants who have a hard enough time being heard in the first place, is a very important consideration and that limitations on extreme speech at their expense are worth making in order to maximise their participation in our society, and I think that that principle holds true inside universities with respect to academic freedom as well. I do think that free speech is certainly a consideration that needs to be on the table and we now in the universities have not only a moral but now also a legal obligation since the federal parliament passed a definition of 'academic freedom' and has set the Tertiary Education Quality and Standards Agency the task of monitoring our compliance with our commitments to academic freedom. So at universities, even if we wanted to, which we would not, we are not allowed to ignore free speech considerations in deference to people's sensitivities and so on but we are obliged, both in order to maximise participation and also to adhere to our obligations to the Queensland Human Rights Act, among other things, to ensure that one person's free speech does not come at the cost of other people's free speech or their other human rights, and we take that very seriously. I do not think you can just jettison free speech and say, 'We'll worry about that later,' or 'Put that to one side.' You cannot put it to one side.

Mr POWELL: Dr Byron, thank you for your written submission. It actually succinctly summarises what I have been trying to grapple with since we started this inquiry, and that is how do we get this right so that we clamp down on hate crime and vilification but do not impinge too greatly on freedom of speech? I guess I do not really have a question, but I just wanted to thank you for putting it in such a neat way that they are not mutually exclusive, so thanks for that.

Dr Byron: Yes, no worries; pleasure.

CHAIR: University campuses often are probably the Petri dish for the way society may be heading. If we cast our minds back to the seventies, they say there was more radical behaviour on campuses in relation to protests than there is today. Students come from all walks of life and the interaction between them on campus can be a little bit of a litmus test as to where we are heading for change, and this is really about change—trying to get human beings to be respectful of each other no matter who we are or where we come from. Is there a framework that comes to mind that you think would be workable or perhaps the foundation stones for work going forward in this space?

Dr Byron: I think that that is a really interesting perspective. Petri dishes—

CHAIR: Yes, perhaps not a good analogy. Sorry; it has been a long day.

Mr POWELL: It might be the perfect analogy.

Dr Byron: Having been a national student organisation leader once upon a time, yes, I reckon it is pretty accurate. There are some lessons I think that the broader community can take from how these things are handled at universities, and one of them is that universities have been cherishing the classroom, if you want to think of that very broadly, as the site for the contest of ideas and for people to really ask difficult questions and challenge the foundation assumptions of how we run our society. So they are contentious debates very often and there are people who participate in those debates with sometimes—not often fortunately, but sometimes—some mischievous intent. On the other hand there are other people who just have quite solid but unpopular views and they either will not be persuaded otherwise or they take a little while to come into a frame of mind where they will listen actively to alternative views.

Tutors in the humanities and social sciences in particular—they are the disciplines I am most familiar with—have been dealing with this issue for centuries and they have strategies for coaxing out participation by people and for asking big questions in ways that are not disrespectful to others in the room that do not shut down lines of inquiry but at the same time do not allow the discussion to be tied up in things that are not moving things forward. If somebody wanted to come into a classroom in geography or something and say, 'Actually, I don't reckon the world really is round. I think it's flat. Let's have a talk about that,' there is not a lot of percentage in that conversation dominating every tutorial for an entire semester. So you want to not allow people to tie up debate with non-serious attempts to take on extreme views.

At the moment there is a debate going on in certain circles, particularly online, questioning the validity of germ theory and arguing that viruses and bacteria are actually products of our bodies and our diseases are all caused by toxins that we consume. I doubt that there is a lot of interest in biology classes around the world for people to bog down in that. It is probably fair enough for someone to do a quick review of how germ theory works and then you move on. So you do not want to get so committed to this idea that all voices must have the call for as long as they like because people will take advantage of that and people will stop learning in those classrooms.

On the other hand, you do not want to just skate quickly past those things because that is not how you convince people of other world views than the ones they come in with. You do not ridicule them or just tell them to suck it up and they just have to get with the program and move on; you have to take them with you, and people have been doing this in universities for a long time. I guess it is the long way of coming around to suggesting that I do agree that statutory reform is an important element of what the committee is looking to achieve with this inquiry and I also think that an education campaign about respectful engagement and about respect for difference is needed even when you cannot come to an agreement, and that happens all the time. We have to learn how to live with that and move on and that allowing other people to have their say is part of an active participation in free speech and academic freedom and also that free speech does not mean freedom from critique. A lot of the time when people complain about being censored they are not being censored; they are being critiqued. People are speaking back using their right of free speech to tackle things that they think are wrong about those people's initial statements.

I think there is a whole suite of things that are involved in how we speak together as a community respectfully and productively that can embrace both the elements of freedom from harassment and vilification and hate crime and freedom to express your opinion and have a chance to persuade others. I think that academia possibly has some form in working this stuff forward.

CHAIR: Thank you, Doctor.

Ms BUSH: I just want to be clear so that I am not misunderstanding: you are not advocating that speech that incites hatred be permitted or be condoned in the context of allowing for a respectful debate; you are saying there is still a line between having competing ideas and having what we would all think objectively is hateful language?

Dr Byron: Yes, exactly; very well put, and thanks for asking me that because it is good to be really clear. In my opinion—and I have been involved in the development of the university's response to the academic freedom inquiries that the federal government has been holding for a couple of years now, so I have thought about this matter quite deeply and read most of the current research—and in my view, yes, there are statements that we all understand and recognise immediately as being hateful, unhelpful, disrespectful and actually antithetical to any broader attempts to embrace maximum free speech across the community, because it shuts down speech and it shuts people out, sometimes literally shuts them out of the room; people stop coming back to those environments. I definitely agree with you that I am certainly not saying that we should just give everybody a chance to say anything at all they like. On the contrary, I am arguing that there are limits to that in both the service of free speech rather than against free speech.

Ms BUSH: Yes, that is great. I understand. I guess the interesting debate at the moment is around the—and do not ask me for the full naming—surf/turf stuff. That is quite interesting.

Dr Byron: Yes, that is diabolical. That is partly why I have chosen my examples from germ theory and flat earthism for a reason because the arguments in the humanities seem to be a little more intractable and perhaps a little harder to tease out. In a 20-minute session like this, I thought it is best to keep away from anything too controversial. Yes, there are some issues there. With regard to getting to the point where any sincerely held and not mischievous argument can be made in good faith, we should be able to find a way to express that without offending people. It is not so much about offending people but without outraging common decency.

Part of that is doing what people like to call 'research'. You can do a little bit of your own due diligence before you raise a particular issue at a certain forum, but there are a lot of questions that have been overturned in the course of history, and science is the easy stuff to point to. Galileo famously said, 'And yet it moves,' as he walked away from recanting his view that the earth moves around the sun. He was forced to recant for political reasons, but yet he maintained his belief in his empirical observations. We do not want to put people in a position where they cannot say things that are deeply unpopular because there are moments we can point to in the history of ideas repeatedly where those things have nevertheless turned out to be revolutionary new ideas that have moved us all forward. We have to allow that to happen, but at the same time we have to allow everybody else in the room the dignity and respect that they are not being dragged into something at the service of a particular agenda and being vilified.

I am thinking about David Irving, the British historian, arguing that the Holocaust never took place. I do not suggest that anybody ought to entertain that conversation in a history tutorial. It has been proved, it is beyond doubt and the only people who are saying otherwise are up to something nasty. I think that is a fairly commonly held view. You literally have people in those tutorials whose grandparents died in the camps or survived somehow—literally. Even if you did not, it is insensitive to a race of people, a society of people as well to argue that one of the most terrible things that ever happened to any community did not happen.

I think we have to recognise that and bring a common sense view to this. There are some things that people say under the sign of free inquiry that are not sincere and are not actually up for grabs, but we need to somehow make those judgements. You cannot write an algorithm for this stuff. Frankly, you cannot really write statutes for this stuff, either. People are going to have to make judgements at every step of the way for this kind of stuff. People are going to say, 'You know what, that is over the line. That is a bridge too far,' because we cannot imagine every conceivable instance and codify that ahead of time.

CHAIR: Thank you, Doctor. That brings to an end this part of the session. Thank you for engaging with the committee today and thank you for your written submission. Have a good evening.

ARONEY, Professor Nicholas, Private capacity (via teleconference)

CHAIR: Good afternoon. These proceedings are similar to parliament and I ask that you please refrain from using unparliamentary language such as swearing or offensive terms, even if you are quoting someone else. In telling you that I am not suggesting that you would do that. It is just that prevention is better than cure, so to speak. If you would like to start by making a short opening statement that would be welcome by the committee. Then the committee will have some questions for you.

Prof. Aroney: Thank you very much for the opportunity to present before you this afternoon. This is a submission on behalf of myself and Dr Taylor. You may have looked into his background. He is one of the world's leading experts on the question of human rights and international human rights standards and the protection of freedom of speech, so I really speak on his behalf as well as my own.

I only propose to make two essential observations by way of an opening statement. I want to preface that by acknowledging and commending the individuals whose stories have been included in the issues paper who have suffered some awful behaviour, which fully warrants intervention by law. Dr Taylor and I do not take any issue with those matters. The law should quite properly address some of those horrific stories and things that have been done.

However, our concerns are where the law has unintended or undesirable reach. The two main points that we want to make are as follows. Firstly, in any legislative or other outcome of this inquiry it is crucial that freedom of expression be preserved, meaning the international standard for freedom of expression established by article 19 of the International Covenant on Civil and Political Rights. Our second main point is that the outcome must be to avoid, rather than to fuel, antagonism within Australian society. The way that we put it in our submission is that mid measures should not weaponise one group against another because that would be counterproductive.

As to the first point, I can expand on that a little. We appreciate that there are different descriptions as to the nature of hate speech and calls are made for legislation to operate at different thresholds and in civil and criminal contexts. That is a complex task. In our submission, we propose to simplify matters by focusing on the preservation of freedom of expression as it is defined in article 19 and that any limits on it be restricted to those that can be clearly justified under article 19 (3) of the international covenant. It is very important that any measures that Queensland were to adopt in this area are consistent with those article 19 requirements. A lot of attention needs to be given to ensure that legislation operates in a way that comports with those limitations.

The second point that we want to make concerns the potential for legal measures to weaponise individuals or groups against others or against their ideological opponents. We think this is a very important matter that needs to be not overlooked when considering these matters.

We notice with some concern the recommendations in the issues paper to introduce hate crime scrutiny panels following the UK model. It is not clear to us whether the recommendation is to adopt wholly the UK model or some aspects of it, but we notice that some other submissions assume it will cover civil as well as criminal matters. Whatever is to be taken from the UK policing practice, in our submission it should absolutely exclude the UK's procedure for reporting hate incidents that has been included in the College of Policing guidelines since 2019-20. This is, we would submit, a highly socially divisive measure and is notably currently under review in the UK.

Non-crime hate incidents in the UK are defined as those that the victim thinks are motivated by hostility or prejudice. The police are required to investigate the incidents even when there is no evidence of either hate or a crime and they are recorded on the police system. This can be then picked up by recruiters and it can jeopardise a person's career even though they were never found guilty or even charged with a hate crime. They may not even know it has been recorded against them.

Police have recorded hate crime incidents against more than 120,000 people, Dr Taylor has discovered, 2,000 of which were (inaudible). It has been observed that a young person training to be a nurse or a teacher could be turned down for a job because of a joke they made in a playground as a 12-year-old. There is obvious potential for misuse when this enables people to weaponise such processes against others and be convicted because of the way they use these processes. We are particularly concerned about that as well.

They are the two main points we wanted to urge before you as a committee. I thank you for the opportunity to outline those concerns to you.

Mrs GERBER: I am mostly interested in understanding what we need to look at as a committee in relation to the change in legislation and the interaction between Queensland and Commonwealth legislation. I have probably received that information from previous submitters. Professor, if you can speak to any of that, I would love to hear from you on it.

Prof. Aroney: That is a very broad question. I would love to help you, but I would need to know what specifically are the matters of concern that you have. Can you specify maybe one or two that I could address?

Mrs GERBER: Yes, sure. There are the existing Queensland laws, for example, section 124A and 131A of the Anti-Discrimination Act. That is what we have in place in Queensland. Then there is some Commonwealth legislation in place in relation to online vilification. Essentially, we have heard from interest groups that whilst they are there, they are not working. If there is anything that you can contribute or have looked at in relation to those aspects, I would hear from you on that.

Prof. Aroney: I do not know whether I can speak generally to that in the way you have framed it because it is not something I have looked at specifically. So I do not know that I can answer that question in the way that you have framed it. I apologise for that.

CHAIR: One example that has come up during the evidence and the submissions, Professor, is when someone spits on someone in a supermarket because of the colour of their skin. That is definitely not an issue of freedom of expression. That may not have been the best example. Maybe I should rephrase that in this way. Say, for example, someone calls me a disparaging name because of my Italian background. Is that freedom of expression or is that vilification?

Prof. Aroney: The standards that we have submitted ought to be applied to these sorts of situations concern the thresholds that the law should apply in response to events such as that. To take your first example of spitting on someone, that is clearly a case of assault. Somebody should be prosecuted for assault in a situation like that. In the second sort of scenario I think it is very helpful to note that the international standards around hate speech, particularly article 20 (2) of the international covenant, speak of when the speech constitutes incitement to discrimination, hostility or violence. The measure there is that the act itself has that incitement quality towards that act. It is possible that speech of the type that you described could constitute such incitement. However, without evidence that it does, in fact, it could not meet the threshold that should be treated as a crime or even as a civil penalty as abhorrent as it is, because freedom of expression does include freedom to say things that are offensive and that ought not be said on a moral basis and which I would never like to have said. I think there are a lot of inappropriate things that people say, but freedom of expression involves the freedom to say things that are offensive of that nature.

I think we have all experienced—I certainly have experienced—very hateful speech of that nature. I am of a Greek ethnic background. I grew up experiencing that sort of abusive language. However, I would never have regarded it of such a threshold that it should have resulted in legal consequences. I think the international covenant establishes standards that ensure that we do not impose legal sanctions and legal consequences for a speech that falls below the threshold of constituting incitement to those sorts of things like discrimination, hostility and violence against people. Certainly when it does constitute such incitement, then in serious cases it should be punished with criminal consequences. Where it falls below the threshold, my submission is that the law should not be entering into the field.

Our further concern is that when you enable the law to extend it to that field and enable people to make complaints about others and then these complaints get recorded by the police, there are instances in the United Kingdom where it effectively weaponises the law and enables people to use the process of making complaints as an abuse of the process. It heightens tensions within the community rather than helps to resolve them. We are particularly concerned about the misuse of the procedures and processes of laws in that direction.

Mr POWELL: Can I carry on from what I think you were saying? Please bear with me; there is a bit of a preamble here. Most of today we have heard from organisations or individuals who are looking—and this is probably not fair, but it is my summation—to lower or remove the threshold completely or to change words like ‘incitement’ to thereby make it easier for people to make a complaint and have an offence recorded, whether that be an on-the-spot fine or a criminal offence. What you are saying is that would be inconsistent with the United Nations’ rulings, it would be inconsistent with freedom of speech and we must maintain a threshold and we must maintain some of those caveats around incitement to be consistent. Is that a fair summation?

Prof. Aroney: I think it is a fair summation of the position that Dr Taylor and I take. The international United Nations special rapporteurs in this area have emphasised the importance of freedom of speech in this field and have expressed grave concern when legislative and policy schemes use very imprecisely defined language and adopt thresholds below the thresholds that are established in the international law. If Queensland was to lower the threshold further, it would place Australia in a situation where it might undergo international criticism for interfering with freedom of expression in an excessive manner by the international committee. We are particularly concerned in those ways.

Mr POWELL: Professor, my understanding is that a number of submissions have referred to legislative amendments in Western Australia and Victoria. Would your assessment of those be that they actually now offend international law?

Prof. Aroney: I hesitate to refer to those particular ones. I am more familiar with the Tasmanian law. I do think that the Tasmanian law goes further than the international standards require. I would even take the view that the existing Queensland law, however you characterise the threshold as it currently stands, is a lower threshold than the threshold established by article 20(2) of the international covenant. It is in that grey area where it might be potentially defended by reference to article 19(3) of the international covenant, but it is debatable that it actually lowers the threshold too far even as it currently stands. Lowering the threshold further, I think, would definitely put it in jeopardy of being in breach of our international obligations.

Mr POWELL: Professor, do you then have any recommendations as to how we address what is clearly a broader community sentiment that with the existing laws the bar is too high, they are not being enforced or there is no clear linkage to the fact that they are hate crimes or vilification? How do we address that while still maintaining what you are suggesting?

Prof. Aroney: I think it would be important to assess whether, in fact, there is widespread community concern because one always has to be aware that the bodies that make submissions to a committee such as this are interested bodies and whether they are representative of community standards in this area should be questioned and should be investigated. I think that premise should be given consideration. That is all I would say about that particular matter.

I think that these sorts of problems, though, are real problems and they are best addressed through education. They are best addressed by encouraging people to understand one another and dealing with people's attitudes and beliefs about one another rather than using the heavy hand of the law and policing to try to address what is really an underlying motivational issue that people have. If you respond in a heavy-handed manner you can actually exacerbate the problem and you can make people who are full of hate hate even more. I think that it is terrible that they have that hatred in their hearts but if you respond in a heavy-handed manner you can actually exacerbate the problem.

Mr HUNT: Professor, I am at risk of repeating what the member for Glass House was talking about but I feel the need to ask this anyway. What would you feel is a heavy-handed manner? I will read from the Special Rapporteur—

There is a range of expression of hatred, ugly as it is, that does not involve incitement or direct threat, such as declarations of prejudice against protected groups.

We have had a range of submitters come through today talking about exactly that phenomena and how there seems to be an understanding of 'vilification' and 'vilification lite', if you like. They are extraordinarily dissatisfied with that sort of a differentiation. It seems to be captured in the wording that I just read out there as well. There seems to be a real clash there. Do you think that holding people to account for their actions is what you would characterise as heavy handed?

Prof. Aroney: It depends what you mean by holding people to account because people can be held to account by exposing what they say, by addressing them directly, by bringing it into the light of day and criticising it sharply and publicly. That sort of holding to account, I think, is appropriate and that is the sort of appropriate response that we should make to such hateful speech and hateful language that falls below the international standards and thresholds. When it is above those thresholds, however, it is quite legitimate for the law to apply when it involves incitement to discrimination, incitement to hostility and incitement to violence. Plainly, that is where the law should intervene directly.

Mr HUNT: If it does not meet that threshold, is it your contention that there should be no legal side effect of that? That very much goes against what we have heard throughout the day. We have heard some submissions about faith based groups that have distinctive forms of headdress and those people know that the minute they don that headdress all bets are off and they will be at the mercy of a whole range of ignorant people. My fear is that the sort of people who take that action are not going to be dissuaded in the least by being outed in public, being called on it or anything like that. Unless there is a penalty, it is not going to be addressed in any way, shape or form.

Prof. Aroney: I think that the international standards and the opinions of the international rapporteurs in this area are based on a lot of evidence and a lot of experience of very hateful speech across many countries in the world that is as severe or even more severe than the examples that you have given. It is plainly a problem. It is plainly something that is wrong.

Public Hearing—Inquiry into serious vilification and hate crimes

The question is: what is the best approach and what is the right balance to strike between freedom of expression on the one hand and dealing with hate speech on the other? Unless we adopt thresholds that are clear and consistent with those international standards, we risk having unintended consequences of our laws in these areas. I would urge you to bear that in mind. That is the submission that I am making. I am grateful to the committee for the opportunity to make this submission.

CHAIR: Thank you, Professor. That concludes the public hearing. I thank very much all witnesses who have participated today. Thank you to our Hansard reporters. A transcript of the proceedings will be available on the committee's parliamentary webpage in due course. I declare the public hearing for the committee's inquiry into serious vilification and hate crimes closed.

The committee adjourned at 4.23 pm.