

**Queensland Parliament – Inquiry into Serious Vilification and Hate Crimes****Submission - Refugee and Migrant Community Leaders Forum**

10 July 2021

About the Refugee and Migrant Community Leaders Forum

The Community Leaders Forum is a gathering of leaders from culturally and linguistically diverse communities living in the Greater Brisbane region. The Forum is organised quarterly by the Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT) and Multicultural Australia. It aims at addressing the issues raised by community leaders that are impacting on their communities, and facilitating communication between leaders, government and non-government services and other stakeholders. Some of the issues addressed at these forums include educational and employment barriers and opportunities, social enterprises, family and domestic violence, racism and discrimination, access to health and social services. The latest forum was held on 10 June 2021 and focused on communities' experiences of vilification and hate crimes. About 60 leaders from diverse culturally, linguistically and religious backgrounds attended the Forum and participated in small group discussions about their communities' experiences of vilification and hate crimes. Their stories have informed this submission.

About QPASTT

QPASTT is a community-based not-for-profit state-wide organisation established in 1995 to support the recovery of refugee survivors of torture and trauma. Our purpose is to nurture meaningful futures by assisting people from refugee backgrounds to heal, belong and thrive in a just Australian community. We work with survivors of all ages, with families and communities. Our services to support the recovery of survivors are evidence-based, trauma-informed and culturally appropriate, and include counselling, advocacy, group work, psychoeducation, community development initiatives and sector development.

About Multicultural Australia

Multicultural Australia (formerly known as Multicultural Development Association) was established in 1998 to deliver essential migrant services, advocate for multiculturalism and build a strong future for all Queenslanders. It provides welcome and support to more than 5000 newly arrived Queenslanders every year, including refugees, migrants, international students and people seeking asylum. Multicultural Australia is dedicated to building a welcoming Queensland where all new Queenslanders have the opportunity to fully contribute to and participate in a multicultural society.

We have selected a number of stories to show the nature and extent of vilification and hate crimes experienced by people from diverse culturally, linguistically and religious backgrounds living in the Greater Brisbane region. These stories include (i) expressions of hate based on race, religion, national origin or political opinion; (ii) incitement of hate and severe ridicule; (iii) racial profiling.

Expressions of hate based on race, religion, national origin or political opinion

Being told “go back to where you came from” is a very common experience among people from CALD backgrounds. Expressions like this have profound effects on people’s identity and sense of belonging, inclusion and equality:

“I went fishing in a small dingy with my wife at Bribie Island, and someone from the shore shouted: ‘go fish to your own river’. Then someone came and through his fishing line above our head with an aim to hurt us, the hook nearly hit my wife’s head, he did it twice. We moved away but he kept on humiliating us by saying nasty words like “why are you here, go back to where you came from”. I kept quiet, didn’t report and we left” [Karen community].

Expressions of hate and severe ridicule based on wearing of religious clothes or symbols are also common experiences that are particularly harmful for women, children and young people:

“Wearing hijab for muslim woman is always a problem when in public places like shopping centres, in the view of wider Australian community. Once my wife was stopped by an Australian woman asking her in rude tone: “why are you wearing this on your head in mid hot summer?”. Is it because your husband forced you to do it?” My wife was very intimidated by this incident and didn’t know what to do. She replied that “I am wearing hijab by my own will and nobody forced me.” Another incident when my family was photographed by someone at the shopping and run. My family was so upset and when they reported it to shopping Centre Security personnel, they did nothing at all” [Muslim community].

“At school wearing a turban, I was humiliated by students at school, sports etc, called names, making fun of me or criticism, I felt not fitting in the society, sense of hopelessness and disoriented because of constant abuses or intimidations of my appearance and religion belief. It impacted my self-esteem. Although I reported to the Principal, no action was taken. I love my religion and have a strong faith but the circumstances encountered made me abandon the most important thing in my life, change my appearance, costume to enable me fit in with the rest. My experience helped me to support other young people who are facing the same problem daily” [Sikh community].

The COVID-19 pandemic has seen an increase in expressions of hate against some communities based on their national or regional origin:

“In the current COVID situation, we Asians are seen as people who brought the virus and infected other people. We are seen as moving around with the virus to infect other people this have impacted on the mental health and many are socially isolated. My community members have reported such cases happening to them on various occasions, but because of language they cannot retaliate, also they are afraid... they could not report”

Expressions of hate due to opposing political opinions are experienced within some communities:

"... because of the sensitivity of the political conflict in Syria, some parts of the community who have been here for a long, long time and who have different points of view, they are attacking those who are more recent arrivals, attacking them on Facebook... I've been attacked many, many times, I have been called names, threatened, even trying to isolate me because I am against the regime in Syria. A lot of people who are against the regime are feeling like they are surrounded by those people who are stronger, they have been in this country for a long time, so they are trying to isolate them and put them under pressure. And I know I can go to the police, I've had a conversation with the [Human Rights] Commission, but at the end of the day, without a law that prevents and punishes people who commit those kinds of things, it's a waste of time... we need a law here to identify hate crimes and put lines between a hate crime and freedom of speech, because there is a big huge difference between freedom of speech and hate crimes... so I can't understand why in a country like Australia this is not clear... so we need that not only for ordinary people like us but also for politicians who sometimes say statements that make the community or parts of the community from some religious backgrounds feeling afraid... so I think there is an urgent need in this country and this state to have clear laws to prevent those kind of things..."

Incitement of hate and severe ridicule

The Media's treatment of some people from diverse backgrounds impact not only on those individuals targeted, but on their families and communities:

"During the COVID outbreak, when a few lockdowns were happening, everybody was new to it you know? What happened is that two South Sudanese girls managed to get through the cracks and you may have seen it in the Media, they came I think from Melbourne and ended up in Brisbane. And what did happen is that I think it was the Courier Mail that put their faces and called them 'Enemies of the State'. Now, that was very disturbing to all South Sudanese, all Sudanese or Africans in general, because when you see these two girls I saw my sisters in those two faces, and now, even from that date, we all feel afraid, you know, my sister was going on a road trip up northern Queensland and you know, apparently their faces are 'enemies of the state', and you know there are people out there who do not understand the technicalities and how easy it would've been for somebody to tick the wrong box, or you know be at the wrong place at the right time... just because 'enemy of the state' you know, the comments we saw online were very, very disturbing, very threatening to a lot of black people, and to South Sudanese as a whole... and it put a really, really bad stigma on our name as a community, not mentioning how wonderful we are doing in terms of those refugees and migrants who have done lots of positive things in Australia and who have contributed and are now part of Queensland and Australia, in the Olympics for example. And yet you know, one bad issue happens and we get this massive exposure but the good things we do are not told the same way... [...] this really affects young people in a negative way, you know, it gets hard for them to value themselves, because everybody think you are this, then you start to believe that you are this... whereas you are so much better than other's perspectives... not to mention how hard it was for your parents to get you to where you are, and then for somebody to come and put you into a position where you should not be... and those people who say those kind of words in the street, in the cars, and yell out... there should be something that help us alleviate such acts..."

Incitement of hate and severe ridicule is also common in social media:

"And there are countless, countless cases... for example there was a young boy who was missing from St James, his picture was taken saying this boy has been missing for a few days, please if you have seen him let us know, because there was a bit of concern amongst young people, and there were just horrible comments [in social media] saying... "go back, I hope he dies... I hope he gets what he deserves... don't find him... he will go back to some crack house..." you know, this is the picture of a young South Sudanese person..."

Religious and cultural minorities commonly experience incitement of hate and severe ridicule when holding public events aimed at enhancing awareness of their religion among the general public or advocating on behalf of their communities:

"A few years ago I organised an Islamic information session in the Ipswich area. What was interesting was that it was this woman who organises multicultural stuff, and she was the one who sort of put a flyer in I think more like a right wing sort of way, and then I realised lots of things were happening... so there is a group of Christians who travel from all over, they are a very strong network, and they came on the day of the presentation, and they really just didn't want to hear anything about what our presenter was talking about... so it was really quite a scary situation because they were forceful... they just had this way of seeing Islam as against Christianity... they were saying things about Islam or how they were interpreting Islam... and the presenter wanted to talk to them about what it really meant, but they did not want to listen... and because of the attacks on Facebook prior to the event, the police was there, not present but outside the venue... we were concerned for the safety of the speaker so we had to stop the event, when we saw that it was becoming dangerous for the speaker we sort of stopped the event".

"I arrived to Australia as a refugee and I came from Syria, and I was doing a lot of advocacy about bringing Syrian refugees to this country. There was an event and I was invited to speak about it, and when I started talking, a person attacked me publicly... he was saying "terrorist, go back to your country, go back to where you came from..." I was so scared. And that has happened to me in different situations, different events, similar things..."

Severe ridicule is also experienced at educational institutions by children and young people from diverse cultural, linguistic and religious backgrounds:

"I am a Muslim Arabic. My child at school has a Christian Arabic friend. Their classmates at school thought that everyone from Arabic background will be Muslim and "terrorist" as well. So they were bullying my Muslim son and his Christian friend as well saying "Allah Akbar", saying they are terrorist Muslims...!

"Something happened last year with my daughter [family from Syria] who is studying law here in Australia... they sent them a case study to discuss legally, and the case study was about a young man who came to Australia as a refugee with his parents, and he is from Syria, and he is a terrorist, and what should they do... and then, my daughter lost it, and she sent a letter to the University asking why it was necessary to say in this case study that his nationality was Syrian, why you need to put his nationality... and she sent them a very long email, and there were a lot of emails between her and them, and they finally apologise... so this is a University, a law School, and they are doing this... like I don't know what to say! It's really weird for me to understand how that happened... They apologised but you know, it really

impacted on her, I was so proud of her... but this was sent to all students you know... She was shocked, I remember, she came running downstairs and said, look what they did, and she was so angry... and then when they responded she felt much better because she did something and got a response, and an apology... but from the start, when we have better laws they will be less likely to commit these kinds of mistakes, and I think it's a huge mistake because it comes from a School of Law, from a University, they should know the law..."

Racial profiling

Stories of racial profiling in stores and businesses where people from diverse backgrounds are detained and questioned (and sometimes falsely accused of shoplifting) were commonly expressed by community leaders during the consultation:

"During lockdown I was at Woolworths Gold Coast and the security guard followed me and asked me to open the bag and asked me to go outside the Mall. I asked to speak to Manager but they said it was shopping Mall security. They didn't call me, they said they would look into it. They single you out for attention of police in shopping Mall. They pick on you and search you".

"I came for an appointment at one of the offices in Zillmere, then I went to the restroom... on the way met with one of the volunteers, upon seeing me he got up and said, "why are you here? Have you come to steal from us? I am watching you don't touch anything". He threatened me saying next time when you come here, I will call the police, we don't like people like you here. I felt bad and wished there was no war in my country... I couldn't have not left my country. I informed the responsible person. I stopped going to that office again".

Racial profiling by police are commonly experienced by people from African backgrounds:

"Some of us were having a BBQ at the Roma St Parklands on a Saturday. As we were ready to go home, something may have happened somewhere across the city and the police was alert... obviously they were chasing down somebody who have done something who may have come from an African background, we don't know. As far as we were concerned as we were walking down... a group of young males and females walking back to Roma St Station, and then suddenly, when we were under the bridge, we were stopped in a very, very rough way, we didn't feel safe or very good at all... "Stop! Stop! Freeze! Sit down!" It was a bit rough; we were all pretty young... we felt shaken by the whole situation. And then, as we sat down, the police were just talking on their radios saying... "We have captured them... a group of South Sudanese young people... please send back up...". We didn't know why, we were freaking out. And then, one of the more mature men stood up and he was pressed to sit down and was told this could get pretty serious, but you know, he insisted because he was our leader at the time. So he said, "look, I don't know who you are looking for but these are not the people you are looking for. If you are chasing down some other young people, this is not them". They were asking for our IDs, our identification, you know, licences... I was freaking out you know, I had never been arrested by police before. I was thinking about my parents, you know, we went to a park and now I would have to call and tell them I was in a watch house because something happened that we didn't know about. But thankfully... thankfully... we didn't end up being taken to a watch house. We were not able to provide IDs for everyone but fortunately the more mature person with us gave his details to the police and they later let us go... The problem for us was that we were a group of diverse young people... there were not only Sudanese, there were other young

people there but you know, a group of 15 young people, you know... they have this mentality that the young Sudanese people or South Sudanese people are doing things that are not appropriate, but that's not the fact, the fact is you know... thinking... We have a number of young people here and we are trying to find out what is going on, so you guys stay foot until we clarify who actually we are chasing... but you know, just because we were Sudanese or South Sudanese... it really put a bad name on our community and on our young people... We felt bad you know, there were other people passing by watching a bunch of young people being forced to sit down on the side of the road, you know, treated like criminals..."

What can be done? What changes would community leaders like to see?

Community leaders spoke about the need to address racism, making individuals, media, organisations and governments accountable for their actions, a clearer identification of what a hate crime is, stronger legislation and lowering the threshold, reducing barriers for people to be able to access lawyers and make complaints, and the importance of early education (primary and secondary schools) regarding vilification and hate crimes:

"Addressing racism, even if some of us come from overseas we are all under the same umbrella... when you are in the streets and people say "go back to your country"... it's not right... so you can get a lawyer and report it to the police... getting equal rights..."

"The way Media portrays some people, I think there must be better laws monitoring that because it's just so easy to paint one picture and then you see the population go with whatever they see on TV, and not knowing or not wanting to learn more about the people in the community... I think that's definitely very important... because even with COVID you see mass hate against Asian people, like in America, people looking at Asian people and verbally attacking them and physically attacking them and they have ended in hospital... this is really important"

"Not only making individuals accountable but also organisations and governments... you know, making governments accountable for their actions, and Media also, you know, how Media has portrayed the people from South Sudan, out of proportion, so you must have a way of challenging the Media for them to be accountable, but in Australia the Media is never held accountable, you know because they will publish anything that sell their newspapers..."

"In my opinion, it's very important to have a clear identification of what is a hate crime, and the difference between freedom of speech and hate crime... and something very practical, so people know if they do that, there will be consequences, a court, there will be punishment, and then they know it is not right to do it... and it should also include Facebook, all those communication media, not only face to face but all Media including social media. The second thing, Government need to organise a lot of education, and to have this topic as part of the official education in schools, not only in classrooms but in many event, maybe having a day in the year where these issues can be discussed... things like that.. but it has to start with stronger laws..."

"I think is like lowering the threshold, because you know the current threshold is very high, you know, you can say anything and get away with it... so lowering the threshold sends a message to the community, I think that's the big issue here..."

“Some of us are capable of challenging others when we face these situations, we can write, we speak the language, we are capable of looking after ourselves, but there are many who’ve had worse experiences than us, and they cannot do these complaints...”

“And having a lawyer, it’s almost impossible having a lawyer, we don’t have money to have a lawyer... it’s not only to being able to read and write, it’s being able to afford a lawyer...”

“Yes, education is important, but starting early, in primary school, where children can learn, this is discrimination, this is hate crime, there is a difference between freedom of speech or freedom in general, and responsibility and accountability for your words and actions... and this should also go into high school... and this will help the next generation knowing that we are so diverse in this country, and this is the most beautiful part of it, and we want to be able to demonstrate to the whole world that we you come to Australia you bring your culture, your way of life, as long as you are not harming anybody else, go ahead and practise it, because that’s what we all are here for, freedom, peace, security, health, safety.”

Recommendations

QPASTT and Multicultural Australia are members of the Cohesive Communities Coalition. Based on the collective knowledge and experience of refugee and migrant community leaders, and our long experience supporting CALD communities in Queensland, we strongly support the recommendations prepared by the Cohesive Communities Coalition (legal subgroup):

1. Use the principles of legal effectiveness outlined in the Cohesive Communities Coalition paper¹ as a framework to measure the effectiveness of law reform in the area of hate crime and vilification.
2. Introduce a statutory aggravation regarding hate/bias into the Criminal Code Act 1899 (QLD) and Summary Offences Act 2005 (QLD) to apply to criminal conduct.
3. Adopt a harm-based test for determining this hate/bias aggravation that does not rely on establishing the perpetrator’s state of mind. We have recommended a statutory hate/bias aggravation to apply where the criminal conduct
 - expresses hate; incites hatred, serious contempt, or severe ridicule, or directly discriminates against a group identified based on a protected characteristic; and
 - is reasonably likely to cause a person from a group, identified on the basis of that protected attribute, to have a reasonable fear for their safety or security of property.

Both parts consider the conduct and its effects on the victim and victim group, acknowledging the corrosive impact of hate crime on social worth, equality, belonging, inclusion, participation and cohesion.

4. Specify penalties for this form of aggravated criminal conduct in the Criminal Code regarding each base offence, including public nuisance, Wilful Damage (property),

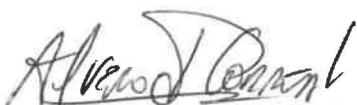
¹ Cohesive Communities Coalition, Serious Vilification and Hate Crime: The need for legislative reform, October 2020. https://betterlawsforsafeqld.com.au/wp-content/uploads/2020/09/SeriousVilificationAndHateCrime_CohesiveCommunitiesCoalition-1.pdf

Threatening violence, Stalking, Armed to cause fear, Assault and Grievous Bodily Harm, Deprivation of liberty.

5. Include a general provision regarding aggravation in the Criminal Code to allow for judicial discretion where police have not identified the aggravation but a judge considers it to be appropriate.
6. Mandate police to mark it as a hate crime on the first charge sheet where the aggravation is present.
7. Specify in the Criminal Code that when a crime is done for hate and another reason, it should still be considered a hate crime (per the UK legislation).
8. Continue to allow judges to consider sentencing considerations regarding circumstances of the offender or offending but that the crime still be labelled as a hate crime if it fulfils the aggravation threshold, providing that essential recognition to the community.
9. Expand the attributes protected by the Anti-Discrimination Act 1991 (Qld) to include ethnicity, national origin, disability and gender, acknowledging that vulnerabilities exist across these domains and can be difficult to separate in a hate crime.
10. Increase section 131A's penalty to 3 years and financial element, remove the Crown Law officer approval requirement, move it from the Anti-Discrimination Act to the Criminal Code to heighten its visibility, and revisit its effectiveness in a few years.
11. Introduce a new standalone criminal offence for publishing or distributing material online that stirs up, maintains or normalises hatred, with regard for the New Zealand Government's proposal, and compares existing legislation in the United Kingdom and Western Australia. We recommend that the Committee consider how this legislation could be focused on actors engaged in the most dangerous forms of hate. To connect the offence to endangerment, the test could include intent to cause a person from a group, identified on the basis of that protected attribute, to have a reasonable fear for their safety or security of property.
12. Consider the need for a statutory defence to such a new criminal offence to provide explicit protection for legitimate free speech, in line with the exceptions provided to section 124A of the Anti-Discrimination Act.
13. Amend the "Dictionary" Schedule to the current Criminal Code to define key terms, particularly relating to changes in law.
14. Focus on victim support, reporting, data collection and publication. Coordinate with community organisations already supporting victims and collecting data to ensure consistency. Publish prevalence data to encourage community awareness and more reporting. We also recommend this data be shared with researchers to enable useful analysis.
15. Consider non-criminal options for enhancing enforcement of existing incitement to hatred laws, such as giving the Queensland Human Rights Commission additional powers to issue notices to platforms or to investigate complaints and issue fines.
16. Introduce a new species of Order, created along the same lines as a Peace and Good Behaviour Order or Domestic Violence Order, to address behaviour that falls short of criminal offences, but which if repeated, a breach of the order of the court is penalised. We propose that such an order could protect
 - A previously targeted individual or group
 - Culturally or religiously significant place (eg, place of worship)

17. Develop a restorative justice strategy in relation to hate crimes in consultation with affected communities.
18. Invest in diversion options and community justice conferencing options for hate crime offenders and encourage academic partnerships that evaluate these initiatives to allow for improvement over time.
19. Legislate a hate crime scrutiny panel involving police and community advocates as an ongoing mutual education process to guide improvements in practice and increase communication on high impact cases.
20. Support specialist advocacy services or a legal clinic dedicated to hate crime, human rights, discrimination and vilification for CALD clients of limited socio-economic means. Additionally, private lawyer expertise in this field should be identified to make it easier for community members to seek advice.
21. Encourage preventative education within our schools and local areas, that specifically explains the psychological, neurological, social and economic impacts of racism, vilification and discrimination.

For additional information please contact:



Dr Ignacio Correa-Velez
Co-CEO

Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT)
28 Dibley St, Woolloongabba QLD 4102
Mailing address: PO Box 6254 Fairfield QLD 4103

