



12 July 2021

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
Alice Street
Brisbane QLD 4000
By email: lasc@parliament.qld.gov.au

Dear Committee,

Inquiry into serious vilification and hate crimes

Thank you for the opportunity to make a submission in response to this inquiry. QCOSS supports the inquiry and calls for stronger protections against hate crimes and serious vilification in Queensland.

Queensland Council of Social Services (QCOSS)

QCOSS is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity and wellbeing for every person, in every community.

Our submission reflects our engagement with our members and supporters. On 1 July, QCOSS hosted a live webinar to explain the current inquiry, provide a human rights analysis about strengthening existing laws and to encourage our sector to make a submission. Four guest panellists represented diverse perspectives grounded in community insight and stories, and professional expertise. They included representatives from the Muslim, African, First Nations and LGBTIQ+ communities. The event attracted 100+ registrants across Queensland.

Vilification takes many forms against different community groups

Experiences of racism, vilification and hate speech are shaped by systemic and structural factors and community prejudice, and are experienced differently depending on one's lived experience. For First Nations people, racist laws, policies and the impact of colonisation and dispossession shapes their experience of racism and vilification. For LGBTIQ+ communities, entrenched homophobia and transphobia in parts of society fuels their experience, and the referendum on marriage equality in 2018 enflamed this rhetoric. Most recently, the coronavirus pandemic has resulted in an increase in hateful actions towards individuals of Asian appearance in our community.

A strong theme from our panel discussion was the importance of solidarity across our diverse communities, and the indivisibility of human rights in seeking to be treated with respect and dignity. Core to the experience of our panel was the notion that a hate crime is an attack on the human dignity of a person. Of the 29 participants who answered our event poll question,

Do you agree with the statement that to commit a 'hate crime' is to attack the human dignity of a person? 100% answered, 'yes'.

Our panel and audience members spoke compellingly about the deep and lasting psychological impact of racism and hate speech. We heard stories about individuals withdrawing from community life, feeling socially excluded and having their individual expression and identities curtailed. Hate speech both in online and 'real time' settings - including on the street, in parks, libraries, on public transport and in our schools – prevents human flourishing across our diverse communities in Queensland.

Prevalence of hate crime and vilification in Queensland

Statistics suggest an increase

It would appear from the evidence already presented to the Committee that hate crime and vilification is on the rise in Queensland. We note the Queensland Police Service QPRIME database presented to the Committee on 20 May 2021 shows a rise in the instances of hate crime in the general community over a period of time (from 2015 to 2020) including during the Covid-19 pandemic.¹ Almost one third of all reported offences with hate or vilification characteristics were race-based. We further note the findings of many recent community-based surveys that have also revealed an increase in instances of racism and discrimination increased during the Covid-19 pandemic.²

Online hate speech

In relation to online hate speech, the eSafety Commissioner last year found this is a growing problem that was already widespread prior to Covid-19. The Commissioner's report demonstrated the ease with which platforms such as Facebook can inflame harmful and dangerous rhetoric against members of our community. QCOSS is particularly alarmed by the eSafety Commissioner's findings that:

- Around 1 in 7 (14%) of Australian adults were estimated to have been the target of online hate speech in the 12 months to August 2019.
- People identifying as LGBTQIA+ or as Aboriginal or Torres Strait Islander experience online hate speech at more than double the national average.
- Online hate speech is most likely to occur between strangers.
- Hate speech largely occurs via established social media platforms like Facebook, Instagram or in everyday applications such as email.
- 7 in 10 adult Australians believe that online hate speech is spreading.³

Answers to our event poll question, *In your opinion, do you think cyberbullying and online vilification is increasing?* align with the eCommissioner's findings - 97% answered 'yes'.

¹ Queensland Police Correspondence (see Table 1, page 3) dated 20 May 2021 <https://www.parliament.qld.gov.au/documents/committees/LASC/2021/VilificationandHateCrimes/cor-QPS-20May2021.pdf>

² E.g., ABC 14 May 2020. 'Here's what you told us about racism in Australia during the coronavirus pandemic'. <https://www.abc.net.au/news/2020-05-14/racism-in-australia-during-the-coronavirus-covid-19-pandemic/12234832?nw=0>; Asian Australian Alliance. 24 April 2020. 'I am not a virus: COVID-19 Coronavirus Racism Incident Report'. <http://diversityarts.org.au/app/uploads/COVID19-racism-incident-report-Preliminary-Official.pdf>; ANU 28 Oct 2020. Experience of Asian-Australians during COVID-19 pandemic: https://csm.cass.anu.edu.au/sites/default/files/docs/2020/11/The_experience_of_Asian-Australians_during_the_COVID19_pandemic.pdf

³ eSafety Commissioner, (2020) 'Online Hate Speech' Findings from Australia, New Zealand and Europe <https://www.esafety.gov.au/sites/default/files/2020-01/Hate%20speech-Report.pdf>

The *Enhancing Online Safety Act (2015)* (Cth) protects against cyberbullying when targeted towards individuals. The Act cannot protect entire communities from echo chambers of organised extremist communities where the dehumanisation of entire populations occurs. This is a gap in existing protection that requires legislative reform at the federal level as well as here in Queensland.

Human rights analysis for new laws

Any new Bill to address hate crime and serious vilification before Parliament will be required to consider the human rights impacts of those laws in order to assess compatibility. As the Queensland Human Rights Commission has identified, the following human rights will be engaged by stronger laws to address serious vilification and hate crime:

- freedom of thought, conscience, religion and belief
- freedom of expression
- privacy and reputation
- right to liberty and security of person
- right to life and
- recognition and equality before the law.⁴

As vilification is already regulated under Queensland law, the starting point for a human rights analysis need not be a debate over whether hate speech is permissible on free speech grounds. Parliament, by regulating free speech since 1991, has already determined that vilification (either civil under s124A or serious under s131A) is unacceptable and will not be tolerated in a free and democratic society. The human rights analysis for future laws can therefore focus on optimal rights-respecting responses to strengthening existing protections that are not currently working as intended.

Creative solutions and suggestions

In response to our event poll question, *Do you think stronger protections in Queensland are needed to combat racism?* 100% of participants who answered the question said, 'yes'.

QCROSS endorses the point made by our panellists that accountability should not lie with individuals and communities aggrieved by hate speech. Reforms should seek to limit the burden on individuals in recognition of the fact that the process of raising a complaint can be re-traumatising. One solution put forward was to give the Queensland Human Rights Commission additional powers to investigate and regulate hate speech in a way similar to the Fair Work Ombudsman in its regulation of workplace matters.

Another opportunity for reform is to expand the grounds of protection (race, religion, sexuality or gender identity) to include other groups, notably people with disability and people with HIV+ status. Expanding the grounds of protection in this way would provide legal recourse to individuals who often experience public ridicule and contemptuous treatment as a result of their HIV status or their physical and/or mental impairment.

Finally, the importance of community education was underscored by both panellists and participants at our event. There is a need for increased civic and school education about the impacts of vilification and hate on the brain and body. In the context of First Nations peoples, truth-telling about racism and an honest account of Australia's colonial history is needed.

⁴ QHRC Briefing note for the Legal Affairs and Safety Committee
<https://www.parliament.qld.gov.au/documents/committees/LASC/2021/VilificationandHateCrimes/cor-QHRC-19May2021.pdf>

Conclusion

Queensland is a wonderfully multicultural state and home to so many diverse ethnic and religious communities. All of us have a role in stepping up and speaking out to ensure that our state is a place of respect and equality, regardless of our ethnic, racial, religious or cultural backgrounds and beliefs.

QCOSS supports the inquiry and the calls for stronger protections against hate crimes and vilification in Queensland.

Thank you again for the opportunity to provide our submission.

Yours faithfully,

A handwritten signature in black ink that reads "Aimee McVeigh". The signature is written in a cursive, flowing style.

Aimee McVeigh
Chief Executive Officer