

The Cohesive Communities Coalition have made a submission “Serious vilification and hate crime: The need for legislative reform.” Below are their 6 recommendations with comments.

1	<p>Introduce a specific summary offence, or make racial or religious motivation a circumstance of aggravation on existing offences.</p>	<p>This would set a dangerous precedent in requiring the Legal system to take the motivation for a crime into consideration as well as trying to establish the veracity of the claims. For example, is it really the case that being stabbed for your wallet is less an offence than being stabbed because someone dislikes you? And if the person stabbed identifies with a minority group, they will claim that is the reason for the attack; something virtually impossible to disprove.</p>
2	<p>Introduce a new species of Order, created along the same lines as a Peace and Good Behaviour Order or Domestic Violence Order, to address concerning behaviour that falls short of criminal offences but which if repeated, a breach of the order of the court is penalised.</p>	<p>“Concerning behaviour” is a very subjective concept and puts society in a difficult position. One large factor in the Cronulla riots was the difference in attitude between citizens who found that denying men access to a public swimming pool was concerning behaviour and those who believed allowing men and women to swim together was concerning behaviour. The P&GB order should cover all threatening behaviour.</p>
3	<p>Create a special power for police to obtain warrants to preserve online evidence, or increase the penalty in s131A of the Anti-Discrimination Act 1991 to three years’ imprisonment.</p>	<p>Websites get archived anyway. Social media feeds, particularly those that delete themselves after a period of time, are almost impossible for the Police to capture. In any event, a provision such as this needs to be funded before it is legislated. Jail sentences for saying horrible things about people is not appropriate because it reinforces prejudice in the prisoner and his or her associates, as well as alienating them from society.</p>
4	<p>Remove the requirement for approval of the Director of Public Prosecutions or Attorney-General in order to commence prosecution under s131A.</p>	<p>The Police processes for prosecuting crimes should be uniform across all crimes. It should be up to the Courts to decide whether the prosecution succeeds or fails. The DPP and AG should be examining the totality of Police prosecutions as a form of Quality Management.</p>
5	<p>Introduce a complementary offence to criminalise the possession, distribution, or display of hateful material.</p>	<p>I do not believe in censorship, even though I have seen many disturbing lies propagated; some leading to widespread violence. For example, most Abrahamic religions promote their sacred texts as literally true. They also say that homosexuality is abhorrent and practitioners should be stoned to death. If the Panel decides to legislate against these hate publications I would struggle with my convictions and belief in free</p>

		speech. OTOH I do not see why we should be confronted with lies as we go about our daily business. In other words, I would like to see a distinction made between allowing people to access controversial material and having it forced upon them.
6	Adopt a civil hate crime injunction.	Being rude to people and the lack of manners and respect to fellow humans is a matter for education and familiarity rather than laws. Attempting to codify good manners and common decency is almost impossible to do and to keep up-to-date as standards change. The downside of making specific laws is that it reduces all disagreements to issues of minority vs majority.
7	Introduce hate crime scrutiny panels, based on the United Kingdom model.	Diverting Police resources to more administrative activities is an exercise in political correctness. Police already do not have enough resources to investigate burglaries or fraud or other crimes. If Parliament chooses to fund an independent group with the charter to collect and report on alleged “hate” events, prosecutions and outcomes that should be considered on its own merits separately.

PERSONAL EXPERIENCES

My comments above have been informed by my own experiences. I affirm that my origin as far as it is possible to know was in Africa: the same as everyone else. It would delight me if this affirmation was shared before any discussion about race and minority groups.

I have been fortunate to live in a dozen countries on most continents of the world and consider Australia home. I am an Australian citizen by naturalisation.

My accent comes from boarding school: people have assumed my race and class from that. The reality is that I am not dark enough skinned to be “black” nor white enough to be “white”. I do not identify with Anglo-Saxons. My antecedents were peasants and tradesmen.

Everywhere I lived I experienced some degree of racial or ethnic prejudice, so I know what it feels like. As a male I also have experienced prejudicial judgement, relieved only by being with a dog or a baby.

Like most well travelled people I know, I have learned to accept the societal customs of the country and identified fear and ignorance as the cause of most hurtful statements. Rudyard Kiplings poem “We and They” sums up my perspective.

Unfortunately, I have experienced some racism or classism in Australia.

For example,

- I have been refused entry to a Chinese Restaurant until my Chinese friends arrived. They came from Hong Kong and Malaya and understood Mandarin so showed me how the menu was also different and reduced for Australians.
- When mainland Chinese bought a couple of houses in our street, in order to send their

daughters to the same school as mine, she was told she was not welcome to visit.

- My daughter and her “white” friends were refused work experience in the predominantly Chinese neighbourhood next to their school on the grounds that they did not speak Mandarin.
- I went to a Chinese supermarket which turned out to have higher prices for Australians
- I spoke to a Syrian woman on the train and was told by men supervising her that I shouldn't talk to “their women”.
- My friend who looks Chinese though she is 6th generation Aussie was verbally abused by an older Chinese woman for not speaking Mandarin
- An Aboriginal woman told me that I stole her land and didn't have a right to it.

And so it goes on.

Now the point of relating these trivial but insidious slights is that they do corrupt society. I have friends from a variety of backgrounds and am able to overlook each individual slight. I no longer expect my country to protect me. But my daughter and her friends only have their experiences to go on, and have formed a very lop-sided view of race and of the protection Australia offers them.

Currently we are stuck in a dilemma that has no legal solution. We found that the idea of race has no biological foundation so we decided that it was a social construct that depended on the individual's identification with it. Now we find indigenous people using demeaning language to belittle “██████████” or “██████████”. In a reference that chills the heart of anybody who informed of the early 20th Century eugenics movement, I heard a person with indigenous ancestry claim that it was a matter of “bloodlines”.

If we legislate for racial vilification then we first have to decide what is “race”. The same goes for ethnicity. And religion.

Ultimately, there is no way that legislation can stop what is a biologically conditioned response to difference: experiments have shown that we favour those of resemble us. What we can do is make a clear distinction between thinking and saying things which may be hurtful to some people, including myself, and the violence or threats of violence and the material damage reported by people in the submission.