



Australian
Human Rights
Commission

Inquiry into Strengthening Multiculturalism

**AUSTRALIAN HUMAN RIGHTS COMMISSION SUBMISSION
TO THE SELECT COMMITTEE ON STRENGTHENING MULTICULTURALISM**

19 May 2017

Table of Contents

1	Introduction	3
2	Summary.....	3
3	Recommendations.....	4
4	Multiculturalism in Australia.....	5
5	Government and other official support for multiculturalism.....	7
6	Issues facing Australia’s multicultural society.....	9
6.1	<i>Racial discrimination and its impacts.....</i>	9
6.2	<i>Inflammatory rhetoric and public discussion</i>	11
6.3	<i>Diversity and Australian institutions</i>	12
6.4	<i>Public education on multiculturalism</i>	13
7	Role and work of the Australian Human Rights Commission	14
7.1	<i>Information and Complaints Service</i>	14
7.2	<i>Education.....</i>	15

1 Introduction

1. The Australian Human Rights Commission (the Commission) makes this submission to the Select Committee on Strengthening Multiculturalism.
2. The inquiry seeks to investigate ways of protecting and strengthening Australia's multiculturalism and social cohesion, including in relation to the adequacy of services, public commitment to multiculturalism, standards of public discourse, and the impacts of racial discrimination.
3. In this submission, the Commission provides an overview of Australia's multiculturalism, government and other official support for multiculturalism, and outlines various issues facing Australia's multicultural society. The Commission also provides a summary of its own work and role with respect to Australia's multiculturalism and social cohesion.

2 Summary

4. 'Multiculturalism' can be understood in a number of contexts. It can be a descriptive term, used to describe the presence of cultural diversity in a society. It can also be used in a policy sense – to denote a deliberate stance of governments to recognising and endorsing cultural diversity. Multiculturalism was embraced as a policy in Australia in the 1970s with the arrival of significant numbers of migrants from non-European cultural backgrounds.
5. Australia's support for multiculturalism has not only involved political support at the level of principle, but also institutional expression through particular policies and programs (for example, settlement services and multicultural grants).
6. While Australia's multicultural society enjoys a strong level of social cohesion, there are a number of issues facing Australia that have the potential to undermine social cohesion and support for multiculturalism. These include racial discrimination and its impacts, inflammatory rhetoric and public discussion, an underrepresentation of diversity in Australian institutions, and inadequate public education on multiculturalism.
7. Racial discrimination continues to affect migrants and Australia-born people of many cultural backgrounds. Aboriginal and Torres Strait Islander Australians report high levels of racism. Higher levels of discrimination are reported by recent migrant arrivals, and by migrants from non-English speaking backgrounds, compared to the migrant population as a whole.
8. The state of Australia's multicultural society is shaped by public debate, including the way political leaders conduct the business of government. Inflammatory public discussion of matters concerning race or ethnicity in Australia has the potential to undermine Australia's multicultural harmony.
9. While Australia is highly socially mobile, there is an underrepresentation of cultural diversity in positions of leadership, as well as in the media. The

Commission believes that improving the representation of cultural diversity in leadership and in the media would strengthen Australia's multiculturalism.

10. Australians would benefit from a clearer understanding of what is meant by multiculturalism – both in theory and in practice. This could develop from a more comprehensive civics education, including through the formal school curriculum. Parliament may also be well positioned to clarify the meaning of multiculturalism in Australia.
11. The Commission has an institutional and legislated role in strengthening Australia's commitment to anti-discrimination within a human rights framework.
12. The Commission receives and investigates complaints from individuals who allege that their human rights have been breached or that they have been discriminated against in an area of public life such as employment or education, including with respect to race. The Commission also engages in a range of programs and activities to challenge discrimination and uphold race relations and community harmony.

3 Recommendations

Recommendation 1: That the Government continue to support a policy of multiculturalism as a means of promoting social cohesion, cultural harmony and national unity.

Recommendation 2: That the Government consider strengthening the policy machinery of Australian multiculturalism, including through the establishment of an Office of Multicultural Affairs.

Recommendation 3: That the Government recognise the importance of maintaining effective legal protections against racial discrimination and hatred in setting a standard for public conduct in a multicultural society.

Recommendation 4: That the Government investigate ways of collecting more comprehensive data on racially motivated crimes. An appropriate government authority, such as the Australian Institute of Criminology, could be mandated to collect and report on national data.

Recommendation 5: That the Government recognise that Australian race relations and community harmony can be profoundly influenced by the tone of public debate about immigration, multiculturalism and national security.

Recommendation 6: That the Government investigate ways of collecting more comprehensive data on issues concerning multiculturalism, including with respect to cultural diversity in Australian workplaces.

Recommendation 7: That the Government consider strengthening public education about multiculturalism, including through the school curriculum.

Recommendation 8: That the Parliament consider periodic public statements, which can affirm parliamentarians' recognition of a multicultural Australia.

Recommendation 9: That the Government continue to support the anti-racism and educative work of the Australian Human Rights Commission, including the National Anti-Racism Partnership and Strategy.

4 Multiculturalism in Australia

13. It is widely accepted that Australia today is a multicultural society. Australian society is among the most culturally diverse in the world. An estimated 28 per cent of the Australian population were born overseas.¹ This is the third highest proportion among all OECD countries.² In addition, about 46 per cent of the Australian population has at least one parent who was born overseas.³ In the 2011 Census, Australians reported identifying with more than 300 ancestries.⁴ More than this, Australian society understands its national identity as being constituted, in part, by its diversity.⁵
14. The word ‘multiculturalism’ gained currency in Australia in the 1970s. Multiculturalism had become government policy in Canada in 1971. Canadian Prime Minister Pierre Trudeau stated multiculturalism would seek to secure all ethnic groups ‘the right to preserve and develop its own culture and values within the Canadian context’.⁶ In 1973, Australian Immigration Minister Al Grassby gave a speech providing a characterisation of Australian multiculturalism, developing a notion of the ‘family of the nation’. Ethnic groups would be allowed to ‘preserve their cultural heritage indefinitely while taking part in the general life of the nation’.⁷
15. Multiculturalism can be understood in a number of contexts. It can be a descriptive term, used to describe the presence of cultural diversity in a society. It can also be used in a policy sense – to denote a deliberate stance of governments in recognising and endorsing cultural diversity. As policy, multiculturalism is a different approach to immigration and settlement from that of assimilation. Australia’s multiculturalism implies that everyone in Australian society should have a right to express their cultural heritage and identity, and that we can leave room for multiple expressions of Australianness. In comparison, assimilation is characterised by an expectation that the newly arrived migrant will forgo their cultural heritage and adopt the dominant culture of their new home.
16. Multiculturalism was embraced as a policy in the 1970s with the arrival of significant numbers of non-European cultural background migrants. It coincided with a repudiation of the White Australia policy that had characterised Australia’s approach to immigration for much of the twentieth century.
17. There has been a consistent commitment to principles of multiculturalism since they were first adopted.
18. The 1978 ‘Review of Post-Arrival Programs and Services to Migrants’ was commissioned by Prime Minister Malcolm Fraser, and defined what was then Australia’s approach to migration and integration. Otherwise known as the Galbally Report, the review noted:

We are convinced that migrants have the right to maintain their cultural and racial identity and that it is clearly in the best interests of our nation that they should be encouraged and assisted to do so if they wish.⁸

19. A newly-established Office for Multicultural Affairs (OMA), housed within the Department of Prime Minister and Cabinet, produced the *National Agenda for a Multicultural Australia* in 1989. This document outlined three dimensions of multiculturalism as a policy: cultural identity, economic efficiency, and social justice.
20. In recent times, the federal government has enshrined multiculturalism in policy through official statements released periodically. Policy documents and statements released in 1999, 2003, 2010 and 2017 have recommitted the Australian government to multiculturalism in various iterations.
21. The federal government's 2017 multicultural policy statement, 'Multicultural Australia: United, Strong, Successful' reiterates shared values, rights and responsibilities as cornerstones of Australian multiculturalism. Shared values include respect, equality and freedom, encompassing commitments such as to the rule of law, gender equality, and freedom of religion, speech and thought. The statement rejects racism, affirms the value of mutual respect, and emphasises the safety and productivity of Australia.⁹
22. A citizenship model of multiculturalism has operated since the 1980s. A freedom to express cultural identity and heritage has been formalised as a right, which is to be balanced by civic responsibilities. The history of multicultural integration in Australia has revealed it has been founded on a certain idea of liberal democratic citizenship.¹⁰
23. Migrants to Australia have a high uptake of citizenship.¹¹ The national Au@2015 survey found that 82% of those migrants who had been resident in Australia for between 15 and 24 years had become citizens. The highest take-up of citizenship for those who had been resident in Australia for between 5 and 9 years was by migrants from South Sudan (91%), Iraq (89%), and the Philippines (83%).¹²
24. Unlike many European countries, Australia has preferred a citizenship model of multiculturalism. Australia has been distinguished by a widespread public expectation that migrants will become full members of the national community, while also being free to express their cultural heritage and identity. By contrast, the German approach has historically been characterised as positioning migrants as 'guest workers', brought in to fill labour shortages, rather than would-be citizens. In France, an assimilationist 'republican' model has been adopted, in which the state declines to accommodate cultural diversity. While citizenship is a viable option for migrants in France, it expects cultural assimilation.¹³
25. A muscular emphasis on citizenship and common civic values has also set Australia apart from the Netherlands and the United Kingdom. These countries have adopted multiculturalism, but have not emphasised integration and nation-building with the same rigour.¹⁴

26. The nation-building character of Australian multiculturalism is reflected in the strong public support among Australians for cultural diversity. The Scanlon Foundation's annual *Mapping Social Cohesion* survey has found consistently high levels of agreement with the statement 'Multiculturalism has been good for Australia'. From 2013 to 2016, between 83% and 86% of the surveyed population agreed with the statement each year.¹⁵ Multiculturalism is considered by many Australians as being an integral part of what it is to be an Australian.
27. Attitudes towards immigration from the existing population also continue to be broadly positive. Fifty-nine per cent of Australians surveyed by the Scanlon Foundation in 2016 considered that the immigration intake was 'about right' or 'too low'. Similarly, fifty-seven per cent of respondents to a 2016 Lowy Institute survey disagreed with the statement that there is 'too much' immigration to Australia. This stands in strong contrast to similar polls in the United States and particularly European countries where current support for immigration is much lower.¹⁶

5 Government and other official support for multiculturalism

28. Since the 1970s, Australia has recognised and endorsed cultural diversity through a policy of multiculturalism. Advocacy has been expressed through periodic statements on multicultural policy. There is no current dedicated legislation at the federal level relating to multiculturalism. Some have advocated for the introduction of a federal multicultural Act.¹⁷
29. The Commission observes that many states have introduced Multicultural Acts. It also observes that, at the federal level, the *Racial Discrimination Act* can be understood as a *de facto* legislative expression of multiculturalism in prohibiting racial discrimination and guaranteeing equality before the law, regardless of racial background.
30. From time to time, Parliament has expressed its support for multiculturalism. A motion on racial tolerance was passed in 1996 and 2016 in identical terms. The motion – with multi-partisan support – affirms Parliament's 'commitment to maintaining Australia as a culturally diverse, tolerant and open society, united by an overriding commitment to our nation, and its democratic institutions and values.'¹⁸
31. Australia's support for multiculturalism has not only involved political endorsement at the level of principle – as described above – but also institutional reinforcement through the funding of policies and programs, such as settlement services and through grants.
32. It is essential that the Australian Government allocate the appropriate resources to support social cohesion and multiculturalism. Many of the relevant programs are currently administered by the Department of Social Services. These include settlement services, which assist migrants with their integration in Australia.
33. The provision of dedicated settlement services has been integral to the success of multicultural Australia. It has, in part, distinguished the Australian

experience of multiculturalism from that of other liberal democratic societies that have been characterised as multicultural.

34. Moreover, education initiatives such as the National Anti-Racism Partnership and Strategy (NARPS), coordinated by the Australian Human Rights Commission, play a vital role in supporting the maintenance of racial tolerance, including through the *Racism. It Stops with Me* campaign. Since 1999, the Australian government has celebrated Harmony Day, which falls on 21 March, the International Day for the Elimination of Racial Discrimination.
35. The government historically has also supported multicultural and ethnic broadcasting. These invaluable services provide multicultural communities with media content they would not be able to access in any other way. Their ongoing work is important.
36. Finally, the government has frequently sought the guidance of an established advisory body on multicultural policy. It is essential that any advisory body to the government is independent, meritorious, and qualified to advise government on a range of multicultural issues.
37. The government can strengthen policy machinery for multiculturalism. In the past, there was a Bureau of Immigration, Multiculturalism, and Population Research. An Office of Multicultural Affairs also functioned in the 1980s and 1990s. Such an office would ensure coordinated leadership on multicultural affairs. A similar office, if established in an appropriate departmental home (such as the Department of Prime Minister and Cabinet (DPMC)), would send a strong message about multiculturalism being a policy priority. The Commission observes that an Office for Women currently exists within DPMC to deliver policies and programmes to ‘advance gender equality and improve the lives of Australian women’.

Recommendation 1: That the Government continue to support a policy of multiculturalism as a means of promoting social cohesion, cultural harmony and national unity.

Recommendation 2: That the Government consider strengthening the policy machinery of Australian multiculturalism, including through the establishment of an Office of Multicultural Affairs.

6 Issues facing Australia’s multicultural society

38. Australia’s multicultural society enjoys a strong level of social cohesion. In the Scanlon Foundation’s *Australians Today* survey, almost two-thirds of migrant respondents indicated a sense of belonging in Australia to a ‘great’ or ‘moderate’ extent, while only nine per cent of recent arrivals indicated no sense of belonging in Australia ‘at all’.¹⁹ As noted above, multiculturalism also enjoys a high level of general public support.
39. However, a number of issues have the potential to undermine social cohesion and support for multiculturalism. These include racial discrimination and its impacts, inflammatory rhetoric and public discussion, an

underrepresentation of diversity in Australian institutions, and inadequate public education on multiculturalism.

6.1 Racial discrimination and its impacts

40. The *Racial Discrimination Act 1975* (Cth) ('the Act') prohibits racial discrimination in Australia. The Act was the first human rights and anti-discrimination legislation enacted by the Commonwealth Parliament. Motivation behind the Act's introduction lay in Australia's commitment to implement its international obligations following ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).
41. The Act makes it unlawful to treat a person unfairly because of their race, colour, descent, national or ethnic origin or immigrant status, and guarantees a right to equality before the law.²⁰ Since 1995, the Act has also made it unlawful to commit an act constituting racial hatred (commonly referred to as 'racial vilification').²¹
42. Under Part IIA of the Act, it is unlawful to do an act, otherwise than in private, which is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person, and the act is done because of the race, colour, or national or ethnic origin of that person.²²
43. Unlawful conduct prohibited under section 18C does not, however, extend to acts described in section 18D, including artistic work, fair comment, or public discussion, provided they are done reasonably and in good faith.
44. Racial discrimination continues to affect migrants and Australia-born people of many cultural backgrounds. Aboriginal and Torres Strait Islander Australians report high levels of racism. Among migrants, higher levels of discrimination are reported by more recent arrivals, as well as by migrants from non-English speaking backgrounds.²³ Recently, those from African countries, including Ethiopia, Kenya, Zimbabwe and South Sudan, have reported particularly high levels of discrimination and racial profiling.²⁴ The Au@2015 national survey found strong negative attitudes towards immigrants from Middle Eastern countries compared to immigrants from other parts of the world.²⁵
45. A study commissioned by the Challenging Racism Project of Western Sydney University and the Islamic Sciences and Research Academy found 'high experiences' of racism by members of the Muslim community. A majority (57%) of respondents reported experiencing racism sometimes, often, or very often, in at least one of the situations indicated in the study (for example, in the workplace, at school, etc).²⁶
46. Racial discrimination and vilification can have profound effects on their targets. There is now a considerable volume of research highlighting the serious health effects of racism. The stress of racial abuse has been shown to trigger physiological symptoms such as fear in the gut, rapid pulse rate and difficulty in breathing. Repeated exposure to it can contribute to conditions such as hypertension and post-traumatic stress disorder, even psychosis and suicide.²⁷

47. According to public health research, there are significant links between experiences of racism and poor physical and mental health. While it is difficult to measure or quantify, sociologists and social psychologists have highlighted the emotional trauma to individuals and communities that experience racial vilification.²⁸ A significant body of research has also identified links between discrimination and health effects including cardiovascular ill health, depression, smoking, diabetes and substance abuse.²⁹
48. In 2012, the Commission conducted a consultation involving a survey of Australians' perceptions and experiences of racism. Many respondents reflected on how sad and angry the experience of racism made them feel, and how racism diminished their sense of worth. One respondent said, 'it makes me feel like I am a lesser human being'. Another mentioned its impact on emotions and health: 'I feel so much revulsion that I sometimes feel physically ill. It is a major contributor to the anxiety I experience in everyday life'.³⁰ Some were more explicit about the injury that racism inflicted on their freedom. One respondent, a male from China in his late 30s, said, 'I came to Australia for freedom. However, racism makes me feel my liberty is incomplete'.³¹
49. The Commission's community consultations in 2015, marking the 40th anniversary of the *Racial Discrimination Act 1975*, found that experiences of racial vilification can undermine a sense of belonging to the community, alienate victims from society and feed a sense of disillusion and disempowerment. One community leader observed that racial vilification is 'a direct attack on the target's humanity and dignity, which undermines not only their 'basic sense of safety and security' but also the 'good standing' of targets in the broader community'.³²
50. Racial vilification can escalate into racial violence. A 1991 Human Rights and Equal Opportunity Commission inquiry investigated the phenomenon of racial violence and its broader impacts.³³
51. Introduced in 2010, Clause 80.2A of the *Criminal Code 1995* criminalises the urging of violence against a person or group when the targeted group is "distinguished by race, religion, nationality, national or ethnic origin or political opinion". States and territories also criminalise serious racial vilification, including the incitement of racial hatred. However, the Commission has noted that there is currently no comprehensive process in Australia for collecting data on crimes motivated by racial hatred or prejudice.³⁴

Recommendation 3: That the Government recognise the importance of maintaining effective legal protections against racial discrimination and hatred in setting a standard for public conduct in a multicultural society.

Recommendation 4: That the Government investigate ways of collecting more comprehensive data on racially motivated crimes. An appropriate government authority, such as the Australian Institute of Criminology, could be tasked with coordinating state and federal agencies to collect data and disseminate findings.

6.2 Inflammatory rhetoric and public discussion

52. The state of Australia’s multicultural society is shaped by public debate, including the way political leaders conduct the business of government. Inflammatory public discussion of matters concerning race or ethnicity in Australia has the potential to undermine Australia’s multicultural harmony.
53. From time to time, local and international events may fuel public debate on matters of race. For instance, the Commission’s 1998 report on freedom of religion noted that the 1990 Gulf Crisis had created an atmosphere “conducive to the ‘scapegoating’ of Arab and Muslim people.”³⁵ In more recent years, Arab and Muslim Australians have reported to the Commission that global concerns about terrorism and national security have produced a political environment hostile to them.³⁶ A Western Sydney University study found that 78% of surveyed Muslims agreed that the Australian media’s portrayal of Muslims is ‘unfair’.³⁷ In these times, there is a particularly pressing obligation for people to ensure their discussion of matters of race is not discriminatory or vilifying.
54. The Commission considers that those who participate in public discussion have a responsibility to do so in a civil manner without resorting to prejudice or hatred. Parliamentarians and the news media, in particular, set a standard for public discussion of race and cultural diversity.
55. While there is currently no formal Code of Conduct for Australian MPs, a draft Code composed by a House of Representatives Standing Committee in 2011 refers to Members’ obligation to “avoid unjustifiable or illegal discrimination against others”, as well as to “act at all times in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of the Parliament and its Members.”³⁸
56. A Parliamentary Code of Race Ethics has been proposed and supported at various times by parliamentarians. A Code first proposed in 1996 required signatories to agree to “uphold principles of justice and tolerance within our multicultural society making efforts to generate understanding of all minority groups” and to “speak and write in a manner which provides factual commentary on a foundation of truth about all issues being debated in the community and the parliament.”³⁹ By December 1998, more than half of all Members and Senators were signatories to the Code. A similar, revamped Code was proposed in 2016.⁴⁰
57. The Australian Press Council’s Statement of General Principles – which binds all print and online publishers who are members of the Council – notes in its preamble that freedom of the press “carries responsibilities to the public.” It instructs publishers to “avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest.”⁴¹
58. Recognising a responsibility for civil discourse does not run the risk of shutting down debate or rendering certain topics relating to race and ethnicity ‘off limits’. One large-scale study on the impact of hate speech laws analysed ‘letters to the editor’ published in Australian newspapers over many years. It

found that the public debate on matters of race and ethnicity had not abated over the 1990s and 2000s, though the manner in which issues were articulated became less prejudicial or discriminatory as time went on.⁴²

Recommendation 5: That the Government recognise that Australian race relations and community harmony can be profoundly influenced by the tone of public debate about immigration, multiculturalism and national security.

6.3 Diversity and Australian institutions

59. While Australia is highly socially mobile, there is an underrepresentation of cultural diversity in positions of leadership, as well as in the media.
60. A 2016 report released by the Commission in partnership with PwC Australia, Westpac, the University of Sydney Business School, and Telstra found that there remains a limited level of cultural diversity represented in the leadership of Australian organisations and institutions. The ethnic and cultural default of leadership remains Anglo-Celtic. In particular, the report found that leaders with non-European cultural backgrounds comprised only 5% of ASX 200 CEOs, and 3.5% of federal parliamentarians, while accounting for over 10% of the general population.⁴³
61. In this report, the Commission observes that improving the representation of diversity in leadership is both a civic and a business concern. Australia may not be making the most of its cultural diversity. Similar observations have been made in research work published by Diversity Council Australia, which has also collected data on cultural diversity in corporate Australia.⁴⁴
62. A Screen Australia study on diversity in Australian TV drama found an underrepresentation of culturally diverse, non-Anglo-Celtic groups on Australian television. The study notes that particularly, people of non-European backgrounds were under-represented. Screen Australia observes:

Television matters because it is so much a part of contemporary daily life ... it reflects our sense of who we are as a society, and who we might be.⁴⁵
63. The Commission believes that increasing cultural diversity in leadership and in the media would strengthen Australia's multiculturalism. A lack of diversity in leadership and in the media could conceivably lead to a perception of what it is to be 'Australian' that does not reflect our multicultural character.
64. There is a need for the government to collect better data on cultural diversity. The Workplace Gender Equality Agency currently collects data on gender diversity in the workplace. The Commission has, in the past, advocated for an expansion of this work to collect data and publicly report on targets in other areas of discrimination and diversity.⁴⁶ As well as workplace data, a federal agency tasked with collecting cultural diversity data could report on areas such as educational outcomes and diversity in leadership. Currently, this work is done on an ad-hoc basis, and is not tied to any form of government target or policy initiative.

Recommendation 6: That the Government investigate ways of collecting more comprehensive data on issues concerning multiculturalism, including with respect to cultural diversity in Australian workplaces.

6.4 Public education on multiculturalism

65. Public perceptions of ‘multiculturalism’ can be subject to misunderstanding. Polling suggests that notions of multiculturalism and cultural diversity elicit more support when couched in abstract terms (e.g. statements such as ‘it is a good thing for a society to be made up of people from different cultures’ have usually been well supported). When asked to consider more ‘muscular’ expressions of multiculturalism and multicultural policy (e.g., whether the government should fund programs to support the preservation of migrants’ cultures), support is much lower.⁴⁷
66. Australians would benefit from a clearer understanding of what is meant by multiculturalism. A more comprehensive civics education, including through the formal school curriculum, could encompass a clear articulation of multiculturalism and values of cultural diversity. Australians’ knowledge of civics with respect to understanding the political system has been found to be low.⁴⁸
67. Parliament may also be well positioned to clarify the meaning of multiculturalism in Australia. As noted above, in 1996 and 2016 the Parliament passed identical, unanimous racial tolerance motions. An annual parliamentary statement of multicultural principles may be an appropriate mechanism for a regular re-commitment to multicultural values and cultural diversity.

Recommendation 7: That the Government consider strengthening public education about multiculturalism, including through the school curriculum.

Recommendation 8: That the Parliament consider periodic public statements, which can affirm parliamentarians’ recognition of a multicultural Australia.

7 Role and work of the Australian Human Rights Commission

68. The Commission has an institutional and legislated role in strengthening Australia’s commitment to anti-discrimination within a human rights framework. The Commission is Australia’s national human rights institution (NHRI), and is established and governed by statute. It is recognised by the United Nations as an ‘A status’ institution that complies with the Principles relating to the Status of National Institutions, commonly referred to as the ‘Paris Principles’.⁴⁹
69. The Commission’s role is to work towards an Australia in which human rights are respected, protected and promoted, finding practical solutions to issues of concern, advocating for systemic change and raising awareness across the community.

7.1 Information and Complaints Service

70. One of the most important functions of an NHRI is receiving and investigating complaints from individuals who allege that their human rights have been breached or that they have been discriminated against in an area of public life such as employment or education.⁵⁰ In carrying out its conciliation function, the Commission performs a vital role in ensuring access to justice for people who have experienced discrimination, harassment and vilification. It is part of a range of measures designed to ensure that, consistently with article 2(3)(a) of the International Covenant on Civil and Political Rights (ICCPR), people who have been unlawfully discriminated against, or whose human rights have been breached, have access to an effective remedy. For those alleging unlawful discrimination, this can include court proceedings.
71. Any person who wants to make a complaint of unlawful discrimination under the *Racial Discrimination Act*, or any other federal anti-discrimination law in respect of disability, sex, or age must first make the complaint to the Commission. The Commission inquires into the complaint and attempts to conciliate it. If a complaint cannot be resolved, the complainant then has the option of making an application to the Federal Circuit Court or the Federal Court. In certain circumstances, a complainant can only make an application to the court if the court has granted them leave to do so.
72. In the last reporting year (2015-16), 21% of all complaints, or 429 complaints, received by the Commission were received under the *Racial Discrimination Act* (RDA). Comparatively, RDA complaints constituted 23% of all complaints received in 2014-15, and 17% of complaints received in 2013-14.
73. Of the RDA complaints received in 2015-16, 21% related to employment, 18% related to the provision of goods and services, and 15% related to racial hatred. 41% of RDA complaints were made under the general (section 9) prohibition of unfair treatment on the basis of race, colour, descent, or national or ethnic origin.
74. Of the RDA complaints finalised in 2015-16, more than two-thirds were successfully conciliated. Others were terminated, discontinued, withdrawn, or were subject to administrative closure.
75. As with other anti-discrimination Acts, the Act can be applied to address systemic or institutional forms of discrimination (such as in relation to a pattern of behaviour exhibited by an organisation) as well as more isolated acts of racism (such as in relation to an offensive one-on-one interaction in public).
76. For instance, in 2016 the Federal Court of Australia found that the State of Queensland had committed unlawful discrimination, in contravention of section 9(1) of the *Racial Discrimination Act*, in relation to acts and omissions involving Queensland police officers on Palm Island in November 2004. The State was ordered to pay various applicants a total of \$220,000 in damages.⁵¹ Members of Palm Island's Aboriginal community had originally made a complaint to the Commission alleging unlawful discrimination. The case followed a history of fractious relations between Queensland Police

Service and members of the Palm Island community, including what was characterised in the judgment as ‘control and subordination on a racial basis’.

52

77. At the same time, some complainants are aggrieved by isolated or ‘random’ acts that occur to them or others, such as racial abuse by a stranger in public. Others still are aggrieved by instances of racism that affect them on a regular basis, such as at their place of employment, often committed by the same person or people over a period of time.

7.2 Education

78. Human rights education is a fundamental part of the work of the Commission. In addition, the Commission is tasked with promoting an understanding and acceptance, and the public discussion, of human rights in Australia.⁵³ On matters of multiculturalism and racial discrimination, the Commission conducts a range of programs to challenge discrimination and maintain racial tolerance and community harmony.
79. The Commission has led the National Anti-Racism Partnership and Strategy since 2011.⁵⁴ This was formally launched in Melbourne on 24 August 2012 and in 2015 it was extended for a further three years. The aim of the National Anti-Racism Strategy is to promote a clear understanding in the Australian community of what racism is, and how it can be prevented and reduced. This aim is achieved through three objectives:
- create awareness of racism and how it affects individuals and the broader community
 - identify, promote and build on good practice initiatives to prevent and reduce racism, and
 - empower communities and individuals to take action to prevent and reduce racism and to seek redress when it occurs.
80. A key component of the strategy is a national anti-racism campaign, *Racism. It Stops with Me*.⁵⁵ The campaign now has more than 350 organisational supporters, from across local and state governments, business, education, sporting organisations, the arts and civil society.
81. The Commission creates toolkits, guidelines, factsheets and other resources on racism and cultural diversity. These resources are freely available online. For example, *Building Belonging: A toolkit for early childhood educators on cultural diversity and responding to prejudice* was released in 2016.⁵⁶ Similarly, *Building Social Cohesion in our Communities*, an interactive online resource to support local government, was released in 2015.⁵⁷
82. Last year, the Race Discrimination Commissioner held the inaugural National Forum on Racial Tolerance and Community Harmony. This is now an ongoing forum, with a second event scheduled for October 2017. The 2016 forum provided an opportunity to hear about community experiences of racial discrimination and reflect on some of the challenges around advocacy in the area. This event followed the RDA@40 conference and consultations in

2015, which commemorated the 40th anniversary of the enactment of the *Racial Discrimination Act*.

83. The Race Discrimination Commissioner also hosts the annual Kep Enderby Memorial Lecture on race relations and the Commissioner's Student Prize, open to high school students in years 10 and 11.

Recommendation 9: That the Government continue to support the anti-racism and other educative work of the Australian Human Rights Commission, including the National Anti-Racism Partnership and Strategy.

¹ Australian Bureau of Statistics, 'Overseas born Aussies highest in over a century' (Media Release, 30 March 2016). At <http://www.abs.gov.au/ausstats/abs@.nsf/lookup/3412.0Media%20Release12014-15> (viewed 12 December 2016).

² Organization for Economic Cooperation and Development, *Foreign-born population* (2016). At <https://data.oecd.org/migration/foreign-born-population.htm> (viewed 12 December 2016).

³ Australian Bureau of Statistics, 'Australian Social Trends, April 2013' (10 April 2013) At <http://abs.gov.au/websitedbs/censushome.nsf/home/CO-59> (viewed 31 January 2017).

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