



27 March 2017

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

**Re: ECCV Statement to the Senate Inquiry**

Dear Committee Secretary

Ethnic Communities' Council of Victoria (ECCV) is the peak advocacy body for ethnic and multicultural organisations in Victoria with a membership of over 200 groups as well as eight Ethnic Communities Councils (EECs) in regional and rural Victoria.

ECCV has already presented at the Senate Inquiry into Freedom of Speech in Melbourne and we have made several written policy submissions. We appreciate the opportunity to make one more case to the Senate Committee. ECCV believes it is important to retain the current wording in the Racial Discrimination Act without any changes especially in a climate where public discrimination is increasingly taking place against unsuspecting and innocent people from culturally and spiritually diverse backgrounds who are going about their daily business. Furthermore we believe that the current wording in the Act that includes insult, offend, humiliate and intimidate strengthens their ability to seek social justice for hurtful and damaging attacks that sometimes scar a person for life. Replacing those words with harass would dilute the meaning and accessibility to justice for the ordinary person, and provide them with less protection from racial discrimination.

Most Australians from culturally diverse backgrounds would like to have a sense of belonging and be worthwhile, contributing citizens. Verbal racial attacks, especially in public places, often happen suddenly and are quite unexpected. They make people feel offended, insulted and humiliated in front of their friends, family and colleagues. The following case stories, from ECCV's on-going community consultations, illustrate that point:

Case story 1: A man from a non-English speaking background was enjoying a walk in the Melbourne CBD talking to his female partner. As he crossed the road at the traffic lights, an on-coming pedestrian overheard him speaking English with a foreign accent and started yelling at him to get out of Australia and that foreigners like him are not wanted here. The victim felt deeply humiliated and insulted in front of his partner.

Case story 2: A covered Muslim mother driving a car with her daughter sitting in the passenger seat stopped at the red traffic lights and heard the driver alongside her car yelling swear words at them in English for wearing a hijab. The two women felt deeply insulted, offended and humiliated.

Case story 3: A young male apprentice from an Asian background was enthusiastic when he commenced an apprenticeship and was eager to do well in the workplace and make a career for himself. Soon he found that every day when he went to work, other colleagues taunted him daily about his Asian appearance and consistently tormented him with racial insults. His self-esteem

plummeted, he fell in to a deep depression and continued going to work every day until one day he broke down crying and left his job disillusioned and emotionally shattered .

Case story 4: A teenage school boy born in Australian of non-English speaking parents was told to go back to where he came and felt deeply humiliated.

Case story 5: A teenage girl with a Muslim father was shocked and offended at school when her classmates mocked her saying that her father is terrorist.

These people all felt that they were insulted, offended, humiliated as well as intimidated. These are the four words that would strengthen a person's ability to take human rights action against the perpetrators. Feeling harassed is not such a common sentiment. A person would need to think more about what being harassed means. The current wording in the Act is more appropriate for innocent victims to gain some redress against these damaging taunts and find some kind of social justice.

These five people did not want to take the perpetrators to court. They just wanted them to stop. They did not want to stop freedom of speech in our democracy. They did however want to live peaceful and productive lives where they could be themselves and feel respected in front of their friends, family and colleagues. Mostly they do not want punishment to be metered out. The current processes in the Australian Human Right Commission would allow an out-of-court complaint to achieve a positive outcome that focuses on mediation, education and awareness raising for the perpetrator so that each one could get on with their lives with common decency and mutual respect.

It is conceivable that the perpetrators did not see their taunting behaviours as harassment, or aggressive pressure and intimidation; that they did not see themselves as engaging in harassing activities. Some of those offensive outbursts could have been spontaneous based on fear of strangers. We therefore believe words such as offend and insult are more effective and accessible than harass in enabling members of the public to respond to behaviour that contravenes their human rights especially in the context of our casual and relaxed Australian life-style that we would like to maintain.

Legislation such as the Racial Discrimination Act, to be most effective, needs to be combined with education programs promoting a person's rights. In a school curriculum, or a mediation process, it would be more suitable to teach students and members of the public about insult, offend, humiliate and intimidate than the concept of harassment which suggests repeated attacks on an enemy.

Once again ECCV would like to put forward a stance on no changes to Section 18C in the Act. We believe that Section 18C as it currently stands provides important protection for ordinary Australians from culturally diverse backgrounds against racial attacks so that they are able to feel a sense of belonging and participate fully as school students, workers, parents and citizens.

Sincerely

Dr Irene Bouzo (PhD)  
Executive Officer

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Chairperson