



9 December 2016

Committee Secretary
Parliamentary Joint Committee on Human Rights
PO Box 6100,
Parliament House
Canberra ACT 2600

By email: 18cinquiry@aph.gov.au

Submission to inquiry into the freedom of speech in Australia

Introduction

The Ethnic Communities Council of Queensland (ECCQ) is a state-wide peak body with a focus on the needs and interests of people from culturally and linguistically diverse backgrounds (CALD). ECCQ acts as a strategic mechanism for the empowerment of people from diverse ethnic and cultural backgrounds through advocacy, policy research and development, sector development, community education and training.

ECCQ urges you to protect the *Racial Discrimination Act 1975* in its current form. Section 18C of the *Racial Discrimination Act* provides important protection against racially motivated attacks, including hate speech, against members of Australia's migrant, refugee and culturally and linguistically diverse communities.

Racism in Australia

The 2011 Census revealed that over a quarter (26%) of Australia's population was born overseas and a further one fifth (20%) had at least one overseas-born parent.¹ Queensland is an incredibly diverse state, with approximately one in three Queenslanders either born overseas, or having at least one parent born overseas and 9.8% of Queenslanders speaking a language other than English at home.²

While support for multiculturalism in Australia has generally remained high, there are increasing incidences of individuals experiencing discrimination due to their race, cultural background or religion.

¹ See <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/2071.0main+features902012-2013> (Accessed 5 December 2016)

² See <https://www.communities.qld.gov.au/resources/multicultural/communities/diversity-figures-2011.pdf> (Accessed 6 November 2016)

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The Scanlon Foundation's Mapping Social Cohesion survey captures Australian attitudes towards issues such as immigration, multiculturalism and discrimination. In 2016, the survey found while 83 per cent of respondents agreed that multiculturalism is good for Australia, 20% of respondents experienced discrimination this year, up from 15% in 2015.³

It is evident that while Australia is often described as a multicultural success story, there are dangers associated with becoming complacent and it will be increasingly important to remain strong in the face of racism.

The Racial Discrimination Act

The Act contains protections against racial vilification under Section 18C, which make it unlawful to publicly engage in conduct reasonably likely to offend, insult, humiliate or intimidate on the basis of race. In Section 18D, the Act includes important provisions that protect the freedom of speech, stating that comments will not be prohibited as long as it is a fair comment about a matter of public interest that is done reasonably and in good faith.

ECCQ strongly believes that the Act currently reflects the balance between freedom of speech and freedom from discrimination and therefore, should not be amended.

The debate held in 2014 was comprehensive and ECCQ sought to hear from its members and communities. ECCQ sought to hear from its members regarding potential amendments to the Act. ECCQ's members showed strong opposition to any changes and were concerned that the proposed amendments would give license to people to engender hatred for sections of the population.⁴

The racial vilification provisions under 18C were introduced in 1995, in recognition that racial abuse and harassment have the potential to escalate into racial violence. It is imperative that Australia's CALD communities continue to be protected by these provisions.

Australian Human Rights Commission

In 2015-16, the Australian Human Rights Commission was asked to investigate 2,013 complaints of discrimination, 21% of which were lodged under the *Racial Discrimination Act*.⁵ More than 80 complaints were finalised under the racial hatred provisions of the Act last year. Only one complaint proceeded to court at the initiation of the complainant.

³ Andrew Markus, *Mapping Social Cohesion: The Scanlon Foundation Surveys 2016* (2016)

⁴ See <http://www.eccq.com.au/wp-content/uploads/2014/05/RDA-submission-April-2014.pdf> (accessed 7 December 2016)

⁵ Australian Human Rights Commission, *2015 - 2016 Complaint Statistics* (2016) 2

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Importantly, without the costs of utilising a court of law, the Australian Human Rights Commission's complaints and conciliation function has ensured fair treatment in the areas of employment, education, accommodation, and access to services for Australians.

Conclusion

The Act carries both symbolic and practical implications for racial tolerance. ECCQ encourages government to consider the implications associated with weakening the Act and the message it will send to Australia's CALD communities. The Act as it stands, adequately protects both freedom of speech and freedom from racial discrimination.

ECCQ encourages government to support legislation and infrastructure which is conducive to harmony and inclusion.

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