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Australian Parliament
Joint Standing Committee on Migration
Submission No. 46

6 April 2011

Jane Hearn
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Joint Standing Committee on Migration
PO Box 6021, Parliament House,
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Dear Ms Hearn

Re: Inquiry into Multiculturalism in Australia

The Executive Council of Australian Jewry (ECAJ), the elected representative organisation of the Jewish community in Australia, presents the following submission on behalf of the Australian Jewish community, in response to the invitation of the Joint Standing Committee on Migration to provide a submission on some or all of the terms of reference of the above Inquiry.

Part 1 - The role of multiculturalism in the Federal Government's social inclusion agenda

(1) The need to build consensus

Since the end of World War II some seven million people from about 180 different countries have settled in Australia, many of them escaping war and persecution. The fact that they have been successfully integrated into the community with remarkably little disruption to social harmony must be ranked as one of Australia's foremost achievements. Contemporary Australia is one of the world's most culturally diverse nations. Approximately 40 per cent of all Australians were born overseas or have at least one parent who was born overseas.

A key challenge for Australia, and for all nations whose people come from a variety of cultural and religious backgrounds, is to achieve unity in diversity. The challenge needs to be met not only philosophically, through rhetoric, symbolism and public pronouncements by political and other leaders, but also - and more crucially - in government policy and in day to day practice.

In Australia the reality of a multicultural society has been with us for many decades and can be traced as far back in history as the gold rushes of the 1850's. That reality has helped Australia to compete successfully in the global economy and has brought benefits in many areas of social life including sport, cuisine, fashion, cinema, art and public cultural and religious celebrations. The variety and pluralism of cultural and religious life in Australia has produced a relaxed, free-wheeling cosmopolitanism which gives us more choices and enriches all our lives, and towards which most Australians feel positively.

The consensus breaks down as soon as the focus turns to government policies and programs that are aimed, as they must be, at maximising the benefit to the nation of our diversity and addressing the problems of minority communities in adjusting to, and integrating with, mainstream life in Australia. Government expenditure on such programs can be a source of resentment to some. Among the most severe critics are members of minority communities who arrived in Australia in earlier waves of migration when many of these programs did not yet exist.

Multiculturalism that entails an enlarged variety, choice and pluralism in everyday life is seen as a welcome benefit by most Australians. Multiculturalism as a government policy that places demands on public funds and resources is seen by many Australians as a form of favouritism and top-down social engineering, which they instinctively distrust, especially if the policy is perceived to encourage ethnic separatism.

Bridging the gap between these two starkly different conceptions of multiculturalism remains a key challenge for political and community leaders. The onus is on them to develop a broad consensus in support of the proposition that the challenges of a multicultural society do not simply resolve themselves, and that government policies and action are needed in certain areas to promote social harmony and inclusion, to ensure a fair go for all and to harness our human resources in the most productive way for Australia's future.

This submission is intended to provide a framework for multicultural policy-making as a means of social inclusion that will be backed by broad popular support. It is essential that the major parties use best endeavours to achieve and maintain consensus on multiculturalism and immigration. Partisan divisions over these policy areas are open to exploitation by fringe groups seeking to promote racism, which works against any social inclusion agenda.

(2) Which model of multiculturalism?

There is no single model of multiculturalism. In his landmark address to the Sydney Institute on 17 February 2011, the Minister for Immigration and Citizenship, Chris Bowen, announced the federal Government's new *The People of Australia: Australia's Multicultural Policy*. The Minister noted that the model of multiculturalism that has been developed in Australia differs from the models adopted by the UK and European nations in three fundamental ways.

Firstly, those who make their home in Australia must give their "first loyalty" to Australia. They must accept our Constitution, rule of law, democracy, freedom of speech and religion, English as the national language and sexual equality. In any conflict between ethnic culture and Australian values "then these traditional Australian values win out". They must therefore accept that, to the extent of any inconsistency, Australian law trumps all other law in governing their behaviour towards others. Second, the Minister argued that "ours is a citizenship-based multiculturalism". We welcome people as full partners on the basis of citizenship. Third, multiculturalism is bipartisan.

Our community whole-heartedly endorses and welcomes the new policy and the Minister's articulation of the Australian model of multiculturalism in these terms. Our organisation's policy platform calls for a multiculturalism which "respects the right of all Australians to express their individual cultural identity, and to maintain and share their cultural heritage, within an overriding commitment to Australia and the basic values of Australian democracy and the rule of law". The principles of multiculturalism outlined by the Minister meet these requirements.

The Minister, rightly in our view, rejected the UK and European models of multiculturalism because they insufficiently emphasise the responsibilities of new arrivals to their new country, and its system of ethics and law, as the essential pre-requisite for their acceptance and successful integration.

Governments in the UK and Europe have passively tolerated members of cultural and religious minority groups living separate lives from the rest of society and have failed to confront immigrant groups who openly denigrate the values and laws of their host society. These include extremist Islamist ideologues, misogynists, homophobes and preachers of hate and forced marriages. The "anything goes" model of multiculturalism has been a demonstrable failure, as the leaders of the UK and Germany have recently openly acknowledged.

Whilst members of cultural and religious minority groups either individually or in community with others, must be free to maintain their own linguistic, religious, racial and ethnic heritage, they must do so within the framework of a demonstrated, unified commitment to Australia, its interests and future and to Australia's democratic political institutions and values, including the rule of law

and human rights. It is one thing to recognize the legal right of all Australians to believe whatever they wish to believe and quite another to maintain that all belief systems are compatible with democracy, the rule of law and human rights.

(3) **Addressing conflicting values**

As the Australian model of multiculturalism emphasises the primacy of Australian values, it is important to identify how those values might conflict with some minority cultures and to develop strategies for addressing this.

(a) **Combining English language education and education about Australian values**

The Australian Government's vision of a socially inclusive society is one in which all Australians feel valued and have the opportunity to participate fully in the life of our society through education, work, social and recreational activities, access to services and participation in the political process. Fluency in the English language for all people living in Australia is essential for translating this vision into reality. English language programs should be mandatory for those who lack such fluency, with only limited exceptions for those suffering disabilities. English language programs also need to be tailored to meet the needs of different age and cultural groups.

As with any language, English should be taught in conjunction with key aspects of the culture that is associated with it. A primary element of that culture in Australia is a deeply entrenched attachment to the concept of personal freedom, namely the idea that one is in charge of one's own life and responsible for making one's own decisions about what one does and what one believes.

Personal freedom, which includes freedom to make one's own choices in life and freedom of expression, is not a value that always sits comfortably with other cultures. Newcomers to Australia from many backgrounds may be accustomed to social rules in which any sense of personal freedom is superseded by the over-riding requirements of family, community, religion or ideology. Integration into Australian society may require a reversal of the traditional cultural order of priorities to which newcomers are accustomed.

Another strongly ingrained value in Australia is the ethic of social egalitarianism, especially in the workplace. Again, this might clash

with traditional notions of hierarchy and allegiance that are a part of other cultures.

These values should be taught at school as a part of the National Education Curriculum and should also be included in English language programs for adult new arrivals. They should be contrasted with the values of totalitarian and extremist ideologies whose socially destructive effects need to be highlighted. The more explicit the message, the more likely it is to be heeded.

This is not to suggest that the values of personal freedom and egalitarianism must be rammed down the throats of new arrivals, or that they should be coerced into adopting them. On the contrary, that would negate the whole philosophy of personal freedom and choice.

But it is imperative that new arrivals be made aware of how robust a sense of personal freedom and social equality most Australians possess, and the thinking and history behind those values, so that they are not caught by surprise when they first encounter them at work, school, university or socially. Language programs provide an ideal vehicle for teaching about these concepts and for preparing new arrivals to navigate their way through an unfamiliar social terrain. Educational programs should unashamedly emphasise that adherence to these values, and the rejection of values which are inconsistent with them, have made Australia one of the world's most stable, just and peaceful democracies and one of the most desirable countries to live in.

(b) Counter-acting extremist ideologies

In his statement, the Minister noted that government should not be expected to defend cultural practices and ideas that are "inconsistent with our values and ideals of democracy, justice, equality and tolerance". Political leaders have to be firm and clear that government will not fund communities that engage in such practices and promote such ideas and will take action designed to prevent and counter-act the promotion of those ideas.

The main burden of this effort will be borne by educational programs. In addition to programs to teach English language and Australian cultural values, the introduction of a National Education Curriculum provides a unique opportunity to provide all students, not just those from minority cultures, with ongoing education in the values identified by the Minister and experiential education in inter-

cultural respect and tolerance through visits to schools with a high proportion of students of different cultural backgrounds. In the Jewish community's experience, prejudice often festers where contact is least.

It is especially important that youth and young adults from communities in which values that are contrary to those identified by the Minister are commonly promoted are engaged in projects that demonstrate both the benefits of Australian values, including respect for different cultures, languages and faiths and the socially destructive consequences of totalitarian and extremist ideologies and racism.

The National Education Curriculum should also mandate the introduction of techniques of critical thinking, which should be integrated in the curriculum beginning in primary school and reinforced in courses in history, literature and the natural and social sciences in secondary school. Adopting a sceptical and analytical approach to all information, especially from online sources, should be so deeply instilled in students that it becomes second nature. Questioning assumptions and seeking and weighing alternative views should become a habit. This would provide a much-needed framework for giving students an insight into the validity of Enlightenment values and undermine the potential appeal of simplistic, extremist ideologies.

Another policy area in which the exclusion of extremist ideological influences is relevant is immigration. The Jewish community has always supported, and continues to support, immigration policies that do not discriminate on the basis of race or religion. Equally we would support the tightening of procedures to carry out background checks on would-be immigrants and to disqualify those who have a history of advocating violence or of activism in support of totalitarian beliefs, which they have not credibly repudiated. This would apply regardless of their ethnic or religious background.

(c) **Zero tolerance for incitement to racially-motivated violence and racial hatred**

In any model of multiculturalism that commits to fairness, equality and inclusion for all people in Australia based on a balancing of rights and responsibilities, there must be zero tolerance for racial discrimination and incitement of racial hatred. We welcome the Minister's announcement that the government will be implementing a new Anti-Racism Partnership and Strategy, and expect that it will

be subject to rigorous independent monitoring and evaluation of its effectiveness once it is in place.

In asserting the primacy of Australian values, and preventing and counter-acting racism, education cannot provide the whole answer. The ultimate sanction of the law must be able to be invoked if necessary. Although freedom of expression is a cherished Australian value, it does not include the freedom to harass, intimidate or threaten harm to others.

(i) *Urging violence against groups and members of groups*

At the end of 2010, the Commonwealth *Criminal Code* was amended by the creation of new offences of urging violence against groups and members of groups on the basis of race (see Part 5.1 - Division 80 - Subdivision C).

Whilst the introduction of the new offences was an improvement upon the pre-existing legislation, our principal concerns are that:

- (a) the elements of the new offences have been formulated so restrictively that it will be effectively impossible for a prosecutor to secure a conviction; and
- (b) the availability of so-called 'good faith' defences under section 80.3 to charges under the new sections is completely misconceived.

The legislation requires a prosecutor to prove that an accused person:

- intentionally urged another person, or a group, to use force or violence against the targeted group or supposed member of the targeted group; and
- did so intending that force or violence will occur.

It is difficult to conceive of a situation in which a person intentionally urges another person, or a group, to use force or violence against a targeted group *without* also intending that force or violence will occur. But proving to the criminal standard an intention that force or violence will occur is virtually impossible. A person who urges other persons to commit acts of violence focuses on influencing the state of

mind and behaviour of those other persons without laying bare the urger's own intentions.

Even in history's most extreme and paradigmatic examples of the evil of incitement to racially-motivated violence, evidence of intent that force or violence will occur has usually been missing (at least to the extent needed to satisfy the criminal standard of proof). If the legislation is to be effective, it needs to be re-formulated in a way that will allow a prosecutor the practical prospect of success in the circumstances that the legislation seeks to address.

The availability of so-called 'good faith' defences under section 80.3 to charges under the new sections is based on a misconception. There are *no circumstances* in which a person:

- intentionally urges another person, or a group, to use force or violence against a group distinguished by race, religion, nationality, national or ethnic origin or political opinion, or a supposed member of the that group; and
- does so **intending that force or violence will occur,**

and does so "in good faith". The intention that "force or violence will occur" in the context of urging force or violence against groups distinguished by race, religion, nationality, national or ethnic origin or political opinion, or against supposed members of such groups, denotes both ill-will and an anti-social motive. An intention that "force or violence will occur" in that context is therefore incompatible with the act having been done "in good faith".

(ii) Public incitement of racial hatred

Serious violent crime that is fuelled by racial and other forms of hatred is no longer a rare and isolated phenomenon in Australia. The riots at Cronulla in December 2005, the revenge attacks the following night, racially-motivated violence at football matches and the riots at Redfern in February 2004 are among the more notorious examples of

serious breaches of the peace that have been preceded and accompanied by the public incitement of racial hatred.

Those who engage in hate-motivated violent behaviour are liable to criminal prosecution under the existing law. But those who incite them to hatred in the first place by appealing to, and seeking to manipulate, their prejudices, fears and grievances, are effectively beyond the reach of the criminal law in most parts of Australia, unless they themselves engage in overt acts or threats of violence, or clearly and unambiguously procure others to do so. This is a serious gap in the law.

It is a gap which permits the preaching of extremist ideologies and the public incitement of racial hatred with impunity. A case in point is the recent return to Australia of the Muslim cleric, Australian-born Sheik Feiz Mohammed who has been preaching at the Ahlus Sunnah Wal Jama'ah centre in Auburn, despite Foreign Minister Kevin Rudd having previously said he should never return to Australia as he is not welcome.

In 2007 Sheik Mohammed prepared DVDs that called for the murder of "infidels" and described Jews as "pigs". Although NSW police have said that they are monitoring him, they are powerless to prosecute him even if he repeats his previous statements in public. The making of such statements, of itself, is not criminally proscribed in New South Wales, or under Commonwealth legislation. Much more would need to be proven in order to secure a conviction.

Only in Western Australia is there a comprehensive and effective criminal law regime to deal with the public incitement of racial hatred *simpliciter*. The relevant provisions are to be found in Chapter XI of the *Criminal Code* (WA) entitled "Racist harassment and incitement to racial hatred". Two types of offences are defined under this heading.

The first type of offence requires proof of an intention to incite racial animosity or harassment and carries the heavier penalty. The second is a strict liability offence and requires proof only of the likelihood (or reasonable likelihood) of such incitement. A person charged with the first offence could, if intention is not proved, be liable nevertheless to be convicted of the second offence, if the evidence is sufficient

to prove the elements of the second offence. "Good faith" defences are available in respect of the strict liability offences.

Commonwealth legislation proscribes urging to violence on the basis of race (see above) but not incitement of racial hatred. In States which do criminally proscribe incitement of racial hatred, the relevant legislative provisions are made unworkable by being conflated with a requirement to prove a violence-related element. There needs to be a uniform law applicable throughout Australia which proscribes public incitement of racial hatred *simpliciter*. Chapter XI of the *Criminal Code* (WA) provides an appropriate model.

Part 2 - Settlement programs for new migrants and the integration of minority communities into the wider community

It is not unusual for members of a minority community in any country to live close by to one another for mutual support through family and community networks, support that would otherwise be sought from the government at considerable public cost. Delivery of language, skills and educational programs and other services may also thereby be facilitated.

As migration currently is to provide approximately 39 per cent of Australia's population growth, governments need to plan for the settlement of new citizens and the maintenance of social cohesion as part of the overall effort of meeting the infrastructure needs of a growing population. New arrivals in Australia, like established minority communities, may feel that they can adapt to their new home more easily if they live in close proximity to people of their own ethnic, cultural and/or language background.

Of itself the geographical clustering of minority communities is therefore not a bad thing. But this phenomenon can create a perception of separateness from the wider community and breed fear, suspicion and the demonization of entire minority groups, especially if the clustering is concentrated within large urban centres. This is the genesis of racism. It is not enough to condemn this response. Its causes need to be understood and addressed effectively.

Part of the answer lies in educational programs and strong anti-racism legislation (see Part 1). But members of minority communities, and new arrivals in particular, also share in the responsibility for preventing and counter-acting racism. It is essential that all levels of government encourage those charged with welcoming and mentoring new arrivals to facilitate their integration into the mainstream community by continually emphasising that becoming fluent in

English and integrated into the wider community through work, education and socially is both a moral obligation and in their own interests.

The corollary of this responsibility is that high quality English language courses, employment skills training, health and other programs to support migrants to settle quickly need to be readily available in the neighbourhoods in which they are concentrated and tailored to meet prevailing needs, which can differ from community to community. If these programs are of a high standard and are effectively delivered they will provide both economic and social dividends fairly quickly, and advance the goals of social cohesion and personal advancement. Such programs should thus be well resourced and regularly reviewed to assess their quality and effectiveness in facilitating integration.

Another possible policy response to the phenomenon of urban clustering would be to encourage new arrivals to settle in designated rural and regional centres in parts of Australia which are experiencing labour shortages. To be successful, this would need to be part of a much broader policy for rural and regional development and renewal involving the investment of considerable funds and resources to build up the infrastructure of non-urban centres and their capacity to provide people living in them with quality education, training, hospital, medical, transport and other services, in addition to specific programs in English language and values education.

One form of encouragement for new arrivals to take available jobs and settle in designated centres with their families would be through the provision of tax incentives (eg lower rates of income tax) for a sufficient period (say, three years) to enable them to become established financially and integrated into the community. These benefits would have to be available to all Australians where an entire family moves from a city to a designated area to enable at least one family member to take up paid employment. The benefits would be available only once.

The selection of an area as a designated centre should follow consultation with:

- (i) the business and corporate sector, in order to ascertain the number and types of jobs currently, or likely to become, available and the skills or qualifications needed from the labour force;
- (ii) the relevant State and local government bodies, in order to understand existing or likely constraints on capacity to deliver education, training, hospital, medical, transport and other services and the likely cost of expanding that capacity to meet anticipated demand; and
- (iii) local residents, to anticipate and forestall misunderstandings and areas of possible tension with new arrivals.

Where cultural or language difficulties may be an impediment to take-up of programs and services, more effective delivery may be achieved by community organizations if they have the expertise, governance mechanisms and external controls to do so effectively. This is not a matter of providing an advantage not available to all Australians, but rather ensuring that all Australians are treated equally. In rural and regional areas, partnerships between government and long established service-oriented bodies like the Country Women's Association, Rotary and local societies would have the spin-off benefit of contributing to community building.

At their best, community associations can help ensure the efficient delivery of programs and services where the need is greatest and provide a vehicle for the communities they serve to take responsibility for their successful integration into the wider community. This is important also for Aboriginal Australians who continue to experience the greatest problems of integration as a consequence of generations of dispossession and dispersal. Aboriginal people have a unique status in Australia and in any multicultural context. They also remain the single, most disadvantaged group in the community.

Part 3 - Research, Assessment and Follow-up

The effectiveness of the new multiculturalism policy and of the strategies and programs that are adopted to put it into effect will need to be tested periodically in the light of ongoing monitoring and research into which communities continue to manifest the greatest signs of social isolation, including unemployment, open promulgation of anti-democratic and other alien values and non-participation in Australian society.

The proposed new Australian Multicultural Council will only be in a position to fulfil its announced role if it is given the opportunity to have an input into what research is undertaken and is made privy to the results. Indeed the results should be made publicly available. Public confidence in the government's multicultural policies, strategies and programs can only be enhanced if there is an independent and rigorous process in operation to conduct periodic assessments of their effectiveness on the basis of high quality data produced by well-focused research, and for making any adjustments that are called for.

Part 4 - Summary of Recommendations

Our community supports the federal Government's new policy, *The People of Australia: Australia's Multicultural Policy*, and believes it is essential, if the policy is to succeed, that the strategies and programs that are developed under it enjoy broad-based support by the Australian people.

To that end, we recommend:

- combining language and values education and tailoring such education to different age and cultural groups;
- including in the National Education Curriculum, for all students, not just those from minority cultures, ongoing education in the values identified by the Minister and experiential education in inter-cultural respect and tolerance through visits to schools with a high proportion of students of different cultural backgrounds;
- including in the National Education Curriculum techniques of critical thinking, which should be integrated in the curriculum beginning in primary school and reinforced in courses in history, literature and the natural and social sciences in secondary school;
- tightening procedures to carry out background checks on would-be immigrants and to disqualify those who have a history of advocating violence or of activism in support of totalitarian beliefs, which they have not credibly repudiated, regardless of their ethnic or religious background;
- introducing legislative measures for an extensive period of probationary permanent residence for new arrivals in Australia enabling a confident assessment of their acceptance of Australian values and laws before granting full citizenship;
- introducing additional legislative measures, including further amendments and additions to the Commonwealth *Criminal Code*, that will be more effective against incitement to racially motivated violence and racial hatred, especially on the internet;
- encouraging those charged with welcoming and mentoring new arrivals to facilitate their integration into the mainstream community by continually emphasising that becoming fluent in English and integrated into the wider community through work, education and socially is both a moral obligation and in their own interests;
- directing education, training, employment and social welfare services to the neighbourhoods and communities where they are most needed;
- encouraging new arrivals to settle in rural and regional centres, particularly in parts of Australia which are experiencing labour shortages, through the use of tax incentives and investment in rural and regional infrastructure and educational, training, hospital, medical, transport and other services, in addition to programs in English language and values education;

- using community associations as partners in delivering programs and services if they have the expertise, governance mechanisms and external controls to do so effectively; and
- rigorously testing the effectiveness of all programs and service-delivery through ongoing research and sharing the results with the new Australian Multicultural Council.

We look forward to working with the Australian Government to assist it to devise and deliver specific strategies and programs that will enable the full potential of its newly announced policy to be realised.

Yours sincerely

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Executive Director