

Chapter 5

Legislation and data collection

5.1 Although Australia is a highly multicultural nation, there is no federal legislation specifically directed toward promoting and protecting multiculturalism. Inquiry participants generally supported the introduction of such legislation, noting that a Federal Multicultural Act would also be highly symbolic. Participants also questioned the evidential bases underpinning knowledge and understanding of cultural diversity and coexistence in Australia, suggesting that further investment in data collection and social research would be beneficial.

5.2 This chapter discusses the following matters in more detail: enshrining principles of multiculturalism in legislation; establishing a legislative body; and the adequacy of data and social research.

A Federal Multiculturalism Act

5.3 Submitters and witnesses considered the potential benefits and disadvantages of enshrining the principles of multiculturalism in legislation (term of reference (h)).¹ As shown in the following sections, many noted that Australia does not have federal multiculturalism legislation but supported the enactment of such legislation, sometimes referencing domestic and/or international examples as appropriate models.

Federal and state legislation

5.4 The Australian Multicultural Council noted that all Australian states have legislation or other instruments that assert the values of multiculturalism and mandate their systematic application in public services.² Its submission argued that 'it would be timely to enact equivalent federal legislation, as an important plank of a reinvigorated public commitment to multiculturalism'.³

5.5 Other submitters commented on how federal politics has not prioritised multiculturalism. For example, the Edmund Rice Centre said that 'multiculturalism exists as a policy' with support that has 'waned, in both rhetoric and substance' over the past 15 years.⁴ Professor Fethi Mansouri commented:

1 Australian Lawyers for Human Rights submitted that there is no generally accepted definition of the phrase 'principles of multiculturalism': *Submission 23*, pp. 21–22.

2 Chapter 1, Table 1; Tasmanian Government, *Submission 54*, p. 3; Northern Territory Government, *Submission 63*, p. 1; Queensland Government, *Submission 98*, pp. 3–4; ACT Government, *Submission 101*, p. 1. Chinese Australian Services Society Limited suggested that these approaches evidence inconsistency in enshrining multicultural principles and addressing social cohesion issues: *Submission 30*, p. 7.

3 Australian Multicultural Council, *Submission 20*, p. 3.

4 Edmund Rice Centre, *Submission 26*, p. 21.

...it is rather difficult to comprehend how a country as diverse as Australia...still finds itself unable to reaffirm official support for multiculturalism through a basic Australian Multicultural Act.⁵

The case for a new multiculturalism

5.6 Submitters and witnesses contended that the Australian Government needs to meaningfully recommit to multiculturalism. Professor Andrew Jakubowicz and Ms Ly Ly Lim proposed the conceptualisation of a 'New Multiculturalism' for Australia (including national legislation).⁶ Their submission argued that Australia's philosophical and policy settings have not kept pace with modern developments:

In the past forty years globalisation has intensified, the Internet has been created, and population movements have accelerated. New communities have entered Australian society and struggled to find a place here. Australia's philosophical and policy settings have not kept pace. Indeed, the failure to regularly refresh the ideas and practices from a solid empirical research base, with a consequential tendency to abandon the debate purely to the realm of emotion and populist pressure groups, has contributed to both social and policy crises.⁷

5.7 The Victorian Multicultural Commission stated that there has been a shift in the policy discourse 'from the language of multiculturalism to that of diversity, social cohesion and harmony, with security concerns at times linked to the agenda'.⁸ An officer from the Department of Premier and Cabinet (Victoria) suggested that multiculturalism has been conflated with security concerns, resulting in a lack of political support for the former:

...there is a real tension with...the security aspects now. It is as if those conversations have become conflated between what multiculturalism is and diversity, security and immigration policy. That has somehow, in the public discourse, damaged the multicultural brand, if you will.⁹

Enshrining the principles of multiculturalism

5.8 As noted in chapter one, the Australian Government has announced its multicultural statement (*Multicultural Australia—United, Strong, Successful*).¹⁰

5 Professor Fethi Mansouri, *Submission 38*, p. 1.

6 For further details of Professor Andrew Jakubowicz and Ms Ly Ly Lim's proposal, see: *Submission 8*, pp. 4–6.

7 Professor Andrew Jakubowicz and Ms Ly Ly Lim, *Submission 8*, p. 6. The submission observed that there has been a concurrent and significant shift in sentiment and leadership: p. 7.

8 Victorian Multicultural Commission, *Submission 56*, p. 2. Also see: Chinese Australian Services Society Limited, *Submission 30*, p. 2.

9 Ms Elizabeth Blades-Hamilton, Senior Research and Policy Officer, Multicultural Affairs and Social Cohesion Division, Department of Premier and Cabinet (Victoria), *Committee Hansard*, 27 June 2017, p. 39.

10 Department of Social Services, *Australian Government's Multicultural Statement*, <https://www.dss.gov.au/settlement-and-multicultural-affairs/australian-governments-multicultural-statement> (accessed 16 August 2017).

However, submitters and witnesses argued that enshrining the principles of multiculturalism in federal legislation would produce better outcomes. For example, the Victorian Multicultural Commission said:

...a federal multicultural act would set up the scaffolding that truly supports multicultural Australia. Enshrining the principles of multiculturalism in legislation at the federal level has added advantages in terms of symbolism and leadership. A national multicultural act would demonstrate multilateral support for Australian multiculturalism. It would symbolise political will at the highest level to support and embrace the multicultural ethos.¹¹

5.9 Australian Lawyers for Human Rights supported these comments, adding that a Federal Multiculturalism Act would need to work in conjunction with human rights legislation or a bill of rights.¹² Otherwise, its supplementary submission argued, the legislation might 'become divisive, rather than bringing people together and enshrine existing cultural inequities, both between cultures and within cultures'.¹³

The human rights based Canadian model

5.10 Several submitters and witnesses referred to the *Canadian Multiculturalism Act 1988* (the Act) as a workable model for Australia.¹⁴ The Act ratifies two international human rights treaties, and affirms the Canadian Government's commitment to the preservation and enhancement of multiculturalism in Canada.¹⁵ In particular, section 3 of the Act provides:

Multiculturalism policy

- 3 (1) It is hereby declared to be the policy of the Government of Canada to
- (a) recognize and promote the understanding that multiculturalism reflects the cultural and racial diversity of Canadian society and acknowledges the freedom of all members of Canadian society to preserve, enhance and share their cultural heritage;
 - (b) recognize and promote the understanding that multiculturalism is a fundamental characteristic of the Canadian heritage and identity and that it provides an invaluable resource in the shaping of Canada's future;
 - (c) promote the full and equitable participation of individuals and communities of all origins in the continuing evolution and shaping of all

11 Victorian Multicultural Commission, *Submission 56*, p. 14. Also see: Federation of Ethnic Communities' Councils of Australia, *Submission 57*, p. 11 (in respect of symbolism).

12 On this point, also see: Professor Andrew Jakubowicz and Ly Ly Lim, *Submission 8*, p. 4.

13 Australian Lawyers for Human Rights, *Supplementary Submission 23*, p. 1.

14 Government of Canada, *Canadian Multiculturalism Act (R.S.C., 1985, c. 24 (4th Supp.))*, <http://laws-lois.justice.gc.ca/eng/acts/C-18.7/> (accessed 16 August 2017).

15 See: Varun Uberoi, 'Legislating Multiculturalism and Nationhood: The 1988 *Canadian Multiculturalism Act*', *Canadian Journal of Political Science*, June 2016, pp. 267–287, which provided an explanation of the development and implementation of the legislation (including the Canadian Government's reprioritisation of multiculturalism).

aspects of Canadian society and assist them in the elimination of any barrier to that participation;

(d) recognize the existence of communities whose members share a common origin and their historic contribution to Canadian society, and enhance their development;

(e) ensure that all individuals receive equal treatment and equal protection under the law, while respecting and valuing their diversity;

(f) encourage and assist the social, cultural, economic and political institutions of Canada to be both respectful and inclusive of Canada's multicultural character;

(g) promote the understanding and creativity that arise from the interaction between individuals and communities of different origins;

(h) foster the recognition and appreciation of the diverse cultures of Canadian society and promote the reflection and the evolving expressions of those cultures;

(i) preserve and enhance the use of languages other than English and French, while strengthening the status and use of the official languages of Canada; and

(j) advance multiculturalism throughout Canada in harmony with the national commitment to the official languages of Canada.

5.11 Australian Lawyers for Human Rights emphasised that the success of the Canadian legislation must be viewed in the context of Canada having a Charter of Human Rights, a Human Rights Act, a Human Rights Tribunal and a strong Human Rights Commission.¹⁶ In contrast, its submission argued that Australia has an inadequate approach to the protection of human rights:

Despite Australia having been a founding member of the United Nations and one of only eight nations involved in drafting of the *1948 Universal Declaration on Human Rights*, today Australia is alone amongst first world democratic nations in not itself having any nationwide Human Rights Act [also known as a Charter of Human Rights] or Bill of Rights. Australia's Constitution does not specifically protect human rights and has been held to protect only a limited right to free political speech.¹⁷

5.12 Professor George Williams also supported stronger protection of human rights in Australia. He said that not having a national human rights law—such as a Charter of Human Rights or a Human Rights Act—is a significant omission in the area of multiculturalism:

If you look at what's found in these instruments, they do often deal specifically with multicultural aspects. For example, section 19 of the

16 Australian Lawyers for Human Rights, *Supplementary Submission 23*, p. 1.

17 Australian Lawyers for Human Rights, *Submission 23*, p. 23. Some states—such as the Australian Capital Territory (*Human Rights Act 2004 (ACT)*) and Victoria (*Charter of Human Rights and Responsibilities Act 2006 (Vic)*) have enacted Human Rights Acts.

Victorian Charter of Human Rights and Responsibilities...has a clause that deals specifically with cultural rights...a protection of that kind as part of a charter of rights could make a significant difference in this area in terms of legal protection, but more importantly of policy development and community education.¹⁸

5.13 Professor Williams explained that a Charter of Human Rights (created by federal legislation) could require policies to be developed at the outset in accordance with human rights standards:

...before laws are made in areas such as affecting different communities you must take into account the higher value within the charter. The experience is that it often has a very significant impact upon how policy is developed and the proposals that cabinet considers. It means that these factors are brought to play before legislation is even subject to public debate, when, often, it is too late to get movement on the terms of that legislation. It is a preventative model at lower cost that is about service delivery and policy making, and really helping those be more consistent with what we might see as important democratic and other values.¹⁹

5.14 Similar to Australian Lawyers for Human Rights, Professor Williams considered that a Charter of Human Rights should supplement a Federal Multiculturalism Act, thereby imbuing cultural recognition and protection with an appropriate political and legal status:

...the charter is particularly important because it gives values such as cultural protection a much higher status within the political and legal systems. A multicultural act would not likely achieve that and would itself be much more prone to amendment. If you had the sort of cultural protection and recognition we're talking about sitting next to freedom to speech and other really core entitlements that are iconic and have enormous support across the community, that sends a very powerful signal about how we view multiculturalism and its value to us, and it also achieves a set of outcomes in policy development, legal interpretation and the like that, again, no multicultural act could achieve.²⁰

5.15 Australian Lawyers for Human Rights said that human rights principles should be enshrined in federal legislation to balance and reasonably accommodate all human rights:

This is commonly understood in international law and in jurisdictions where human rights are enshrined in national constitutions, such as Canada and all European countries. In Australia, being alone amongst first world countries in not having constitutionally protected human rights, there is not a common understanding of this well-established point.²¹

18 Professor George Williams, *Proof Committee Hansard*, 3 August 2017, p. 34.

19 Professor George Williams, *Proof Committee Hansard*, 3 August 2017, p. 35.

20 Professor George Williams, *Proof Committee Hansard*, 3 August 2017, p. 36.

21 Australian Lawyers for Human Rights, *Submission 23*, p. 5. Also see: pp. 4 and 21–22.

5.16 Reaffirming the comments of the Edmund Rice Centre, the Multicultural Communities Council of New South Wales said that the issue of embedding principles of multiculturalism into a Multicultural Act has been raised and debated at the federal level on numerous occasions in the past 25 years: **'the need for such an Act to strengthen multiculturalism is now very clear and urgent'**.²²

Federal anti-discrimination law

5.17 Submitters and witnesses commented on the need for federal legislation to help address discrimination, vilification, exclusion and bigotry in the Australian community. For example, Professor Linda Briskman from the Challenging Racism Project at Western Sydney University stated:

When you look at the context, why are we even discussing the need [for] such legislation? It is because we are perceiving a problem in society that needs to be rectified...There is a lot of fear in our society at the moment...Legislation that is affirming and symbolic might help erode some of that fear. It will be a statement from the leadership of the country that this is important.²³

5.18 In addition to considering a Federal Multiculturalism Act, some submitters referred to Australia's anti-discrimination law. For example, although prohibited by the *Racial Discrimination Act 1975* (Cth),²⁴ the Australian Human Rights Commission said that racial discrimination continues to affect migrants and Australia-born people from many cultural backgrounds.²⁵ The Challenging Racism Project agreed that there are still 'high levels of discrimination and racism directed at CALD [cultural and linguistically diverse] groups in Australia'.²⁶

5.19 Some submitters referred especially to section 18C of the *Racial Discrimination Act 1975* (Cth),²⁷ arguing that the provision should be maintained. For example, Australian Lawyers for Human Rights submitted:

...exclusionary ideologies such as racism are perpetuated through speech. Only legislation can remove a perception in the community that people have the right to behave a particular way. Legislation provides moral support to those people whose natural instincts are against racism. The process of defining something legally as unacceptable indicates that the

22 Multicultural Communities Council of NSW, *Submission 13*, pp. 9–10 (bold in the original). Also see pp. 7–9.

23 Professor Linda Briskman, Margaret Whitlam Chair of Social Work, Challenging Racism Project, Western Sydney University, *Committee Hansard*, 27 June 2017, p. 46. Also see: Professor Andrew Jakubowicz and Ly Ly Lim, *Submission 8*, p. 4; Professor Fethi Mansouri, *Submission 38*, p. 2; Australian Psychological Society, *Submission 61*, p. 12.

24 Part II of the *Racial Discrimination Act 1975* (Cth).

25 Australian Human Rights Commission, *Submission 49*, p. 9.

26 Challenging Racism Project, *Submission 22*, p. 6.

27 Section 18C of the *Racial Discrimination Act 1975* (Cth) prohibits offensive behaviour because of race, colour, or national or ethnic origin

behaviour is both unjust and alterable, and encourages people not to put up with that behaviour. While legal rights themselves may be hard to enforce, the process of establishing that one has a right not to be treated in a certain way has, for example in the context of sexual discrimination, changed many people's view of the conduct from "it's only natural" to "that's unacceptable".²⁸

5.20 Alternatively, a representative from the Executive Council of Australian Jewry highlighted the 'urging of violence' offences in sections 80.2 and 80.2B of the Criminal Code.²⁹ Mr Peter Wertheim said that these provisions are problematic and should be amended to prevent the promotion or support of violence on arbitrary grounds:

The real problem with the way those sections are drawn at the moment is that a prosecutor needs to prove a double mens rea, a double mental element—in other words, not only an intention to urge violence on the basis of one of these specified grounds but a further intention that violence will occur. That is nearly impossible to prove in the vast majority of cases, because it cannot merely be inferred from the words themselves. There actually has to be some other nexus that a prosecutor can use to prove that that element is satisfied to the criminal standard—that is, beyond reasonable doubt, which is a very high standard.³⁰

5.21 The Victorian Multicultural Commission suggested that the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012 should be revisited:

The intention of the Bill was to provide better protection against discrimination, with a clearer and simpler regulatory framework for business, organisations and individuals. The VMC supports this aim. Further, we support legislation to strengthen anti-discrimination laws by producing a simpler and clearer law that incorporates human rights as a fundamental building block for inclusion.³¹

28 Australian Lawyers for Human Rights, *Submission 23*, p. 17. Also see: Ethnic Communities' Council of NSW, *Submission 15*, p. 1; Chinese Australian Services Society Limited, *Submission 30*, p. 1: both of which supported the retention of section 18C of the *Racial Discrimination Act 1975* (Cth).

29 Section 80.2A criminalises the urging of violence against groups; section 80.2B criminalises the urging of violence against members of groups, both on the basis of race, religion, nationality, national or ethnic origin or political opinion.

30 Mr Peter Wertheim, Executive Director, Executive Council of Australian Jewry, *Committee Hansard*, 29 June 2017, p. 31.

31 Victorian Multicultural Commission, *Submission 56*, p. 14. Also see: Mr Peter Doukas, Chair, Ethnic Communities Council of New South Wales, *Committee Hansard*, 29 June 2017, p. 30; Attorney-General's Department, *Human Rights and Anti-Discrimination Bill 2012 Exposure Draft Legislation*, <https://www.ag.gov.au/consultations/documents/consolidationofcommonwealthanti-discriminationlaws/human%20rights%20and%20anti-discrimination%20bill%202012%20-%20exposure%20draft%20.pdf> (accessed 16 August 2017).

Committee view

5.22 Based on information presented to this inquiry, the committee is persuaded that the Australian Government must proactively commit to multiculturalism in Australia. This starts with recognition that multiculturalism is a political discourse distinct from issues associated with security concerns. To their credit, state and territory governments have already acknowledged this need and implemented measures to support cultural diversity and social cohesion.

5.23 The committee endorses the view that there is a need for strong leadership on the meaning and importance of multiculturalism in Australia. A Federal Multiculturalism Act that enshrines the values of multiculturalism and establishes mechanisms to ensure implementation of these values is worthy of further consideration. In this regard, the committee notes that a large number of submitters and witnesses highlighted potential models to guide the government's deliberations.

5.24 Although not a separate term of reference, Australia's human rights and anti-discrimination protections attracted some comment. Reflecting on the information largely presented in chapter three, the committee considers that there are areas in which legislative protections are either non-existent, deficient, or at the least inaccessible. The committee is of the view that the broader arguments of a federal Human Rights Act (or similar) and reformed federal anti-discrimination law should be revisited without undue delay. The committee suggests that the Australian Government introduce a Charter of Human Rights.

Recommendation 9

5.25 The committee recommends that the Australian Government, in consultation with relevant government, non-government and community bodies, consider developing and implementing a Federal Multicultural Act to enshrine agreed principles of multiculturalism to support and frame multiculturalism in Australia.

Recommendation 10

5.26 The committee recommends that the Australian Government consider introducing a Charter of Rights, to ensure the legal protection of culturally and linguistically diverse, and new and emerging communities.

Establishment of a Multicultural Commission

5.27 As part of the inquiry, the committee examined the potential benefits and disadvantages of establishing a legislative basis for the Australian Multicultural Council or for an ongoing Multicultural Commission (term of reference (i)). Submitters and witnesses raised concerns with respect to the current Australian Multicultural Council. However, there was in principle support for the establishment of a Multicultural Commission.

Multicultural Advisory Council

5.28 The Australian Multicultural Council is a ministerial-appointed body that advises the Australian Government on multicultural affairs policy and programs. It has

five priority areas, including building stronger and more cohesive communities, and addressing barriers to participation (such as racism and discrimination).³²

5.29 Chinese Australian Services Society Limited said that the Australian Multicultural Council is 'hardly known in the community' and suggested that the Council is hampered by multiple factors—for example, inadequate resources, ill-defined legislative powers, and poor accountability mechanisms.³³ Mr Peter Wertheim from the Executive Council of Australian Jewry expressed the view that the Australian Multicultural Council is 'window dressing'.³⁴

5.30 The Australian Association of Islamic and Muslim Studies Inc. stated that the Australian Multicultural Council must be strengthened.³⁵ Alternatively, a 'full-fledged' Multicultural Commission should be established to:

...clearly present and defend multiculturalism as the embodiment of universal values to which Australians of all backgrounds (should) adhere. This multicultural body should have the capacity to examine social inclusion problems and to carry out remedial action. This gesture of political leadership would help make the message of Australia's multicultural success ring far truer [than the *Multicultural Australia—united, strong, successful* statement]. This legislation would also clear up doubts that multiculturalism means accepting cultures wholesale.³⁶

5.31 The Department of Social Services said that if the Australian Government were to consider legislation for a Multicultural Advisory Council or an ongoing Multicultural Commission:

...it would be important to be cognisant of the structures already in place, to ensure no duplication or unnecessary bureaucracy is created. For example, the role of the Australian Human Rights Commission and the Race Discrimination Commissioner in particular, may have some overlap with the potential role of any national Multicultural Commission. Similarly, there may be overlap with the multicultural commissions in place in several states and territories.³⁷

32 Department of Social Services, *Australian Multicultural Council*, <https://www.dss.gov.au/our-responsibilities/settlement-and-multicultural-affairs/programs-policy/a-multicultural-australia/australian-multicultural-council> (accessed 16 August 2017).

33 Chinese Australian Services Society Limited, *Submission 30*, p. 7.

34 Mr Peter Wertheim, Executive Director, Executive Council of Australian Jewry, *Committee Hansard*, 29 June 2017, p. 30.

35 The Edmund Rice Centre suggested that, as with Multicultural NSW, any legislation to establish a Multicultural Advisory Council should enshrine its function to strengthen its role and enhance its public standing as a statutory body: *Submission 26*, p. 22.

36 Australian Association of Islamic and Muslim Studies, *Submission 16*, p. 3. Also see: p. 2; Department of Social Services, *Australian Government's Multicultural Statement*, <https://www.dss.gov.au/settlement-and-multicultural-affairs/australian-governments-multicultural-statement> (accessed 16 August 2017).

37 Department of Social Services, *Submission 10*, p. 7.

5.32 The Victorian Multicultural Commission did not appear to share this concern. On the contrary, its representative, Ms Helen Kapalos, said that a federal/state model would allow for strong leadership and the better provision of services:

When federal and state agencies work together, it is a better integrated model, and it certainly allows...capacity gaps to be better identified. It is very difficult to have that kind of grassroots setting and grassroots activation if there is just a federal body looking after settlement, for example—and it works the same way, I think, with commissions and separate state entities. I think a federal commission would be symbolic in terms of the advantages and leadership that it would put forward as a nation. That is not to be underestimated, because it then brings us into a contemporaneous setting. We have been one of the first countries to adopt a multicultural policy, but I wonder whether we see it in contemporary terms now.³⁸

International and national models for a multiculturalism commission

5.33 Submitters and witnesses proposed international and current state models that they considered could guide the Australian Government in the creation of an ongoing Multicultural Commission. For example, the Victorian Multicultural Commission referred to existing legislation, including the *Canadian Multiculturalism Act 1988* that provides the relevant minister with discretion to establish an advisory committee.³⁹ The Chinese Australian Services Society Limited indicated that its community would support the creation of a Multicultural Commission 'with adequate resources and setting out the responsibilities and direction of the principles of Australian Multiculturalism similar to the Canadian Model'.⁴⁰

5.34 Domestically, the Victorian Government highlighted its *Multicultural Victoria Act 2011* (Vic), which provides for principles of multiculturalism (similarly to section 3 of the Canadian legislation), as well as establishing the detailed role and objectives of the Victorian Multicultural Commission:

The [VMC]...was established to promote multiculturalism throughout the Victorian community. It provides independent advice to the Victorian Government to inform the development of legislative and policy frameworks, as well as the delivery of services to culturally diverse communities in Victoria. In this role, the VMC is a forum for Victoria's culturally diverse communities to access and communicate with the Victorian Government and have their voices heard.⁴¹

38 Ms Helen Kapalos, Chairperson, Victorian Multicultural Commission, *Committee Hansard*, 27 June 2017, p. 39.

39 Victorian Multicultural Commission, *Submission 56*, pp. 15–16. Also see: Government of Canada, *Canadian Multiculturalism Act* (R.S.C., 1985, c. 24 (4th Supp.)), s 7, <http://laws-lois.justice.gc.ca/eng/acts/C-18.7/> (accessed 16 August 2017).

40 Chinese Australian Services Society Limited, *Submission 30*, p. 6.

41 Victorian Government, *Submission 41*, p. 13.

5.35 Although the Victorian Government described the Victorian Act as a 'strong and exemplar legislative frame',⁴² the Australian Multicultural Council suggested re-establishing the Office of Multicultural Affairs instead. Its submission argued that this office could progress 'the multicultural agenda across a wide range of Australian Government policies and programs, and encourage better coordination of functions and greater sharing of knowledge and expertise'.⁴³

5.36 For other submitters, it appeared less important what form a legislated body could take so long as it fulfilled its function. For example, the Victorian Foundation for Survivors of Torture Inc. said:

...establishing an agency with a legislative base would significantly increase the likelihood that Australian governments and society will have timely access to evidence about how effectively programs to promote settlement and social inclusion are functioning, and to the presence of incipient problems that need to be addressed.⁴⁴

Committee view

5.37 According to participants in the inquiry, there are multiple problems with the current Australian Multicultural Council. As part of a re-energised commitment to multiculturalism, the committee considers that it would be more effective to establish a representative national body, with clearly defined responsibilities and adequate resourcing, for multicultural matters.

Recommendation 11

5.38 The committee recommends that the Australian Government, in consultation with relevant government, non-government and community bodies, consider developing and implementing federal legislation to establish an ongoing Multicultural Commission that is sufficiently resourced to promote and protect multiculturalism throughout Australia, ensuring that all Australians recognise that multiculturalism is essential to the fabric of the Australian nation.

Adequacy of data collection and social research

5.39 The committee received a large volume of submissions and evidence about the adequacy of existing data collection and social research on racially motivated crimes (term of reference (c)). There was a general consensus that neither data nor research is currently sufficient to promote multiculturalism in Australia, to plan for and deliver services to CALD communities, and to formulate multicultural policy.

42 Victorian Government, *Submission 41*, p. 12.

43 Australian Multicultural Council, *Submission 20*, p. 3.

44 Victorian Foundation for Survivors of Torture Inc., *Submission 47*, p. 6.

Quality of existing data

5.40 The Australian Bureau of Statistics (ABS) collects and disseminates a wide range of statistical information relevant to multiculturalism and social inclusion in Australia.⁴⁵ An ABS officer explained:

The data enables the civic, social and economic contribution of migrants and all Australians to be measured, recognised and valued. It sheds light upon the diversity of the different cultural groups within the Australian community and their differing experiences of life in Australia.⁴⁶

5.41 However, submitters and witnesses questioned the quantity and/or quality of existing data. While the ABS described the 2016 Census as 'Australia's richest single source of data on the cultural diversity of Australia',⁴⁷ the federal Race Discrimination Commissioner, Dr Tim Soutphommasane, said that the Census does not perfectly or fully capture data on cultural diversity:

...in my own personal case, in the census I would have answered the question about language I spoke at home as being English. That would not have been [the] case 20 years ago when I was growing up. I was born in France but my place of birth really does not give a good indication of what my cultural background involves. Many other like societies in liberal democracies would have more direct means of capturing information about cultural diversity—for example, questions concerning cultural background or ethnicity. They are some of the examples I would highlight in the current collection of cultural diversity data. We have good data on some indicators but they add up to an incomplete picture of what cultural diversity is in Australia today.⁴⁸

5.42 The Greek Orthodox Community of Melbourne and Victoria emphasised that data collection, facts and research underpin legislated change.⁴⁹ Professor Mansouri also raised the issue of research, arguing that it is time Australia had a national multicultural research agenda to better promote diversity and cultural coexistence:

This would be in addition to the symbolic things that can be done. Why do we need to do that? I actually believe that the more we are able to research and document positive stories about diversity and coexistence, the more we can feed that into the public domain, the more we will change gradually public perception about diversity and cultural coexistence.

45 Australian Bureau of Statistics, *Submission 19*, p. 1.

46 Ms Denise Carlton, Program Manager, Population Statistics, Australian Bureau of Statistics, *Committee Hansard*, 29 June 2017, p. 21. Ms Carlton noted that the introduction of an online form improved reporting for some culturally diverse groups in the 2016 Census: pp. 22–23.

47 Ms Denise Carlton, Program Manager, Population Statistics, Australian Bureau of Statistics, *Committee Hansard*, 29 June 2017, p. 21.

48 Dr Tim Soutphommasane, Race Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 27 June 2017, p. 53.

49 Ms Olyvia Nikou QC, Co-Chair of Cultural Committee, Greek Orthodox Community of Melbourne and Victoria, *Committee Hansard*, 27 June 2017, p. 13.

We are not going to do that if the federal agenda is driven, by and large, by the CVE [countering violent extremism] portfolio. We need to balance that a little bit more and we need to go back and look at what works in multicultural coexistence at the local level. We need to allow a proper research agenda to be pursued and we need to work in partnership with communities and academic institutions because that will allow us to perhaps also change the media discourse.⁵⁰

Statistics on racially motivated crime

5.43 In some countries—such as the United States of America, the United Kingdom and Canada—data is readily available for various kinds of racially motivated crimes. However, the Executive Council of Australian Jewry said that this kind of data is not available in Australia, as there is no consistent national approach to the proscription of hate crimes.⁵¹ Its submission concluded:

Proper research into and analysis of the nature, incidence and long-term trends of hate crimes in Australia is severely constrained by the unavailability of data based on a uniform national system for classifying and recording hate crimes. The quality of any government policies aimed at addressing hate crimes in Australia will necessarily be compromised by these limitations.⁵²

5.44 The Executive Council of Australian Jewry also argued that the cost of a uniform national system would not be excessive. Further, this approach would produce several practical and symbolic benefits, including signalling governments' determination to address hate crimes:

Although the police response is a critical component in the effort to address the problem of hate crimes, the promotion of public awareness of the problem, and public confidence in the system's response, are also important in overcoming the traditional reluctance of members of affected groups to report such crimes for fear of reprisals or not being taken seriously.⁵³

5.45 The Victorian Government acknowledged that, in its jurisdiction, there is a 'discrepancy between the evidence on the frequency and volume of lived experiences of people who are confronted with discrimination and vilification, and the numbers being reported'.⁵⁴

50 Professor Fethi Mansouri, Director, Alfred Deakin Institute for Citizenship and Globalisation and UNESCO Chair, Comparative Research in Cultural Diversity and Social Justice, Deakin University, *Committee Hansard*, 27 June 2017, p. 54.

51 For example, there is wide variation in the definition of key terms such as 'hate crime', 'bias-motivated crime' and 'racially-motivated crime'.

52 Executive Council of Australian Jewry, *Submission 2*, p. 22. Also see: Ethnic Communities' Council of Victoria, *Submission 46*, pp. 4–5, which argued that further research is needed to better understand racially motivated crime and social cohesion factors.

53 Executive Council of Australian Jewry, *Submission 2*, p. 23.

54 Victorian Government, *Submission 41*, p. 7.

5.46 Although each jurisdiction has proscribed hate crimes, the Australian Human Rights Commission said that there is no data collection on crimes motivated by racial hatred or prejudice.⁵⁵ Its submission suggested that this situation be remedied by tasking an appropriate government authority to collect and report on the data:

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.⁵⁶

5.47 The Edmund Rice Centre observed that this data deficiency was acknowledged by the Australian Government in 2010 but since then, 'little progress appears to have been made'.⁵⁷

Need for an adequately resourced research body

5.48 The Federation of Ethnic Communities' Councils of Australia (FECCA) endorsed Australia's historical record of migrant settlement. FECCA and other submitters—such as the Victorian Government⁵⁸—cautioned of the need for ongoing commitment to ensure 'peaceful and harmonious inter-existence' or social cohesion.⁵⁹ FECCA emphasised that a key component of this commitment is evolved understandings based on research:

Australia must be agile and innovative in adapting to these challenges. For this to occur, Australia must better understand the barriers that prevent CALD Australians from full participation in every part of Australian cultural, social and economic life. In order to secure those evolved understandings, better, more directed research is needed. Evidence-based assessments of the root causes of obstacles to inclusion are essential to developing effective solutions.⁶⁰

5.49 Professor Jakubowicz and Ms Lim said that there is inadequate research underpinning the knowledge base about Australian multicultural society and related issues. Their submission argued that the policy process is not based on inquiry-driven research largely due to the 1996 closure of the Bureau of Immigration Multicultural and Population Research. Instead:

...a much smaller program-oriented research function was retained in the Immigration Department, offering a very constrained evidence base, driven by the political priorities of the government of the day, and the program

55 The Federation of Ethnic Communities' Councils of Victoria made a similar observation: *Submission 57*, p. 4.

56 Australian Human Rights Commission, *Submission 49*, p. 10 (bold in the original). The Commission also recommended investigating ways to collect more comprehensive data on issues concerning multiculturalism: p. 13.

57 Edmund Rice Centre, *Submission 26*, p. 25.

58 Victorian Government, *Submission 41*, p. 1.

59 Federation of Ethnic Communities' Councils of Australia, *Submission 57*, p. 1.

60 Federation of Ethnic Communities' Councils of Australia, *Submission 57*, p. 3.

responsibilities of the bureaucracy. The national research conversations that had been so important as an interface for research, policy and community discussions essentially disappeared. Moreover, leading political voices rejected the idea that Australian values might be enriched by engagement with immigrant communities, re-asserting the dominant position of a supposed 'core culture', demanding that immigrants accept what they found and modify their lives to fit.⁶¹

5.50 The joint submission continued:

There is an urgent need to build the research infrastructure and funding to enable strategic and coordinated research on migration, cultural diversity and community relations. We propose the establishment of a national Migration, Cultural Diversity and Community Relations Research Institute. This would bring together government, business and community stakeholders to fund and steer research, with a program of competitively-funded research grant and research networking activities.⁶²

5.51 Emeritus Professor Joseph Camilleri OAM submitted that, in an increasingly globalised world, the need for intercultural skills will continue to grow. However, he also argued that there are relatively few programs specifically designed to enhance levels of intercultural awareness. Professor Camilleri said:

...a serious approach to innovation should, among other things, encourage, support and fund the research, educational and training institutions, projects and methodologies that can foster this deeper 'cultural' knowledge and understanding. Such a development would have wide-ranging application in several key areas of policy, including industry, trade, education, health, external relations, security, and, of course, indigenous affairs, immigration and multicultural affairs.⁶³

5.52 Professor Camilleri suggested the development of 'a few strategic instruments', such as a National Centre for Intercultural Diversity:

Its mission would be to advance knowledge and innovation as it relates to managing cultural and religious diversity—first and foremost within Australia, but also in Australia's relations with its region and beyond. Its primary focus would be on the implications of cultural diversity for social cohesion, economy and trade, environment, education (at all levels), media and communications, national security, and international relations.⁶⁴

5.53 Professor Camilleri outlined briefly how a National Centre for Intercultural Diversity might be implemented, including through partnership funding. Under this proposal, the Australian Government would provide funding over a five-year period to support the establishment of a centre (for example, infrastructure and specific

61 Professor Andrew Jakubowicz and Ms Ly Ly Lim, *Submission 8*, p. 6.

62 Professor Andrew Jakubowicz and Ms Ly Ly Lim, *Submission 8*, p. 8.

63 Professor Joseph Camilleri OAM, *Submission 43*, p. 7.

64 Professor Joseph Camilleri OAM, *Submission 43*, p. 8.

appointment costs). A host institution, or institutions, could then provide additional support.⁶⁵

5.54 As indicated earlier in this report, submitters and witnesses contended that there are numerous areas in which further research is required to promote and protect multiculturalism. FECCA indicated that a research body is required not only to identify 'the unique challenges faced by Australians from culturally and linguistically diverse backgrounds', but also to identify best practice internationally in these areas.⁶⁶

Committee view

5.55 At present, a wide range of data is being captured in relation to multiculturalism and social inclusion. However, the committee heard that this data is not comprehensive and, in the case of racially motivated crime, does not exist. Part of this problem appears to be legislative inconsistency across Australia. As highlighted by submitters and witnesses, sufficient, consistent and reliable data is vital to support research that informs, among other things, political discourse and policy formulation. Accordingly, the committee supports investigating ways of collecting more comprehensive data, including on racially motivated crime.

5.56 The committee is concerned that Australia does not have a national multiculturalism research agenda. With such high cultural diversity that changes in each generation, it seems only logical to seek to understand the challenges to which we must adapt now and into the future. For this purpose, the committee considers that the Australian Government should establish an independent and resourced body, such as a National Centre for multiculturalism and religious diversity, to provide strategic and co-ordinated research in all areas of multiculturalism. This would have the additional advantage of signalling the government's commitment to the multiculturalism agenda.

Recommendation 12

5.57 The committee recommends that the Australian Government consider developing options for collecting more comprehensive data on issues concerning multiculturalism and racially motivated crime, including the possibility of tasking the Australian Institute of Criminology to collect and report national data for racially motivated crime.

Recommendation 13

5.58 The committee recommends that the Australian Government consider establishing an independent and resourced body, such as a National Centre for multiculturalism and religious diversity, to provide strategic and coordinated research into the areas of multiculturalism and religious diversity.

65 Professor Joseph Camilleri OAM, *Submission 43*, pp. 8–9.

66 Federation of Ethnic Communities' Councils of Australia, *Submission 57*, p. 11.

Senator Richard Di Natale

Chair

