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Australasian Institute of Policing



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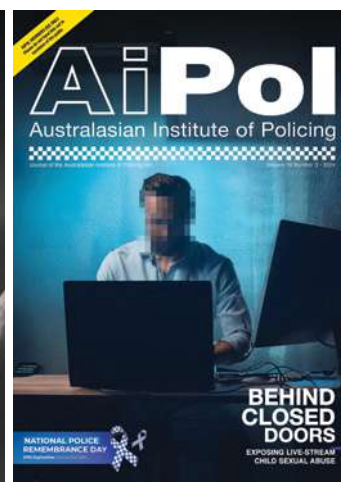
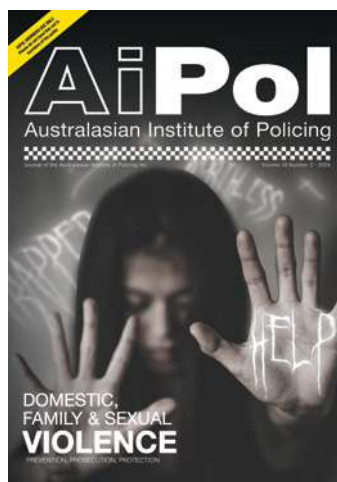


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TABLE OF CONTENTS

Editorial	5
President's Foreword	6
Push to Strengthen Hate Crime Laws and Tackle Threats	10
Legal and Constitutional Affairs Legislation Committee	13
Melbourne Preacher Warns Young Australian Muslims 'falling to liberal ideologies'	26
Special Envoy for Social Cohesion	31
Diversity as Division Or Unity? The post-multicultural threat to Australia's liberal democracy	33
Policing Hate Crime	43
AFP Commissioner Reece Kershaw on Antisemitism & Hate Crime	56





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Editorial

DR AMANDA DAVIES

Editor, Senior Researcher at the Charles Sturt University



Knowing what characteristics constitute hate crime is pivotal to empowering frontline officers to combat this crime typology in their efforts to safeguard the community they serve.

Welcome to the first edition for 2025, let us be optimistic there will be less conflict across the globe and hope for a more peaceful and prosperous year ahead.

This edition focuses in the main on the newly proposed legislation associated with 'hate crime'. There is no doubt the resurgence with greater impetus of hate crime due to the middle east conflict has also reverberated throughout the balance of police work across Australia.

Whilst some states stepped forward to take immediate steps to address the burgeoning activities associated with hate crime and as a consequence enabling police to proactively disrupt such activities, there are others that have progressed at a less visibly active pace. As the President of AiPOL suggests in his foreword, it is to the Federal Government that leadership in this domain rests.

There has been and continues to be a wealth of studies emanating from across the globe examining the various aspects associated with hate crime within communities. In 2023, the widely acclaimed Campbell Collaboration an international network that supports the

preparation and dissemination of high quality systematic reviews of research evidence on the effectiveness of social programs, policies, and practices provided a comprehensive study on the inclusivity of terms and activities associated with the label of hate crime. The authors suggestions resonate with the challenges experienced by policing agencies nationally and internationally:

The difficulties in defining hate crime, hate incidents and hate speech, and in finding a common conceptual basis constitute a key barrier toward operationalisation in research, policy and programming. Definitions disagree about issues such as the identities that should be protected, the types of behaviours that should be referred to as hateful, and how the 'hate element' should be assessed.

It is this lack of agreed definition that influences the challenges experienced by police agencies in Australia and more broadly on the global policing landscape. The articles in this issue seek to offer insight into the current status in Australia and as the consequences of the legislation approach down stream

to the frontline officers who are at the coal face of addressing/managing incidents of hate crime.

Knowing what characteristics constitute hate crime is pivotal to empowering frontline officers to combat this crime typology in their efforts to safeguard the community they serve. Consideration of including knowledge acquisition and application of hate crimes in recruit education may increase an agency's depth of capacity and capability to police this crime, however, such an approach will be dependent on the legislative approach applied by respective States, Territories and the Federal Government.

The articles in this issue offer insight into the current status of the approach to policing hate crime from the individual States and Territories approach and the overall response from the Federal Government. Irrespective of the pace at which the respective legislative bodies progress on this issue, what is important is that they do progress action that supports the work of those officers on the ground responding to this crime domain.

President's Foreword

JONATHAN HUNT-SHARMAN

President, Committee of management, Australasian Institute of Policing

The Police Oath: Protect Life & Property - Where is the federal legislation to address hate speech and vilification?

We have seen Hamas's invasion of Israel on 7 October 2023, the raping, murder and the taking of hostages by Hamas, the subsequent war in the Middle East, a temporary cease fire between Hamas and Israel in January 2025, the destruction of Gaza and the eruption of unprecedented violence on the streets of our cities in Australia, particularly targeting those of the Jewish Faith. During this whole time there has been a lack of national leadership in addressing the unacceptable intimidation, threats and violence against fellow Australians based on their race and religious beliefs.

State Premiers in WA, Victoria and NSW have been quick to enact legislation to address this unacceptable violence whilst the federal government has acted at a 'snail's pace'. In the meantime Australians have been terrorised in their own country because of weak federal crime legislation.

Across Australia there are a range of criminal offences and civil provisions in commonwealth, state and territory laws that aim to protect against harm caused by hate speech and vilification, however without national leadership these laws differ in scope and application between jurisdictions. The federal government must take a stronger leadership role rather than leaving it to the states and territories.

The Institute prides itself on providing honest and frank comment on issues impacting police officers, the police profession and the community at large.

The Institute has a genuine concern that Australia's cohesive and multicultural society is at risk, through the inaction of the federal government to introduce effective legislation within its Constitutional powers, to address hate speech and related violent action, indeed domestic terrorism.

Federal legislation can be enforced by every police officer in all states, territories and the commonwealth jurisdiction. It is the obvious law enforcement tool to nationally stamp out this domestic terrorism.

Federal legislation will not just provide nationally consistent offences, but national leadership will provide a strong message as to what is acceptable and not acceptable in our Australian society.

Our successful multicultural model has openly encouraged and supported Australian citizens, residents and migrants being free to maintain private cultural and religious traditions, whilst ensuring observance to our values, norms and laws.

However, since Hamas's invasion of Israel on 7 October 2023, we have seen disregard of our values, norms and laws with unprecedented intimidation, threats and violence in the streets of our cities. There is no doubt there has been an unprecedented escalation of threatening and violent antisemitism in Australia.

Even with the 'temporary cease fire' in January certain groups have made it blatantly clear that they intend to continue this breach of our values, norms and laws. If this is not immediately addressed with the 'full force of the law' we risk other groups in the future using the same domestic terrorist acts to intimidate other minority groups. There needs to be clear messaging and strong unequivocal federal criminal legislation to address hate speech and hate violence.

The Middle-East conflict and the subsequent violent fallout in Australia is a stark warning to politicians that the level of intolerance is exponentially increasing whilst respect of fellow Australians is declining.

There is a '**chink in the multiculturalism armour**'. There is a problem that has been publicly exposed with Australia's multiculturalism as a result of the Middle East political landscape playing out as Australian domestic terrorism. It is a problem that can no longer be ignored and must be addressed through political leadership, unambiguous policies, education, teaching of our national values, norms and laws, coupled with strong enforcement powers for those who wish to terrorise others because of their race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion.

Unacceptable behaviour ignoring our norms, values and laws must be addressed by implementation of effective legislation by the Australian Parliament. Unfortunately, the Australian Government and the Australian Parliament has missed the opportunity to provide truly effective reform.

As I write this forward, the Australian Parliament passed the Criminal Code Amendment (Hate Crimes) Bill 2024 [the Bill] with some additional amendments but it has not addressed the source of the hate.

The Institute welcomes the bipartisan approach to this legislation and of course supported the Bill. However, the Institute is disappointed that the federal government did not take the opportunity to include within the Bill, provisions to address the genuine concerns raised by the Scarlet Alliance, Australian Sex Workers Association; Human Rights Law Centre; Justice and Equity Centre; the ANU Law Reform and Social Justice Research Hub, the Executive Council of Australian Jewry; and Islamic Council of Victoria to include a federal criminal offence of serious vilification of individuals or groups based on race, religion or other protected attributes.¹

1. The Senate legal and Constitutional Affairs Legislation Committee Criminal Code Amendment (Hate Crimes) Bill 2024 [Provisions] December 2024, pgs 22-25

2. SBS News, published 5 February 2025 at 6:35pm by Ewa Stasewska

3. Criminal Code Amendment (Racial Vilification) Act 2004 makes racial vilification punishable by 14 years imprisonment

We are a country that values our cohesion, values, multiculturalism, diversity and importantly, our laws. We need to stop hate at its source which is hate speech.

Unfortunately, the title (Hate Crimes) Bill is an exaggerated title.

The Institute is concerned that the Bill, even with amendments, is too narrow and fall significantly short of its purpose of tackling hate speech and hateful conduct. The Bill as passed by Parliament still leaves people vulnerable to hate speech, discrimination and vilification.

The Institute contacted a number of MPs seeking amendment to the Bill with the Institute recommending a number of new offences to be included in the Bill.

The Institute commends the independent MP for Wentworth, Allegra Spender, for introducing an amendment that would have criminalised serious vilification or promotion of hatred of individuals or groups based on race, religion, or other protected attributes. Unfortunately, the major parties and the Greens opposed the amendment. A missed opportunity!

The Institute commends the Labor government's decision to support amendments put forward by the Liberal Party, consistent with recommendations suggested by the Institute. However, the Institute is disappointed that the major parties did not support the amendment put forward by Allegra Spender MP.

I was surprised that in the late night debate on Wednesday 5 February 2025, that the Home Affairs Minister, Tony Bourke, described the Bill as the "*toughest laws Australia has ever had against hate crimes*". This is simply not correct. Indeed, Professor Luke McNamara, professor in the Faculty of Law and Justice at the University of New South Wales, stated that the proposed changes expanded existing offences in a "pretty modest way". Professor McNamara stated that the changes will have "very little effect in practice" and "*the effect will be largely symbolic*".²

This Bill, as passed, will fail the 'pub test' as hate preachers can still call for a "**final solution**" and say Jews are "**bloodthirsty criminals**" and "**monsters**". Such words glorify and promote hate and create a climate of terror and yet there is no federal offence.

The Institute recommends that the Australian government reconsider its position to remove anti-vilification provisions from the legislation and reintroduce it as a matter of urgency. In particular, the Institute recommends:

- a federal criminal offence of promoting, advocating, or glorifying use of force or violence against an individual or group based on their race, religion, or other protected attributes;
- a federal criminal offence of serious vilification of individuals or groups based on race, religion or other protected attributes, similar to the Western Australian vilification laws;³
- a federal criminal offence for the possession, publication and display of written or pictorial material that is threatening or abusive that urges hatred or harassment of an individual or group based on their race, religion or other protected attributes;
- amendment of the civil statute of section 18C of the Racial Discrimination Act 1975 (Cth) to include criminal offence provisions to protect groups under the Bill, including religious groups.
- Further, the Institute recommends that as a minimum that the federal government introduces a federal statutory aggravating provision for the sentencing of offences that have been motivated by hatred against an individual or group based on their race, religion, ethnic origin or other protected attributes.

The Australian Parliament must act to protect those groups or members of groups distinguished by race, religion, ethnic origin or other protected attributes. Hate speech does not equal free speech.

We are a country that values our cohesion, values, multiculturalism, diversity and importantly, our laws. We need to stop hate at its source which is hate speech. Indeed Mr Bourke MP also stated during the introduction of the Bill that "*Anybody who says that hate speech is somehow a subset of freedom of speech doesn't understand that words can be bullets*".

The failure to introduce effective anti-vilification and hate speech offences is a failure by the Australian Parliament. Vilification and hate speech has not been addressed. We now risk that it will continue to spread like cancer to cause the potential loss of liberty and freedoms that we as Australians have cherished in our democratic country.

There needs to be a strong commitment and clear national message on the part of the federal government, supported by state, territory and local governments, business and community leaders, teachers, families and individual Australians to reject hate speech and vilification and to promote our shared values, norms, and adherence to our laws in order to safe guard our democracy.

If the Australian Parliament does not take this leadership role the tolerance and diversity of which Australia, as a nation is accustomed, risks being replaced with cultural separatism, tribalism and open violent conflict between different groups.

This edition of AiPOL and my comments as President of the Institute are intended to constructively contribute to protecting, sustaining and strengthening our social cohesion as a nation.



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Push to Strengthen Hate Crime Laws and Tackle Threats

Threatening or urging violence against Australians from marginalised communities could become an offence as the government attempts to tackle hate crimes.

December 12, 2024

DOMINIC GIANNINI,

ALEX MITCHELL,

TESS IKONOMOU,

KAT WONG

citynews.com.au

A Senate committee report on proposed laws to combat hate crimes and promote community respect has recommended Australia establish a national hate crimes database and expand criminal offences.

“While current laws criminalise acts of violence against targeted groups, and in its most extreme form, acts of terrorism, this bill would criminalise threats of such violence,” committee chair Nita Green said in the report, released on Thursday.

“This is an important and timely step.”

There were concerns the bill would limit free speech, but the committee said it was satisfied it “does not suppress freedom of speech that is not violent or forceful”.

Hate speech laws are in the spotlight amid escalating fears people could be killed in anti-Semitic attacks.

Federal police are confident they are closing in on those responsible for inciting fear in Jewish communities, but critics say they have acted too slowly.

Opposition Leader Peter Dutton laid the blame for rising anti-Semitism at the feet of Prime Minister Anthony Albanese, who he accused of setting the “tone” by failing to stand up to it.



The level of anti-Semitism in Australia’s universities is the subject of a parliamentary inquiry. (Joel Carrett/AAP PHOTOS).



"No wonder these people keep pushing the lines now to the point where we're seeing cars and properties graffitied and firebombed, and now the synagogue as well," Mr Dutton told 2GB Sydney on Thursday.

"There is going to be somebody killed at some point, or somebody who is going to be very seriously injured if this continues."

Australia's special envoy to combat anti-Semitism Jillian Segal said a lack of accountability had set a "tone of permissiveness".

There were no serious penalties for people displaying terrorist symbols and committing anti-Semitic acts, she said.

Australian Federal Police Deputy Commissioner Krissy Barrett said prosecuting the display of a prohibited terrorist symbol was more than proving someone had waved a flag.

She said federal police had been working on evidence that would reach the burden of proof required for a successful prosecution following investigations into the waving of flags at a pro-Palestinian rally.

"We have had a lot of back and forth with the (Commonwealth Director of Public Prosecutions) about the evidence," Ms Barrett told ABC Radio.

"We are confident we are close on at least three matters.

"I know this can be frustrating for the community but I want to make sure that we have the best chance of a successful prosecution because that will be the strongest deterrent."

Hate laws needed to be strengthened if they were not adequate to prosecute, Ms Segal said.

The special envoy called for an end to pro-Palestinian demonstrations taking over cities, saying they could be held elsewhere, and said universities needed to do more to make Jewish students feel safer on campus.

Anti-Semitism at universities was being investigated at parliamentary committee hearings on Thursday, with representatives from major tertiary institutions and departmental officials giving evidence.

Ms Segal previously told the inquiry universities were a "cauldron of anti-Semitism".

Minister for Youth Anne Aly called for Australians to support the Jewish community, which was feeling unsafe, the same way they had supported Muslims fearful in the wake of the Christchurch attack.

"When it happened to the Muslim community, it hurt us," she told ABC Radio.

"Remember how the community came together after Christchurch?"

"Remember that there is strength in community – remember there is strength in reaching out to each other."

The Australian Human Rights Commission is looking into the impact of racism at universities, with some institutions suggesting it was a more appropriate avenue for action given a probe should include all forms of religious intolerance.

Race Discrimination Commissioner Giridharan Sivaraman said anti-Semitism, Islamophobia and anti-Palestinian and anti-Arab racism had dramatically increased.

Racism poured out when there were ruptures in society, he said, adding the way it was tackled was disjointed and ad hoc.

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Thank you to Queensland Police for your incredible efforts in protecting and supporting our communities.

Your commitment, bravery and care are deeply appreciated. Keep up the amazing work!

Senator Malcolm Roberts

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***I look forward to meeting you
when I am next in your town!***



Malcolm Roberts

Senator for Queensland



Authorised by Senator M Roberts 1 Eagle Street, Brisbane QLD 4000





Legal and Constitutional Affairs Legislation Committee

Criminal Code Amendment (Hate Crimes) Bill 2024 [Provisions].

SENATOR NITA GREEN CHAIR

Parliament House Canberra ACT

On 19 September 2024, the Senate referred the provisions of the Criminal Code Amendment (Hate Crimes) Bill 2024 (the Bill) to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 12 December 2024.

The Bill would amend the *Criminal Code Act 1995* (the Criminal Code) to strengthening and enhance Australia's legislative framework to combat hate crimes, and promote community respect and understanding.

The Explanatory Memorandum (EM) to the Bill explains that the measures provided for in the Bill seek to combat the increasing prevalence of hate speech involving calls to force or violence:

Public discourse has increasingly been weaponised, with hateful rhetoric aimed at attacking groups in the Australian community. Urging and threatening force or violence against targeted groups, or members of targeted groups, undermines and erodes Australia's shared values. The harm caused by this conduct can be profound – it is an attack on the dignity of targeted groups, and members of targeted groups, which affects the physical and psychological wellbeing not only of those targeted, but of the whole community. It can also lay the foundation for violence and extremism.

In his second reading speech, the Attorney-General, the Hon Mark Dreyfus KC MP, emphasised:

No one in Australia should be targeted because of who they are or what they believe. The legislation I am introducing to the parliament today responds to the increasing prevalence of hate speech and hateful conduct in our society. This conduct cannot, and will not, be tolerated.

Conduct of the inquiry and acknowledgement

In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to organisations and individuals inviting submissions by 7 November 2024. The committee received 40 submissions, which are listed at Appendix 1, and held a public hearing in Canberra on 2 December 2024. A list of the witnesses who appeared at the hearing is at Appendix 2. The committee thanks those organisations and individuals who made submissions and who gave evidence at the public hearing.

Scope and structure of the report

This report comprises two chapters:

- Chapter 1 provides information on the inquiry and outlines key proposals of the Bill; and
- Chapter 2 discusses some of the key issues raised in relation to the Bill before setting out the committee's findings and recommendations.

Note on references

In this report, references to the *Committee Hansard* are to the proof (that is, uncorrected) transcript. Page numbers may vary between the proof and official transcript.



Key proposals

The Bill comprises one schedule of proposed amendments to the Criminal Code, with the following key proposals to:

- amend existing offences for urging force or violence against groups or members of groups with protected attributes (sections 80.2A and 80.2B):
 - to reduce the fault element in relation to the consequence of the urging conduct;
 - to expand the list of protected attributes to include 'sex, sexual orientation, gender identity, intersex status, disability';
- create new offences (proposed sections 80.2BA and 80.2BB) for threatening to use force or violence against protected groups and members of groups;
- disapply the defence for acts done in good faith (section 80.3) with respect to sections 80.2A and 80.2B and proposed sections 80.2BA and 80.2BB;8 and
- amend the public display of prohibited hate symbols offences (sections 80.2H, 80.2HA and 80.2K) to protect an expanded list of protected attributes, including 'sexual orientation, gender identity, intersex status'.

Consideration by other parliamentary committees

The Bill was also considered by the Senate Standing Committee for the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights.

Chapter 2

Key issues

Most submitters and witnesses supported strengthening Australia's legislative framework to combat hate crimes, with many agreeing with the proposals contained in the Criminal Code Amendment (Hate Crimes) Bill 2024 (the Bill).

The Legal and Constitutional Affairs Legislation Committee (the committee) received significant evidence about a reported rise in discrimination, hate speech and vilification in the Australian community. This evidence was confirmed by operational agencies.

The Australian Security Intelligence Organisation (ASIO) commented that politically motivated violence—a term that includes terrorism and any violent act, violent threat, or unlawful harm intended or likely to achieve a political objective—is one of its principal security concerns:

ASIO is seeing political polarisation and intolerance, uncivil debate and unpeaceful protest. Anti-authority beliefs are growing; trust in institutions is eroding; provocative and inflammatory behaviours are being normalised. We are seeing direct connections between inflamed language and inflamed community tensions across all ideological spectrums. These dynamics are raising the temperature of the security environment, which increases the risk of violent extremism...[T]he intent of the Bill is to combat the increasing prevalence of hate speech involving calls to force or violence...[and] aims to address the threat of terrorism by deterring inflammatory and harmful behaviours while supporting law enforcement to address and disrupt behaviours, such as threats of violence, that can be a precursor to more serious offending.

Similarly, the Australian Federal Police (AFP) submitted that it is witnessing an increase in speech and other conduct that may urge violence against marginalised groups and individuals, particularly in the online environment:

The internet provides a permissive environment for like-minded individuals to connect, communicate and spread their messages widely. It can be used to incite hate and violence and weaponise public discourse, with hateful rhetoric aimed at attacking groups in the Australian community. This can be seen in the rise of anti-Semitic and Islamophobic rhetoric in relation to ongoing conflict in the Middle East. The AFP is also aware of continuing protests and physical demonstrations that can be used to amplify the messaging of extremist groups

“The Legal and Constitutional Affairs Legislation Committee (the committee) received significant evidence about a reported rise in discrimination, hate speech and vilification in the Australian community.”

The Attorney-General's Department (AGD) described the Bill as 'an important step to protect the community from harms caused by those who foster hatred and incite violence'. The department advised that it began to consider the effectiveness of existing hate speech and racial vilification offences in late October 2023, culminating in the development of the Bill from February 2024:

In developing these measures, the department conducted extensive consultation across the Australian Government and engaged with states, territories and community stakeholders...The department acknowledges the important feedback provided by religious groups, women's safety groups, disability advocates, representatives of ethnic communities, LGBTIQ+ advocates, and First Nations representatives. These consultations significantly contributed to the development of the Bill.

Chapter 2 examines some of the key issues raised in submissions and evidence, including:

- in relation to public displays of prohibited hate symbols the omission of 'disability' as a protected attribute;
 - the expanded list of protected attributes;
 - the reduced fault element;
 - the defence for acts done in good faith;
- 'disability' as a protected attribute;
- in relation to threatening force or violence, the threshold for the second fault element; and
- human rights concerns, hate speech and anti-vilification laws.

.....

In response to concerns regarding the capture of psychological harms, Mr Jonathon Savery, Director, Counter-Terrorism Legislation Section, AGD, clearly stated:

...the terms are intended to refer to physical force or violence against a person. They aren't intended to encompass psychological or other sorts of mental harm. That's consistent with the ordinary meaning of these terms, which the terms are intended to take, as evidenced by various dictionary definitions that refer to physical coercion, exertion of strength or use of rough force. Another point to make is that, as a matter of statutory interpretation, a court would look to the context in which the terms are used to give a further indication of the intention, which we would say further demonstrates that they would only apply to physical force or violence...The term 'harm' has come up quite a few times. It's worth noting that the bill does not use the term 'harm'. It uses the terms 'force or violence', and these offences do not encompass harm. By way of contrast, harm does, by definition in the Criminal Code, include both physical and mental harm. Force and violence can be differentiated from that. That's the intention, and those provide the supporting context that demonstrates that intention.

As discussed above, the Bill would make a key change to a fault element in the existing offences in sections 80.2A and 80.2B of the Criminal Code. This change would also be introduced in proposed sections 80.2BA and 80.2BB.

Items 3, 6, 11 and 14 in Schedule 1 of the Bill would reduce the fault element in the second limb of the offences from the person 'intending that force or violence will occur' to being 'reckless as to whether force or violence will occur'. 'Recklessness' is defined in section 5.4 of the Act.

The EM states:

The existing requirement for the prosecution to prove intent for this element of the offence sets the bar so high that conduct which is genuinely reprehensible enough

continued on page 16

to attract criminal liability is not criminalised. Amending the requirement from 'intention' to 'recklessness' would align the offence with the standard fault elements in the Criminal Code and common law.

Some submitters supported the proposal in the Bill on the basis that the fault element required to establish the offences is not capturing conduct that should attract criminal liability. Anti-Discrimination NSW referenced its experience with an intent threshold, which, it advised, historically resulted in prosecutorial difficulties under serious vilification provisions.

The Executive Council of Australian Jewry (ECAJ) agreed that the fault element of intent sets an unreasonably high bar for prosecutors. However, it argued that reducing the threshold, as proposed by the Bill, would be ineffective, as the Bill does not change other provisions in sections 80.2A and 80.2B that continue to provide for intent:

Proof of intention would still be required to establish the first mental element, and the sections would therefore continue to fail to capture conduct that employs subtle linguistic and symbolic signals that trigger emotions which move people to engage in violence.

The Islamic Council of Victoria (ICV) also voiced concerns about whether the proposed amendments would be effective. It argued that recklessness would still be a subjective test that may be prohibitively difficult for investigators and prosecutors. In its view, there should be an objective test: 'such as whether a reasonable person in the accused's position would have considered the conduct or speech to have an unjustifiable risk in urging force or violence'.

Some submitters raised concerns in relation to the impact of the Bill on human rights. The AHRC submitted that lowering the standard of culpability would promote certain human rights but could also impose limitations on other human rights:

While the lowering of this threshold would promote certain human rights, including the right to life and security of the person, the right to equality and non-discrimination, the right to protection from exploitation, violence and abuse, the lower culpability standard and subjective interpretation of and its broader application has the potential to impose limitations on other human rights, including the right to freedom of expression. It may also be possible that the offence could be applied in a way that infringes on the rights to freedom of assembly. The current requirement to prove intent serves as a safeguard to preserve these other human rights and ensure that the offence is only charged and prosecuted in circumstances appropriate to warrant a penalty of up to 7 years imprisonment.

Departmental responses

In response to the ECAJ, the AGD advised that removing the fault element from sections 80.2A and 80.2B would also remove the important nexus to force or violence from the intention when the person urges the force of violence.

Mr Muffett expanded on this point, as follows:

...in terms of general Commonwealth criminal policy, if you look at the extension of criminal responsibility in relation to incitement, where a person commits the offence of incitement if they urge the commission of an offence. For the person to be guilty of that, the person must intend that the offence incited be committed. It's a general criminal law policy piece where we have both the urging and the recklessness around the result and the likelihood of someone acting on that incitement.

Item 21 in Schedule 1 of the Bill would disapply the defence for acts done in good faith, as set out in section 80.3 of the Criminal Code, with respect to sections 80.2A and 80.2B and proposed sections 80.2BA and 80.2BB.

The AGD outlined the types of circumstances in which this defence is intended to apply, which do not include the urging or threatening of force or violence:

Section 80.3 of the Criminal Code creates a defence for various offences where a person engages in conduct in good faith for a set of specified purposes. Among other things, this includes where the person tries to show that certain government entities are mistaken in their policies or actions, seeks to point out defects in relation to legislation or the administration of justice, or publishes a report or commentary about a matter of public interest...The amendments reflect the fact that urging force or violence is not part of good faith discourse...[Also] there are no circumstances in which threatening force or violence can be done in good faith.

Several submitters agreed with the proposed disapplication of the defence on the grounds advanced by the AGD.

The Castan Centre submitted, for example:

There is no clear rationale for this [good faith] exception which would, on its face, legitimate odious conduct directly contrary to the provision. While rights to association, assembly and speech are important human rights that require protection, those rights are better protected in the drafting of the offence itself (such as by ensuring that it applies only to the most serious conduct) rather than a broad and vague defence like the one to be repealed.

The ECAJ pointed out that the defence was largely carried over from repealed section 24F of the Crimes Act 1914 (Cth), which was drafted in relation to the offence of sedition and not applicable to the urging or threatening of violence:

Such defences are fundamentally misconceived in relation to offences based on the intentional urging of violence against groups distinguished by race, religion, nationality, national or ethnic origin or other attributes or by political opinion, or supposed members of such groups. Such an intention is intrinsically incompatible with the presence of "good faith". In the circumstances in which a good faith defence could be established, the mental elements of the offences could not be made out in the first place. The removal of the defence in respect of the offences in section 80.2A and 80.2B is something we have long advocated, and the same applies in respect of the proposed new offences in sections 80.2BA and 80.2BB.

In its examination of the Bill, the Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) queried why the Bill proposes to entirely remove the defence without allowing for any judicial discretion to consider the particular circumstances of a case.

This argument strongly resonated with some submitters, such as the AHRC which expressed the following view:

While limited in scope and effect, the disapplication of this defence for [sections 80.2A and 80.2B and proposed sections 80.2BA and 80.2BB] removes an avenue for the court to consider the circumstances and context of the conduct and may result in further limitations on the rights of freedom of expression and freedom of assembly in ways that could inhibit legitimate debate, critique and expression.

Australia's Right to Know Coalition highlighted journalism as a clear example of circumstances where there should be extra consideration. It argued that the removal of the defence and the failure to provide a single, clear journalism exemption would have 'a serious chilling effect on reporting of and commentary about [the hateful and violent views of some groups]'.
The AHRC warned:

There is a risk that individuals engaging in expressive or critical speech and certain public gatherings or protests could be viewed as sources of incitement or threats against protected groups, limiting the rights to freedom of expression and freedom of assembly. This may disproportionately impact on particular groups that engage in protest to have their voices heard, such as First Nations people, exposing them to criminal penalties. Limitations on these rights are permissible where provided by law and when necessary to protect the rights or reputations of others, national security, public order, or public health or morals. However, limitations on human rights must be reasonable, necessary and proportionate.

Departmental response

Ms Brooke Hartigan, First Assistant Secretary, Security and Counter-Terrorism Division, AGD, acknowledged that the Bill does not provide for any type of public interest exemption. She stated:

...we would rely on the CDPP Prosecution Policy... the requirement that there must be sufficient evidence to prosecute the case and that it must be evident from the facts of the case and all the surrounding circumstances that it would be in the public interest for the prosecution to proceed.

AGD's Mr Muffett reiterated that the fault element in the first limb of the offence (intent) remains unchanged: 'the bar is still maintained quite high by that first hurdle'. Further:

...introducing evidence to the court to prove intention or to prove recklessness is going to require the CDPP to look at the circumstances and the context of the offending. The context is very much taken into account as bringing forth the evidence, in terms of whether specifically articulating that actually starts to limit the court's ability to consider the broad suite of evidence that the prosecution may want to bring.

Mr Muffett also addressed the issue of artistic, academic or journalistic exemption, stating that these circumstances would already be carved out, again, by the fault element in the first element of the offence:

For the offences to apply, you have to be intentionally threatening the use of force or violence or urging others to use force or violence. If you are intentionally doing that and you also have an artistic purpose, it could be captured, but if it was solely for an artistic or other purpose it would not meet that first element of the offences.

Deputy Commissioner Krissy Barrett, Deputy Commissioner, National Security, AFP, noted that the AFP operates under an operational prioritisation model, where artists, academics and journalists 'would not meet our priorities in terms of where we would apply our investigative resources'.

continued on page 18





Public displays of prohibited hate symbols

Sections 80.2H, 80.2HA and 80.2K of the Criminal Code criminalise the public display of prohibited hate symbols or the making of the Nazi salute in public in specified circumstances. The Bill would insert 'sexual orientation, gender identity, intersex status' into these provisions, to expand the scope of the offences to groups distinguished by those attributes.

Submitters supported the proposal to expand the list of protected attributes. The AHRC commented, for example:

These amendments recognise that these targeted groups are also increasingly subjected to behaviours that expose them to risks of force and violence and require additional protections. The amendments also recognise the intersectionality of protected attributes and that individuals may identify with a combination of the attributes protected under these provisions.

The NSW Council for Civil Liberties (NSWCCL) referenced earlier comments and recommendations made by the Parliamentary Joint Committee on Human Rights (Human Rights Committee). It supported the 10 recommendations made by that committee, which the NSW CCL considered would 'substantially reduce the risks that the prohibited symbol offences would be enforced in ways that cut across an individual's right of free expression and expression of religion'.

Multiple submitters expressed concern, however, with one particular omission from item 20 in Schedule 1 of the Bill: the absence of 'disability' as a protected attribute. The Scarlet Alliance, Australian Sex Workers Association submitted: 'we believe this [omission] is a major oversight, and carries an implication that people with disability cannot be offended in the same way as 'reasonable people'.

The AHRC highlighted that people with disability have been specifically targeted in conflict (such as in the Nazi T4 Program). In its view, people with disability are likely to be a group offended, insulted, humiliated or intimidated by the prohibited conduct in sections 80.2H and 80.2HA, and are equally entitled to protection under these provisions:

The proposed amendments, with the addition of 'disability' as a protected attribute in ss 80.2H, 80.2HA and 80.2K of the Act, would support and promote equality, inclusion and respect, and would align more closely with Australia's anti-discrimination laws.

Departmental response

The AGD submitted:

The expanded scope of protected attributes accords with Australia's international human rights obligations, and complements existing civil protections in the Sex Discrimination Act 1984. This amendment ensures these offences apply to the full range of groups that have been, or are likely to be, subjected to the hateful display of Nazi or terrorist organisation symbols.

In relation to 'disability' as a protected attribute, a departmental officer, Mr Savery, advised that the Bill was developed with reference to specific treaties only:

...the provisions in sections 80.2H and 80.2HA and the expansion of those attributes are intended to implement specific parts of our international obligations. That's evidenced by the statutory notes in those sections, which specify the particular treaties that those particular provisions are intended to give effect to. That was our

focus at the time of developing this bill, informed by recent examples of these symbols being used to target trans people. That was the reasoning behind the particular attributes included in the bill. The only thing that we'd note on including disability as a protected attribute is that we'd need to identify a constitutional basis to support that inclusion.

Threatening force or violence

Item 19 in Schedule 1 of the Bill would create new offences that criminalise threatening to use force or violence against groups (proposed section 80.2BA) or members of groups (proposed section 80.2BB), distinguished by race, religion, sex, sexual orientation, gender identity, intersex status, disability, nationality, national or ethnic origin or political opinion.

The AGD submitted:

The new offences would address a gap in Commonwealth laws by criminalising conduct that involves a direct threat from one person to another, or from one person to a broader group. This supplements the urging force or violence offences, which apply where a person urges another person to use force or violence against a group.

Submitters welcomed the introduction of the proposed criminal offences. The AHRC, for example, submitted:

This amendment recognises that, in addition to urging violence [sections 80.2A and 80.2B], threats of force or violence against protected groups or individuals are not accepted in Australian society and emphasises that everyone has the right to safety and physical security.

The Justice and Equity Centre agreed that the Bill would send an important message about unacceptable behaviours:

...the creation of these offences recognises a particular harm to individuals and our community and carries normative importance, by specifically condemning threatening force or violence against (members of) groups that experience disadvantage, discrimination and marginalisation.

Equality Australia supported the introduction of proposed sections 80.2BA and 80.2BB, as well as the changes to sections 80.2A and 80.2B. However, it argued that 'the offences could be better formulated to capture LGBTIQ+ hate crimes'. Its submission identified examples of hate-based conduct that would not be captured by the new offences (such as threats based on association).

Fault element (reasonable member of the targeted group)

2.58 The Bill would introduce a fault element into proposed sections 80.2BA and 80.2BB of the Criminal Code: 'a reasonable member of the targeted group would fear that the threat will be carried out'.

The Castan Centre supported the objective standard, which it described as 'an important safeguard against responses to conduct that are idiosyncratic'. Further:

It is also important that the threat is a threat to use force or violence. This is a significant threshold. It is not aimed at conduct which threatens to offend or other responses. Applying the ordinary and reasonable meaning of these terms, it could not cover conduct such as legitimate religious speech or legitimate political debate.

The Law Council's National Criminal Law Committee, which did not support what it considered unnecessary new offences, expressed reservations regarding the

fault element in proposed paragraphs 80.2BA(1)(c), 80.2BA(2)(c), 80.2BB(1)(d) and 80.2BB(2)(d):

While it would be expected for an inchoate offence pertaining to threats to require, as an element of the offence, that a reasonable person would fear that the threat would be carried out—it is unnecessary to require that a reasonable person of the targeted group hold that fear. In our assessment this may needlessly overcomplicate the offence...We note that in contentious circumstances there is not always agreement on what words or acts amount to a threat that a reasonable member of the targeted group would fear would be carried out. There may be a wide range of views held by members of the targeted group and limited objective markers to assist in identifying what a reasonable member of the targeted group believes. As a result, establishing a reasonable person's view, as a member of a targeted group, may be difficult to assess and apply to the particular circumstances of the offence. This confusion may be avoided by simply requiring a reasonable person would fear that the threat will be carried out.

Similarly, Rainbow Families Australia argued:

This element places a subjective layer of assessment on an already complex legal analysis, and unduly places focus on the way an act is perceived, taking away the focus from the act itself. Serious psychological harm is likely to be caused by threats, whether or not people involved believe the threat will be carried out...This standard introduces significant uncertainty, as the court must assess a hypothetical reaction for a diverse group, which could vary widely based on individual experiences or vulnerabilities...The element is totally unnecessary...The law should shift to an approach that focuses on the nature of the threat itself, rather than the hypothetical reaction of a group member. This can be achieved by entirely removing this element. If there are concerns that trivial behaviour may be captured by the provision, it would be preferable to remove this element and instead refer to 'serious' threats.

The Queensland Council for Civil Liberties (QCCL) argued that, under the proposed element, the accused person's state of mind in relation to the potential effect of their words is not relevant, which is contrary to the general principles of criminal liability.

As a matter of principle, generally, criminal liability should only be imposed where it is proved the person had a guilty mind...As to what intent is needed, it is that a person intends certain consequences, and they desire that their acts cause those consequences or know that those consequences are substantially certain to result from their acts.

The Law Council queried why strict liability should apply to the fault element in proposed new sections 80.2BA and 80.2BB, as did the QCCL.

Departmental response

Departmental officers acknowledged that the fault element would not be directed toward the accused's state of mind but attempts to distinguish between serious and non-serious conduct where the former would attract significant criminal penalties:

Not only is the person intentionally threatening violence [a fault element for another element of the offence - the seriousness of the sentences of these offences, of five

continued on page 20



and seven years, bring in an element of it being more than simply rhetoric. It is something where a reasonable member would fear that this threat is going to be followed through. For us, that is really around balancing the seriousness to warrant such a penalty.

Human rights

The Scrutiny of Bills Committee and the Human Rights Committee articulated human rights concerns in their examination of the Bill, including in relation to freedom of expression.

The Law Council concurred with the Human Rights Committee that the Bill would enhance certain human rights (rights to life and security of person). However, in criminalising certain forms of expression, the proposed measures also engage and limit the right to freedom of expression and freedom of religion, as well as equality and non-discrimination, and the rights of the child.

The Law Council generally agreed that ‘the measures in the Bill broadly seek to realise legitimate objectives and are rationally connected with those objectives’. It expressed concern, however, that there is a risk that the proposed limitations would be disproportionate, and the Law Council voiced concerns about the proportionality assessment being conducted in ‘a legislative vacuum’:

...the Statement of Compatibility with Human Rights contained in the Explanatory Memorandum is deficient in providing a rigorous proportionality analysis in a number of ways.

With particular reference to freedom of expression, the Law Council argued that ‘the central challenge is ensuring that there is a bright line between freedom of expression—even when exercised in a challenging or unpopular manner—and the reach of the criminal law’. It strongly cautioned against using the criminal law as an instrument of social policy:

Criminalisation should not be conceived as the primary tool through which to prevent radicalisation and extremism from propagating, or to facilitate behavioural change by disaffected individuals. The imposition of serious criminal sanctions for a person’s expression of views—even those which are deeply divisive—can readily entrench division and conflict.

The NSW Council for Civil Liberties (NSWCCL) expressed its unequivocal view that ‘the law should not criminalise legitimate free speech and protest’:

The application of the criminal law to any act of expression involves a substantial limitation on the freedom of expression and religion. Despite the heightened recent focus on potentially inflammatory conduct and the growing prevalence of hateful rhetoric targeting vulnerable communities in Australia, NSWCCL submits that the use of the criminal law should always be a last resort and reserved for the most serious instances of vilification in our community.

In answer to questions on notice, the NSWCCL clarified that ‘urging violence and threatening violence is never a legitimate exercise of free speech...In principle, we do not see how the proposed laws infringe on freedom of expression’.

Professor Melissa Castan, Director of the Castan Centre, concurred that the Bill appropriately balances the criminal law and freedom of expression:

...the bill finds the balance because it is not constraining the thing we describe as freedom of expression. It’s constraining violent, hateful or extremist conduct or the incitement of that. The idea of freedom of expression is not an absolute one. In the criminal law, criminalising certain extreme behaviour is not a question of expression of free speech; it’s actually a question of the protection of the people who are being attacked by these threats or this extreme speech. I think the balance is met there.



Departmental responses

The AGD stated:

The offences are not intended to capture mere expressions of opinion or belief, however hateful or reprehensible. This bill is intended to target the most serious forms of hate speech—namely, the urging or threatening of force or violence against groups.

The Department of Home Affairs commented:

Democracy allows for a rich diversity of views, experiences and interests within a unifying system of politics and governance. Societal divisions on different issues are natural, and are even required for democracy to truly flourish. That said, freedom of expression is not unfettered and must be appropriately balanced with measures like those contained in this Bill to prevent the incitement of violence or hatred.

Hate speech and anti-vilification laws

Across Australia, there are a range of criminal offences and civil provisions in Commonwealth, state and territory law that aim to protect against harms caused by hate speech and vilification. The AGD noted that these laws differ in scope and application between jurisdictions.

The department submitted:

The measures in the Bill are intended to complement these existing provisions as well as provide state and territory police with relevant offences where there are no equivalent offences in their jurisdiction.

Anti-Discrimination NSW considered that the Bill and New South Wales law can 'co-exist', noting that the NSW Law Reform Commission is currently reviewing the *Anti-Discrimination Act 1977* (NSW) and the operation of section 93Z of the *Crimes Act 1900* (NSW).

Several submitters referenced the Attorney-General's second reading speech (paragraph 1.4) and argued that the Bill would still leave people vulnerable to discrimination and vilification. The Scarlet Alliance, Australian Sex Workers Association, submitted, for example:

The Criminal Code Amendment (Hate Crimes) Bill 2024 provides some extension to Commonwealth criminal vilification laws, which are intended to target the most serious hate crime offending. However, this does not address gaps in Commonwealth or state/territory civil anti-discrimination and anti-vilification law.

The HRLC agreed that, nationally, Commonwealth, state and territory legal protections do not sufficiently protect against discrimination, hate speech and vilification:

The federal anti-discrimination framework is comprised of a patchwork of inconsistent, issue-specific laws, covering distinct grounds of discrimination such as race, sex, age, and disability. The complexity is compounded by overlapping and inconsistent state and territory regimes.

The HRLC noted that Australia has voluntarily accepted multiple international obligations to protect individuals from discrimination, hate speech and vilification. However, in its view, the proposed legislative changes are too narrow and fall significantly short of providing solutions. The HRLC argued that much broader reform is required:

In order to properly address the prevalence of discrimination, hate speech and vilification in our society, the Human Rights Law Centre recommends that as a starting point, section 18C of the *Racial Discrimination Act 1975* (Cth) should be amended to prohibit offending, insulting or humiliating on the basis of race, religious belief, sexual orientation, gender identity, and disability. More broadly, we recommend that our patchwork, inconsistent anti-

continued on page 22

discrimination law framework is consolidated so that it is simple, consistent, cohesive and deals with the intersecting nature of discrimination, hate speech and vilification.

The balance between the fundamental human rights to freedom of expression, the right to equality before the law, and other relevant rights including to be free from racial and other forms of discrimination and harm, would be best guided by a comprehensive Human Rights Act.

The Justice and Equity Centre shared the view that the Bill addresses too narrow a range of behaviours, which would prevent it from achieving its stated policy objective of tackling hate speech and hateful conduct:

...the Bill does not adequately tackle the problem of widespread hate speech against members of minority communities, because it only prohibits a much narrower range of behaviours (urging violence against groups or members of groups, threatening force or violence against groups or members of groups, or publicly displaying prohibited symbols where it is likely to offend, humiliate or intimidate a member of a group). Broader hate speech – or vilification – is left largely unregulated. This is a significant shortcoming that should be rectified.

We therefore submit that the Hate Crimes Bill should be amended to ensure Commonwealth civil vilification provisions, currently limited to those in s 18C of the Racial Discrimination Act, are expanded to also explicitly cover religious belief, disability, sex, sexual orientation, gender identity and expression and sex characteristics.

The ANU Law Reform and Social Justice Research Hub (LRSJRH) agreed with the proposition put forward by the Justice and Equity Centre, and noted that, historically, criminalisation has resulted in few prosecutions and convictions, and that, nationally, an expanded section 18C would be more beneficial to the victims of hate speech and vilification:

...the law reform efforts in this area should be directed towards amending the existing civil statute of the Racial Discrimination Act 1975 (Cth) and extending it to the same protected groups identified in the amendments, including religious groups and groups distinguished by sexual identity. The civil remedy by the Act...allows for conciliation and meaningful apology...is more amenable to victims by making it easier and less intimidating to seek redress, and is generally more flexible in achieving a positive outcome addressing the victim's needs.

The ECAJ expressed disappointment that the Bill would not create a new federal offence to proscribe serious vilification of individuals or groups based on race, religion or other protected attributes. It identified recent examples of serious vilification (in the form of antisemitism) that, it argued, cannot be prosecuted under existing law or would not be prosecutable under the Bill.

In ECAJ's view, the Bill has 'an unusually high level of significance for Australia and for our current times', with broad community concern for the impunity of extremists whose behaviour undermines Australia's peace, harmony and social cohesion:

Whilst criminal proscription can provide only one component of the answer to the destructive impacts of extremist hate speech, it is a critical component. The Bill has the potential to set a community standard against criminal hate speech that will command the respect of the vast majority of

Australians, and send a resolute message that the coercive power of the State will be deployed as a last resort against anyone who acts by word or deed to destroy Australia's democracy, freedoms and rights.

The ICV also supported the introduction of a serious vilification offence at the Commonwealth level. Ms Bridget McKenzie, Policy and Advocacy Officer, ICV, commented:

I think that a serious vilification offence is probably a good provision to add. It's clear that these sorts of hate crimes are harmful and obviously not acceptable, even where it is not an active threat of violence or it is not explicitly seen that violence should be done against a protected group or against a protected community.

PwDA shared the concern that 'serious vilification must be criminalised to symbolically acknowledge and practically address its gravity'. Its submission highlighted that 'vilification is a real and constant experience for many people with disability', with serious vilification affecting their dignity and mental health, and preventing people with disability from enjoying their fundamental human rights. PwDA referenced evidence given to the Disability Royal Commission to illustrate its arguments.

Departmental response

The AGD acknowledged that the Victorian Government intends to introduce a serious vilification offence.

For the purposes of this inquiry:

The bill doesn't include a vilification offence that you're talking about. That's primarily because it's intended to criminalise the most serious kinds of hateful communication, where it involves force or violence or threats thereof.

Committee view

2.86 The Criminal Code Amendment (Hate Crimes) Bill 2024 aims to strengthen and enhance Australia's legislative framework to combat hate crimes, and promote community respect and understanding.

According to submitters and witnesses, the objectives of the Bill and its provisions are generally well supported. The majority of submitters supported the introduction of new criminal offences and the amendments to existing criminal offences, to respond to the increase in discrimination and hate speech. The committee agrees that the amendments made by the Bill are sadly necessary.

The committee acknowledges evidence from a small number of stakeholders that expressed concern that the Bill would limit freedom of speech. However, the committee is satisfied by evidence from the AGD, as well as the Castan Centre for Human Rights Law, that the Bill does not suppress freedom of speech that is not violent or forceful.

While the committee supports the Bill, the committee makes some minor recommendations to address matters raised in evidence. The committee agrees that disability should be a protected attribute for the purpose of the existing hate symbols offences, subject to the identification of a constitutional head of power.

Recommendation 1

The committee recommends that the Australian government amends item 20 in Schedule 1 of the Bill, to include 'disability' as a protected attribute, subject to the identification of a constitutional head of power.

The committee also notes evidence that the Bill would not extend to conduct targeting the associates of protected groups, for example, children. The committee further notes evidence from Equality Australia that there have already been instances where these associates have been targeted, including by threats of violence. Such conduct is also unacceptable, and the committee therefore recommends that the Australian government progresses amendments to extend protections in the Bill to associates of protected groups.

Recommendation 2

The committee recommends that the Australian government progresses amendments to extend the criminal offences in sections 80.2A and 80.2B and proposed sections 80.2BA and 80.2BB of the Criminal Code Act 1995, to include urging violence or threats of violence being directed at associates of protected groups.

The committee also notes evidence to this inquiry, consistent with evidence to the Senate Legal and Constitutional Affairs References Committee inquiry into right wing extremist groups in Australia, that a national database to track hate crimes would assist in informing responses to hate crimes. The committee endorses the recommendation that the Australian government considers establishing a hate crimes database (Recommendation 6).

Recommendation 3

The committee recommends that the Australian government considers establishing a national hate crimes database.

The committee acknowledges the view expressed by a large number of stakeholders that the Bill should include a serious vilification offence. The committee notes evidence from the AGD that the Bill is intended to address the most serious forms of hate speech and that states and territories have, in varying degrees, legislated or are in the process of legislating, serious vilification offences. The committee considers that the Bill achieves its intended objectives—addressing the most serious forms of hate speech.

While current laws criminalise acts of violence against targeted groups, and in its most extreme form, acts of terrorism, this Bill would criminalise threats of such violence. This is an important and timely step.

Recommendation 4

The committee recommends that the Senate passes the Bill when Parliament returns in 2025.

Link to original Document

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RU OK? has launched a new podcast series to encourage life changing conversations, early intervention and supportive behaviour amongst the peers, family and friends of those who work and volunteer in the police and emergency services.

The **'Are They Triple OK?'** podcast features personal stories and practical tools to increase social support for emergency services personnel and build a mentally healthy workplace. It also includes tips on how to ask, 'are you OK?' and navigate a conversation if someone is not OK.

Episode one features James Maskey, a retired front-line Queensland Police Officer. In 2013, James was diagnosed with Post Traumatic Stress Disorder.

"As first responders historically, we talk about everything except for mental health and, importantly, suicidal thoughts," said Mr Maskey. *"Either because we didn't have the confidence to have that conversation, or we were worried*

about the impacts of having that chat. And when I say we, I'm talking about me. Certainly, that was my experience."

Mr Maskey says frontline first responders, in the fire truck, in the ambulance, in the patrol car, have a unique opportunity to get to know their colleagues.

"You know what they like to eat, their coffee order and what their family and their children are up to," he said. *"You know the intimate details of their lives because you've got a long time in the car sitting side by side to share so many experiences."*

Mr Maskey is now the National Sector Specialist at Fortem Australia, and is passionate about enhancing the mental, physical and social well-being of the first responder community.

"My advice to the emergency services community is to learn how to have an R U OK? Conversation and start having them," he said. *"If someone is struggling, reaching out for help can feel like a heavy thing to do, it can be a hard task and it can feel overwhelming."*

"But when you take the time to ask someone how they're travelling, you can take some of the weight off and some of the burden away. People are often relieved to have a conversation and feel that level of camaraderie."

The **'Are They Triple OK?'** podcast is hosted by Matt Newlands, RU OK? Community Ambassador and former police officer and is one of a suite of free resources available from

RU OK? for those who work in the police and emergency services, their families and friends. The podcast and resources including a conversation guide and personal stories that demonstrate the life changing impact of an RU OK? conversation can be found at ruok.org.au. The **'Are They Triple OK?'** podcast will also be available for download on a range of streaming services, including Apple Podcasts, Spotify, Google Play and Audible.

'Are They Triple OK?' was developed in response to the Beyond Blue nationwide 'Answering the call' survey which found more than half of all police and emergency services employees indicated they had experienced



Scan to learn more



ruok.org.au/triple-ok

a traumatic event that had deeply affected them during the course of their work. Positively, personnel with higher levels of social support and resilience reported lower levels of suicidal thoughts and behaviours.

"The results from 'Answering the Call' showed us that the support of peers, family and friends does make a difference for those who work in frontline services. It's OK to not be OK. It's OK to lean on each other, and it's OK to retire that unhelpful stereotype of being that six-foot bulletproof superhero," said Maskey.

"I would urge leaders to explore vulnerability to share their own story if they have one, or to support others to share their own story as well. We know that this helps in demystifying mental health."

If you're worried about someone and feel they need professional support, encourage them to contact their Employee Assistance Program (EAP), appropriate agency support service or connect with a trusted health professional, like their local doctor.

Pinnacle Charitable Foundation is a Funding Partner of R U OK? and is proud to fund the 'Are they Triple OK?' campaign.

Specialised wellbeing and mental fitness support for first responders and their families can be accessed through Fortem Australia at fortemaustralia.org.au.

For 24/7 for crisis support call Lifeline on **13 11 14**. Text support is also available: **0477 13 11 14**.





A preacher known as Brother Abu Ahmad. Picture: YouTube.

Melbourne Preacher Warns Young Australian Muslims ‘falling to liberal ideologies’

February 3, 2024

ALEXI DEMETRIADI

theaustralian.com.au

A cleric at a newly established Islamic centre in Melbourne backed by radical Sydney preacher Wissam Haddad has lamented that young Australian Muslims are being “brainwashed ... falling victim to liberal ideologies”, and that the first words spoken by a child shouldn’t be mother or father but “Allah”.

The Al Bayyinah Islamic Centre was established late last year in Springvale, in Melbourne’s southeast suburbs, renting space in a hall for Friday prayers.

It is backed by Sydney’s Al Madina Dawah Centre and its owner, Mr Haddad, also known as Abu Ousayd, who is being sued by the Executive Council of Australian Jewry.

Mr Haddad had previously expressed a desire to expand to Melbourne but has since voiced his support for the new centre.

Established in mid-October and initially based at Springvale’s Edinburgh Hall, which is owned and leased out by Greater Dandenong City Council, the Al Bayyinah centre has been spruiked by Mr Haddad on social media. He has urged his “Melbourne brothers” to show their support and attend its weekly prayers.

With a slick social-media footprint, a preacher known as Brother Abu Ahmad warned Al Bayyinah’s congregation – and followers on YouTube and TikTok – that young Australian Muslims were converting to “liberal ideologies” and becoming “desensitised” to what was forbidden in Islam.

“My dear brothers, it is saddening to tell you that we continue to hear stories of our youth falling victim to liberal ideologies and being confused, brainwashed by so-called logical thinkers,” Brother Ahmad told the congregation in January. “Our youth are turning away from Islam and are turning to other ways of life right under our noses.

“My dear brothers, Tawhid (Islamic monotheism) needs to be instilled in our youth from the moment they utter their first word. We have neglected our children. Instead of teaching them to say the name of Allah first, we teach them to say mama or baba. We didn’t set their priorities.”



Edinburgh Hall, in Springvale, southeast Melbourne, which is owned and leased out by Greater Dandenong City Council.



Wissam Haddad pictured outside Sydney's Federal Court in December. Picture: NCA NewsWire.

An Al Bayyinah spokesman said the centre was composed of members of Melbourne's Muslim community and that it was only aware of Mr Haddad as a fellow community member.

"We are an independent not-for-profit ... (aiming) to build a community helping Muslim youths, swaying them away from street (and) gang life, anything that goes against our core beliefs and morals, and educating them about Islam," the spokesman said.

In January, Brother Ahmad told the Al Bayyinah's audience that young Australian Muslims were becoming "desensitised" to what Islam deemed a sin, such as "haram relationships" and certain music, and seeing women without religious headdress, lamenting how it had become the "new normal".

"Tawhid is being neglected from our curriculum, especially as Muslims learning Islam in the lands of the West," Brother Ahmad said, criticising mainstream imams and warning of those who had "secretly" left Islam but "lived among us".

"Our community leaders need to work twice as hard, teaching our youth tawhid, because of how easy it is to be brainwashed and how easy our imams can be poisoned by other ideologies.

"And this is why it is prohibited to live in these lands (the West), the risk of losing your Islam is too high."

In December, Brother Ahmad said sharia was the "legislation sent to mankind", and the only set of rules to "be implemented and ruled by", adding that Western societies would demand its implementation if they "knew the truth".

"We've neglected the rule of Allah, and we have accepted and stayed silent to other legislations," he said.

"If non-Muslims know the truth of the sharia they would be swarming the streets, protesting that they want the sharia themselves. (Non-Muslims) are paying 30 per cent tax and (in) sharia it is only 2.5 per cent."

Criticising people who labelled some Muslim preachers as "extremists", Brother Ahmad urged followers to "gain knowledge" from Muslim political prisoners and those "martyred in the path of Allah". The centre's spokesman said it was a reference to classical scholars such as Ibn Taymiyyah and Ahmad ibn Hanbal.

The Al Bayyinah centre recently called for the release of Aafia Siddiqui – "Lady al-Qa'ida" – who it said was "imprisoned unjustly by the United States government".

Once the US's most-wanted woman for her links to al-Qa'ida's leadership, Siddiqui was sentenced in 2010 to 86 years in prison for attempting to kill US military personnel.

The sentencing prompted protests in her native Pakistan.

The Pakistani government has lobbied the US for Siddiqui's release, and al-Qa'ida and other extremist groups have demanded she be freed.

Separately, YouTube recently took down Mr Haddad's page, but he has since taken to TikTok. In relation to legal action, he will appear in Federal Court in Sydney in February ahead of a possible June trial date.

In that matter, leaders from the Executive Council of Australian Jewry alleges Mr Haddad vilified the Jewish community with a raft of sermons that, among others, allegedly described Jewish people as "descends of pigs and monkeys", and "vile, treacherous people" with their "hands" in media and business.

Mr Haddad disputes that allegation and is defending the matter in court. He claimed that his comments were "taken out of context" and nothing he said breached any criminal provisions, adding that it was "pointless to make a fuss about it now".



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Special Envoy for Social Cohesion

PETER KHALIL MP

Protecting the heart of social cohesion - No Australian should be subject to violence and hatred because of their faith or their ethnic identity.

I remember vividly the morning of the 8th October - the first conversations I had, I expressed what I thought would be an urgent need to put in place protections for places of worship in Australia; synagogues, churches, mosques, Jewish schools, community centres.

Because I knew from bitter personal experience, the terrible ramifications that the horrific massacre of October 7 would have, the unleashing of that dreadful dark hatred and violence – that saw the largest loss of Jewish life since the holocaust; the massacre of 1200 people and the capturing of 250 hostages.

The 15 months of war, death and destruction, the loss of tens of thousands of innocent Palestinian lives, the displacement of millions, the deep indescribable pain of Jewish Australians who lost loved ones in the kibbutz and the Palestinian Australian teacher in my electorate who lost a dozen family members in the bombing of Gaza - joined only in the darkness of their grief - that is the sad remaining remnant of shared humanity.

And the unleashing of the vile scourge of an ancient hatred of antisemitism now visited upon Jewish Australians – I can only explain it as a dark dread in the pit of my stomach, that these ancient animosities, these ancient hatreds that had wound their way through 1000s of years, would have come to hurt our people in Australia because of their faith or ethnic backgrounds.

It is a vile and ancient hatred, antisemitism. It has run its wicked course throughout history, through the pogroms of Europe... to the culmination of the greatest horror mankind ever perpetrated on itself in the Holocaust... and now into our Jewish Australian community, who feel this ancient scourge in an unprecedented way in modern day Australia.

I considered in late 2023 that we would not only be facing a political



Peter Khalil MP.

storm – but also a moral storm. And in those moments, in the eye of the storm, it is important to hold fast the mast that are our principles; to go through the battering of the storm, to find calmer waters on the other side.

But what are these principles?

That no Australian should be subject to violence and hatred because of their faith or their ethnic identity. This goes to the heart of social cohesion – that we can disagree, that we can have deeply-held viewpoints of the world that are different from one another, but that our society only works when we are able to navigate those differences peacefully and respectfully, without resorting to violence or hate speech.

At every turn, the Government has unequivocally condemned antisemitism, and has taken extensive policy and legislative measures to protect the Jewish Australian community and tackle antisemitism.

But legal sanctions from any Government can only go so far. The deep hatred deep within people who think that violence is a legitimate form of expressing their political or ideological views – that has to change. That has to be addressed beyond legal sanction. And that happens when democratically elected

representatives, grassroots communities across Australia and every individual Australian citizen understand we all have a responsibility to engage and navigate our differences peacefully.

I confess that I don't know whether the rise of antisemitism that we have seen across Australia is from a very loud and violent minority, or whether what we are seeing is an unleashing of an ancient hatred that has always existed lurking underneath.

I sincerely hope that it is the former. In my heart I believe that the vast majority of Australians are inherently good people who give each other a fair go regardless of their faith backgrounds and reject violence and hate as a means to an end.

This small – but vocal – and loud minority who hold this hatred in their hearts, who seek to break down our cohesive society through violence and intimidation - the leadership in the Australian Parliament and across the country, in every community, in every citizen believing and committing to their nation and citizenship, the responsibility to protect it from violence, that's what will defeat their hatreds.

Unfortunately what we have seen is some elected representatives, those who have sought to use human tragedy, to politicise attacks on Jewish Australians, for their own short term political gain, and worse, fanned the very flames of hatred.

That's an abrogation of our responsibility as democratic representatives. We have to see beyond our short-term political prism to take actions and speak words that go to protecting and supporting all Australians regardless of their faith or identity and calling out hatreds such as antisemitism – not sewing division and discord to make short term political gain.

This is our responsibility to the Jewish Australian community, so we can once again make sure that they feel safe and secure in this country.

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A message of gratitude

In my travels across the country in the last few years, the issue of crime has been a considerable concern for many everyday Australians.

We've seen an uptick in youth crime in many parts of the country. We've seen incidents of hate and vilification on an unprecedented scale. And we've seen an increase in the number of women killed in family and domestic violence circumstances.

These are just some of the additional pressures that you – our men and women of law enforcement – are having to contend with.

Whether you're in uniform, a detective, an investigator, or part of a specialist unit, I simply wanted to say thank you.

Thank you for all that you do to prevent, detect, respond to, and investigate crime in the service of law, order and justice.

Thank you for putting yourself in dangerous situations and harm's way to protect your fellow citizens.

Our country is blessed to have men and women of your calibre.

On behalf of the Coalition, I commend your commitment, courage, concern, compassion and composure.

Thank you.

Peter Dutton MP

Leader of the Liberal Party

Federal Member for Dickson



Diversity as Division Or Unity? The post-multicultural threat to Australia's liberal democracy



When 'diversity' crossed the floor.

October 24, 2024

PETER KURTI

cis.org.au

Australian multiculturalism has been dependent on a simple compact: integration of cultural diversity is a shared responsibility between Australian citizens (or citizens-to-be) and the Australian state. At the heart of this compact lies an expectation — even an assumption — that the individual will observe Australian norms and laws, and that the state will, in turn, afford the individual freedom privately to maintain certain cultural and customary norms and traditions.

However, the eruption of pro-Palestinian and antisemitic protests following the attacks of 7 October 2023, together with consequent bitter political division and polarisation, have raised serious questions about the success of Australia's multiculturalism model. Far from fostering social cohesion and the civic virtue of tolerance, multiculturalism appears to have encouraged cultural separatism and helped fan hostility between different sections of the community.

The politics of the Middle East have also cleaved open the politics of our own country. The issue of Palestinian 'statehood' ruptured the party room unity of the federal Labor government

when WA Senator Fatima Payman defied caucus and crossed the floor of the chamber to vote against ALP policy on the Palestinian issue. Palestinian statehood is also now the principal issue fuelling the emergence of a new political entity in Australia: The Muslim Vote. This organisation claims on its website to represent the interests of Australian Muslims who "are a powerful, united force of nearly one million acting in unison." The Muslim Vote rates politicians according to a series of criteria; none of which are about Islam or issues affecting Australian Muslims. All the criteria are about Palestine.

When Payman crossed the floor, she complained that the pressure brought to bear upon her by her parliamentary colleagues put the lie to any commitment to 'diversity' of representation in Australian society when there was no accompanying diversity of opinion. "It is important to consider that modern Australia looks very different to what it did 20-30 years ago and will continue to change," Payman said. These remarks about diversity raise an important question for advocates of Australian multiculturalism: Is 'diversity' simply a descriptor of the multi-ethnic

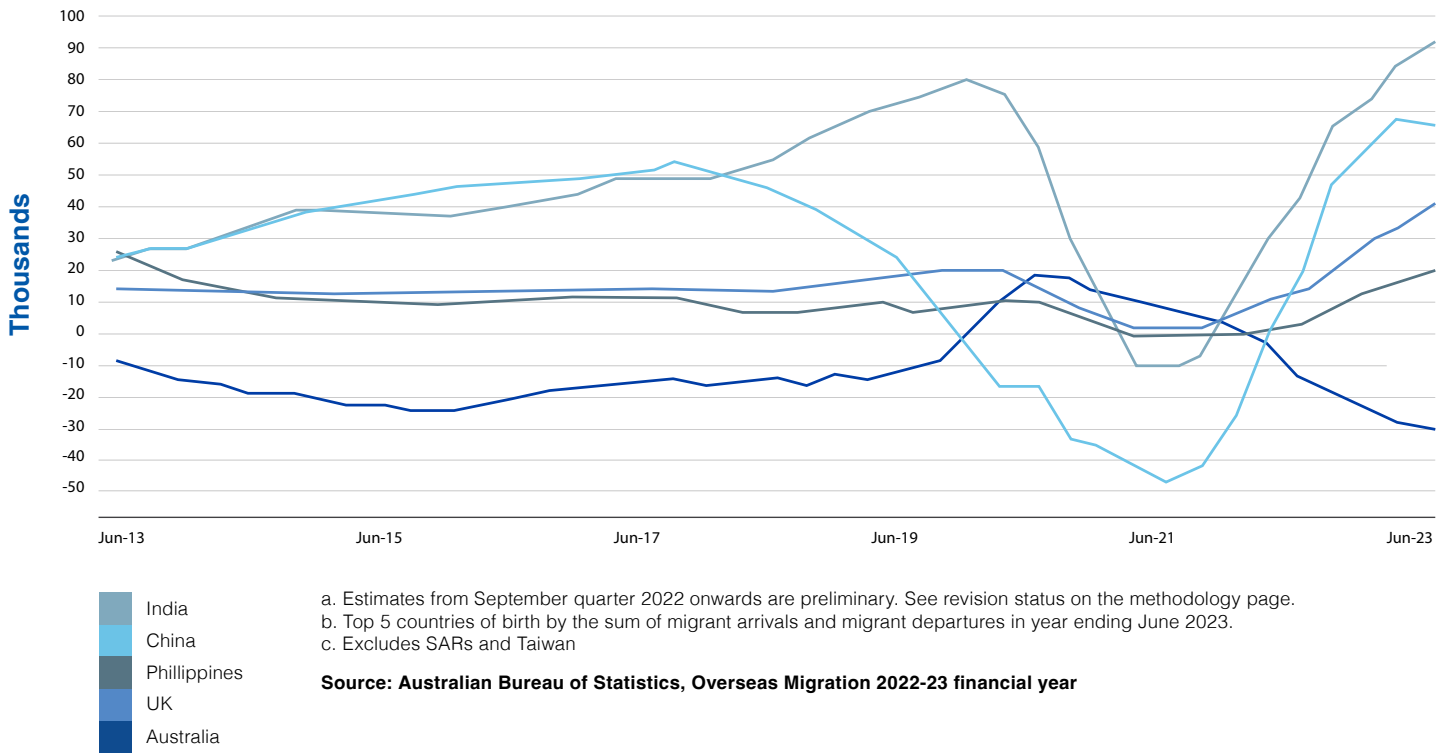
character of society or does it point to the emergence of parallel societies in Australia? Payman's use of the term suggests 'diversity' is being prioritised as a social norm and used as a weapon against prevailing social, political and cultural structures in our society.

These structures came under further attack when Australian democracy, and The Muslim Vote, itself, were subsequently denounced by Islamist Muslim clerics as an insult to Allah. The clerics also denounced Muslim members of Australian parliaments as "apostates" and declared that what the clerics sought was a different form of power that would enshrine sharia as the dominant form of law in Australia.

Declarations such as this openly and directly challenge the political, legal and social norms of this country. They also call into question the viability of the compact upon which Australian multiculturalism has always depended. Tolerance of diversity in Australia is only possible if bounded by a commitment to the spirit of Australian law and order.

[continued on page 34](#)

Graph 1 Net overseas migration(a) - top 5 countries of birth(b) - year ending



This entails, in part, that Australian streets, parks and campuses do not become the arenas in which overseas conflicts are played out. And yet this is precisely what appears to have happened.

Multiculturalism and the promotion of diversity was originally intended to counter the 'whiteness' of Australian society that was a legacy of its founding. Diversity is now being deployed not only to assault any Australian norms with which it is deemed to conflict, but also to foment conflict between Australia's ethnic communities. And herein lies the threat posed by multiculturalism to Australia's secular liberal society. Today, the stakes have never been higher for the future of Australian multiculturalism. Indeed, the strains generated by Australian multiculturalism, as we have known it for 50 or more years, appear to be driving the emergence of a form of post-multiculturalism that could supersede it.

Multiculturalism in Australia

In one sense, 'multiculturalism' simply refers to cultural diversity in a society in which different cultural, social and religious communities coexist. One of the most culturally diverse countries in the world (ranked third after Singapore and Hong Kong), Australia has seen the proportion of its population born overseas rise steadily during the first quarter of the 21st century. In 2001, the figure stood at

23 per cent; by 2011 it had risen to 26 per cent; and by 2023, it had risen again to 31 per cent; which means about 8.2 million people, in a total population of 27 million, were born overseas.

Australia's immigration has always been higher than emigration in comparison with other countries (see Graph 1). Thus, net overseas migration (NOM), which represents the net gain of immigrants arriving minus migrants departing, has always been a significant source of population growth in Australia. In 2023, NOM amounted to 518,000 people who were added to Australia's population, accounting for 84 per cent of the country's population growth, the largest NOM since records began.

As will be discussed below, research by the Scanlon Foundation's Mapping Social Cohesion survey shows Australians remain broadly content both with this kind of multiculturalism, which is the result of these levels of immigration, and with the benefits that flow from cultural diversity. Thus, the crisis now confronting multiculturalism in Australia does not arise from immigration, as such, but rather from the behaviours and attitudes some groups of migrants and their descendants are explicitly directing at other groups in the Australian community.

This leads to consideration of a second sense of 'multiculturalism' that is pertinent to an evaluation of Australia's

form of multiculturalism. This second sense refers to a program of government policy that employs certain mechanisms for promoting cultural diversity, ranging from subsidy to preferential treatment.

This form of programmatic multiculturalism developed in Australia as a policy response to issues relating to the settlement and integration of immigrants in ways that cohered with prevailing norms while affording new arrivals greater acceptance of their own social and cultural practices. The Whitlam government (1972-75) initiated some of these policy responses.

In his famous 1973 speech as Labor's then immigration minister, 'A Multi-cultural Society for the Future', Al Grassby, said "the social and cultural rights of migrant Australians are just as compelling as the rights of other Australians." Grassby developed the policy goal of multiculturalism as 'unity in diversity' which expressed a strong commitment to the moral principles of equity and reciprocity: dissimilar people in a voluntary bond agreeing to share a common social structure.

Multiculturalism in Australia began to take its present form under the Fraser government (1975-83). The landmark Galbally Report, released in 1978, established four guiding principles of multiculturalism: equality of opportunity; the right to express one's own culture;

ethno-specific services; and self-help for migrants. These principles were further developed in 1982 in a series of forums around the country initiated by the Fraser government and led by George Zubrzycki.

Four themes of multiculturalism emerged from Zubrzycki's work: social cohesion; cultural identity; equal opportunity and access; and equal responsibility for participation in society. As Australian academic Laksiri Jayasuriya has observed, the Australian model of liberal multiculturalism conjoined the notion of 'inclusionary citizenship' (which conferred the rights and privileges of citizenship) with 'cultural pluralism'. However, Jayasuriya also warned that:

Running through this was a tension that indicated that multiculturalism was conditional, in that mutual coexistence of different cultures was permissible only provided there was an acceptance by new settlers of the commonalities embodied in the Australian political system and its social legal institutions.

In the decades after the Fraser government, Australian multiculturalism went beyond the liberal position that the law must protect the liberties of citizens to enjoy freedom of association; rather, it emphasised "the need for action to modify or change social attitudes, and to alter the distribution of economic resources, and indeed the distribution of political influence." It was characterised by a commitment to cultural pluralism with its emphasis on equal treatment and the insistence that no cultural norms should enjoy priority over any others.

Today, this commitment is expressed through the work of a series of organisations and bodies that focus on promoting multiculturalism and social cohesion. These include:

1. The Australian Multicultural Council, which comprises ministerially appointed members who give independent advice to government on multicultural affairs, social cohesion and policies for promoting integration.
2. The Australian Multicultural Foundation established nearly 40 years ago to forge a strong commitment to Australia while respecting cultural diversity.
3. Multicultural Australia, which promotes multiculturalism and social cohesion in Queensland. The comparable body in NSW is Multicultural NSW.

4. Ethnic Communities' Councils, which operate across the country in various states and territories to promote social cohesion at local levels.
5. The Federation of Ethnic Communities' Councils of Australia, which advocates for multicultural policies at a national level.

Some of these bodies are publicly funded, others operate as private companies; all seek to promote the principle of multicultural diversity, but do so without seeking so much preferential treatment as what they consider equal treatment for Australia's ethnic communities.

Multicultural organisations invariably express a commitment to the importance of common membership of a political community that shares a history, and legal and political institutions. However, intensity of that commitment is weakened whenever this form of programmatic multiculturalism places greater emphasis on cultural diversity than national identity. As Jayasuriya has remarked, the emergence of these organisations over time helped generate "an identity politics that became the orthodoxy of Australian multiculturalism."

The Howard government (1996-2007) made efforts to reframe multiculturalism in terms of commitment to the idea of the 'nation'. With an emphasis on duties rather than rights, the government sought to assert the idea of core Australian values to which all Australians, including new settlers, needed to commit. Concerns grew that promoting the idea of all cultures as equal posed a long-term threat to social cohesion. By 2024, the impact of identity politics on Australian society had played out in ways that many would have found difficult to anticipate 10 or 15 years before.

One impact, witnessed with particular intensity since 7 October 2023, is violation of the axiom that ethnic communities do not bring to these shores conflicts from their countries of origin. One alarming manifestation of this is the eruption of antisemitism, which some leaders in politics and commentators in the media have been slow to denounce. In a recent speech delivered at the University of NSW, Steven Lowy, a former co-chief executive of Westfield Corporation, expressed concern "that Australia is now sleepwalking into a period of extremist politics and a social spiral."

While tensions between communities are bound to arise, they must not spill out into open hostilities; yet this is precisely what has now happened. Worse still for the prospects of Australian multiculturalism has been the assertion of group rights as opposed to those rights to be enjoyed by individuals. As Lowy also remarked, "We can disagree with each other without collectively demonising a people based on race or religion. [But] it is a sad fact that there has generally been lukewarm denunciation of anti-Semitism [sic], at best by the leadership of many of our institutions. Half-hearted rejection of anti-Semitism is never enough, as history has shown all too well."

Clearly, the issue of pluralism arises because of the large migrant component of the Australian population. But the resurgence of anti-semitism is not the direct result of immigration; it is the result of a systemic failure to manage integration and defend the paramount importance of what might be described as 'national values' in an increasingly diverse society. Thus, the paradox of pluralism — "the dilemma of having to reconcile commonalities with 'difference'" — has become more acute. As leading commentator Paul Kelly puts it:

Australian multiculturalism has fallen victim to a self-congratulating complacency and a dramatic shift in progressive ideology. The more the left promoted a tribal and identity politics based on race, ethnicity, religion, sex and gender, the more it attacked the principles of multiculturalism by encouraging the growth of separate group rights. This inevitably led to social and political fragmentation. Group rights become the new mantra, weakening the power of national harmony.

Do Australians still want multiculturalism?

Despite concerns such as those raised by Kelly and others, the Australian model of multiculturalism has been, for the most part, successful. Most of us think it's been good for the country; and most of us want it to continue. The most authoritative account of Australian attitudes to multiculturalism is provided by the Scanlon Foundation's annual Mapping Social Cohesion (MSC) report.

According to the 2023 MSC Report, compiled before the war in Gaza began, 89 per cent of Australians agreed with

continued on page 36



the statement: “multiculturalism has been good for Australia.” Not only is this figure consistently high across MSC surveys in recent years, it has been rising: in 2018, 77 per cent of respondents agreed with the same statement; in 2022, 88 per cent agreed.

These views are coupled with a very favourable view of the value immigrants are thought to bring to Australia, both in social and economic terms. Over 90 per cent of respondents agreed that “someone who was born outside Australia is just as likely to be a good citizen as someone born in Australia.”As the MSC remarks:

The very strong support for the view that multiculturalism has been good for Australia suggests that multiculturalism is an important symbol and holds great value to people across a broad cross-section of society.

However, when it comes to the question of whether or not immigrants are ready to adopt Australian values, respondents were divided. In 2023, 53 per cent of respondents believed too many immigrants were not adopting our national values, albeit a significant decrease from 67 per cent in 2019. Although a large proportion thinks migrants are adopting values, “a large share of people still do not think that is the case.”

Further, the 2023 MSC Report also found prejudice remains a common problem in Australia, and Christians and Muslims are the people about whom most others hold negative attitudes. Even so, the MSC detected a widespread decline

in negative attitudes towards Muslims from 41 per cent in 2019 to 32 per cent in 2023.

Whereas respondents held positive attitudes to migrants from the United Kingdom (91 per cent), the United States (92 per cent), Italy (94 per cent) and Germany (79 per cent), attitudes towards other migrant groups were found to be negative. Thus, 63 per cent held negative attitudes to migrants from Asia, the Middle East and Africa, prompting the MSC to remark that:

This striking discrepancy in the attitudes expressed towards European (and US) and non-European migrants is a worrying indicator of the potential racial prejudice held within Australia.

The 2023 MSC therefore makes two seemingly contradictory claims: on the one hand, that multiculturalism remains popular in Australia and that Australians value the contribution migrants make to the country; but on the other, that there are worrying indicators about racial prejudice. Noting that multiculturalism can be understood in different ways, the MSC found only 37 per cent of Australian-born respondents believed minorities should be given government assistance to maintain customs and traditions. By marked contrast, 69 per cent of overseas-born respondents supported government assistance.

Attitudes to multiculturalism are related strongly to levels of social cohesion: “people who are happier, more financially satisfied, more trusting in political leaders and more involved in community and civic activities” tend to have much more

positive attitudes to multiculturalism. Even so, given the varied understanding of what multiculturalism is, and varied levels of acceptance according to socio-economic status, Australian multiculturalism appears to be a work in progress.

A pressing question is whether that progress has faltered because of a clash between the pursuit of diversity and the principles of liberalism and a liberal society. The decisive defeat of the Voice proposal in the October 2023 referendum certainly suggests popular enthusiasm for diversity might be on the wane. However, one important and more recent opportunity to address this question, appears to have been missed by the Australian government.

Towards fairness?

In 2023, 50 years after Grassby’s speech outlining a vision for Australia’s multicultural future, the Albanese government commissioned a review of multiculturalism that outlined 29 recommendations and proposed a policy framework. The report, delivered in March 2024 but not made public until July, acknowledged social circumstances had changed since 1973 and “the beliefs and concepts we previously counted on for stability are being put into question” by those changing circumstances.

Recommendation 11 of the report called for the government to establish a Multicultural Affairs Commission and Commissioner together with a new Department of Multicultural Affairs, Immigration and Citizenship, with a dedicated minister.

“The fact that anti-Semitism [sic] isn’t addressed in this report leaves the question: what of the recommendations, if any, can be taken seriously?”

Many of the other recommendations concerned matters of resourcing, ensuring and widening provisions to encourage the embracing of ‘diversity’, including providing for citizenship tests to be conducted in languages other than English. The report made no mention of the resurgence of antisemitism in Australia since October 2023, nor did it address the overt hostility of sections of the Muslim community to the institutions and norms of Australian society.

Opposition citizenship spokesman, Dan Tehan, criticised the report for failing to address social cohesion when it had been commissioned at a time when, in his view, “social cohesion in this nation has never been challenged like it is at the moment”. Tehan added: “The fact that anti-Semitism [sic] isn’t addressed in this report leaves the question: what of the recommendations, if any, can be taken seriously?” At the time of writing (October 2024), the Albanese government has made no commitment to implementing any of the report’s recommendations.

Even were it to do so, a prior and urgent requirement is to ensure any framework for Australian multiculturalism sits beneath a wider national commitment to social cohesion, the institutions of our parliamentary democracy and the norms and principles of a liberal and secular society. Questions about the fundamental compatibility of multiculturalism and liberalism must be addressed if a genuinely diverse and cohesive society is to be forged.

The individual and the group

“Has multiculturalism been a success or are we a nation of parallel communities?” sociologist Bryan Turner asks of contemporary Australian society.

While the idea of multiculturalism as a social policy tends to focus on culture, a more acid test arises with legal pluralism. Competing legal traditions necessarily raise more acute difficulties than cultural pluralism, as the former brings the nature of sovereignty into play.

A central issue when evaluating the prospects for multiculturalism in Australia is whether multiculturalism in its ‘hard’ or policy-driven form is compatible with liberalism and the liberal state. The idea of the ‘liberal state’ can be understood in the clear and concise terms offered by William Galston, an American political scientist who has remarked it:

Is characterised as a community organised in pursuit of a distinctive ensemble of public purposes. It is these purposes that undergird its unity, structure its institutions, guide its policies and define its public virtues.

According to Galston, the liberal state is not neutral: its ‘ensemble of public purposes’ will be informed by a certain conception of justice, for example, which will, in turn, limit and shape possibilities available to its citizens. It will also shape the state’s understanding of its own interests and preferences. One dimension of these interests and preferences is liberalism’s commitment to what legal scholar Daniel Weinstock has identified as ‘political individualism’; by which he means the state can

only be justified to the extent it serves the good of the individual:

Whether that good is cashed out in terms of individual interest, individual consent, or in terms of some more morally ambitious notion such as individual flourishing, is one of the questions that liberals argue about. However, this core commitment is sufficient to generate the view, common to all liberals, that groups cannot be viewed by liberalism as possessed of any kind of irreducible value. Groups matter only to the extent that they matter to individuals.

But the primacy of the commitment contemporary liberalism affords to the individual is not without its problems.

In the view of American political scientist John Owen, this commitment poses a threat to the *integrity* of the individual. This is because what Owen describes as “open liberalism” — using the term ‘liberalism’ to refer to “a commitment to individual freedom as the highest political good” — grants to the individual the freedom to engage in perpetual creation by means of exercising that very freedom to choose. The result of this continual exercise of choosing, Owen argues, is that liberalism today has come to represent:

A dogmatic rejection of all boundaries, material or social, particularly inherited ones. It presses upon us a novel notion of the good life as a life of perpetual choice and fluidity across all conceivable areas, private and public, from cradle to grave.

Owen argues that the “enforced fluidity” brought about by open

continued on page 38

liberalism has led both to the dissolution of institutions (he cites the example of marriage) and the ability of those institutions to command loyalty because the norms and boundaries that sustain them have weakened. Owen calls for a revision of liberalism towards what he calls “pluralistic liberalism” which will restore to the individual the capacity “to bind [oneself] to norms, communities and ways of life that require long-term commitment.”

By urging liberalism to become more pluralistic, in the sense of affording the individual the opportunity freely to adopt whatever social and cultural constraints are deemed of value, Owen’s criticism serves to sharpen liberalism’s focus on the freely-choosing individual as the possessor of irreducible value. Whereas one individual is free to throw off all constraint, another is free to choose to be bound by established and inherited norms and conventions. Pluralistic liberalism, in this sense, thereby preserves the primacy of liberalism’s commitment to the individual. This, in turn, entails that the group can only matter to the extent it comprises individuals.

Whether one embraces the open or the pluralistic conception of liberalism, it still holds that groups cannot give rise to independent moral claims. If liberalism can confer anything in the group, it is only “the full complement of individual rights which are essential building blocks in the associational lives of individuals.”

Thus the fullest involvement of the liberal state in the lives of its citizens ought to entail protecting the rights of individuals freely to associate or dissociate, and to uphold the liberal principle that the individual will have a certain conception of a good life and will want to live in accordance with that conception.

The individual is not, of course, an isolated unit. Individuals belong to groups; whether social, cultural, religious or some other. The culture of the group, in turn, shapes the identity of the individual by providing a perspective from which to interpret the world in which the individual lives. Any conception of a good life will, itself, be shaped by the various influences of the groups to which the individual belongs. What the liberal state must afford is equal respect to the individual by not coercing that person to act “in accordance with the choices and values of another individual”.

Furthermore, a liberal society must protect the freedom of the individual to choose not to belong to a group or to be bound by its cultural, moral or religious norms and expectations, as C.L. Ten has observed:

A liberal community is a political community and a series of smaller social communities, with overlapping memberships, interacting with one another in a free environment. In a liberal society, [individuals] are free to leave [a group] and to try to join other groups. Those whom the dominant groups will not embrace can still find a home in a liberal community, and justice will be their shield.

As long as the individual is capable of exercising autonomous agency and can enjoy protection of fundamental rights — whether within the group to which he or she belongs, or outside the group if the individual chooses to leave — tension between liberalism and multiculturalism ought to be minimal. However, at this point liberalism might come into possible conflict with the principles of policy-driven forms of multiculturalism.

Once the group makes claims for the exercise of its own autonomy with regards to those areas of social, cultural and political life that it claims to be of importance to its own way of life — notwithstanding conflict with the claims of individual members of the group — the principles of liberalism and multiculturalism are bound to collide.

Is multiculturalism compatible with liberalism?

One response to the issue of conflict that can arise between the individual and the group is that a society should demand some degree of homogeneity in order to bind citizens to one another as members of a single political community. In examining this response, Chandran Kukathas cites the position of Jean-Jacques Rousseau, whose view was that the state must express the general will of the people understood as individual and equal citizens.

According to Rousseau, there has to be “a profession of faith which is purely civil and of which it is the sovereign’s function to determine the articles, not strictly as religious dogmas, but as sentiments of sociability, without which it is impossible to be either a good citizen or a loyal subject.” In other words, to the extent to which the values of the

individual conflict with the values of the community, there can be no value pluralism when it comes to preservation of the political community of the state.

For Kukathas, this is a minimal conception of homogeneity. He holds that the question of whether a society should be multicultural is not a significant issue: “modern societies, for the most part, simply are multicultural. The important question that does raise significant issues is this: what kinds of political institutions should govern a multicultural society?”

Kukathas rejects what he calls “interest-group pluralism” — the institution of political recognition of the pluralist elements in a multicultural society — because he does not think they merit participation in the political process: “political institutions should, as far as possible, serve to allow these different elements to flourish but should not be in the business of enabling these elements or interests to shape society.” He argues political institutions should be neutral as to how a society is shaped by its component elements.

Whereas these elements — which include culture and ethnicity — will inevitably shape the lives of individuals living in particular communities, Kukathas believes these influences belong in the private realm. Political institutions should not permit the elevation of these influences to become matters of public concern where they become contestable. Rather, political institutions should be concerned simply with upholding the rights and freedoms of individuals “regardless of the particular interests or affiliations of the individuals.” The focus, in other words, is not to be on group pluralism but on the pluralism of individual interests.

Even so, emphasising a liberal commitment to protecting individual freedoms and rights has not allayed concerns about the future of multiculturalism. Critics claim it is failing because it continues to give too much weight to protecting and promoting group identities and legitimating a retreat into separated minority communities, thereby generating communal and ethnic tensions. These concerns have given rise in the minds of some scholars, such as Steven Vertovec, to the need to rethink multiculturalism and even to posit the notion of an emerging ‘post-multiculturalist’ world.

'Post-multiculturalism' is something of an open-ended term. It is characterised, in part, by programs of corrective measures (such as some of those contained in the Towards Fairness report) intended to support language services, improve access to community services and review courses and tests for citizenship.

At the same time, the term 'post-multiculturalism' acknowledges that the terms of the compact between state and citizen have changed. These changes have arisen as the concept of multiculturalism has come under political pressure because of community concerns about perceived failures of integration, a sense of weakening social cohesion and the need for commitment to some concept of national identity. As Vertovec has remarked:

Despite a strong emphasis on conformity, cohesion, national identity and dominant cultural values, in practically all the contexts in which such policies are being implemented an acceptance of the significance and values of diversity is voiced and institutionally embedded. In this way, post-multiculturalist policies and discourse seek to have it both ways: a strong common identity and values coupled with the recognition of cultural differences.

Reassertion of a strong sense of national identity has featured prominently in much recent criticism of multiculturalism. However, critics such as Kukathas have given little weight to the idea of a distinctly Australian national identity other than in a weak form based on a history and a shared inheritance of a set of legal and political institutions; it makes no reference to any "common ethnicity or 'character'".

Once these institutions affirm the freedoms and rights of the individual, a society should be able to accommodate different cultural communities without asserting a strong sense of national identity that would, in any case, threaten to distort the diversity of identities in a society and possibly exclude certain individuals and communities. As Kukathas notes: "it is only by not creating too strong a sense of national identity that it will be possible to tolerate a variety of ways of life within the political community."

“modern societies, for the most part, simply are multicultural. The important question that does raise significant issues is this: what kinds of political institutions should govern a multicultural society?”

What next for Australian multiculturalism?

The success of Australian multiculturalism hitherto has been secured by observance of the simple compact outlined at the beginning of this essay: "integrating cultural diversity into Australian life is a shared responsibility of both the Australian government and Australian citizens or citizens-to-be." However, this compact — dependent on an acceptance of mutual responsibilities — has recently come under strain.

As recently as 2017, a policy statement issued by the Turnbull government emphasised the obligations of citizens and new arrivals to contribute to the life of the nation. In doing so, the statement "jettison[ed] the language of government responsiveness to diversity, the cornerstone of Australian multiculturalism for over four decades. With the 2017 multicultural policy, the longstanding 'nation-building' idea of pro-actively accommodating cultural diversity is officially ended."

According to Australian political scientist Geoffrey Brahm Levey, the position of the Turnbull government's policy can appropriately be described as 'post-multicultural'. Levey chooses to use this term because he argues that the 2017 policy outline rests on the assumption that multiculturalism has "already redressed the historical exclusion of cultural minorities [and that] a sufficiently level playing field, institutionally and attitudinally, exists."

For Levey, this post-multicultural posture assumes the various policies for

multiculturalism have now successfully done their job of transforming Australian society. However, it is Levey's view, that Australia is nonetheless not yet ready to cut loose entirely from a multiculturalism committed to implementing group-differentiated measures, and that the post-multiculturalism attempted by the Turnbull government was "premature".

Whereas the Turnbull government's policy proposal shifted the responsibility from the state to the citizen, by 2024, with the Albanese government's Towards Fairness report, the emphasis swung back to government and the services it can — or should — provide to citizens and citizens-to-be. There is little mention now of shared responsibilities; the onus of obligation as set out in the report has returned to the shoulders of government.

Resurgent antisemitism in the wake of the 7 October attacks on Israel has raised grave concerns about the prospects for Australian multiculturalism. Indeed, in the opinion of Kelly, "the Australian values of multiculturalism, mutual respect, truth and social order are being traduced" as the changes in our society following the attacks continue to unfold. "The nation suffers from polarisation yet also denial."

Australians have been appalled by regular denunciations of their Jewish compatriots who, for the first time in living memory, are now fearful of walking the streets of their own cities. This has reignited debates about whether efforts

continued on page 40

directed at maintaining culture have taken priority over emphasis on the importance of strengthening social cohesion.

One year on from the attacks, and after anti-Israel protest marches in key cities over more than 50 consecutive Sundays, Australia is witnessing an unparalleled poisoning of community relations by the hatred engendered by the politics of the Middle East. At the time of writing (October 2024), these protests have evolved into overt and explicit support for Hezbollah, a listed terrorist organisation.

Although these attacks by one group of Australian citizens against another group are certainly alarming, the questions to which they have given rise are not new. Since its inception, debates about multiculturalism have oscillated between the poles of recognition of cultural diversity and commitment to common national norms such as the rule of law. As legal affairs commentator Chris Merritt has remarked of the importance of institutional commitment to enforcing the rule of law in Australia:

Respect for the rule of law comes naturally to most people in this country. But the principles that form the basis of that idea might not come naturally to those who have grown up in countries with a different tradition. The first step toward preventing lawless conduct is to ensure those who are subject to the law are made aware of their obligations – particularly those from different traditions.

Australian multicultural policy has always been dynamic as it has sought over the years to respond to changing social and cultural circumstances. Once again, the parameters of multiculturalism are being debated: publication of *Towards Fairness* represents the most recent response to the ongoing challenge of managing an accommodation between cultural diversity and the principles of a secular liberal society. In a development that signals the possibility of an emergent post-multiculturalism, the focus has shifted sharply to concerns about social cohesion. Threats to the safety of one section of Australian society posed by other sections have also revived discussions about imposing limits on freedoms associated with a liberal society, such as freedoms of speech, association and religion.

There can hardly be any prospect of urging Australian governments to scrap multicultural policies, given the diversity of the national population.

“We live in an age of conviction deficit. And once you create a little crack, you give licence. We are now paying a high price for that.”

Multiculturalism has developed from the fact that Australia is now a heterogeneous country that continues to attract large numbers of immigrants. And in addition, as Israeli professor of law Amnon Rubinstein has remarked: “New concepts of equality among different communities and of collective rights [have given] rise to a new philosophic-social-legal concept which has shaped public opinion.” The fact is that multiculturalism now has deep roots in Australian society.

However, *Towards Fairness* clearly leans heavily away from affirming the value of a polity unified by a set of binding liberal principles and associated rights and duties, in favour of promoting a variegated society which places diminished emphasis on the value of overarching norms and institutions.

Notwithstanding the concerns that commentators such as Kukathas have expressed about ‘national identity’, the current crisis of Australian multiculturalism almost certainly warrants renewed emphasis on the importance of commitment to the nation’s norms, laws and institutions. This problem will not be addressed by the creation and funding of more multicultural bodies and policies, for this is to assume fundamental social and cultural attitudes can be shaped by institutional bureaucracies alone. Rather, the current crisis of Australian multiculturalism needs to be addressed by what Stephen Lowy has described as “a return to strong conviction leadership:

Leadership is about conviction. Leadership is not about popularity. It is about doing what is fundamentally right for the country. And we are seeing this slipping in Australia now. We live in an age of conviction deficit. And once you

create a little crack, you give licence. We are now paying a high price for that.

Citizens of this country must commit to Australia and its way of life, and fears that calling them to do so may stir division must be quelled. Yet, as Lowy has remarked, without effective political leadership that sets the terms of the discourse about culture, this is likely to amount to little. This is a view shared by commentators such as Kelly who is more outspoken in his criticism of the Albanese government for having failed “to show the moral, social and strategic leadership that Australians deserve.”

At the same time, a lingering concern is that today’s generation of political leaders have been formed by immersion in a 50-year program of cultural pluralism and diversity, so are ill-equipped to provide the leadership so urgently required if multiculturalism in Australia is to have a future. This program of cultural pluralism, which has been promoted with vigour by our schools and universities over the course of a generation or more, has downplayed the importance of common norms and values. The bitter fruit of that policy failure is now being served up.

The danger is that the leaders on whom we must depend will fail to grasp the critical role government must play in enforcing duties of shared responsibility and mutual tolerance. And if that is the case, Australian multiculturalism will inadvertently, and perhaps inevitably, sink from damage of its own creating.

Link to original Document

<https://www.cis.org.au/publication/the-future-of-australian-multiculturalism/>

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Policing Hate Crime

Exploring the Issue with a Cohort of Sworn Police Officers.

December 28, 2023

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Abstract

Globally, there has been a trend in rising levels of hate crime that scholars have argued is reflective of significant social problems within society. Research into hate crime has typically focused on the police and their subsequent response to this crime type, with many findings reporting that the police are racist, homophobic and Islamophobic, to name but a few. However, existing research seldom captures the insights and experiences of sworn police officers, as much of the data is gathered from third parties. This paper presents the empirical findings from a Delphi study conducted with one police force in Australia, sampling sworn New South Wales (NSW) police officers between October 2020 and October 2021. The findings focus on four overarching areas: defining hate crime, perpetrators of hate crime, victims of hate crime, and responses to hate crime. These themes capture the perspectives of NSW police officers in relation to operational and organisational practice in respect of hate crime. Drawing on a Delphi method, the research outlines police perceptions of the nature of hate crime, as well as capturing how hate crime can be effectively reported, recorded, and responded to. Conclusions and implications are considered. These include the requirement for a clearer definition and targeted education strategies aimed at improving knowledge and understanding relating to hate crime. Future directions include the development of a standardised approach to reporting, recording, and responding to hate crime.

Background of the Study

In November 2019, the New South Wales (NSW)¹ Government, Australia, announced a re-opening of the parliamentary inquiry into gay and transgender hate crimes that occurred in the state between 1970 and 2010. The inquiry sought to acknowledge and recognise the historical injustices and crimes committed against the LGBTQ + community in NSW during the 40-year period, seeking truth and accountability of policing during this time; and while the focus of the inquiry was on the LGBTQ + community, it has had wider ramifications on how hate crime has been, and are, dealt with by NSW police. Hate crime, in NSW, is covered under Sect. 93z of the Crimes Act (1900) (NSW) where it is recognised as an:

Offence of publicly threatening or inciting violence on grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status.

Further to this, the Crimes (Sentencing Procedure) Act (1999) (NSW) also captures hate crime under Sect. 21A(2) (h), which is a sentencing aggravation law that requires the court to take into account when sentencing if a crime was motivated by hate and/or hostility towards a person/group based on factors such as religion, racial or ethnic origin, language, sexual orientation or age, or having a particular disability.

As part of the NSW Police Force response to the recent parliamentary inquiry, a study was commissioned by the authors of this paper in order to explore the contemporary landscape of policing hate crime within the organisation. Subsequently, a Delphi study was conducted with NSW sworn police officers during October 2020 and February 2022.

continued on page 44

Contextualising Hate Crime and Its Policing

The College of Policing in the UK (2014, p. 2) define hate crime as any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is victimised. The College of Policing (2014) further identified five types of hate crime: disability, race, religion, sexual orientation, and transgender status. The various forms of hate crime recognised by the UK College of Policing are also captured in the recent work of Hambly et al. (2018) who stated that:

A hate crime is defined as any criminal offence, which is perceived, by the victim or any other person, to be motivated by hostility or prejudice based on a person's race, religion, sexual orientation, transgender identity or disability, or the perception of the person of having any of these characteristics.

Defining hate crime is a complex issue due the various behaviours that are captured within this crime type and the lack of consensus relating to the key characteristics (Garland 2011, 2016; Birch and Ireland 2021). As noted by Chakraborti et al. (2017), there is also a lack of consensus with the use of the term hate crime, with other research indicating a preference for the term 'prejudice motivated crime', 'bias crime', or 'targeted hostility' being more favoured terms (Perry 2001; Stanko 2001; Iganski 2008; Victoria Police 2010; Gerstenfeld 2013; Wickes et al. 2016). This is compounded by the fact that different organisations and different jurisdictions often define hate crime differently (Department of Justice Canada 2015). Hate crimes are often misconceived as more extreme versions of other problematic behaviours and attitudes, such as prejudice, bias, racism, sexism, ageism, homophobia, and xenophobia (Rabrenovic 2007). Moreover, 'lower-level' hate crime, such as targeted harassment, can often be mis-categorised as a more general type of crime, such as anti-social behaviour (Garland 2011).

Garland (2011) noted that the problems associated with defining hate crime may originate from theoretical explanations that one group is dominant over another group, who is deemed subordinate. Indeed, Gerstenfeld (2013) stated that hate crime is more likely to be motivated by perceived outgroup status, as opposed to hatred. Such hierarchical and dichotomous categorisations can result in misunderstanding regarding the true nature and context of hate crime and may result in issues that impact the recording, reporting, and societal responses to hate crime, a position that has been reflected in a range of scientific literature examining the issue of hate crime (Iganski 2008; Gerstenfeld 2013; Chakraborti and Garland 2012; Wickes et al. 2016).

Further adding to the challenges in accurately defining hate crime is the misconception that it is solely a group or collective phenomena (Garland 2011). This conceptualisation fails to account for hate crime that may occur at an individual or micro level. Even when individual-level hate crime is recognised, the collective aim of sending a message to a wider audience is often emphasised (e.g. Perry 2001). Due to the nature of hate crime, it is recognised that impacts can extend beyond an individual level, as such crimes often impact group/collective identity and wider societal constructs. Therefore, it has been argued that hate crime can be more impactful than general crimes where bias is a core feature (Iganski 2008). Current definitions are arguably too simplistic, in that they fail

to account for hate crime at a micro, meso, and macro level. Consequently, hate crime may not be identified as such, victims of hate crime may be further marginalised, and perpetrators may not be effectively managed, thus increasing the likelihood of recidivism.

Existing conceptualisations appear reductionist, in that they do not fully capture the range of behaviours that may fall under the category of hate crime. Moreover, while existing definitions may be intentionally broad, there appears to be greater emphasis on victim characteristics, as opposed to the motivation(s) and individual characteristics of the perpetrator. To enable accurate understanding and defining of hate crime, greater understanding is required regarding the vulnerability, risk, and protective factors for hate crime. This is arguably the first step and is fundamental in informing organisational policy and operational strategy, which aims to address hate crime.

Responding to Hate Crime

While the police are largely seen as the first responders to hate crime incidents, those affected by hate crime often believe that this should be dealt with outside of the criminal justice system. Nevertheless, evidence reflecting on the police response to hate crime is, in part, less than satisfactory (Carr et al. 2007; Hall 2012; Shirlow et al. 2013; Chakraborti 2018; Pezzella et al. 2019; Hudson and Paterson 2020; Sweeney et al. 2022). As a consequence, hate crime is both under-reported and under-recorded (Giannasi 2015; Birch and Ireland 2021). More effective reporting of hate crime could enhance understanding about perpetrators and the risks associated with hate crime, thus supporting risk reduction. It could also increase victim confidence, supporting their recovery. According to Chakraborti et al. (2014, p. 66), one in four victims had reported their most recent experience of hate crime to the police, while over half of all respondents had not reported their experiences to any-one with low numbers of victims reporting to a third-party reporting organisation, or to professionals in a position to offer support yet outside of the police. In the same research, the severity of the incident also influenced whether a hate crime was reported; victims of verbal abuse were least likely to have reported the crime to the police (16%), followed by 33% of victims of harassment, 36% of victims of cyberbullying, 41% of victims of sexual violence, 60% of victims of violent crime, and 62% of victims of property crime (Chakraborti et al. (2014, p. 67).

Arguably, reporting should be encouraged regardless of severity to engender a more accurate picture of the nature and extent of hate crime. Of the hate crimes that are reported, the police are often the first choice for reporting, with victim satisfaction regarding police response being typically strong. Chakraborti et al. (2014) identified factors that can influence reporting, which include (1) those aged 16 to 24 who had not reported their hate crime to the police were more likely than others to say that they had not because they dealt with it themselves/with the help of others (34% compared with 27% overall); (2) respondents who had known the offender(s) involved in their most recent experience of hate crime were more likely than others to say that they had not reported it to the police because it was a private matter (29% compared with 16%), for fear of retaliation (18% compared with 9%), or because they were too embarrassed (16% compared with 9%); (3) respondents whose most recent experience of hate crime had involved verbal abuse were more likely to say they had not reported it to the police because they did not think they

would take it seriously (36% compared with 30% overall); (4) respondents with disabilities were more likely to say they had reported the crime to other authorities instead of the police (6% compared with 1% over-all) (Chakraborti et al. (2014, p. 72). Such research indicates an issue with police engagement and response to hate crime in which the inference can be drawn that the police need to better promote their practice in regard to addressing hate crime, as well as communicate the success of their response to dealing with this crime type. This coincides with the recognition that there has been a paucity in research with sworn police officers on how they deal with and address hate crime (Trickett and Hamilton 2015: 1) along with research that has identified the shortcomings of criminal justice policy that underpins the practice of first responders such as the police (Chakraborti 2015, 2018).

The study presented in this paper builds on such conclusions and, within the context of the 2019 NSW parliamentary Inquiry, seeks to explore how police officers understand hate crime, who is affected by hate crime as well as examine, from both an operational and organisational perspective, what is and what should be done in order to prevent, disrupt, and reduce hate crime.

Methodology

The empirical work underpinning this study sought to extend the existing knowledge base of hate crime by questioning experts (sworn police officers) working in the field; therefore, a Delphi method was employed. The Delphi method is a systematic, iterative, and structured communication technique that seeks to elicit and distil the insights and opinions of a panel of experts on a particular topic or issue (Okoli and Pawlowski 2004; Cuhls 2023). It typically involves multiple rounds of surveys, with feedback provided to participants after each round. The process continues until a consensus or convergence of opinions is reached, with a minimum of three rounds of data collection being recommended in order to achieve consensus (British Psychological Society 2009). The method, as a consequence, supported the purpose of the research, drawing on its strengths of gaining expert input ensuring that the insights gathered are based on a high level of expertise, leading to well-informed and nuanced out-comes as well as the iterative nature of the method, allowing for the refinement of opinions over multiple rounds (Hsu and Sandford 2019), thus justifying its use in research requiring the aggregation of diverse expertise and consensus-building on complex issues.

Recruitment and Sample

The Delphi study was conducted over three rounds. The recruitment of the sample took place through an internal email sent to all NSW sworn police officers inviting them to participate in the study. An internal email was sent for each round of data collection. The data collection tool was housed on Qualtrics through the lead researcher university system, to enhance confidentiality for employees and removing any potential negative consequences for participating or not participating in the employment-based study.

The inclusion criteria for participation in the study were specified as all participants were to be current sworn police officers, with a minimum of 5 years' experience. The length of experience ranged from 5 years to over 25 years in all three rounds of the Delphi study, with most 'experts' in each round

being of constable or sergeant rank, however, representation of higher ranked police officers, including those of superintendent level who also took part in the study. Of those that took part in the study, metropolitan, regional, and rural/remote-based police officers were represented in the sample. It was not a requirement to take place in all three rounds of data collection, and all NSW sworn police officers could engage with as many rounds of the Delphi study as they chose too.

According to Santaguida et al. (2018), while there is no set standard for the sample size in a Delphi study, it is suggested a minimum of 10–18 members make up each round of data collection. In the study presented in this paper, there were 76 participants who took part in round one, 79 participants in round two, and 158 participants in round three. The third and final round of the study originally comprised 173 participants. However, 15 did not fully complete the survey and were therefore excluded from further analysis, leaving a final sample of 158 police officers. It is the final round of data collection that is presented in this paper, with Tables 1, 2, and 3 below providing an overview of the third-round expert panel demographic data.

Most participants reflected two ranks, those of constable and sergeant (n = 147), representing 93% of the sample.

Most police officers who participated in the third and final round of the study were based in a metropolitan command.

The length of service that most police officers had completed was 10 to 15 years (28%). However, of significance were those who have served 25 years or more (23%). This service profile reflects a wealth of knowledge and experience.

Procedure

The research was approved by the lead researcher Human Research Ethics Committee (HREC) and further endorsed by HREC at the co-researcher university. The lead researcher emailed the NSW Police Engagement and Hate Crime Team information about the study and a link to the online data collection platform used to host the questions. This email was then forwarded onto NSW police officers through the NSW police internal email system, as noted above. At the end of 2021–2022, the NSW police had 17,659 sworn police officers (NSW Police 2022).

Police rank (n = 158)	n	%
Detective/constable (inc. senior, detective, leading)	100	63
Sergeant (inc. senior, detective)	47	30
Detective/chief inspector	5	3
Inspector	5	3
Superintendent	1	1

Table 1 Police rank.

continued on page 46

Location (n = 158)	n	%
Metropolitan command	109	69
Regional command	35	22
Rural command	12	8
Remote command	2	1

Table 2 Location of police officer workplace.

Approach to Measurement

A Delphi method is a structured communication technique where experts are asked to answer questions via a series of rounds. After each round, a summary of provided views is fed back to participants, who are then encouraged to revise earlier answers, based on the responses from all members of the panel. The process ends when consensus or theoretical saturation is achieved (Skulmoski et al. 2007). The current study held three rounds in order to form consensus. Questions were mainly made up of qualitative questions; however, a small set of quantitatively orientated questions were included to support the canvassing of opinions.

Approach to Analysis

Once each round of the Delphi study had been completed, quantitative responses were statistically analysed using SPSS. Due to the nature of this data, the analysis drew on non-parametric procedures for analysis and reported basic descriptive statistics. Qualitative data was analysed using thematic analysis in order to determine, analyse, and report themes (patterns) within the data (Braun and Clarke 2006).

As noted above, this paper presents the findings yielded from the third and final round of data collection, which had an expert panel of 158, in which these findings were used to illustrate the consensus yielded from the Delphi study.

Findings from the Delphi Study: Establishing Consensus

The data presented reflect the four central themes that emerged in all three rounds of data collection. These themes are (1) defining hate crime, (2) perpetrators of hate crime, (3) victims of hate crime, and (4) responses to hate crime.

Length of service (n = 158)	n	%
5–10 years	21	13
10–15 years	45	28
15–20 years	30	19
20–25 years	26	17
25+ years	36	23

Table 3 Length of service of police officer.

Theme 1: Defining Hate Crime

A significant proportion of participants felt, in some way, knowledgeable with regard to understanding what constituted hate crime. However, unclarity on the definition of this crime type was a common theme that emerged. A broad definition of what hate crime is made understanding this crime type an issue. Some participants considered the term 'hate' as an important aspect that needs to be included in a definition; it was noted that a clear definition of hate should be provided. For example, participant 18 noted that the definition should capture 'what constitutes hate'. It was also noted that hate crime should be distinguished from where individuals merely disagree with others, with participant 20 stating, 'That it is clearly different to words, which people do not like'. A salient theme that participants perceived as being an important aspect of hate crime and that should be captured in a definition was motivation or intent of the perpetrator, as illustrated by participants noting 'The intent or motive for the act, not just the act itself' (participant 13). The majority noted that the definition of hate crime should clearly outline what evidence is required to determine the motivation of hate crime, for example, 'The requirements to evidence the crime an act of bias need to be clear' (participant 39). Moreover, the importance of creating a definition, which can assist officers to determine 'the likelihood that an offender was motivated by hate, bias, or prejudice' (participant 65) was emphasised.

Over half of the participants noted that the definition of hate crime should include reference to a range of targeted individuals and/or groups. A range of target characteristics were identified as important, which formed 13 subthemes: (1) minority groups, (2) vulnerable and/or marginalised individuals, (3) LGBTQI + community, (4) racial/ethnic back-ground, (5) religious or political affiliations, (6) gender, (7) physical appearance, (8) socioeconomic status (9) immigration status, (10) employment type/status, (11) disability, (12) age, and (13) personal beliefs.

Notably, a small cohort of participants stated that individuals were not targeted because of specific reasons and that anyone could be a victim of hate crime. This position was not reflective of the majority of those who took part in the study.

A range of participants believed the definition of hate crime should include specific reference to a criminal element or offence. For example, participant 25 stated: 'There needs to be an actual criminal offence'. Further to this, it was emphasised that hate crime should be considered a police matter owing to the criminal nature and that this should be included in the definition to avoid other agencies addressing hate crime. Participant 3 noted, 'There must be a criminal offense that is done in public and not being addressed by other agencies'. It was further stated that there should be reference to the types and severity of crimes, which are captured as hate crime. For example, 'What crime does it include' (participant 29) and this should capture 'the extremity of the act/crime' (participant 71). Several participants extended this position stating that hate crime has to involve an action, such as physical violence. For example, participant 7 stated that the definition needs to 'reference actions, not just words used by [the] offender'. While another participant reported that a victim being offended should not be seen as a hate crime, stating: 'Being offended by what someone say online or in person should not constitute a hate crime' (participant 25). Conversely, several participants

regarded offensive behaviour as a hate crime, illustrated by participant 54 who noted: 'being called a "fucking pig" should not be offensive behaviour, but a hate crime' (participant 46). Another participant referred to 'harassment' (participant 16), noting that this should also be considered a hate crime.

Overall, the need for inclusion of accessible and appropriate terminology that can be operationalised within policing practice in the definition of hate crime was a common theme. One participant, for example, stated that the definition of hate crime should include 'easily defined terms that operational police can use and understand' (participant 40), with another participant expressing that 'hate crime' should be labelled differently, stating 'I think bias is more suitable than 'hate' as a choice of word' (participant 39). Conversely, participant 41 stated 'If the terms prejudice or bias are used in the definition this will broaden the category. Bias is a very broad concept i.e. unconscious bias, systemic bias, institutional bias. Such concepts, if incorporated into the definition have the effect of removing the nexus between mens rea and the offence committed'.

Some participants stated that hate crime does not need to be defined owing to their belief that it does not exist; as noted earlier, this position was only reflective of a small proportion of the cohort and not reflective of the overall consensus. One participant, however, described hate crime as 'a fiction' (participant 72), while another participant described hate crime as being a term solely used for identifying victims, noting, 'Hate crime is a made-up term to identify victims by their group identity' (participant 68).

In sum, while the cohort had an understanding of what hate crime encompasses, there was a belief that this could be improved on, by a clearer definition of the term.

Theme 2: Offenders of Hate Crime

The following findings relate to those who commit acts of hate crime, as well as consideration of their motivation(s), consequently, leading to reflections on how hate crime is understood and defined.

Police officers rated the following reasons as the main motivations for hate crime:

1. Prejudice and bias (93%)
2. Intolerance (91%)
3. Religion/religious views (90%)
4. Political views and upbringing (88%)
5. Emotions: anger (86%)
6. Retaliation for terrorism (85%)
7. Emotions: fear (80%)
8. Anti-social attitudes (72%)
9. Low economic status (66%)
10. Poor educational background (62%)

The qualitative data expanded on these motivations, revealing the nuances behind the raw figures. For example, offenders' anti-social attitudes were considered by some participants as a cause of hate crime (e.g. participant 42, 57, 62, 68). Participant 42, as an illustration, noted that such offenders had a 'disregard of the law', while some participants were less gracious in their consideration, e.g. 'people are just grubs' (participant 57). Furthermore, participant 62 stated '...there is the special case of total psychos who like inflicting pain or hurt. They may choose their victims based on difference. (But some do not.)'.

Several participants reported 'bias' and 'prejudice' (e.g. participants 18, 20) as the cause of hate crime. Participant 46 reported that this bias may be 'conscious or non-conscious',

"In sum, while the cohort had an understanding of what hate crime encompasses, there was a belief that this could be improved on, by a clearer definition of the term."

with many participants stating that this bias is often based on the offender's limited past and negative experience with those who they target. For example, participant 20 stated, 'if you really break it down, actual hate crime relates to people's own experience with that group', with participant 36 expanding on that by noting, 'people having an unjustified negative bias towards a group due to past experiences or ignorance'. Similarly, participant 5 stated 'jumping to conclusions about every person of that culture based on one's limited life experience' leads to hate crime. Offender's bias was, therefore, seen as being caused by one specific experience with an individual who is part of a group to, which the victim belongs, and the offender takes a dis-like to. For example, 'The main cause of hate crime is, for whatever reason, the offender deciding to target a specific type of person. It could be because the offender was the victim of a crime committed by a similar type of person, the offender believes that the type of person the victim is has discriminated against them or is has harmed/discriminated against them' (participant 52). This position was also reflected by other participants in the study; for example, participant 47 stated 'assigning blame for past injustices to a group of people, rather than the individual person', while participant 17 reflected on the notion that hate crime occurs as 'the individual is targeted for the actions or perceived actions of the whole and is assigned individual blame'.

It was also reported that bias is a learned process, with participant 39 stating: 'ultimately bias is learned—not born into any human. I can't say I comprehend what takes a person from a set of beliefs or thoughts to the commission of crimes, but it ultimately is that "something" in a person's life conditioned them, either suddenly (e.g., traumatic experience) or over an extended period (upbringing etc.) they come to believe that some subset/s of society have less value or less rights than them'.

Religion and religious beliefs were another perceived motivation for why hate crime occurs. For example, participant 71 reported 'most hate crimes I have witnessed have been driven by religious views, which I believe come from a lack of understanding or knowledge'. Moreover, participant 17

continued on page 48



Many participants focused on the idea of 'intolerance of difference' between the offender and victim

emphasised 'I find religion is often the genesis of the hate crime, as opposed to the victim of it'. Extending this position, participant 54 reported 'There is no debate here. Christians are simply hated by radical Muslims, heathens, atheists, and all non-believers. If you identify as a Christian, you are painting a target on yourself and the virtue signalling haters will immediately launch into an attack on Catholicism calling everyone who has faith a paedophile', while participant 77 provided a specific example of a religiously motivated hate crime: 'the only hate crime I have seen was the Lindt Café siege where it was religiously motivated'.

Associated with religion and religious views is that of political views. It was reported that 'certain political views of the offender' (participant 15) can be a cause of hate crimes. Specifically, nationalism was identified as an important factor: 'Nationalism is now playing a part in hate crime, as people become more nationalistic, they close themselves off from acceptance of different cultures and ways of life' (participant 51).

Furthermore, left wing ideology was reported to be an inciting factor: 'Virtue signalling, left wing sympathisers who hate themselves so much they feel the need to incite anyone who is not on the same social justice agenda as they are' (participant 54). Other participants reported that extreme and radical ideologies were more influential in inciting hate crimes. For example, participant 65 stated 'extreme ideology support'. Furthermore, participant 59 reported 'a radical ideology from either learnt behaviour or self-radicalisation based on false facts and fear'. Such findings reflect and relate to the notion that intolerance of the views/beliefs of others also contributed to hate crimes being committed. Many participants focused on the idea of 'intolerance of difference' between the offender and victim (e.g. participants 2, 12, 23, 35, 56, 62, 64, 75). For example, participant 56 reported that 'The cause of hate crime is due to the perceptions of one person of another and the inability to understand how others do not share the same values/ideals of people who become hate crime perpetrators'. This appeared to reflect an inability on behalf of the offender to accept that others are different and understand these differences, with participant 2 stating, 'people struggle to accept difference

and diversity'. Furthermore, participant 62 reported, 'my answer from first principles is that hate crime is caused at least to some extent by backward regression to some near universal human characteristics, which include: (i) Tribalism or recognition of in/out groups and a tendency to distrust the latter. (ii) A tendency to seek to ingratiate with an "in" group', thus reflecting a non-acceptance of the outgroup, or those who are different.

One participant focused on intolerance towards a specific group as a cause for hate crime, rather than just all who are different, stating, 'In my experience the general cause of hate crime is driven by a dislike of a specific group to, which it is focused' (participant 17). Another participant stated that this may be due to specific ideology of the offender, for example 'bigotry and certain political views of the offender' (participant 15). Participants reported varying reasons for the offender to hold such intolerance towards the victim, for example, participant 12 reported, 'a belief by the perpetrator that the inalienable characteristic of the victim needs to be punished' and participant 66 reported 'ignorance of other. The want to delegitimise other people's lifestyle, beliefs or background'. A conflict of interest between the two groups was also reported, illustrated by participant 64 who reported: 'perceived conflict of interest between one's own background and that of another person's' and participant 75 who noted: 'minorities who want to take over and control majorities'.

Further to this, those who took part in the final round of data collection reported the perception that the media also played an important role in the cause of hate crime (96%). For example, 'Media sensationalism' and 'Politicians and media who are careless and inflammatory in terms of the comments they make' (participant 10 and 29 respectively) were noted to incite hate crimes. Furthermore, 'media agendas', 'media bias', and 'media manipulation' (participants 63, 29, and 69 respectively) were reported to be important causes of hate crime. Participant 63 reflected on the fact that social media can also reinforce people's beliefs, noting a causal factor to be 'social media corporations feeding people an echo chamber of their own bias'.

Those who took part in the study recognised the following offender traits/characteristics:



Other participants reported that extreme and radical ideologies were more influential in inciting hate crime

1. Intolerance of difference (86%)
2. Maladaptive thinking styles (68%)
3. Difficulties with mental illness (50%)
4. Low level of self-esteem (50%)

Participants identified that perpetrators of hate crime included those who are intolerant to difference. For example, participant 2 stated, 'Persons who have a low tolerance or understanding of other cultures/countries/ religions'. One aspect of intolerance was described as originating from the fear of dissimilarity, as mentioned by participant 4: 'People who fear change, who fear anyone who is different to them to the extent that their differences'.

Furthermore, some participants identified that this lack of understanding was directed towards those who were different to the perpetrator; for example, participant 8 reported hate crime to be caused by 'groups or individuals who do not understand or accept another person who is different'; similarly, participant 37 reported 'ignorance of others who are different'. Participants also reported that this lack of knowledge causes fear, which in turn causes hate crime. As an illustration, both participant 9 and participant 22 reported: 'fear of the unknown'. Conversely, one participant noted that ignorance is too simplistic an explanation for the cause of hate crime, stating: 'alternatively there is a school of thought that ignorance is the cause, rectified through education. I would argue that the latter is too simplistic an explanation' (participant 41).

Hate crime was also reported to be caused by various psychological issues experienced by the offender. This included issues such as maladaptive thinking styles and mental illness. For example, participant 40 emphasised 'inflexible ways of thinking' (participant 40) as a cause of hate crime. Furthermore, it was reported that issues with disordered thinking and an inability to effectively discriminate and process information can cause hate crime. Participant 41 reported 'Hate crime can be the end result of people's propensity to discriminate. All humans discriminate, it is just a matter of degree. The brain operates to find patterns and processes that massive amounts of incoming data by sorting it into boxes. It could be argued that when this process goes awry and leads to Hate crime, the offender is suffering from mental illness due to disordered or illogical thinking'.

Other participants reported mental illness to be a causal factor with participant 60 illustrating the point that offenders 'have their own psychological issues that they cover with hate crimes'. Moreover, participant 68 referred to such individuals who are 'mad'.

Reduced/impaired self-concept of the offender as a relevant cause of hate crime was noted. For example, participant 15 noted the 'low self-esteem of the offender', while participant 76 stated that: 'people feel insecure or sometimes jealous of others who has different race, religion, sexual orientation etc.'. More specifically, it was reported that hate crime is a result of the reaction of the offender to their reduced/impaired self-concept. Participant 62 reported that: 'a reaction on the part of the offender to a lack of self-confidence on their part' to be a cause of hate crime. It was also recognised within the cohort that hate crime can be the result of a deeper and more severe insecurity, which occurs as a result of the offender experiencing hatred towards themselves. For example, participant 54 stated, 'Virtue signaling left wing sympathisers who hate themselves so much they feel the need to incite anyone who is not on the same social justice agenda as they are'.

Police officers noted that perpetrators of hate crime are only slightly more likely to be male (54%) and typically older, with only 18% of the sample reporting that young people (less than 25) were responsible for hate crime. Several officers did identify men as the main perpetrators of hate crime with participant 58 clearly stating it was 'predominately males' and participant 48 noting it was 'usually male', but there was some diversity in this view. For example, while females were also considered perpetrators, when accounting for ethnicity, men of all ethnic backgrounds were seen to be potential offenders, as participant 53 noted: 'not necessarily Caucasian males. Black young men can contribute to hate crimes'. Further to this, some participants identified young adult males as the main group committing hate crimes. Participant 71 noted, this crime type was commonly committed by 'males aged 18-35'.

continued on page 50

Of interest was the fact that some participants believed that hate crime was not just perpetrated towards minority groups, but that such groups could be responsible for committing hate crime. The misconception that hate crimes were not committed against majority groups was a common reported view, with participant 10 noting that 'persons of a majority social group can be victims of hate crime'. Participant 54 also noted that hate crime is perpetrated by 'the minorities against white people and it is condoned and accepted. Being Caucasian is seen as privileged and they should accept that being white are the oppressors, so it is ok to hate the oppressor. White people are now the punching bag of the political left and police are in the direct firing line'.

From the findings of the Delphi study, it was reported that those who perpetrated hate crimes were not specialists but generalists, when their offending profiles were considered. Around half of all respondents stated that hate crime perpetrators do not specialise in one type of hate crime but engage in several different types of hate crimes. For example, participant 21 stated 'hate crime can transcend multiple types of hate crimes' and participant 51 empathised that 'extremism does not stop at one segment of hate'. Similarly, participant 3 noted: 'perpetrators will take on any ideologies that they subscribe to'.

Some participants linked the different components of hate crime together, such as religion and race. Participant 31, as an example, stated: 'persons who engage in race crime will usually also hold anti-religious group agendas as well', with participant 39 noting: 'I really feel that bias of race, colour and creed are closely related'. One participant reported that race-motivated hate crimes are commonly expressed as hate crime against religious communities: 'I think race hate may be targeted at religion e.g., Muslims and while the hate is attached to a religion—by default it spills over into race e.g., more typically Muslim communities e.g., Mid-Eastern, Subcontinent India/Pakistan' (participant 48).

The combination of different hate crime types involving sexual identity and sexuality was also identified. For example, participant 31 stated '...persons who target a particular sex group (women /transgender) will also target persons due to sexual identification (LGBTIQ + status)'. Extending this position was participant 51 who stated, 'Persons that perpetrate hate crime against people based on sexuality will also target people for religion'. It was noted that those who discriminate against one individual/group often discriminate in general, with participant 69 stating: 'I have found that those that are discriminatory towards race are often discriminatory towards other factors such as gender and socioeconomic status, religion, etc.'. Targeting the weak, which can cover several types of hate crime, was also reported. For example, participant 29 posited: 'They [perpetrators] pick on the who they perceive as weak' and participant 60 reported: 'Hate crime perpetrators often target people they perceive as weak or different and can cross into different areas of hate crime accordingly'.

Seventy percent of the sample reported the view that offenders of hate crime were also involved in other crimes, compared with just 12% who thought they were only involved with one type of crime. Malicious damage and violence-related offences including those of domestic violence were identified. Theft and substance-related offences included specific reference to 'alcohol and drug crimes' (participant 11) and traffic offences were listed. It was also noted that sometimes,

hate crime perpetrators engage in more than one type of offending, as well as engaging in hate crime. For example, participant 17 stated 'often those involved in hate crime have had previous malicious damage and violence related offences'.

Theme 3: Victims of Hate Crime

The following captures police perceptions of reasons for victimisation, as well as the response for victims of this crime type.

Police officers reported that victims of hate crime may be targeted due to the following factors:

1. Race/ethnicity (91.5%)
2. Transgender status (78%)
3. Being employed as a police officer (72%)
4. Being employed as a public servant/holder of office (68.5%)
5. Sexual orientation (50%)
6. Gender (40%)
7. Disability (31.5%)
8. Age (17%)

'Race' was commonly identified by participants as the primary victim characteristic of hate crime. For example, participant 24 stated: 'my experience leads me to view hate crimes as predominantly based on racial identity'. More specifically, participant 54 reflected on the view that minority groups can target majority groups, reporting that: 'If you are white, you are the enemy and fair game. White people today are to pay for the injustices to people centuries ago'. While sexual orientation was considered a contributing factor to a person's victimisation, this occurred less frequently contemporaneously than once were, e.g. in 1990s and early 2000s. For example, participant 6 stated 'Sexuality-related [hate] crimes seem much less common now than in the past'.

Other, less common, yet notable, victim characteristics identified by participants included 'gender, then age and disability' (participant 28). However, as noted by participant 6: 'I can honestly say that I've never personally seen a disability-motivated offence. I have seen disabled people become victims because they were disabled, but they were victims because they were the easiest person to target, not because the offender hated disabled people'.

Worthy of noting, within the data collected two participants specifically mentioned police officers as likely victims, for example, participant 54 stated: 'Any form of violence, threat, action because you are a police officer' was a hate crime. While participant 74 said: 'Social stature/holder of office' was a relevant victim characteristic within the context of hate crime.

Most police officers reported the view that victims of hate crime often do not know the perpetrator (88.5%). For example, participant 31 stated 'The persons are generally not personally known to each other at all. The perpetrator would not generally associate with the targeted groups through deliberate act and perception of the victim and so is able to emotionally disconnect from the value of the victim in society and easily justify their action to each other'.

Regarding the victims and police response, officers were of the following opinion:

1. Victims need to report all incidents to the police as soon as possible (91%)
2. Police need to intervene as soon as possible (88%)
3. Police investigations need to determine the motivation of the offender (82%)

4. Perpetrators of hate crime need to be prosecuted the same way as other offenders (81%)
5. Crimes with the aggravating factor of 'hate' need to be punished more severely (73%)
6. Victims of hate crime require 'aftercare' and support from investigating officers (64%)
7. A control order to restrict access to victim/s is an effective form of punishment for a perpetrator of hate crime (52%)
8. Perpetrators of hate crime should receive mandatory sentences (41%)

More than half of the officers stated that victims of hate crime require aftercare and support from investigating officers (64%). The engagement in victim aftercare focussed on maintaining communication with victims, informing them about the development of the investigation, and showing compassion. For example, participant 46 noted: 'Speak with the victim... Reassure the victim that this behaviour is neither tolerated nor acceptable' were central to an officer's role and duty. The importance of reassuring victims that the matter is being taken seriously and maintaining contact where distress occurs was also emphasised. As an illustration, participant 11 stated, 'Victim care and follow up as they fear further attacks'. One participant reported the view that police officers lack knowledge on how to deal with hate crime, stating 'Not enough is being done to assist street level police in knowing how to react or deal with hate crime', which ultimately has an adverse effect on dealing with victims.

Theme 4: Response to Hate Crime

Those who took part in the study reported that crime prevention strategies are needed to further prevent, deter, and reduce hate crime. Almost all police officers considered education to be at the forefront of this renewed crime prevention approach. It was noted that education is required for perpetrators (94%), at-risk individuals and groups (91%), the public (90%), and the police themselves (86%).

Participants identified the importance of educating perpetrators, the public, and the police. Educating perpetrators was a salient theme with participant 56 noting 'Education of perpetrators. Mediation between perpetrators and victims'. While other participants specifically noted the importance of educating groups at-risk of becoming perpetrators with participant 59 noting 'Forming a disengagement/deradicalisation program to educate radical ideology people, to see why their thought process is extreme'. One aspect of education related to deterrence, with participant 23 stating: 'Educate the public that it is not acceptable'. Prevention through education of the public was further noted to be an appropriate response with participant 37 stating: 'Liaison with the local community to encourage education so that ignorance can be reduced, and empathy developed'. Educating police officers and implementing programmes, which aim to address bias, were also noted to be an appropriate response. For example, participant 39 stated, 'I feel like education falls far short – if police do not have a thorough understanding of both the victim and offender experiences then they cannot adequately respond. Police are humans too and had their own conditioning..., which shape their belief system...Police need to have a

continued on page 52



deeper, more holistic understanding of human psychology and exposure to more factually accurate 'history lessons'.

Regarding the organisational response to hate crime, most officers regarded their organisation (64%) and middle management (76%) to deal with hate crime effectively and consistently. Indeed, over half of the police officers who participated in the study noted that their organisation implemented effective practices when managing and responding to hate crime (63%). Such findings suggest a platform of existing good practice that NSW police can build upon to further improve their response to hate crime. Several participants reported the most appropriate response to be with reference to hate crime is to take a report and intervene as soon as possible. For example, participant 34 stated: 'Record as accurately as possible and intervene early'. While the motivation of the crime was also identified as important to capture in order to engender an appropriate response to a hate crime, with participant 48 expressing: 'Report it like all other crime although motivation should also be noted'.

Some participants highlighted the significance of an effective and impartial investigation, with participants focussing on the minimisation of biases influencing the investigation, with participant 5 stating: 'Investigate it properly without allowing the officer's own beliefs or prejudices to influence the investigation'. The importance of determining the motivation as part of the investigation was mentioned once again within this context, as participant 27 noted that the importance of 'determining the motives of the alleged offender' was key.

A significant proportion of participants noted the most appropriate response in dealing with hate crime as charging perpetrators with the appropriate offences and prosecution. For example, participant 14 stated that hate crimes: 'should be investigated and prosecuted as any other crime', while several participants specified that the law must be followed and decisions should not be influenced by the public opinion, as illustrated by participant 22 who noted that perpetrators should be prosecuted: 'within the confines of the law. It is a dangerous precedent to follow the wave of public opinion'. Other participants noted that neither prosecution process nor penalties for hate crime should not be different to other crimes. For example, participant 14 stated that there: 'should not be any different penalties simply because it is classified as hate crime. This can lead to a perception of bias in the wider community. The motivations should be acknowledged but not more harshly punished'.

Two participants reported what they considered to be appropriate punishments for the perpetrator. Participant 15 stated 'Mandatory minimum sentences where judicial officers can thus be held to account. Greater accountability of sentences imposed by judicial officers', while participant 31 commented that an appropriate consequence would include 'Control orders to restrict access to their victims. Incarceration of persons who are not responsive and continue to commit such crimes after initial detection'.

Some participants reported that hate crime offences should receive harsher sentencing. Indeed, participant 47 stated: 'My colleagues have no capacity to affect that response – the lack of severity in penalties for crime at every level is a spectacular failing'. Participant 27 stated that the importance of 'determining the motives of the alleged offender' was an important issue to consider with sentencing as did participant

40 who noted: 'It should be added to the circumstance and taken into account during sentencing'. Moreover, there was call for harsher penalties where hate crime is considered a contributing factor with participant 32, for example, stating that there should be 'harsher penalties from the judiciary where hate crime is identified as a contributing factor to the crime'.

In regard to responding to hate crime, many felt there was an inaccurate narrative surrounding the police not responding appropriately to hate crime. It was claimed there were several misconceptions related to the police response including claims the police did not take allegations seriously, or not take appropriate action. For example, participant 65 noted the misconception: 'that police will not take reports seriously or investigate with hate crime elements in mind and rather seek out easier convictions'. Participants also reported the misconception that the police are not trust-worthy with participant 15 stating: 'That certain victims don't want to report this [hate crime], because they fear the police'. In response to such misconceptions, participant 60 noted: 'Many people don't realise that Hate Crimes are taken seriously by police'.

Several participants referred to the actions that are often taken by the organisation in response to hate crime. These included education, community outreach, following the legislation, and establishing specialised hate crime units. Education was mentioned in several forms, with participant 48 noting: 'Awareness programs' and participant 62 stated: 'Organisational response includes public relations work to encourage victims to report crimes'. Community outreach was also identified, with participant 6 noting: 'I think that the NSWPF invest a significant amount of time and resources in community outreach and at a management level to ensure that hate-related crime is given an appropriate response'. Furthermore, one participant noted the assistance provided to minority groups by the police, stating: 'There is a great emphasis on assisting minority groups with these crimes' (participant 11); this participant, however, criticised the organisational response in part, noting 'There appears to be no emphasis on far-left groups attacking persons of a different political thought'. One participant reported their organisation to respond according to the legislation, noting: 'My organisation will respond to a hate crime in a manner, which is in line with the crime committed and ensure that the victim's rights are preserved' (participant 12). Finally, participants also reported the establishing of specialised hate crime units. For example, participant 59 noted: 'There is a new engagement and hate crime unit established who over-sights local police to investigate hate crime', thus offering insight, understanding, and commitment for the prevention and reduction of hate crime.

Discussion and Conclusion

This paper has examined hate crime through the lens of experts in the form of sworn police officers employed in NSW Police Force, Australia. In doing so, this body of evidence informs police practice with regard to addressing such offending along with providing some direction concerning those involved in such offences. As a result, several themes of interest for the profession have emerged, which will be presented here. These include diversity, definition, and reporting practice, a role for race, accounting for perpetrator and victim characteristics and the support required, remaining mindful that hate crime can occur anywhere and be motivated by several and sometimes shared reasons.

The key takeaway points from the Delphi study can be captured in the following ways:

- The term 'hate crime' needs to be reconsidered and better reflect the complexities of the issue. This crime seems to be driven by cognitions, which may well drive a range of different emotions.
- Participants considered themselves 'moderately' knowledgeable about hate crime on a 5-point Likert scale.
- Most police officers expressed that hate crime is an actual crime.
- In contrast, some participants were clear in their view that there is no hate crime—only crime. This suggests that there is a need to clearly define how this differs from other crime offending.
- While victims of hate crime were mainly associated with race or transgender status, some recognition of police officers and others in public office being primary victims of hate crime was provided.
- More than half of participating police officers perceived that expressing personal opinions can be a hate crime.
- Almost all police officers did believe that not all incidents against minority groups should be defined as a hate crime.
- More than half of the participating officers perceived that hate crime is not rare.
- Almost all believed that hate crime is not only perpetrated against minority groups and that non-minority groups can also be victims of hate crime.
- More than half of the sample believed that individuals from minority groups can be perpetrators of hate crime.
- Most officers noted the importance of educating the perpetrators, at-risk individuals and groups, the public, and the police about hate crime.
- More than half participating officers regarded their organisational response to hate crime as effective and consistent.
- Over half of the police officers were of the view that victims of hate crime require aftercare from investigating officers. The results from the study reflect the diversity of hate crime require aftercare from investigating officers.

The results from the study reflect the diversity of hate crime and how hate crime offences vary in nature; there was also evidence highlighting differences in how hate crime is targeted, with particular consideration given to racial and sexual orientation and religious hate crimes. In terms of practice, it is important that those working with victims and perpetrators appreciate the subtleties and variety of forms that hate crime can comprise and, in doing so, can properly identify and address it. What is of significance is how such findings of the Delphi study reflect the broader evidence of the existing hate crime literature.

Race was reported as a significant factor informing perpetration and/or victimisation of hate crime. There are no clear explanations for this, although a range of factors including intolerance, perceived threat, and insecurity, as well as vulnerability, were highlighted by participating officers. It is likely that the significance of race is multi-layered and as more is learned about hate crime perpetration and victimisation, a better understanding may be gained. In the meantime, although the reasons why race is significant may not be fully understood, it is important that this factor is accounted for since it has implications for the coordination of resources and the development of hate crime prevention strategies.

What remains clear is that the police play a central role in addressing hate crime, in all aspects of prevention, disruption, and reduction. It is important that they are appropriately resourced for dealing with hate crime, perhaps with specific police investigation teams dedicated to dealing with this.

Being male, young, and white was highlighted as perpetrator characteristics. There is evidence that issues of substance misuse and poor mental health are important issues to consider when examining who perpetrates hate crime. In addition, there was a consensus that perpetrators were unlikely to be specialists in hate crime offences. It may therefore be useful to consider how resources can be utilised to target those at risk of perpetrating hate crime, to support deterrence and desistance. However, it is also important that in identifying prevalent or typical characteristics, less prevalent characteristics (i.e. females) are not overlooked.

With regard to *victim characteristics*, a more varied set of characteristics were presented. Evidence with regard to *pre-existing relationships between victims and perpetrators* is unclear in the existing literature. Some studies report that perpetrators of hate crime were likely to have some degree of acquaintance with the victim(s), while others reported perpetrators were more likely to be strangers. This finding from the Delphi study typically suggests that victims do not know the perpetrator. Nevertheless, problems with the defining, recording, and reporting of hate crimes including misreporting may impact on an accurate understanding of such pre-existing relationships. Equally, there could just be diversity in the relationship that is not always accounted for. It is important that police are sensitive to the potential impact any pre-existing relationship may have on victims and their willingness to report their experiences to an investigating officer.

The Delphi study also identified a range of motivations for hate crime (e.g. anti-social attitudes, prejudice, and bias). It is therefore likely that hate crime is a multifaceted motivated event, particularly as intersecting prejudices may be present. Establishing perpetrator

continued on page 54

motivation is likely difficult, particularly when the perpetrator(s) is unknown. However, awareness of these different typologies may support police in their questioning of victim(s) and any suspected perpetrator(s), as they seek to support a potential prosecution.

Arguably, there are clear gaps within the literature around motivations for hate crime, the official response to hate crime, and the treatment of hate crime perpetrators and victims that the current Delphi study reflects in the findings presented in this paper. In many cases, the narrative and existing literature surrounding the police and their knowledge about hate crime differs from the perception of the NSW police. What remains clear is that the police play a central role in addressing hate crime, in all aspects of prevention, disruption, and reduction. It is important that they are appropriately resourced for dealing with hate crime, perhaps with specific police investigation teams dedicated to dealing with this. Furthermore, ensuring police receive access to evidence-based training, continuous professional development opportunities, and supervision is crucial in ensuring that police officers have the necessary skills and support to effectively recognise and respond to hate crime. This could also extend to the development of an evidence-based risk assessment guide that outlines the range of factors important to remain mindful of when considering a suspected act of hate crime. This could ultimately assist with the refinement of risk factors and direct attention to salient areas of concern, including the needs of victims. This would further reflect risk assessments, such as those found in the interpersonal violence field that account both for the risk factors of perpetrators but also the factors that we need to be particularly attuned to as we endeavour to protect victims and maintain their safety.

Limitations and Impact of the Study

While this study has its limitations, for example, the Delphi method relies on written communication, which can impact the richness sought in such data collection processes compared to face-to-face discussions; as well as the sample size that may not be fully reflective of all NSW sworn police officers, these should not detract from the importance and value of the findings. Much is written about police officers, yet seldom does such research including them in their sample, in particular less senior officers. Police research typically is done on the police, not necessarily with the police, and as a consequence, the current study offers a level of authenticity, in particular within the arena of hate crime. The impact of this study has already been evidenced in terms of policy and practice implications. For example, the findings have been used to support a revision and revitalisation of policy and procedures both within NSW police and outside of it in terms of revised workplace policies and the development of community education concerning the reporting of hate crime. Further to this, the findings of this study have been used to inform the design and delivery of a university short programme for NSW police officers on policing hate crime. Finally, research such as this can and should be used to support public confidence in the police, evidencing an profession that can be reflective and able to adapt to the changing environment in which, as police officers, they operate in.



Thank you
for protecting
our community

MELISSA McINTOSH MP
FEDERAL MEMBER FOR LINDSAY

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SUPPORTING POLICE IN THE TERRITORY!

The Albanese Labor Government has secured funding for the **Scott Palmer Centre** in Greater Darwin, providing supported accommodation for veterans and first responders in need.

LUKE GOSLING
FEDERAL MP FOR SOLOMON
DARWIN • PALMERSTON

Thank you for your service.



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Blacktown City Council is committed to working towards a community based on equality and respect to ensure that every person has the right to live a safe and meaningful life, free from all forms of violence.

Council applauds the outstanding police officers at Blacktown, Mount Druitt, and Quakers Hill Local Area Commands.

We are proud to work in partnership with our local police to help make Blacktown City a safe place to live, work and enjoy.



To all NSW Police Force Officers, who serve Gloucester, Stroud, Dungog, Maitland, Cessnock, Singleton, Muswellbrook, Scone, Murrurundi & Merriwa.

Thank you for your service.

Dave Layzell MP
Member for Upper Hunter



Authorised by Dave Layzell MP, 20 Bridge Street Muswellbrook NSW 2333 - Funded using Parliamentary entitlements.



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PHIL DONATO MP

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Edmond Atalla MP

Member for Mount Druitt | Parliamentary Secretary for Police & Counter-terrorism

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AFP Commissioner Reece Kershaw on Antisemitism & Hate Crime

There is no doubt there is an escalation of antisemitism in Australia.

REECE KERSHAW

Australian Federal Police Commissioner

We know this is changing the movements and behaviour of a community that is in fear.

When a community feels they need to self-segregate or hide to stay safe, this has a greater impact on social cohesion and crime in general.

Antisemitism is a disease in our community, and it needs to be aggressively attacked because history shows what happens when action is not taken against those who fuel fear and terrorise others.

I know many people feel they want more action to go with words. Today, I will outline what the AFP has done and what is being considered.

The AFP has established **Special Operation Avalite** to target high-harm antisemitism. AFP-led **Operation Ardvarna** is targeting the display of prohibited symbols – **both operations have made arrests** and more are expected soon.

Special Operation Avalite has received **166 reports** of crime since it was established in December last year. Of those reports, many are duplicates, some are already under investigation by our state counterparts and some don't meet the threshold of a crime.

These are being triaged for the AFP to take high-impact action against offenders, and currently **Special Operation Avalite** is investigating 15 serious allegations.

All lines of inquiry are open to the investigations – including what anonymising technology, such as dedicated encrypted communication devices, have been used to commit these crimes.

We are looking into whether overseas actors or individuals have paid local criminals in Australia to carry out some of these crimes in our suburbs.

We are looking at if – or how - they have been paid, for example in cryptocurrency, which can take longer to identify.

We are looking into whether any young people are involved in carrying out some of these crimes, and if they have been radicalised online and encouraged to commit antisemitic acts.

Regardless, it all points to the same motivation: demonising and intimidating the Jewish community.

Intelligence is not the same as evidence. We are building evidence, and I want to reiterate, more charges are expected soon by the AFP.

We are regularly talking to our Five Eyes and trusted international partners about these issues and the AFP stands ready to provide capability to our state and territory police, who I know are all taking these matters seriously.

A Special Tribute

On behalf of everyone in the South West and across Australia.

Thank you for your tireless efforts in protecting, defending and supporting our valued way of life.

NOLA MARINO MP
FEDERAL MEMBER FOR FORREST

Hoyts Cinemas Complex, Units 7 & 8, Cnr Victoria and Clifton Streets, Bunbury WA, 6230

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ROY BUTLER MP
INDEPENDENT MEMBER FOR BARWON

Thank you to all the Police Officers and their families for the sacrifices you make. You dedicate your lives to ensuring we live safely and for that I say thank you.

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Authorised by Roy Butler MP, 60 Maitland Street, Narrabri NSW 2390. Paid for using Parliamentary Contributions February 2020.



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To ring in the Lunar New Year in accordance with Chinese Buddhist tradition, Tasmanian Chinese Buddhist Academy of Australia invited the community to Jin-Gang-Dhyana Temple to ring the giant Peace Bell at Campania, Tasmania. This signifies good fortune for the year ahead.

We wish all readers a healthy and prosperous year, unite with family and all wishes come true.