



VACCA
Connected by culture

Response to Australian Human Rights Commission's National Anti-Racism Framework

Victorian Aboriginal Child Care Agency

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Introduction

The Victorian Aboriginal Child Care Agency (VACCA) is the lead Aboriginal child welfare organisation and the largest provider of Aboriginal family violence services in Victoria. We work holistically with women, men, young people and children, delivering over 70 programs across a wide range of program areas.

We provide services to over 3,000 Aboriginal children and young people, with unparalleled connections not only to clients, but across community. We are the largest employer of Aboriginal staff in Victoria outside of Government, growing social capital within our communities and striving to build prosperity across generations. This places VACCA in a unique position with extensive reach across the state and the ability to provide holistic, early and wrap-around supports in a timely manner to those that need it most.

VACCA welcomes the opportunity to provide feedback on the National Anti-Racism Framework -Concept Paper. Our feedback is based on our unique position as a Victorian Aboriginal Community Controlled Organisation (ACCO) providing a suite of services across the state supporting children, young people, families and community members. We have protected and promoted the rights of Aboriginal children and families for over 40 years. VACCA believes that all children have a right to feel and be safe and live in an environment that is free from abuse, neglect and violence. We are committed to promoting and upholding the rights of Aboriginal children to maintain and celebrate their identity and culture, recognising that connection to culture is critical for children's emotional, physical and spiritual wellbeing.

Context

Racism must be addressed and eradicated at all levels of government and across community more broadly. VACCA welcomes a national approach to addressing racism that is cohesive, inclusive and accountable.

Aboriginal and Torres Strait Islander peoples are strong, resilient and proud, overcoming years of genocide, dispossession, forced removal of children from families and communities from their Country. We know that our culture is a protective factor, a shield against institutions and peoples who believe we are less than and should not be afforded the same rights and opportunities as others. As the oldest continuing culture in the world, this legacy should be a source of pride for all Australians, yet we know that casual/everyday racism, racial hatred and violence and systemic racism is experienced by Aboriginal and Torres Strait Islander peoples all too often. Creating profound, long lasting implications on wellbeing and on everyday life.

Institutional racism is a significant issue for VACCA as an organisation and for the communities we support. We are forced to work in a system that is inherently racist, and our staff continuously confront this when working with government and mainstream Community Service Organisations.

Our children, young people and families experience racism on a daily basis and have to live with the repercussions. Evident in the high rates of Aboriginal children and young people in the child protection and youth justice systems. The goal of social inclusion requires significant social and systemic reform. Aboriginal and Torres Strait Islander peoples have a right to be safe and have equity in access to the opportunities available to all Australians.

Australia is yet to come to terms with our violent, genocidal past and the ongoing impacts of invasion including racist systems, policies and beliefs. The Blak Lives Matter movement in 2020 shows that Australians were surprised that such treatment and injustices continue to happen in this country. An Anti-Racism framework will never be successful until the Federal government acknowledges that Aboriginal land and sovereignty was never ceded; and that Aboriginal and Torres Strait Islander peoples are acknowledged as the First Peoples of Australia in the constitution.



What needs to be done?

VACCA contends that the Australian government has a long way to go to addressing racism. Evidenced by the fact there is no national Treaty process underway, nor is there fundamental protection of human rights in the Constitution, or via a Charter like in Victoria or a Bill of Rights that we see in other countries. The proposed Anti-Racism Framework is to be a 'central reference point for actions on anti-racism', but without enshrined rights and protections against racism that are not capable of being repealed at government whim, a framework is not strong enough to reform ingrained attitudes and systemic barriers.

The Australian Constitution does not recognise Aboriginal and Torres Strait Islander peoples as the First Peoples of this country, the Indigenous Voice currently being heralded as the appropriate next step forward does not honour the request of community members and leaders in the Statement of the Heart. The proposed Indigenous Voice will not be constitutionally enshrined, but legislatively adopted, providing little protection nor guarantee for voices of Aboriginal and Torres Strait Islander peoples to be heard and respected.

The Statement of the Heart also called for a Makarrata Commission for agreement making and truth telling. This process has been rejected nationally, but in Victoria a Treaty process, alongside the establishment of the Yoo-rrook Justice commission is underway. You cannot have treaties without the shared understanding of our nation's history, this truth is also fundamental in being able to address and eliminate racism towards Aboriginal peoples.

We must raise the age of criminal responsibility to at least 14. Jail is not an appropriate place for children to be. We know that children under the age of 14 are still developing and maturing and that their brains do not have the necessary components or functioning in terms of both behaviour control and moral awareness to be able to be found criminally responsible¹. Australia is out of step with international human rights and the UN Committee on the Rights of the Child have called for countries to have a minimum age of criminal responsibility to be set at 14 years of age. Aboriginal and Torres Strait Islander children are disproportionately represented in the youth justice system. This is not because they are inherently bad or criminal, instead it is a reflection of a racist system that criminalises children rather than addresses the causes of their trauma and behaviour.

Addressing racism requires a fundamental shift in our idea of nationhood. Silence on our nation's true history has created a fallacy of a 'fair go' yet this ethos has only ever afforded to "white" people. For Aboriginal and Torres Strait Islander peoples and all new migrants, they know only too well that their achievements and successes would always be viewed as being in spite of their cultural identity, not because of it, and any failures would tarnish cultural groups as a collective, not the individual responsible. There is nothing fair or equitable, about the experiences of Aboriginal and Torres Strait Islander peoples and new migrants to this country.

VACCA does not support collating the experiences of racism for Aboriginal and Torres Strait Islander peoples and those from multicultural communities as the same. Aboriginal and Torres Strait Islander peoples' experiences of racism have been ongoing for over 230 years, often government sanctions through policy like which resulted in the Stolen Generations. The impact and solutions differ for each specific group.

¹ Richards, K. (2011). What makes juvenile offenders different from adult offenders? *Trends & Issues in Crime and Criminal Justice*.

This framework is heralded as anti-racist, as Ibram Kendi, the leading scholar on antiracism stipulates “the only way to undo racism is to consistently identify and describe it – and then dismantle it.”² It would lend to the framework's strength to have a clear definition of what government understands to be anti-racist action, not simply a presumption that what is being put forward is anti-racist in its intent and application.

Feedback

VACCA provides the following feedback on the following elements of the Framework.

The proposed guiding principles:

1. That the term Aboriginal and Torres Strait Islander peoples be used rather than Indigenous. Indigenous relates to a First Peoples across the world, not the specific experiences of Aboriginal and Torres Strait Islander peoples in Australia.
2. Acknowledging and recognising Aboriginal culture, histories and championing our rights is not enough, this framework must uphold, protect, respect. The framework should be upholding Aboriginal peoples' right to self-determination.
3. VACCA questions why British heritage is distinct from migrant heritage, does not this further 'other'-ise non-British migrants? Australia's history of invasion and the ongoing impact of this is not captured in the 'complex nature of cultural diversity' statement. VACCA contends that this needs to be more upfront as part of the necessary nationhood building required to come to terms with all our history, not just the colonised viewpoint.
4. 'Acknowledging the fundamental importance of the right to non-discrimination' is not enough, this framework must be a mechanism to hold discriminatory behaviour to account.
5. Recognition of intersectional experiences of racial discrimination provides no protection, or promotion of their rights; again this principle is lacking any rigour in how it will be upheld and make a difference to the experiences of those experiencing multiple forms of disadvantage. The definition of intersectionality in the consultation paper also needs to be strengthened. VACCA has developed our own understanding of intersectionality:
 - a. Intersectionality is the interconnected nature of social categorisations such as race, class, and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage. Experiencing multiple forms of disadvantage is a common experience for LGBTIQ+ people. Understanding intersectionality ensures that people accessing VACCA services are provided with the highest quality service.
6. The eight proposed guiding principles are not principles, they are a statement.

The proposed national outcomes:

1. VACCA contends that outcomes must include the Australian government's commitment to upholding the United Nations Declaration on the Rights of Indigenous Peoples as a mechanism to protect Aboriginal peoples from racism alongside their agreement to identify and eliminate racism as per Priority Reform Three of the National Agreement on Closing the Gap.
2. Within National Outcome One, there must be a commitment to uphold the right to Indigenous data sovereignty. The proposed national data framework must also to assess levels of bias and cumulative

² Kendi, I. (2019). *How to Be an Antiracist*. United States, Random House Publishing Group.



harm of oppression experienced by Aboriginal peoples including the impact on their social and emotional wellbeing.

3. National Outcome Two, there needs to be greater government powers to intervene around racism online as currently there are little protections afforded. If there were a Bill of Rights, then greater protections would be afforded to all Australians.
4. VACCA argues that Reconciliation Action Plans are not the appropriate mechanism, nor is reconciliation the appropriate aspiration to addressing racism. The question must be asked – Reconciliation on whose terms? Where is the evidence that Reconciliation Actions Plans have made a positive impact on racism since they have existed? We content that instead it must be Treaty, nationhood, truth telling and justice.
5. Pursuits for social inclusion, respect and justice must put Aboriginal and Torres Strait Islander peoples first and then speak to the needs of the multicultural communities as a show of respect to First Nations. There needs to be distinct national outcomes for both Aboriginal and Torres Strait Islander peoples and for multicultural communities and the approach needed must be focussed on the specific needs and experiences of both groups.
6. Capacity building of Aboriginal and Torres Strait Islander peoples or multicultural communities to address racism or race hate is not what is needed. Simplistically, this is like saying if victims weren't so easy to bully, then bullying wouldn't occur. This doesn't address the power imbalance that exists with white privilege or the causes and drivers of racism. If racism and discriminatory behaviour is made illegal and enforced, then it is not for the victims of such hate crime to deal with it but for authorities.
7. Measures and strategies to addressing racism and building social inclusion must be community-led designed, implemented, and evaluated. Co-design is not enough and too often tokenistic and funding provided to mainstream organisations and not to the organisations representing the people subject to racism.
8. Measures must also be strength based informed by wellbeing, not based on a deficit model.
9. There must be both guidelines and accountabilities for the Anti Racism Framework to be successful.

VACCA welcomes the opportunity to discuss our feedback with the Commission further.

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