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FECCA Submission to the Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper

1. Preliminary

The Federation of Ethnic Communities' Councils of Australia (FECCA) is pleased to respond to the Attorney-General's Department's Discussion Paper into the consolidation of Commonwealth anti-discrimination legislation.

As the national peak body representing the interests of Australians from Culturally and Linguistically Diverse (CALD) backgrounds, FECCA has a vested interest in ensuring discriminatory behaviours and practices which affect CALD communities are not perpetuated or tolerated, and that our legal framework offers appropriate deterrents and safeguards in this regard.

As this submission will demonstrate, our CALD communities very often bear the brunt of discrimination and racism in many facets of their lives. Indeed, FECCA works on a daily basis to counter racism and discrimination in Australia. To this effect we are one of just two non-government partners in the National Anti-Racism Partnership and Strategy, a strategy established as a result of Australia's multicultural policy *The People of Australia*, which seeks to counter racism in Australia in all its forms.

As its starting point, FECCA supports the National Human Rights Framework, of which the consolidation process is a part, in its stated objective of protecting and promoting human rights in Australia.

FECCA also supports the consolidation of federal anti-discrimination legislation, insomuch as this process can allow for a simpler, more-user friendly and more effective system of anti-discrimination regulation. However, this support is conditional on the consolidation agenda abiding by its core commitment not to see any of the protections currently in force reduced in any way through the

consolidation process.[i] Consolidation must be about **improving protections**, rather than reducing those protections that have taken decades to establish.

Through this submission FECCA will comment in particular on the **current and future operation of the protections currently offered in the *Racial Discrimination Act 1975* (Cth) ('*RDA*')**, as well as offer our perspective on how discrimination regulation, across all protected attributes, can be **strengthened and made more accessible** to persons from CALD backgrounds. FECCA responds to this inquiry in terms of our core business, which is the promotion and protection of the rights of persons from a CALD background. We cannot, however, comment on all questions raised in the *Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper ('Discussion Paper')*, as some of the issues raised go beyond our area of expertise.

The scope of our submission will be broad as, while race discrimination certainly goes to the heart of FECCA's core business, we are conscious of the fact that with almost one in two Australians being born overseas or having a parent who was born overseas, other forms of discrimination such as disability discrimination and sex discrimination also have a great impact on our constituents, independently or in conjunction with race discrimination. To this effect we must ensure that people from a CALD background can exert their rights in these arenas in equal measure to all Australians.

FECCA also sees the consolidation of anti-discrimination legislation as an opportunity to create more significant change in how we as a society approach issues of discrimination. Currently mechanisms of anti-discrimination protection are largely reactive and complaints based, and therefore not about creating systemic change which sees discrimination reduced across all areas of public life. As this submission will consider, any consolidated Act should look to creating systemic change and manageable, positive duties to reduce instances of discrimination that need legal intervention.

FECCA supports the Australian Human Rights Commission (AHRC) in their recommendation to this inquiry that this "review pursue consistency, as far as possible, between consolidated Commonwealth equality law, the *Fair Work Act*, and best practice features of State and Territory anti-discrimination and equal opportunity laws." [ii]

2. Discrimination - Position of CALD Communities

Despite the array of anti-discrimination legislation currently enacted around Australia, the sad reality is that our migrant and refugee communities continue to suffer ongoing discrimination in many areas of public life.

The poor health and social impacts of racism and discrimination are well documented.[iii] If, as a society, Australia says no to discrimination, this fundamental premise must be reflected in any consolidated Act.

FECCA undertakes yearly Access and Equity consultations with community members and service providers around Australia. Through these consultations we seek to ascertain just how accessible government services are to CALD communities, and highlight barriers to inclusion. We highlight here some reported experiences relevant to the current discussion.

In the arena of employment we have found time and time again that discrimination on the basis of race remains a very real barrier to equality in the workplace.

As three community members reported in our 2010/2011 consultations:[iv]

'I find I am faced with a lot of racism from employers who would rather have an Australian 4th/5th/6th generation working for them, than an ethnic person who is Muslim. However, my strong attitude to life is making me persevere no matter what setbacks I may come across, and I still treat my boss and co-workers with respect and with kindness even though they hold such strong racial thoughts.'

'I keep a positive attitude although am faced with racism. I keep my religion hidden from colleagues.'

'Racist comments at work – HR do not address it, people do not raise it and eventually it is the victims that have to leave the workplace.'

Respondents reported discrimination across the board – from the recruitment process, to job promotion, to employment security. Some reported feeling unable or unwilling to report racism or discrimination in the workplace for fear of losing their jobs. Furthermore, respondents reported that they were sometimes persuaded to change their names or falsify their employment histories in order to have a better chance of employment. In fact, in a widely- reported study by ANU, it was shown that applicants with Anglo-Saxon names were far more likely to attain job interviews than those with 'ethnic' names, even when applicants had similar qualifications.[v]

While discrimination in the workplace on the basis of race is addressed in both federal and state/territory based anti-discrimination legislation (i.e. the *Fair Work Act 2009* (Cth) '*Fair Work Act*'), in effect fear, lack of knowledge, and bewilderment with the mechanisms to address discrimination act as barriers for many people from CALD communities in pursuing their rights. This is even more significant for person from new and emerging communities (NEC), who in the midst of establishing a life in Australia may have not the time, knowledge or finances to pursue potentially expensive litigation.

Similarly, in the arena of housing (both private and public) discrimination is seen as a significant barrier to equal access. Access and Equity respondents revealed that:

'Because you have lots of kids you can't get a house.'

'I have a large lot of kids and houses here are small. Private rent is hard and we are not liked. Government houses are very small, even 3 bedrooms flats is not enough for me.'

'[It is] very rare to get translated materials regarding housing issues and legislations, etc.'

As reported in our Access and Equity report, discrimination in both public and private housing markets was seen as a frustrating, humiliating and stressful challenge by consultation attendees. We found that there were anecdotes of racial discrimination, particularly against African families, and that much of the market's bias focused around cultural discrimination, such as the way people use a dwelling and their family composition. Furthermore, applications with foreign sounding names were said to not be considered, and refugees without a rental history were given no chance in the rental market. Those who had experienced firsthand the difficulties of accessing housing and the ongoing occurrence of discrimination expressed the need for the government to deal directly and efficiently

with this issue. Current complaint modes were not widely known, or were seen as linguistically alienating and onerous. [vi]

While the prevalence of discrimination is well reported in anecdotal evidence, by its very nature discrimination and racism can be hard to measure. Nonetheless pertinent studies such as the annual Scanlon Foundation Surveys -'*Mapping Social Cohesion*' have provided some of the most compelling evidence on the prevalence and changing nature of racist and discriminatory behaviours in Australia. The 2011 survey revealed that while, in 2009, 10% of respondents reported experiencing discrimination "on the basis of skin colour, ethnic origin or religion" over the previous 12 months, this percentage rose dramatically to 14% by 2010 and stayed at this high level in 2011.[vii] The 2011 study also revealed that while there is now a "large measure of acceptance of groups once stigmatised" such as immigrants from Italy and Greece, there is currently a marked and high level of negative feeling towards those from countries such as Lebanon and Iraq.[viii]

What this anecdotal and statistical evidence suggests is that there is still a culture of acceptance around discrimination in Australia. Systemic change is needed, by creating a culture of 'equality' for all Australians, and by adequately resourcing agencies, such as the AHRC, to ensure adequate rights education, and by ensuring accessible means of rights protection and enforcement.

Our anti-discrimination systems cannot be such that those who are better resourced are able to effect discriminatory practices without consequence.

3. The Racial Discrimination Act 1975 (Cth)

The *RDA* was the first piece of federal anti-discrimination legislation to be enacted, paving the way for protecting the attributes of 'race, colour, descent, national or ethnic origin'.[ix] With over 35 years of operation, and a strong basis of judicial interpretation, the *RDA* remains in many ways one of our strongest pieces of anti-discrimination protection.

FECCA believes that the strength of the *RDA* lies in the fact that:

- The *RDA* has its basis in the implementation of Australia's international human rights obligations though the implementation into law of the Convention on the Elimination of All forms of Racial Discrimination (CERD). Save a reservation to article 4 of the Convention (criminalising acts of racial or religious hatred), the *RDA* is a relatively effective mechanism of transforming components of CERD into domestic law.

- There are very few exemptions to the *RDA*, compared to other pieces of federal discrimination law and state and territory anti-discrimination law (as outlined in the Discussion Paper). This affords quite significant and comprehensive protection in the arena of race discrimination.

- S10 of the *RDA* provides for 'equality under the law' which is a positive duty other pieces of federal discrimination legislation do not currently contain. S10 places a positive duty on Governments to ensure the law operates in a non-discriminatory fashion. FECCA contends that this provision should be extended to all protected attributes in any consolidated Act, and that this would go a long way towards creating a 'positive duty' to promote equity in society, rather than using the legislation to merely reactively address complaints.

- The *RDA* protects volunteers where other pieces of federal legislation currently do not. Volunteers, just like employees and tenants, have the right to be treated fairly and in a non-discriminatory fashion.

FECCA asserts here that the rights conferred through these unique features must be retained and/or advanced in any incoming consolidated Act. The value these features provide must not be diminished, but rather extended to other protected attributes.

However, while FECCA anticipates that many of the submissions received in relation to this inquiry will hold the *RDA* as the benchmark for solid and appropriate discrimination protection, FECCA takes this opportunity to highlight that the *RDA* is still an imperfect instrument and that racial discrimination protections could be stronger, better in line with international convention, state and territory legislation, and other pieces of federal legislation, and could better meet the core objective of the *RDA* which is, in effect, to eradicate race discrimination in Australia. The consolidation process provides an opportunity to strengthen protections in relation to race discrimination in this regard.

FECCA contends that current gaps and problems with the *RDA* include (NB: many of these gaps are applicable in equal measure to other pieces of federal anti-discrimination legislation):

- **Limited Powers of Investigation:** The powers of the AHRC are limited in regard to the degree to which they can pursue matters of systemic race discrimination under the *RDA*, without an individual complainant. Indeed, discrimination matters relating to the same business/industry may continually come before the AHRC for conciliation but, due to confidentiality agreements, and lack of investigation and enforcement power on the AHRC's part, little can be done to challenge pockets of racist behaviours.

  FECCA therefore recommends that a) an external body be vested with powers of investigation in relation to discrimination b) the AHRC be given power to report publically on industries where racist behaviours are prevalent, c) outcomes of conciliations (de-identified) should be publically reported to ensure like perpetrators of discrimination are put on notice and d) the AHRC should be able to encourage compliance with the Act by industries, by encouraging voluntary action plans which can be lodged with AHRC.

- **Costs:** As with other federal anti-discrimination laws the *RDA* falls within a cost jurisdiction, which can be a significant deterrent for litigants, often facing off against a well-resourced opponent. In truth, any remedy attained may be insignificant when compared to the costs that may be incurred if a claim is unsuccessful. To this effect FECCA supports recommendations that the consolidated Act consider that all anti-discrimination actions fall within a 'no cost' jurisdiction with each party only committed to meeting their own costs. However, where a losing respondent has the capacity to pay the winning complainants costs there should be an option for the court to award costs in this situation. [x]

- **Standing:** At present, standing to raise a matter in a Federal Court under the *RDA* is only granted to persons 'aggrieved' in a matter. This can prove a major barrier to access to justice for CALD complainants. Court processes can be incredibly daunting, particularly for those for whom English is not a first language and/or are unfamiliar with legal process in Australia. FECCA, therefore, recommends that a consolidated Act clarify who has standing to appear in a discrimination matter. In doing so, FECCA recommends that criteria for standing be

extended to a) organisations with a particular special interest in the matter and b) to the AHRC to initiate actions on behalf of a group aggrieved, in such cases where a claim is assessed as being inappropriate to go through the conciliation process.

- **Burden of Proof**: As with all Commonwealth anti-discrimination legislation, the *RDA* places the burden of proof on the complainant. This can be a major barrier to achieving equity for complainants, in particular CALD complainants who may face additional language barriers. In line with the Discussion Paper, FECCA supports a consolidated Act which shifts the burden of proof once a prima facie case has been established. This is in line with European models.

- **Legal Representation and Advice**: In its submission to this inquiry, the Discrimination Law Expert's Group ('DLEG') highlighted lack of legal representation and legal aid for litigants in this arena as a major barrier to access to justice.[xi] While the conciliation process (which FECCA, on the whole, continues to support as a primary process for resolving complaints) has many benefits in its informality and collaborative nature, this process can be daunting for CALD litigants who may feel pressured to settle in the absence of solid legal advice about the likelihood of greater success if an action proceeds. As the DLEG highlighted in their submission to this inquiry, "unlike comparable areas of law such as consumer protection, occupational health and safety, securities and investment regulation, and the fair work system, there is no regulatory agency that can act to enforce the law" in this area.[xii]To this effect FECCA recommends a consolidated Act make provision for funding for specialist legal aid services or regulatory agencies which can provide comprehensive advice to litigants in this arena.

  The law should also make provision, that in cases deemed appropriate by the AHRC, a matter can proceed directly to court, in situations, for example were there would be a substantial power imbalance during conciliation. Interim orders should then be available to give protection while matters are proceeding.

- **Religion:**

  Protection: Currently there is no express protection of 'religion' as a protected attribute under federal anti-discrimination law. It has largely been left to case law and state based discrimination law to extend protections to ethno-religious identity (i.e. see *Anti-*

Discrimination Act 1977 (NSW))**.** FECCA contends that the consolidation process provides an excellent opportunity to make religion a codified protected attribute, and so offer protection to the 70% of people in Australia adhering to a particular religion.[xiii]

Exemptions:

FECCA recognises that the issue of religious exemptions is one that encourages diverse and varied views. Regarding the retention of religious exemptions we recommend the government undertake a specific inquiry, with religious groups and the public more broadly, to consider the implications of including or removing religious exemptions.

- **Criminal Jurisdiction –** Unlike some state based legislation (i.e. the Victorian *Racial and Religious Tolerance Act 2001*), and in line with a reservation to article 4 of CERD, the *RDA* does not currently include criminal sanctions for acts of serious racial discrimination, hatred or vilification. This is a significant gap in protection, as it leaves it to individual to pursue their rights, rather than using the weight of the criminal law to encourage a cultural shift in how society views acts of racism and discrimination. Offences with penalties should therefore be made available for serious acts of racial vilification, discrimination, hatred and harassment.

The consolidation process is an opportunity for the solid protections afforded in the *RDA* to extend to other arenas where currently protection is not as strong. It is also an opportunity for protections in *RDA* to be strengthened by working to fill the gaps/resolve the problems as identified above. In addressing a number of these issues in a Consolidated Act, we would also be ensuring better access to justice in relation to other protected attributes.

4. Intersectional Discrimination

While our focus is the *RDA* it must also be noted that FECCA has a vested interest in there being strong protection in relation to all areas of discrimination. Indeed, many CALD persons may face discrimination on more than one front, i.e. disability and race or gender and race. To this effect FECCA supports AHRC the recommendation that, it should be specified within a consolidated Act

that demonstrating discrimination under any protected attribute, or in the alternative a combination of attributes, should be sufficient to commence an action in relation to discrimination.[xiv]

Additionally, rights information in relation to all heads of discrimination must be presented in culturally sensitive and appropriate ways, including in-language, to ensure rights can be exerted in relation to all protected attributes, including in relation to discrimination on the basis of multiple attributes.

5. General Limitations Clause

At present there are very few exemptions to *RDA* compared with other legislation. It is proposed in the Discussion Paper that a 'general limitations' clause could be inserted, rather than having specific exemptions for specific heads of discrimination. While this 'general limitations' clause may have the desired effect of simplifying the law in this arena, it would be very easy for this process to result in there being new exemptions opened up in relation to race discrimination. This would go against the consolidation agenda's stated objective of not reducing the potency of any laws currently in effect.

This will mean careful drafting and consideration would need to be given to any general limitations clause if implemented.

6. Special Measures

In accordance with s8 of the *RDA*, special measures may be undertaken in relation to particular groups, if those measures are necessary for ensuring the 'adequate advancement' of certain racial or ethnic groups to ensure they can enjoy their human rights in full.

In the first instance, FECCA does support the existence of a special measures provision being incorporated in the consolidated Act to the effect that such special measures may be taken in relation to any of the protected attributes covered.

Nonetheless the drafting of the provision must be executed with care to ensure that any special measures be in absolute accordance with the spirit, that is the stated objective of the Act. The

special measures provision cannot be used to, in effect, inappropriately single our certain groups, or facilitate discrimination.

To ensure this occurs FECCA recommends that the AHRC receive applications to implement special measures, and is charged with developing specific guidelines around special measures which indicate, clearly, when they might be appropriate.

FECCA also supports the reasonable adjustments premise as found in the *Disability Discrimination Act 1992* (Cth) (*DDA*), and asserts that this should extend to all protect attributes to ensure equity.

7. Vicarious liability

One finds in the *RDA* that the current test regarding vicarious liability for race discrimination in relation to employment is that the discrimination must be 'in connection with the person's employment or duties as an agent'. As highlighted in the Discussion Paper this 'connection' may be difficult to prove in some instances i.e. in relation to racial vilification.

It is then a defence for the employer to say that they 'took all reasonable steps to prevent the employee or agent from doing the act.' Again, what qualifies as 'reasonable' may be difficult to deduce.

To this effect, FECCA contends that the test for vicarious liability, including the onus born by employers must be clarified.

A test which continues to focus on 'reasonable steps' may be useful, if this test can be worded so as to place a positive onus on employers to ensure they have policies in place to prevent discrimination occurring, and have implemented internal regulations to see these policies are practically carried out.

FECCA suggests that general employment guidelines to ensure discrimination is not tolerated in workplaces, could be developed by a body such as the AHRC, which all employers are encouraged to adopt. While implementing these guidelines would not be mandatory, evidence of implementation would support a finding that an employer took 'all reasonable steps'.

8. Race Discrimination Commissioner

FECCA would like to ensure here that, despite the consolidation of anti-discrimination legislation, the role of the Australian Race Discrimination Commissioner and Race Discrimination Unit will remain distinct. The Commissioner and unit play an imperative educative role around race discrimination, advising on matters of race discrimination and ensuring racism is not tolerated in any form. FECCA contends that it would be a great loss to lose this specialised role.

9. Harassment

FECCA contends that there should be a prohibition against harassment included in the consolidated Act which covers all protected attributes.

Indeed, it should not be left to case law to prescribe that some forms of harassment, i.e. harassment based on race, is a form of discrimination. Harassment based on race can have dire physical, psychological and economic outcomes, and can most certainly lead employees to leave the workplace. Harassment needs clear prohibition and regulation.

10. Powers of the AHRC

In the first instance FECCA supports the AHRC recommendation that "existing commission inquiry powers and functions under the AHRC Act apply in relation to all areas of public life and attributes covered by a consolidated Commonwealth equality law." [xv]

However, as outlined in the Discussion Paper, the powers of the AHRC are limited in regard to the initiation of investigations into unlawful discrimination. Indeed, for the most part the AHRC can only conciliate a complaint once it has been lodged with the AHRC.

FECCA supports the criticisms raised in the Discussion Paper in relation to the pitfalls of this complaints model. As discussed throughout this submission, persons from CALD backgrounds may operate at a significant disadvantage within a dispute resolution process. Vulnerability in this regard may stem from language or financial barriers, or general misinformation.

It is therefore probable that many instances of discrimination go unreported and unaddressed, allowing cultures of discrimination to manifest and perpetuate within some organisations. Therefore, granting an external, expert, body, the power to launch investigations into breaches of the law, and initiate actions, may both act as a deterrent to the perpetrators of discrimination and allow for discriminatory practices to be shut down at their source by a well resourced and informed advocate. This external body may be the AHRC if care is taken in formulating this investigative power so as to ensure no conflict of interest is perceived in the conciliation process.

Additionally, FECCA recommends that where there is clear evidence of systemic discrimination in relation to specific service areas i.e. housing or employment the AHRC should be able to broadly investigate and make recommendations for systemic change and compliance.

Finally, FECCA supports funding for the AHRC to monitor the impact to the consolidated Act on the frequency and nature of racism and discrimination in Australia. It is imperative that we have a means of monitoring whether the new systems have long term cultural impact.

Indeed, the consolidation processes offers an excellent opportunity to clarify, enhance and improve the powers of the AHRC as the peak body involved in the administration of federal anti-discrimination law.

11. Developing a Positive Duty

The consolidation processes provides an excellent opportunity to create a positive duty to promote equality and shun discriminatory practice.

In the race discrimination arena one finds, in other jurisdictions such as Canada, the UK and the US, that there is some obligation placed on entities including public sector, and in some instances private sector entities, to pro-actively eliminate discrimination and to promote equality of opportunity.[xvi]

To this end FECCA calls for clear objectives at the start of the consolidated Act to the effect that the Act seeks to ensure equity across all areas of public life and places a positive duty on public and private sector industry to ensure this occurs. We need to then ensure that clear compliance guidelines are then developed to assist with the execution of this positive duty, and that information is disseminated clearly and effectively to all responsible bodies. Compliance guidelines could address, for example, OH&S structures as these relate to creating a healthy working environment free from discrimination.

12. Disability Discrimination

FECCA also takes this opportunity to reiterate our call that the current exemption of the *Migration Act 1958* (Cth) from the *DDA* must be removed as a matter of course, and that this must be clarified in any consolidated Act.

As it stands, FECCA feels that the migration health assessment, which repeatedly fails to make a distinction between disability and health, is discriminatory towards immigrants with a disability, and the exemption to the *DDA* facilitates this.

Indeed, is not uncommon for families to immigrate without declaring a family member with a disability (leaving them behind, as they believe a family member with disability will compromise their application for a visa) and applying for this member to immigrate to Australia after they arrive. This process is often protracted and extremely traumatic for the family and for the individual left behind.

FECCA also notes that families are being denied permanent residency due to medical assessments of individual family members with various disabilities, including blindness, hearing impairment and autism.

13. Human Rights Education

FECCA's access and equity consultations have revealed that human rights education, as it stands, is simply not going far enough, and that is not reaching many CALD constituents in accessible mediums.

The incoming changes to the law provide an apt opportunity to re-invigorate in-language and culturally-specific rights education, specifically in the arena of employment and housing rights.

To execute this, the AHRC, as a peak rights educator, must be adequately resourced. Indeed in outlining the AHRC's role in the consolidated Act, reference must be made to the need for any education campaign resulting from its implementation to have at its heart equal access. In other words, it must ensure that all information is accessible to the most vulnerable.

Ethno-specific organisations can be instrumental in ensuring human rights education is well received and understood. To this effect, the AHRC should be encouraged to work with these agencies as a matter of priority.

The consolidated Act should also require the AHRC to develop a cultural competency framework so that there is a trained workforce in the AHRC to support accessible service delivery to CALD Australians.

FECCA thanks the Department for the opportunity to submit to this review.

[i] Australian Government Attorney General's Department, *Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper* (2011) at page: 6, para 10.
[ii] Australian Human Rights Commission, *Submission to the Attorney-General's Department*, *Consolidation of Commonwealth Discrimination Law*, Recommendation 4 at page 7.
[iii] See for example: VicHealth, *More than tolerance:*

Embracing diversity for health (2007) -http://www.vichealth.vic.gov.au/en/Publications/Freedom-from-discrimination/More-than-Tolerance.aspx.

[iv] FECCA, *The Quest for 'a Level Playing Field' FECCA Access and Equity Report 2010-11*. Please see: http://fecca.org.au/images/stories/documents/Submissions/2011/submissions_2011060.pdf.

[v] Booth. A, Leigh, A, Varganova, E., *Does Racial and Ethnic Discrimination Vary Across Minority Groups? Evidence from a Field Experiment* (2009). http://andrewleigh.org/pdf/AuditDiscrimination.pdf.

[vi] FECCA, *The Quest for 'a Level Playing Field' FECCA Access and Equity Report 2010-11*. Please see: http://fecca.org.au/images/stories/documents/Submissions/2011/submissions_2011060.pdf.

[vii] Markus, A, *Mapping Social Cohesion: The Scanlon Foundation Surveys Summary Report 2011*, (2011), Monash University. Please see: http://www.arts.monash.edu.au/mapping-population/--documents/mapping-social-cohesion-summary-report-2011.pdf at page 17.

[viii] Ibid at pages 1-2.

[ix] *Racial Discrimination Act 1975* (Cth) s 9.

[x] See discussion, for example, in: Discrimination Law Experts' Group, *Consolidation of Commonwealth Anti-Discrimination Laws Submission* (2011) at page 26.

[xi] See discussion for example in: Discrimination Law Experts' Group, *Consolidation of Commonwealth Anti-Discrimination Laws Submission* (2011) at page 12.

[xii] Ibid

[xiii] ABS (2007). Census 2006 fact sheet. Available: http://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/6ef598989db79931ca257306000d52b4!OpenDocument.

[xiv] Australian Human Rights Commission, *Submission to the Attorney-General's Department*, *Consolidation of Commonwealth Discrimination Law*, Recommendation 22 at page: 25.

[xv] Australian Human Rights Commission, *Submission to the Attorney-General's Department*, *Consolidation of Commonwealth Discrimination Law*, Recommendation 44 at page 55.

[xvi] Australian Human Rights Commission, An International *Comparison of the Racial Discrimination Act 1975* please see: http://www.hreoc.gov.au/racial_discrimination/publications/int_comparison/0.html.