National Anti-Racism Framework Scoping Report 2022

Community Guide

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National Anti-Racism Framework Scoping Report 2022

Community Guide

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1. Introduction

Racism is a longstanding issue in Australia. It has long escaped official attention. Australia has no national policy to address racism, and community calls for action have become increasingly loud. Recent global events re-shaped the way we live, how we perceive the world, and how we perceive each other. The COVID-19 pandemic, Black Lives Matter movement, Indigenous deaths in custody, the Christchurch terrorist attacks and spikes in antisemitism have exposed the ongoing violence experienced by negatively racialised groups.

> It's almost impossible to have a conversation about racism and hate in society because most Australians have an image of Australia as not being a racist country and Australians as not racist. — *community consultation participant, NARF project, May 2021 – April 2022*

The myth that 'racism doesn't exist in Australia' is easily debunked by research and evidence.

In 2021, 52% of Aboriginal and/or Torres Strait Islander People reported experiencing at least one form of racial prejudice within the past 6 months[1] and 34% of people from non-English speaking backgrounds reported experiencing racism based on complexion, ethnic origin, or religious belief within the last 12 months.[2] In March 2021, Australia's Race Discrimination Commissioner, Chin Tan, responded to the widespread calls for action on racism with a proposal for a National Anti-Racism Framework, and began work on an initial scoping phase. In December 2022, the Commission released the National Anti-Racism Framework Scoping Report 2022.

1 Reconciliation Australia, 2020 Australian Reconciliation Barometer (Summary Report, November 2020) 5 <https://www.reconciliation.org.au/wp-content/uploads/2021/02/Australian_Reconciliation_Barometer_-2020_Summary-Report_web_spread.pdf>.

2 Andrew Markus, Mapping Social Cohesion: The Scanlon Foundation Surveys (Report, Scanlon Foundation Research Institute, 2021) 30 <https://scanloninstitute.org.au/sites/default/files/2021-12/Mapping_Social_Cohesion_2021_Report_0.pdf>.

Racism in Australia

In 2021

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of Aboriginal and/or Torres Strait Islander People reported experiencing at least one form of racial prejudice within the past 6 months

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of people from non-English speaking backgrounds reported experiencing racism based on complexion, ethnic origin, or religious belief within the last 12 months

This Community Guide provides a summary of the key themes identified in the report.

About a National Anti-Racism Framework

The purpose of a National Anti-Racism Framework is to provide a long-term, central reference point for the implementation of anti-racist standards and initiatives. A National Anti-Racism Framework would provide guidance to government, organisations, businesses, and communities on how to address racism and the role they can play in preventing it in Australia.

What have we done so far?

Between March 2021 and April 2022, the following actions were taken to scope the development of a national anti-racism framework:

- **Concept paper:** In March 2021, the Race Discrimination Commissioner, Chin Tan, released an initial concept paper outlining suggestions about why we need a framework, how a framework could operate, principles to guide a framework, how a framework could be developed, examples of what a framework could look like, and proposed key elements to be included.

- **Consultations and public submissions:** We took a consultative approach to ensure that individuals and organisations could contribute to the national conversation on addressing racism. This approach upheld human rights-based principles of participation and empowerment.

In total, 100 consultations were conducted with 300 organisations, 10 of those being community-specific consultations.

We received 164 submissions from a range of non-government organisations, peak bodies, Indigenous and non-indigenous organisations, as well as a large portion produced by individual community members.

- **Existing research:** Expanding on what we heard from participants about the need for a national anti-racism framework, further evidence-based knowledge was gathered from the work of scholars and experts. This supported what we heard from project participants.

- **Advisory Groups:** Two Advisory Groups were established:
  - **A Multicultural Advisory Group,** comprising organisations who work with negatively racialised communities, whose role was to provide overall guidance on the development of a national framework, assistance with community engagement, and feedback on draft documents.

» **A Commonwealth Government Advisory Group,** comprising federal government departments, agencies and institutions, whose role was to provide information about relevant policies, programs and initiatives, contribute to stakeholder mapping, distribute the call for submissions, and assist with consultations.

What did we learn?

Feedback from consultations and submissions highlighted overarching principles for a framework to incorporate, as well as six key themes. Three of these key themes were cross-cutting and three were sector-specific. These findings are described in more detail below.

What's next?

We have secured federal government funding to undertake an ambitious plan of work until June 2026, as we move from the scoping phase to a design phase. Key elements of this work will include:

- further comprehensive consultations which look deeper into all the key themes in progressing a National Anti-Racism Framework
- co-designing a framework
- working towards nationwide implementation through a summit to seek signatory commitment from government.

Keep updated

If you would like to be kept informed about progress on the National Anti-Racism Framework, or the work being done more broadly within the Race Discrimination Team, please email your details to: antiracismsecretariat@humanrights.gov.au.

2. National Anti-Racism Framework Scoping Report: Findings

Feedback from consultations and submissions highlighted overarching principles for a framework to incorporate, as well as three key cross-cutting themes and three sector-specific themes to shape a framework. These are explored in more detail on the following pages.

A: Overarching principles

The following key principles were suggested for a national anti-racism framework:

1. A human rights-based approach

A human rights-based approach is one that is informed by the principles of participation, accountability, non-discrimination and equality, empowerment and legality, and is guided by Australia's international obligations.

For a national anti-racism framework, a human rights-based approach means centring the knowledge and experiences of First Nations peoples and those from other negatively racialised communities.

2. Indigenous sovereignty and truth-telling

A framework must prioritise the experiences of First Nations peoples. This feedback was received strongly and consistently from both Indigenous and non-Indigenous organisations and community members.

3. Co-design

The vision, outcomes, and strategies for the framework must be shaped by the input of First Nations peoples and those from other negatively racialised communities. A framework must centre the lived experiences and firsthand knowledge of community members.

4. Intersectionality

An intersectional approach is an overarching imperative for a national anti-racism framework. Intersectionality acknowledges that race combines with other social categories (such as sexuality, class, gender, age, ability, and faith) to create distinct lived experiences and identities. When policy, programs, and the law accommodate intersectional experiences and harms, they can respond meaningfully to the breadth and complexity of racism.

> Racism plays out in different ways for different cohorts in society, there is no "one size fits all" approach. —*community consultation participant, NARF project, May 2021 – April 2022*

B: Cross-cutting themes

1. Data

What are the issues?

We heard that data is vital for raising awareness of the existence and severity of racism experienced by individuals and communities, and for influencing policy and service delivery. Longitudinal data – data collected from the same individuals over time – can be used to provide evidence that racial discrimination is a fundamental determinant of inequality.

We heard that comprehensive national data on the prevalence, nature, and impacts of racial inequities is not available; longitudinal data is extremely limited. Where datasets do exist, they cannot readily be shared or compared.

We heard that First Nations people, people from migrant and refugee backgrounds, and children are often under-represented in current datasets. We also heard that data about Indigenous communities may falsely characterise racism as a result of communities' own deficiencies or of a problem within the community itself, as opposed to being the result of external influences, and that it may ignore Indigenous sovereignty and self-determination.

Preliminary recommendations:

- Establish a comprehensive, national-level, and independent database which captures diverse forms of data to show the prevalence, nature, and impacts of racism and racial inequities.
- Ensure that qualitative as well as quantitative data is collected. Qualitative methods allow the voices of people who are often marginalised to be heard.
- Implement systems of Indigenous data governance to ensure sovereignty of Indigenous data – that is, the right of Indigenous people to retain control of this data. This includes decision-making over how and why data is collected, its interpretation, analysis, and how it is shared.

Good practice example: Canadian Race Relations Foundation

Canada invested C$6.2 million into increasing the collection of reliable and comparable data for anti-racism work and has established, through legislation, the Canadian Race Relations Foundation to facilitate long-term race-based data collection and research.

See https://www.crrf-fcrr.ca/en

Canada has also legislated to ensure First Nations communities' data sovereignty. One of the exemptions to Canada's data disclosure consent requirements is disclosure (given from the individual) to enable Indigenous governments and groups to access personal information to advance research or validate historical claims, disputes, or grievances. The Office of the Privacy Commissioner of Canada has also published guidance noting that First Nations, Métis, and Inuit peoples have inherent and collective rights to self-determination, which entail the ownership and governance of their data. In practice, this means the collection and use of relevant personal data typically require community engagement and the establishment of data governance agreements, and Indigenous governments and organisations are exempted from privacy requirements except when they are accessing personal information held by federal government institutions.

2. Education

What are the issues?

The need to educate the Australian public

We heard that among the Australian public, there is a widespread lack of awareness of how race and racism shape everyday life – and therefore a lack of motivation to address racism.

Specifically, we heard that there is a lack of awareness of:

- the racism and race-based violence experienced by First Nations peoples since colonisation, and its ongoing, intergenerational harms
- Australia's migration history, including discriminatory immigration laws and the ramifications of this history.

The need to address racism in educational settings

We heard that educational institutions are sites where racism is commonly experienced. In these settings, diversity is often viewed as a problem rather than as a strength.

The experience of racism at school can have long-lasting impacts on students' wellbeing and educational development.

Preliminary recommendations:

- Build awareness about the link between Australia's colonial history and present-day discrimination (especially systemic discrimination).
- Build awareness of Australia's migration history, including discriminatory immigration laws and the ongoing ramifications of these.
- Implement and evaluate anti-racism programs within educational settings.
- Develop anti-racist curricula that decentre White and European knowledge, culture, and ways of being, and embed Indigenous ways of being, knowing, and doing.

Good practice example: AIATSIS Education Strategy

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Education Strategy has a cutting-edge goal of developing and implementing dedicated Aboriginal and Torres Strait Islander curriculum designed by Aboriginal and Torres Strait Islander peoples. The AIATSIS Education Strategy includes anti-racism teacher training, the creation of education resources for anti-racism practice, and building culturally responsive professional learning for educators.

See https://aiatsis.gov.au/education

Other sites of interest:

ANTaR's Know Your Country campaign:
https://www.knowyourcountry.com.au

Narragunnawalli: Reconciliation in Education:
https://www.narragunnawali.org.au

3. Cultural safety

What are the issues?

We heard that cultural safety is an approach that emphasises the strengths of First Nations and other negatively racialised individuals by focussing on empowerment, healing, and self-determination. It has emerged as a solution to the perceived ineffectiveness of workplace inclusion and diversity initiatives.

Cultural safety is important in the workplace for recruitment, retention, career progression, and wellbeing. Cultural safety also has relevance in the delivery of services.

Preliminary recommendations:

- Implement anti-racist recruitment and hiring practices.
- Implement culturally safe mentoring and retention practices.
- Implement cultural accommodations that can support staff with lived experiences of racism.
- Implement discrimination, harassment, and vilification reporting mechanisms that are safe and transparent.
- Deliver cultural awareness and cultural competency training for staff.
- Long-term commitment by organisations to continuous monitoring and evaluation – perhaps supported by a regulatory framework (particularly for the Australian Public Service).

Good practice example: Birthing in our Community

In 2019 there was a study of a Brisbane based programme called Birthing in our Community. This service is a partnership between the Institute for Urban Indigenous Health, the Aboriginal and Torres Strait Islander Community Health Service Brisbane and the Mater Mothers' Hospital. The program successfully provides all-inclusive, First Nations governed, culturally safe midwifery services.[1] The study showed that the programme reduced preterm birth for First Nations women between 2013-2017.[2]

Learn more here:

https://www.thelancet.com/action/showPdf?pii=S2589-5370%2819%2930094-X

1. Institute for Urban Indigenous Health, Birthing Services (Website) <https://www.iuih.org.au/our-services/health-and-wellbeing-services/child-and-family-services/birthing-in-our-community/>.
2. Sue Kildea et al, 'Reducing preterm birth amongst Aboriginal and Torres Strait Islander babies: A prospective cohort study, Brisbane, Australia' (2019) 12 eClinicalMedicine 43.

C: Sector-specific themes

1. Media regulation and standards

What are the issues?

In consultations and submissions, we heard that First Nations and negatively racialised people are not adequately represented in the media. Intersectional identities – for example, LGBTQIA+ First Nations people or culturally diverse people with a disability – are seldom seen.

We heard that when First Nations and negatively racialised people *do* appear in the media, they are often misrepresented or stereotyped. It is rare that First Nations and negatively racialised people get to tell their stories in their own words on mainstream platforms.

> If a person's community and culture are not represented positively in the media and culture of their time, then there is a loss of a sense of self and feeling real. —*submission from Islamophobia Register Australia, NARF project, May 2021 – April 2022*

The consultation and submissions process highlighted that when people don't see themselves represented in the media landscape, they can feel excluded, and when they see themselves portrayed negatively, they can internalise the deficit narratives presented by the media.

Negative and inaccurate media portrayals can incite violence (including online hate) against negatively racialised individuals and groups and lead to increased racial discrimination. An example is the 2016 Moomba Festival in Melbourne. Following physical altercations between South Sudanese youths at this festival, media commentary suggested that violence is a common practice for 'African gangs'. The sensationalisation of this incident resulted in racialised abuse against people of African background across Australia, as well as increased difficulty for African Australians in obtaining employment and educational opportunities.[3]

Preliminary recommendations:

- Increase resourcing for community-controlled media.
- Increase the cultural safety of the media sector to drive greater diverse representation among media employees and leaders.
- Implement better regulation of media, especially social media, including legal protections against online hate.

3 Kathryn Benier, 'Don't Drag Me Into This': Growing Up South Sudanese in Victoria After the 2016 Moomba 'Riot' (Research Report, Centre for Multicultural Youth, 2018) 14 <https://www.cmy.net.au/wp-content/uploads/2019/11/Dont-Drag-Me-Into-This-Research-Report-Oct-2018-FINAL.pdf>.

Good practice example: The Everyone Project

The Everyone Project is an initiative led by the Screen Diversity and Inclusion Network, which documents media diversity in Australia through comprehensive de-identified surveys, specific to the film and television sector.[1]

See https://theeveryoneproject.org/film-and-tv-industry

2. Justice

What are the issues?

We heard that First Nations and other negatively racialised people are over-represented in the youth justice and criminal justice systems. This is due to over-policing and racism at each step of the justice process:

> Aboriginal people are more likely to be questioned by police than non-Aboriginal people. When questioned, they are more likely to be arrested than proceeded against by summons. If they are arrested, Aboriginal people are much more likely to be remanded in custody than given bail. Aboriginal people are much more likely to plead guilty than go to trial, and if they go to trial, they are much more likely to be convicted. If Aboriginal people are convicted, they are much more likely to be imprisoned than non-Aboriginal people, and at the end of their term of imprisonment they are much less likely to get parole than non-Aboriginal people. —*submission from Northern Territory Department of the Attorney General and Justice*, quoting former Chief Justice of Western Australia Wayne Martin, *NARF project, May 2021 – April 2022*

We also heard there is a lack of access to culturally safe legal assistance. For migrants and refugees, including women experiencing family and domestic violence, the challenges of navigating the legal landscape are exacerbated by citizenship status, economic barriers, and limited social capital.

There is also a strong link between involvement in the child protection system and future incarceration. Over 2 in 5 children in out-of-home care are Aboriginal or Torres Strait islander, while more than half of First Nations mothers incarcerated in NSW were removed from their families as children.[4]

Preliminary recommendations:

- Require training for police, paramedics, legal providers, and support service providers to ensure that assistance is trauma-informed and culturally responsive, and sensitive to the long history of systemic discrimination that Indigenous Australians experience.
- Implement independent oversight mechanisms, for example to address police misconduct, use of force, bail decisions, and the use of spit hoods.
- Raise the age of criminal responsibility across Australia from 10 to 14 years.

> 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 responsible. 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 —*submission from the Victorian Aboriginal Child Care Agency, NARF project, May 2021 – April 2022*

4 Elizabeth A Sullivan et al, 'Aboriginal mothers in prison in Australia: a study of social, emotional and physical wellbeing' (2019) 43(3) Australian and New Zealand Journal of Public Health 241, 243 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/1753-6405.12892>.

Good practice example: Culturally responsive sentencing

A pilot of the Walama Court List began in 2022 in the NSW District Court.

> "'Walama' is a word from the Dharug language meaning 'come back' or return. In the context of the Walama List, it is a coming back to identity, community, culture, and a healthy, crime-free life." —*Judge Dina Yehia*[1]

The Walama Court List adopts a community-based approach to sentencing, where Indigenous Elders and other Respected Persons are included in the sentencing process alongside the presiding judge. Through this approach, the Walama Court List seeks to minimise overrepresentation in prisons, reduce risk factors to re-offending, enable community participation in court processes and utilise culturally appropriate programs. This initiative is aiming for a 15% reduction in over-incarceration specific to First Nations people by 2031.

See https://www.aboriginalaffairs.nsw.gov.au/media/website_pages/our-agency/news/pilot-of-specialist-approach-for-sentencing-aboriginal-offenders/Walama-List-Fact-Sheet.pdf

1. Judge Yehia Walama List factsheet (Department of Communities and Justice, 2021) 1-4.

3. Legal protection

What are the issues?

Consultations and submissions emphasised that most people who encounter racism do not report it. Barriers to reporting racism include:

- an underlying distrust of institutions
- a fear of being silenced or discredited
- feelings of shame, hopelessness, or disempowerment
- fear of consequences of reporting.

We heard about gaps in existing legal protections. For example, our current federal anti-discrimination laws do not protect people from discrimination on the basis of irrelevant criminal records, nor do they always allow representative groups (such as unions) to bring claims to court on behalf of a group.

We heard that criminal penalties that focus on incarceration disproportionally impact First Nations and other negatively racialised communities.

The consultation and submissions process highlighted that hate crimes – both online and offline – cause intense distress to individuals and communities. Online platforms consistently fail to regulate the removal of inappropriate content, inadequately protecting users from harm.

Options to pursue a complaint are constrained for an array of reasons, some include:

- There are gaps in the law, for example federal law does not cover discrimination on the basis of religious identity.
- Timeframes for making complaints following an incident are limited.
- It is expensive and difficult to progress a complaint in court if other remedies are unsuccessful.

Preliminary recommendations

Legal protections

- Existing anti-discrimination laws be reviewed against the International Convention on the Elimination of all Forms of Racial Discrimination and the United Nations Declaration on the Rights of Indigenous Peoples.
- Rights that have been recognised in case law, including participation rights of Indigenous peoples, be codified in law.
- Counter-terrorism laws that contribute to the continued stigmatisation and negative racialisation of certain communities be reviewed.

Hate crimes

- Responses to hate crimes could shift to a harm-based approach that emphasises the impact on the target and the target's community, rather than proving the motive of the perpetrator.
- Civil remedies could be strengthened – for example, courts could be granted the power to order the removal of online content that is causing individuals or communities great distress, even if its posting does not amount to a criminal offence.
- Restorative and/or transformative justice measures could be explored as alternative avenues for tackling both interpersonal and systemic racism.
- Independent reporting mechanisms that include the option to report behaviour not meeting thresholds in anti-discrimination legislation could be established.

Good practice example: Reporting mechanisms

A number of mechanisms for reporting racism exist in Australia, including:

- Islamophobia Register https://islamophobia.com.au
- Asian Australian Alliance's reporting tool for COVID-19 related racism https://asianaustralianalliance.net/covid-19-coronavirus-racism-incident-report
- Call It Out – First Nations Racism Register https://callitout.com.au

These mechanisms are independent: the data is collected, held, and shared with data sovereignty by community and not government – meaning better accuracy and better reflections of racism.

3. Resources

A number of organisations who directly or indirectly address the concerns and impacts of racism are listed below. We acknowledge that there are effective programs and service-based organisations nationwide. The below list includes organisations with which we have had mutual ongoing engagement and can assure culturally safe service provision.

Register or report racism

- Call It Out, First Nations specific: https://callitout.com.au/
- Islamophobia, anti-Islam specific: https://islamophobia.com.au/
- Office of the eSafety Commissioner, for incidents of online racism: https://www.esafety.gov.au/report
- Asian Australian Alliance Register, reporting incidents of racism for Australians who are of Asian background: https://asianaustralianalliance.net/covid-19-coronavirus-racism-incident-report/
- Victorian Equal Opportunity and Human Rights Commission Community Reporting Tool (for many forms of discrimination): https://www.humanrights.vic.gov.au/get-help/community-reporting-tool/
- The Australian Human Rights Commission can also assist with many forms of discrimination including racial discrimination. Contact us at: https://humanrights.gov.au/complaints/make-complaint

Get support

- Settlement Council of Australia, national settlement services: https://scoa.org.au (National)
- ACON, LGBTQI+ health: https://www.acon.org.au (National)
- Welcoming Australia, settlement support: https://welcoming.org.au (National)
- Healing Foundation, First Nations intergenerational healing: https://healingfoundation.org.au (National)
- Well Mob, social, emotional and cultural wellbeing online resources for Aboriginal and Torres Strait Islander peoples: https://wellmob.org.au (National)
- Yarning Safe 'n' Strong, free and confidential phone support by the Victorian Aboriginal Health Service: https://www.vahs.org.au/yarning-safenstrong (National)
- Embrace Multicultural Mental Health, multilingual mental health information and community services: https://embracementalhealth.org.au/community (National)

Learn more

- *Racism. It Stops With Me*, anti-racism resource hub: https://itstopswithme.humanrights.gov.au/resourcehub
- Lowitja Institute, First Nations specific health research (NSW): https://www.lowitja.org.au
- Diversity Council Australia, workplace diversity research: https://www.dca.org.au
- MYAN, multicultural youth: https://myan.org.au
- Refugee Council of Australia, information regarding refugees and people seeking asylum: https://www.refugeecouncil.org.au/
- Australian Multicultural Foundation, information regarding multiculturalism: https://amf.net.au

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