

# TRANSCRIPT

## LEGISLATIVE ASSEMBLY LEGAL AND SOCIAL ISSUES COMMITTEE

### **Inquiry into Anti-Vilification Protections**

Melbourne—Thursday, 12 March 2020

#### **MEMBERS**

Ms Natalie Suleyman—Chair

Mr James Newbury—Deputy Chair

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#### **WITNESSES**

Ms Tanja Kovac, Chief Executive Officer, and

Ms Jacinta Masters, Manager, Gender Equity Victoria.

**The CHAIR:** Good afternoon. I welcome you here to our public hearing on anti-vilification protections. At this stage all mobile phones should be turned to silent. I welcome Tanja Kovac, the CEO of Gender Equity Victoria, and also Jacinta Masters, the Manager of Gender Equity Victoria. All evidence taken by this Committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege. All evidence given today is being recorded by Hansard, to my right, and is also being broadcasted live on the Parliament's website. Please note that any footage only can be rebroadcasted in accordance with the conditions set out in standing order 234. You will be provided with a proof version of your transcript for you to check as soon as it is available. Any transcripts, PowerPoint presentations or handouts will be placed on the Committee's website as soon as they are available. I now invite you to provide a 5- to 10-minute opening statement to the Committee, which will be followed by some questions from the Committee. Thank you, Tanja.

**Ms KOVAC:** Thank you very much. Can we just acknowledge the traditional owners of the land on which we meet and pay respects to our elders past and present. Thank you very much for the opportunity to meet with you today on what we consider to be a really important piece of legislation for review. Gender Equity Victoria is the peak organisation for gender equity, women's health and ending gendered violence in Victoria. We represent a whole range of organisations—women's health services, hospitals, private sector entities and businesses, sporting organisations and women in economics.

The organisation has existed in its current form really for only a relatively short time, but its earlier entity, the Women's Health Association of Victoria, has really been in existence for 18 years. Its first strategic plan was in 2018, but it followed on from really decades of gender equity advocacy that was done in an unfunded and ad hoc way. Gen Vic's evolution, which is really ongoing, is running parallel to the creation of the first Victorian Gender Equality Strategy, the first Royal Commission into Family Violence, which has positioned Victoria as a national and international leader in addressing gender inequality. Gen Vic's ongoing partnership for gender equity with Government will be enabled further by the *Gender Equality Act*, and I would just like to acknowledge to all of you on this Committee the leadership that was shown for this new critical piece of legislation. That the *Gender Equality Act* received that substantial multiparty support is a big credit to the Victorian Parliament, and we wanted to acknowledge that formally here.

We operate on a really lean budget—probably too lean—so we really appreciate the latitude that the Committee has given to us to expand orally today on our modest written submission in relation to the review. Today we will be focusing on gendered and sex hate crime and the failure of the existing legislative environment to protect Victorian women from the dangers of this sort of conduct. I have had an opportunity to read VEOHRC, the Trades Hall, GetUp! and the Asylum Seeker Resource Centre piece and VCOSS, and we basically support the general thrust of those submissions—that we need to widen the attributes that are covered by hate crime and shift from a model of crime prevention focused on incitement towards one that is harm prevention focused.

So we support that, but really in terms of what we wanted to focus on today, we wanted to focus a little bit on what we see as: if you looked at this as the existing legislative environment with very little change to what we have currently got, what does it actually mean for women, because in our view in the absence—if you did not make any reforms—there are actually really terrible consequences already going on for women. It means that they are really not able to rely at all on a protection that they should. The Act was designed at its most serious end to outlaw outrageous racial and religious intolerance of a kind that was committed by Blair Cottrell, the former leader of the United Patriots Front, and to our knowledge and the knowledge of a number of other submission writers this is the only known prosecution under this provision. It involved the filming of the beheading of a dummy purported to be a member of the Australian Muslim community in protest at a Bendigo mosque.

We would argue that the behaviour of Andrew Nolch in defacing the memorial of Eurydice Dixon, the young woman who was raped and murdered in Princes Park, amounted to very similar behaviour. He did that in protest. There was a protest organised following continued incidents of gendered violence at home and in the street in Victoria. Women and men came together very spontaneously to host a public vigil. These public vigils were repeated all across the state. The vigil was largely organised by women with some support from the trade union movement and other community organisations. It was an opportunity to peacefully protest and honour the death of a woman, and on the night before that vigil Nolch deliberately painted a large penis at the site where the vigil was to take place and where the woman's body had lain.

The reaction of the community was pretty extraordinary to this, but Victoria Police was not able to charge him with anything extraordinary. The charge was for the minor offence of criminal damage and offensive graffiti. He was convicted and issued with an 18-month community corrections order. At his trial, importantly, his defence barrister led evidence that Nolch was making a political statement about women and feminism. So this was no ordinary graffiti incident. That kind of charge would actually be for offensive graffiti, which is a swear word on a bus stop. This was something much different to that. It was designed for offence and to incite hatred and further acts of gendered violence against women like Miss Dixon and the women who wished to honour her and raise concerns about violence against women in the community. It was the gendered equivalent of serious hate incitement that the State did prosecute Cottrell for, but there was no capacity to do that for a woman in this state and for women in this state.

We think that the message that that sent to extreme activists in the men's rights movement was extremely dangerous for the lives of women in Victoria. We saw a copycat killing not long after that. It was not really a surprise to Gender Equity Victoria. The State had not been clear enough that it abhorred that conduct, and the judicial system did not have the capacity to deliver the punishment that was sufficient for that perpetrator.

We do not really have time to discuss it today, but there is evidence of a link between gendered violence and racial and religious violence. There are many accounts of incidents of gendered violence being an early warning sign for politically motivated terrorism and racially and religiously motivated violence. It is a continuum. It is incitement to hate that we are outlawing for its danger and threat to public safety. The extreme dangerous hatred is what we should be focused on, not limiting the attributes to which this behaviour applies. Any extreme form of hatred, from our perspective, is a threat to public safety. Jacinta would like to talk to you now, though, a little bit about some of the work that we have been doing in relation to online gendered violence.

**Ms MASTERS:** Gen Vic has a strong commitment to enhancing women's online safety. We have been working in this space since 2018 on a world-first project to address online abuse of women in which we work to promote the role of the active bystander and provide education on how to take direct and indirect action to support women and to ensure their voices online are not silenced. We also work with media organisations to ensure greater commitment to the equality, health and safety of women journalists, both freelance and salaried, who are too often the victims of extreme online abuse. I will speak to these two projects a bit later in this presentation.

It is a common occurrence for women in general to experience sexism and gendered abuse in online settings. A 2016 study by the Pew Research Center found that 76 per cent of women under 30 and 47 per cent of all women experience online harassment. Social media and online discussion forums are key platforms used to carry out online gendered abuse. Online violence can take many different forms, including sexual harassment; image-based abuse; slut-shaming; doxxing, which is where perpetrators of abuse broadcast private or identifying information about an individual online; rape threats; and death threats. Online abuse can sometimes move offline as well, such as when technology is used to access private information that is then mobilised to physically stalk or harm women. Threats are also made to victims and their family members in terms of death threats. Research by Amnesty International in 2017 revealed alarming impacts of online abuse. Statistics show that more than three in five—so that is 62 per cent—of those who said they experience online abuse and harassment said that they experience low self-esteem and loss of confidence as a result, 59 per cent said they had experienced stress, anxiety or panic attacks and 62 per cent said they have not been able to sleep as a result of online abuse.

While women as a whole are more likely to experience gender-based harassment and abuse online, it is people who exist at the intersections of disadvantage—for instance, people of colour, LGBTIQ people and people with

disabilities—who are more likely to be harassed online based on their gender and/or racial, sexual or physical lived experiences. For instance, in research conducted by Gen Vic, an LGBTI journalist indicated that her sexuality was used against her in a rape threat that suggested that the perpetrator would ‘rape her straight’ for an article she wrote on women’s sport. Women targeted for online abuse suffer a range of psychological, professional and financial impacts. This abuse impacts their income and ability to work, their ability to enjoy public space for fear that they are being stalked, or fear for their families. This then has an impact on women’s voices, where women increasingly start to self-censor and withdraw from social media altogether.

Sexism and gendered abuse often target individuals as backlash for perceived gains for women’s equality. It is those who challenge dominant gender norms, behaviours and practices who are most commonly victims of online abuse. For instance, a report by VicHealth entitled *(En)countering Resistance* found that those who work to promote gender equality can expect to meet backlash and resistance. Resistance and backlash occur across a continuum. At one end passive resistance occurs through the denial of gender equality-related problems, while at the other, aggressive and attacking behaviours are enacted towards women.

In an online context, for those women who challenge gender norms, behaviours and practices, resistance can quickly escalate into extreme forms of online abuse, informed by misogyny, racism, homophobia and transphobia, just to name a few. It is such online backlash that is increasingly reported in academic literature as an emerging form of violence against women. We have seen resistance and backlash in the well-known online abuse of the elite AFLW footballer Tayla Harris after a photo of her kicking a football was put online and subsequently taken down due to the scale and severity of online abuse she received. This abuse occurred again after a statue of Tayla was erected at Federation Square, celebrating her talent and achievements. Other examples in a sporting context include Heather Reid, an Australian football administrator and advocate for gender equality, diversity and inclusion in sport, who was told by one Twitter user that she should be tied up with bricks and drowned. She then reported this to Twitter, who responded that they found no issue with it. It was later reviewed again and belatedly removed after Reid insisted. This abuse is commonplace for women who play sport in areas that are traditionally male dominated and also for outspoken women in the sporting and media industries.

In order to respond to online abuse, it is important to understand the severity of that abuse. From Gen Vic’s work with women in media, journalists reported comments of an extreme nature. Through this project, women reported the exact type of comments that they were receiving. Victorian journalists and writers Van Badham, Kate O’Halloran and Giselle Au-Nhien Nguyen reported abuse such as:

... you should be gang raped ...

... you should have your throat slit ...

... you should be raped by dogs ...

“whatever it is, it doesn’t have friends”

“retrospective abortion would have been incredibly useful here”

“what a mouth, I’m surprised she hasn’t been a victim of DV herself”

“face the facts you are all sluts”

“if her husband beat her I’d have to say good on him”

These women and their families are sick and tired of there being no repercussions for perpetrators of abuse. They are tired of this occurring because of their work and their industry; they are tired of their workplaces doing nothing about it—and the justice system.

Gen Vic started working in this space in 2018 because there was minimal work happening right across Australia other than on intimate partner violence. There was also an urgent call to action to address online violence against women by the United Nations to develop creative ways to address violence against women and girls. Our project demonstrated a little bit of this creativity.

Since 2018 Gen Vic has been working on a two-pronged approach to address violence against women in online settings. This firstly includes educating individuals to be active bystanders and to stand up to online abuse and

support women in the aftermath by either making positive comments, liking a post or sending a supportive message; and, secondly, by working with the media, a group of women who are most at risk of online abuse, to educate organisations and gain their commitment to equality, wellbeing and safety for women journalists.

The active bystander approach was based on collectivist theory to address online violence. This means working with the community to rise up around women and protect them from abuse. This approach can be likened to women linking arms around women leaving abortion clinics to protect them from protesters. This theoretical concept was developed by academic Associate Professor Emma Jane of UNSW, which we applied to practice as an action-based research project. From this, Gen Vic produced two animated videos with a reference group including Domestic Violence Victoria, Women's Health Victoria, the *Guardian*, the eSafety Commissioner, VicHealth, Our Watch and others.

However, we knew that this was not going to deal with the issue in and of itself, as there needed to be a range of different preventative measures happening across a variety of settings—the legislature, social media entities and organisations such as media. The active bystander approach in this context is a stopgap measure to deal with the extreme abuse we are seeing and a lack of accountability on behalf of social media platforms and media organisations as well as an insufficient police response, which I will elaborate on in a moment.

We identified organisations as being critical settings for addressing online violence. We identified cohorts of women across different sectors that are most at risk. This included women journalists, women in sport and women in politics. We chose to start with women in media as we critically need their voices for change and we need women to equitably inform public discourse. We are also already under-represented in the media, and this risks further under-representation. As a result of our successful grant to tackle online violence against women Gen Vic, in partnership with the Media, Entertainment & Arts Alliance, produced a report entitled *Don't Read the Comments: Enhancing Online Safety for Women Working in the Media*. The report was based on international research addressing online violence, due to the lack of Australian research. It was also informed by qualitative interviews with Australian women journalists. The report made six key recommendations. These were:

1. A whole-of-organisation approach to address systemic and structural sexism in the workplace.
2. Training on gender, implicit bias and bystander intervention for all staff in a media organisation.
3. Treating gender-based abuse against women journalists on social media and websites as an issue of workplace health and safety.
4. Moderation guidelines and training that explicitly address gendered and other identity-based abuse as a subset of abuse that requires a strong response from the organisation.
5. Requiring audience members to complete a simple comprehension quiz before they are permitted to comment.
6. Requiring commissioning editors to provide specific support for freelance journalists even after the story has been published and invoices paid.

After the release of the report Gen Vic held a roundtable engaging all major metropolitan, regional and rural media organisations across the state. It was agreed at that meeting that we would work together to develop world-first protocols for addressing online violence against women journalists and commence the implementation of the recommendations of the report. It was identified at that meeting that while this work will help to address the issue, there is a continued need for advocacy to social media giants, government and police to hold perpetrators of abuse to account.

Likewise, buy-in from media organisations will require a whole-of-organisation approach to address other forms of gender inequality including lack of women in leadership, the gender pay gap and more. Gen Vic has now been re-funded for another 12 months to continue our work with the media, which is great. Media is essentially the first setting which we are working in. Once this model is implemented and evaluated we will source funding to expand this into other settings, including sport and politics, given that we have identified that they are cohorts that are at high risk of online abuse.

All of our work in the enhancing online safety for women projects supports women by giving them advice on what to do when they are abused. One of those options is to call 000; however, reports from women we have interviewed and from academic research have found that women feel that they are not protected by the justice system, and that it is simply an area that is not taken seriously enough or where police are too stretched to do something about it.

A 2015 UN women's report *Combating Online Violence Against Women & Girls: A Worldwide Wake-up Call* found that only 26 per cent of law enforcement agencies in 86 countries surveyed are taking appropriate action and called for greater sanctions to develop and uphold laws, regulations and governance mechanisms to deter perpetrators from committing online violence. Today this demand for sanctions is even greater as more and more women in Victoria and across Australia are publicly speaking out about abuse and the need for consequences for perpetrators of online violence.

As stated in the Human Rights Law Centre's joint submission, 'Stopping hate in its tracks', the law has a critical role to play in preventing and addressing hateful conduct. That is an important tool and should complement education and early intervention strategies to stop online abuse of women occurring in the first instance. We would like to add to this that, as stated by the UN, we need sanctions which address laws as well as the will and ability of the courts and the legal system to enforce compliance and punitive consequences for the perpetrators. We need education and resourcing for the police to enforce the law and to hold perpetrators to account.

We need primary prevention efforts to educate the next generation of internet users as well as educating police authorities and the justice system. Lastly, we also need safeguards put in place to secure online spaces. This includes the need for advocacy by Government to social media giants to communicate that gender-based abuse is not tolerated by the Victorian Government. Thanks.

**The CHAIR:** Thank you very much. I might just start with one question. You have just in your submission effectively spoken about the rise of online vilification, online hate attacks and abuse, many of which I have certainly been a receiver of over my 20-odd years in politics.

**Ms MASTERS:** Yes, not a surprise.

**The CHAIR:** What can we or, I suppose, Victoria better do, because currently the system is not working—let us be quite frank about it? It is very complex, as you have noted, with some of the giants that you have to deal with. But what can we better do that you can recommend that might make it effective?

**Ms MASTERS:** Well, there needs to be clearer legislation around it. The *Racial and Religious Tolerance Act* needs to be amended to include gender—100 per cent. It is also symbolic that that is included, but it also needs to be available to women to actually use. We have women contacting us quite a bit to say, 'What can we do?', and there really is not much. I would love to turn around to these women and say, 'Actually you can go to the police. You can report it. This will happen. These are the next steps'. That is the outcome that we would like.

**The CHAIR:** And at the moment with the vilification laws it is very complex. In navigating the system, you may be able to lodge a complaint, if you get to that point, but to actually go through the process it is very long, and the onus is on, I suppose, the victim to actually go through and make sure they might be able to get a satisfactory outcome. There is not much light at the end of the tunnel. We have heard evidence from previous submitters that there has only been one prosecution in 18, 19 years. So it does not seem to be that effective. The bar is too high. I note that your submission included to make it based on harm protection rather than a third party, which is one of the biggest hurdles, I would say. Did you want to just add on to that?

**Ms KOVAC:** I think it is too hard to establish the idea that you are basing it around the idea of incitement. What is a perfectly acceptable way of measuring the harm is a reasonable person test. I think that that is consistent with the majority of the way that the rest of our laws operate, but because this has been such a politically charged environment, the first iteration of this law was written in a way that was far more conservative than it probably needed to be and different to what it really needed to be. We focus specifically on the attributes of sex and gender because we think probably the other submissions in this space have covered the field in relation to that, but we lend our wholehearted support that those submissions are right in that space.

**The CHAIR:** Just to add on another question: do you believe that there are appropriate support services for women in this space?

**Ms KOVAC:** No. This was my additional observation in answer to your first question, which was: what are some of the reasons that people do not pursue a police complaint in this area using any of the law? It is because

there are not the resources to enable that. I think you would be challenged to find the policing resources specifically to focus on doing the kind of digital investigations that you would need to track down a pattern of insightful or harming language and behaviours online. You would struggle to find those resources. I know from some of the individual victim-survivors of some of that digital abuse that they have just had to give up because they just cannot.

On the actual process, there is an area of expertise equivalent to some form of hacking to be able to find out what is going on behind Facebook posts and Twitter posts. It is quite complex, and so the expertise would need to be built up to actually assist with that. So a piece of legislation that shifts from incitement to harm prevention without a resource package for some services to support that, for policing, that would be—and is always for me—an incomplete legislative job.

**Ms MASTERS:** It is also something that is not adequately picked up by the Office of the eSafety Commissioner. They have been really valuable to our advisory group, but there are really significant gaps where their focus has been on youth cyberbullying, which is very important. There is a critical gap there around support for women—information provision.

**The CHAIR:** Absolutely.

**Ms SETTLE:** A couple of comments up the top and then I will get to a question. First of all, I am a personal friend of Van Badham. She has shown me her Twitter feed, and I am astounded every time I look at it. I applaud you for the work that you are doing around that sort of collectivism, but it kind of makes me angry as well, because it is victims having to arm ourselves. I have read Ginger Gorman's book around amplifying voices and those things. I think it is fantastic—I am not criticising it—but I think we all feel the frustration that we should not be having to fight for ourselves. But on an actual question, there is a groundswell obviously around expanding the terms—I think pretty much everyone apart from the IPA thought that we should extend the terms. What was interesting, though, in our last submission is there are all of those culture wars around the use of 'gender' and 'sex'. I am just interested in your position.

**Ms KOVAC:** I anticipated that this would be a question. My encouragement to the Committee is that it is not complicated, that the principles around sex and gender are not incompatible in any way and that the protections that can be afforded to people for gender diversity can also encompass ensuring that you have got protections for biological sex. We have a very inclusive perspective on those issues, and we do not see there being a conflict in this space.

**Ms SETTLE:** Not as a conflict, but how would you term it? Do you include sex and gender? Do you include sex and—there was a variety; what were the last—

**Ms KOVAC:** I think it would be sex, gender, gender identity.

**The CHAIR:** Yes, gender identity, sex and gender.

**Ms KOVAC:** Our preference in that space has been to be inclusive. Jacinta, did you want to add to that in any way?

**Ms MASTERS:** No, I just agree with you. I think that it is really important to have an intersectional approach when you are dealing with this, and I think, as I have said, the people who are most at risk are people of intersectional identity. So I agree with Tanja's comments.

**The CHAIR:** Did you want to raise this one as well—gender expression and gender identity?

**Ms SETTLE:** That is what I was trying to get to, but I could not remember. We are not for a second saying it is an either/or circumstance, but our last speaker defined the difference between gender expression and gender identity, and I guess in all of these things the devil is in the detail.

**Ms KOVAC:** I think that the sort of sector-wide usage would be around identity not expression.

**The CHAIR:** Gender identity?

**Ms KOVAC:** We would not be using gender expression regularly in our sector. But I think in terms of the attributes that you would want to be protecting, you probably want to include sex, gender and gender identity as a gamut. You would not want to just have one in terms of the attributes; that would be my suggestion.

**Ms SETTLE:** I think when we talk about the resourcing and stuff, what frustrates me is I am sure that technology is out there already. I mean there was the American spy system that could pick up words in every email.

**Ms KOVAC:** I have actually had experience in this space. It is harder than you think and it costs money, so it is expensive to do it.

**The CHAIR:** We had the Online Hate Prevention Institute present to us today on some of the software that they have and the work that they are doing. Do you have any interaction with that particular—

**Ms KOVAC:** No.

**Ms MASTERS:** We have drawn on some of their research in our literature review for the project.

**The CHAIR:** More and more the responsibility is falling on the victims to do the work and to find their way in this system, and my real concern—and I would really appreciate your view on this—is those vulnerable, non-English-speaking women of diversity who are just not familiar with and do not have the voice to actually go out and seek protection or seek any form of understanding of the system. Can you provide a way forward for that big vulnerable group?

**Ms KOVAC:** Look, I think if there is an alignment with the legislative reform makes this Act more compatible with the *Equal Opportunity Act* and the human rights Act, then I think that there will be an increased protection in that framework. But I still think it is more about the resourcing than it is about the legislative protection, so there is some thinking to do around that. You have got some existing institutions like the Victorian Equal Opportunity and Human Rights Commission, like Gen Vic, and the work they do. There is a piece at the moment around the online safety work that requires our organisation to lead a collaborative work with the private sector to introduce their own codes to deal with online safety. So if you are working with a whole bunch of women for whom maybe their engagement is not digital but they are experiencing it in different ways, the leadership that is required happens at a community-based level, and so you actually do need to be able to empower that work to take place.

One of the really good things that I think came out at the time of the enactment around the human rights and responsibilities Act was that there was thought given to how community education was going to take place that ran parallel with that Act, so there were opportunities for there to be projects and things. The organisations that were advocates for this work then went out and helped promote the message of what the changes were within those communities. So you would want to have migrant and CALD women involved and being able to be funded in some way to go out and do some of the work for Government to help shape the norm change.

**The CHAIR:** And that is what I really—it is not just a legislative change. There needs to be a whole package of support as well that can make this effective. It cannot just be legislative and not really providing the appropriate support services for that empowerment in the community. So it is really, really important.

**Ms KOVAC:** I do encourage the Committee to just have a think about the relationship between this piece of work and the overall family violence and gendered violence piece that the Parliament and the Government have committed to. They are related. So as to this idea that violence is just sort of pigeonholed into different types of it and they are not connected, there are relationships between the perpetrators of all sorts of violence in the community—violence between men, violence in the home and racial and religious violence. There are similarities in the perpetrators and in the kind of underlying behaviours and code around machismo, the belief in superiority. There is a whole range of things that underpin all of those acts of violence that are worthwhile reflecting on in terms of those connections.

**Ms MASTERS:** To add to what Tanja was saying before, there is also a really great infrastructure that exists in Victoria that is unique in women's health services. Gender Equity Victoria shares office space with the Multicultural Centre for Women's Health. They are actually a national organisation with bilingual health

educators, and there are programs and resources already engaging diverse communities that would be available to promote messaging.

**Ms KOVAC:** I would strongly reiterate that that is what I mean. You would not go looking to create something new, because there are already enough resources spread in different geographic locations that would be able to facilitate that kind of work.

**The CHAIR:** I thank you on behalf of the Committee for your submission but also all the work that you do at Gen Vic. It is much appreciated. The next steps will be that we will continue on receiving submissions, we have a few more public hearings to go and then the Committee will deliberate on all the submissions and will put forward some strong recommendations in a report to Government, picking up most of the points that you have raised in your submission. Again, thank you so much for all the work that you do.

**Ms KOVAC:** Thank you for listening to us. We really appreciate that.

**The CHAIR:** We appreciate your taking the time out.

**Witnesses withdrew.**