

# TRANSCRIPT

## LEGISLATIVE ASSEMBLY LEGAL AND SOCIAL ISSUES COMMITTEE

### Inquiry into Anti-Vilification Protections

Melbourne—Thursday, 25 June 2020

*(via videoconference)*

#### MEMBERS

Ms Natalie Suleyman—Chair

Mr James Newbury—Deputy Chair

Ms Christine Couzens

Ms Emma Kealy

Ms Michaela Settle

Mr David Southwick

Mr Meng Heang Tak

#### WITNESS

Ms Diana David, Chief Executive Officer, Reconciliation Victoria *(via videoconference)*.

**The CHAIR:** I declare open the Legislative Assembly Legal and Social Issues public hearing for the Inquiry into Anti-Vilification Protections in Victoria. We are moving into subcommittee at the moment. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I acknowledge the traditional owners of the land on which we are meeting. I pay my respects to their elders, past and present, and the Aboriginal elders of other communities who may be here today.

All evidence taken at this hearing is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Assembly standing orders; therefore the information you provide during this hearing is protected by law. However, any comments repeated outside the hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. All evidence is being recorded and you will be provided a proof version of the transcript following the hearing. Transcripts will ultimately be made public and of course posted on the committee's website.

Today we welcome Diana David, Chief Executive Officer of Reconciliation Victoria. Thank you so much for being here to present to the committee. Diana, you have up to 10 minutes to present, followed by some questions from the committee. Welcome, Diana.

**Ms DAVID:** Thank you. Good afternoon. I would like to begin by acknowledging the traditional owners on the lands on which we are meeting today. I am on Wurundjeri country, and I would like to pay my heartfelt respects to their ancestors and to their elders past, present and emerging. I would also like to acknowledge any traditional owners across Victoria who are watching from their home today. Good afternoon to the Chair and all members of the committee. My name is Diana David, and I am a Kaanju and Kulkagau woman from north Queensland. I am the CEO of Reconciliation Victoria, the statewide body promoting reconciliation between Aboriginal and non-Aboriginal Victorians. Thank you for providing Reconciliation Victoria with the opportunity to present our views and the views of some of our local reconciliation groups to this important inquiry.

Aside from our work in local government with schools and early years centres, Reconciliation Victoria works closely with a network of 26 local reconciliation groups. These are our grassroots community members, working closely with traditional owners and other key stakeholders in their towns and suburbs across the state. They are our on-the-ground champions, working towards a more reconciled Victoria. Reconciliation Victoria believed it was important to gain their thoughts for this inquiry today as they are the people who face and see vilification at the ground level of this movement.

Acknowledging the short turnaround time required because of the date of this hearing, we received six very powerful submissions from a number of areas across the state. Largely submissions were received from Aboriginal and Torres Strait Islander people who run social media pages that attract abuse, and many are abused personally when standing up in their local community for what is right and truthful.

In my opening statement today I will first address the current operation and public knowledge of the Act. I will then discuss the current levels of vilification on the basis of race in Victoria and the truth-telling process that we believe helps to solve it. Finally, I will consider how the current Act limits the ability for Aboriginal and Torres Strait Islander Victorians to tell their truth and make suggestions on how this could be improved.

Very few of the people and groups that we spoke to had any knowledge that the *Racial and Religious Tolerance Act 2001* existed. Those who were aware of the Act were unclear on the process to report a breach or of any cases which resulted in penalties and the cessation of abuse. We received anecdotal evidence about the Act providing very little deterrence against racial abuse being received by people in both employment and volunteer capacities, particularly online. There was a view that there had been very little education and work and very little money spent around promoting the Act. Road safety and family violence campaigns were pointed to as two exemplar cases of the state government providing sustained effort and focus to solve a societal problem. It was questioned why similar focus had not been given to stopping vilification.

One person we spoke to told us that they believe that overall vilification on the basis of race was decreasing; however, due to the reach of social media platforms the number of times a person would personally face vilification was increasing. This is because the vilification can now be targeted directly to someone's phone or computer. One Aboriginal man concurred, believing that generally vilification was decreasing. However, this was not the result of the current Act. Rather, he identified the growing process of truth-telling as key to this change. With more people now having a greater understanding of Australia's historical truth, they were less likely to engage in aggressive behaviour against Aboriginal and Torres Strait Islander people. In his words:

Education is the greatest weapon against ignorance.

This brings us to truth-telling, in many ways the next step in reconciliation. Reconciliation Victoria identifies and defines five key interrelated dimensions of reconciliation based on Reconciliation Australia's *The State of Reconciliation in Australia* report from 2016. The fifth dimension is addressing historical injustice. This encompasses all the activities that we would consider truth-telling, a process in which non-Aboriginal Victorians can hear about what it is like to be an Aboriginal and Torres Strait Islander person today and what has happened to Aboriginal and Torres Strait Islander people in our state's past.

Social media is one of the largest ways that Reconciliation Victoria and local reconciliation groups communicate with each other. One local reconciliation group highlighted to us how important social media was for them in getting the message out to community. However, they also mentioned the anxiety that plagues them when they go to make a post. To quote them:

You post because the truth needs to be told, but it takes a personal toll. You expect abuse, and unfortunately you receive it.

I am sure there will be submissions to this committee saying that any extension of this Act would be a limit on free speech. In fact, under the current legislation there are nowhere near enough protections for Aboriginal and Torres Strait Islander people who seek to have their voice heard. This creates a limit on the ability of Aboriginal and Torres Strait Islander people to speak freely.

Also there is a worrying lack of enforcement on those who seek to vilify on the basis of race. This can create a severe limit on the ability of Aboriginal and Torres Strait Islander people in Victoria to speak their truth. Some Aboriginal and Torres Strait Islander people in Victoria feel too anxious or too scared to make a simple Facebook post, in fear of what avalanche of abusive comments they might have to face. One local reconciliation group informed us that, and I quote:

This year is the first year in our roles as members and chairs of the reconciliation group that some of us are fearful for our own safety, the safety of our families and our property.

Without adequate safeguards online, the process of truth-telling will be severely harmed. Without truth-telling, the whole reconciliation process will be harmed.

A local reconciliation group told us they knew of local Aboriginal leaders subjected to abusive language and targeting on social media. To their knowledge, no legal intervention was sought. We need to ask ourselves the broader questions of why this was. How could an Aboriginal and Torres Strait Islander person feel confident that such a process would have a positive outcome? How could they feel confident it would not lead to an escalation of abuse? How does the current process ensure their cultural safety? And when online vilification is common, what person has the time, energy or resources to continually engage with the legal process?

Of course historic distrust of law enforcement by Aboriginal and Torres Strait Islander people is well founded. As one Aboriginal woman told us:

Until the truth is told and acknowledged, there will always be unrest between First Nations people and the people in power.

The current legislation does not protect some Victorians from suffering from online vilification. The consequences of this can be grave, particularly for Aboriginal and Torres Strait Islander people and for the reconciliation movement. State legislation must do more to protect Aboriginal and Torres Strait Islander people from vilification online. It must make the process of reporting vilification easier and more culturally relevant for Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander people must be able to tell their truth on online platforms without the threat of abuse and vilification. The extension of the *Racial and Religious Tolerance Act* is essential for reconciliation in Victoria. Thank you.

**The CHAIR:** Thanks, Diana. Thank you very much for sharing that with the committee and also your experiences.

**Mr SOUTHWICK:** My apologies, Diana; I cannot stay so I wanted to ask a question first. Thank you for your contribution today. It was a very important contribution for you to make for us. To pick up the important point that you made around awareness, because I think that is a very, very interesting thing—people not actually knowing that the Act is in place and there are options in place for people—and, I think, the fact that there has not been dedicated advertising and promotion for that. I wanted to specifically ask around First Nations people in contact with police for reporting where there are acts of hate or of any of this kind that we are talking about. What is your experience and what are the experiences of that, and do you think that there needs to be more work with members of the police in terms of being able to take reporting and also being able to work with First Nations people?

**Ms DAVID:** Concerns around reporting to the police are largely based on concerns that, ‘I feel that won’t be taken seriously enough’. I think this is understandable, with the number of other things that the Victorian police must deal with on a daily basis because there is so much happening. But I think that there definitely needs to be a shift in these approaches and to First Nations people’s concerns and worries so they know what their rights are when they are looking for justice.

**Mr SOUTHWICK:** In terms of the situation now, if you compare it to, say, a few years back and a few years further back, are we getting better in this space or is it just the way that it always was?

**Ms DAVID:** No. To be honest with you, I do not think things are getting better. There definitely needs to be the transferring or the shift of power, and there needs to be more focus on Aboriginal self-determination. I think we have still got a long way to go, David, and it is about the Aboriginal and Torres Strait Islander people and the non-Aboriginal community having more equal decision-making, if that makes sense. I think we have a lot of work to do. I do not have time to dive deep into that, but to answer your question, yes, we still have a long way to get to where we need to get to.

**Mr SOUTHWICK:** Yes. Thank you, Diana. Thank you for your work.

**Ms COUZENS:** Thanks, Diana, for your presentation and of course for the work that you are doing at Reconciliation Victoria. I think it is really valuable, and your contribution to potential change is really significant today, so thank you very much for that.

After over 200 years of vilification of First Nations people, what is your view on some of the key things that need to change, in particular around the legislation?

**Ms DAVID:** With the legislation I believe that traditional owners need to be consulted a lot more. I am only one Aboriginal and Torres Strait Islander person speaking today, and I do not speak on behalf of the Victorian traditional owner community. But I think it is very important that there is more consultation with traditional owners, and for our work to get better and the legislation to be stronger I think we need Aboriginal voice weaved in there absolutely, Christine. I hope that answers your question.

**Ms COUZENS:** Yes. That is fine. In terms of education—we know that in Victoria there are some things starting to happen in schools, and you know we have got the treaty process going on and a number of other things being worked on with community—from my experience, and particularly with Black Lives Matter being in the spotlight over the last couple of months, there seems to be more of an interest from the non-Indigenous community to get a better understanding and to educate themselves about the history. Do you see that as being an important factor not only for people to know history but for the truth-telling, for that better understanding and I suppose less racism in our community, particularly from children? Do you see that as being something that needs to happen that is going to be valuable in terms of moving forward with vilification laws?

**Ms DAVID:** Absolutely, Christine. Education is crucial, and it is the first point; that will be education around this Act. I mentioned—I lightly touched on with my presentation—that education is the key with truth-telling and having the opportunity to have a shared history and not feeling uncomfortable when asked those prickly questions. I do not know about you, Christine, but I want to see some significant changes in my life, you know. We talk about the importance of education; we talk the talk. We need to start locking some stuff in, and we need to start walking, you know, and really making some changes on the ground, I feel. We do a lot of

writing, we do a lot of talking but we do not do a lot of action, and for us to do that we need to consult with the First Nations people; we need to hear their voice. What do they need? What can we do to collaborate and move together as Aboriginal and non-Aboriginal people, so we have a better state, better country? And I think education is crucial in doing that.

**Ms COUZENS:** You know, in terms of Aboriginal people having the knowledge about how to make a complaint, how do you see that happening? Is it the TOs, is it the Aboriginal co-ops, is it the VACCHOs? I would be interested to hear your view on where that information should be actively coming from.

**Ms DAVID:** It has got to come from traditional owners. I mean, Christine, I cannot speak on behalf of mob here. I might have historical connections; I am not a traditional owner. We need to consult with the TOs first, and if that means government stepping out of their office space and having a cup of tea with unky and aunty and having a chat with them and educating them about what their rights are, I mean that is our way of doing business—that is our way of doing that face to face. And I guess I made that point with the Aboriginal woman. She said, ‘Until the truth is told and acknowledged there will always be an unrest between First Nations people and the people in power’. For us to do that we need to be guided and this Act needs to be guided by TOs, because they know it best and what is best for their community and their mob now and into the future.

**Ms COUZENS:** And it is about providing culturally safe space as well.

**Ms DAVID:** Absolutely, yes. And you know what—it is not hard to work out. We have been doing this for so long. Enough with the excuses, you know? We are losing our old people. Time is ticking and still we are waiting. Like I said, I want to see significant changes because I am a little stretched and tired of the same conversation week after week.

**Ms COUZENS:** Thank you, Diana, for your contribution and hopefully we will see some significant change as a result of this inquiry.

**Ms DAVID:** Thank you, Christine. Thank you, Natalie, and everyone else.

**The CHAIR:** Thank you, Diana. It has been an absolute pleasure to hear you, and thank you for all the work that you do and Reconciliation Victoria does, and really just spending the time with us to put forward your strong evidence. The next steps will be: the committee will deliberate on all the submissions and evidence and we will then provide a report with some strong recommendations to government and hopefully you keep up-to-date with the progress of the committee and the inquiry on the committee’s website. Thank you so, so much again for taking the time out and all the great work that you guys do. Thank you.

**Ms DAVID:** Thank you so much

**Committee adjourned.**