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Our Watch Submission to the Australian Human Rights Commission consultation into current and emerging threats to trans and gender diverse human rights



Prepared by Our Watch

Acknowledgement of Country

Our Watch acknowledges the Traditional Owners of the land across Australia on which we work and live. We pay respects to Elders past and present and recognise the continuing connection Aboriginal and Torres Strait Islander people have to land, culture, knowledge and language for over 65,000 years.

As a non-Aboriginal organisation, Our Watch understands that violence against Aboriginal and Torres Strait Islander women and children is not an 'Aboriginal and Torres Strait Islander problem.' As highlighted in Our Watch's national resource *Changing the picture*, there is an intersection between racism, sexism and violence against Aboriginal and Torres Strait Islander women.

Our Watch has an ongoing commitment to the prevention of violence against Aboriginal and Torres Strait Islander women and children, who continue to experience violence at significantly higher rates than non-Aboriginal women. We acknowledge all Aboriginal and Torres Strait Islander people who continue to lead the work of sharing knowledge with non-Aboriginal people and relentlessly advocate for an equitable, violence-free future in Australia.

About Our Watch

Our Watch is the national leader in the primary prevention of violence against women and their children in Australia. We are an independent, not for profit organisation established in 2013. All Australian governments are members of Our Watch.

Our vision is an Australia where women and their children live free from all forms of violence. We aim to drive nation-wide change in the culture, behaviours, attitudes, social structures and systems that drive violence against women. Guided by our ground-breaking national frameworks, *Change the story* (2nd ed 2021), *Changing the picture* (2018) and *Changing the landscape* (2022), we work at all levels of our society to address the deeply entrenched, underlying drivers of violence against women. We work with governments, practitioners, and the community, at all levels of Australian society, to address these drivers of violence in all settings where people live, learn, work, and socialise.

Executive Summary

Our Watch welcomes the focus of the Australian Human Rights Commission's (AHRC) consultation on the current and emerging threats to trans and gender diverse human rights.

Our Watch supports the work and expertise of specialist lesbian, gay, bisexual, transgender, intersex, queer, and asexual (LGBTIQA+) organisations in leading the prevention of violence against trans and gender diverse people. We offer this submission as a non-LGBTIQA+ specialist organisation with acknowledgment that upholding the rights of trans and gender diverse people to live free from violence is aligned with and interrelated to our organisational remit to advance gender equality and prevent violence against women.

Our Watch undertakes a range of work relevant to LGBTIQA+ rights, including a new project in partnership with Rainbow Health Australia to develop a national framework for the prevention of violence against LGBTIQA+ people and communities. Evidence indicates that there is significant overlap between the drivers of violence against women and LGBTIQA+ communities, including rigid gender norms, heteronormativity and cisnormativity and the social context of gender and intersecting inequalities.¹ As a result, work towards preventing violence against women mutually reinforces work to prevent violence against LGBTIQA+ people, including trans and gender diverse people. As part of all work to promote gender equality and prevent violence, there are important opportunities to draw attention to, and take action to address heteronormativity, cisnormativity, homo-, bi- and transphobia, as well as the intersections with racism, colonialism, ageism, ableism and class discrimination and oppression.

The AHRC's work has the potential to contribute to building the national evidence base to inform a comprehensive and nuanced understanding of the prevalence, forms and drivers of violence against trans and gender diverse people, including how to prevent and address such violence.

We welcome the AHRC's focus on anti-trans mobilisation, disinformation and misinformation. *Change the story* highlights how backlash and resistance to gender equality can create an environment which heightens the risk of gender-based violence. Our Watch acknowledges escalating backlash and resistance specifically towards trans and gender diverse people's human rights and broader LGBTIQA+ human rights. We view this as part of the backlash and resistance to gender equality efforts more broadly.

In this submission we offer insights drawn from Our Watch's existing evidence base to highlight:

- The available national evidence on violence against trans and gender diverse people, including gender-based violence, and the importance of continuing to build this evidence base.
- Australia's approach to primary prevention of violence against women outlined in *Change the story*, and the need to better understand the overlapping drivers of violence against LGBTIQA+ people and communities and how to prevent such violence.
- The potential impacts of backlash and resistance on trans and gender diverse people's human rights.

We look forward to continuing to work with the AHRC and drawing on the AHRC's work to inform Our Watch's ongoing work to promote gender equality and prevent gender-based violence.

To discuss or for further information regarding this submission, please contact Director of Government Relations, Policy and Evidence, Amanda Alford at amanda.alford@ourwatch.org.au.

Introduction

Our Watch welcomes the focus of the Australian Human Rights Commission's (AHRC) consultation on the current and emerging threats to trans and gender diverse human rights.

Research shows that trans and gender diverse communities experience interpersonal violence at very high rates, as well as broader abuse, stigma, prejudice and discrimination.² The consultation's focus on trans and gender diverse people's experiences provides an important and timely opportunity to build the evidence to support effective ways to prevent and respond to gender-based discrimination and violence against trans and gender diverse people.

Our Watch supports the work of our stakeholders and the expertise of specialist lesbian, gay, bisexual, transgender, intersex, queer, and asexual (LGBTIQA+) organisations in leading the prevention of violence against trans and gender diverse people. As a non-LGBTIQA-specialist organisation, we recognise the importance of this work being led by trans and gender diverse people, communities and specialist organisations, and their lived experiences. We acknowledge our LGBTIQA+ stakeholders and partners and their decades of work to highlight trans and gender diverse people's experiences of discrimination and violence.

The [Second National Plan to End Violence against Women and Children 2022-2032 \(National Plan\)](#) recognises that LGBTIQA+ people experience gender-based violence, including high rates of domestic, family and sexual violence (pp. 45-46). The standalone [Aboriginal and Torres Strait Islander Action Plan 2023-2025](#) identifies Aboriginal and Torres Strait Islander LGBTIQA+ communities, including Sistergirls and Brotherboys, as a priority group for violence prevention and response initiatives due to the intersections of homophobia, transphobia, racism, and discriminatory systems and structures.³ Both Plans highlight the need for safe, inclusive and affirming services for all LGBTIQA+ people who have experienced violence.

The focus of Our Watch's work is on preventing violence against women, which includes transgender and cisgender women. We take an intersectional approach to this work, with our key frameworks identifying the overlaps between gender inequality and other forms of discrimination including racism, ableism, cisnormativity, and heteronormativity. With funding received from the Commonwealth Government under the Second National Plan, Our Watch has recently partnered with Rainbow Health Australia to develop a national framework to prevent violence against LGBTIQA+ people and communities over the next three years.

Violence against trans and gender diverse people

Gender inequality is a key driver of violence against trans and gender diverse people. This includes rigid attitudes, behaviours, and views about gender and a belief that people must conform to heterosexuality and their sex assigned at birth (heteronormativity and cisnormativity).⁴ There is crossover in the drivers of violence against women and trans and gender diverse people, and other LGBTIQA+ people. There are also similar patterns of perpetration, with research showing that the majority of violence experienced by LGBTIQA+ people is perpetrated by cisgender men.⁵

While there are opportunities to grow the evidence base (discussed below), there is an existing body of population level research which demonstrates that LGBTIQ+ people face high levels of discrimination, violence, and abuse in private and public spaces.⁶ National surveys such as *Private Lives 3* and *Writing Themselves In 4* (focused on LGBTQA+ adults and young people respectively) have found that trans and gender diverse people report higher levels of harassment and abuse than cisgender people.

A 2023 survey conducted by the Trans Justice Project and Victorian Pride Lobby illustrated that anti-trans hate (abuse, harassment, vilification) is widespread, where, within the previous year:

- 47.9% of trans participants experienced anti-trans hate (abuse, harassment, or violence)
- 1 in 6 trans people experienced anti-trans violence
- 94.55% of all participants witnessed online anti-trans hate
- 49.20% of trans participants experienced online anti-trans hate.⁷

Violence against trans and gender diverse people does not occur in a vacuum, but in the context of narrow social ideas about bodies, sex, and gender which privilege certain forms. When attitudes in society devalue or dehumanise trans and gender diverse people (and other LGBTIQ+ people) perpetrators may feel they can perpetrate violence against them without risk of punishment.⁸

Domestic, family, and sexual violence affecting trans and gender diverse people

Research shows that trans and gender diverse people also experience high levels of violence in their relationships and families of origin, including domestic, family and sexual violence.⁹ Violence against LGBTIQ+ people in family and intimate relationships can involve physical, sexual, and emotional abuse, as well as 'identity-based abuse', such as a partner or family member threatening to 'out' them or withholding gender affirming hormones or HIV medication.¹⁰

Intersecting forms of systemic discrimination and oppression such as ableism and racism can increase the severity and prevalence of this violence.¹¹ Aboriginal and Torres Strait Islander trans and gender diverse people, including Sistergirls and Brotherboys, experience both racism and transphobia due to the context of both the racialised and patriarchal systems of heteronormativity and cisnormativity, and relationships that colonisation introduced and has sustained over time.¹² *Crossing the Line* research shows that trans women of colour experience additional prejudice and discrimination due to the intersections of gender, race, sexuality, religion and social class.¹³ The research demonstrates that trans women of colour are subject to pervasive violence and prejudice resulting in very few spaces where trans women of colour are safe from abuse.

Violence, discrimination and abuse has wide-reaching impacts on trans and gender diverse people's lives and their communities, including the impacts of violence on homelessness and poor mental health outcomes, including self-harm and suicidal behaviours, anxiety and depressive symptoms.¹⁴

Building the evidence base on violence against trans and gender diverse people

There is an increasing body of research in Australia that measures the prevalence and nature of LGBTIQ+ people's experiences of family, domestic and sexual violence and sexual harassment. For example, the recent *Rainbow Realities* report synthesises data

from six surveys of LGBTIQ+ populations collating over 20,000 responses from LGBTIQ+ people to build a picture around LGBTIQ+ health outcomes in Australia, including family violence and sexual assault, and discrimination and abuse.

These surveys are invaluable, however there are also opportunities to strengthen Australian national and longitudinal data sets to include adequate questions about sex characteristics, gender identity, and sexuality to better inform policy and programming. For example, this may include embedding measures in national level crime victimisation datasets and surveys (e.g., ABS Personal Safety Survey) to specifically measure the prevalence of violence experienced by trans and gender diverse people (as well as LGBTIQ+ people more broadly).

Identifying research gaps and opportunities is an important element of evidence building, contributing to a better understanding of the dynamics of violence and trans and gender diverse people experience, the impacts of this violence, the barriers in accessing support and strategies to overcome them.

Preventing violence against women and addressing the social context of gender and other inequalities

Our Watch's evidence-based national framework *Change the story* identifies that gender inequality sets the social context in which violence against women occurs and makes clear that the drivers of this violence are gendered.

The factors *Change the story* terms as the 'gendered drivers' of violence arise from gender-discriminatory institutional, social and economic structures, social and cultural norms, and organisational, community, family and relationship practices that together create environments in which women and men are not considered equal, and violence against women is both more likely to occur, and more likely to be tolerated and even condoned. The gendered drivers of violence against women are:

- Driver 1: Condoning of violence against women.
- Driver 2: Men's control of decision-making and limits to women's independence in public and private life.
- Driver 3: Rigid gender stereotyping and dominant forms of masculinity.
- Driver 4: Male peer relations and cultures of masculinity that emphasise aggression, dominance and control

Change the story acknowledges that women are not a homogenous group, but one comprising many and varied personal identities and social positions. The intersectional approach embedded throughout *Change the story* recognises that violence and gender inequality exist in relation to multiple and intersecting systems of sexism, racism, colonialism, classism, heteronormativity, cisnormativity, homo-, bi- and transphobia, ableism and ageism, and their corresponding systems of power and privilege. These intersections create systems of structured inequality, characterised by the unequal distribution of power, wealth, income and social status.

Change the story acknowledges the inherent limitations of binary language and recognises that the category of 'women' is a socially constructed one, and part of a binary system of sex and gender categories that does not represent the gender diversity of the population.¹⁵ The framework's definition of a woman includes anyone who identifies and lives as a woman, which includes cisgender and trans women. It

recognises that the violence experienced by cisgender heterosexual women can be different from violence experienced by lesbian, bisexual, queer and trans women, who may also be targeted on the basis of their sexuality and/or their perceived gender non-conformity. Intersex, transgender and gender diverse people further challenge the assumption that binary biological sex determines a binary gender.¹⁶

Rigid gender norms, together with cisnormativity, and heteronormativity, produce norms and stereotypes that devalue the bodies, identities and relationships of lesbian, bisexual and trans women, and drive and normalise violence against these women.¹⁷ The intersections of homo-, bi- and transphobia with the gendered drivers of violence against women means that lesbian, bisexual and trans women can experience additional, unique forms of violence as a result of their gender identity and/or sexual orientation.¹⁸

We acknowledge that gender-based violence also affects gay, bisexual, queer and trans men, intersex and non-binary people. Building on this, there are significant opportunities to build our understanding of the overlapping drivers of violence against LGBTIQ+ people and communities and how to prevent such violence. Our Watch's forthcoming framework co-developed with Rainbow Health Australia aims to map out the drivers of violence against all LGBTIQ+ people.

A primary prevention approach

Primary prevention aims to stop violence against women from occurring in the first place by addressing its underlying drivers and the social context in which it occurs. This requires changing the social conditions that give rise to this violence; reforming the institutions and systems that excuse, justify or even promote such violence; and shifting the power imbalances and social norms, structures and practices that drive and normalise it.¹⁹ Work to prevent violence against trans and gender diverse people is interlinked with, and part of, work to prevent violence against women because it addresses this underlying context of rigid gender stereotyping (gender driver 3) and gender and other intersectional inequalities.

Our Watch takes a whole-of-society approach, using the socioecological model to guide multifaceted and multipronged actions at the individual, interpersonal, community and organisational, institutional and system, and societal levels. Comprehensive primary prevention aims to influence laws, policies, and the practices and behaviours of organisations, groups and individuals. It seeks to engage and reach people of all ages where they live, work, learn, socialise and play.

We recognise the effective primary prevention work led by LGBTIQ+ organisations including Rainbow Health Australia's *Pride in Prevention* resources, ACON's *Say It Out Loud* campaign, and Zoe Belle Gender Collective's *Transfemme* resource (among other examples). Further collaborative work between primary prevention organisations and LGBTIQ+ organisations is needed to build a nuanced and inclusive approach to primary prevention of gender-based violence for all.

Examples of primary prevention activities include employer-led workplace initiatives to embed respect and gender equality in organisational structures, policies and cultures; respectful relationships education in schools; gender-responsive policy analysis and; and efforts to encourage more respectful and informed reporting on violence against women in the media.

For example, Our Watch's recently released [Guide for media reporting on violence against transgender and gender diverse communities](#) is one example of mutually reinforcing work to address gender inequality and transphobia. Developed in consultation with trans organisations and partners, the guidelines seek to support the media to challenge attitudes and beliefs that dehumanise or devalue trans and gender diverse people and promote equitable, accurate and respectful reporting on trans and gender diverse communities.

Backlash and resistance to gendered approaches to prevention

Change the story highlights that backlash or resistance to gendered approaches to prevention is a reinforcing factor for gender-based violence, because it can create environments which heightens the risk of violence.²⁰ Backlash and resistance occurs in reaction to changes that seek to challenge privilege and status quo, such as primary prevention of gender-based violence and addressing other forms of discrimination, oppression, power and privilege. All forms of resistance and backlash create challenges for prevention work and make the goal of gender transformational change to end violence against women more difficult to achieve.

Resistance to gender equality and prevention work intersects with resistance to other forms of equality and rights-based social change including efforts to address homo-, bi-, and transphobia. Backlash and resistance occurs across the socioecological model and encompasses a range of forms, including denial that gender inequality and homo-, bi- and transphobia exists, denial that violence is gendered, the co-option of rights-based discourses, and backlash that can come in the form of verbal, physical and sexual violence.²¹

Challenging rigid gender norms, heteronormativity and cisnormativity can elicit backlash and resistance that can be severe and aggressive. This is particularly prevalent in the current environment globally and in Australia where there are examples of backlash against LGBTIQ+ rights, especially anti-trans backlash.²² Human rights organisations are noting the increase in lobby groups with an anti-trans movement and rising levels of disinformation and misinformation about trans people.²³ Disinformation or misinformation, such as negative misconceptions and harmful representations of trans and gender diverse people, can lead to increases in anti-trans hate and violence. Anti-trans groups may be difficult to recognise, as they may present as 'pro woman', 'pro parent's rights' or 'pro-religious freedom'.²⁴ While anti-trans backlash comes from a wide range of individuals, communities and organisations, it can also include individuals and groups who may seek to exclude transgender women from violence response, recovery and healing services.

Our Watch welcomes the focus in the AHRC consultation on backlash and resistance to trans and gender diverse human rights and encourages a focus on strategies for preventing, minimising and responding to backlash. More broadly, there are opportunities for further research on backlash and resistance to intersectional gendered approaches to violence prevention. It is important to understand more about the ways in which backlash and resistance manifest to inform ongoing work to address it, including developing messages to ensure people are receiving evidence-based and factual information about trans and gender diverse people.

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