



Submission to the Australian Human Rights Commission

Current and emerging threats to TGD human rights

1. *The focus of this submission and recommendations*

- 1.1. This submission draws attention to the dissemination of alarmist and false information, especially on line, that amplifies hatred towards TGD and other queer people.
- 1.2. There are practical measures that the AHRC and other governmental actors can take to counter the disinformation and hate mongering. We urge the AHRC to:
 - monitor the activities of prominent hostile actors to understand their tactics, anticipate their actions and map their connections;
 - work with other comparable human rights agencies in other countries to share effective strategies for supporting TGD people in the face of attacks;
 - consult regularly with TGD community organisations so as to coordinate initiatives countering disinformation; and
 - examine gaps in anti-vilification laws concerning TGD people, and the interaction with eSafety laws (see section 7 of the submission).

2. *Melbourne Bisexual Network (MBN) and Bi Alliance Victoria (BAV); scope of submission*

- 2.1. MBN¹ is a bi+ led community organisation, proudly improving the health and wellbeing of bisexual+ Victorians through advocacy, education and community engagement. We are committed to raising awareness of the unique health and wellbeing issues facing bisexual+ people, and to collectively determining strategies to improving the health, wellbeing and development of bisexual+ people.
- 2.2. Our website indicates the extensive initiatives taken in relation to these issues, including important publications.²
- 2.3. While this submission is made by MBN, we have a close working relationship with the other major bi+ organisation in Victoria, Bi Alliance Victoria ("BAV"). Both organisations have similar values and goals. Both include many members of the TGD community. This submission has been circulated to the

¹ <https://www.melbournebisexualnetwork.com/>

² <https://www.melbournebisexualnetwork.com/our-history-and-achievements>

committees of both organisations and has drawn on their contributions.

- 2.4. Among the contributors to this submission are TGD people with direct lived experience of being subjected to transphobia, hate speech and discrimination based on TGD identity. Trans and gender diverse people are more likely to be multi-gender attracted than the general population.³ Both MBN and BAV include many trans and gender diverse people. Threats to the human rights of TGD people therefore threaten the rights and wellbeing of our members, and of bi+ communities more broadly. We therefore constitute an “advocacy and activist organisation” for the purposes of the call for submissions.
- 2.5. We recommend that in considering threats to and protections for TGD human rights, the AHRC consider intersex people and other LGBTIQ+ people. Specific responses focused on TGD people need to be situated within broader approaches that protect the rights of all LGBTIQ+ people.
- 2.6. The contributors to our submission on this occasion did not include First Nations people. First Nations TGD people, and other TGD people of colour, have important experiences and perspectives which need to be heard concerning threats to TGD rights. We urge the AHRC to seek out these perspectives.

3. The international context of threats to TGD human rights

- 3.1. The dynamics of international information distribution need to be highlighted so as clearly perceive the nature of the threats to TGD people.

Algorithmic amplification

- 3.2. The pervasive use and international reach of social media and allied forms of communication have meant that ideas can be transmitted rapidly around the planet. Very often, this communication is distributed through commercial actors such as Facebook, X (formerly Twitter) and TikTok. These actors process information algorithmically, so that it can be targeted to specific users to maximise revenue. Even search engines such as Google use sophisticated algorithms to individualise search responses to maximising revenue. Some actors have learned to tailor their disinformation so that algorithms give it prominence.⁴
- 3.3. There is evidence that algorithms tend to favour content that evokes strong emotional reactions in viewers, because this content increases engagement. Algorithms incentivise the posting and sharing of inflammatory content and platforms are dis-incentivised to moderate or remove this content.
- 3.4. This revenue-driven distribution model has meant that similar information, including prejudices and misconceptions, readily gravitates to similar people. This problem is worsening; some commercial actors, notably X/Twitter have weakened their vetting systems. X/Twitter has seen a dramatic rise in hate speech and anti-TGD disinformation.⁵

³ E.g. Reisner, Choi et al. (2023) ‘Sexual orientation in transgender adults in the United States’, *BMC Public Health*, 23, 1799.

⁴ Amanda Chicago Lewis, “The People Who Ruined the Internet”, *The Verge*, 2 November 2023:

<https://www.theverge.com/features/23931789/seo-search-engine-optimization-experts-google-results>

⁵ See Centre for Countering Digital Hate, Twitter fails to act on 99% of Twitter Blue accounts tweeting hate, 1 June 2023:

<https://counterhate.com/research/twitter-fails-to-act-on-twitter-blue-accounts-tweeting-hate/>,

- 3.5. There are also platforms which specialise in directing information to right-wing and fundamentalist groups hostile to the queer community,⁶ motivating people who despise the queer community: those people keep hearing the same message and receive little to disabuse them of their prejudices.
- 3.6. Over the past five years there has been a notable increase in the level of coordination and strategic planning which is driving anti-trans campaigns. Although anti-TGD actors have a range of motivations, there have been clear alliances formed which are actively pursuing shared goals across jurisdictions.

Deployment of social media by populists

- 3.7. The problems caused by this incessant direction of anti-queer, and especially anti-TGD, information to targeted sections of the community have been exacerbated by the willingness of certain politicians to make use of these dynamics for their own political ends.⁷
- 3.8. The phenomenon is most obvious among “right-wing populist” politicians⁸ whose tactics include purporting to sheet home blame for the grievances of their followers - which are often economic in nature - to a constructed “other”. This “other” very often includes the queer community. The tactic is often deployed to gain the support of religious, low educated and male voters who are disoriented by social change.⁹
- 3.9. Donald Trump is a well-known proponent of this tactic, but other politicians who have targeted the queer community include Jair Bolsonaro in Brazil, Vladimir Putin in Russia, Viktor Orbán in Hungary and conservative religious actors in countries as diverse as Poland, Indonesia, Iraq. These political actors give cover to, and often provide support for, activists hostile to the queer community.¹⁰
- 3.10. While the international environment is by no means all bleak - there have been notable progress in TGD rights in many countries in Asia, for instance - the campaigning by right-wing populist politicians and organisations, magnified by social media, has resulted in severe setbacks for the TGD community in several jurisdictions, notably the United States.¹¹

4. Some examples of disinformation threats

- 4.1. The impact of these developments is clearly being felt in Australia. A recent Victorian survey found that one in two of the around 1,500 TGD respondents experienced anti-trans hate.¹²

⁶ See, for example, Justin Ellis, Our hybrid media system has emboldened anti-LGBTQ+ hate – what can we do about it? *The Conversation*, May 15, 2023 summarising key themes of his book *Representation, Resistance and Digiqueer*. This article provides an excellent overview of many of the themes in this submission.

⁷ Ferenc Huszár, et al, ‘Algorithmic amplification of politics on Twitter’, *Proc Natl Acad Sci U S A*. 2022 Jan 4; 119(1).

⁸ John Kampfner, “Right-wing Populism is set to sweep the West in 2024”, *Foreign Policy*, 26 December 2023.

⁹ Pippa Norris and Ronald Inglehart, *Cultural Backlash: Trump, Brexit, and Authoritarian Populism*, Cambridge University Press, 2019.

¹⁰ See the following briefing to the European Parliament: *Disinformation campaigns about LGBTI+ people in the EU and foreign influence*:

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/653644/EXPO_BRI\(2021\)653644_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/653644/EXPO_BRI(2021)653644_EN.pdf)

¹¹ See, for example, Nicole Narea and Fabiola Cineas, “The GOP’s coordinated national campaign against trans rights, explained”, *Vox*, Apr 6, 2023.

¹² Trans justice project, Victorian Pride Lobby, *Fuelling Hate Abuse, Harassment, Vilification and Violence Against Trans People in Australia*, 2023

- 4.2. There is strong evidence that a small constellation of Australian groups seek to disseminate such anti-TGD disinformation, both in public demonstrations and online.¹³ Their rhetoric is closely aligned with that of the international anti-TGD actors.
- 4.3. One line of vilification is to the “groomer” slur, the Center for Countering Digital, a UK-US non-governmental organisation that tracks digital hate speech¹⁴ has identified a 119% increase in anti-LGBTQ+ rhetoric on X/Twitter since its acquisition by Elon Musk.¹⁵ The Center found 1.7 million tweets or retweets that linked the keywords “trans”, “gay”, “homosexual” and “LGBT” with “groomer”, “predator” and “paedophile”. Claims of harm to children have an emotional resonance that fit well with social media disinformation strategies.
- 4.4. The rhetoric is also deployed to close public spaces to the TGD and broader queer community, as is illustrated in the transmission from the United States¹⁶ to Australia¹⁷ of the move to shut down LGBTIQ+ children’s story time events by means of violent threats.
- 4.5. A second line of attack is the “criminal” trope. A social media storm often follows a violent public event, often concerned with attributing responsibility for the event well before the facts of the situation are established.¹⁸ Sometimes the misattribution is deliberate and directed at TGD people.
- 4.6. Despite the considerable evidence that TGD are more likely to be the victims than perpetrators,¹⁹ some groups take advantage of the uncertainty and shock in the immediate aftermath of public violence to falsely target TGD people. This is well documented in the United States.²⁰
- 4.7. Most broadly, we note the recent rapid rise in use of the term ‘gender ideology’ in anti-TGD disinformation campaigns. This term originated internationally and has now been adopted by Australian anti-TGD campaigners. This term has been consciously designed and used in an attempt to paint TGD people as dangerous radicals imposing their views on others by force. Anti-trans campaigners actively seek to reinforce a rigidly enforced gender binary and to limit any attempts to question it or to live outside of it. Any claims to be opposing ‘gender ideology’ need to be interrogated and debunked.

¹³ See Jackie Turner, Anti-trans disinformation is rife in Australia — and it’s being spread by a small group of organisations, *Crikey*, 10th March, 2023: <https://www.crikey.com.au/2023/03/10/anti-trans-disinformation-australia-transphobia/>; Cait Kelly and Mostafa Rachwani, What’s behind the ‘terrifying’ backlash against Australia’s queer community?, *The Guardian*, 25 March, 2023: <https://www.theguardian.com/australia-news/2023/mar/25/whats-behind-the-terrifying-backlash-against-australias-queer-community>.

¹⁴ <https://counterhate.com/about/>.

¹⁵ How Twitter Makes Millions from Anti-LGBTQ+ Rhetoric: <https://counterhate.com/research/toxic-twitter-anti-lgbtq/>.

¹⁶ [Jaweed Kaleem](#), How drag queen story hour became a battle over gender, sexuality and kids, *Los Angeles Times*, 22 February, 2023: <https://www.latimes.com/world-nation/story/2023-02-22/drag-queen-story-hour>.

¹⁷ Drag children’s storytime event cancelled in Melbourne following violence threats: <https://www.sbs.com.au/news/article/drag-childrens-storytime-event-cancelled-in-melbourne-following-violence-threats/wvjcczmj4>.

¹⁸ See, for example, <https://www.smh.com.au/business/companies/man-wrongly-identified-as-bondi-junction-attacker-settles-with-seven-20240426-p5fmsv.html>.

¹⁹ see for example Andrew R. Flores, Ilan Meyer, Ph.D., Lynn L. Langton, Jody L. Herman, “Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017–2018” *American Journal of Public Health*, 2021 Apr;111(4):726-729.

²⁰ R.G. Craven, Anti-Trans Rhetoric Helps the Right Pivot to Gun Violence Myths, Sell Guns. *Southern Poverty Law Center* 22 March 2024

5. Targeting of children and young people

- 5.1. We note a range of ways in which anti-TGD actors, internationally and within Australia, deliberately seek to prevent TGD children and young people from expressing their gender identity and accessing the care and support they need. These include:
- Reinforcing transphobic attitudes, for example through spreading disinformation about discredited theories such as ‘rapid-onset gender dysphoria’;²¹
 - Seeking to forcibly shut down spaces which are designed to be safe and affirming for young people of all genders, such as LGBTIQ+ formals;
 - Seeking to prevent young people from accessing information about TGD people, by censoring or manipulating curriculum;
 - Seeking to prevent TGD young people from accessing gender-affirming health care such as puberty blockers;
 - Preventing the participation of TGD children and young people in sporting activities aligned with their gender;
 - Denying TGD children and young people access to bathrooms aligned with their gender;
 - Seeking to exclude TGD children and young people from schools altogether;
 - Threatening or terminating the employment of teachers who are TGD or who provide space for non-traditional views on gender.
- 5.2. Young people are more vulnerable than adults and less able to defend themselves. TGD young people experience significantly higher rates of psychological distress and suicidality than cisgender LGBTIQ+ people, who in turn experience higher rates than the general population.²² Protection of TGD children and young people from hate speech and discrimination and enabling their access to supportive and gender-affirming care and social networks, are literally matters of life and death for these young people.
- 5.3. The proportion of young people identifying as transgender and/or gender diverse has increased markedly over the past decade.²³ Given the size of this population and the major harm caused to TGD people by targeting during childhood, our view is that countering threats to the rights of trans and gender diverse children and young people is a priority for AHRC to consider.

6. Employment discrimination

- 6.1. A second issue which we specifically wish to draw to AHRC’s attention is the threat of discrimination against TGD people in employment markets and workplaces.
- 6.2. There is clear evidence that due to a combination of stigmatising social attitudes and structural inequities, TGD adults face significant discrimination in gaining employment, and experience significantly worse workplace conditions than cisgender employees. For example, in the US:
- Transgender adults are twice as likely as cisgender adults to be unemployed;

²¹ <https://www.scientificamerican.com/article/evidence-undermines-rapid-onset-gender-dysphoria-claims/>.

²² Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A. (2021) *Writing Themselves In 4: The health and wellbeing of LGBTQ+ young people in Australia*. National report, monograph series number 124. Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University.

²³ <https://time.com/6275663/generation-z-gender-identity/>.

- Cisgender employees make 32 percent more money a year than similarly qualified transgender employees;
- More than half of transgender employees say they are not comfortable being out at work. Two-thirds remain in the closet in professional interactions.
- People who identify as transgender feel far less supported in the workplace than their cisgender colleagues do. They report that it's more difficult to understand workplace culture and benefits, and harder to get promoted. They also feel less supported by their managers.²⁴

6.3. Related issues experienced by TGD people include refusal to hire; harassment and physical or sexual violence at work; changing jobs to avoid discrimination; termination following disclosure of TGD identity; and flow-on effects to mental health, poverty and homelessness.

6.4. In Australian, over 50% of LGBTQIA+ respondents reported hearing negative language about gender identity or gender expression in the workplace in the past 12 months, while over 30% reported hearing negative language about transgender people in the workplace over the same period.²⁵

6.5. Legal protections against discrimination on the basis of sex and gender identity exist across most Australian jurisdictions but some legal anti-discrimination regimes also have carve-outs on the grounds of religious belief, which can overtly disadvantage TGD people, and there can be significant non-compliance in many contexts. Much better evidence is needed about experiences of employment and workplace discrimination experienced by TGD people, including information about prevalence and the contexts in which this is occurring. We suggest that this be a priority area for consideration by AHRC, and that additional strategies be developed by AHRC and other discrimination bodies to address these issues.

7. Responses: protection against vilification

7.1. International actors often point to a right to “free speech” to defend their attacks on TGD and other queer people, drawing on the United States Constitution. That is not the way expression rights are framed in the International Covenant on Civil and Political Rights (ICCPR), which is used as the touchstone for Australian human rights legislation,²⁶ including the Charters in the Australian Capital Territory,²⁷ Victoria²⁸ and Queensland.²⁹ Article 19 of the ICCPR provides:

2. Everyone shall have the right to freedom of expression [...];

²⁴ <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/being-transgender-at-work>.

²⁵ Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A. (2021) *Writing Themselves In 4: The health and wellbeing of LGBTQIA+ young people in Australia*. National report, monograph series number 124. Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University.

²⁶ Australian Human Rights Commission Act 1986, Sections 3, 11, Schedule 2.

²⁷ See Human Rights Act 2004, section 16 and Schedule 1.

²⁸ Charter of Human Rights and Responsibilities Act 2006, section 15

²⁹ Human Rights Act 2019 sections 21 and 13

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

7.2. Article 20 provides that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

7.3. Article 20 of ICCPR illustrates that the expression right does not include advocacy of hatred. The logic of article 20 can readily be applied to other groups targeted by hate, notably the TGD community since “respect for the rights and reputations” and “public health” is clearly under threat.

7.4. We urge, therefore, that the AHRC promote the extension of vilification laws to protect the TGD community.³⁰ We note that this has already been done in Tasmania³¹ and also in the ACT, which has both a human rights charter and an anti-vilification law.³² It has also been proposed several times in Victoria.³³

7.5. While Australian anti-vilification legislation cannot stop actors overseas from posting comments, it can prevent Australian groups from participating in the amplification. Moreover, Australian regulators (such as the eSafety Commissioner) can obtain court orders directing international platforms to remove posts.³⁴

7.6. The ACT legislation provides an important illustration of how to protect the targets of vilification, including the TGD community, from the increasing attacks outlined in this submission. We support the adoption of the principles in that legislation at both federal and state level and further coordination between anti-vilification laws and agencies and eSafety processes.

³⁰ We would also support its extension to other areas, including disability and sexual orientation.

³¹ Tasmania’s Anti-discrimination Act 1998 section 19 (e).

³² Discrimination Act 1991, section 67A.

³³ See the discussion of an earlier proposal by Liam Elphick in <https://theconversation.com/victorias-new-anti-vilification-bill-strikes-the-right-balance-in-targeting-online-abuse-123014>;

³⁴ See: <https://www.theguardian.com/australia-news/2024/may/02/australias-online-safety-regulator-has-drawn-a-line-in-the-sand-for-x-will-she-prevail>