



Feminist Legal Clinic Inc.

PO Box 273, Summer Hill NSW 2130

Mobile: 0402 467 476

www.feministlegal.org

ABN: 17 360 484 300

Department of Justice and Community Safety

Email: reform@justice.vic.gov.au

Submitted online

11 October 2024

Submission on Victoria's laws against hate speech and hate conduct

Feminist Legal Clinic Inc. is a community legal service focused on advancing the human rights of women and girls. We refer to [our submission of 16 October 2023](#) to the original consultation in relation to this proposed legislation.

It seems submissions have not been made publicly available, or at least, we have not been able to find them. Furthermore, the 'Report Back' on the consultation process fails to report on many of the concerns that we and others raised in our submissions. The 'Report Back' also fails to provide a clear tally of those in favour and those opposed to the proposed legislation. The consultation process lacks transparency and does not inspire confidence that the Victorian Government is genuinely committed to acting in a manner that is responsive to public feedback.

We do not see any utility in repeating all our concerns again, as our [earlier submission](#) can be accessed through our website if needed. However, we reiterate that we are strongly opposed to the planned extension of Victoria's anti-vilification laws, which constitutes an unreasonable incursion on freedom of speech and would appear to be designed, at least in part, to silence dissent in relation to harmful and fraudulent gender identity ideology. Should these provisions be passed, it seems that even inciting 'severe ridicule' of a dangerous ideological cult may in future constitute a criminal offence and attract a term of imprisonment.

Any effort by women to use the protections against vilification on the ground of sex and sexual characteristics are likely to be stymied. According to the Victorian Government's Overview Paper, the definition of 'gender identity' will protect drag performers. This is even though drag queen performances by their very nature incite severe ridicule and contempt of women on the ground of their sex and sexual characteristics. It is therefore clear that these provisions are designed to operate as an oppressive tool for eroding women's sex-based rights rather than upholding them. It is to be wondered whether those indulging in black-face or claiming to be trans abled will also be similarly protected at the expense of those who may hope to benefit from the protections afforded on the grounds of race and disability. Only Victoria Police or the DPP will be allowed to bring these prosecutions and their track record on protecting women from vilification and violence while defending their sex-based rights has been woeful to date (for an example, see [here](#) and [here](#)).

We are unable to assess the utility of the proposed political purpose defence, since its exact wording does not seem to have been made available. However, it is our experience from cases in other states, that women's protests against harmful gender identity ideology are not necessarily considered to be 'political' (see [KI v The Retail Store \[2023\] TASCAT 10](#)). It is therefore essential that women's right to uphold and protest the erosion of their sex-based rights should be specified as falling within this political purpose defence or otherwise explicitly protected.

We note that it is proposed to provide an exception which will allow for the continued dissemination of sexist and homophobic content by religious groups. Accordingly, it seems women will continue to be exposed to misogyny emanating from extremists at both ends of the ideological spectrum. Even worse, women will now be faced with a threat of imprisonment should they resort to ridiculing their opponents to defend themselves from sexist ideology.

We ask that the Victorian Government reconsider this proposed legislation with its draconian penalties for what should be free speech and its many dystopian implications, particularly for women and girls.

Yours faithfully



Anna Kerr

Principal Solicitor

Feminist Legal Clinic Inc.

Organization in Special Consultative Status with the Economic and Social Council (ECOSOC) since 2023.