



# Ethnic Communities' Council of Victoria

## Submission to the Ministerial Taskforce on Workplace Sexual Harassment

Department of Justice and Community Safety

Victorian Government

**ECCV Submission**

July 2021

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- JobWatch
- The Hon. John Pandazopoulos, former Minister for Multicultural Affairs, Racing, Major Projects and Employment
- Migrant Workers Centre
- Multicultural Centre for Women's Health
- Our Watch
- Victoria Legal Aid
- Victorian Equal Opportunity and Human Rights Commission (VEORHC)
- WEstjustice

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This submission was prepared by Dr Zuleika Arashiro, from Yuimaru Partnerships, on behalf of ECCV.

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## Executive Summary

ECCV congratulates the Victorian Government for its commitment to ensure that the findings and recommendations from the *National Inquiry into Workplace Sexual Harassment* are progressed, and is pleased to collaborate with the Victoria's Ministerial Taskforce on Workplace Sexual Harassment in this critical reform program.

Workplace sexual harassment impacts people from all backgrounds, but as recognised in the *Respect@Work* report, the groups that face more discrimination and inequality in our society, also have a higher risk of experiencing this form of harassment.

In this submission, **ECCV has focused on the challenges faced by women from migrant and refugee backgrounds**. To date, there is little data or research in Australia on the experiences of these groups of women with workplace sexual harassment, and this gap has contributed to their invisibility in policy discussions around this issue. ECCV consulted with community legal centres, organisations supporting migrant and refugee workers, and women in particular, and interviewed experts and a victim of workplace sexual harassment.

In all the consultations, systemic issues that influence power asymmetry in workplaces were mentioned as the main drivers, and they were not limited to gender inequality. Discrimination based on ethnicity and race, precarious work conditions, fear, lack of knowledge of workers' rights, lack of understanding of what constitutes sexual harassment in the Australian context, were all factors identified as conducive to a deep power asymmetry in workplaces that place women from migrant and refugee backgrounds at increased risk of experiencing harassment, including sexual harassment.

Sexual harassment is a form of gender-based violence and discrimination, and is grounded in gender inequality, and the social, economic and political systems that help to sustain it. Changes in those systems, including the social and cultural norms that underpin it, will not happen quickly. ECCV understands the need to ensure that practical measures that contribute to change can be implemented by employers and regulators. Nonetheless, it is essential that the range of intersecting factors that generate higher risk for migrant and refugee women are understood, and that they are taken into consideration through an intersectional lens to inform the design of solutions that protect *all* Victorians.

In addition to the recommendations for each pillar, ECCV highlights the following overarching considerations for all areas of reform, which will increase the chance that programs will be more effective in protecting women from migrant and refugee backgrounds:

- **Integrated approach:** The Victorian Government has an important role to play in regulation and enforcement, but it is an equally relevant actor when it comes to primary prevention. Policies influence how society responds to gender roles. Policy should be directed to reduce gender inequality, especially in economic opportunities and participation, and address the precarious and often abusive work conditions many migrants experience.

- **Sustainability of interventions and programs:** In order to generate the changes in behaviour that are required in this area, it is important to adopt long term strategies that are sustainable and better capable of generating changes in behaviour and organisational culture.
- **Funding for research and better data collection:** There is currently little evidence of what interventions work in addressing workplace sexual harassment in Australia, and even less when it comes to prevention and support for women from migrant and refugee backgrounds. More collaborative research and evaluation is needed, using intersectionality to frame analysis, and engaging with the groups that are intended to benefit most.
- **Design with those who hold expertise in the multicultural sector:** Reform programs need to be victim-centred, and mainstream cultural safety protocols as an essential component. This can be achieved by working collaboratively with organisations that have long experience supporting women from migrant and refugee backgrounds in Australia.

## Summary of recommendations

### Prevention, including awareness raising

ECCV recommends that the Victorian Government:

1. Initiates community-based, action research, which creates a better understanding of the experiences migrant and refugee women have had with sexual harassment and gender inequality in the workplace.
2. Ensures that initiatives are sustainable. Short term interventions in this area may cause more harm to women, and will not allow for any evidence building for policy purposes.
3. Works with high risk industries and women's specialist organisations, in Melbourne and in regional areas, to develop tailored guidelines for training, using cultural safety principles.
4. Builds on the evidence-driven work on standards already developed by many organisations to guide this work, including the *standards for prevention and response to sexual harassment* developed by the VEOHRC, as well as others dealing with workforce inclusion and equality.<sup>1</sup>
5. Develops and supports training for micro and small businesses, via partnerships with business chambers, and ethnic business associations.
6. Works with community-based organisations to develop programs that engage migrant and refugee women in the design and delivery of education around workplace sexual harassment, using cultural safety principles.

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<sup>1</sup> See for instance, Our Watch's *Equality and Respect*, Multicultural Centre for Women's Health's *Equality at Work*, HealthWest Partnership's *Workforce Mutuality Standards*.

7. Develops and disseminates essential information around workplace sexual harassment through a range of channels that are more likely to reach migrants and refugees before they enter the workforce.
8. Invests in a public campaign, in collaboration with industry bodies, unions, and the community sector. The campaign should be designed in consultation with agencies specialising in gender-based violence prevention, and in support to migrant and refugees, and be evaluated.

### Support for workers

ECCV recommends that the Victorian Government:

9. Establishes an online hub specialised in support and referrals for migrant and refugee victims of sexual harassment, controlled by organisations that already hold expertise in this area.
10. Provides free access to interpreters to people whose first language is not English, if they are involved in a workplace sexual harassment complaint.
11. Commissions community legal centres to train and pay trainers from various ethnic backgrounds to deliver information on workers' rights, including on workplace sexual harassment, as well as to monitor and evaluate these programs.
12. Funds community legal centres to provide free legal assistance for migrants and refugees in complaints related to workplace sexual harassment.

### Enforcement

ECCV recommends that the Victorian Government:

13. Strengthens the enforcement powers of WorkSafe and VEOHRC, including the power to conduct workplace investigation and to impose penalties.
14. Ensures VEOHRC and WorkSafe work collaboratively and use a victim-centred approach, including in the design and delivery of ongoing training to Health and Safety representatives, and training in workplaces.
15. Ensures that staff from WorkSafe and VEOHRC receive regular training on gender equality and prevention of violence against women in workplace, including cultural safety, from community organisations specialising in this area.
16. Supports hiring policies that increase the diversity within the workforce of WorkSafe and VEOHRC, particularly of those handling complaints and support to victims, with staff that better reflects the composition of our multicultural society.
17. Consults with a range of women's organisations about the risks and benefits of a mandatory incident notification system, and embeds mechanisms for periodically reviewing and adjusting it as needed, from a victim-centred perspective.

## Micro and Small Businesses

ECCV recommends that the Victorian Government:

18. Develops, in consultation with industry bodies, ethnic business associations, and small business associations, standards and training targeted to micro and small businesses.
19. Develops multilingual resources to support micro and small businesses in industries that tend to employ a large number of migrant workers, especially temporary workers.
20. Works collaboratively with micro and small business associations, local councils, and ethnic business associations, to share information, and best practices.

## About ECCV

The Ethnic Communities' Council of Victoria (ECCV) is a member based peak body for multicultural communities and people from culturally and linguistically diverse backgrounds in Victoria. ECCV has over 220 organisational members, including ethnic associations, multicultural service providers, and eight regional ethnic communities' councils across the state. Since 1974, we have been advocating for human rights, freedom, respect, equality and dignity for ethnic and multicultural communities, and for the building of a socially cohesive and inclusive Victorian community.

ECCV has a long history in advocating for the rights of multicultural communities, informing industry practice and influencing governments on a range of issues including disability, aged care, health, employment, culturally responsive services and equitable access.

## Introduction

ECCV congratulates the Victorian Government for its commitment to ensure that the findings and recommendations from the *National Inquiry into Workplace Sexual Harassment* are progressed, and is pleased to collaborate with Victoria's Ministerial Taskforce on Workplace Sexual Harassment in this critical reform program.

Government leadership, and clear and stronger legal protections to tackle workplace sexual harassment, are first steps in this process. The Federal Government's roadmap,<sup>2</sup> announced in response to the Australian Human Rights Commission's *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces 2020* report (*Respect@Work* report), signals some positive change, with more responsibility being attributed to employers, more attention to prevention, and regulatory changes that increase clarity and shared responsibility in addressing workplace sexual harassment.<sup>3</sup>

ECCV acknowledges that the Victorian regulatory framework is already more advanced than the national framework. Under the *Equal Opportunity Act 2010* ('EOA Act'), and the *Occupational Health and Safety Act 2004* ('OHS Act'), employers hold a *positive duty* to act and take reasonable steps to eliminate sexual harassment, victimisation, and discrimination, and to create a safe and healthy workplace.<sup>4</sup> From the recently announced state reforms, ECCV is particularly pleased to see the strengthening of occupational health and safety legislation to ensure that psychosocial harm is placed at the same level of impact as physical harm.

Another important achievement is the acknowledgement of the need for an intersectional framing of workplace sexual harassment. Workplace sexual harassment impacts people from all backgrounds, but as recognised in the *Respect@Work* report, the groups that face overlapping forms of discrimination and inequality in our society, also have a higher risk of experiencing harassment. The current review by the

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<sup>2</sup> Australian Government (2021). *A Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces*, April. Canberra: Attorney's General Department.

<sup>3</sup> The Fair Work Amendment (Respect at Work) Regulations 2021, dated 8 July 2021, expanded the definition of serious misconduct to include sexual harassment, making clearer the possibility of employment termination based on sexual harassment.

<sup>4</sup> Victorian Equal Opportunity and Human Rights Commission (2020). Sexual harassment regulation map, [https://www.humanrights.vic.gov.au/static/5459f61422de365de156f775344066fb/Resource-Sexual\\_harassment\\_regulation\\_map-Aug20.pdf](https://www.humanrights.vic.gov.au/static/5459f61422de365de156f775344066fb/Resource-Sexual_harassment_regulation_map-Aug20.pdf)

Ministerial Taskforce on Workplace Sexual Harassment represents an invaluable opportunity for actions that make visible how workplace sexual harassment, as a manifestation of power inequality, can intersect with various forms of inequality and discrimination. **It is therefore critical to ensure that reforms targeting workplace sexual harassment not only strengthen protection via occupation health and safety regulation, but they acknowledge and tackle the power inequality that is at the centre of the problem.**

In this submission, ECCV has focused on the challenges women from migrant and refugee backgrounds face with regard to workplace sexual harassment.

## Submission scope and method

As indicated in the *Respect@Work* report, more data and research around workplace sexual harassment is still needed for a better understanding of the types of interventions that are more effective to address sexual harassment in workplaces.

In developing this submission, it became clear that the lack of data and evidence is even more pronounced when it comes to understanding the experiences of groups facing high risk. There is, for instance, scarcity of research on how social markers such as ethnicity, race, or migration status affect women experiencing workplace sexual harassment in Australia, and the studies that do exist tend to draw on qualitative information.

In addition to research reports and submissions from various organisations, valuable inputs and qualitative information came from:

- Individual interviews with representatives of eight organisations, namely: the Council of International Students Australia, JobWatch, Migrant Workers Centre, Multicultural Centre for Women's Health, Our Watch, Victoria Legal Aid, Victorian Equal Opportunity and Human Rights Commission (VEOHRC), and WEstjustice.
- A group consultation with members of ECCV's Policy Advisory Committee on Employment, Entrepreneurship, Education and Training; and
- An interview with the Hon. John John Pandazopolous, former Minister for Multicultural Affairs, Racing, Major Projects and Employment; and
- An interview with a victim of workplace sexual harassment.

ECCV considers that the evidence and cases presented in various submissions to the National Inquiry into Workplace Sexual Harassment, as well as other reports prepared by community legal centres already provide sufficient case studies to support this Submission, and in line with trauma-informed practices and our duty of care, did not pursue consultation with victims. The only direct lived experience interview included here resulted from a personal contact of the researcher who prepared this submission, who expressed her desire to contribute.

## Intersecting inequalities and sexual harassment

Sexual harassment is a form of gender-based violence and discrimination, and is grounded in gender inequality, and the social, economic and political systems that help to sustain it. Changes in those systems, including the social and cultural norms that underpin gender inequality, will not happen quickly. ECCV understands the need to ensure that practical measures that contribute to change can be implemented by employers and regulators. Nonetheless, it is essential that the range of interconnected factors that generate higher risk for migrant and refugee women are understood, and that they are taken into consideration through an intersectional lens to inform the design of solutions that protect *all* Victorians.<sup>5</sup>

At the primary prevention level, the *Change the Story* framework, developed by Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth,<sup>6</sup> is the core reference to understand both the drivers of violence against women, and the evidence-informed interventions that can help address them:

### **Gendered drivers (Particular expressions of gender inequality consistently predict higher rates of violence against women)**

1. Condoning of violence against women
2. Men's control of decision-making and limits to women's independence in public and private life
3. Rigid gender roles and stereotyped constructions of masculinity and femininity
4. Male peer relations that emphasise aggression and disrespect towards women.

### **Essential actions to address the gendered drivers of violence against women**

1. Challenge condoning of violence against women
2. Promote women's independence and decision-making in public life and relationships
3. Foster positive personal identities and challenge gender stereotypes and roles
4. Strengthen positive, equal and respectful relations between and among women and men, girls and boys
5. Promote and normalise gender equality in public and private life.

Source: Based on Our Watch, ANROWS, and VicHealth (2015), *Change the Story*, pp. 8-9.

<sup>5</sup> The Multicultural Centre for Women's Health has training and resources specifically tailored to improve organisation's understanding of intersectionality and inform better practices. See, for instance, '5 ways intersectionality helps us to understand gender inequality in the workplace,' and '5 ways to apply intersectionality to gender equality planning and action in the workplace,' <https://www.mcwh.com.au/intersectionality-resources-to-strengthen-gender-equality-in-the-workplace/>

<sup>6</sup> Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015). *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*. Melbourne: Our Watch.

While gender inequality is a major driver of sexual harassment, it is not the only factor, and it does not operate in isolation. Sexual harassment is fundamentally an expression of power inequality, and when different forms of inequality are simultaneously present, the risk for the least powerful parties to be abused increases. As Our Watch summarises:

*‘Gender inequality is always influential as a driver of violence against women, however it cannot be considered in isolation, nor is it experienced in the same way by every woman. Thus gender inequality needs to be considered and addressed alongside and together with a range of other significant factors, such as racism, homophobia, the impacts of colonisation, and ableism. Evidence shows that women living at the intersection of gender inequality and other forms of discrimination and oppression are more likely to be subjected to sexual harassment, for example, women living with disability and Aboriginal women.’<sup>7</sup>*

For women from migrant and refugee backgrounds, the issue of sexual harassment cannot be disconnected from the broader context of settlement in a new country. Factors such as language limitations, lack of familiarity with local norms and institutions, social isolation from family and from Australian networks, discrimination, and cultural differences, are common in their experiences. Moreover, financial pressure and labour market barriers exacerbate vulnerability. When women from migrant and refugee backgrounds do find a job, they often concentrate on remaining employed, at times enduring conditions that Australians who know their rights and have local social support will not tolerate.<sup>8</sup>

In 2020, HealthWest Partnership, in collaboration with the Centre for Multicultural Youth and the Multicultural Centre for Women’s Health, conducted a series of conversations with women and young people from migrant backgrounds in Melbourne, about their experiences trying to find work. The project found that:

*‘Many of the challenges and barriers identified by participants sit in the context of broader social and economic disadvantage and exclusion. They are often directly linked to participants’ status as new migrant arrivals (with or without refugee experience) and are further compounded by intersectional disadvantage and oppression linked to age, gender, language, culture and race.’<sup>9</sup>*

Workplace sexual harassment is one of the most sensitive issues that migrant and refugee women might face, but it is one that is hardly discussed in mainstream debates about workplace sexual harassment. ECCV hopes that by raising some of the underlying systemic issues that place them at higher risk, future responses will be more inclusive and effective.

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<sup>7</sup> Our Watch (2019). *Submission to the National Inquiry into Sexual Harassment in Australian Workplaces*. Melbourne: Our Watch, pp. 5-6.

<sup>8</sup> Women’s Health West (2016). *Promoting economic participation and equity for women from refugee and migrant backgrounds*. Research report. Melbourne: Women’s Health West.

<sup>9</sup> HealthWest Partnership (2021). *Community Conversations: Talking about Finding Work in Australia*. Footscray, Vic: HealthWest Partnership, p.10.

## Precarious work

The latest ABS data indicated that in November 2019, there were 1.9 million recent migrants or temporary residents in Australia. On arrival to the country, the majority (83% of recent migrants, 82% of temporary residents) were aged 20-44 years. With regard to employment outcomes, the ABS data showed that:<sup>10</sup>

- 90% of employed male recent migrants were employed full-time compared with **63% of females**;
- 52% of employed male temporary residents were employed full-time compared with **40% of females**;
- **Female** recent migrants and temporary residents had a **higher unemployment rate** than males (8.3% vs 3.9%).

The data confirms what the multicultural sector knows from practice: recently arrived migrant women face more barriers to finding work, and the situation is even more difficult for refugee women.<sup>11</sup>

The industries in which recently arrived migrant women are more likely to find work are care, cleaning, and accommodation and food services. Casual and part time jobs are more common, and salaries are lower in these industries than in other industries.

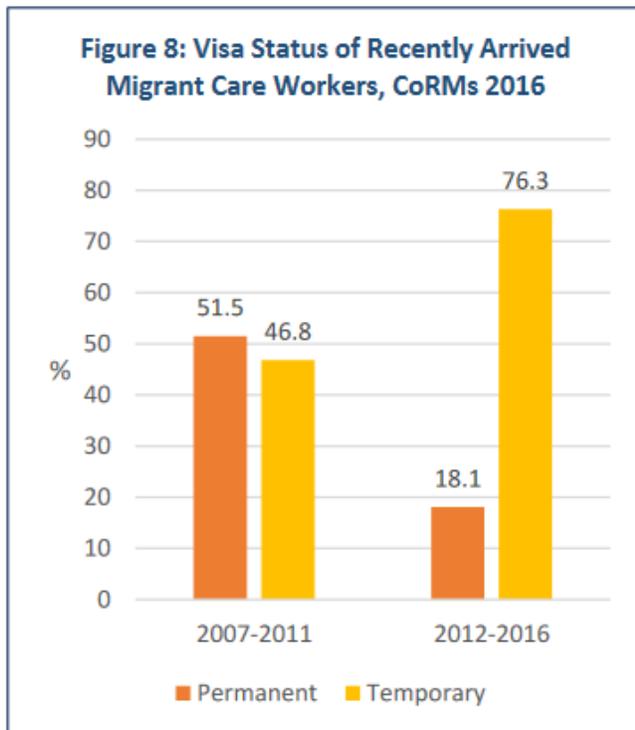
A study conducted by a consortium of Australian universities indicated that by 2016, overseas-born workers accounted for 37% of the frontline care workforce overall, with women representing 85% of workers. Important for the understanding of insecurity of work, these workers have increasingly migrated on a temporary visa, reflecting the changes in Australia's migration policies.<sup>12</sup>

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<sup>10</sup> Australian Bureau of Statistics (2019). Characteristics of recent migrants. November, <https://www.abs.gov.au/statistics/people/people-and-communities/characteristics-recent-migrants/latest-release>

<sup>11</sup> See, for instance, Harmony Alliance (2019) *A strategic approach to improving employment outcomes of women from migrant and refugee backgrounds in Australia*, <http://harmonyalliance.org.au/wp-content/uploads/2019/11/Empoyment-Outcomes-of-Women-from-Migrant-and-Refugee-Backgrounds.pdf>

<sup>12</sup> Eastman, C., Charlesworth, S & Hill, E (2019). 'Migrant Workers in Frontline Care.' *Fact sheet*, [https://www.arts.unsw.edu.au/sites/default/files/documents/Migrants\\_in\\_Frontline\\_Care\\_Final.pdf](https://www.arts.unsw.edu.au/sites/default/files/documents/Migrants_in_Frontline_Care_Final.pdf)



Source: Eastman, Charlesworth, S & Hill, E (2019).

The care industry is strongly regulated, but in the cleaning and hospitality industries, the opportunities for worker rights violation seem to be much higher. Equally challenging is the monitoring of labour hire agreements, and of workers allocated to regional areas where they are often geographically and socially isolated, and where their accommodation arrangements are dependant on employers.<sup>13</sup>

The Australian Human Rights Commission’s 2019 survey with members of the Shop, Distributive and Allied Employees’ Association (SDA) indicated a high prevalence of workplace sexual harassment in industries such as retail trade (42%), and accommodation and food services (39%).<sup>14</sup> Other key findings included:<sup>15</sup>

- **Only 13%** of those who had experienced workplace sexual harassment in the five years prior to the survey **formally reported or complained**. From those who complained, almost one in five were ‘ostracised, victimized or ignored by colleagues’ (19%), had their shifts changed (15%), or were labelled a ‘troublemaker’ (15%).

<sup>13</sup> See Parliament of the Commonwealth of Australia. Joint Standing Committee on Migration (2020). *Final Report of the Inquiry into the Working Holiday Maker Program*, November. Canberra: Commonwealth of Australia; Unions NSW and Migrant Workers Centre (2021). *Working for \$ 9 a day*, [https://d3n8a8pro7vhmx.cloudfront.net/victorianunions/pages/11975/attachments/original/1623999471/piece\\_rates\\_report.2.pdf?1623999471](https://d3n8a8pro7vhmx.cloudfront.net/victorianunions/pages/11975/attachments/original/1623999471/piece_rates_report.2.pdf?1623999471); Uibu, K (2020). ‘There are no human rights here’. *ABC News*, 16 September.

<sup>14</sup> Australian Human Rights Commission (2019) *Everyone’s business: Survey on sexual harassment of members of the Shop, Distributive and Allied Employees’ Association*. Canberra: Australian Human Rights Commission.

<sup>15</sup> Australian Human Rights Commission (2019). *Infographics: Everyone’s Business: Survey on sexual harassment of members of the SDA*. Canberra: Australian Human Rights Commission

- **44%** of the SDA members who had experienced sexual harassment in the workplace in the five years prior to the survey **experienced a negative impact on their mental health**, including anxiety (40%), loss of self-esteem (23%), and depression (18%).
- **Customers were the harassers in 36% of cases** of workplace sexual harassment, and of the SDA members who had been harassed by customers, 75% had experienced it more than once.

Similarly, a 2020 survey conducted by Hospo Voice during the COVID-19 pandemic, identified that sexual harassment and mental health continued to be major concerns for workers, with 78% of women working in the sector saying they worry about sexual harassment in the industry, and 91% of workers in general worrying about mental health. The survey also detected a high level of worker rights violations experienced by migrant workers. As the union argues:

*'(...) insecure work acts as a force multiplier, helping to enable and accelerate other fundamental problems in the industry, including wage theft, sexual harassment and migrant worker exploitation. It is the underlying thread responsible for the hospitality industry's most egregious structural problems and fosters the "transience" that is incorrectly assumed to be an inherent part of the hospitality industry.'*<sup>16</sup>

While less is known on the incidence of sexual harassment in the cleaning industry, community legal centres mention it as an industry that requires more monitoring, especially in view of the high presence of sole traders or very small businesses, 'informal' work arrangements and high presence of young female migrant workers.

## The case of international students

### **Case 1: Andrea**

*'Andrea came to Australia as an international student. Andrea found an ad on Gumtree for a job distributing fliers for a painting and home improvement company. Andrea applied for the job and she was hired by a man named Tony. Tony told her that her pay would vary depending on how quickly she delivered the fliers.*

*The arrangement was that Tony would pick Andrea up from the station and drive her to different locations. One day when Tony was driving Andrea from the station he started to ask her personal questions and made some comments about her physical appearance. Tony then started to try and kiss her. Andrea felt scared and uncomfortable so she got out of the car. Tony began to follow her in his car, so she ran until he was out of sight.*

*Andrea reported the sexual harassment to the police. She was never paid for the jobs she did for Tony. We helped Andrea write a complaint to the Fair Work Ombudsman. However, because Andrea only knew Tony's first name and had no other personal information, we were unable to take further action.'*

(WEstJustice Community Legal Centre, Springvale Monash Legal Service and JobWatch (2020). *Submission to Select Committee on Temporary Migration*. July, pp. 18-19)

<sup>16</sup> United Workers Union (2020). *#RebuildHospo: A Post-Covid Roadmap For Secure Jobs In Hospitality*, p.12, <https://www.unitedworkers.org.au/wp-content/uploads/2020/11/Rebuild-Hospo-A-Post-Covid-Roadmap-for-Secure-Jobs-in-Hospitality.pdf>

As various submissions made to the Senate Inquiry into Temporary Migration highlight, temporary visa holders represent one of the most vulnerable groups of workers, with exploitation usually involving a series of workers' rights violations.<sup>17</sup> Language barriers, lack of understanding of workers' rights in Australia, the need to secure some form of income, fear of having their visa impacted if they complain and, in some cases, dependence on the employer as a visa sponsor, all create a structure that accentuates the power of employers over employees.

Within that group, international female students are particularly vulnerable to sexual harassment in the workplace: they are young, socially isolated from family, face restrictions in the number of hours they are allowed to work, and usually have little interaction with Australian institutions and at times, have limited social circles. Their vulnerability to exploitation became more visible during the COVID-19 pandemic in 2020,<sup>18</sup> but as the various organisations consulted for this Submission noted, the problems existed well before the pandemic. The cases of female international students are important because they clearly illustrate the overlapping challenges that recent migrant and refugee women experience.<sup>19</sup>

Farbenblum and Berg's study on the exploitation of international students included a national survey with around 6,000 international students, distributed in 2019. While only 3% of respondents said they had experienced sexual harassment from their supervisor or co-workers, the researchers considered this to be an underestimation, **due to differences in understanding what constitutes sexual harassment, and because of shame.**<sup>20</sup> They also found that the percentage of international students enrolled in vocational, English and foundation courses, who reported experiencing sexual harassment from supervisors or co-workers was higher than those enrolled at universities (Bachelor, Masters or PhD).

### **Case 2: Brenda and Viviana**

*'Brenda and Viviana are students from Latin America. They met each other at an English course in Melbourne and became friends. They were looking for jobs that are not underpaying students when they found online an advertisement for a part time cleaning job that promised to pay according to the award rate.*

*When they went for a job interview, the employer told them that the job was in regional Victoria and that they had to move into an area nearby before starting to work. He handed them a rental agreement to sublet a room with a shared bathroom from him at \$290 per week (utilities not included) and asked them to sign it if they wanted the job.*

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<sup>17</sup> The inquiry report will be released in September 2021. For submissions and monitoring of report, visit the Senate's Select Committee on Temporary Migration, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Temporary\\_Migration/TemporaryMigration](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Temporary_Migration/TemporaryMigration)

<sup>18</sup> Askola, H., Forbes-Mewett, H. and Shmihelska, O. (2021) *Migrant Precariousness in the Time of COVID-19: Migrant Workers, Risks and Rights*. Clayton, Vic: Castan Centre for Human Rights Law & Monash Migration and Inclusion Centre, Monash University.

<sup>19</sup> See Forbes-Mewett H, and McCulloch J. (2016). 'International Students and Gender-Based Violence.' *Violence Against Women* 22(3), pp. 344-65.

<sup>20</sup> See, for instance, Farbenblum, B, and Berg, L (2020). *International Students and Wage Theft in Australia*, June. Sydney: Migration Worker Justice Initiative, UNSW Sydney Law, University of Technology Sydney.

*Brenda and Viviana left Melbourne and moved into the new house in regional Victoria. It took at least a couple of weeks before they were assigned any work. To their surprise, the public schools they were finally assigned to do cleaning work were in Melbourne. There was no reason for them to move into the employer-provided accommodation if their employer had not made the job placement conditional to living in the accommodation provided by him.*

*Every day, Brenda and Viviana had to travel long distances to go to classes or to work in Melbourne. There was no public transportation to the house at night, and they had to walk almost half an hour every time they finished late at work...What made it more unbearable for Brenda and Viviana to live in the employer-provided accommodation was the fact the employer was also living in the house. He would ogle them in the hallway and enter their room uninvited and unannounced. Brenda and Viviana were worried if they could safely survive until their rental agreement expired.'*

(Migrant Workers Centre (2019). *Annual Report*, p. 11)

Both Brenda and Viviana were young professionals in their home countries, and were pro-active and able to link with the Migrant Workers Centre. Still, they did not know that they could join a union in Australia, or that the accommodation problem with the employer was a workplace issue.

## Racism and sexism in the workplace

### **Case 3: Stacy**

*'Stacy is a young Chinese woman who was sexually harassed by a colleague when working in a kitchen. Stacy was on a working holiday visa. The colleague made a number of inappropriate sexual comments to Stacy, and frequently followed her into the cool room at work where he would grope her breasts and bottom. When Stacy complained to the manager, he said, "I thought you Chinese girls liked being treated like this."*

*Stacy came to a CLC [community legal centre] for advice. We advised her that as intersectional discrimination is not expressly recognised in Australian law, she would have to claim sexual harassment and race discrimination as two separate grounds.'*

Nawaz, M., Bargon, S and Davis, P (2019) *#MeToo: Legal responses to sexual harassment at work*. Kingsford Legal Centre, Redfern Legal Centre, Women's Legal Service NSW, and National Association of Community Legal Centres Joint Report, p.32

Stacy's case is a powerful example of the risks of invisibility and of 'half accounts' when interconnected forms of discrimination are not recognised. There is not much literature in Australia that systematically analyses the intersection of racism and gender discrimination in workplaces, but the reports from *Women's Health West* and *HealthWest Partnerships* suggest that these forms of discrimination are experienced as interconnected.<sup>21</sup>

In the survey conducted as part of the *Women and the Future of Work* study, researchers identified that:<sup>22</sup>

<sup>21</sup> See Women's Health West (2016) and HealthWest Partnership (2021) above.

<sup>22</sup> Baird, M., Cooper, R., Hill, E. and Probyn, E, and Vromen, A (2018). *Women and the Future of Work*. Report 1 of the Australian Women's Working Futures Project. Sydney: University of Sydney p. 92.

*'Women born in Asia and Culturally and Linguistically Diverse women were twice as likely as others to say they experienced sexual harassment (18% of women born in Asia compared with 9% of those born in Australia, for instance, and 16% of Culturally and Linguistically Diverse women, compared to 8% of those who are not Culturally and Linguistically Diverse).'*

Buchanan *et al's* (2018) study on the impact of sexual and racial harassment on Asian American women, concluded that both forms of harassment were associated with indicators of mental health deterioration, including depression, anxiety and post-traumatic stress.<sup>23</sup> Other studies have also found that women of colour are disproportionately targeted by 'racialised' sexual harassment, yet their experiences remain invisible.<sup>24</sup>

One interviewee commented on women in hospitality being sometimes asked to dress in clothes that highlight their ethnicity and 'exoticness'. This exploitation of young women from various ethnicities shows the challenges of addressing both racism, sexism, and power inequality in workplaces, especially when stereotypes that hyper-sexualise women from particular race or ethnic backgrounds is considered good business. Despite the psychological and emotional violence that is embedded in those experiences, reporting is not an easy step, especially when workplaces are not culturally safe to begin with.

A recent report released by Women of Colour Australia, based on an online national survey conducted in November 2020, indicates that the experience of intersecting forms of discrimination is not restricted to recently arrived migrants. Out of the 543 women who answered the survey, 60% were born overseas, and 20% were second generation in Australia, and 7% of women identifying as Aboriginal or Torres Strait Islander. Many of the women were in 'white collar' professional jobs, working full time, and 70% were between 25 and 34 years old.

What is particularly significant for this Submission is that **despite the survey respondents' high level of education, and the fact the majority of them were employed in organisations that have formal diversity and inclusion policies, 60% of them said they had experienced discrimination at work, associated with interconnected forms of racism, sexism, and 'tokenism.'**<sup>25</sup>

This section has shown that other forms of discrimination in addition to sexism, precarious work conditions, and fear of getting involved in legal problems, all impact women from migrant and refugee backgrounds, and women of colour in many instances. These are unlikely to be addressed through a primary focus on employers' duties under occupation health and safety regulation.

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<sup>23</sup> Buchanan, N., Settles, I, Wu, I & Hayashino, D (2018) 'Sexual Harassment, Racial Harassment, and Well-Being among Asian American Women: An Intersectional Approach,' *Women & Therapy* 41 (3-4), pp. 261-280.

<sup>24</sup> Cantalupo, N.C. (2019). 'And even more of us are brave: Intersectionality and Sexual Harassment of Women Students of Colour.' *Harvard Journal of Law and Gender* 2019, vol. 42, pp.1-79.

<sup>25</sup> Women of Colour Australia and Archer, C (2021). *Workplace Survey Report 2021*, <https://womenofcolour.org.au/wp-content/uploads/2021/06/WOMEN-OF-COLOUR-AUSTRALIA-WORKPLACE-SURVEY-REPORT-2021.pdf>

## Addressing workplace sexual harassment

This section draws on some of the evidence of what works in addressing workplace sexual harassment generally, as we could not identify any review or study that dealt with culturally safe workplace interventions that addressed the needs of migrant and refugee women specifically, or of women from culturally and linguistically diverse backgrounds more broadly.

This research gap once again reinforces the problems of examining gender inequality in isolation from other drivers of inequality in the workplace that are conduits for creating higher risk for some groups. The recommendations made here benefit considerably from the long experience and knowledge of the organisations consulted for this Submission, and publications from multicultural organisations working with women from migrant and refugee backgrounds.

With regard to general evidence on what works to prevent sexual harassment, four reviews were identified and are recommended for further examination by the Taskforce:<sup>26</sup>

- Review of interventions as part of the *Review of Sexual Harassment in Victorian Courts* (2021)
- UN Women’s report on cultural change and sexual harassment (2019)
- CARE Australia’s review of evidence around prevention and response to sexual harassment (2018)
- U.S. EEOC Taskforce on the Study of Harassment in the Workplace’s report (2016)

### What works?

- Initiatives targeting workplaces need to adopt a **whole-of-organisation approach**, and address prevention, support, and accountability as interconnected dimensions
- **Senior leadership is fundamental**, regardless of the size of the organisation
- Initiatives need to **be tailored**, taking into account the **organisation’s culture, industry, size, and implementation and monitoring capacity**
- **Poorly designed programs and training can cause an adversarial work environment** and, at times, worsen the situation
- Actions that **reduce gender inequality as well as increase women’s participation and career opportunities**, can have a positive impact on an organisation’s culture and environment

<sup>26</sup> Review of Sexual Harassment in Victorian Courts (2021). ‘Appendix 1: Summary Review of Interventions to Prevent and Respond to Sexual Harassment in Courts’. Appendix to *Preventing and Addressing Sexual Harassment in Victorian Courts and VCAT report*. Appendix 1, February,

<https://www.shreview.courts.vic.gov.au/wp-content/uploads/2021/04/Appendix-1-Summary-Review-of-Interventions-to-Prevent-and-Respond-to-Sexual-Harassment-in-Courts.pdf>

UN Women (2019). *What will it take? Promoting cultural change to end sexual harassment*,

<https://www.unwomen.org/en/digital-library/publications/2019/09/discussion-paper-what-will-it-take-promoting-cultural-change-to-end-sexual-harassment>

Campbell, H & Chinnery, H (2018). *What works? Preventing and responding to sexual harassment in the workplace*. A rapid review of evidence, CARE Australia, <https://www.care.org.au/wp-content/uploads/2018/12/STOP-Rapid-Review.pdf>

U.S. Equal Opportunity Employment Commission (2016). *Report of Co-Chairs Chai R. Feldblum and Victoria A Lipnic*. Select Taskforce on the Study of Harassment in the Workplace, <https://www.eeoc.gov/select-task-force-study-harassment-workplace>

- While women can participate in these efforts, **organisations should avoid placing the additional labour of educating and monitoring on women** only (staff or managers)
- Initiatives should **engage workers through positive aspects** of mutual respect, support to each other, and empowering ways to promote a safe workplace, **rather than emphasising fear and blame**

## Prevention

In accordance with the *Change the Story framework*, ECCV reiterates that successful prevention needs to tackle the intersection of gender with other forms of inequality and includes primary (focus on underlying causes at the broad population level), secondary or early intervention (focus on changing high risk ‘trajectories’), and tertiary prevention (support to survivors and responses that aim to prevent recurrence).<sup>27</sup>

This is clearly an effort that cannot be reduced to businesses alone, but it is possible to draw a parallel to the three levels of prevention in workplaces to ensure that workplace strategies are more effective:

- **Primary intervention:** Actions directed to address all forms of discrimination, and to promote better opportunities for decent employment for women from migrant and refugee backgrounds.
- **Secondary intervention:** Actions that aim to increase the safety and reduce the risk in workplaces for women from migrant and refugee backgrounds.
- **Tertiary intervention:** Actions directed to support victims, and strengthen enforcement and accountability.

As mentioned earlier in this Submission, migrants and refugees in general, and women in particular, face a set of barriers to economic participation that often push them into more insecure, underpaid work.<sup>28</sup> These difficulties affect not only their settlement experience, but impact their confidence and increase the pressure to over-perform and avoid complaining in Australian workplaces.

Many migrants and refugees often arrive with qualifications and skills that could be easily transferred into various industries. While language sometimes is a limitation, other factors such as discrimination, recruitment systems that are primarily focused on interviews, rather than opportunity for applied assessments, lack of local networks for reference, and a system that emphasises the uniqueness of Australian experience, rather than skills and abilities, all function as barriers to employment. Racism has also been detected as a critical barrier.<sup>29</sup>

A 2018 Deloitte Access Economics report commissioned by Multicultural Affairs Queensland identified that the untapped talent and skills held by migrant and refugees in that state represented a \$250 million economic opportunity. The report also found that 49% of the skilled migrants were not using their skills or experiences gained before arriving. Women’s skills were more underutilised than men’s.<sup>30</sup>

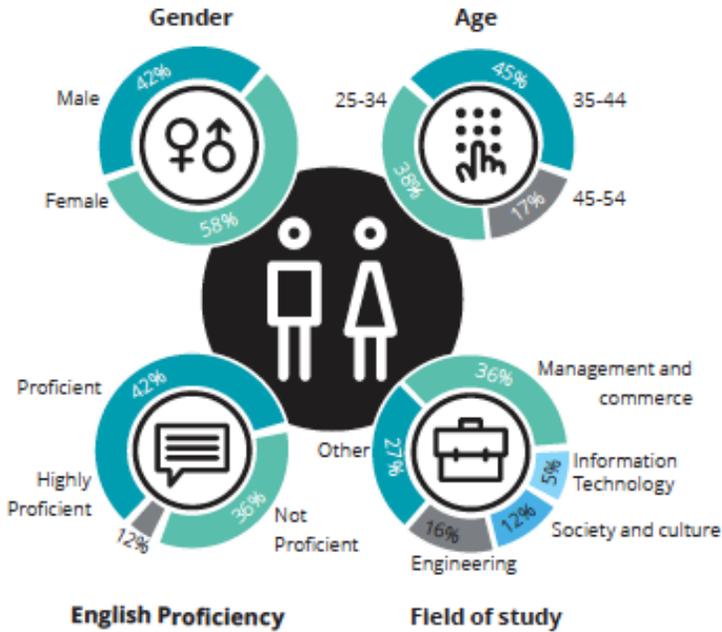
<sup>27</sup> Our Watch, ANROWS and VicHealth (2015), *Change the Story*, p.15

<sup>28</sup> Women’s Health West (2016). *Promoting economic participation and equity for women from refugee and migrant backgrounds*. Research report. Melbourne: Women’s Health West.

<sup>29</sup> HealthWest Partnership (2021). *Community Conversations: Talking about Finding Work in Australia*. Footscray, Vic: HealthWest Partnership.

<sup>30</sup> Deloitte Access Economics (2018). *Seizing the opportunity: Making the most of the skills and experience of migrants and refugees*. A research report for Multicultural Affairs Queensland,

What are the characteristics of underutilised workers?



What are the top reasons skilled migrants and refugees are not applying to have their skills recognised?



Source: Deloitte Access Economics (2018). *Seizing the opportunity: Making the most of the skills and experience of migrants and refugees*. A research report for Multicultural Affairs Queensland, <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-making-most-skills-experience-migrants-refugees-011118.pdf> (p.4)

Studies have demonstrated that inclusive workplaces that reflect the actual diversity in our society, are not only better workplaces, but bring economic benefits for business. **However, as the survey conducted by Women of Colour Australia has shown, inclusion and diversity policies are not sufficient. It is critical to intentionally focus on reducing power disparity and ensuring that people from all cultures feel safe in the workplace. Cultural safety, in this context, means creating an environment in which migrant and refugee women feel equally respected, validated in their knowledge and experiences, and not judged.**<sup>31</sup>

Diversification of the workforce, with hiring policies that are more conducive to attract migrant and refugee women, including in senior level positions, career mentorship for migrant and refugee women, and implementation of workplace initiatives that help increase skills recognition and opportunities for

<https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-making-most-skills-experience-migrants-refugees-011118.pdf>

<sup>31</sup> For an excellent example of evidence-based cultural safety guidelines, see ANROWS (2018). *Cultural Safety Principles and Guidelines. Culturally and Linguistically Diverse Projects with Action Research Initiative* (updated 2020).

growth for these women, can help address different forms of inequality and create workplaces where women from migrant and refugee backgrounds feel less isolated or singled out.

Moreover, a strategic, industry-based approach to workplace changes is also important. One of the interviewees for this Submission suggested that with the reduction of international students in Victoria because of COVID-19 pandemic, there is an opportunity to rethink how hospitality employers engage with their workforce, improving employment conditions, and hiring workers of all ages, beyond its current focus on younger workers.

With regard to training, the evidence shows that it is a necessary but insufficient component on its own. To be effective, training needs to be tailored to the organisation, coupled with actions in other areas, and must be designed and delivered by experts. There is also indication that training that emphasises fear and punishment can worsen relationships in workplace environments, while approaches that allow every person to connect to stories, and feel they can contribute to a mutually respectful workplace, are more effective.<sup>32</sup> Training of managers should also be specific, including more content around responsibilities and how to manage internal complaints.

### Awareness raising<sup>33</sup>

Awareness raising is a key aspect of prevention. Ideally people should know about their rights and understand what sexual harassment in the workplace means before they enter the workforce. Information should be delivered at moments when they are learning about employment and worker rights and obligations in Australia, and through ‘touch points’ that are most accessible to them. For migrant and refugee women these include:

- Migration agencies
- Settlement services
- Ethnic associations
- Community centres, and public libraries
- Mental health services
- Multicultural service providers
- English courses providers, TAFEs, and universities
- International student associations
- Study Melbourne
- Social media

**A government-led campaign is a good way to signal that the issue is a priority and to raise the awareness of all Victorians.** Drawing on the knowledge from other aligned areas of workers’ protection, such as anti-bullying campaigns, attention should be placed on simple language and concrete examples that help people understand what workplace sexual harassment is, and how to get support, without assumptions that the concept is equally understood across cultures. Human-centred design, involving design thinking and prototyping with a range of groups from various cultural backgrounds, is recommended to ensure that messages developed will resonate across cultures.

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<sup>32</sup> See suggested reviews in fn23.

<sup>33</sup> Awareness raising has been placed under prevention as a key aspect of integrated actions around prevention. To date there is little evidence that awareness raising alone can generate behavioural change.

## Recommendations

ECCV recommends that the Victorian Government:

1. Initiates community-based, action research, which creates a better understanding of the experiences migrant and refugee women have had with sexual harassment and gender inequality in the workplace.
2. Ensures that initiatives are sustainable. Short term interventions in this area may cause more harm to women, and will not allow for any evidence building for policy purposes.
3. Works with high risk industries and women's specialist organisations, in Melbourne and in regional areas, to develop tailored guidelines for training, using cultural safety principles.
4. Builds on the evidence-driven work on standards already developed by many organisations to guide this work, including the *standards for prevention and response to sexual harassment* developed by the VEOHRC, as well as others dealing with workforce inclusion and equality.<sup>34</sup>
5. Develops and supports training for micro and small businesses, via partnerships with business chambers, and ethnic business associations.
6. Works with community-based organisations to develop programs that engage migrant and refugee women in the design and delivery of education around workplace sexual harassment, using cultural safety principles.
7. Develops and disseminates essential information around workplace sexual harassment through a range of channels that are more likely to reach migrants and refugees before they enter the workforce.
8. Invests in a public campaign, in collaboration with industry bodies, unions, and the community sector. The campaign should be designed in consultation with agencies specialising in gender-based violence prevention, and in support to migrant and refugees, and be evaluated.

## Support for workers

### **Case 4: Ilama\* (interviewee)**

*Ilama is a successful professional woman of colour, who migrated with her parents to Australia when she was a child. Ilama was 30 years old and was working for a small organisation when she experienced workplace sexual harassment.*

*After attending a Board meeting to present her project, she began to receive daily calls from a Board member, who was in his fifties. The phone calls would start with work-related issues but would then turn into sexual remarks. The calls continued for weeks, but she felt pressured to answer the calls because he was a Board member, and she was afraid of reporting:*

*'Because it was a small organisation - and that is another reason I feared as well - if I had said*

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<sup>34</sup> See for instance, Our Watch's *Equality and Respect*, Multicultural Centre for Women's Health's *Equality at Work*, HealthWest Partnership's *Workforce Mutuality Standards*.

*anything and it had gone out, it would be so clear it was me, there would be no way that I would have been able to remain anonymous.'*

*She finally spoke about it with a friend, who advised her to bring the issue to her manager. Her manager, who instructed her not to answer the calls and asked the Board member to discuss the project directly with him. The actual behavior of the harasser was not discussed. The calls gradually stopped:*

*'I was really disappointed...Back then I was thirty and growing in my career, and I felt a lot of loyalty, a lot of commitment...I wasn't impacted as much as by what happened than I was impacted by the way it was handled, and knowing that this person was out there, being able to keep going, behaving the way they are behaving and potentially impacting other people.'*

*When asked about support that would have made things easier for her, Ilima mentioned that speaking with an external, well prepared support, independent from the organisation, would have helped:*

*'I'd have felt much better telling someone external to the organisation, independent...If you feel you can be guaranteed anonymity...Things like EAP...It is really important that those (external) support systems can cater to the needs of migrant and refugee women and understand those intersections (gender, race, migration)...It's really hard, whenever I go to EAP I always ask for someone who has a migrant background or is a person of colour because when I talk about that, what I don't want is someone to dismiss it and say 'it's not that'...It's not just about gender, there are so many other intersections.'*

(\* Pseudonymous)

Ilima's case is a good example of the challenges women may face when employers are not prepared to address workplace sexual harassment. Ilima was a young professional in a small organisation, and even when she overcame the fear of speaking up, there were no mechanisms in place to support her, the responses were not adequate, and the perpetrator was not held accountable.

Support to workers starts with a visible policy of 'zero tolerance' for sexual harassment, information about what workplace sexual harassment means, how workers are protected under law, and the channels for complaint, both internal and external. Due to the mental health impacts of sexual harassment, whenever possible employers should also ensure that workers have access to free, confidential counselling services outside the organisation, such as Employee Assistance Programs.

ECCV recommends that a specialised 'online hub' be created as a single point of entry for support, information and referral, with the possibility of anonymous reporting. This recommendation is in line with suggestions made by some consulted organisations, Ilima, and organisations specialising in addressing sexual violence such as CASA Forum.<sup>35</sup> Through this **culturally safe hub, victims would be able to first talk anonymously about their experience (phone line and online chat), and receive brief information about their options for reporting, free legal aid and counselling services.**

Currently the system of support is diffused, with too many points of entry for reporting. It places sexual harassment either as part of support for violence against women or under discrimination laws. While this logic is correct, many women from migrant and refugee backgrounds might not immediately associate

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<sup>35</sup> CASA Forum (2019). *Submission to the National Inquiry into Sexual Harassment in Australian Workplaces*. Australian Human Right Commission, 29 February.

those services to sexual harassment, thus preventing them from accessing support. Moreover, many temporary migrant women assume that these services are for Australian citizens only.

Creating a specialised service, with an easy, single point of entry, housed outside the Government and managed by women's organisations that hold expertise in both gender-based violence and multicultural support, could significantly increase safe access for women from migrant and refugee backgrounds. **This service would also assist in the collection of better data to inform more research and evidence-based responses.**

Language support is also critical. The Migrant Workers Centre noticed that language barriers can create serious misunderstandings, with migrant workers being both placed in the position of victims or as accused parties in workplaces. Migrant workers should have the option of engaging interpreters at any stage of a complaint or reporting process. The community legal centres also stressed that workers need support when considering submitting a complaint, both legal support and counselling.

In addition to free legal aid, migrant and refugee workers can benefit particularly from information that is delivered with or through members of their community. A peer-based, train the trainer approach, involving paid training and work opportunity for members of various migrant and refugee communities, to then deliver workers' rights information to their peers, including information on workplace sexual harassment, would help bridge many gaps, such as culturally inappropriate delivery, language, and trust.

## Recommendations

ECCV recommends that the Victorian Government:

9. Establishes an online hub specialised in support and referrals for migrant and refugee victims of sexual harassment, controlled by organisations that already hold expertise in this area.
10. Provides free access to interpreters to people whose first language is not English, if they are involved in a workplace sexual harassment complaint.
11. Commissions community legal centres to train and pay trainers from various ethnic backgrounds to deliver information on workers' rights, including on workplace sexual harassment, as well as to monitor and evaluate these programs.
12. Funds community legal centres to provide free legal assistance for migrants and refugees in complaints related to workplace sexual harassment.

## Enforcement

*'A key concern that a lot of our clients have is being further victimised by the process. It is one thing to be put in a position like that [being sexually harassed at work], but then it is another thing to go through a process where the perpetrator is going to deny what's happened.'*  
(WEstjustice)

As mentioned above, **the current system is not victim-centred**. It is complex, with many points of entry and varied levels of capacity and expertise across agencies to deal with workplace sexual harassment claims. The upcoming changes in regulation, at both the Federal and State levels, are likely to address major gaps already identified by the AHRC. As mentioned in the Introduction, given the impacts of

workplace sexual harassment on mental health, we are particularly pleased with the clarifications around workplace psychosocial hazard.

**In line with recommendations from various legal centres, ECCV considers that both WorkSafe and VEOHRC need to be given enforcement powers, and supported to work collaboratively.**

While WorkSafe is the right jurisdiction to handle occupational health and safety claims, for the most vulnerable groups, workplace sexual harassment often occurs in connection with other forms of discrimination. In Victoria, the *Equal Opportunity Act* allows claims that include multiple, intersecting forms of discrimination, and VEOHRC offers a better pathway in those cases than the OH&S regulation. **A victim-centred approach means that victims should not be pushed to ‘divide’ their story, as in Stacy’s case above, under multiple claims.**

The *Memorandum of Understanding* recently signed between the two agencies is a first step to enable more collaboration, and ECCV suggests that this should be used as an opportunity **to jointly review their processes using a victim-centred approach, with training to staff on embedding best practices in how to deal with gender-based violence and cultural safety.**

One organisation consulted for this Submission mentioned that in their experience, what makes a considerable difference for victims is the way the cases are conducted by agencies. Victims usually pursue the validation of their story and an apology, more than monetary compensation. Having the opportunity to be heard and to be supported by legal experts (not being left alone in the process) were both cited as valuable for victims, and should be considered as part of an adequate support system.

In this regard, the idea of a **mandatory incident notification** based on employers being required to report workplace sexual harassment incidents to WorkSafe, requires more thinking and consultation with employers of various sizes. Without the other pillars in place, such a scheme could generate the opposite effect: an adversarial and fearful organisational climate in which employers may have an incentive to minimise or dismiss complaints.

## Recommendations

ECCV recommends that the Victorian Government:

13. Strengthens the enforcement powers of WorkSafe and VEOHRC, including the power to conduct workplace investigation and to impose penalties.
14. Ensures VEOHRC and WorkSafe work collaboratively and use a victim-centred approach, including in the design and delivery of ongoing training to Health and Safety representatives, and training in workplaces.
15. Ensures that staff from WorkSafe and VEOHRC receive regular training on gender equality and prevention of violence against women in workplace, including cultural safety, from community organisations specialising in this area.
16. Supports hiring policies that increase the diversity within the workforce of WorkSafe and VEOHRC, particularly of those handling complaints and support to victims, with staff that better reflects the composition of our multicultural society.

17. Consults with a range of women’s organisations about the risks and benefits of a mandatory incident notification system, and embeds mechanisms for periodically reviewing and adjusting it as needed, from a victim-centred perspective.

## Micro and small businesses

Most of the propositions that are made around prevention and support assume a certain organisational capacity, and willingness of employers to lead the change. Micro and small businesses need to be supported to do this work. They need access to guidelines that are tailored to their industry and size, as well as guidance for developing simple protocols.<sup>36</sup>

This work will be better achieved with the support of industry bodies and access to tailored guidelines, free training, and engagement via small business associations, ethnic business associations, and local councils. Sole traders should also be included.

Leadership is fundamental, and in micro and small business, cultural change can be achieved faster than in large corporations, if the employer is committed. However, when they are not interested, the reality is that there is little workers can safely do through internal mechanisms. Often there will not be a person to whom they can safely report an incident, and when they do report, the risks of victimisation are high.

Here the work of regulators in enforcing standards across various industries must be combined with the targeted distribution of information to workers through the channels mentioned under Prevention, and through external support channels (see ‘Support’ sub-section below).

## Recommendations

ECCV recommends that the Victorian Government:

18. Develops, in consultation with industry bodies, ethnic business associations, and small business associations, standards and training targeted to micro and small businesses.

19. Develops multilingual resources to support micro and small businesses in industries that tend to employ a large number of migrant workers, especially temporary workers.

20. Works collaboratively with micro and small business associations, local councils, and ethnic business associations, to share information, and best practices.

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<sup>36</sup> See, for instance, guidelines for small business (chapter 8) in the Australian Human Rights Commission (2008). *Effectively preventing and responding to sexual harassment: A Code of Practice for Employers*, [https://humanrights.gov.au/sites/default/files/content/sexualharassment/employers\\_code/COP2008.pdf](https://humanrights.gov.au/sites/default/files/content/sexualharassment/employers_code/COP2008.pdf); and Victorian Equal Opportunity and Human Rights Commission (2020). *Guideline: Preventing and responding to sexual harassment – Complying with the Equal Opportunity Act 2010*, <https://www.humanrights.vic.gov.au/resources/sexual-harassment-guideline/>

## Conclusion

ECCV believes Victorians are ready for the conversations and joint efforts that will be required to make our workplaces safer for all workers, with zero tolerance for sexual harassment. It congratulates the Victorian Government for forming the Taskforce and for the progressive regulatory changes that are under way. Changing the intersecting systemic barriers that are the root of gender violence, including of workplace sexual harassment, will take time, but we cannot shy away from this work.

In addition to the recommendations made for each pillar, ECCV would like to conclude by highlighting overarching considerations for all areas of reform, which will increase the chances that programs will be more effective in protecting women from migrant and refugee backgrounds:

- **Integrated approach:** The Victorian Government has an important role to play in regulation and enforcement, but it is an equally relevant actor when it comes to primary prevention. Policies influence how society responds to gender roles. Policy should be directed to reduce gender inequality, especially in economic opportunities and participation, and address the precarious and often abusive work conditions many migrants experience.
- **Sustainability of interventions and programs:** In order to generate the changes in behaviour that are required in this area, it is important to adopt long term strategies that are sustainable and better capable of generating changes in behaviour and organisational culture.
- **Funding for research and better data collection:** There is currently little evidence around what interventions work in addressing workplace sexual harassment in Australia, and even less when it comes to prevention and support for women from migrant and refugee backgrounds. More collaborative research and evaluation is needed, using intersectionality to frame analysis, and engaging with the groups that are intended to benefit most.
- **Design with those who hold expertise in the multicultural sector:** Reform programs need to be victim-centred, and mainstream cultural safety protocols as an essential component. This can be achieved by working collaboratively with organisations that have long experience supporting women from migrant and refugee backgrounds in Australia.

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