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**Submission to the Senate Legal and Constitutional Affairs Committee inquiry  
into the Social Media (Anti-Trolling) Bill 2022**

1 March 2022

**Introduction**

Harmony Alliance: Migrant and Refugee Women for Change is one of the six National Women's Alliances supported by the Australian Government to promote the views of all Australian women and to ensure their voices are heard in decision-making processes. Harmony Alliance's purpose is to provide a national inclusive and informed voice on the multiplicity of issues impacting on experiences and outcomes of migrant and refugee women, and to enable opportunities for women from migrant and refugee backgrounds to directly engage in driving positive change.

We adopt an intersectional, feminist, and human rights-based approach in promoting the voice and participation of women from migrant and refugee backgrounds in Australian society. We acknowledge the diversity of experiences of women from migrant and refugee backgrounds and recognise the inherent value of each person, of all backgrounds, genders, ages, abilities, social standings, sexual orientations or religions. We promote the principles of dignity, equality, autonomy, non-discrimination and mutual respect.

The Harmony Alliance membership comprises over 140 organisations and individuals representing and/or working for the advancement and inclusion of migrant and refugee women.

Harmony Alliance welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Social Media (Anti-Trolling) Bill 2022 (the Bill).

**The importance of applying an intersectional lens to understanding impacts of social media**

In 2020, Harmony Alliance released its Position Statement on Intersectionality.<sup>1</sup> Intersectionality theory recognises that an intersection of multiple forms of systemic discrimination produces greater disadvantage for groups of people who are not dominant and do not have the same access to power and privilege as the dominant groups. Even when the systems are not actively discriminatory, structural barriers, such as language, poverty, and migration status can render certain groups of people more disadvantaged than

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<sup>1</sup> Harmony Alliance. *Position Statement on Intersectionality* (2020)  
<http://harmonyalliance.org.au/wpcontent/uploads/2020/08/Intersectionality-Position-Statement-Final.pdf>.

others. Women from migrant and refugee backgrounds in Australia are impacted by multiple forms of systemic and structural disadvantage and inequality.

In the context of this Bill, it is important to consider the diversity of women from migrant and refugee backgrounds, and the ways in which different aspects of a person's identity can affect their experience. Women from migrant and refugee backgrounds are not a homogenous group and their online experiences differ depending on a range of aspects including gender, ethnicity and cultural background, language, socio-economic status, education and professional qualifications, disability, sexual orientation, religion, age, geographic location or visa status.

### **Migrant and refugee women's experiences of social media**

The use of social media platforms to abuse others is a key concern of migrant and refugee women. Social media has provided a new—and highly public—forum for racism, racist bullying, discrimination and abuse to occur. Harmony Alliance's consultations with its members at the end of 2020 and beginning of 2022 revealed that the safe use of online platforms is a key concern of migrant and refugee women, particularly in the context of increasing reliance on these platforms throughout the current pandemic.<sup>2</sup>

Online abuse can take a range of forms, including:

- insulting, humiliating, demeaning or offensive comments – both directed towards them as individuals and to their communities;
- derogatory language;
- threats of sexual and physical violence;
- threats against children;
- death threats;
- online stalking;
- distributing personal contact details online (doxing); and
- image-based abuse (for example, the non-consensual sharing of intimate or false photos online).<sup>3</sup>

The scale of online abuse is demonstrated in a study undertaken by the eSafety Commissioner, which estimates that around one in seven (14 per cent) of adults aged between 18 and 65 were the target of online hate speech between August 2018 and August 2019, with the majority of this occurring on Facebook and Instagram.<sup>4</sup> 32 per cent of those identified their race, ethnicity and nationality as the reason for being targeted, 20 per cent their religion and 20 per cent their gender.<sup>5</sup> 58 per cent of those who had experienced online hate speech identified a negative impact from their experience, including mental or emotional stress, relationship problems and damage to their reputation.<sup>6</sup>

The disproportionate impacts of cyberbullying on migrant and refugee communities starts early, with young people from a migrant background more likely to be bullied online than people from non-migrant background. More than half of young people from migrant and

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<sup>2</sup> Harmony Alliance, *National Consultation Report, Migrant and refugee women in the COVID-19 pandemic: Impact, resilience, and the way forward* (February 2021)

<http://harmonyalliance.org.au/wp-content/uploads/2021/02/HA-Membership-Forum-Report.pdf>.

<sup>3</sup> eSafety Commissioner, *Adult cyber abuse* <https://www.esafety.gov.au/key-issues/adult-cyber-abuse>.

<sup>4</sup> eSafety Research, *Online hate speech – Findings from Australia, New Zealand and Europe* <https://www.esafety.gov.au/sites/default/files/2020-01/Hate%20speech-Report.pdf>.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

refugee backgrounds have encountered online hate, including racist and harmful comments about cultural or religious groups.<sup>7</sup>

The impact of online abuse can be profound, particularly as individuals can hide behind anonymous social media accounts, engage in repeated and sustained behaviour and reach a wider audience with their abuse. Online abuse can often result in a “pile on”, with a large group of people combining to attack an individual. It is difficult for anyone to disconnect from social media in this digital era; for migrant and refugee women, it is more difficult given the importance of maintaining connections to family and friends overseas.

An additional challenge for migrant and refugee women can occur when they are the victim of online abuse occurring in languages other than English. Reporting such abuse to online platforms and obtaining its removal is made more difficult by failures by big tech companies to adequately police hate speech occurring in non-English languages.<sup>8</sup>

### **Limitations of the Bill**

Despite its name, the Bill focuses only on defamatory material, namely material that has caused “serious harm” to a person’s reputation without lawful reason or defence.<sup>9</sup> This is a very narrow subset of the range of abuse that migrant and refugee women experience online and is unlikely to capture or redress the majority of online hate and bullying that occurs, despite the significant and ongoing harmful impact it has. For example, repeated and sustained racist comments directed against an individual or group would not be covered by this Bill, even though such comments can be just as harmful as defamatory material.

The Bill focuses on “unmasking” people anonymously making defamatory comments online by providing an avenue for individuals to complain to social media platforms or seek an end-user disclosure order from a court to provide the contact details of the poster for use in defamation proceedings. Having a possible defamation claim is a necessary precursor to achieving this. Like many Australians, most migrant and refugee women are unlikely to have the time, resources or desire to commence defamation proceedings, meaning they will not be able to access the limited redress offered by this Bill. Further, migrant and refugee women face additional barriers to accessing courts including limited knowledge of legal rights, limited understanding of court processes and communication and cultural barriers<sup>10</sup>—again, making it unlikely they would seek to commence a defamation claim.

The Bill also requires that social media posts be made in Australia. As such, some of the abuse that migrant and refugee women experience online will be outside the scope of the Bill’s provisions.

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<sup>7</sup> eSafety Commissioner/ *Protecting voices at risk online* (August 2020)

[https://www.esafety.gov.au/sites/default/files/2020-08/Protecting%20voices%20at%20risk%20online\\_0.pdf](https://www.esafety.gov.au/sites/default/files/2020-08/Protecting%20voices%20at%20risk%20online_0.pdf).

<sup>8</sup> J Scheck, N Purnell and J Horwitz. ‘Facebook employees flag drug cartels and human traffickers. The company’s response is weak, documents show’ (16 September 2021) *The Wall Street Journal* [https://www.wsj.com/articles/facebook-drug-cartels-human-traffickers-response-is-weak-documents-11631812953?mod=article\\_inline](https://www.wsj.com/articles/facebook-drug-cartels-human-traffickers-response-is-weak-documents-11631812953?mod=article_inline); C Zakrzewski, Gt de Vynck, N Masih and S Mahtani, ‘How Facebook neglected the rest of the world, fuelling hate speech and violence in India’ (24 October 2021) *The Washington Post* <https://www.washingtonpost.com/technology/2021/10/24/india-facebook-misinformation-hate-speech/>

<sup>9</sup> Justice Connect. *Defamation* (2021) <https://www.nfplaw.org.au/sites/default/files/media/Defamation.pdf>.

<sup>10</sup> Judicial Council on Cultural Diversity. *The Path to Justice: Migrant and Refugee Women’s Experience of the Courts* (2016) [https://jccd.org.au/wp-content/uploads/2021/06/JCCD\\_Consultation\\_Report\\_-\\_Migrant\\_and\\_Refugee\\_Women.pdf](https://jccd.org.au/wp-content/uploads/2021/06/JCCD_Consultation_Report_-_Migrant_and_Refugee_Women.pdf).

In its narrow focus, the Bill offers very little protection or assistance for migrant and refugee women who face particular vulnerabilities online and experience higher levels of online abuse. While there are some other avenues that migrant and refugee women can pursue in response to specific types of abuse (for example, making a complaint about online cyber abuse to the eSafety Commissioner), these also have limitations.<sup>11</sup>

Our view is that rather than developing legislation that will have limited utility for the majority of Australians, the Government needs to take a more systematic approach to mitigating online harms and address those that are most pressing.

### **Key considerations**

- It is important to adopt an intersectional approach to understanding harms caused by social media and other online platforms. Migrant and refugee women face unique and additional risks when using social media as compared to the general population.
- The Government should adopt a regulatory framework that address the broader systemic issues relating to online abuse.

### **Contact Information:**

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<sup>11</sup> Harmony Alliance. *Submission to the Inquiry into Social Media and Online Safety Inquiry* (12 January 2022) <https://harmonyalliance.org.au/wp-content/uploads/2022/01/Harmony-Alliance-Submission-Social-Media-and-Online-Safety193.pdf>.