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## **Findings of sexual harassment in the High Court underscore the need for cultural and institutional change.**

### Media Release

The ICJ Victoria (ICJV) condemns all forms of harassment in the workplace and supports the processes and [recommendations](#) of the Hon Chief Justice Susan Kiefel AC in addressing allegations of sexual harassment by former High Court Justice the Hon Dyson Heydon AC QC.

Sexual harassment is a form of violence and an abuse of power. UN Women notes that it is a form of abuse and discrimination rooted in power imbalance, which requires leadership and culture change to end<sup>1</sup>. The sexual harassment of women in the workplace specifically is a form of discrimination against women and constitutes a violation of human rights.<sup>2</sup> States have obligations under international law to protect economic, social and cultural rights, including by upholding equality and non-discrimination.<sup>3</sup>

While harassment is not acceptable in any setting, failures of integrity and professional ethics within a judicial system in particular have adverse effects on public trust in institutions.<sup>4</sup> Discrimination by the judiciary compromises the appearance of impartiality, fairness and objectivity. It is of particular importance that judges, individually and collectively, are held to the highest standard of conduct and workplace etiquette. ICJV recalls the UN-endorsed *Bangalore Principles of Judicial Conduct*, which state that integrity and propriety are among the essential requirements of judicial office.

ICJV acknowledges that discrimination and sexual harassment extend throughout the legal profession and disproportionately affect women. In Victoria, 61% of women in the legal profession have reported sexual harassment during their career.<sup>5</sup> ICJV recognises the significance of international legal conventions codifying the right to work in an environment free of harassment and violence.<sup>6</sup>

ICJV notes with concern that the alleged behaviour of former Justice Heydon was reported to have been an 'open secret'.<sup>7</sup> Where informal processes are insufficient to eradicate

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<sup>1</sup> <https://www.unwomen.org/media/headquarters/attachments/sections/library/publications/2018/towards-an-end-to-sexual-harassment-en.pdf?la=en&vs=4236>.

<sup>2</sup> [https://www.ohchr.org/Documents/Issues/Women/SR/StatementILO\\_31May2019.pdf](https://www.ohchr.org/Documents/Issues/Women/SR/StatementILO_31May2019.pdf).

<sup>3</sup> <https://www.icj.org/chapter-5-standards-and-techniques-of-review-in-domestic-adjudication-of-esc-rights-2/5-2-non-discrimination-and-equality/>.

<sup>4</sup> <https://www.unodc.org/unodc/en/corruption/judicial-integrity.html>

<sup>5</sup> [https://lsbc.vic.gov.au/sites/default/files/2020-](https://lsbc.vic.gov.au/sites/default/files/2020-03/Sexual%20Harassment%20in%20the%20Victorian%20Legal%20Sector%20Report.pdf)

[03/Sexual%20Harassment%20in%20the%20Victorian%20Legal%20Sector%20Report.pdf](https://lsbc.vic.gov.au/sites/default/files/2020-03/Sexual%20Harassment%20in%20the%20Victorian%20Legal%20Sector%20Report.pdf) (pg. vii).

<sup>6</sup> Convention 190, Recommendation No 206 and the accompanying Resolution adopted by the International Labour Organisation in 2019: [Eliminating Violence and Harassment in the World of Work](#).

<sup>7</sup> <https://www.smh.com.au/national/high-court-inquiry-finds-former-justice-dyson-heydon-sexually-harassed-associates-20200622-p5550w.html>

discrimination, stronger laws and oversight should be considered. ICJV further notes that social and institutional change within the legal sector is required to stamp out any culture of inequality that enables sexual harassment and discrimination.

Accepting that disciplinary oversight of judges should not interfere with their constitutional independence, it is suggested that the Federal Government consider the establishment of an independent federal judicial commission, as similarly already exist in Victoria, New South Wales, and South Australia.

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### **Further resources**

- [Joint statement](#) on safe healthy and respectful workplaces by the Heads of Jurisdiction of Victoria's courts and tribunal.
- Law Council President, Pauline Wright, [statement](#) regarding Hon Dyson Heydon, AC, QC
- Law Council President, Pauline Wright, [statement](#) regarding sexual harassment in the legal profession.
- [Convention on the Elimination of Discrimination Against Women](#)
- [National Attrition and Re-engagement Study \(NARS\) Report](#) on discrimination at work