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Ms Dubravka Šimonović
Special Rapporteur on Violence against Women
OHCHR-UNOG
8-14 Avenue de la Paix
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SWITZERLAND

Dear Ms Šimonović

The South Australian Premier's Council for Women (the Council) welcomes the opportunity to make a submission regarding your inquiry into existing good practices on law regulating violence against women and sexual harassment online.

The Council is a high-level independent advisory body. We advise the Premier of South Australia and the South Australian Minister for the Status of Women on issues relating to women to facilitate a whole of government approach to meeting the needs of women in South Australia. The views expressed in this submission are those of the Council and do not represent those of the South Australian Government.

To effectively eliminate violence against women we must acknowledge its gendered nature, recognising that women and girls are more likely to be victims than perpetrators of violence. Any comprehensive response necessitates recognising the multitude of forms this violence can take and the increasing use of modern technology changing the expression of abuse.

As a South Australian based Council we have kept informed with regard to how new forms of violence against women are dealt with by the South Australian Government, as such this submission will highlight South Australian legislation with which we are most familiar. We are pleased with the headway the South Australian Government is making in this area; however, we consider that these laws still leave gaps in protection for women experiencing violence online.

Since 2013, it has been an offence in South Australia under the *Summary Offences Act 1953* to engage in humiliating, indecent or degrading filming, and to distribute an invasive image (persons

engaging in private acts or in a state of undress). It should be noted that where there is consent for such filming and distribution of the images from the person being filmed it is not an offence.

In 2016, the South Australian Government updated the *Summary Offences Act 1953* to also make it an offence to threaten to distribute an invasive image or image obtained by indecent filming of a person for both adult victims and victims under 17. Both offences carry penalties of up to two years jail or up to \$10,000 in fines.

Both the South Australian Government and the Australian Commonwealth Government have separate laws in place making it an offence to create or share child pornography.

If you are interested in examining the *Summary Offences Act 1953* Part 5A, which contains the relevant offences, it is available online at -

<https://www.legislation.sa.gov.au/LZ/C/A/SUMMARY%20OFFENCES%20ACT%201953/CURRENT/1953.55.UN.PDF>

South Australia also has anti-stalking laws, the definition of which includes stalking by using the internet and/or publishing material on the internet. This recognises the growing use of social media and the internet more generally as a dominant form of communication.

South Australian women are further protected by the laws of the Australian Commonwealth Government which intend to protect all Australians from use of a communications service to offend or harass. Sexual harassment is also illegal in Australia at both the Commonwealth and State levels under the *Sex Discrimination Act 1984 (Commonwealth)* and *Equal Opportunity Act 1984 (South Australia)*.

We think that it is important in any legislation aiming to protect people from online abuse through the distribution of intimate images, that the victim is not blamed for the images being taken in the first place. Many commentators will suggest the easiest way to stop this form of abuse is to not take or allow an intimate image to be taken. Of course this over simplifies the many ways in which a person may become the object of an intimate image, including coercion and threats as well as photos which have been electronically manipulated to create an intimate image of a person. This argument also limits a person's ability to freely send an image to someone they believe they can trust. The perpetrator who shares the image or threatens to share the image should always be held accountable. We consider that the South Australian Government's legislation successfully makes the perpetrator accountable without victim blaming.

In the international, borderless setting of the internet it is even more important that state laws that are limited by legal borders are focussed on bringing the perpetrator to justice rather than seeking to penalise internet service providers which are likely based in different countries.

An added positive effect of using legislation targeting the perpetrator of these offences is it acting as an educational tool and a deterrent to others thinking of sharing pictures illegally or making online threats. Ultimately we consider that the strongest deterrent is education from a young age that online abuse, sharing of images without consent and other forms of online harassment are unacceptable.

Thank you for the opportunity to make a submission on this important topic. The Council looks forward to seeing the outcomes of your inquiry.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Maria Hagias', with a large, stylized flourish at the end.

Ms Maria Hagias

Acting Chair

Premier's Council for Women

On behalf of all members of the Premier's Council for Women:

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