



PARLIAMENT OF NEW SOUTH WALES
LEGISLATIVE ASSEMBLY

FIRST SESSION OF THE FIFTY-SEVENTH PARLIAMENT

Motions

18 March 2021

FREE TO BE ONLINE? REPORT

Debate resumed from 18 February 2021.

Ms GABRIELLE UPTON (Vaucluse) (12:24):

I thank the member for Wallsend for moving this motion. It is an issue of deep concern to us all. Whether we are parents, employers, siblings, friends or colleagues, we have seen personally the crushing impact that harassment on social media has had on our young women and girls who we care about. This impact has been made worse because the world has turned online during COVID. Shockingly there has been a 40 per cent increase in reports to the eSafety Commissioner. When I was growing up and young, harassment mainly happened in person. It was deplorable, shameful and demeaning, but these online platforms have now created another insidious way for harassment to happen.

We must clamp down on online harassment. We need to have a clear and consistent regulatory framework, and take account of where the Commonwealth has jurisdiction. That joint approach was reflected in a COAG agreement in December 2016, which was brokered when I was Attorney General. It set out principles for nationally consistent offences relating to non-consensual sharing of intimate images. That has been the framework in which we have been working. I will briefly mention some of the things the State Government had done. When I served as Attorney General there were reforms to the Crimes Act to protect victims of online harassment and abuse. As part of an inquiry we had into remedies for serious invasions of privacy, I met with victims of image-based abuse who gave evidence. I was so humbled by

their courage and bravery in advocating for reforms despite the fact that they had such personal pain from that harassment.

That led in September 2016 to announcing that the Government would criminalise the distribution of intimate images without consent, otherwise known as "revenge porn". The Crimes Act had some protections but no offences specifically directed at non-consensual sharing of intimate images. We did seek all-of-community feedback through a discussion paper on how best to scope that offence. Then in 2017 new offences were created in the Crimes Act—sections 91P, 91Q, and 91R—that criminalised recording, distribution or threatening to record or distribute intimate images without consent. The offences are punishable with up to three years' imprisonment. By all accounts that I have taken, those offences and that framework are working well.

I will also talk about an important development. On 24 February the Commonwealth Government introduced a new Online Safety Bill into their Parliament. It sets out a framework for online safety and strengthens the power of the eSafety Commissioner to address cyberbullying, toxic online abuse, harmful content and image-based abuse. The bill introduces a new concept of "abhorrent violent material blocking arrangements" that will allow the Commonwealth eSafety Commissioner to respond to online events such as the Christchurch terrorist attack—which is slightly different but nevertheless deeply impactful to a whole community—by requiring online service providers to block access to sites hosting harmful content.

Under the current Act, prior to this bill and which the bill seeks to amend, social media services have 48 hours to remove serious child cyberbullying material once the commissioner issues a request or notice. Under this bill that time frame is reduced to 24 hours and the maximum penalty will be increased to 500 penalty units. The Commonwealth Online Safety Bill has other features. New online safety expectations for industry make clear what the community expectation is for them providing that safety to our young women and girls. There is a scheme requiring industry to keep users up to date on those industry codes. Then there is a requirement to have app stores remove apps that enable the provision of the most harmful kinds of online content, such as sexual abuse material. The Commonwealth bill is a great improvement. There is still more to go. I commend my comments to the House and I commend the member for Wallsend for moving the motion.

Ms SOPHIE COTSIS (Canterbury) (12:29):

I acknowledge my colleague the warrior for Wallsend, Sonia Hornery, for her motion and for her advocacy. She is someone who takes no prisoners, who fights and gets results. I know that the member for Wallsend will achieve a great result with her

motion. This is a very serious issue. We have seen an increase in online bullying and harassment. The eSafety Commissioner's report, *The digital lives of Aussie teens*, found that 44 per cent of teens had a negative online experience in the six months to September 2020. Thirty per cent reported being contacted by a stranger or someone they did not know, 20 per cent received inappropriate or unwanted content and 16 per cent were deliberately excluded from events and social groups. More than 80 per cent of teens took some form of action after a negative online experience. Those statistics are too high, and I urge the Government to take them into consideration. We have also seen women from culturally and linguistically diverse [CALD] backgrounds experiencing culturally specific humiliation. For example, women who practise the Islamic faith have had terrible, derogatory images sent to them. Twenty-nine women from CALD backgrounds recently experienced technologically facilitated abuse. That is an absolute disgrace and something needs to happen.

I know that we have national laws and that there have been some incremental changes in New South Wales but it is not enough. As we continue the digital transformation of information online and with the introduction of many platforms over the last number of decades, we need to ensure that our citizens and their information are protected. About four years ago, young teenage girls in my electorate had their images and their Facebook pages altered. It took me weeks to be able to get anything done. Facebook and other platforms must take more action but we also need better community awareness about what people can do themselves. In my electorate, a 17-year-old girl doing the HSC had her image stolen and distorted in ways that were absolutely terrible and woeful. I have been speaking to the member for Wallsend about the possibility of Parliament setting up a bipartisan inquiry. We need to take strong and tough action against these perpetrators who use their anonymity to cause a lot of pain for young men and women, and get away with it.

Mr MARK TAYLOR (Seven Hills) (12:33):

It is a pleasure to contribute to this very important motion before the House. I echo the comments made by the member for Vacluse and also recognise the terrible situations that the member for Canterbury has outlined, which affect many young people in our electorates. There has been some discussion about Commonwealth legislation in this space but I will make some comments on the provisions in New South Wales legislation that complement Commonwealth provisions by criminalising serious forms of online abuse. Under section 13 of the Crimes (Domestic and Personal Violence) Act 2007, it is an offence punishable by up to five years imprisonment, 50 penalty units or both to stalk, intimidate or harass a person with the intention of causing them fear physical or mental harm. We have just heard classic examples of how that occurs in the community.

In 2018 the definition of "stalking" under the Act was amended to include contacting or approaching a person via the internet or other technologically assisted

means. Similarly, the definition of "intimidation" was amended, importantly, to ensure that it included cyberbullying. Those amendments to the Crimes (Domestic and Personal Violence) Act 2007, are known colloquially as "Dolly's Law" after Amy "Dolly" Everett, who took her own life in January 2018 after being subjected to very significant and persistent bullying and abuse. In addition to ensuring that a person who stalks or intimidates a person by the use of modern technology can be prosecuted, the amendments ensured that the apprehended domestic and personal violence orders could be used to protect victims of serious cyberbullying. An increasingly common form of online abuse today is the non-consensual sharing of intimate or sexual images. In 2017 the New South Wales Government introduced new offences—and those were outlined by the member for Vaucluse—in sections 91P, 91Q, and 91R of the Crimes Act 1900, which criminalise recording, distributing, or threatening to record or distribute intimate images without consent. The offences are punishable by up to three years' imprisonment.

Under section 91S of the Crimes Act, a court that finds a person guilty of recording, distributing, or threatening to distribute an intimate image can also make a rectification order requiring the person to take reasonable actions to remove, retract, recover, delete or destroy any such image. Failure to comply with an order is an offence punishable by up to two years imprisonment. When the intimate image offences were introduced in 2017, rectification orders were limited to the offences of recording or distributing an intimate image under sections 91P and 91Q of the Crimes Act, and were not available for the offence of threatening to distribute an intimate image under section 91R. In October 2020 the New South Wales Government introduced reforms to close that gap, allowing the court to order that any intimate images in the possession of an offender who threatens to distribute such images be deleted, and ensuring that the offender is unable to follow through on any such threats. In summary, we, as members of this House, must do all we can to ensure that we protect people—particularly young women—in our community from vile acts such as cyberbullying and the sharing of intimate images. I commend members for speaking on this motion.

Ms ANNA WATSON (Shellharbour) (12:37):

I congratulate the member for Wallsend, who constantly moves relevant and appropriate motions such as this one. She certainly triggers much debate here. Many of us enjoy being online in chat rooms, on Facebook and a myriad of other ways. In fact, you only have to look around this room—people are always on their phones. It is a fact of life now. The ability to connect with loved ones and friends, to simply interact with colleagues or participate in an online debate is made possible by the magic of the World Wide Web. Unfortunately, it can also be a dark and fearful world. Where there should be enjoyment, knowledge and debate, there can be bullying, harassment and abuse, mostly of young women and girls, turning what should be a great adventure into what sometimes a terrifying experience. This usually ends with them resigning themselves to staying off the internet and Facebook to limit their exposure to abusive behaviour. That is a place where malignant predators are free to roam anonymous

and almost invisible to detection. Girls are targeted online because they are young and because of their gender. If they are politically outspoken, disabled, or identify as LGBTIQ+, it gets worse. Like street harassment it is unremitting, often psychologically damaging and can lead to actual physical harm.

Perpetrators sometimes threaten rape, physical violence, use abusive and sexist language, post manipulated photos and send pornographic pictures and are able to remain anonymous and unconstrained; girls often become afraid and begin to restrict what they post to try to protect themselves. In the worst situations, they feel very unsafe because they are confused about how one man could find out so many details about their lives. It makes them concerned that he could find their address and come to their home. The theme of this year's State of the World's Girls report is Free to Be Online. The research turned up distressing data. I do not think I have time to go through it all but I will do the best I can. The researchers note:

For this report we spoke to 14,000 girls across 32 countries around the world about their experiences online. This is the largest ever survey of its type. We learnt that more than half have been harassed and abused on social media.

In all 22 countries, girls had been exposed to explicit messages, pornographic photos, cyberstalking and other distressing forms of abuse.

Most commonly girls were targeted with abusive and insulting language, reported by more than half (59%) of girls, followed by deliberate embarrassment (41%), body shaming and threats of sexual violence (both 39%).

The social media platforms designed to connect us as a global community, are drastically failing girls and young women. Inadequate reporting mechanisms are allowing harmful abuse slip through the cracks. Girls in all of their diversity, need to know that when they're abused and threatened online, they can report it. That they'll be listened to. That action will be taken, and that perpetrators will be held accountable.

The report argues:

Governments and society as a whole need to monitor this abuse rigorously and social media companies must use their technological skills and financial resources to put freedom online for girls and young women at the heart of their agenda.

I commend the member for Wallsend.

Ms JODIE HARRISON (Charlestown) (12:41):

By leave: I thank the member for Wallsend for moving this incredibly important motion. Social media can be a wonderful thing. It can connect friends and family

members across vast distances, and certainly during COVID-19 social media was a really wonderful way for people to keep connected. But there is a dark side to social media, and as a member of the Committee on Children and Young People I was involved in the 2016 report into the sexualisation of children. The committee heard evidence that cyberbullying and online harassment is widespread and has serious impacts on our children and young people. In a submission to the inquiry Youth Action, which is the peak advocacy body for young people in New South Wales, wrote:

... a survey carried out by the National Children's and Youth Law Centre found that girls were more likely than boys to report experiencing (or knowing someone who has experienced) most types of cyber bullying. Consequences of this kind of harassment can include emotional distress and shame for the victims, as well as permanent damage to their digital footprint, and of course, potential legal repercussions if either party are under the age of 18.

This is not just a problem in New South Wales. As we know, the internet makes it really easy to interact with the rest of the world.

Plan International is a charity for girls' equality and its Free to Be Online report, which has been spoken about previously in this place, illustrates the extent of the dark side of social media for girls and young women. The headline figures from the report are alarming. Thousands of girls and young women across 32 countries were surveyed for the report and in every country girls reported that they had been exposed to explicit messages, pornographic photos, cyberstalking and other forms of abuse. More than half of the 14,000 girls surveyed—in fact, 59 per cent—reported that they had been targeted with abusive and insulting language, 41 per cent reported deliberate embarrassment and 39 per cent reported body shaming. Most disturbingly, 39 per cent of respondents said they had been targeted with threats of sexual violence.

Locally, one mother recently said that she discovered her 12-year-old daughter had started an Instagram account without her knowledge. When the mum intervened to delete the profile she checked a number of unopened direct messages and to her horror and disturbance she discovered that many were harassing, abusive and openly sexual in nature. We cannot overestimate the damage that exposure to this sort of harassment can do, and Youth Action identified some of the impacts. Unfortunately the nature of our digitally connected world means that it is often difficult for girls and young women to escape that abuse and harassment. That is why I support the motion's call for the Attorney General to reform the legislative framework to deal with online harassment and violence against girls and women.

There is some good news in this area, as previous speakers have said. Federally comment has recently been sought on the draft Online Safety Bill 2021,

aimed at improving Australia's overall online safety legislation. I also recognise the New South Wales Government's previous attempts to address those concerns with amendments to the Crimes (Domestic and Personal Violence) Act 2007 in 2019—the amendments named Dolly's law after Amy "Dolly" Everett tragically took her own life after sustained cyberbullying. But there is more to be done in this State. As the member for Seven Hills said, all that we can do must be done. That is what the motion calls for. Cyberbullying and sexual harassment of young women online is still happening and we in this Parliament need to do our bit to ensure that young women and girls are provided protection from that. I commend the motion to the House.

Ms JENNY LEONG (Newtown) (12:45):

By leave: I speak on behalf of The Greens in strong support of this motion and thank the member for Wallsend for bringing it to the Chamber. I also acknowledge the Government's flexibility last week in allowing the very important debate to continue into this session today so that women MPs and other MPs in this place can have their voices heard on the issue of online safety. The Free to Be Online report published by Plan International last year made it abundantly clear that the level of abuse and harassment that women and girls are subjected to online is a huge problem, affecting more than half of all women online. The report showed that girls and young women were targeted just because they were online. If they were politically outspoken, disabled, non-white or identified as LGBTIQ+ then the levels of harassment and abuse drastically increased.

In 2018 Amnesty International conducted a similar study that looked specifically at experiences on Twitter. My former colleague in London Azmina Dhrodia worked on that toxic Twitter research. It highlighted that violence and abuse were again prominent and dominant, with no accountability. The situation is worse for women of colour. When the report was launched Azmina tweeted:

When I started the #ToxicTwitter work for Amnesty ... one of my key objectives was to show the intersectional nature of abuse on Twitter and how women of colour & women from other marginalized communities can experience abuse that targets every aspect of their identity

Across both studies the abuse and harassment included threats of physical or sexual violence, abuse targeting one or more aspects of people's identity, privacy violations and the sharing of sexual and intimate images of women without their consent. The aim of that abuse is to silence us through shame and intimidation.

The worst part is that it is working, with both studies reporting that their experiences routinely lead to women self-censoring, limiting their interactions and even leaving the platforms entirely. I am sure that I am not the only one in this Chamber who makes the decision to sometimes log off social media because it is too intense to be able to continue, which prevents me from doing my job. That is not okay. In 2021 the internet is where we live our lives. It is where we socialise, organise and advocate

for change. We use it at work, we use it at home and it is not acceptable that intimidation is routinely used to limit women's and girls' ability to engage with society. We need to recognise that it is part of our jobs and part of our lives.

Members in this place will recall that I was subjected to sexist and racist online abuse a number of years back from serving members of the NSW Police Force. While the trolling of my online spaces by police seems to have ceased, which is great, the toxic nature of online spaces continues daily. In preparation for this motion I had a look at my own social media, like many other members in this place. On something I wrote about violence against women one person commented, "Shut up, freak" and another just said, "F*** off". On a post about ethical fashion someone said, "I'm going to lick you like a Tootsie Roll". When tweeting about China-Australia relations as I was engaging with debate around geopolitical issues someone said, "You're Chinese then that's it. Never be able to change the squinty lines that can use a shoelace as a blindfold." There have been other similar instances of abuse.

I know that many are subjected to this and I am in a position of power and authority. I have the power to come into this place and disclose that kind of disgraceful behaviour. So many young women across the community are subjected to the same level of abuse and do not have the same privilege of power that I have. We have resources available to be able to stop that, but what about those young women? It is absolutely crucial, and I urge the Attorney General in this State and others in Government at this time to look at what we can do to provide more support to communities to combat online abuse within our society. I want to recognise the fact is that it was very clear that social media outlets could act to shut down news outlets on their social media feeds and they could shut down the President of the United States when they chose to do that, and yet for years they have consistently allowed abuse and tirades against women to occur unchecked. We must ensure that they are held to account and we must stop online violence and abuse.

Ms SONIA HORNERY (Wallsend) (12:49):

In reply: I thank the member for Holsworthy, the member for Vacluse, the member for Canterbury, the member for Seven Hills, the member for Shellharbour, the member for Charlestown and the member for Newtown for their contributions to debate on the motion. Let us put the month of March into context and think about what has happened: So far we have had some really serious concerns about the bullying and harassment of women, and worse, in the Federal Government; thousands of women all over Australia, including in New South Wales, marched together in a peaceful manner to seek more protections for women and to ask the Government what it is doing; and then this morning a wonderful coercive control bill, of which Opposition MP the member Shellharbour has carriage, was debated and voted down by the Berejiklian Government.

I am perplexed by that in the context of all that has happened in the past month. While the Government agrees with the first paragraph of my motion, which acknowledges that the Free To Be Online? report showed that more than 59 per cent of young women and girls have been harassed online, the Berejiklian Government has moved an amendment to remove paragraphs 2 and 3 from the motion. Paragraphs 2 and 3 are about the Government looking seriously at the problems that are occurring online and doing something about it. We are legislators.

If we are not willing to start dealing with coercive control in a serious way, if the Berejiklian Government is not willing to look at its power of legislative process or at how we can protect young women and girls from online bullying, then what is the Government doing? It really concerns me that despite all of those cases that we are now dealing with, which have been going on for a very long time—the recent issue in particular has been made worse by COVID because more women are at home—the Government is reluctant to address harassment, violence and bullying of women.

Where are we up to with the Government? Well, where we are up to is a joint standing committee. But what results will that have? Well, we will see a report. But the question is: What legislation will the Attorney General implement to make real changes to protect young women, women and girls? The question here is about online bullying and what the Government is doing to protect women online. By removing paragraphs 2 and 3 the Government is doing nothing except acknowledging a report, and that in itself is really disappointing. That speaks volumes about the Government's action at the moment: It is doing nothing, and that makes me really sad. When we bring up issues that concern women we are told by Government members that they support us, but where are they? They are silent or they are writing another report or they have another committee. But when it comes to legislation to protect women, they oppose the legislation, which virtually every other State has either implemented or is implementing. I urge members to support the original motion. I ask the Government to take action to protect young women.

The DEPUTY SPEAKER:

The member for Wallsend has moved a motion, to which the member for Holsworthy has moved an amendment. The question is that the amendment be agreed to.

The House divided.

Ayes 43

Noes 41

Majority 2

AYES

Anderson, K

Griffin, J

Provest, G

Ayres, S

Gulaptis, C

Roberts, A

Barilaro, J

Hancock, S

Saunders, D

Berejiklian, G

Henskens, A

Sidgreaves, P

Clancy, J

Johnsen, M

Singh, G

NOES

Aitchison, J

Finn, J

Minns, C

Conolly, K

Kean, M

Smith, N

Constance, A

Lee, G

Speakman, M

Cooke, S (teller)

Lindsay, W

Stokes, R

Coure, M

Marshall, A

Taylor, M

Crouch, A (teller)

O'Dea, J

Toole, P

Atalla, E

Greenwich, A

O'Neill, M

Bali, S

Davies, T

Pavey, M

Tuckerman, W

Dominello, V

Perrottet, D

Upton, G

Elliott, D

Petinos, E

Ward, G

Evans, L

Preston, R

Wilson, F

Gibbons, M

Harris, D

Park, R

Barr, C

Harrison, J

Parker, J

Scully, P

Daley, M

Butler, R

Chanthivong, A

McDermott, H

Lalich, N

Warren, G

Smith, T

Dalton, H

Haylen, J

Cotsis, S

McGirr, J

Piper, G

Leong, J

Washington, K

Car, P

Tesch, L

Dib, J

Hornery, S

McKay, J

Saffin, J

Crakanthorp, T

Watson, A (teller)

Catley, Y

Lynch, P

Doyle, T

Kamper, S

Voltz, L

Mehan, D (teller)

PAIRS

Bromhead, S

Mihailuk, T

Hazzard, B

Zangari, G

Williams, R

Hoenig, R

Amendment agreed to.

The DEPUTY SPEAKER:

The question now is that the motion as amended be agreed to.

Motion as amended agreed to.