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Beyond Women's Voices: Towards a Victim-Survivor-Centred Theory of Listening in Law Reform on Violence Against Women

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Abstract

Australia is witnessing a political, social and cultural renaissance of public debate regarding violence against women, particularly in relation to domestic and family violence (DFV), sexual assault and sexual harassment. Women's voices calling for law reform are central to that renaissance, as they have been to feminist law reform dating back to nineteenth-century campaigns for property and suffrage rights. Although feminist research has explored women's voices, speaking out and storytelling to highlight the exclusions and limitations of the legal and criminal justice systems in responding to women's experience, less attention has been paid to how women's voices are elicited, received and listened to, and the forms of response they have received. We argue that three recent public inquiries in Australia reveal an urgent need for a victim-survivor-centred theory of listening to women's voices in law reform seeking to address violence against women. We offer a nascent theory of a victim-survivor-centred approach grounded in openness, receptivity, attentiveness and responsiveness, and argue that in each of our case studies, law reform actors failed to adequately listen to women by silencing and refusing to listen to them; by hearing them but failing to be open, receptive and attentive; and by selectively hearing and resisting transformation. We argue that these inquiries signal an acute need for attention to the dynamics of listening in law reform processes, and conclude that a victim-survivor-centred theory of listening is a critical foundation for meaningful change to address violence against women.

Keywords Feminist activism · Law reform · Listening · Testimony · Feminist jurisprudence · Violence against women · Voice

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Introduction

Women's voices have been central in driving law reform on violence against women, challenging the exclusions, shapes and limits of the categories of harm that the law recognises, and calling for the acknowledgment, naming and framing of new legal wrongs. From nineteenth-century campaigns for property and suffrage rights, during the so-called second wave of feminism, and now in the digital era, women's voices have challenged cultures of violence and sexual harassment. Drawing on the feminist precept that "the "personal is political", women's storytelling is often said to highlight connections between individual stories of 'private' experiences and women's collective structural inequality and political oppression. Through giving voice to experiences of gender inequality, violence, and the inadequacy of legal responses to it, as 'stories', 'narratives' and 'testimony', women have challenged the law's claims to neutrality and objectivity. Moreover, they have highlighted the law's partiality and perspectives as those of the powerful, calling for recognition of women's experiences as valid and robust evidence bases for law reform (see Abrams 1991, 976).

Influential as this focus on voice, on speaking and on storytelling has been, it has obscured, we argue, the need for attention to *listening* as the logical counterpoint to voice. In highlighting the barriers that shape cultural, political and legal responses to violence against women, women have called upon the state to *listen* to their voices to foster meaningful change that both acknowledges the harms of, and aims to prevent, this violence. Yet the politics, practices and ethics of how the state listens to women's voices within public inquiries, legal institutions and law reform processes, have largely been overlooked. Greater attention to listening is required to understand, analyse and evaluate how the state responds to women's voices calling for change because law reform and policy change to address violence against women has had limited effect: violence against women remains an endemic, intractable problem. We hypothesise that one of the reasons violence against women persists even after decades of research, activism, law reform and related attempts to address it, is because of how women's voices are heard, and listened and responded to in public inquiries, in law reform processes, by lawmakers and by other instruments of the state. An emphasis on speaking without attention to listening limits inquiry into whose voices are listened to, and why, and may also contribute to the widespread failure to hear the voices and value the experience of women of colour, LGBQ+ individuals, transwomen, migrant women, rural and regional women, women living with disabilities, and women from lower socio-economic backgrounds. A focus, we argue, that is less on who is speaking, and more on who is listening, how they are listening, how they are responding, and to whom they are responding, may shed greater light on historical and contemporary silencing practices regarding women who are not white, heterosexual, metropolitan and middle-class.

In this article, we reflect on the historical and contemporary elevation of women's voices within public inquiries seeking to address violence against women, and call for greater attention to the politics, practices and ethics of listening to

women's voices within those processes. We undertake the theoretical work to develop a nascent victim-survivor-centred approach to listening, for the protection and benefit of victims and to enhance law reform outcomes. Although a broader theorisation of listening to women's voices within socio-legal contexts is needed to disrupt and dismantle established power structures within the law, in this article we focus our analysis on three recent public inquiries and law reform processes in Australia. These include:

(1) The Senate Committee for Legal and Constitutional Affairs inquiry into domestic and family violence (2020) (DFV Inquiry);
(2) The Queensland Law Reform Commission review of consent laws and the excuse of mistake of fact (2020) (QLRC Review); and
(3) The Australian Human Rights Commission *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (2020) and parliamentary responses to it (National Inquiry).

We focus on listening in these contexts because (1) they provide a concrete setting in which the dynamics of voice and listening may be observed, and (2) in the Australian context, such processes have acquired a prominence within political responses to feminist public debate and activism in recent years that is itself worthy of investigation. With some exceptions, it has become routine to call for the voices of victim-survivors to inform law and policy responses to violence against women. Yet the processes, politics and practices by which women's voices are elicited, heard and responded to, and the relationship between women's testimony, research findings, recommendations and actual law reform, remain largely (and often intentionally) obscured from public view, and therefore scrutiny. As Hanley et al. note, law reform processes rarely document their data collection, and even less often, methods of analysis, leaving the relationships between data and findings murky (2016, 548–49). Uncovering the listening practices with which women's voices are heard and received, and the relationship between those listening practices and law reform, offers a new perspective on attempts to address violence against women through law reform responses.

In Part II we identify a theoretical gap in feminist jurisprudence concerning listening to women's voices within legal contexts, with a specific focus on law reform. We start by considering recent developments in feminist theories of women's voices, storytelling and law reform in relation to violence against women. We argue that the focus of these theories on voice and storytelling takes us to the precipice of listening, but stops short of full consideration of the importance, and ethics, of listening. In Part III we draw on theoretical approaches to listening in related disciplines to signal not only the importance of listening but also to develop a nascent theory of victim-survivor-centred listening in the context of public inquiries and law reform processes addressing violence against women. We argue in Part IV that three recent Australian law reform processes designed to address violence against women reveal both the urgency of a new theoretical approach to listening to women, and the consequences of inadequate listening

both for women who lend their voices to the process, and for the resulting law reform. Inadequate listening, we argue, takes three forms within these case studies: (1) refusing to listen by silencing women's voices, (2) eliciting women's voices but failing to listen to them, and (3) selective listening that resists transformation. We conclude by offering some thoughts on further research to develop a victim-survivor-centred approach to listening in law reform processes.

Women's Voices and Listening in Law Reform on Violence Against Women

The Place of Women's Voices in Law Reform

Australia has a long history of undertaking public inquiries seeking to understand the nature of violence against women and improve responses to it (see Murray and Powell 2011; Featherstone 2017; Arrow 2018). A focus on women's experiences and storytelling, voiced by women themselves, emerged in public discourse on domestic and family violence (DFV) in the Royal Commission on Human Relationships 1974–1977. This process collected women's testimonies of violence, recognised women's experiences as evidence with which to argue for change, and acknowledged the feminist expertise of women's refuge workers that "authenticated and contextualised" that experience (Arrow 2018, 83). Arrow argues that this Royal Commission shifted public discourse and the state's response to DFV, and that its recommendations eventually underpinned policy responses (2018). Since then, emphasising the importance of women's experience, voices and stories in law and policy responses to violence against women has become a common, though not universal, refrain. The terms of reference for the federal government's 2010 *National Plan to Reduce Violence Against Women and Their Children* (National Plan), for example, stated the need to:

"Consult widely across government and the community, including policy makers, funding agencies, service providers, peak sector organisations, and victims, survivors and perpetrators." (National Council Background Paper 2009, 70)

This consultation process involved engaging with "over 2,000 community stakeholders, reviewing 370 public submissions and convening six expert roundtable forums".[1] Over the last decade, there have been multiple public inquiries and law reform consultations investigating the prevalence, causes and responses to violence against women (see Loney-Howes 2022). Each of these public inquiries incorporated the experiences, voices and testimony of victim-survivors as critical to their consultation processes. The extent of uptake of the idea that victim-survivor experiences should be reflected in public inquiries, policy development and law reform is highlighted by a study of the criminal justice system, in which 81 key professionals were interviewed and:

[1] Australian Government. What is the National Plan? https://plan4womenssafety.dss.gov.au/the-national-plan/what-is-the-national-plan/. Accessed 31 July 2022.

> Consistently identified the need for further research documenting victim-survivors' experiences of the criminal justice system, including suggestions from victim-survivors as to what future reforms should look like. *And for victim-survivors to be consulted on future reforms as a matter of course*. (Bluett-Boyd and Fileborn 2014, xi–xii, emphasis added)

As Bluett-Boyd and Fileborn argue, any meaningful consultation should include "a systematic and formal approach to the documentation of victim-survivors' experiences" (2014, 56).

Despite the central place that women's experience has come to occupy within public inquiries designed to develop policy and implement law reform to address violence against women, there has been little investigation of how women's voices are elicited, how they are listened and responded to, and the uses to which their voices are put. Moreover, little is known about the process surrounding 'consultation'—commonly used language in law reform processes on violence against women—and the outcomes associated with recommendations and subsequent policy development and law reform proposals. Research into law reform focuses on participation rather than listening in decision-making processes (Nheu and McDonald 2010); the use made of empirical research and the quality of empirical research undertaken (Brereton 1994; Hanley et al. 2016); how feminists negotiate law reform processes (Scutt 1985; Featherstone 2017); and evaluating the effectiveness of law reform (Douglas 2012; Fitzgibbon and Stubbs 2012; Morgan 2012; Mason 2021). It is vital to investigate the listening interface between women's voices, law reform processes and recommendations, and parliamentary and public policy responses, to improve the quality and effect of law reform and policy addressing violence against women.

Yet important as women's experiences are as evidence within public inquiries, and in terms of the influence they may exert over resulting law reform, the place of women's voices in law reform has arguably even greater consequences for women's expression of full legal subjectivity in the context of a modern liberal democracy. Douzinas (2000) argues that the modern legal subject is split between two modes of subjectivity. One form is *subjectum*: that as legal subjects we are constructed to be, and think of ourselves as, subjects of the law with access to participate in its authorial creation (such as through the franchise, standing for political representation and access to the legal and political professions). The other form of subjectivity, Douzinas argues, is *subjectus*, in which we are under the law's authority and obedient to its command, via threat of punishment or other sanctions. According to Douzinas, the modern legal subject embodies *both* these forms of legal subjectivity, and the degree to which they balance *subjectum* with *subjectus* varies based on their access to power and its racial, gendered, class and other dimensions.

Public inquiries seeking to address violence against women, which elicit women's voices and experiences for this purpose, are sites at which women are invited to enter into the authorial creation of the law, and assume *subjectum* subjectivity. Women who contribute their voices produce themselves through language, use and resist the language of law, and insist on justice for women. Law reform processes hold out the promise that *subjectus* and *subjectum* forms of subjectivity can be sutured together,

so that women who are victims of violence can attain full legal subjectivity through the sharing of voice and experience as part of a law making process. This suturing is particularly important because, historically, women were denied access to *subjectum* subjectivity, and remain *subjectus* to laws over which they had no authorial creation. Indeed, many of the laws public inquiries seek to address were framed before women had access to *subjectum* subjectivity at all.

Yet the attainment of *subjectum* requires not only that women's stories of injustice are told, but also that they are listened and responded to. It is only through listening to women's voices that they can become authorial subjects of the law. A victim-survivor-centred theory of listening is needed to support the legal subjectivity of victim-survivors of violence within a modern liberal democracy. For the state to elicit women's voices and then fail to listen to them, to place limits on how it will hear their voices, to then ignore their experiences or to fail to respond with meaningful change, constitutes an explicit denial to women of *subjectum*.

The Value of Voice

The central place women's experience now occupies within public inquiries on violence against women is a triumph of the argument feminists have long made that women's experiences, stories, narratives and testimony should be recognised as both an innovative research methodology and a valid and robust evidence base to inform policy development, practice and law reform. Indeed, championing the importance and value of women's experiences has been critical to the flourishing of feminist jurisprudence and is central to its advocacy for law and policy change (Delgado 1989; Abrams 1991; Scott 1991; Davies and Seuffert 2000). Littleton, for example, argued for the centrality of women's experiences to feminist jurisprudence and law reform, describing existing legal categories and doctrines as "raw material" that should be subject to radical alteration to fit that experience (1989, 766). To do otherwise—to start with existing categories of law, rather than with women's lives—would do no more than add a wrinkle, or worse, a distortion, to the current law, rather than the necessary transformation (Samak 1977, 412).

This recognition of women's experiences of violence as political, and as central to feminist theorising and law reform, provided some women with a platform for speaking out. Specifically, 'speaking out' as a feminist strategy calls upon women to use their voices and, in the process, identify commonalities of experience from which to agitate for reform. In so doing, 'speaking out' seeks to shift dominant discourses about violence against women, and to dispel myths and widely held, sexist assumptions, for example, that women who are raped are 'asking for it', that women subjected to violence in their homes should just leave (Serisier 2018), or that position women as the cause or provocation of male violence. The power of women's voices, and the recognition of women's experience as an evidence base from which to argue for law reform, has resulted in the legal recognition of new harms that the legal system had previously neglected to address due its promulgation and development from a narrow 'male' perspective. A key achievement, in this regard, is the identification and framing of sexual harassment in the workplace as a legal wrong,

and subsequent law reform across a number of countries (MacKinnon 1979). In her groundbreaking work on this topic, MacKinnon frames sexual harassment as a "woman's experience, not merely the experience of a series of individuals who happen to be female" (1979, xiii), and positions these experiences as evidence that should inform law reform to recognise sexual harassment as sex discrimination, and therefore a legal wrong.

Some feminists, particularly in law, have been and continue to be skeptical about the limits of law reform projects to provide the transformative change feminist theory calls for. At the same time, there is recognition that it remains an important site of contestation as continual challenges to the shapes and limits of law are necessary (Graycar and Morgan 2005, 396–97). Further, feminist theorising and jurisprudence oversimplified (and continues to oversimplify) the category of 'women's experience' and fails to pay sufficient attention to the complex politics and mediation involved in the framing of experience and the telling of women's stories:

"Experience is at once always already an interpretation and in need of interpretation. What counts as experience is neither self-evident nor straightforward; it is always contested, always therefore political". (Scott 1992, 37)

Women's experience emerged as a *genre* in Derrida's terms, both an enabling and constraining force (Derrida 1992; Serisier 2018, 9). Further, recognition of the politics of storytelling also foregrounds the politics of those who emerge as the spokeswomen, or what Serisier calls "feminist interlocutors", those who gather and tell the stories of women, whether researchers, journalists or survivors, politicising the stories and producing themselves as experts in the process (2018, 131). These women are active, political subjects producing new meanings of violence against women and of feminism (Serisier 2018, 10–11). MacKinnon, for example, positions herself as a feminist interlocutor, or expert, on women's experiences of sexual harassment, and in achieving recognition of workplace sexual harassment as a legal wrong also produces a genre of sexual harassment that shapes and limits the stories that might be told. Estrich (1987) highlighted the cultural politics, racism and sexism of policing rape when she identified "real rape" as the rape of an educated white woman by a (non-white) stranger. While acknowledging that the history of the enforcement of rape law in the United States is a "history of racism and sexism" (Estrich 1986, 1089) she focused on sexism, contributing to producing a rape genre that mirrored the existing culture of real rape that she identified (Estrich 1986, 1089). Stringer draws upon Lyotard's theory of the *differend* to illuminate the effacement of women whose harm is invisible because "certain forms of rape" are excluded "from law-worthiness and recognition" (2013, 148), including, among others, women who are perceived as not using their supposed agency to protect their personal safety, and are therefore blameworthy. Legibility is withheld from such women, who are "divested of the means to prove a wrong occurred—a moment in which one is *not* seen (by others, in language, by the law) as a 'victim' in the established sense of that term" (Stringer 2013, 155). The dynamic that renders women illegible may similarly work to stifle or silence their voices, such that they can be neither seen nor heard.

Women of colour have long critiqued much of mainstream feminist activism associated with 'speaking out' for being dominated by white, middle-class heterosexual experiences and storytelling, producing a false and limited universal

'women's voice'. Ignoring racism and failing to see or hear the "intersections" of oppression and the insights offered from the 'view from the bottom', it was argued, rightly, resulted in theories and practices that responded to and benefited only middle class, white, heterosexual women (Crenshaw 1991; Matsuda 1992; Moreton-Robinson 2000 Davis 2016). Particular narratives of violence against women have also emerged; narratives that Kimberlé Crenshaw famously argued ignored and distorted the experiences of women of colour and other women at the "intersections" of race, class, gender and sexual orientation (1991). In the Australian context, Irene Watson argues that:

> white women have also played a role in the sea of white racism we struggle against … We need to tell our stories collectively, all voices need to be heard. You cannot disregard the difference in an attempt to establish a universal experience or truth, because racism is still staring us in the face. (1998, 37)

Watson emphasises the problems with attempts to incorporate First Nations' women's voices into the stories being produced by white feminists, and the limitations of a politics focused on "gender equality", or equality with white men, preferring the goal of self-determination for all women (1998, 35–38). Attention to these politics of race and colonialism, as well as sexuality and other differences among women, and how genres of storytelling of violence against women shape and limit the stories that can be told, is crucially necessary to any analysis of the politics of voice, listening and law reform.

A Pivot to Listening

Logically, women 'speaking out'—whether within or beyond the enabling and constraining parameters of the genre of 'women's experience'—is only a first step in seeking law reform to address violence against women. Voice is, as Thill argues, a "powerful yet one-sided analytic tool" (2015, 19). Yet the importance of describing, analysing and theorising listening as the necessary counterpoint to voice has been only briefly studied in law.

In the Australian context, listening in legal contexts has been widely claimed as essential to advancing the legal, social and economic equality of Australia's First Nations people (Wirringa Baiya Aboriginal Women's Legal Centre 2011; Waller et al. 2015; Davis 2016). Ongoing practices of silencing and failure to listen are starkly apparent in the context of recent law reform proposals concerning coercive control in various states and territories, with First Nations women feeling silenced by white feminists regarding the failure of these law reform projects to critically interrogate the effects that the criminalisation of coercive control may have on First Nations women (Davis and Buxton-Namisnyk 2021; McGlade et al. 2021).

Relatedly, and in a more international context, the vital importance of listening has been identified and analysed in the field of transitional justice. In reflecting on listening in relation to her experience of sitting on an expert panel on women's tribunals in Cambodia, Otto suggests that acknowledging both the power imbalances between those giving and those receiving or hearing testimony, and the

responsibilities of listeners, is critical to fostering meaningful and ethical outcomes in transitional societies (2017). Nagy (2020) describes the power of testimony in truth and reconciliation commissions as fostering colonial settler listening to bear witness to the impact of cultural genocide and to facilitate accountability. The significance of listening in a variety of public hearings and written submissions in the South African truth and reconciliation process also demonstrated the potential of voice for national healing and building post-Apartheid (Ross 2003). As Ross (2003) reveals, having a voice, the framework through which that voice can be expressed and heard, how that voice is listened to, and modes of response to the voice by those who hear it, are neither straightforward nor transparent. Women's courts, such as the one established in Sarajevo in 2015, have been identified as powerful civil society initiatives fostering listening approaches that contest dominant narratives of wartime violence and abuse, offering an 'alternative history' with the capacity to go beyond individual stories of harm to examine the broader socio-political context in which women's experiences of violence have taken place (Henry 2016).

Narrative scholarship takes us to the brink of consideration of listening, but not beyond. Abrams, for example, notes that feminist narrative scholarship sometimes suggests that not many people actually listen to women's narratives; they are too quick to generalise and categorise, too quick to think they have understood, and perhaps too quick to dismiss, judge and disbelieve (Ashe 1989, 1008, discussing Abrams 1991). When discussing the use of storytelling more broadly by "oppositionists", critical legal and race theorists and others, Delgado calls for counterstories to the dominant narratives that tell "us" who we are, leaving out so many (1989). He provides a rare, though brief, focus on listening through an analysis of the importance of perspective provided by counterstories. Specifically, he argues that "members of the ingroup" (Delgado 1989, 2439) particularly members of the majority race on whom he focuses, should listen to these stories for a variety of reasons. These include enabling the listener and teller to build a richer world, creating reality and constructing communal lives; to contribute to a rich tapestry of stories; to make the adjustment to further stories easier as one acquires the ability to see through others' eyes; and to avoid intellectual apartheid and reduce the felt terror of otherness, deepening one's humanity. Delgado's modest proposals bring theories of storytelling in law to the precipice of listening, using gentle persuasion to convince "ingroups" to listen, without addressing any responsibility, or obligations, to listen.

Towards a Victim-Survivor-Centred Theory of Listening in Law Reform

The Politics of Listening

Although law as a discipline has been comparatively slow to pivot to listening as the logical and necessary counterpoint to voice, related disciplines including political theory and media, cultural and literary studies, have taken up listening as a subject worthy of investigation and, methodologically and theoretically, have much to offer the development of a victim-survivor-centred approach within law. As Dreher and

Mondal note, “the recent ‘turn to listening’” within these disciplines “approaches listening as a political practice and a metaphor every bit as significant as the concept of ‘voice’” (2018, 5). Recent scholarly work across these disciplines reveals that turning our attention to listening can illuminate new dimensions to structural inequalities and established power relationships (O’Donnell et al. 2009, 423; Dobson 2014, 22). In particular, they reveal that attention to voice, participation, representation and recognition are insufficient, highlighting the necessity of response (Couldry 2010; Dobson 2014; Oliver 2015), and shifting the onus for action and change onto the listener, rather than the speaker (Dreher 2009; Thill 2009). Analysing public inquiries and law reform processes through a framework of listening rather than voice, then, has the potential to shed new light on power relationships and structural inequalities within such processes, the nature of the reception of women’s voices and responses to them, and how law reform actors take responsibility for change. A victim-survivor-centred theory of listening shifts the focus from the speaker to the listener, demanding attention to the politics of listening.

Dreher and Mondal cite the “key characters of the politics of listening” as “openness, receptivity, attentiveness, and responsiveness” (2018, 5). The qualities of openness, receptivity and attentiveness feature prominently in political and media theories of listening, and are closely related to democratic participation and citizenship (Fraser 2005; Couldry 2010; Thill 2015, 19–20). Applying them in a law reform setting demands that the listener “listen across difference in the face of uncertainty” and embrace “the possibility that what we hear will call into question our own perspective, persuade us, reveal dissonance or intractable conflict or demand change” (Thill 2015, 20). It requires courage (Bickford 1996; Thill 2009), humility (Ratcliffe 2005) and a willingness on the part of the listener to expose themselves to uncertainty, discomfort, challenge and vulnerability (Coles 2004). Applying Ratcliffe’s model of rhetorical listening, listeners within public inquiries and law reform processes must recognise and account for the historical privilege of their position within discourse, so that they can “create a space from which the unique, changeable standpoint of the other is foreground” (Thill 2015, 20). In dismantling that hierarchy, and creating that discursive space, openness, receptivity and attentiveness are neither passive nor self-negating, but require active engagement and agility on the part of the listener. Critically, as Dreher and Mondal argue, “listening entails the possibility that one might be persuaded or might change one’s mind” (2018, 5).

Crucially, listening needs to go beyond mere ‘recognition’ of the speaker. It demands a response. Susan Bickford conceptualises the nature of this response as “continuation”, a practice that facilitates ongoing exchange between speaker and listener, enabling dialogue across disagreement (Bickford 1996, 148–53). Oliver (2004, 80–81) frames listening as “response-ability”: the politics and power dynamics that shape the relationship between having a voice, being heard, being responded to and the outcomes of that response. Jennifer Hornsby’s theory of “receptivity” offers yet another way of framing response (1995). For Hornsby, reciprocity is a two-fold process that not only “understands the speaker’s words but also, in taking the words as they are meant to be taken, satisfies a condition for the speaker’s having done the communicative thing she intended” (Hornsby 1995, 134). As Loney-Howes

et al. (2021) argue, witnessing through reciprocity is imbued with an ethical obligation to both listen and respond to the experiences and needs of the other in a meaningful way.

Listening to Women Who are Victim-Survivors of Violence

A victim-survivor-centred approach to listening in the context of law reform, then, demands more than a unilateral or even dialogical exchange between various speakers and hearers. Such a framework fails to acknowledge the historical privilege, unequal power relationship and marginalisation of women in relation to both *subjectus* and *subjectum*. Rather, listening needs to be conceptualised as a process that acknowledges, unpacks, rearranges and flattens out the relationship between speakers and hearers (Oliver 2004). Listening to victim-survivors of violence extends beyond hearing to *witnessing* to their experience, and to take seriously the justice interests of survivors as legal and political subjects (Daly 2015).

Crucially, listening to women who are victim-survivors of violence, with the qualities of openness, receptivity, attentiveness and response, requires the active suppression of established and predictable modes of response to women's testimony about their lived experiences of violence. Gilmore (2017a, 6–7) argues that "it's all 'he said/she said'" (in which the authoritative male voice is more likely to be believed), and the complementary and supporting assumption "nobody knows what really happened" (which similarly works to discredit women's testimony), are typical, culturally embedded responses that foster doubt in the reception of women's testimony. She identifies the power of the #MeToo moment, with its amplification and aggregation of women's voices into a mass, collective scene of witnessing, as rendering such common and typical responses less tenable (2017b, 2–3). However, Gilmore argues that testimony must reach an "adequate witness" to realise its disruptive potential:

> An adequate witness is no echo chamber, empty of knowledge and passive in the face of the other's demand, nor is she credulous. She would not simply credit all testimony about sexual violence, for example, believing it to be the one thing about which no one could ever lie. Instead, when confronted with the charged demands of testimony, an adequate witness resists the rush to judgment and learns how to attend to accounts of gendered harm and agency made by impure victims in conditions of complexity. An adequate witness can preempt the processes of judgment that taint a witness but can also undo that stigma by altering the practice of judgment itself. (2017a, 5–6)

In formulating her "adequate witness" as one who "resists the rush to judgment and learns how to attend to accounts of gendered harm and agency made by impure victims in conditions of complexity" (2017a, 5), Gilmore gestures towards but does not explicitly centre the role of listening. Yet within Gilmore's ideal framework, dismantling the processes of judgment, and altering the practices of judgment, requires attention to the politics, practices and dynamics of listening. A

victim-survivor-centred approach to listening, characterised by openness, receptivity, attentiveness and response, arguably lies between Gilmore's theorisation of the relationship between women's testimonies of violence and her conceptualisation of the "adequate witness".

Inadequate listening—listening that fails to be open, receptive, attentive and responsive—has potentially catastrophic consequences for women who contribute their voices to public inquiries seeking to address violence against women, for the quality of the testimony contributed to such processes, and for the value of the processes themselves. Inadequate listening risks two silencing practices identified by Dotson (2011). The first is "testimonial smothering", (2011, 244) a process of truncation whereby the speaker limits what they say to ensure the content of their speech act will be intelligible, comprehensible and defensible. Dotson identifies three specific ways in which women's testimony is actively smothered: (1) where the content of the speech act is perceived as risky or unsafe; (2) where an audience fails to comprehend the content of the testimony to the speaker; and (3) where the inability to comprehend the testimony stems from the pernicious ignorance of the listener (Dotson 2011, 249).[2] Dotson describes the second silencing practice as "testimonial quieting", which occurs where the speaker fails to be identified or considered, or is denied legitimacy as the "knower" of their own experience (Dotson 2011, 242). Related to testimonial quieting is Jill Stauffer's theory of "ethical loneliness", which she ties to the sense of injustice and alienation that results from speaking without being heard (Stauffer 2015, 1–2). As Alcoff and Gray argue, survivors need to be acknowledged as the experts and theorists of their own experiences (1993).

Listening practices that fail to be open, receptive, attentive and responsive risk reinforcing existing hierarchies of knowledge, privilege and values, denying the subjectivity of women who are victims of violence, and defeating the purpose of the law reform process itself. Ultimately, if listening is something perceived *only* as *process*, rather than also as *substance*, the perpetual failure to listen to survivors results in epistemic violence (Dotson 2011). The following discussion of our case studies demonstrates the failure to listen in both *process* and *substance,* and its effects for victim-survivors of violence and for resulting law reform.

Listening to Women's Voices in Law Reform on Violence Against Women: Three Case Studies

The critical need for a victim-survivor-centred theory of listening is evident in three recent Australian public inquiries designed to develop law and policy responses to violence against women. The case studies to which we now turn reveal that despite the central place that women's voices have come to occupy in many public inquiries seeking to address violence against women—and an increased public and policy foregrounding of gender inequality and its relationship to violence—their voices

[2] Dotson defines "pernicious ignorance" as a harm to an individual or group through the failure to track truths through practices of silencing (Dotson 2011, 238–39).

continue to be excluded, ignored, only partially heard or subordinated within hierarchies of knowledge in current law reform.

The case studies we examine include:

- the Senate Committee for Legal and Constitutional Affairs inquiry into domestic and family violence (DFV Inquiry);
- the Queensland Law Reform Commission review of consent laws and the excuse of mistake of fact (QLRC Review); and
- the Australian Human Rights Commission *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (2020) and parliamentary responses to it (National Inquiry).

Each of the abovementioned public inquiries was premised on the idea that women's voices and experiences should influence policy development and changes to the law. Yet applying our nascent theory of a victim-survivor-centred approach to listening as requiring openness, receptivity, attentiveness and response, each reveals inadequate listening practices in the way each inquiry received, heard and responded to women's voices, in ways that fundamentally challenge the authenticity of the call to voice in the first place.

Refusing to Listen: Silencing Women's Voices in Domestic and Family Violence

On 19 February 2020, Hannah Clarke and her three children were doused in fuel, set on fire and incinerated by her estranged husband as she drove them to school in suburban Brisbane. The brutality of their murder (after which the perpetrator also killed himself) sparked national outrage at, among other things, the persistence of domestic and family violence despite the promise held out by the National Plan, which had then been in place for ten years. A week later, on 26 February, the Commonwealth Parliament Senate Committee for Legal and Constitutional Affairs was tasked with a wide-ranging inquiry into domestic and family violence, with a reporting deadline of August 2020. The terms of reference of the DFV Inquiry required the committee to assess the successes and failures of current systems and services. These included the effectiveness and resourcing of responses to DFV across governments, the community sector, business and the media, to investigate immediate and long-term measures needed to prevent DFV, the effects of policy decisions regarding housing, legal services and women's economic independence on DFV and how governments can best support social, cultural and behavioural shifts required to prevent DFV (Senate Legal and Constitutional Affairs Committee 2020, 1).

However, the committee "formed the view that conducting another lengthy, broad-ranging public inquiry into domestic and family violence in Australia at this time would be of limited value" and was "determined to avoid 'reinventing the wheel'" (Senate Legal and Constitutional Affairs Committee 2020, 2). The report was subsequently submitted three months early in May 2020 without receiving a submission or hearing the voice of a single DFV victim-survivor or advocate. The committee's explicit refusal to listen to the voices of victim-survivors within

a flagship parliamentary inquiry designed at least in part to address widespread community outrage at the intransigent problem of DFV, triggered a further layer of anger across the DFV sector, from victim-survivors, and throughout the community. Social media comments reveal that much of this outrage was directed at the committee's refusal to listen by silencing women and denying them a voice:

> people should be able to make a submission/give evidence at the inquiry—*have their voice heard if they want*. Without understanding the issues, the Senate Inquiry is dismissing the seriousness of DV. (@talkingkoala 2020, emphasis added)
>
> It obviously wasn't a genuine enquiry. *Perhaps just a pr exercise to make it look as if womens lives matter, and are valued*. It's quite clear that many view us as worthless. (@elee_bella 2020, emphasis added)
>
> the *lack of community consultation* and early finish of a Senate inquiry on #DomesticViolence demonstrates a clear lack of commitment from decision makers to truly stand against violence against women and their children. (@ YWCAAus 2020, emphasis added)

If, as Dobson argues, "withholding listening is an expression of power, being heard is a conferring of power and … listening plays a key role in rebalancing power relations" (2014, 22), the Senate committee's refusal to listen reinforces the existing power relationship between the *subjectus* status of victim-survivors of domestic violence and the *subjectum* status of lawmakers who possess the power to act, and choose to do nothing. Refusal to listen to women's voices clearly fails the tests of openness, receptivity, attentiveness and response, and explicitly denies victim-survivors access to *subjectum*.

In response to such public condemnation, a new inquiry into family, domestic and sexual violence was referred to the House of Representatives Standing Committee on Social Policy and Legal Affairs. An emphasis on listening was clear in the announcement of the new inquiry by Senator Anne Ruston, then Minister for Families and Social Services.[3] Ruston stated:

> It's been clear from the public feedback to the recent Senate inquiry that there is a real desire from survivors, friends and family of victims, sector leaders and the community to *have their voices heard on this issue*. (Gleeson 2020, np. emphasis added)

Then Minister for Women Senator Marise Payne also stressed the importance of listening:

> *We must listen to the experiences of the sector* during this unprecedented time and learn how governments, services and the community can better support women and their children, particularly when home is not a safe place to be. (Gleeson 2020, np)

This inquiry into Family, Domestic and Sexual Violence received almost 300 submissions and conducted 16 public hearings with a range of stakeholders. The quantity of voices, then, far surpassed the original Senate inquiry. The final report

[3] A Federal election was held in Australia on 21 May 2022, resulting in a change of government from the Liberal-National coalition to the Australian Labor Party.

published in April 2021 outlined the importance of taking an intersectional approach to primary prevention and secondary intervention in addressing domestic and family violence, and highlighted the specific impact of and challenges associated with domestic and family violence within the LGBTQI+ community, rural and remote areas, children and young people, people living with disabilities, men as victim-survivors, culturally and linguistically diverse (CALD) communities and elder abuse.

Submissions regarding the impact of domestic and family violence on First Nations families and communities in particular were numerous, and highlighted the enduring challenges First Nations survivors face when engaging with police and support services across Australia. Submissions outlined that many mainstream support services are not culturally safe for First Nations survivors, with a submission from Associate Professor Ray Lovett and Dr Anna Olsen providing a definition of what cultural safety actually means that specifically highlighted the importance of listening:

[Culturally safe means it] Works in a way that is respectful and celebrates Indigenous culture; builds relationships with community; *listens to community* and values their knowledge and expertise. (HRSCSPLA 2021, 181, our emphasis)

The National Aboriginal and Torres Strait Islander Legal Service recommended a specialised National Action Plan for First Nations Australians "that is led, and has final accountability to, our people, communities, and organisations" (Inquiry into Domestic and Family Violence 2021, 44). Based on submissions from these and other First Nations stakeholders and survivors, the committee made a point of acknowledging the broad spectrum of voices to the inquiry and the "traumatic impact of colonial dispossession, physical and cultural dislocation, and policies such as child removal, on Indigenous communities" (Inquiry into Domestic and Family Violence 2021, 206). No consideration, however, has been given to *how* those voices have been heard. For First Nations survivors of domestic and family violence, the persistent failure to listen also reinforces the enduring harms, dispossession and undermining of First Nations self-determination in colonial-settler Australia.

The House of Representatives inquiry is but one of three sources of women's voices that will ostensibly inform the next National Plan. The second is a Department of Social Services online survey,[4] which, in adopting a question-and-answer approach to gathering women's experience rather than enabling them to frame their own stories, inherently placed limits on women's voices. Although the survey was available in nine languages (including English), such a model implies a restriction on what the state is prepared to hear, and how it is prepared to hear it—failing to adopt a politics and practice of listening that is open, receptive, attentive and responsive. The third source is the Statement of Delegates from the Women's Safety Summit in September 2021, an event that, like the Senate DFV Inquiry before it, has been criticised for excluding and marginalising the voices of victim-survivors and privileging instead the voices of law and policymakers, academics and others who work in the sector (Gillespie 2021, np). Ironically, the Summit was opened by former Prime Minister Scott Morrison appropriating the voices of victim-survivors, who

[4] This survey ran from April 2021 to July 2021.

were then largely silenced within the event itself. First Nations stakeholders further emphasised the need for a separate National Plan to provide survivors with culturally safe pathways for seeking support and violence prevention (Murphy 2021).

There are early indicators that the emphasis on listening when the House of Representatives inquiry was announced may not be sustained within the National Plan itself. Most of the inquiry's 88 recommendations relate to the development of the next National Plan, to the collection and evaluation of data, to further research and reviews in targeted areas, to governance and to the extension of present funding arrangements. When the draft National Plan was released in late 2021, there was no separate plan for First Nations Australians. Many also expressed disappointment with the feedback window, with stakeholders initially given a two-week window to provide feedback in late January, when many people were still on annual leave (Tu 2022). Whether the inquiry listened to the voices of the hundreds of women who spoke with openness, receptivity, attentiveness and response will not be clear until the release of the final National Plan for 2022–2032. When it is, it will provide a valuable opportunity to determine the extent to which the rhetoric of hearing women's voices from relevant Ministers and other apparatus of the state translates into an ethical politics and practices of listening that enables not only meaningful policy development and law reform, but supports full legal subjectivity for women.

Eliciting Women's Voices but Failing to Listen: Sexual Offence and Consent Laws

In September 2019, the Queensland Law Reform Commission (QLRC) was tasked with reviewing two aspects of sexual consent laws: the introduction of an "affirmative consent model", which would have achieved legislative consistency by bringing Queensland into line with other Australian States and Territories; and the "excuse of mistake of fact", an inclusion in the *Criminal Code* dating back to 1899 that enables defendants to charges of rape and sexual assault to argue that they "honestly and reasonably" believed that the other person had consented to sex (QLRC 2020, 1-2). The QLRC sought to review the operation of these two elements of consent through analysis of relevant case law from the previous ten years as well as consultation with key stakeholder groups and victim-survivors. The QLRC received 87 submissions from respondents including academics, professional legal bodies, community legal centres, organisations that work with and support survivors, and survivors themselves. Eight confidential and anonymous submissions were also made, including one submission with 429 signatories attached. Further, the QLRC invited preliminary submissions from the judiciary, academics, legal stakeholders and organisations representing the interests of victim-survivors, and facilitated a consultation workshop with 39 participants, including 11 victim-survivors, as well as academics and representatives from peak body organisations (QLRC 2020, 4). The array of submissions and engagement with the QLRC reveals the diversity of voices, including from advocacy services representing First Nations women, LGBQ+ people, women with disabilities, young women and incarcerated women, seeking to be heard in reforming the legal definition of consent in Queensland.

Submissions to the QLRC emphasised the need for Queensland to adopt an affirmative model of consent, which would address issues arising from the "excuse of mistake of fact", through which defence counsel claim that alleged perpetrators are unaware that the victim is not consenting. Submissions also called upon the Queensland government to explicitly identify situations where consent could not be given, with most of the discussion focused on issues regarding intoxication as a context in which a victim's capacity to give free and voluntary consent is undermined. A desire was also expressed for the reforms to address the frequency and extent to which alleged perpetrators' actions are exonerated, including instances where they are also intoxicated. More broadly, however, submissions were clear in their desire to use this law reform opportunity to disrupt persistent rape myths and victim blaming discourses that continue to place the onus on the victim to demonstrate the steps they took to indicate their non-consent. Submissions sought reforms that would shift the focus away from the victim's non-consent, to the steps and actions taken by the alleged perpetrator to demonstrate what they had done to ascertain consent (QLRC 2020, 67-69).

Despite widespread consultation and engagement, in late July 2020 the QLRC recommended that no extensive changes to the law were necessary and offered only five recommendations for minor amendments to clarify existing laws and jury directions. The Queensland Law Society and the Queensland Bar Association strongly opposed reforms to the existing laws, claiming there was little evidence of the need for change. The commission adopted this position, relying on non-peer reviewed and as yet unpublished research from the UK to claim that "the influence of some of the 'rape myths' may be overstated" (QLRC 2020, 209) and ignoring an extensive, long-established body of peer-reviewed Australian scholarly research to the contrary. In its report, the commission noted but dismissed submissions calling for law reform, including those of victim-survivors. It failed to mention the voices of victim-survivors at the workshop, including a unanimous vote in favour of limited or removing entirely the excuse of mistake of fact in relation to sexual offences.

The QLRC Review reveals multiple and varied instances of the state's failure to listen in a public inquiry law reform process. The clear partiality of the QLRC for some forms of evidence over others is stark, and reflects a lack of openness, receptivity and attentiveness to views and perspectives that challenge its pre-conceptions about the subject matter of the review. The absence of the voices of victim-survivors in the deliberations the QLRC outlines in the Report is striking, presenting a clear example of inadequate listening through a failure to be either receptive or attentive. The privileging of the voices of legal practitioners over the voices of survivors reflects a lack of openness, and the failure to recommend any meaningful change, a resistance to transformation. In Dreher and Mondal's terms, the QLRC has deployed a politics and practice of listening that actively resists "the possibility that one might be persuaded or might change one's mind" (2018, 5). This is evident not only in its dismissive approach to the voices of victim-survivors, but also of advocacy groups and academics with substantial expertise in the field.

The QLRC's failure to listen with openness, receptivity and attentiveness is particularly egregious because, in asking victim-survivors to speak, it explicitly held out the promise of full legal subjectivity and the suturing together of *subjectus* and *subjectum*. The QLRC issued a promise to listen to the injustices highlighted by women's experiences of rape and rape trials where the defense of mistake of fact has been used that was both extravagant yet typical of public inquiries into violence against women. Survivors were expressly requested to give voice to their stories with the QLRC as part of the consultation phase, and invited to share their experiences at a roundtable. The QLRC then failed to provide, in Gilmore's terms, an "adequate witness" to their voices, failing to listen with openness, receptivity and attentiveness, and meeting them with the doubt and disbelief typical of responses to women's testimonies of violence (Gilmore 2017a, 5-6).

The QLRC Review is a clear example of the state inflicting epistemic violence on women who voice their experiences of violence. The QLRC's failure to listen in effect compounded the law and the criminal justice system's failure to listen to their initial reports of rape and sexual assault, and failure to believe them within the ensuing criminal justice process. The QLRC's privileging of the views of the Law Society, the Bar Association and untested research, over the voices of victim-survivors, within its listening practices reinforces existing hierarchies of power and knowledge that resist transformative change. It is a clear illustration of Dotson's conceptualisation of "testimonial smothering", as the QLRC refused to acknowledge victim-survivors as the legitimate knowers of their own experience (Dotson 2011, 244). The consequences for victim-survivors, as MacKinnon argues, are brutal: "in some ways, it is even worse to be believed and not have what he did matter. It means you don't matter" (2019).

The QLRC's privileging of voices of the legal professional establishment reflects the entrenched nature of gender, class and racial power within law reform processes. As Gilmore claims: "It's not that these stories have not been told; it's that those who have told them have not been credited by male elites (white, cis-het, not disabled, privileged) as valuable, credible, and worthy of attention" (2019, 163). The doubt with which the QLRC has met the voices of victim-survivors is itself a form of epistemic violence that "protects hearers from having to engage with the reality of sexual violence, shames those who suffer rather than those who do harm, and lets individuals, organizations and the culture off the collective hook" (Gilmore 2020). This is precisely the dynamic at work in the QLRC Review, as the QLRC dismisses the justice interests of survivors to avoid grappling with the realities of sexual violence and the failure of legal responses to it.

Selective Listening to Resist Transformation: Workplace Sexual Harassment

In June 2018, Australia's Sex Discrimination Commissioner Kate Jenkins announced that the Australian Human Rights Commission (AHRC) would be conducting a National Inquiry into Sexual Harassment in Australian Workplaces. During the press conference, then Minister for Women Kelly O'Dwyer specifically linked the National Inquiry to the emergence of sexual harassment as a major public issue,

centred around the use of the #MeToo hashtag from October 2017: "Recent prominent international and national coverage has highlighted the prevalence and detrimental impact of sexual harassment on individuals and organisations. This Inquiry will be a positive and meaningful step forward in reducing sexual harassment at work and ensuring that, where it does occur, it is dealt with carefully and appropriately" (O'Dwyer 2018). In her foreword to *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* Commissioner Jenkins also linked the National Inquiry and her recommendations to the emergence of social media movements protesting sexual harassment among other forms of sexual violence, across a range of language and cultures:

> #MeToo, #LetHerSpeak, #TimesUp, #BalanceTonPorc, #NotYourHabibti, #Tekniskfel, #QuellaVoltaChe, #YoTambien and similar movements have ignited a global discussion about sexual harassment and gender inequality.
> Victims who have for too long been silenced have found their individual and collective voice.
> There is an urgency for change. There is momentum for reform. (AHRC 2020, 11)

The commission received over 400 submissions and conducted numerous workshops across the country, including consultations specifically targeted at "people with disability, people of culturally and linguistically diverse (CALD) backgrounds, Aboriginal and Torres Strait Islander peoples, and people who are lesbian, gay, bisexual, transgender, queer/questioning and/or intersex" (AHRC 2020, 54).

The Respect@Work Report, published by the AHRC in March 2020, was the most comprehensive review of sexual harassment law since the introduction of the *Sex Discrimination Act 1984* (Cth) (*SDA*). The AHRC made a number of key findings, including that sexual harassment is a form of gender-based violence that is driven by gender inequality within and beyond the workplace (AHRC 2020, 160); that women, and particularly women who experience other intersecting vulnerabilities, are disproportionately affected by workplace sexual harassment in ways that cause them personal, social and economic harm (AHRC 2020, 198); that workplace sexual harassment is estimated to cost the Australian economy $3.8 billion each year (AHRC 2020, 295); and that the legal framework ias complex and confusing, and places too heavy a burden on victims rather than perpetrators or employers to prevent and address workplace sexual harassment.

Key legal reforms proposed by the AHRC were the creation of the Respect@Work Council to simplify the regulatory structure, changes to workplace legislation to increase protections for victims, and critically, the introduction of a positive duty on employers to prevent workplace sexual harassment. The introduction of this positive duty would, the AHRC argued, shift the burden for eliminating and addressing workplace sexual harassment from victims to employers (though not, it should be noted, to perpetrators). Unlike the public response to our previous two case studies, the community reception of the Respect@Work Report was overwhelmingly positive. Its signature recommendation—the introduction of a positive duty on employers to prevent sexual harassment in the workplace—was strongly supported by submissions to the AHRC from victim-survivors, experts, legal professional bodies,

advocates and community members, and had indeed been called for by the AHRC and its predecessor, the Human Rights and Equal Opportunity Commission, in 2008, 2011 and 2012 (AHRC, 471–77). The introduction of a positive duty on employers was widely regarded as the recommendation in the Respect@Work Report that had the greatest capacity to eliminate sexual harassment from Australian workplaces. The AHRC's recommendation to introduce a positive duty on employers to prevent sexual harassment reflects a listening practice that is open, receptive, attentive and potentially transformative in response to women's voices.

The then federal government, however, failed to act in response to the Respect@Work Report until 8 April 2021. Notably, when it did respond, it was to a further social media movement, the country-wide #March4Justice protests that were ignited following allegations of widespread sexual harassment and violence in Parliament House. Then Prime Minister Morrison claimed that the government had "agreed to (in full, in-principle, or in-part) or noted all 55 recommendations in the Report" (Morrison et al 2021), but refused to either (1) implement a positive duty on employers in the *SDA* on the basis that "such amendments would create further complexity, uncertainty or duplication in the overarching legal framework", or (2) extend the powers of the AHRC to ensure compliance with the *SDA* (Australian Government 2021, 12). The then government's legislative response—the *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021* (Cth)—was passed without introducing a positive duty on employers, or expanding the powers of the AHRC, despite significant protest from stakeholders during the Senate committee inquiry into the bill.[5]

The law reform that has, to date, resulted from the Respect@Work Report is widely regarded as a missed opportunity for meaningful change to address workplace sexual harassment.[6] Unlike the QLRC Review, which elicited and then wholly failed to listen to women's voices, the former federal government elicited but only selectively listened to women's voices. Many of the 52 recommendations in the Respect@Work Report have been adopted and implemented, enabling the Government to claim that women have been heard. However, the key recommendations that would shift the burden of action from victim-survivors to employers, with the support of increased AHRC powers, were ignored. This selective hearing by the then federal government reflects an approach to listening grounded in the performance of openness, receptivity and attentiveness, but with a culturally embedded resistance to transformative change. Although adequate listening does not by definition require the adoption of all recommendations of law reform process addressing violence against women, in this case study, in which there was overwhelming evidence of the need to shift responsibility from victim-survivors to employers, and widespread and long-standing support for the introduction of a positive duty on employers within two separate processes, a victim-centred approach to listening demands openness to transformation and a willingness to embrace change. This case study reveals that

[5] The Senate Education and Employment Legislation Committee, Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021.

[6] It should be noted that the new federal government has promised to legislate all recommendations of the Respect@Work Report, including the positive duty on employers.

even with openness, receptivity and attentiveness, meaningful action to address violence against women requires a courageous listener who is open to transformation.

Conclusion

> What the fuck is happening to this country...The absolute contempt of the Australian Parliament, to walk away from all those who need their truth to be heard, to enforce this policy of silencing victims. It sickens me. (@realDean-Cool 2020)

As demonstrated in our case studies, comments on social media provide access to public responses and perspectives surrounding legal institutions and processes. They can also facilitate reflection on the foundational legal narratives upon which our legal system has been legitimised and authorised (Sharp 2022). The above tweet provides an example of a type of outrage expressed by victim-survivors, advocates, experts and other stakeholders in response to the public inquiries and law reform processes discussed in our case studies. The language of the tweet reflects the fissure between the two forms of legal subjectivity within Douzinas' theory: the maintenance of *subjectus*, as women remain subject to the law, but the denial of *subjectum*, as the silencing of women refuses them a role in the authorial creation of the law. The tweet explicitly links the failure to listen to the denial of full legal subjectivity within the modern state. The inadequate listening practices revealed in these case studies—silencing women, hearing women and then ignoring them, and privileging women's voices but resisting transformation—demand a victim-survivor-centred approach to listening to suture together *subjectus* and *subjectum* so that women can express full legal subjectivity.

A victim-survivor-centred approach to listening grounded in openness, receptivity, attentiveness and response contains within it the possibility of transformation, and through it, meaningful and effective law reform to address violence against women. Thill argues that a focus on listening "shifts accountability for policy change from marginalised groups to the norms, institutions and practices that structure which voices can be heard in policy-making and service delivery" (2015, 16). Listening, however, needs to be more than a means to an end. To effectively shift accountability, an inclusive approach needs to be taken to listening to the voices of a diverse range of women, particularly women of colour, women living with disabilities and LGBQ+ individuals, to ensure that any new attention to a victim-survivor-centred theory of listening within law reform does not become an echo-chamber of white, heterosexual, cis-gendered, middle-class women. As Dreher and Mondal argue, "turning attention to the politics and ethics of listening, reading, and witnessing" can shift "the responsibility for more just outcomes from marginalised speakers, and on to the relatively more privileged and powerful" (2018, 5). While our recent Australian case studies reveal that listening practices fail the tests of openness, receptivity, attentiveness and response, framing future law reform processes using an ethical, victim-survivor-centred approach to listening may begin to breakdown the power dynamics that currently hamper transformative change, as well as

providing meaningful law reform to address violence against women and to support rather than punish survivors.

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