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Submissions of West Coast LEAF

British Columbia Office of the Human Rights Commissioner Inquiry into Hate in the Pandemic

April 29, 2022

About West Coast LEAF

West Coast Legal Education and Action Fund (West Coast LEAF) is a BC-based legal advocacy organization. Our mandate is to use the law to create an equal and just society for all women and people who experience gender-based discrimination. In collaboration with community, we use litigation, law reform, and public legal education to make change. We aim to transform society by achieving access to healthcare; access to justice; economic security; freedom from gender-based violence; justice for those who are criminalized; and the right to parent.

West Coast LEAF recognizes our responsibility to work for the full realization of the rights of Indigenous peoples. In the context of historic and ongoing colonial violence and injustice, West Coast LEAF understands that fulfilling this responsibility requires a deep and continual commitment. We respectfully acknowledge that our office is located in Vancouver on traditional, ancestral, and unceded Coast Salish homelands, including the territories of the xwməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and sə́lilwətaʔ/Selilwitulh (Tsleil-Waututh) Nations. We understand that many of us are uninvited to these territories. As an organization that includes many settlers, we take responsibility for learning and seeking long-term transformation in our relationships with Indigenous peoples and lands.

Introduction

West Coast LEAF welcomes the British Columbia Office of the Human Rights Commissioner's (BCOHRC) inclusion of gender-based violence as a form of hate under study in this Inquiry into Hate in the Pandemic (Inquiry).¹ During times of economic, epidemiological, and environmental crises, such as the COVID-19 pandemic, gender-based violence has been found to consistently increase.² Times of crises also exacerbate the harms and inequities associated with other forms of

¹ British Columbia Office of the Human Rights Commissioner, "Inquiry Details," accessed April 29, 2022, <https://hateinquiry.bchumanrights.ca/inquiry-details/>.

² University of Western Ontario, Learning Network at the Center for Research & Education on Violence Against Women & Children, "COVID-19 & Gender-Based Violence in Canada: Key Issues and Recommendations," accessed April 29, 2020, <https://www.vawlearningnetwork.ca/docs/COVID-gbv-canada-recommendations.pdf>, p. 1.

social identity, such as race, Indigenous status, disability status, economic status, place of origin, newcomer status, and other identities. Hate incidents during the COVID-19 pandemic must therefore be approached using an intersectional framing that considers how prejudices related to gender and other intersecting social identities shape lived experiences of violence, including gendered or gender-based violence.

Gender-based violence is rooted in and exacerbated by prejudice towards not only women, but also Two-Spirit people, intersex people, gender non-conforming people, trans people of all genders (not only women), and people with non-binary gender identities.³ However, it has not always been characterized as, or viewed through the lens of, hate.⁴ While some forms of gender-based violence have been characterized as hate on account of being motivated by a bias related to gender (i.e., anti-trans hate crimes, incel violence, and more recently, misogynistic hate speech), other forms of gender-based violence have not been viewed through the lens of hate phenomenon (i.e., intimate partner violence, sexual violence, and harassment). The exclusion of sexualized and intimate partner violence from consideration as hate has not been without critique. Given that such forms of gendered violence are often rooted in prejudice, it is a “glaring omission” that they are not regarded as such.⁵

This Inquiry is an opportunity to investigate gender-based violence as a phenomenon not only rooted in longstanding social and economic gender inequality, but also in pervasive prejudices such as sexism, misogyny, transphobia, cisgenderism, and other oppressive patriarchal norms. It follows the first (and to our knowledge only) Canadian conviction for willful promotion of hatred against the identifiable group of women which was recently handed down in 2019.⁶

Considering the alarming escalation in intimate partner violence during the COVID-19 pandemic, these submissions will seek to inform the BCOHRC’s understanding of intimate partner violence as a phenomenon rooted in prejudice. First, the submissions will discuss the need for an intersectional approach to all forms of hate. Second, the submissions will review the escalation of intimate partner violence during the COVID-19 pandemic and how it may be

³ The phrase “people who are marginalized because of their gender” is used throughout this submission to refer to the experiences of Two-Spirit people, intersex people, gender non-conforming people, trans people of all genders (not only women) and people with non-binary gender identities. We acknowledge the limitations of this framing to address the distinct manifestations of gender-based harms and inequities experienced by these communities.

⁴ Marian Duggan and Hanna Mason-Bish, “A feminist theoretical exploration of misogyny and hate crime,” in *Misogyny as Hate Crime*, ed. Irene Zempi and Jo Smith (New York: Routledge, 2022), pp. 19-26.

⁵ Angela Marie MacDougall, “BC’s human rights inquiry into hate incidents better late than never,” *Policy Note*, September 24, 2021, <https://www.policynote.ca/hate-against-women/>. See also, Aisha K. Gill and Hannah Mason-Bish, “Addressing Violence Against Women as a Form of Hate Crime: Limitations and Possibilities,” *Feminist Review* 105 (2013) for a review of considerations around the inclusion of violence against women to hate crime legislation in Britain.

⁶ *R. v. Sears*, 2019 ONCJ 104, aff’d 2021 ONSC 4272, leave to appeal refused, 2021 ONCA 522. The defendants were convicted of two counts of willful promotion of hatred under s. 319(2) of the *Criminal Code*, as against Jewish people and women. Their convictions were upheld on appeal to the Ontario Superior Court of Justice.

characterized as “hate incidents” within the scope of the Inquiry. Finally, the submissions provide recommendations to address the prejudices that sustain and provoke intimate partner violence, as well as gender-based violence in all its forms.

These submissions are narrowly focused to provide a framing for the BCOHRC to address intimate partner violence as a form of hate. At the outset, there are two limitations to note. Much of the prevailing and readily accessible literature concerning intimate partner violence examines violence occurring in the context of cisgender, heterosexual relationships. There is, however, growing attention to examining dynamics and experiences of intimate partner violence in relationships where one or more partners are transgender, non-binary, gender non-conforming or Two-Spirit.⁷ These submissions do not intend to conflate or flatten experiences of intimate partner violence across genders and sexual orientations.

We also wish to acknowledge at the outset that our submissions do not address the epidemic of hate targeting transgender, non-binary, gender non-conforming and Two-Spirit people in our communities. Gender-based violence as a catch-all phrase does not adequately account for the distinct ways in which transgender people (especially transgender women), non-binary, gender non-conforming and Two-Spirit people are targeted for and subjected to harassment, abuse, and violent hatred. Our intention here is on surfacing intimate partner violence as a manifestation of gender-based violence that has eluded characterization as hate; we do not intend to minimize or erase the hatred directed at transgender, non-binary, gender non-conforming, and Two-Spirit people.

We urge the BCOHRC to make thorough inquiries into the lived experiences of diverse communities of survivors of gender-based violence and workers in the anti-violence sector to gather and centre their knowledge and experiences.

1. The need for an intersectional approach to all forms of hate

All forms of hate reviewed in this Inquiry must be approached from an intersectional lens. An intersectional analysis should be used to understand the distinct lived experiences of individuals impacted by hate and to avoid the oversimplification of their experiences. An intersectional

⁷ See, e.g., University of Western Ontario, Learning Network at the Center for Research & Education on Violence Against Women & Children, “Trans Women and Intimate Partner Violence: Fundamentals for Service Providers,” (with data collected in 2019), accessed April 29, 2022, <https://www.vawlearningnetwork.ca/our-work/infographics/transwomenandipv/index.html>; Ending Violence Association of BC, “Addressing Intimate Partner Violence in LBTSQ+ Communities Across BC: Resources on Intimate Partner Violence in LBTSQ+ Relationships,” accessed April 29, 2022, https://endingviolence.org/wp-content/uploads/2021/06/EVABC_IPV_LGBT2SQ_6_Resources_2021.pdf; Sarah E. Valentine, et al., “Disparities in Exposure to Intimate Partner Violence Among Transgender/Gender Nonconforming and Sexual Minority Primary Care Patients” 4(4) *LGBT Health* 260 (2017); SM Peitzmeier et al., “Intimate Partner Violence in Transgender Populations: Systematic Review and Meta-analysis of Prevalence and Correlates” 110(9) *Am J. Public Health* 1 (2020); AM Bermea, et al., “Intimate Partner Violence in the LGBTQ+ Community: Experiences, Outcomes, and Implications for Primary Care” 48(2) *Primary Care* 329 (2021).

analysis allows for a nuanced understanding of how harmful social norms and ideologies differently intersect and overlap with gender identity and expression.

The people and communities who experience hate often live at the intersection of multiple sources of harm caused by colonialism, racism, ableism, homophobia, classism, xenophobia, whorephobia, transphobia, and other forms of prejudice. This creates distinct vulnerabilities and impacts with respect to how hate incidents are experienced and addressed. For example, misogynoir, a term introduced by Dr. Moya Bailey, has been used to describe the distinct experiences of Black women and people who are perceived as having a female identity and recognizes that prejudice and discrimination is experienced on the basis of both race and gender.⁸ Misogyny also intersects with racism, xenophobia, and Islamophobia to produce the prejudices that are fueling violence and discrimination against Muslim women.⁹ Critically, the National Inquiry into Missing and Murdered Indigenous Women and Girls also found that misogyny and racism intersect with ideologies of colonialism, leading to the high rates of violence against Indigenous women, girls, and 2SLGBTQIA people.¹⁰

In addition, the violence experienced by Two-Spirit people, trans people of all genders, gender non-conforming people, and people with non-binary gender identities must also be reviewed from an intersectional lens. The intersecting experiences of race, Indigenous status, class, and disability, among other factors, shape how hate is experienced by people who are marginalized because of their gender. According to a Trans PULSE Canada Report from March 2020, 62% of trans and non-binary survey respondents from British Columbia reported avoiding three or more types of public spaces for fear of harassment or outing.¹¹ This avoidance was found to be higher, at 76%, amongst Indigenous trans, Two-Spirit, and non-binary people in Canada.¹² Racialized trans and non-binary people have also reported high levels of verbal harassment.¹³

⁸ See, Canadian Women's Foundation, Women's Shelters Canada, Pauktuutit, Inuit Women of Canada, Anita Olsen Harper (NACAFV), Jihan Abbas (DAWN-RAFH Canada), *Resetting Normal: Systemic Gender-Based Violence and The Pandemic*, December 2020, https://fw3s926r0g42i6kes3bxg4i1-wpengine.netdna-ssl.com/wp-content/uploads/2020/12/20-08-CWF-ResettingNormal-Report3_v5.pdf, p.11; and Moya Bailey, *Misogynoir Transformed: Black Women's Digital Resistance*, (New York: NYU Press, 2021).

⁹ For a discussion of gendered Islamophobia, see, e.g., Amina Easat-Daas, "Misogyny, hate crimes and gendered Islamophobia: Muslim women's experiences and responses," in *Misogyny as Hate Crime*, ed. Irene Zempi and Jo Smith (New York: Routledge, 2022), pp. 140-154.

¹⁰ Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, "Executive Summary of the Final Report," Canada, 2019, https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf, p. 60.

¹¹ Trans PULSE Canada, "Trans Pulse Canada Report No. 1 of 10," March 10, 2020, https://docs.google.com/viewerng/viewer?url=https://transpulsecanada.ca/wp-content/uploads/2020/03/National_Report_2020-03-03_cc-by_FINAL-ua-1.pdf&hl=en, p.7.

¹² Trans PULSE Canada, "Health and well-being among Indigenous trans, two-spirit and non-binary people, No. 3," February 11, 2021, <https://transpulsecanada.ca/results/report-health-and-well-being-among-indigenous-trans-two-spirit-and-non-binary-people/>, p. 6.

¹³ Trans PULSE Canada, "Health and well-being among racialized trans and non-binary people, No. 2," November 2, 2020, <https://transpulsecanada.ca/results/report-health-and-well-being-among-racialized-trans-and-non-binary-people-in-canada/>, p. 5.

An intersectional approach is also necessary where a clear motive and bias seems apparent. This Inquiry is brought on the heels of an appalling increase in hate against Asian people, with a significant number of incidents being reported in British Columbia. It is important that this violence aimed at the Asian community on the basis of race and ethnicity is also approached through an intersectional lens, as Asian people are not a monolithic group and have differing experiences of migration, trauma, and socio-economic realities, among other differences. These incidents must also be recognized as gendered, taking into account historical and contemporary manifestations of prejudice and harmful racist and sexist stereotypes faced women, trans and non-binary people, and gender-nonconforming people who identify or are identified as Asian.¹⁴

2. Intimate partner violence as hate phenomenon

i. The escalation of intimate partner violence during the COVID-19 Pandemic

Gender-based violence has been referred to globally as a “shadow pandemic.” Throughout the COVID-19 pandemic, an increase in intimate partner violence and demand for emergency shelter have been reported in Canada. In some regions where lockdowns were imposed, federal consultations with frontline organizations found a concerning increase of 20 to 30% in the rates of sexual and gender-based violence, and specifically intimate partner violence.¹⁵

A national survey from the Ending Violence Association of Canada found that, during the early period of the pandemic, 46% of gender-based violence service providers noticed changes in the prevalence and severity of violence faced by survivors, with 82% of gender-based violence workers describing an increase in prevalence and severity of violence, and 20% of gender-based violence workers noticing changes in the tactics used to commit violence and increase control.¹⁶ The rates of femicide of women and girls in Canada was also reported to have increased in 2021

¹⁴ University of Western Ontario, Learning Network at the Center for Research & Education on Violence Against Women & Children, “Examining the Intersections of Anti-Asian Racism and Gender-Based Violence in Canada,” published July 2021, <https://www.vawlearningnetwork.ca/our-work/backgrounders/examining-the-intersections-of-antiasian-racism-and-genderbased-violence-in-canada-/Examining-the-Intersections-of-Anti-Asian-Racism-and-Gender-Based-Violence-in-Canada.pdf>.

¹⁵ UN Women, “Violence against women and girls: the shadow pandemic,” April 6, 2020, <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>; UN Women, “Infographic: The Shadow Pandemic – Violence Against Women and Girls and COVID-19”, April 6, 2020, <https://www.unwomen.org/en/digital-library/multimedia/2020/4/infographic-covid19-violence-against-women-and-girls>; Stephanie Murphy, “The shadow pandemic: Increased sexual and gender-based violence during COVID-19, December 6, 2021, <https://www.redcross.ca/blog/2021/12/the-shadow-pandemic-increased-sexual-and-gender-based-violence-during-COVID-19>.

¹⁶ A.L. Trudell and E. Whitmore. Pandemic meets Pandemic: Understanding the Impacts of COVID19 on Gender-Based Violence Services and Survivors in Canada. (Ottawa & London, ON: Ending Violence Association of Canada & Anova, 2020), <https://www.anovafuture.org/wp-content/uploads/2020/08/Full-Report.pdf>, p. 1.

and 2020.¹⁷ In British Columbia, the crisis line at the Battered Women’s Support Services reported a 400% increase in calls during the first few months of the pandemic, with 40% of callers contacting them for the first time.¹⁸

Our understanding of the extent of intimate partner violence during the pandemic is incomplete without considering the distinct experiences of people with intersecting forms of marginalization. For instance, an online survey undertaken by the Native Women’s Association of Canada in May 2020 found that First Nations, Inuit, and Métis women and gender-diverse people¹⁹ expressed concern about COVID-19 contributing to violence in the home. The survey found that Indigenous women reported more violence during the time of sheltering in place, with 17% experiencing violence (physical or psychological) within the preceding three months, compared to 10% reporting violence from their spouse over the past five years in 2014.²⁰ The risk of gender-based violence was greater still for Indigenous women who felt COVID-19 had a major financial impact on them, who are from the North, and who are under the age of 35.²¹

Likewise, the DisAbled Women’s Network of Canada reported that disabled women and people who are marginalized by their gender faced an increased risk of intimate partner violence during the pandemic, and that the risk of abuse is greater still where disability intersects with race, age, Indigeneity, legal status in Canada, rural residence and LGBTQI2S identities.²² Worsening conditions were also identified by service providers for non-status, refugee, and migrant women who reported experiences of increased vulnerability to violence at home.²³

From the beginning of the COVID-19 pandemic, much of life – work, school, and socializing – moved to online and digital spaces. Not surprisingly, data shows that the shift to digital and online engagement was followed by an increase in sexual harassment and other forms of technology-facilitated gender-based violence. Reports indicate that there was a surge in the non-consensual sharing of images during the pandemic, with a 58% increase in the number of people

¹⁷ Native Women’s Association of Canada, “Policy Brief: Violence & COVID-19,” accessed April 29, 2022, <https://www.nwac.ca/policy-brief-violence-COVID-19/>.

¹⁸ University of British Columbia, School of Social Work, “Intimate Partner Violence in the Time of COVID-19,” February 17, 2021, <https://socialwork.ubc.ca/news/intimate-partner-violence-in-the-time-of-COVID-19/>.

¹⁹ Gender diverse people is the term used by the Native Women’s Association of Canada in its survey cited below. 750 Indigenous women and gender-diverse people over the age of 18 completed the survey. The survey does not indicate which gender identities are represented among the participants who identified as “gender-diverse.”

²⁰ Native Women’s Association of Canada, “The Impacts of COVID-19 on Indigenous Women and Gender-Diverse People in Canada,” June 3, 2020, <https://www.aptnnews.ca/wp-content/uploads/2020/11/COVID-SURVEY.pdf>, pp. 4-5.

²¹ *Ibid.*

²² Sonia Alimi and Jihan Abbas, DisAbled Women’s Network of Canada (DAWN), “Parliamentary Brief: The Impact of COVID-19 on Women living with Disabilities in Canada,” June 22, 2020, https://dawnCanada.net/media/uploads/page_data/page-63/parliamentary_brief_covid_19_june_22nd_2020.pdf, pp. 5-6.

²³ Ontario Council of Agencies Serving Immigrants, National Roundtable Series Summer 2020, “This was already a crisis”, accessed April 29, 2022, <https://ocasi.org/sites/default/files/consolidated-virtual-roundtable-summaries.pdf>, pp. 5, 6, 11.

contacting a national hotline for concerns about shared intimate images by the start of 2021 compared to the nine-month period before April 1, 2020.²⁴ Critically, it is important to note that technology-facilitated gender-based violence can be part of a pattern of violence and regularly occurs within the context of dating and intimate partner violence, abuse, and harassment.²⁵

While the discussion above outlines some of the ways in which intimate partner violence increased during the pandemic, it is important to note that this understanding is incomplete. There is a lack of specific information on the experiences of some groups and communities during the pandemic, including trans people and non-binary people, people with disabilities, and Black and racialized people. Much of the data on gender-based violence in Canada is not distinct to different groups of women and people who are marginalized because of their gender, creating challenges in understanding intersectional experiences.²⁶ It is also important to recall that many survivors of intimate partner violence from these communities may not report incidents of gender-based violence to the police because of mistrust and prior experiences of abuse or violence perpetuated by authorities.²⁷

ii. Looking at intimate partner through the lens of hate

The BCOHRC has included the escalating rates of intimate partner violence during the COVID-19 pandemic as part of the context for this Inquiry. While the lens of hate has not always been applied to intimate partner violence, doing so may provide an opportunity to identify, name, and address the root societal prejudices that sustain and provoke this type of violence.

Intimate partner violence can be defined as violence perpetuated by a current or former partner or spouse. It can occur in public, in private, and online. It can include physical violence, sexual violence, psychological/emotional abuse, and controlling behaviors. Intimate partner violence may constitute actions and speech that meet the definition of “hate incidents” in this Inquiry as it is a) rooted in prejudice, b) often aimed at a person because of their gender, c) often intended to dehumanize, silence, victimize, and degrade.²⁸

²⁴ Katie DeRosa, “As ‘revenge porn’ spikes during pandemic, B.C. aims to crack down with legislation,” *Vancouver Sun*, May 12, 2021, <https://vancouver.sun.com/news/local-news/as-revenge-porn-spikes-during-pandemic-b-c-aims-to-crack-down-with-legislation>.

²⁵ Cynthia Khoo, Women’s Legal Education and Action Fund, *Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence*, <https://www.leaf.ca/wp-content/uploads/2021/04/Full-Report-Deplatforming-Misogyny.pdf>, p. 22.

²⁶ Canadian Women’s Foundation, Women’s Shelters Canada, Pauktuutit, Inuit Women of Canada, Anita Olsen Harper (NACAFV), Jihan Abbas (DAWN-RAFH Canada), *Resetting Normal: Systemic Gender-Based Violence and The Pandemic*, December 2020, https://fw3s926r0g42i6kes3bxg4i1-wpengine.netdna-ssl.com/wp-content/uploads/2020/12/20-08-CWF-ResettingNormal-Report3_v5.pdf, p. 5.

²⁷ *Ibid.*, p. 22.

²⁸ British Columbia Office of the Human Rights Commissioner, “Inquiry Details,” accessed April 29, 2022: <https://hateinquiry.bchumanrights.ca/inquiry-details/>

a) Intimate partner violence is rooted in prejudice

Intimate partner violence is rooted in harmful social norms and prejudices that impact not only women, but also Two-Spirit people, intersex people, gender-non-conforming people, trans people of all genders (not only women), and people with non-binary gender identities.

The harmful ideologies and prejudices that support intimate partner violence take on distinct forms within certain gender and intersecting identities. With respect to the experiences of cisgender, heterosexual women, the Committee on the Elimination of Discrimination against Women recognizes in its General Recommendation No. 35, that gender-based violence against women is rooted in “gender-related factors, such as the ideology of men’s entitlement and privilege over women, social norms regarding masculinity, and the need to assert male control or power, enforce gender roles or prevent, discourage or punish what is considered to be unacceptable female behaviour.”²⁹ In particular, the harmful norms that uphold intimate partner violence include views that a man has a right to assert power over a woman, is socially superior, that physical violence is an acceptable way to resolve conflict, and that sexual violence is a marker of masculinity.³⁰ These norms of subordination also intersect with racism, Indigenous status, and anti-Black racism (i.e. misogynoir), producing gendered and race-based harms.

Trans and gender non-conforming people who present with feminine characteristics are also subject to the harmful prejudices of cisgenderism and transphobia “as a result of deviating from expected gender norms that are dictated by cis-normative expectations.”³¹ However, this form of prejudice is also compounded by misogyny “resulting from embodying ‘femininity’, or at least, the perception that they embody femininity,” leading to transmisogyny, as a specific form of prejudice producing intersecting harms.³² A national survey of 667 trans women by Trans PULSE Canada in 2019 found that three in five trans women have experienced intimate-partner violence since the age of 16, 56% of trans women had a partner that insulted, swore, shouted, or yelled at them, and 33% of trans women were forced or pressured to engage in sexual activity they did not want to engage in.³³ These experiences of intimate partner violence are impacted by the further intersecting harms of racism, colonialism, ableism, and other forms of violence.³⁴

²⁹ Committee on the Elimination of Discrimination against Women, “General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19,” July 27, 2017, para. 19.

³⁰ World Health Organization, “Understanding and addressing violence against women: Intimate partner violence,” 2021, accessed April 29, 2022, https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf, p. 5.

³¹ Ben Colliver, “Not the right kind of woman: Transgender women’s experiences of transphobic hate crime and trans-misogyny,” in *Misogyny as Hate Crime*, ed. Irene Zempi and Jo Smith (New York: Routledge, 2022), p. 216.

³² *Ibid.*, p. 216.

³³ University of Western Ontario, Learning Network at the Center for Research & Education on Violence Against Women & Children, “Trans Women and Intimate Partner Violence: Fundamentals for Service Providers,” (with data collected in 2019), accessed April 29, 2022, <https://www.vawlearningnetwork.ca/our-work/infographics/transwomenandipv/index.html>

³⁴ *Ibid.*

In spite of these harms, misogyny is considered “a less obvious and more normalized type of hatred” such that gender-based violence has not been conceptualized as *hate per se*.³⁵ Misogyny has been normalized through the historic and systemic oppression and marginalization of women and people who are marginalized because of their gender.³⁶ For instance, many offensive gendered slurs, allusions, and dog-whistles that degrade women, trans people, and others based on their gender, which saturate the online environment in particular, have become normalized and do not carry the hateful connotation that other expressions including racial slurs may have.³⁷ The ubiquity of misogyny and other oppressions rooted in patriarchy is what makes this normalization so damaging and harmful to the full expression and realization of equity, safety and wellbeing. Many of these harmful norms, including for example, misogynistic messages related to the subordination of women to men, the ownership of women by men, and the promotion of the use of physical violence in relationships, were recognized by the court in *R. v. Sears* as having the “hallmarks of hatred.”³⁸

While the escalation of intimate partner violence during the COVID-19 pandemic has been attributed to several factors such as the stress of social/physical isolation measures, employment interruptions, or financial pressures that increase conflict in the household, and alcohol use, which is a risk factor associated with higher rates of intimate partner and sexual violence, these factors and circumstances have changed the dynamics of violence but are not root causes.³⁹ Along with pervasive gender inequality and structural violence, it is harmful social norms and prejudices towards women, trans, non-binary, and gender-non conforming people that sustain and provoke intimate partner violence - prior to - and in - this time of crisis.

b) Intimate partner violence is aimed at gender expression or identity

While intimate partner violence affects people of all genders, it significantly impacts women, lesbian, gay, bisexual women, and people of a sexual orientation that is not heterosexual, Indigenous women, women living with disabilities, visible minority women, and trans women.⁴⁰

³⁵ Andrea Adebjork, “Misogyny: a hate crime or a private affair? A socio-cultural study of the intersection between hate crime legislation and men’s violence against women,” Unpublished Master’s diss., (Uppsala University, 2020), p. 62.

³⁶ Marian Duggan and Hanna Mason-Bish, “A feminist theoretical exploration of misogyny and hate crime,” in *Misogyny as Hate Crime*, ed. Irene Zempi and Jo Smith (New York: Routledge, 2022), pp. 27-28.

³⁷ Andrea Adebjork, “Misogyny: a hate crime or a private affair? A socio-cultural study of the intersection between hate crime legislation and men’s violence against women”, Unpublished Master’s diss., (Uppsala University, 2020), p. 62; and Cynthia Khoo, Women’s Legal Education and Action Fund, Deplatforming Misogyny: Report on Platform Liability for Technology-Facilitated Gender-Based Violence, <https://www.leaf.ca/wp-content/uploads/2021/04/Full-Report-Deplatforming-Misogyny.pdf>, p. 66.

³⁸ *R. v. Sears*, 2019 ONCJ 104, aff’d 2021 ONSC 4272, leave to appeal refused, 2021 ONCA 522, para. 35.

³⁹ University of Western Ontario, Learning Network at the Center for Research & Education on Violence Against Women & Children, “COVID-19 & Gender-Based Violence in Canada: Key Issues and Recommendations,” accessed April 29, 2020, <https://www.vawlearningnetwork.ca/docs/COVID-gbv-canada-recommendations.pdf>, p. 1.

⁴⁰ Government of Canada, “Fact sheet: Intimate partner violence,” accessed April 29, 2022, <https://women-gender-equality.canada.ca/en/gender-based-violence-knowledge-centre/intimate-partner->

This form of gender-based violence is unmistakably aimed at people who are marginalized because of their genders and other intersecting identities. Nevertheless, intimate partner violence is not always understood as gendered because of the ubiquity and persistence of gender-based discrimination and norms in society which view intimate partner violence as endemic – a part of life, a problem of individuals, or as a “private matter”, and therefore not aimed at a person because of their gender.⁴¹ Intimate partner violence is often portrayed as a personal or private problem between individuals, thereby “rendering the gendered aspect invisible and obscuring any focus on wider issues of misogyny.”⁴² It is also justified by some as a momentary lapse of judgment by the offender, and not seen as form of violence that is often a pattern of behaviour aimed at a person who is marginalized because of their gender in order to express dominance and control rooted in harmful, gendered norms.⁴³

c) Intimate partner violence is intended to control, injure, and victimize

Intimate partner violence can be viewed as intended to dehumanize, silence, injure, degrade, humiliate, and victimize survivors. This form of violence may be utilized to obtain coercive control over a partner, which includes patterns of behaviours intended to isolate, humiliate, exploit, or dominate a person.⁴⁴ The purpose of this control can be to instill fear and threat into a person.⁴⁵ In addition, this violence has potentially long lasting consequences for physical health, creating risks of serious injuries including traumatic brain injuries as well as chronic illnesses.⁴⁶ It has consequences for mental health, leading to high levels of depression, anxiety, phobias, thoughts of suicide and attempted suicide.⁴⁷ Those who experience intimate partner violence may

[violence.html](#); and University of Western Ontario, Learning Network at the Center for Research & Education on Violence Against Women & Children, “Trans Women and Intimate Partner Violence: Fundamentals for Service Providers,” (with data collected in 2019), accessed April 29, 2022, <https://www.vawlearningnetwork.ca/our-work/infographics/transwomenandipv/index.html>.

⁴¹ Committee on the Elimination of Discrimination Against Women, General Recommendation No. 35, para. 19; and Kim McGuire, “Extending the concept, or extending the characteristics? Misogyny or gender?” in *Misogyny as Hate Crime*, ed. Irene Zempi and Jo Smith (New York: Routledge, 2022), p. 53.

⁴² Kim McGuire, *ibid*, p. 53.

⁴³ Andrea Adebjork, “Misogyny: a hate crime or a private affair? A socio-cultural study of the intersection between hate crime legislation and men’s violence against women,” Unpublished Master’s diss., (Uppsala University, 2020), p. 48.

⁴⁴ Molly Hayes, Elizabeth Renzetti, Tavia Grant, “What is coercive control? Why understanding the warning signs is key to preventing intimate partner violence,” *The Globe and Mail*, last updated March 18, 2022, <https://www.theglobeandmail.com/canada/article-what-is-coercive-control-relationships-abuse-resources-help/>

⁴⁵ *Ibid*.

⁴⁶ World Health Organization, “Understanding and addressing violence against women: Intimate partner violence,” 2021, accessed April 29, 2022, https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf, p. 5.

⁴⁷ *Ibid* and Ending Violence Association of BC, “Gender-Based Violence: We All Can Help,” accessed online April 29, 2022, <https://endingviolence.org/training/we-all-can-help/>.

know that they are vulnerable to being victims on account of their gender, which may also impact their sense of self, dignity, and freedom.⁴⁸

Summary

In summary, intimate partner violence can be considered within the scope of the framework for “hate incidents” in this Inquiry. Intimate partner violence is rooted in societal prejudices, is aimed at survivors because of their gender, and is intended to cause significant harm. By recognizing intimate partner violence as a form of hate, it can be taken out of the realm of the personal and individual, and instead viewed as a gendered, systemic phenomenon that is rooted in pervasive prejudices, which ought to be addressed as an urgent public concern.

3. Recommendations: The BCOHRC can create normative changes

The BCOHRC’s Inquiry is an opportunity to work towards identifying and transforming the harmful social norms and prejudices that sustain and fuel gender-based violence and to create a discourse that can make harmful patriarchal social norms visible.

In its report, “The Ignored Pandemic: The Dual Crises of Gender-Based Violence and COVID-19”, Oxfam notes that in response to the COVID-19 pandemic, governments around the world implemented large-scale campaigns to change social norms, attitudes, and behaviours related to public health, demonstrating that shifting norms is possible. However, interventions that address the social norms and prejudices underpinning gender-based violence, such as ideas of male dominance and heteronormativity, have yet to receive the same investment.⁴⁹

We recommend:

1. The BCOHRC study how misogyny and other prejudices give rise to gender-based violence and seek out the lived experiences and knowledge of gender-based violence survivors and workers who confront these prejudices.
2. The BCOHRC investigate how harmful social norms inform and impact BC’s responses to gender-based violence within its own institutions.
3. The BCOHRC support Call for Justice 1.9 of the National Inquiry into Missing and Murdered Indigenous Women and Girls that all governments “develop laws, policies, and public education campaigns to challenge the acceptance and normalization of violence.”⁵⁰

⁴⁸ Marian Duggan and Hanna Mason-Bish, “A feminist theoretical exploration of misogyny and hate crime,” in *Misogyny as Hate Crime*, ed. Irene Zempi and Jo Smith (New York: Routledge, 2022), pp. 27-23.

⁴⁹ Oxfam, *The Ignored Pandemic: The Dual Crises of Gender-Based Violence and COVID-19*, November 2021, <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621309/bp-ignored-pandemic-251121-en.pdf>, p. 13.

⁵⁰ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, “Calls for Justice”, Canada, 2019, https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf, No. 1.9, p. 12.

4. The BCOHRC study how social norms and beliefs underpinning gender-based violence can be changed and challenged through public campaigning or other means, commensurate with other campaigns and reflecting the scale of the issue.⁵¹
5. The BCOHRC support the prevention-related Recommendations provided in the report of the Roadmap for the National Action Plan on Violence Against Women and Gender-Based Violence, including 3P (youth workshops on accountability), 5P (engage with boys, young men, and men from a feminist lens), 7P (engage with school systems to teach or enable the teaching of healthy relationships), 9P (taking a gender-transformative approach to actively challenge and change (rather than inadvertently reinforce or perpetuate) harmful gendered social norms, structures, and practices).⁵²
6. The BCOHRC study BC's responses to address tech-facilitated gender-based violence and seek out the lived experiences of victims, survivors, and those broadly impacted by tech-facilitated gender-based violence.

4. Conclusion

Unlike other forms of hate, where there may be a clear “triggering event” gender-based violence is viewed as “endemic.” All but the most sensationalized incidents of intimate partner violence, femicide, sexual violence, or online or public harassment do not garner significant public outcry and have become normalized, thus demonstrating a social acceptance of gender-based violence and impunity for this behaviour. The significant escalation of gender-based violence, and in particular intimate partner violence, which has occurred during this time of crisis, however, must shock the system and bring attention to the prejudices that sustain this violence.

We welcome the BCOHRC inclusion of gender-based violence in this Inquiry into hate. The COVID-19 pandemic must be treated as an opportunity to identify, name, and break down pernicious gender norms and prejudices such as misogyny so that they are no longer reinforced and exacerbated. This Inquiry and the Commissioner's recommendations must challenge the normalization of gender-based violence and support preventative and transformative changes.

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⁵¹ Oxfam, *The Ignored Pandemic: The Dual Crises of Gender-Based Violence and COVID-19*, November 2021, <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621309/bp-ignored-pandemic-251121-en.pdf>, p. 17.

⁵² Amanda Dale, Krys Maki, Rotbah Nitia, *Roadmap for the National Action Plan on Violence Against Women and Gender-Based Violence: A Report to Guide the Implementation of a National Action Plan on Violence Against Women and Gender-Based Violence*, April 30, 2021, <https://nationalactionplan.ca/wp-content/uploads/2021/06/NAP-Final-Report.pdf>, pp. 34-62.