



REPORT

***Transitional Justice
and Historical Repair
for LGBTIQ+ Communities
in Victoria***

RMIT UNIVERSITY,
SCHOOL OF LAW

13 APRIL 2026





Contents

A. Executive Summary	05	E. Comparative Models of Truth, Redress and Memorialisation	14
Context and Purpose	05	1. State-Led Truth-Telling Mechanisms	14
From Harm to Accountability	05	The NSW Special Commission of Inquiry	14
Transitional Justice	06	Institutional Resistance and Design Lessons	15
Practical Pathways Forward	06	Broader International Truth Commissions	16
1. State-Led Historical Inquiry Mechanism	06	2. Reparations and Redress Models	16
2. Redress and Compensation	06	Tasmania: Australia's First Compensation Scheme	17
3. Memorialisation and Public Education	06	A tiered model grounded in comparative benchmarks	17
A Moment of Institutional Opportunity	06	Age urgency	17
B. What is Transitional Justice?	07	Comparative International Models	17
C. Legacies of LGBTIQ+ harm in Victoria	08	Spain: Term-Based Compensation	17
Historical Criminalisation and Policing	08	Germany: Flat Rate plus Incarceration Multiplier	18
Entrapment and the Black Rock Arrests	09	Germany: Military Redress Scheme	18
Persistence After Decriminalisation	09	New Zealand: Expungement without Compensation	18
Gendered and Intersectional Harms	10	Design Lessons for Victoria	19
Community Violence and Vulnerability	10	3. Memorialisation	19
Recent and Emerging Patterns of Harm	11	Netherlands	19
D. Victoria's efforts to address the past: Progress to date	12	Nazi Persecution	20
Expungement Reform	12	Victoria	20
Official Apologies and Institutional Acknowledgment	13	New South Wales	20
Progress and Limits	13	F. Concluding Reflections	22
		G. Recommendations	24
		Historical Harm Inquiry	24
		Expungement and Legal Reform	24
		Redress and Reparations	24
		Memorialisation and Public Education	24





A. Executive Summary

Context and Purpose

This report arises from an RMIT Career Reignite funded research project on truth-telling and legal redress for LGBTIQ+ communities, led by Dr Jeremie Bracka at RMIT University (School of Law).

As part of this project, a roundtable was convened in November 2025 in collaboration with the Victorian Commissioner for LGBTIQ+ Communities, Joe Ball.¹ It brought together leading advocates, legal experts and policymakers to consider how Victoria might reckon with its history of criminalisation, discriminatory policing, violence and institutional prejudice directed at LGBTIQ+ communities. Participants included Professor Paula Gerber (Castan Centre for Human Rights Law, Monash University), Nicholas Stewart (President of Australian Lawyers for Human Rights and Partner at LGBTIQ+ law firm Dowson Turco Lawyers), Sean Mulcahy (Research Fellow, Australian Research Centre in Sex, Health and Society, La Trobe University), policy leaders from Thorne Harbour Health and Equality Australia, and representatives from Victoria Police.

The roundtable demonstrated broad cross-sector recognition that Victoria's response to historical anti-LGBTIQ+ harm remains incomplete. Participants expressed strong support for the development of a structured and consultative roadmap now reflected in this report, and for progressing practical next steps in partnership with government and community stakeholders.

While Victoria has taken important steps, including decriminalisation, expungement legislation and formal apologies, many LGBTIQ+ Victorians continue to experience the legacy of surveillance, stigma and diminished trust in institutions.

This report does not claim to provide an exhaustive account of historical and ongoing harms. Rather, it offers illustrative cases, comparative analysis and practical options designed to support government and community in taking the next steps. The recommendations that follow are framed as consultative, staged and achievable measures capable of strengthening institutional trust and reinforcing guarantees of non-recurrence.

From Harm to Accountability

For decades, same-sex intimacy and gender diversity were policed as criminal or moral offences in Victoria. Entrapment practices, discriminatory prosecutions, public humiliation and institutional neglect left deep and lasting scars. Events such as the Black Rock arrests and the 1994 Tasty nightclub raid remain emblematic of systemic failure. While Victoria has taken important steps, including decriminalisation, expungement legislation and formal apologies, many LGBTIQ+ Victorians continue to experience the legacy of surveillance, stigma and diminished trust in institutions. Legislative reform alone has not fully repaired these harms.

¹ The Commissioner participated in the roundtable and supported its convening. This report was developed prior to the announcement of the Victorian Parliamentary Inquiry into LGBTIQ+ hate crimes. As such, the Commissioner does not formally endorse the recommendations in this report but remains committed to ensuring that the experiences of LGBTIQ+ Victorians are heard and meaningfully addressed.



Transitional Justice

This report approaches these questions through the framework of transitional justice: a suite of measures designed to address legacies of serious human rights violations through truth telling, reparations, institutional reform and guarantees of non-recurrence. Although traditionally associated with post-conflict societies, transitional justice is increasingly used by democratic jurisdictions to confront historical injustice and rebuild public trust. It offers a principled method for moving beyond symbolic acknowledgment toward meaningful accountability and structural reform. The Victorian context presents precisely this challenge: how to translate acknowledgment into durable institutional change.

Practical Pathways Forward

The roundtable identified three principal pathways through which Victoria could move from recognition toward substantive justice.

1. State-Led Historical Inquiry Mechanism

A formal, state-led Board of inquiry into historical anti-LGBTIQA+ policing, violence and institutional responses could:

- establish an authoritative public record of harm;
- examine investigative failures and systemic bias;
- facilitate survivor participation and voice; and
- identify reforms to prevent recurrence

Comparative experience, particularly the NSW Special Commission of Inquiry into LGBTIQ Hate Crimes established in 2023 (which followed two separate parliamentary inquiries), demonstrates both the value of formal investigative powers and the importance of careful design to secure institutional engagement.

2. Redress and Compensation

Expungement, while significant, does not by itself repair the material and psychological consequences of criminalisation. The introduction of a redress scheme could:

- provide tiered compensation linked to arrest, charge or conviction;
- operate in conjunction with expungement rather than as a separate process; and
- recognise the urgency posed by the advanced age of surviving victims

Tasmania's 2025 compensation scheme provides a domestic model for structured, administratively workable redress.

3. Memorialisation and Public Education

Memorials and commemorative initiatives serve not only survivors, but the broader community. They:

- acknowledge state-enabled harm;
- preserve public memory;
- promote education and awareness; and
- reinforce guarantees of non-recurrence.

Victoria currently lacks a dedicated memorial recognising victims of state-perpetrated anti-LGBTIQA+ harm.

A Moment of Institutional Opportunity

In February 2026, the Parliament of Victoria voted to establish an inquiry into anti-LGBTIQA+ hate crimes, prompted by a series of violent and targeted attacks against gay and bisexual men using dating applications.² The inquiry will examine rising violence, online extremist recruitment networks and gaps in safety and institutional response. This development signals growing political recognition that anti-LGBTIQA+ harm is not confined to the past but continues to evolve in new forms.

While the parliamentary inquiry is directed toward contemporary patterns of violence and prevention, participants at the roundtable emphasised that present-day harms cannot be fully understood or addressed without confronting their historical foundations. Persistently low reporting rates among LGBTIQA+ victims, often linked to mistrust of police and experiences of stigma and discrimination, underscore the continued relevance of past institutional practices. Addressing historical harms is therefore not only retrospective but essential to building trust and strengthening the effectiveness of current and future responses.

Victoria has demonstrated leadership in truth-telling through the Indigenous led Yoorrook Justice Commission.³ It has also pioneered expungement reform and formal apology in response to the historical criminalisation of homosexuality. These foundations create a unique opportunity to extend a principled and structured response to the legacies of anti-LGBTIQA+ harm. The central question is no longer whether injustice occurred. It is how the state should respond in a manner that is principled, proportionate, consultative and forward-looking.

² Parliament of Victoria, 'Inquiry into Anti-LGBTIQA+ Hate Crimes in Victoria' (Web Page, 2026) <<https://www.parliament.vic.gov.au/antilgbtqiahatecrimes>>.

³ Yoorrook Justice Commission, 'Yoorrook Truth Be Told - Official Public Record' (Report, June 2025) available at <<https://www.yoorrook.org.au/reports-and-recommendations/reports/yoorrook-official-public-record>>.

B. What is Transitional Justice?



Transitional justice provides a coherent framework through which acknowledgment, accountability and institutional reform can be aligned. Broadly speaking, transitional justice refers to a suite of measures societies may apply to come to terms with and repair harms caused by serious human rights violations, thereby promoting accountability, justice and reconciliation.⁴ These measures may include truth-telling, apologies, reparations, prosecutions, memorialisation and institutional reform.⁵ While transitional justice first emerged in societies transitioning from dictatorship or armed conflict, its tools are now employed more broadly. Increasingly, democratic jurisdictions have adopted transitional justice mechanisms to address historical injustice, systemic discrimination and institutional failure, even in the absence of regime change or political upheaval.⁶

At its core, transitional justice is concerned with recognition, accountability and transformation. It looks backward to acknowledge wrongdoing and forward to prevent its recurrence.⁷ The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence identifies four interrelated pillars: truth, justice, reparations and guarantees of non-recurrence.⁸ These pillars reinforce one

another and are grounded in the obligation of states under international human rights law to provide victims of violations with an effective remedy. This includes the rights to truth, justice and reparation.⁹ These obligations extend to all persons, including those subjected to discrimination based on sexual orientation, gender identity or intersex status.

Until recently, transitional justice scholarship and practice largely overlooked anti-LGBTIQA+ violence and discrimination. This omission reflects the historical tendency of transitional justice processes to prioritise violations perceived as political, civil or conflict-related, while marginalising harms rooted in gender and sexuality.¹⁰ A growing body of scholarship now challenges this limitation, urging transitional justice processes to centre LGBTIQA+ voices, recognise queer histories of harm and incorporate queer and decolonial perspectives to ensure justice is genuinely inclusive.¹¹ As Fobear argues, 'transitional justice can no longer afford to ignore the experiences of sexual and gender minorities'.¹²

⁴ United Nations Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, UN Doc S/2004/616 (23 August 2004) [8].

⁵ See e.g., International Center for Transitional Justice, 'What is Transitional Justice?' (Web Page, 2026.) <<https://www.ictj.org/what-transitional-justice>>.

⁶ See e.g., Cira Pallí-Asperó, 'Addressing the Legacies of the Past: Historical Commissions in Consolidated Democracies', in Tine Destrooper, Line Engbo Gissel and Kerstin Bree Carlson (eds), *Transitional Justice in Aparadigmatic Contexts Accountability, Recognition, and Disruption* (Routledge, 2023) 184-199.

⁷ Gerhard Werle and Moritz Vormbaum, 'Transitional Justice: The Legal Framework' (2022) 31 Springer 1-12.

⁸ Pablo de Grieff, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, UN Doc A/HRC/21/46 (28 August 2013) [21].

⁹ Office of the High Commissioner for Human Rights, *About Transitional Justice and Human Rights* (Web Page, 2026.) <<https://www.ohchr.org/en/transitional-justice/about-transitional-justice-and-human-rights>>.

¹⁰ Caitlin Biddolph, 'Queering the Global Governance of Transitional Justice: Tensions and (Im)Possibilities' (2024) 18(2) *International Journal of Transitional Justice* 281-298; See also Pablo de Grieff (n 8).

¹¹ Ibid; See also Katherine Fobear and Erin Baines, 'Pushing the Conversation Forward: The Intersections of Sexuality and Gender Identity in Transitional Justice' (2020) 24(4) *International Journal of Human Rights* 307-312.

¹² Katherine Fobear, 'Queering Truth Commissions' (2014) 6(1) *Journal of Human Rights Practice* 51, 64.



C. Legacies of LGBTIQ+ harm in Victoria

The Victorian experience illustrates why transitional justice principles must extend beyond post-conflict settings to contexts where discrimination and violence were embedded within ordinary legal and institutional frameworks. Victoria's journey toward recognition, dignity and equality for LGBTIQ+ communities has been long and uneven. Until 1949, the death penalty was an available penalty for the crime of sodomy in Victoria.¹³ Until 1981, consensual sexual activity between men remained a criminal offence.¹⁴ During this period, police routinely harassed, entrapped and arrested gay men in public spaces and private homes,¹⁵ while trans and gender diverse people were targeted under summary offences such as 'offensive behaviour' or 'impersonating a woman'.¹⁶

Notably, decriminalisation did not immediately dismantle entrenched patterns of discriminatory policing. As Jamie Gardiner OAM, human rights activist, pioneer of Australia's LGBT rights movement and member of the Victorian LGBTI Taskforce, observed at the roundtable, 'these patterns of policing did not disappear overnight, and discriminatory enforcement practices persisted.' The long shadow of criminalisation also continues to shape institutional trust. As James Hamlet, Senior Policy Analyst at Thorne Harbour Health, noted during the discussion, 'the effects of criminalisation continued to shape community trust in institutions.' Participants emphasised that historic enforcement practices influence present-day reporting behaviours, perceptions of safety and willingness to engage with police and other authorities. Although recent decades have witnessed significant legislative and social reform, the legacies of



criminalisation, police violence and systemic discrimination continue to inform the lived experience of many LGBTIQ+ Victorians.

Historical Criminalisation and Policing

For much of the twentieth century, same-sex intimacy, gender diversity and queer visibility were policed as moral offences in Victoria. Same-sex-attracted men were prosecuted under sections 58–59 of the *Criminal Law and Practice Statute 1864 (Vic)* including buggery, gross indecency, indecent assault, loitering for homosexual purposes and offensive behaviour.¹⁷ These laws were not dormant. They were actively enforced and, in practice, operated as mechanisms of surveillance, intimidation and punitive regulation.

Selected cases illustrate the human impact of this regime:

- | In 1951, Indigenous man Noel Tovey, then aged 17, was arrested during a police raid, beaten and allegedly coerced into falsely confessing to intimacy with another man. He was convicted of buggery and imprisoned at Pentridge.¹⁸
- | In 1975, after an anonymous tip-off, police raided the private home of a gay couple, charged them with buggery and ordered their relocation to South Australia where the same conduct was lawful.¹⁹

¹³ Barry York, 'The Decriminalisation of Homosexuality' (Museum of Australian Democracy at Old Parliament House, 27 August 2015) <<https://moadoph.gov.au/explore/stories/history/the-decriminalisation-of-homosexuality>>.

¹⁴ Victorian Government, 'Timeline of Major Community, Legal and Policy Developments in Victoria' (Web Page, 2023) <<https://www.vic.gov.au/pride-our-future-victorias-lgbtqi-strategy-2022-32/timeline-major-community-legal-and-policy>>.

¹⁵ See e.g., Human Rights Law Centre, 'Righting Historical Wrongs: Background Paper for a Legislative Scheme to Expunge Convictions for Historical Consensual Gay Sex Offences in Victoria' (Report, 12 January 2014) available at <<https://www.hrlc.org.au/app/uploads/2025/04/1401-Righting-Historical-Wrongs-Report.pdf>>.

¹⁶ See e.g., Adrien McCrory, 'Policing Gender Nonconformity in Victoria, 1900-1940' (2021) 19 *Provenance: The Journal of Public Record Office Victoria* 33-42, available at <<https://prov.vic.gov.au/explore-collection/provenance-journal/provenance-2021/policing-gender-nonconformity-victoria-1900>>.

¹⁷ Human Rights Law Centre (n 15) 12, 14-15.

¹⁸ Daniella Miletic, 'Gay Men Haunted by Old Convictions', *The Age* (online, 7 January 2013) <<https://www.theage.com.au/national/victoria/gay-men-haunted-by-old-convictions-20130106-2cbed.html>>.

¹⁹ Phillip Adams, 'Boys in Blue', *The Age* (9 April 1975), cited in Graham Carbery, *Towards Homosexual Equality in Australian Criminal Law – A Brief History* (Report, 2nd edition, revised 2014) available at <<https://www.alga.org.au/files/towardsequality2ed.pdf>> 10-11; See also Human Rights Law Centre (n 15) 11.

In 1975, a man charged with buggery and gross indecency was sentenced to 18 months' probation on the condition that he attends a psychiatric clinic reflecting the medicalisation of homosexuality alongside criminalisation.²⁰

In 1976, the Victorian Social Welfare Department reported that sixteen boys aged 15–16, convicted of consensual same-sex acts, had been placed under youth training orders or committed to the care of the state. In at least one case, a youth was convicted of buggery and gross indecency after 'willingly' returning to the home of an adult man. This incident highlights the criminalisation of adolescents themselves rather than a protective response to vulnerability.²¹

In 1977, 14-year-old Tom Anderson, who had reported sexual abuse by his employer, was himself charged with buggery and gross indecency, subjected to an anal examination and brought before the Children's Court.²²

These cases reflect not isolated excesses but a broader system in which the criminal law functioned as a tool of humiliation, coercion and control. Official data remains incomplete.²³ However, available figures indicate sustained enforcement activity throughout the 1960s and 1970s, including dozens of prosecutions annually for offences such as buggery and gross indecency.²⁴ Given the breadth of these offences, it is unclear how many prosecutions involved consensual conduct; what is clear is the routine criminalisation of same-sex intimacy.

Entrapment and the Black Rock Arrests

Beyond formal prosecutions, policing practices intensified harm through organised entrapment. Throughout the 1970s and 1980s, plain-clothes officers patrolled known 'beats,' posing as interested participants in order to lure men into conduct that would justify arrest.²⁵ In 1977, Victoria Police officers reportedly 'studied homosexuals through binoculars' to imitate mannerisms and attract 'likely offenders' at Black Rock and Sandringham.²⁶ More than 100 men are estimated to have been arrested during the summer of 1976–77 alone.²⁷ Community organisations documented ongoing reports of entrapment well into the 1980s, with Gayline receiving multiple complaints per week.²⁸ These practices were not incidental but systematic, reinforcing the perception of targeted surveillance even prior to decriminalisation.

Persistence After Decriminalisation

The repeal of same-sex intimacy offences did not end discriminatory policing. Offences framed in neutral terms including offensive behaviour, soliciting for immoral purposes and indecent exposure continued to be deployed disproportionately against gay men.²⁹ It has been reported that police would patrol beats, with one officer confirming in 1997 that police were 'certainly aware that there are certain areas that homosexuals frequent.'³⁰ A 2019 report by the Victorian Equal Opportunity and Human Rights Commission reinforced this pattern, recording that a Victoria Police employee had been 'taught how to police beats,' confirming that targeted patrols of known gay meeting areas persisted well into the 1990s.³¹ These practices entrenched a perception of sustained surveillance even after formal equality was introduced.

²⁰ Human Rights Law Centre (n 15) 18.

²¹ Ibid 17–18.

²² Benjamin Riley, 'What's Past is Prologue', *Star Observer* (online, 12 May 2014) <<https://www.starobserver.com.au/news/national-news/victoria-news/whats-past-is-prologue/121781>>; Melissa Davey, 'Victoria to Become First Government to Apologise for Gay Convictions', *The Guardian* (online, 23 May 2016) <<https://www.theguardian.com/australia-news/2016/may/23/victoria-to-become-first-government-to-apologise-for-gay-convictions>>.

²³ Human Rights Law Centre, (n 15) 16.

²⁴ Ibid; Yoorook Justice Commission (n 3).

²⁵ See for example, *Law Change Likely but Arrests Continue*, *Melbourne Star Observer*, No. 33, 19 Dec 1986) 3, in Garbery (n 19).

²⁶ John Rentsch and Gerry Carman, 'Police Go Gay to Lure Homosexuals', *The Age* (12 January 1977) available at <<https://news.google.com/newspapers?nid=1300&dat=19770112&id=hFkQAAAAIAJ&sjid=R5IDAAAAIAJ&pg=6954,1859253&hl=en>>.

²⁷ Carbery (n 19) 11.

²⁸ 'Police deny entrapment allegations', *Melbourne Voice*, No. 14, (2 Aug 1985) 5 in Carbery (n 19).

²⁹ Human Rights Law Centre (n 15) 20–21.

³⁰ Ibid 22–23.

³¹ Victorian Equal Opportunity and Human Rights Commission, 'Proud, Visible, Safe: Responding to Workplace Harm Experienced by LGBTI Employees in Victoria Police' (Report, May 2019) 18 available at <<https://www.police.vic.gov.au/sites/default/files/2019-05/Proud-Visible-Safe--Responding-to-Workplace-Harm-Experienced-by-LGBTI-Employees-in-Victoria-Police.pdf>>.

The 1994 raid on the Tasty Nightclub marked a particularly stark episode of post-decriminalisation state overreach. Some 463 patrons were detained for hours, strip searched and, in some cases, cavity searched, with several reporting verbal abuse and physical force when they objected.³² The event has since become emblematic of institutional homophobia and the failure of oversight mechanisms.

**“ ‘The law didn’t just punish us — it told us we were unfit mothers, unworthy citizens, and forced us to hide who we were to survive.’³³
— Aunty Annette Xiberras**

Gendered and Intersectional Harms

While same-sex-attracted men were the primary targets of criminal prosecution, women and gender-diverse people were also subjected to discriminatory state intervention. In 1976, two women were convicted of offensive behaviour for holding hands on a tram.³⁴ Lesbian mothers in the 1950s through 1970s faced custody loss, court-imposed ‘discretion’ conditions and social ostracism.³⁵ As Aunty Annette Xiberras reflects, ‘we lived in a time where simply loving another woman could cost you everything – your children, your job, your place in society.’³⁶

For example, in 1962, a Victorian woman was successfully sued by her husband for divorce and child custody on account of her ‘lesbian association’ with another woman.³⁷ Courts required some mothers to refrain from any conduct that might suggest lesbian identity to their children.³⁸

Gender nonconformity, though not formally criminalised, was policed through summary offences and public morality laws. Historical records document routine surveillance and harassment of individuals whose gender expression departed from social norms.³⁹ These experiences reveal that anti-LGBTIQA+ persecution operated not only through criminal statutes, but through family law, public order regulation and administrative discretion.

Community Violence and Vulnerability

The criminal law was not the sole vehicle of harm it operated alongside wider social attitudes and practices that enabled and reinforced discrimination and violence. During the 1980s and 1990s, Victoria experienced its own wave of ‘poofter bashing’ violence, often targeting men at public meeting places.⁴⁰ As in NSW, perpetrators were typically young men operating in groups, targeting gay men at known meeting places including parks and public toilets across Melbourne and regional Victoria. These assaults were not random: victims were frequently selected precisely because they were perceived as unlikely to report violence to authorities.⁴¹

Community reluctance to approach police was well documented. Following the 1985 fatal shooting of a 55-year-old gay man in Footscray Park, Victoria Police publicly acknowledged a ‘reluctance on the part of the gay community to approach us because it might expose their sexual habits.’⁴² In some cases, allegations were made that police officers themselves instigated or condoned violence. In 1990, a man reported being assaulted by a senior officer at Albert Park, a known gay beat, claiming the officer expressed explicit hostility toward gay men. His complaint was dismissed.⁴³ Taken together, these patterns of group-based violence, under-reporting and alleged institutional indifference contributed to a broader climate of vulnerability and distrust, one that resonates with contemporary forms of coordinated targeting.

³² See e.g., Andie Noonan, ‘Tasty Raids that ‘Shocked’ Melbourne’s Queer Community Remembered 30 years on’, ABC News (online, 8 August 2024) <<https://www.abc.net.au/news/2024-08-08/melbourne-tasty-raid-gay-community-victoria-police/104195430>>; Ben Scott, Naomi Pfitzner and Kate Fitz-Gibbon, ‘Queering Police Legitimacy Theories: (Dis)trust, Context and Visibility’ (2025) 35(8) *Policing and Society* 1068–1083.

³³ Annette Xiberras, ‘Keynote Address’ (Speech, A Portrait of Gay: Out and Proud Oral Histories Project, 2017) available at <https://www.pridenz.com/apog_annette_xiberras_keynote_transcript.html>.

³⁴ Francesca Rizzoli, ‘We Are Not Invisible’ – Lesbians Join Forces for ‘Hold Hands on a Tram’, SBS News (online, 12 October 2017) <<https://www.sbs.com.au/language/italian/en/article/we-are-not-invisible-lesbians-join-forces-for-hold-hands-on-a-tram/5caqhbprf>>.

³⁵ Rebecca Jennings, ‘The Most Radical, Most Exciting and Most Challenging Role of My Life’: Lesbian Motherhood in Australia 1945–1990’, in Carla Pascoe Leahy and Petra Bueskens (eds.) *Australian Mothering: Historical and Sociological Perspectives* (Springer Nature, 2020).

³⁶ Xiberras (n 33).

³⁷ Rebecca Jennings, ‘Lesbian Mothers and Child Custody: Australian Debates in the 1970s’ (2012) 24(2) *Gender & History* 502.

³⁸ Ibid 502, 511.

³⁹ McCrory (n 16).

⁴⁰ Seb Starcevic, ‘Why Victoria Needs to Confront its Homophobic Past’, *Star Observer* (online, 10 October 2019) <<https://www.starobserver.com.au/news/national-news/victoria-news/why-victoria-needs-to-confront-its-homophobic-past-seb-starcevic/188029>>.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

Recent and Emerging Patterns of Harm

The historical patterns outlined above are not confined to the past. In 2024 and 2025, Victoria experienced a renewed wave of targeted anti-LGBTIQ+ violence, much of it facilitated through digital platforms. Between 2024 and mid-2025, dozens of gay and bisexual men were allegedly lured through fake profiles on dating applications to arranged meetups, where they were assaulted, robbed or publicly humiliated.⁴⁴ As in earlier periods, these patterns are shaped by under-reporting, with victims often reluctant to engage police due to mistrust, stigma and prior experiences of discrimination.

In July 2025, Victoria Police announced the arrest of more than 30 individuals in connection with app-facilitated assaults targeting gay and bisexual men.⁴⁵ While enforcement action was welcomed, the incidents prompted broader concern about digitally mediated targeting and online extremist eco-systems. Reporting in *The Guardian* noted that the Victorian parliamentary inquiry would examine whether far-right 'manosphere' influences contributed to the attacks, including the circulation of hostile narratives toward sexual minorities through online platforms.⁴⁶ Scholars have observed that such online grievance communities often revolve around narratives of masculinity, status anxiety and perceived cultural loss, providing identity and reinforcement for disaffected young men.⁴⁷ These developments mark a shift in method from physical surveillance of 'beats' to digital entrapment, while reflecting a continuity of harm: the targeted harassment of men perceived to be gay.

Recent attacks are not confined to private individuals. In August 2025, prominent LGBTQ+ venues including The Laird and Eagle Leather were vandalised with homophobic graffiti, including slurs such as 'FAG' and 'God Hates Fags.' In November 2025, Victoria Police released CCTV footage and images of suspects connected to homophobic and antisemitic attacks.⁴⁸ These incidents demonstrate the intersection of anti-LGBTIQ+ hostility with broader extremist and antisemitic narratives.

This contemporary wave echoes earlier periods of organised violence. In 1991, for example, the killing of 65-year-old Joe Godfrey was defended by the accused based on alleged unwanted sexual advance, with psychological evidence referring to an 'intense or excessive detestation' of homosexual advances.⁴⁹ In 1985, John Sacco was shot and killed in Footscray Park, a case that prompted Victoria Police to acknowledge the reluctance of gay men to report violence for fear of exposure.⁵⁰

The parallels are instructive. Then, as now, violence was often perpetrated by groups of young men. Then, as now, victims were selected on the assumption that shame, stigma or distrust would suppress reporting.⁵¹ The medium has changed from parks and beats to digital applications, but the structural dynamics of vulnerability remain. These developments form part of the backdrop to the Victorian Parliament's February 2026 decision to establish an inquiry into anti-LGBTIQ+ hate crimes, with particular focus on rising violence, extremist recruitment and gaps in community safety. The inquiry reflects recognition that contemporary harms are not episodic but connected to deeper historical and institutional legacies.



⁴⁴ Benita Kolovos, 'Role of Far-Right Manosphere in Homophobic Attacks on Men to be Investigated in Victoria', *The Guardian* (online, 17 February 2026) <<https://www.theguardian.com/australia-news/2026/feb/18/far-right-influencers-homophobic-attacks-dating-apps-investigation-ntwnfb>>.

⁴⁵ Chloe Sargeant, 'Police Arrest 30+ People for Allegedly Luring Men into Violent Attacks via Gay Dating Apps', *Star Observer* (online, 9 May 2025) <https://www.starobserver.com.au/news/police-arrest-30-people-for-allegedly-luring-men-into-violent-attacks-via-gay-dating-apps/236662>

⁵¹ Dean Arcuri, 'What I Learned at Thorne Harbour's Grindr Safety Community Forum', *QNews* (online, 23 June 2025) <<https://qnews.com.au/what-i-learned-at-thorne-harbours-grindr-safety-community-forum/>>.

⁵² Victoria introduced its expungement scheme through the Sentencing Amendment (Historical Homosexual Convictions Expungement) Act 2014 (Vic), which inserted Part 8A into the Criminal Procedure Act 2009 (Vic) available at <https://content.legislation.vic.gov.au/sites/default/files/148ffc67-c717-3a68-a655-2224324c49cc_14-081aa%20authorised.pdf>.

⁵³ See also Victoria State Government, 'Expungement Scheme' (Webpage, 2024) <<https://www.justice.vic.gov.au/expungement-scheme>>.

D. Victoria's efforts to address the past: Progress to date

Expungement Reform

“Being required to apply for expungement asks individuals to revisit and re-prove a harm that was already inflicted by the state.” (LGBTIQA+ roundtable, November 2025)

In the decades following decriminalisation, Victoria has taken significant steps to address the legacy of criminal convictions imposed based on sexual orientation. In 2015, it introduced a scheme enabling individuals to apply for the expungement of historical convictions for homosexuality-related offence.⁵² Unlike many international counterparts, Victoria's model does not enumerate a closed list of eligible offences. Instead, it permits expungement of any offence used to punish consensual same-sex intimacy between adults, including buggery, gross indecency, loitering for homosexual purposes and related public morality offences, provided the conduct would not constitute an offence under current Victorian law.⁵³

This flexible approach recognises the varied and often creative ways in which criminal law was deployed to regulate sexuality. Comparatively, Victoria's model is relatively expansive. New Zealand's scheme is confined to specified 'historical homosexual offences' defined in statute,⁵⁴ while Canada's regime similarly applies only to enumerated offences.⁵⁵ Victoria's refusal to confine eligibility to a static list reflects a broader acknowledgment of systemic misuse of criminal law.

However, expungement remains application-based rather than automatic. Available data suggests limited uptake of the scheme, with relatively few applications made since its introduction.⁵⁶ This raises practical and normative questions. International experience illustrates the limits of pardon-based or application-heavy models. The United Kingdom's 2017 legislation,⁵⁷ for example, provided posthumous pardons automatically but required living individuals to apply, and has been criticised for evidentiary barriers and its prioritisation of symbolic pardons over full expungement.⁵⁸ Victoria's model avoids some of these shortcomings, yet still places the burden on individuals, many elderly to initiate redress.

Importantly, the scheme does not clearly extend to convictions arising from the historical policing of gender nonconformity, leaving unresolved questions about the redress available to trans and gender-diverse Victorians subjected to public order or impersonation-type charges.⁵⁹ Expungement represents a meaningful corrective to historical injustice. Yet it addresses the criminal record rather than the broader social, psychological and material consequences of criminalisation.

⁵⁴ Criminal Records (Expungement of Convictions for Historical Homosexual Offences) Act 2018 (NZ)

⁵⁵ Expungement of Historically Unjust Convictions Act SC 2018, c.11 (C)

⁵⁶ Public Accounts and Estimates Committee, 'Questions on Notice No 2' (Attorney General, August 2024) <https://www.parliament.vic.gov.au/495dc3/contentassets/7ee3e30548cb42579baee5f21b0d2f85/attorney-general-qon-2_-updated_redacted.pdf>.

⁵⁷ Ministry of Justice and Sam Gyimah, 'Thousands Officially Pardoned Under "Turing's Law"' (Web page, 2017) <<https://www.gov.uk/government/news/thousands-officially-pardoned-under-turings-law>>.

⁵⁸ See Sir John Dermot Turing, 'Alan Turing's Law' (Web Page, March 2017) <<https://royalsociety.org/blog/2017/03/alan-turings-law/>>. See also Allen George, 'Therapeutic Jurisprudence and Homosexual Expungement Law: Lessons from Australia and New Zealand/Aotearoa' (2023) 12(4) International Journal for Crime, Justice and Social Democracy 73.

⁵⁹ Turing (n 58); See also Joseph Lee, 'Alan Turing Law: Gay, Unjustly Convicted- and Now Denied a Pardon', BBC News (online, 1 October 2019) <https://www.bbc.com/news/uk-49730231>.

Official Apologies and Institutional Acknowledgment

“We criminalised homosexual thoughts and deeds. We validated homophobic words and acts. And we set the tone for a society that ruthlessly punished the different – with a short sentence in prison, and a life sentence of shame.”⁶⁰

Victoria has also sought to confront its past through formal apology. In 2016, Premier Daniel Andrews delivered a parliamentary apology for the criminalisation of homosexuality, acknowledging that the State had ‘invalidated’ the humanity of LGBTI people and inflicted profound and lasting harm.⁶¹ The apology marked an important moment of institutional recognition and moral responsibility.

Victoria Police issued a separate apology in 2014 for the 1994 Tasty nightclub raid, acknowledging the damage caused to those detained and searched.⁶² A further apology in 2019 recognised that past police actions had caused ‘unnecessary and unacceptable harm’ to the LGBTIQA+ community.⁶³

These apologies represent significant symbolic milestones. They publicly affirm wrongdoing, shift institutional narratives and acknowledge survivor experience. Yet, symbolic acknowledgment alone does not constitute structural reform. Scholars caution that apologies can risk framing injustice as a concluded chapter of a ‘homophobic past,’ rather than addressing the institutional cultures that enabled harm.⁶⁴ Moreover, trust between LGBTIQA+ communities and Victoria Police remains complex and fragile.⁶⁵

The establishment of LGBTIQA+ Liaison Officers and participation in community events such as the Midsumma Pride March since 2013 demonstrate institutional engagement.⁶⁶ Yet, such initiatives have been criticised as inadequate where they are not supported by substantive accountability and reform.⁶⁷ Recent controversies, including the unauthorised circulation in 2020 of images of former AFL coach Dani Laidley taken in police custody, underscore the persistence of institutional vulnerabilities and the fragility of community trust.⁶⁸

Progress and Limits

Victoria has made measurable advances in law reform, equality policy and symbolic redress. Expungement and apology demonstrate a willingness to acknowledge past wrongdoing. However, these measures largely operate at the level of record correction and symbolic recognition. A transitional justice lens invites a further step: from acknowledgment toward truth, reparative justice and institutional guarantees of non-recurrence. The question is no longer whether harm occurred. It is whether existing mechanisms are sufficient to repair it, and what further steps are required.

⁶⁰ ‘State Apology to Those Convicted Under Unjust Laws Against Homosexual Acts – Premier’s Speech’ (Web page, May 2016) <<https://www.premier.vic.gov.au/state-apology-those-convicted-under-unjust-laws-against-homosexual-acts-premiers-speech>>.

⁶¹ Ibid.

⁶² Tony Nicholls, ‘Victoria Police Apologise for 1994 Raid on Tasty Nightclub to ‘Make Up for Sins of the Past’, ABC News (online, 5 August 2014) <<https://www.abc.net.au/news/2014-08-05/victoria-police-apologise-for-1994-tasty-nightclub-raid/5649498>>.

⁶³ ‘Victoria Top Cop Says Sorry to LGBTIQA+ Community for ‘Unacceptable Harm’’, SBS News (online, 19 August 2019) <<https://www.sbs.com.au/news/article/victoria-top-cop-says-sorry-to-lgbtqi-community-for-unacceptable-harm/ennnc7ki5>>.

⁶⁴ See e.g., Curtis Redd and Emma K Russell, ‘It All Started Here, and It All Ends Here Too’: Homosexual Criminalisation and the Queer Politics of Apology’ (2020) 20(5) *Criminology and Criminal Justice* 590-603.

⁶⁵ Victorian Pride Lobby, ‘Upholding Our Rights: LGBTIQA+ Attitudes Towards and Experiences of Policing in Victoria’ (Report, November 2021) available at <<https://vicpridelobby.org/wp-content/uploads/2025/07/Upholding-our-rights-LGBTIQA-attitudes-towards-and-experiences-with-police.pdf>>; Scott, Pfizner and Fitz-Gibbon (n 32).

⁶⁶ In 2025, Victoria Police announced that it would no longer be marching in the Midsumma Pride Parade, to mixed community responses. See ‘Victoria Police Pulls out of Midsumma Pride March After Uniform Ban’, ABC News (online, 23 January 2025) <<https://www.abc.net.au/news/2025-01-23/vic-victoria-police-pulls-out-of-midsumma-march-uniforms/104850040>>.

⁶⁷ Victorian Pride Lobby (n 65).

⁶⁸ Adeshola Ore, ‘Victorian Police Officer Who Shared Images of Dani Laidley Sacked Over Photos of Dead Bodies’, The Guardian (online, 25 July 2023) <<https://www.theguardian.com/australia-news/2023/jul/25/dani-laidley-image-leak-police-officer-sacked-victoria-dead-body>>.



E. Comparative Models of Truth, Redress and Memorialism



Across Australia and internationally, governments are increasingly confronting legacies of discrimination and violence against LGBTIQ+ communities through formal inquiry, truth-telling and reparative measures. These processes demonstrate that decriminalisation and equality reform, while necessary, are not sufficient to address the enduring effects of historic injustice as 'law reform alone is not enough' to secure lived equality for LGBTIQ communities.⁶⁹

Transitional justice mechanisms serve a distinct function: they establish authoritative records of harm, scrutinise institutional failure, centre survivor experience and signal a commitment to structural reform.

The experiences of other jurisdictions offer both precedent and caution. They illuminate not only what forms of acknowledgment and redress are possible, but also how institutional design, scope and political will shape outcomes. This section examines state-led truth-telling mechanisms, reparations models and memorialisation initiatives, identifying lessons relevant to Victoria's present moment.

1. State-Led Truth-Telling Mechanisms

The NSW Special Commission of Inquiry

In 2023, following sustained advocacy which resulted in two parliamentary inquiries,⁷⁰ NSW established the Special Commission of Inquiry into LGBTIQ Hate Crimes.⁷¹ The Commission of Inquiry examined unsolved suspected hate crime deaths of persons known or presumed to have been LGBTIQ between 1970 and 2010. Of the 32 deaths formally investigated, the Commission of Inquiry concluded that LGBTIQ bias was a motivating factor in 25 cases.⁷² It further identified significant investigative failures by the NSW Police Force, including instances in which bias indicators were overlooked or prematurely dismissed.⁷³

The Commission's findings represent a landmark acknowledgment of institutional failure in Australia. It issued 19 recommendations, including a systematic review of unsolved homicides during the relevant period and mandatory, ongoing training for NSW Police officers in identifying and responding to bias-motivated crime.⁷⁴ The NSW Government has committed to implementing all 19 recommendations,⁷⁵ establishing a national precedent for state-led inquiry into anti-LGBTIQ violence.

Crucially, the Inquiry operated with statutory authority and coercive powers.⁷⁶ This enabled access to police records, compelled testimony and the production of an authoritative public record. The process underscores the importance of formal state sponsorship where institutional accountability is at issue.

⁶⁹ Paula Gerber et al, 'Protecting the Rights of LGBTIQ People around the World: Beyond Marriage Equality and the Decriminalisation of Homosexuality' (2021) 46(1) *Alternative Law Journal* 5, 11.

⁷⁰ New South Wales Parliament, 'Inquiry into Gay and Transgender Hate Crimes between 1970 and 2010' (established 19 September 2018) available at <<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2510>>; New South Wales Parliament, 'Inquiry into Gay and Transgender Hate Crimes between 1970 and 2010 – 57th Parliament' (established 15 October 2019) available at <<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2562>>.

⁷¹ NSW Government, 'Special Commission of Inquiry into LGBTIQ Hate Crimes' (Web Page, December 2023) available at <<https://lgbtiq.specialcommission.nsw.gov.au>>

⁷² NSW Government, 'Special Commission of Inquiry into LGBTIQ Hate Crimes' (Report, December 2023) vol.1, 10 available at <<https://www.nsw.gov.au/sites/default/files/noindex/2023-12/SCOI-LGBTIQ-Hate-Crimes-Volume-1-181223.pdf>>

⁷³ *Ibid*, 12-17.

⁷⁴ *Ibid*, 40-46.

⁷⁵ NSW Government, 'Government Response to the Special Commission of Inquiry into LGBTIQ Hate Crimes' (Web Page, 2024) <<https://www.parliament.nsw.gov.au/tp/files/189764/Government%20Response%20to%20the%20Special%20Commission%20of%20Inquiry%20into%20LGBTIQ%20Hate%20Crimes.pdf>>.

⁷⁶ See NSW Government, 'Special Commissions of Inquiry Act 1983 No. 90' (NSW Legislation, July 2015) available at <<https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1983-090>>.

Institutional Resistance and Design Lessons

“The problematic history of the NSW police force approach to homicides that may have been hate crimes should not be treated as a matter of reputational risk, to be managed through tactics appropriate to conventional litigation.”⁷⁷

The NSW experience also highlights structural and political challenges inherent in truth-telling processes. At the roundtable, Nicholas Stewart noted that earlier proposals for a broader inquiry were narrowed during the finalisation of the Terms of Reference. Observers have further documented defensive and adversarial responses from the NSW Police Force during the Inquiry’s proceedings.⁷⁸ While the Force publicly expressed support for the process, Senior Counsel Assisting, Peter Gray SC, observed that these statements were ‘not easy to reconcile’ with its approach in hearings, pointing to the ‘slow, incomplete and spasmodic’ production of requested material.⁷⁹

The Commission itself criticised this posture in its final report, observing that institutional defensiveness risked framing historical review as reputational management rather than accountability.⁸⁰ The episode illustrates a core design lesson: truth-telling mechanisms that interrogate institutional conduct must anticipate and manage institutional resistance.

Two key design lessons emerge. Firstly, statutory authority and institutional independence are essential where police conduct is under scrutiny. Civil society-led processes, while valuable for community mobilisation and narrative preservation, may lack the coercive legal powers necessary to secure full institutional participation or compel disclosure. Where systemic failures in policing are at issue, mechanisms with formal powers to summons witnesses and require production of evidence are essential to ensure accountability.

Secondly, the scope of the Terms of Reference significantly shapes the reach and legitimacy of the process. Narrow framing risks limiting systemic analysis; overly broad mandates risk political resistance. Careful calibration is therefore central to effectiveness.

At the roundtable, participants indicated that, were a comparable inquiry established in Victoria, Victoria Police would likely engage more constructively. This reflects existing institutional practices as Victoria Police has demonstrated sustained engagement with LGBTIQA+ communities through the Liaison Officer network,⁸¹ public apologies in 2014 and 2019, internal LGBTIQA+ staff networks,⁸² and active participation in processes such as the Yoorrook Justice Commission. These factors suggest a foundation for constructive institutional engagement.

At the same time, participants emphasised that a civil society-led truth-telling process alone would be unlikely to secure full institutional participation, particularly given statutory constraints under the Victoria Police Act 2013. This reinforces a central design lesson: where police conduct forms part of the subject matter, a state-level inquiry with formal powers is necessary to ensure comprehensive disclosure and meaningful accountability.

⁷⁷ NSW Government, ‘Special Commission of Inquiry into LGBTIQ Hate Crimes’ (n 72), 19.

⁷⁸ Jamie McKinnell, ‘NSW Police Attitude Towards Unsolved Gay Hate Deaths Inquiry ‘Overly Defensive, Even Adversarial’’, ABC News (online, 14 November 2023) <<https://www.abc.net.au/news/2023-11-14/nsw-gay-hate-inquiry-police-defensive-adversarial/103102160>>.

⁷⁹ Ibid.

⁸⁰ NSW Government, ‘Special Commission of Inquiry into LGBTIQ Hate Crimes’ (n 72).

⁸¹ See e.g., Victoria Police, ‘LGBTIQA+ Community Commitment and Consultation’ (Web Page, 2026) <<https://www.police.vic.gov.au/LGBTIQA-community-commitment-and-consultation>>.

⁸² Victoria Police, ‘Victoria Police LGBTIQA+ Employee Networks’ (Web Page, 2026) <<https://www.police.vic.gov.au/victoria-police-LGBTIQA-employee-networks>>.



Broader International Truth Commissions

Although NSW appears to be the first jurisdiction globally to establish a truth-telling process focused specifically on LGBTIQ hate crimes, other truth commissions have analysed violence against sexual and gender minorities within broader mandates. Scholars identify Colombia and Ecuador as examples where commissions documented violence against non-normative genders and sexualities as part of national reconciliation processes.⁸³

Yet, comparative scholarship cautions against equating visibility with transformation. Fobear argues that transitional justice has historically involved the 'structural exclusion of non-normative sexualities from transitional justice discourse and practice,' and that mere recognition of harm risks reproducing marginalisation if not accompanied by institutional reform.⁸⁴ Fobear and Baines further contend that queering transitional justice requires confronting the 'hierarchies of gendered and sexualized violence' embedded within state and colonial structures, rather than simply adding LGBTQ+ victims to existing frameworks.⁸⁵

Experiences from Colombia illustrate this tension. As Gómez reflects in relation to the Colombian Truth Commission, inclusion of LGBTQ+ narratives was significant not only because it documented abuse, but because it began to legitimise queer political voice within the architecture of transitional justice itself.⁸⁶ These international examples reinforce a key insight: effective truth-telling must move beyond archival correction toward structural reflection, participation, and institutional reform.

2. Reparations and Redress Models

Legal reform, whether through decriminalisation or the criminalisation of hate crimes, is essential but insufficient to repair the harms inflicted by past and ongoing discrimination. Reparations acknowledge that historical criminalisation inflicted material, psychological and reputational damage that expungement alone cannot undo. Within transitional justice scholarship, reparations are understood as a core pillar of post-injustice response, directed toward both material and institutional repair.⁸⁷ As Pablo de Greiff argues, reparations are not acts of benevolence but measures through which the state publicly acknowledges responsibility and reaffirms victims' status as rights-bearing citizens.⁸⁸ Redress is therefore aimed not merely at compensation, but at restoring equal citizenship and affirming that the harm was wrongful as an exercise of public authority.



⁸³ Leandro Carlo García Gómez, 'More than Documenting LGBTQ+ Narratives: A Human Rights Activists' Perspective from Colombia's Truth Commission' (2026) 30 (1) *The International Journal of Human Rights* 102-121.

⁸⁴ Katherine Fobear, 'Queering Truth Commissions' (2014) 6(1) *Journal of Human Rights Practice* 51, 54.

⁸⁵ Katherine Fobear and Erin Baines, 'Pushing the Conversation Forward: The Intersections of Sexuality and Gender Identity in Transitional Justice' (2020) 24(4) *International Journal of Human Rights* 307, 309.

⁸⁶ García Gómez (n 82).

⁸⁷ Fobear (n 83).

⁸⁸ Pablo de Greiff, 'Justice and Reparations' in Pablo de Greiff (ed), *The Handbook of Reparations* (Oxford University Press, 2006) 451, 460-62.

Tasmania: Australia's First Compensation Scheme

Tasmania decriminalised same-sex intimacy in 1997. Two decades later, it enacted the Historical Homosexual Convictions Expungement Act 2017 (Tas). Following an independent statutory review,⁸⁹ and parliamentary inquiry into the operation of that scheme,⁹⁰ the Tasmanian Parliament passed the Justice Miscellaneous (Commission of Inquiry Recommendations) Amendment Act 2025 (Tas), establishing Australia's first dedicated compensation scheme for individuals convicted under historical anti-homosexuality and cross-dressing laws.⁹¹

The scheme reflects legislative recognition that expungement removes the record of conviction but does not address the lived consequences of criminalisation.

A tiered model grounded in comparative benchmarks

A central design question was whether compensation should be individually assessed or structured. Roundtable discussions highlighted the risks of discretionary, case-by-case assessment: subjectivity, inconsistency between decision-makers, evidentiary re-traumatisation, and administrative delay.

Tasmania adopted a structured three-tier model:

- **\$15,000** – charged but not convicted;
- **\$45,000** – convicted but not imprisoned or institutionalised, for example in a psychiatric ward; and
- **\$75,000** – convicted and subjected to penalty, including imprisonment or other form of detention.⁹²

The quantum was benchmarked against wrongful conviction compensation principles, tort analogies, and international homosexuality conviction redress schemes, particularly Germany's 2017 legislation.⁹³

Professor Gerber, who gave advice on the quantum, said, 'The redress scheme is more than a tokenistic response to the wrong, so the amounts needed to genuinely recognise the harm that had been done to individuals.' The tiered structure prioritises consistency, administrative efficiency and dignity over forensic individualisation.

Age urgency

The scheme was developed against the backdrop of an ageing cohort of surviving victims, a factor widely acknowledged in contemporary redress debates. This demographic reality informed the preference for a streamlined model. Reparations delayed risk becoming reparations denied.

Comparative International Models

A small but growing number of jurisdictions have implemented compensation schemes for historical homosexuality convictions.

Spain: Term-Based Compensation

In 2008, Spain introduced compensation under Law 52/2007 (the 'Historical Memory Law'), providing payments calculated according to imprisonment length:

- 1–6 months: €4,000
- 6 months and 1 day to under 3 years: €8,000
- 3 years or more: €12,010.12
- Additional €2,402.02 for every three further years of imprisonment.⁹⁴

Between 2009 and 2013, 116 individuals received compensation, totalling approximately €624,000.⁹⁵ Notably, the scheme had budgeted up to €2 million, suggesting significantly lower uptake than projected.⁹⁶ Spain demonstrates a proportional, incarceration-linked model but also illustrates the limits of passive application-based schemes.

⁸⁹ Melanie Bartlett and Taya Ketelaar-Jones, 'Independent Review of Expungement of Historical Offences Act 2017' (Report, October 2020) available at <https://www.justice.tas.gov.au/__data/assets/pdf_file/0020/711308/Final-Report-Expungement-of-Historical-Offences-Act-2017.pdf>.

⁹⁰ Joint Sessional Committee on Gender and Equality, 'Inquiry into the Expungement of Historical Offences Amendment Bill 2024' (Report, March 2025) available at <<https://www.parliament.tas.gov.au/legislative-council/tables-papers/legislative-council-tabled-papers-2025/FINAL-Gender-and-Equality-Committee-Inquiry-into-the-Expungement-of-Historical-Offences-Amendment-Bill-2024-Report.pdf>>.

⁹¹ Justice Miscellaneous (Commission of Inquiry Recommendations) Amendment Act 2025 (Tas); See also Tasmanian Government, 'Improving the Operation of the Expungement of Historical Offences Scheme' (Web Page, 2025) <<https://www.premier.tas.gov.au/latest-news/2025/november/improving-the-operation-of-the-expungement-of-historical-offences-scheme>>.

⁹² Kerrin Thomas and Cameron Carr, 'Australia's First LGBTIQ+ Redress Scheme is Approved, Yet Some Will Never See it', SBS News (online, 6 November 2025) <<https://www.sbs.com.au/news/article/victims-of-discriminatory-laws-now-eligible-for-compensation-in-tasmania/6u9hx9o6s>>.

⁹³ Act on the Criminal Rehabilitation of Persons Convicted under Section 175 of the Criminal Code (Germany, 2017).

⁹⁴ Law 52/2007 of 26 December on the Recognition and Expansion of Rights and the Establishment of Measures in Favour of Those Who Suffered Persecution or Violence during the Civil War and the Dictatorship (Spain) art 10; See also Daniel Valles Munio, 'The Imprisonment of Homosexuals During the Franco Regime and their Coverage by the Social Security System' (2013) 11 *Historia Contemporanea* 3.

⁹⁵ Munio (n 93); Enrique Anarte, 'LGBT+ Victims of Spain's Franco Regime Fight for Compensation,' Reuters (online, 11 February 2019) <<https://www.reuters.com/article/world/lgbt-victims-of-spains-franco-regime-fight-for-compensation-idUSKCN1Q015X/>>.

⁹⁶ Anarte (n 94).



Germany: Flat Rate plus Incarceration Multiplier

Germany enacted the Act to Rehabilitate Persons Convicted under Section 175 of the Criminal Code in 2017. The scheme provides:

- €3,000 per quashed conviction;
- €1,500 for each year of imprisonment.⁹⁷

By September 2021, 317 applications had been received; 249 individuals had been compensated; €860,000 had been paid out; 14 applications remained pending; 18 were rejected; and 36 were withdrawn.⁹⁸ Germany's hybrid model combines symbolic recognition (flat rate) with a liberty-based multiplier.

Germany: Military Redress Scheme

In 2020, Germany extended redress to members of the armed forces discriminated against for same-sex conduct. The scheme expunges military court convictions and awards €3,000 per rescinded verdict, with additional compensation available for dismissal, denied promotion or loss of professional standing.⁹⁹

As of August 2023, 178 applications had been lodged and approximately €400,000 had been disbursed.¹⁰⁰ This model recognises that harm from criminalisation extended beyond imprisonment to career and reputational damage.

New Zealand: Expungement Without Compensation

While the legislation removes the formal legal stigma associated with such convictions,¹⁰¹ it does not provide financial compensation. As Allen George notes, governments in Australia and New Zealand have generally been reluctant to accompany expungement schemes with reparations despite acknowledging the injustice of historical criminalisation.¹⁰² Scholars have observed that while expungement and apology represent important symbolic recognition, they may only partially address the enduring social, economic and reputational harms associated with criminalisation.¹⁰³ In this sense, record-clearing alone risks offering acknowledgement without fully repairing the consequences of past legal persecution.



⁹⁷ 'Germany to Compensate Victims of Anti-Gay Laws', DW (online, 23 June 2017) <<https://www.dw.com/en/germany-to-rehabilitate-compensate-victims-of-anti-gay-law/a-39378122>>.

⁹⁸ Emilio Lanera, 'Germany Compensates Hundreds Criminalised by Nazi-Era Anti-Gay Law', Star Observer (online, 18 September 2021) <<https://www.starobserver.com.au/news/germany-compensates-hundreds-criminalised-by-nazi-era-anti-gay-law/205788>>.

⁹⁹ 'Germany to Compensate Gay Soldiers Over Discrimination', DW (online, 21 November 2020) <<https://www.dw.com/en/germany-angela-merkel-agrees-to-compensate-gay-soldiers-over-discrimination/a-55724329>>.

¹⁰⁰ '178 Gay German Soldiers Apply for Compensation over Past Discrimination', NBC News (online, 9 August 2023) <<https://www.nbcnews.com/nbc-out/out-news/178-gay-german-soldiers-apply-compensation-discrimination-rcna98838>>.

¹⁰¹ Criminal Records (Expungement of Convictions for Historical Homosexual Offences) Act 2018 (NZ), s 3.

¹⁰² George (n 58).

¹⁰³ Paula Gerber and Kieran O'Byrne, 'Should Gay Men Still Be Labelled Criminals?' (2013) 38(2) *Alternative Law Journal* 82-86; Leigh Boucher and Robert Reynolds, 'Decriminalisation, Apology and Expungement: Sexual Citizenship and the Problem of Public Sex in Victoria' (2018) 49(4) *Australian Historical Studies* 457-474; Paolo Caroli, 'The Thin Line Between Transitional Justice and Memory Activism: The Case of the German and British 'Pardons' for Convicted Homosexuals' (2018) 12(3) *International Journal of Transitional Justice* 499-514.

Design Lessons for Victoria

Comparative experience suggests several structuring questions for Victoria.

- **Automatic vs application-based:** Linking compensation directly to expungement, as in Tasmania and Germany, reduces duplication and administrative burden. Passive application-only models risk low uptake, as illustrated by Spain.
- **Tiered vs discretionary:** Structured tiers promote equality before the scheme. Discretionary case-by-case assessments risk inconsistency and re-traumatisation.
- **Family eligibility:** Whether next of kin may claim where a convicted person has died remains contested. Exclusion risks extinguishing recognition where the victim did not live to see reform; inclusion raises questions of evidentiary integrity and relational complexity.
- **Scope of eligible offences:** Jurisdictions differ on whether redress extends only to core homosexuality offences or also to ancillary offences (e.g., resisting arrest). Broader eligibility recognises patterns of policing abuse.
- **Expungement linkage:** Tasmania conditions compensation on expungement, integrating symbolic and material repair.
- **Evidentiary thresholds:** Germany's scheme relies largely on documentary conviction records, limiting adversarial scrutiny. Excessive evidentiary burdens undermine remedial objectives.
- **Administrative simplicity:** Empirical uptake data across Spain and Germany suggests that clarity, transparency and simplicity correlate with accessibility. Reparations schemes that replicate legalistic barriers risk reproducing the very harms they seek to remedy.

3. Memorialisation

The roundtable also considered the role of memorialisation as part of a broader framework of historical recognition and justice.

Nicholas Stewart said:

‘Memorialising the victims of LGBTIQA+ murders is acknowledgement of restoring dignity where it was violently taken and confronting the social structures that enabled such harm. Memorials are not simply markers of loss; they are commitments to a different future.’

Memorials serve not only as sites of remembrance for victims and survivors, but also as public spaces of education and reflection for the wider community.¹⁰⁴ Participants identified the Bondi Memorial in Sydney, which honours victims and survivors of homophobic and transphobic violence in NSW between the 1970s and 1990s, as a leading Australian example of public commemoration of anti-LGBTIQA+ violence.¹⁰⁵

Netherlands

International experience further illustrates how memorialisation can form part of a broader societal reckoning with histories of persecution. In 1987, the Netherlands unveiled the Homo-monument in Amsterdam, widely recognised as the world's first public memorial dedicated to people persecuted because of their sexual orientation.¹⁰⁶ The monument has since become a focal point for annual remembrance ceremonies honouring victims of persecution and violence.

¹⁰⁴ Rodney Leon, 'Reflections on the Tenth Anniversary of the Ark of Return', UN Chronicle (online, 24 March 2025) <<https://www.un.org/en/un-chronicle/reflections-tenth-anniversary-ark-return>>.

¹⁰⁵ Waverley Council, 'The Bondi Memorial' (Web Page, 2022) <<https://celebrating.waverley.nsw.gov.au/nodes/view/73492>>.

¹⁰⁶ Homo-Monument Foundation, 'Our History' (Web Page, n.d) <<https://www.homomonument.nl/en/page/our-history>>.



Nazi Persecution

Germany has also established several memorials acknowledging the persecution of homosexual men under the Nazi regime. These include the memorial in Berlin dedicated to homosexual victims of National Socialism,¹⁰⁷ as well as the Rosa Winkel (Pink Triangle) memorial in Cologne¹⁰⁸ and the Frankfurter Engel memorial in Frankfurt.¹⁰⁹ Such sites publicly acknowledge the thousands of individuals who were imprisoned, persecuted or killed under Nazi anti-homosexuality laws. Comparable memorials exist outside Germany, including the Pink Triangle Memorial in San Francisco¹¹⁰ and the Gay and Lesbian Holocaust Memorial in Sydney, which commemorates victims of Nazi persecution and recognises contemporary victims of homophobic violence.¹¹¹

Victoria

Within Victoria, several memorial initiatives already acknowledge aspects of LGBTIQ+ history and loss. These include the Fairfield AIDS Memorial Garden, which commemorates those who died during the HIV/AIDS epidemic,¹¹² a plaque honouring Val Eastwood at the site of Melbourne's historic Val's Coffee Lounge,¹¹³ and the Grove of Gratitude near Daylesford recognising contributions to the state's LGBTIQ+ community.¹¹⁴ More recently, Yarra City Council commissioned 'Flower Pavilion,' a contemplative public artwork memorialising members of the LGBTIQ+ community who have died by suicide.¹¹⁵

Despite these important initiatives, participants at the roundtable observed that Victoria currently lacks a dedicated memorial recognising victims of state-perpetrated harms or anti-LGBTIQ+ hate crimes. The absence of such a site of public remembrance contrasts with developments in other jurisdictions and highlights an opportunity for Victoria to acknowledge historical injustices while fostering broader public understanding of this history.

New South Wales

The Bondi Memorial, located at Marks Park in Tamarama, is a permanent public artwork commemorating victims and survivors of a wave of anti-LGBTIQ+ hate crimes that occurred in Sydney, particularly along the Bondi coastline, from the 1970s to the 1990s.

Marks Park was a significant site of this violence. During this period, gangs targeted gay men and trans women, subjecting them to assault, robbery and, in some cases, fatal attacks, including victims being thrown from the cliffs. Many deaths and disappearances were inadequately investigated, with subsequent inquiries identifying investigative failures, including misclassification of deaths and the influence of bias in policing practices.¹¹⁶

¹⁰⁷ Kate Connolly, 'Germany Remembers Gay Victims of the Nazis', The Guardian (online, 28 May 2008) <<https://www.theguardian.com/world/2008/may/28/germany.secondworldwar?gusrc=rss&feed=worldnews>>..

¹⁰⁸ Visit Köln, 'Rosa Winkel Memorial' (Web Page, n.d) <<https://www.cologne-tourism.com/arts-culture/sights/detail/rosa-winkel-memorial>>.

¹⁰⁹ Visit Frankfurt, 'Frankfurter Engel' (Web Page, n.d) <<https://www.visitfrankfurt.travel/en/poi/frankfurter-engel>>.

¹¹⁰ Pink Triangle Memorial, 'Pink Triangle Memorial Project' (Web Page, 2026) <<https://pinktrianglememorial.org>>.

¹¹¹ City of Sydney, 'Gay and Lesbian Holocaust Memorial' (Web Page, n.d) <<https://www.cityofsydney.nsw.gov.au/monuments-and-memorials/gay-and-lesbian-holocaust-memorial>>.

¹¹² AIDS Memorial, 'Fairfield AIDS Memorial Garden' (Web Page, n.d) <https://www.aidsmemorial.info/memorial/id=26/aids_memorial_tuin_fairfield.html>.

¹¹³ Dean Arcuri, 'Val Eastwood Memorialised at the Site of Val's Coffee Lounge', QNews (online, 4 September 2024) <<https://qnews.com.au/val-eastwood-memorialised-at-the-site-of-vals-coffee-lounge/>>.

¹¹⁴ ChillOut Festival, 'Grove of Gratitude' (Web Page, 2026) <<https://chilloutfestival.au/grove-of-gratitude>>.

¹¹⁵ City of Yarra, 'Flower Pavilion to Provide a Contemplative Space for Yarra's LGBTIQ+ Community' (Web Page, 2025) <<https://www.yarracity.vic.gov.au/about-us/news-and-media/flower-pavilion-to-provide-contemplative-space-yarras-lgbtqa-community>>.

¹¹⁶ NSW Government, 'Special Commission of Inquiry into LGBTIQ Hate Crimes' (n 72).

The scale and brutality of these crimes, compounded by decades of institutional neglect, have left enduring trauma within affected communities, with families continuing to seek recognition and accountability.¹¹⁷ The memorial emerged from sustained community advocacy, led by ACON NSW in partnership with Waverley Council and LGBTIQA+ stakeholders. Developed from 2015 onward, the project was conceived as a site of acknowledgement, remembrance and healing, while also supporting ongoing truth-telling efforts.¹¹⁸

The artwork consists of six ascending stone terraces, each corresponding to a colour of the Pride flag and reflecting the topography of the surrounding cliffs. By inverting this landscape, the memorial symbolically transforms the act of falling into one of ascent, representing resilience, recovery and a commitment to a safer future. As Waverley Mayor Paula Masselos observed, the design reflects ‘the act of climbing inverting the act of falling.’¹¹⁹ As both a commemorative and educational site, the memorial contributes to the preservation of public memory and ensures ongoing recognition of this history of violence.



¹¹⁶ NSW Government, ‘Special Commission of Inquiry into LGBTIQ Hate Crimes’ (n 72).

¹¹⁷ Ibid.

¹¹⁸ Bondi Memorial, ‘The Bondi Memorial Story’ (Web Page, n.d) <https://www.bondimemorial.com.au/history_of_the_bondi_memorial>.

¹¹⁹ Waverley Council (n 104).



F. Concluding Reflections

The material presented in this report illustrates how transitional justice frameworks can illuminate overlooked histories of discrimination, violence and institutional failure affecting LGBTIQ+ communities in Victoria.

While Victoria has taken important steps toward recognition and reform, including the introduction of expungement legislation and formal apologies, these measures alone cannot fully address the legacies of criminalisation, policing and social stigma.

Experiences in other jurisdictions demonstrate that legal reform is only one component of historical repair. Truth telling, reparations, and memorialisation play complementary roles in acknowledging harm, restoring dignity and rebuilding trust between institutions and communities. Such measures allow survivors' voices to be heard, create authoritative public records of past injustice and signal a commitment to non-recurrence.

Victoria is uniquely positioned to consider these approaches. The state has already demonstrated leadership in truth telling through the Yoorrook Justice Commission and has implemented legislative reforms recognising historical injustice against LGBTIQ+ people.

Building on these foundations, further consultation could explore how transitional justice mechanisms might address the broader legacies of anti LGBTIQ+ discrimination and violence.

Participants at the roundtable also highlighted the importance of intersectionality in designing any future truth telling process. Historical harms have not been experienced uniformly across communities. Indigenous LGBTIQ+ people, migrants, and other marginalised groups may have experienced compounded forms of discrimination that risk being overlooked if inquiries adopt overly narrow mandates. Careful design of terms of reference will therefore be critical.

The roundtable further emphasised the importance of community solidarity and public education in advancing meaningful reform. Participants observed that progress in areas such as marriage equality was made possible through broad social coalitions and shared public understanding of the harms faced by LGBTIQ+ communities. Similar efforts may be required to build awareness of historical injustices and the potential role of transitional justice responses.

Public engagement may therefore form an important component of any future process. During the NSW Special Commission of Inquiry into LGBTIQ Hate Crimes, public forums and outreach events were held to encourage participation and raise awareness of historical cases. Comparable initiatives in Victoria could assist in documenting lived experiences, building community trust and fostering wider understanding of the need for institutional reflection and reform.

Ultimately, the question confronting Victoria is not whether historical harms occurred. The evidence demonstrates that they did. The more difficult question is how best to acknowledge those harms and design responses capable of promoting justice, healing and institutional accountability.



G. Recommendations

Drawing on the analysis in this report and discussions at the roundtable, the following recommendations are proposed for further consideration and consultation.

Historical Harm Inquiry

1. Establish a Board of Inquiry

Victoria should consider establishing a state led inquiry into historical violence, policing practices and institutional discrimination affecting LGBTIQ+ communities in Victoria.

2. Ensure an appropriately broad mandate

The terms of reference for any inquiry should be sufficiently broad to capture the range of harms identified in this report, including policing practices, hate crimes, and social and institutional discrimination, while ensuring proper recognition of the historical context in which these harms occurred.

3. Provide statutory authority and investigative powers

Any truth telling mechanism should be established through government processes to ensure adequate powers, including the ability to obtain evidence and institutional participation. The Inquiries Act 2014 (Vic) is an appropriate pathway.

4. Integrate intersectional perspectives

The design of any inquiry should consider intersectional experiences of harm, including those affecting Indigenous LGBTIQ+ people and other marginalised groups.

Expungement and Legal Reform

5. Expand eligibility for expungement

Victoria should consider expanding the scope of its expungement scheme to include convictions arising from laws targeting gender identity or gender nonconformity.

6. Review the expungement application model

Government should consider whether aspects of the expungement scheme could be made automatic or otherwise simplified, while ensuring appropriate safeguards against the expungement of convictions involving non-consensual conduct.

Redress and Reparations

7. Take steps to introduce a redress scheme

Victoria should begin establishing a compensation scheme for individuals historically prosecuted under laws targeting sexual orientation or gender identity, drawing on the tiered model adopted in Tasmania.

8. Link redress to expungement

Consideration should be given to making redress available upon expungement, rather than requiring a separate application process, to minimise administrative burdens for survivors.

Memorialisation and Public Education

9. Establish public memorials acknowledging historical harms

Victoria should consider establishing memorials recognising the historical persecution and violence experienced by LGBTIQ+ communities.

10. Support community education and engagement

Public engagement initiatives should be undertaken to promote awareness of historical injustices and support community participation in any future transitional justice processes.



