T R A N S C R I P T

INTEGRITY AND OVERSIGHT COMMITTEE

Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies

Melbourne—Monday, 21 June 2021

(via videoconference)

MEMBERS

Hon Jill Hennessy—Chair
Mr Brad Rowswell—Deputy Chair
Mr Stuart Grimley
Mr Dustin Halse
Ms Harriet Shing
Mr Jackson Taylor
Hon Kim Wells

WITNESS

Dr Eva Tsahuridu.

The CHAIR: I will declare the public hearing for the Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies open.

If I could acknowledge and welcome all of the Committee members and the Secretariat here today, and I would like to begin by acknowledging the traditional owners, the Aboriginal people, and pay my respects to elders past and present.

To our witnesses and particularly Dr Eva Tsahuridu: all evidence taken by this Committee is protected by parliamentary privilege. You are only protected against any action for what you say here today, but if you repeat the same things anywhere else, including on social media, those comments will not be protected by this privilege. Any deliberately false evidence or misleading of the Committee may be considered a contempt of Parliament.

All evidence given today is being recorded by Hansard. You will be provided with a proof version of the transcript for you to check as soon as possible. Verified transcripts will be placed on the Committee's website. Broadcasting or recording of this hearing by anyone other than Hansard is not permitted. I am going to ask for witnesses, when they are not speaking, to mute their microphone. If anyone has any technical difficulties, please just contact the Committee staff.

I want to welcome Dr Eva Tsahuridu. We would like you to keep your contribution to 5 to 10 minutes, and then we will open up to the Committee for questions and comments. But we are very grateful for you generously sharing your time here today to help progress the Committee's insight for the purposes of this important inquiry. So welcome, and over to you.

Dr TSAHURIDU: Thank you very much. Thank you for the welcome, and of course thank you for the opportunity to be a witness to the important work you are doing. I will keep my comments very brief because I think the value of this may be more into having a dialogue and responding to your questions. As I indicated in my submission to the Committee, I have been working in the space of ethics, ethics education and integrity for about 23 years now. When I did the submission, I was an associate professor at RMIT University. I would like to let the Committee know that is no longer the case. At present I am the Deputy President of the Police Registration and Services Board, and I also hold a couple of other non-executive board positions. However, I will provide my input as an individual, and I do not represent any organisation today.

Ethics education has been a major part of my work, and I have made my own mistakes through the journey over the years. Based on my research, experience and insight, I think we have been improving and we are improving. There is scope to do a lot better. I think one of the key issues to address is what we are trying to achieve with ethics education and how do we position it within the broad ethics infrastructure. Ethical behaviours, like other behaviours, are not only an outcome of the person behaving. With ethical conduct or misconduct we find that the environment or the context provides a better explanation rather than the individual. Even though we know that, most of our ethics education and training offerings continue to isolate the individual and try and fix them. We have improved a lot on the research and understanding around ethical behaviour over the last decades, but sometimes that knowledge is not informing education and training efforts. We know, for example, that training efforts that focus on ethical behaviour and decision-making or ethical reasoning are more effective than just trying to improve attitudes or awareness in general. So, we do have insights as to what sort of training we ought to be focusing on, how do we evaluate outcomes, how do we define them, but in practice I think we can still improve in many aspects.

The other thing that I would briefly like to mention is that ethics education and training is one of the many, many elements of the overall ethics infrastructure, and I do develop that slightly in my submission as well. When we look at the formal and informal infrastructure of an organisation, of an entity, and we look at the policies, systems, decision-making structures, organisational hierarchies as well as cultures, values and norms, ethics training, or ethics education, is one aspect of the formal infrastructure. We cannot expect it to solve or to be the leading change maker in terms of anti-corruption efforts. I, like many others, argue that culture is the most important thing when it comes to behaviour. So, when we are trying to educate for ethical conduct, how

do we address cultural influence? How do we measure cultural influence? How do we ensure that the culture and the focus of the training are aligned? In many instances we find that we send people to training, but then they come back and our expectations and norms have got nothing to do with the rhetoric or the knowledge that people have acquired. So, it is impossible for them to be able to put in practice the knowledge or expertise or decision-making capabilities that they have developed.

As a final comment, I would just like to mention that ethics training is quite unique because what we do when we provide ethics training or send people to ethics training is we make ethics explicit. People's frameworks and perceptions have that ethical lens, so we give them time and we give them ethical language and ethical frames through which to look at issues and make decisions. We expect reflection and dialogue around ethical issues. In this environment we provide an ideal-type context where ethics is at the forefront of people's thinking. This is not necessarily the case in the day-to-day decision-making that happens in the work context, where we have team and organisational pressures, we have a lack of time and ethics is not part of the routine or the decision-making scripts that we have developed. In the ethics training environment, when it happens outside of the workplace, we have ideal conditions that do not necessarily exist at work. I will leave it there because there are many, many issues, and I am not sure what you would like to focus on. Of course, I am available to answer any questions. Thank you.

The CHAIR: Terrific. Thank you very much, Dr Tsahuridu. Just to get the ball rolling, two brief questions from me. In your submission you talk about the folly of asking whistleblowers to be brave and putting material in organisations, saying, 'Stand up and blow the whistle!'. You talk about that as being unfair given the professional and reputational risk and the cost and the consequences of being a whistleblower. So, I am keen to understand: What do you think is more effective in terms of encouraging people to speak up and identify corruption? And, secondly, when you talk about the limits of ethical education, given that so much corrupt conduct begins as just changing work practice and sometimes people kind of slide from maladministration into corrupt conduct without even realising it, how do you suggest, from an education perspective, that people are able to understand and able to extract themselves, sometimes, from that workplace culture—able to genuinely identify when they are on the slippery slide towards corrupt conduct?

Dr TSAHURIDU: On the first issue, I have been working on whistleblowing or public interest disclosures for a number of years now, and the more I understood what is happening the more I started seeing it as I articulate it now: it may be dishonest for organisations to have the rhetoric and to have the expectation around making a whistleblowing report or a public interest disclosure in order to be a good corporate citizen or a good public servant or a good professional, when people are likely to be victimised and suffer either direct or indirect consequences. I think it is inappropriate and dishonest to urge people to make disclosures when they are going to suffer, in some instances, really traumatic and unacceptable outcomes, and we have seen the shift in legislation throughout Australia towards the management of whistleblowing. So in addition to protecting the whistleblower we are shifting now to management of whistleblowing and the imposition of a duty to protect the whistleblower.

I think that is a desirable focus, but I think in many organisations bad news is not welcome and is not heard and the messengers are being shot. And I think in whistleblowing we do not expect people to sacrifice themselves for the public good, so we have to balance somehow. Ethical conduct is about balancing self-interest with the interests of others. We are not talking about altruism, where you put yourself in grave danger to accomplish something. Generally that is something that people may choose to do but it is not imposed on them. So, if with whistleblowing we want people to take a certain degree of risk, but not a risk that will destroy their professional and private lives, then we ought to have systems and processes in place that will ensure protection.

The CHAIR: And if you do not have those systems in place and have laws in place like we do here in Victoria that say 'You have a positive obligation to disclose corruption' for certain office-holders, do you say that that is unfair or unethical, or do you say having positive obligations to disclose is important but we have also got to make sure that we have got the infrastructure and the cultural and the protective responses around this as well so they are not destroyed on the way through, as is all too regularly the case?

Dr TSAHURIDU: I think the positive responsibility or duty to disclose should go hand in hand with the positive duty to protect. So, it is only when someone has an explicit duty to protect that we can have the imposition of a positive duty to disclose.

The CHAIR: Got it.

Dr TSAHURIDU: And there are other issues around the positive duty to disclose. If you ask who ought to know or who did know, is that a distributed duty or is it a duty towards specific people for specific instances? In imposing that positive duty we need to be very clear as to whom the duty is placed upon and under what circumstances, because it is unlikely to have an overarching, broad, positive duty to disclose everything about everything. We need to put boundaries around positive duties, and they should go hand in hand with the positive duty to ensure protection.

The CHAIR: Thank you. I am going to invite my colleagues to make a comment or ask a question. Deputy Chair.

Mr ROWSWELL: Thank you, Chair. Thank you, Doctor, for your contribution today and for sharing with us your expertise in this area. A question that I have asked a couple of other witnesses as part of this inquiry is around measuring the efficacy of education. I know it is a difficult question, but in your expert view is that at all possible? How do we know that educating in ethics and ethical behaviour actually translates to the outcomes that we all want?

Dr TSAHURIDU: Thank you, Deputy Chair. It is possible to evaluate, like we evaluate other educational offerings. We have learning outputs or outcomes or objectives and then we have some way of actually measuring to what extent we have achieved those. Now, with ethical education, as I said initially, it is unclear in many instances what we are trying to achieve, so the objectives are not very clear. If we do not have clear objectives, it is very difficult to actually measure whether they have been achieved or not. Unfortunately, a lot of the offerings are still relying on reactions to education— 'Did you have a good time?', 'Did you like the presenter?', 'Was it fun?'—not the most effective way to measure educational outcomes. Other ways of measuring education or training efforts and ethics are looking at learning or behaviour. There are different purposes that education may have, and we have different ways of measuring the achievement of those. The most difficult one to measure is behaviour. We can measure learning, we can measure whether people have learned something or they acquired knowledge, but the acquisition of knowledge is in no way a precursor or it does not give an indication of whether that knowledge is going to be applied because of culture and everything else that I have alluded to. So, measuring behaviour is trickier but not impossible. When we see ethics education as part of the ethics infrastructure, and we are measuring our culture, we are measuring our values and the perceptions of ethical climate our people have, then there is a way to measure shifts in behaviour or behavioural intentions or judgements. But it has to be that coordinated approach that allows us to look at what factors of the ethics infrastructure we have changed and look at behavioural outcomes.

The CHAIR: Thank you, Doctor. Would any other Committee members like to make a comment or ask a question? Ms Shing.

Ms SHING: Thank you so much, Doctor, for that discussion. It is actually a really important part of the framework of voluntary compliance through best practice in particular workplaces and environments. To continue on with the Deputy Chair's line of questioning, I am keen to understand how culture can be measured where there is always a level of ambiguity around a positive disclosure obligation and the idea of where someone knew or ought reasonably to have known, which is then where culture and education come into it, and how that is capable of being measured in an environment where it is hard to have a broadbrush approach to how you quantify that and how you measure it because it is going to be specific to individual environments.

Dr TSAHURIDU: Thank you, Ms Shing. It is a frustration of mine when I hear people that sometimes describe themselves as thought leaders, and they may be, but increasingly we have valid and reliable measurements of organisational cultures and climates. I did some research on organisational climates. It was very revealing to see the importance and the influence of climate on judgement and behavioural intentions, and again behavioural intentions and judgements do not necessarily lead to actual behaviour. But we do have valid measurements for ethical culture, and I think you have identified an important issue here. We need to appreciate that we do not have a uniform organisational culture, we have a number of cultures. Every unit or every department may have its own culture. We have to understand culture not as a homogenous phenomenon for the organisation but as the living atmosphere of different parts of the organisation. We find in organisations that misconduct does not necessarily happen uniformly, or ethical conduct does not happen uniformly. We understand that there are fundamental differences in the way people work, in the way things happen around the

place, so we need to understand what are the key values that people see in the place of their work and their own leadership. And once we understand those, then a lot of the behaviour makes sense.

Ms SHING: Thank you. That is really good. Are you able to send through—you have indicated that there is research associated with efficacy of cultural improvement and an ethical framework. If there is anything that you have which is a snapshot of what that looks like, I would be grateful for the opportunity to read it, please.

Dr TSAHURIDU: Sure. Of course. But just to clarify, I do not want to bombard you with references and great articles on culture. Are you interested in how we measure it?

Ms SHING: Yes.

Dr TSAHURIDU: Okay. Alright. I will do that. Thank you.

Ms SHING: Thank you very much for that. Thanks, Chair.

The CHAIR: Thank you, Ms Shing. Would any other members of the Committee like to ask a question or make a comment? I should also welcome Mr Wells as well. You were briefly missed, and you are warmly welcomed. Thank you for coming. Any other questions or comments. Yes, Mr Grimley.

Mr GRIMLEY: Thanks, Chair. Thanks, Doctor, for your submission. My question is in relation to the previous submitter, Dr Alistair Ping, from the Queensland University of Technology. He made a submission to the Committee and he was talking about how integrity agencies' approaches to corruption prevention are generally flawed. He based that on the premise that the approach is on the presumption that ethical decision-making can be taught and that there is a rational, logical, cognitive process, which he believes is not the case. So, I am just wondering: do you subscribe to that same theory? Do you have any comments that you wish to make on that?

Dr TSAHURIDU: Well, I think we are not perfectly rational in general, and we are not perfectly rational when it comes to ethical decisions. We are not perfectly irrational either. We are predictably irrational, as Kahneman and Tversky have been saying for a few decades now. We understand our limited rationality. For example, we know in terms of ethics we all suffer from overconfidence. Generally we think we are more ethical, upright, strong and uninfluenced people than our peers or the average. That is a global phenomenon. We know that we are very good at rationalising our behaviour that is not aligned with our own values, let alone organisational or professional values. We are aware of our human limitations and how they affect our decisions and behaviour. But that is not to say that there is no cognitive, rational aspect in our decision-making either. I do not subscribe to either view. I do not think we are perfectly rational; I do not think we are perfectly irrational. I think there are aspects of rationality that we engage with, but there is also emotion, which is important in ethical decision-making. There is the gut instinct; that is important. We are satisficing in ethical decision-making, as we do in other parts of life.

Mr GRIMLEY: Thank you, Doctor. If I can, just one more follow-up question on that, Chair. Based on that, is it more prudent to teach ethics in terms of a cultural or systemic process rather than as an individual process?

Dr TSAHURIDU: To continue to function as a society we need to retain individual accountability. We cannot have organisations or societies where individuals are not held accountable for their behaviour even if there has been influence and pressure. In terms of how we go about teaching or equipping people to make better ethical decisions, there are different approaches. One approach is based on making ethical decisions part of their routine and developing what we call moral muscle. Like how we develop physical muscle, we develop moral muscle. We have a range of ethical responses. We have a toolkit that allows us to dip in and actually respond appropriately in the situation. We can develop ethical capability, and we can develop that moral muscle, and I argue that we also have to develop moral imagination, because unfortunately many people still think the options in the corporate world, for example, are between being ethical or profitable. So how do we keep thinking and keep evolving and coming up with solutions that are effective and ethical and profitable and efficient? Unfortunately because we do not see ethics as something that we encounter every day we do not spend enough time in developing those capabilities around: 'What are the issues?', 'How do we understand the ethical issue and the whole ranges of consequences?' and then, 'How do we have tools to respond to them appropriately, including moral language?'

Mr GRIMLEY: Thank you, Doctor. Thanks, Chair.

The CHAIR: If there are no other questions or comments from other Committee members, Doctor, can I thank you for your thought-provoking presentation today but also the written presentation, and ask if you could follow up on Ms Shing's request for the provision of additional information. Thank you very much for coming along today. We are very, very grateful. Given that you are our only witness today I am going to declare the hearing closed. Thank you very much for coming along.

Dr TSAHURIDU: Thanks for the opportunity.

Committee adjourned.