

# Women and the Criminal Code Chapter 4

## EDUCATION AND AWARENESS

### PART 1: INTRODUCTION

Reform of the criminal law will achieve little for women if the underlying attitudes about women and their place in society are not addressed. These attitudes too often create barriers to women's access to the legal system, and affect the way the law is applied when they do get access. As we observed in Chapter 1 - women's inequality before the law is fundamentally related to women's social inequality. As the ALRC noted:

The concept of equality must address the structural basis of women's inequality. It cannot be satisfied with a mere absence of formal discriminatory or unequal treatment of women and men. It must be able to promote understanding of how the disadvantages suffered by women are created and maintained. It must be capable of exposing the relationship between social inequality and the law.

Violence against a woman, whether in her own home or anywhere else, is a crime, and should be treated as such. Unfortunately, the extent of violence against women is not acknowledged in our society and is still treated as an essentially private matter.

It is not good enough that women are still subjected to proprietary attitudes, that some women are considered to be more deserving of justice than others, and that many women have to fight for justice at all.

It is unacceptable that women who complain about sexual violence are presumed to have consented, or to be lying or "mistaken" if they cannot demonstrate serious injuries, or that people still believe "no" means "yes", or that rape by a stranger is considered to be a much more serious crime than rape by an acquaintance, regardless of the circumstances.

It is intolerable that stereotypes about women's role in society are perpetuated by articles in newspapers and magazines and the images seen on television or at the movies.

This Chapter examines the important role that education can play in changing attitudes and ensuring true equality before the law for all women.

Firstly, we discuss the need to raise the community's awareness of issues related to women's social inequality, and we look particularly at strategies to raise awareness about violence against women.

Secondly, we address some of the barriers that prevent women from accessing help. Women must be made aware of the services and support available to them as a victim/survivor of a crime, and these services must support women in an appropriate way.

Thirdly, we consider education as an integral aspect of crime prevention and the criminal justice system. A holistic approach to preventing and responding to crime is needed to ensure that men and boys are encouraged to develop respectful, equitable, non-violent relationships and that women and girls have an understanding of their fundamental human rights.

Finally, we look at how education can address the often hidden attitudes of those involved in the criminal justice system, which affect the way that the criminal justice system responds to women.

## **PART 2: COMMUNITY AWARENESS**

### **Community education**

At the most basic level, there must be awareness and acceptance in the general community that we all have the same human rights, and in particular, the right to safety. While we continue to live in a society which does not ensure that all of its members have the opportunity to exercise their basic human rights, strategies aimed at the prevention of violence are unlikely to benefit the most vulnerable.

At the next level, there is a need to address the common perception that violence within relationships is not a crime, and that it is the particular characteristics of victims which makes them a target.

A chunk of society still see abused women as unintelligent, lower class etc. Society is not accepting of the idea that abuse is everywhere and has no social barriers

Government and the community must work together to develop strategies to raise awareness of the extent and impact of violence perpetrated against women and to address the perception that violence is a problem for "other people". These strategies must actively involve the wider community to dispel the belief that this is just a "women's issue" rather than an issue with serious and widespread social implications.

An example of this type of strategy is the "Zero Tolerance to Domestic Violence" initiative fostered by the Gold Coast Domestic Violence Service and implemented in conjunction with the Crime Prevention Partnership Gold Coast and the Gold Coast City Council. This initiative, which is based on a successful program in Edinburgh, promotes the message that domestic abuse is unacceptable. It urges all organisations, individuals, businesses, citizens and community groups to become involved in the efforts to stop domestic violence.

Other innovative campaigns in Queensland include:

- Domestic Violence Prevention Week;
- Sexual Violence Awareness Month;
- 16 Days of Activism;
- Week Without Violence;
- National Stop Domestic Violence Day.

These campaigns, which are mainly generated and self-funded by the non-government sector, profile and raise public and individual awareness of the nature and extent of violence against women and the supports, assistance, counselling and information available across Queensland. They promote an integrated approach involving all including non-government organisations, relevant government agencies, business, education institutions and individual

members of the community. The message of these campaigns continues beyond the particular event, and demonstrates an effective use of resources.

#### **Recommendation 44**

That Government consider funding campaigns that have been recognised as successful awareness raising processes to ensure their continuity and effectiveness.

#### **Children and young adults**

The Taskforce is aware that attitudes towards sexuality, sexual autonomy, problem-solving and the use of violence are developed in childhood. The Taskforce considers that the Queensland education system has a prominent role to play in ensuring that appropriate attitudes and responses to violence and inappropriate sexual behaviour are encouraged in Queensland schools.

It is vital that we educate children to become adults who are able to form healthy, non-violent relationships. As suggested to the Taskforce, Government should:

arrange for education programs to include teaching which enables young people to value men and women equally and to understand the concept of the non-violent resolution of conflicts among themselves.

Education programs to address bullying and gender-relations should start at pre-school and continue throughout the entire education process, so that by the time young adults finish high school they are equipped with the knowledge and skills they need to resolve differences without resorting to violence.

This education needs to go further than interpersonal violence and bullying, it should also address sexual and dating violence. It should confront the perception of men as the sexual aggressor and the myth that there is a point at which men cannot control their sexual urges. It should also empower girls by providing an understanding that women have a right to actively control their own sexuality.

In 1992 the Domestic Violence Resource Centre released "Boys Will Be....: A Report on the Survey of Year Nine Males and their Attitudes to Forced Sex". This survey of 187 boys attending schools in the Brisbane Metropolitan Area found:

- one in three boys believed that it was 'okay for a boy to hold a girl down and force her to have sexual intercourse' if she's led him on. Another 18.7% were unsure as to whether this was acceptable;
- only 55% of boys believed that it was unacceptable to force a girl to have sex if she gets him sexually excited;
- 15% of boys believed that it was acceptable to force a girl to have sex if a couple had dated for a long time. Another 15% were unsure.

Education Queensland has developed policies that make clear that the school environment should encourage the development of attitudes and behaviours which promote social responsibility and healthy, non-violent relationships, as well as teaching materials which tackle the issues of bullying and sexual harassment and violence. The Department also has several projects under way which address these issues.

However, the Taskforce notes that Education Queensland now operates on a basis of "school based management". While the Department is responsible for setting basic policies, it is up to the principals of schools to manage the resources and personnel available to implement them.

The Taskforce believes that all schools should provide a basic level of education to promote gender equality and the formation of healthy relationships, and should be provided with adequate resources to do so. Further, it considers that this should not be left to the discretion of individual principals, as resource decisions will be affected by their own personal attitudes, and a failure to provide comparable levels of education in relation to these issues will lead to inequity in educational opportunities for individual students.

#### **Recommendation 45**

45.1 While noting the current Education Queensland policies on sexual harassment and gender equality, the Taskforce considers that it is important that education on appropriate behaviour in relationships and non-violent resolution of conflicts be made compulsory.

45.2 This education should be provided by appropriately qualified people in collaboration with local agencies to link children and young adults to community services.

### **PART 3: ACCESS TO ASSISTANCE**

We have noted throughout this Report the problem of under-reporting of crimes of violence perpetrated against women. Women's lack of awareness of available services and concerns that agencies will not be sympathetic or sensitive may contribute to this problem.

Women's awareness of services can be raised through media campaigns using leaflets, posters and press coverage. Contact information could be provided in a discreet format, for example, credit-card size material so that it can be hidden if necessary. Information should come from a wide range of sources to maximise the opportunities for women to find support. In Chapter 2 we discuss in detail the different ways in which information can be provided to women, and the role of community-based services in providing that information.

Professionals working in services that may be accessed by a woman need be alert to the possibility that the woman may have been assaulted and to guide her to the help that she needs. Routine but sensitive questioning about sexual and domestic violence by health and other professionals will encourage earlier identification of violence as an underlying cause of problems.

Police, local authorities, and health service providers should also ensure that women are aware that they will receive a positive response if they come forward, and that the personnel providing front line assistance should be trained to ensure that this is actually the case.

Services should also freely promote their complaints procedures so that women know that any complaints that they may have about the service will be taken seriously. It is also essential that services are properly designed and resourced - it would be pointless to encourage women to come forward for assistance if support services are inadequate and inappropriate in meeting their needs.

## **Recommendation 46**

46.1 That Government ensure that ongoing training is provided to police and persons working in other public sector agencies which are accessed by women victims/survivors of violence. This training should:

- increase understanding of violence against women, its nature, scale and impact;
- assist service providers in identifying violence against women;
- provide participants with skills and knowledge about preventative approaches, early intervention and reducing the long-term impacts of violence;
- cover relevant legislation and link to any relevant guidelines or policy; and
- go beyond raising awareness to identifying desired service responses.

46.2 Government should liaise with relevant professional associations and facilities providing tertiary education for persons who are likely to be involved in assisting women who have been the victim/survivor of violence, including doctors, nurses, social workers and teachers in relation to the inclusion of compulsory studies of the social context of the law, including gender, race, culture, sexuality and divers-ability issues. This education should be aimed at increasing sensitivity to the variety of experiences of women, including experiences of sexual violence and domestic violence.

## **PART 4: EDUCATION AND ACCESS TO JUSTICE**

### **Introduction**

The Taskforce consultations revealed a general perception that many of the key players in the criminal justice system display a lack of sensitivity toward, and understanding of, gender and race issues, and issues caused by the intersection between gender and race, and other marginalising factors.

Women are significantly disadvantaged by the fact that the personnel of the criminal justice system are not free of stereotypical attitudes that persist in the community. For example, there has been considerable publicity given to sexist statements made by some judges. Also of concern are the inappropriate views that are not explicitly stated and are therefore more difficult to challenge.

As Elizabeth Sheehy has pointed out:

...The achievement of reforms in statutes or even in constitutions does not guarantee that those laws will become a lived reality, for police can refuse to take reports or can discredit women's accounts of violence; prosecutors can decide which cases to pursue, based on their perhaps discriminatory beliefs or on their prediction that the case will fail in court due to the discriminatory beliefs of others; judges can effectively nullify a law through narrow interpretations, ...through rulings on the evidence, and through instructions to the jury; and, even if a conviction is imposed, a judge can undermine its symbolism by imposing a sentence that makes a mockery of the conviction

In general, the Taskforce considers that there is a need to ensure that those who work in the criminal justice system are more sensitive to issues relating to

gender, race, culture, ability and sexuality. This part examines the issue of training and education for the key players in the criminal justice system - police, lawyers, and the judiciary. It will also briefly discuss issues relating to the general level of awareness of members of the jury and the general community.

## Police

Perhaps the most significant factor that affects a woman's decision about seeking justice through the criminal justice system, is the initial response by police to the complaint. "Fear of police responses to rape/sexual assault incidents has already been identified as one of the most important factors which dissuades women from reporting crimes".

The sorts of responses which women often encounter from police include disbelief, or belief that the case will not be successful and that the complainant should withdraw the complaint. In research undertaken by Barga and Fishwick, it was found that many police held a strong attitude that there is a high degree of false reporting by women, and that this attitude influenced the way that individual police handled complaints.

Barga and Fishwick also found that police response was often affected by a belief that women with a disability were more prone to lie and less credible witnesses. Similar attitudes were held in relation to women with a mental illness. They also noted that "Aboriginal women interviewed for the 1992 NSW Sexual Assault Committee research were on the whole dissatisfied with police treatment. 74% of Koori women were dissatisfied compared to 49% of non-indigenous women".

Similar issues were examined by Jennifer Temkin in her study of the police responses in Sussex. She found that 16 of the 23 women that she interviewed were satisfied with the way in which their cases were investigated and with the officers responsible, but seven expressed their dissatisfaction either with the investigation as a whole or with certain phases of it. Of these, six women had at some stage been treated with disbelief by the officers concerned. Two felt that their cases were as a result not properly investigated and four complained of persistent questioning and harsh treatment. In all six cases, the victim's assailant was known to her before the rape and the police officers concerned, of whom all, with one exception were male, appear to have had difficulty interpreting what had happened as a rape.

Interviews conducted by Temkin with police regarded as having a disbelieving or insensitive attitude revealed that those officers tended to be sceptical about rape complaints in general. For example, half the officers interviewed considered that one quarter of all rapes reported were false, one distinguished between "real rape", as in "off the street, didn't know the victim" and "we went out for the evening sort of rapes". One officer thought false complaints far outweighed true ones. In general "victims who knew the assailant, reported late and had no injury were regarded as objects of suspicion".

Women interviewed by Temkin indicated that the manner and attitude of police was important but that "the experience of feeling believed was particularly vital". Four women stated that they would under no circumstances report to the police if they were raped again. Of these, three were under 20 and had been treated with disbelief by the police. These findings are consistent with issues raised with the Taskforce during its consultations.

The Taskforce considers that there is a need for greater sensitivity in the way that

police officers respond to women who have complained to police and that it is essential that attitudinal issues are addressed through appropriate education and training. This training should be provided to all officers who may be called out to respond to a complaint, or who may be involved in taking a statement from a complainant.

It was suggested to the Taskforce that this issue could be addressed by ensuring that more female officers are involved in responding to complaints made by women. While the Taskforce is supportive of measures to increase the representation of women in the QPS, it does not consider that there should be a preference for women officers to deal with women complainants. This response would ignore the reality that many women in the general community also hold stereotypical views about women. It would also be impracticable in many circumstances, particularly in rural and remote areas.

The Taskforce is concerned that the QPS recruitment processes do not specifically include strategies to identify inappropriate attitudes of candidates. Candidates should be questioned about equity issues, and their attitudes in relation to gender, race, culture, ability and sexuality should be taken into account in assessing their appropriateness for employment in the police service.

The Taskforce notes that it is now compulsory for a woman to be included on selection panels for positions in the QPS, but we believe that this is not well known in the community. We understand that the last expression of interest for women to participate on these panels was some time ago.

#### **Recommendation 47**

47.1 That all police officers, including commissioned officers, should receive compulsory training in relation to issues relating to gender stereotyping, race, disability, culture, homophobia, sexual assault and domestic violence. This training should be developed by police in conjunction with the support services within individual police regions to encourage a more integrated response. Wherever possible, this education should be provided by trainers who are external to the police service.

47.2 Police should also receive training in relation to:

- gathering evidence in cases of violence and sexual violence against women; and
- the identification and impact of intellectual disability, learning disabilities and physical disabilities

47.3 The Taskforce also considers that the QPS should consider recruitment strategies which will identify any negative attitudes which applicants may have in relation to women, race, ability, culture or sexuality before entering the Service. In appropriate circumstances, recruits should be provided with education which will address these attitudes, or in more extreme cases, excluded from employment with the Service altogether.

47.4 The QPS should also more widely promote opportunities for women drawn from the community to participate in interviewing candidates for employment in the Service.

#### **Lawyers**

Women's experiences in accessing the criminal justice system are likely to be dramatically affected by the attitudes of legal professionals. This includes lawyers who are employed by the agencies of the criminal justice system including court staff, prosecutors and legal aid officers, as well as those working in private practice.

The Taskforce considers that legal professionals should receive on-going education and training about issues relating to gender, race, culture, disability and sexuality, which starts at university and continues throughout their legal careers.

### **Undergraduate legal education**

The ALRC extensively examined the importance of law schools in addressing issues related to gender and recommended:

1. Law schools should ensure that the curriculum includes content on how each area of the law in substance and operation affects women and reflects their experiences. The curriculum includes the core curriculum and elective curriculum.
2. Law schools should ensure that feminist legal theory is offered in separate elective subjects or in elective subjects that deal with legal theory.
3. The Department of Employment, Education and Training (DEET) should assess the incorporation of the experiences and perspectives of women in the law school curriculum as part of its annual quality evaluation of universities.
4. All law schools should encourage staff members to exchange information and advice on the incorporation of the experiences and perspectives of women in the content of all subjects.
5. All law schools should ensure that in recruiting new staff selection criteria assess an applicant's awareness of gender issues as applicable to the subject area to be taught.
6. Law schools should ensure that all aspects of tertiary legal education, including assessment tasks and course material, employ gender inclusive language and avoid sexist stereotypes of the roles of women and men in society.

Law schools have a responsibility to give attention to gender issues. Women will be disadvantaged if their interests are marginalised or ignored in the teaching of law, or if myths about women are still propagated at university. Indeed, the previous federal government made money available to produce curriculum materials on gender issues in areas such as criminal law.

An excellent example of this is the material taught to first year students at Queensland University of Technology in the subject "Law in Context". This subject contains a four-week unit on justice and access which covers the specific issues "The Gender of Judgements", "Cultural Difference and the Law", "Lawyers and the Adversarial System" and "Access to Justice".

However, some law schools in Queensland have not incorporated gender issues into the curriculum in any significant way. The Taskforce considers that this is a matter that needs to be urgently addressed.

## **Professional development**

While the education of law students in relation to gender and other marginalising factors will make a significant difference to the attitudes of lawyers when they first enter the profession, legal education must continue throughout a person's legal career.

Accordingly, the Taskforce considers that it would be appropriate for the Queensland Law Society (QLS) to provide education about gender and other social issues as part of its Continuing Legal Education program.

The Taskforce notes that the Council of the Queensland Law Society is currently considering an extension of its specialist accreditation program. The Taskforce highly recommends the extension of the program to include areas of particular concern to women, and, in particular, the criminal law.

The Taskforce is aware that the QLS accreditation course in relation to family law does not contain any material to specifically address attitudes that may lead to inequity for women. Accreditation courses provide an ideal opportunity to educate the practitioners likely to have the most immediate effect on women's ability to access justice. For example, family law practitioners will have women clients who are survivors of domestic violence.

The Taskforce therefore suggests that the QLS consider including additional education in relation to gender in its family law accreditation course and that similar education be provided in any new accreditation courses provided in areas which are of particular concern to women.

## **Prosecutors**

Prosecutors are likely to be the main connection between victims/survivors and the formal criminal justice system. Between 500 and 600 sexual offences are processed by the DPP each year.

It is therefore highly likely that the attitudes held by individual prosecutors and other staff of the DPP will affect the experience of women who become involved in the criminal justice system.

The Taskforce notes that the DPP does not currently offer any in-service training to its staff in relation to equity issues.

## **Recommendation 48**

48.1 The Taskforce reiterates the recommendations of the ALRC in relation to education in law schools. It recommends that the Queensland Government liaise with law schools in regard to their implementation.

48.2 The Taskforce recommends that Government liaise with the Queensland Law Society about:

- the development of material in relation to equity issues as part of its continuing legal education program;
- the inclusion of equity issues in its family law accreditation course;

- the offering of accreditation in areas of law that are of obvious concern to women, including criminal law and discrimination law, with course content which includes education in relation to equity issues.
- 48.3 The Taskforce also recommends that the DPP institute regular internal professional development for staff about equity issues.

## Judiciary

The Taskforce addressed the issue of judicial education in the context of women's experience in the criminal justice system, especially in the courtroom. We asked the community "What do you think would improve the processes and procedures of the criminal justice system for women as victims?". Responses included the following comments:

Professional training in relation to gender issues and the social and psychological effects of violence will enhance the ability of the court to empathise with the position of women, either as victims or offenders, and to run the court process with less negative impacts upon women.

When it could be said some years ago ... that it is a much more serious matter when a man hits a total stranger in the street than when he beats up his wife in the precincts of the Inns of Court, it is clear that discrimination goes right through the legal system.

... judges, prosecutors, the police, lawyers, the media and doctors, when involved in any way shape or form in a court case involving victims of child sex abuse, often fall into the trap of 'knowing all there is to know about abuse' and only end up compounding what the victim went through.

Judicial attitudes about the proper social role, capacity, ability and behaviour of women and men and which ignore the realities of their lives, will affect the treatment of women and their experience of the court process. These attitudes can also lead to unfair results and the development of laws and practices that disadvantage women.

The Anti-Discrimination Commission of Queensland has a strong view that an essential and fundamental outcome from this review is the need for judicial training on recognising and avoiding stereotypical attitudes. The Commission considers that this should include exploring the differences between men's and women's violence and stereotypical attitudes to particular women including Aboriginal women, migrant women and lesbians.

The gender bias inquiry by the Senate Standing Committee on Legal and Constitutional Affairs, established following widespread media coverage of comments by a number of judges in sexual assault cases concluded:

To the extent an impression has been created that the publicised comments are in some way typical of overt prejudice on the part of the judiciary as a whole, it is a false impression ... However, the evidence has led the committee to conclude that a problem exists that is wider than a handful of cases.

The Committee considers that a significant number of the cases examined demonstrate the resilience in some jurisdictions of certain unconscious beliefs and stereotypes in cases of alleged sexual assault. The belief that women, for various reasons, concoct incidences of sexual assault still seems to be common among some judges. By adhering to these traditional statements, the rationale for which

other judges have questioned, judges are potentially influencing the outcome of cases.

The Taskforce commends recent efforts to provide professional development in relation to equity issues for members of the judiciary and magistracy. For example, all new judges appointed to the District and Supreme Courts undertake a judicial orientation program run by the Australian Institute of Judicial Administration in conjunction with the Judicial Commission of New South Wales and this includes sessions on issues relating to migrants, interpreters and multiculturalism, and indigenous and gender issues.

Organisations such as the Youth Advocacy Centre, Victims of Crime Association, the South Brisbane Immigration and Community Legal Service and other community legal services have presented papers at conferences held for the District Court.

Magistrates have also accessed training available through the Judicial Commission of New South Wales. However, educational opportunities for Magistrates are limited, as they do not receive a jurisprudential allowance unlike judges of the Supreme and District Court.

The Taskforce notes that training for magistrates and the judiciary in Queensland is limited by budgetary constraints and competing priorities. Further, this compares unfavourably with the situation in New South Wales, perhaps because the Judicial Commission of New South Wales has an express legislative responsibility for the provision of continuing education to judicial officers. No similar organisation exists in Queensland.

The Judicial Commission noted in its 1997 Annual Report that it had taken a number of initiatives to ensure that New South Wales judicial officers are aware of social context issues involving children, women, sexual offences and domestic violence.

These included:

- a session at the National Orientation Program on Gender Awareness Issues dealing in part with the area of sexual assault;
- a session titled Gender Bias and the Law conducted at the District Court Annual Conference which dealt with issues raised in the Report *Heroines of Fortitude*;
- the Experiences of Women in Court as Victims of Sexual Assault and other issues relating to bias against women in courts;
- the Local Courts set aside an afternoon of their Annual Conference to discuss domestic violence, looking at both the psychology of domestic violence and the victims/survivors; and
- the issue of sexual assault was featured in a variety of forms during the Magistrates' Orientation Program.

It is fortunate that the Judicial Commission makes its training available to judicial officers outside New South Wales, and the Taskforce commends the Commission for the efforts that it has made in this area.

**Recommendation 49**

49.1 That the Supreme, District and Magistrates Courts ensure that issues of gender and cultural awareness are included in any annual conferences or judicial education programs that they administer.

49.2 That magistrates be provided with a jurisprudential allowance to ensure access to external training on these and other issues relevant to their work.

49.3 That the Government explore the possibility of establishing an organisation similar to the NSW Judicial Commission which has a statutory function of providing education (and evaluating its usefulness) to the judiciary and magistrates and provides a framework for the considering of complaints about the attitudes and behaviour of judges and magistrates (that is, matters that cannot be raised on appeal).

### **Others involved in the criminal justice system**

It is integral to the criminal justice system that the jury, drawn from the community, decides matters of fact, and ultimately guilt.

While the judge may have some opportunity to influence the way in which the jury considers the evidence in making its decision, the attitudes held by individual members of the jury may dramatically affect the outcome of court proceedings.

It is not only the juror's right, but his duty...to find the verdict according to his own best understanding, judgement, and conscience, though in direct opposition to the direction of the court

While it would be tempting to suggest that members of the jury should be provided with education in relation to equity issues, it is obviously impracticable to provide the level of education which would be necessary to correct any attitudes which individual jurors may hold.

In any event, members of the jury represent, and are drawn from, the general community. This highlights the need for broad community education campaigns as discussed earlier in this Chapter.

The Taskforce also notes the need to address the general lack of understanding by the community about the way in which the criminal justice system functions. For example, it is clear that many people do not understand the implications of being a witness. Fear of the court process may also prevent people becoming involved in the criminal justice system at all.

There is also what is sometimes referred to as the "legal mystique" - the obscure rituals, language and practices of the law - which in the past has kept the public in the dark. These days, though, it is largely accepted that the system needs to be accessible to the public, and members of the public need to understand how the system works.

### **Recommendation 50**

The Government should develop more effective strategies to increase community awareness of the courts and the legal system.

## **PART 5: THE ROLE OF THE MEDIA**

The media plays a significant role in the development of community attitudes towards women. The role that the media plays in perpetuating stereotypes was raised frequently in consultations.

The media tends to ignore cases of sexual violence involving women who know their assailant/s. Instead the media sensationalises crimes involving an unknown offender(s)

The stereotyped portrayal of women by the media can have a major impact on the treatment women receive from the criminal justice system, particularly in cases involving sexual assault and domestic violence.

. . . the mass media have a central role in the formation of 'commonsense' understandings about contemporary life, and the role of women. . .  
%5BThese%5D 'commonsense' perceptions of women are based on stereotyped views, which do not accord with the reality of women's lives. %5BThey%5D can play a role in the adjudication of cases (a) through the operation of the laws of evidence, including the doctrine of judicial notice (which enables facts in issue to be held as proved, without formal evidence being tendered); or (b) more generally, by influencing attitudes of judges and others towards women as witnesses and participants in cases. The media-reinforced stereotypes may become the 'facts' which are adopted in the decision-making, or become the norm of behaviour against which particular women are assessed.

Of particular concern is the portrayal of women from non-English speaking backgrounds. In submissions to the ALRC made by groups representing women from non-English speaking backgrounds it was argued that whilst both women and men from a non-English speaking background are often trivialised in the media, this media stereotyping particularly harms women. For example, Asian women are often stereotyped as mail order brides or as prostitutes; and more generally, non-English speaking background women are portrayed as mothers, wives, domestic cleaners and sex objects.

The Taskforce believes that the media could play an essential role in addressing the stereotypes and attitudes that affect women's experiences in accessing criminal justice.

The starting point is the balanced and responsible reporting of issues:

It is pretty clear that the media reports events in a manner that suits them rather than just reporting the facts.

While freedom of speech and freedom of the press are important, it is also important that people accused of criminal offences receive fair trials, and are not 'tried by the media'. The right of an accused person to a fair trial can be prejudiced if there has been significant and/or sensationalist media coverage of the alleged crime. Media reporting can also affect the rehabilitation of a person who is found guilty of a crime.

Sensationalist media coverage, not only affects the accused person, but the victim and the victim's family. Such media coverage can heighten the impact of the crime on the victim, and reduce the ability of the victim to rehabilitate. The effects of such media coverage can extend long after a trial has finished, and whether or not a person has been found guilty or not guilty of the crime. The rights of families, victims and communities are not considered and when stories

resurface at a later date, these people are again unacceptably exposed to public scrutiny.

Where it is alleged that sexual offences have been committed, there is a prohibition on the publication of information, which will lead to the identification of the victim. Extending this prohibition on publication to a wider range of offences, at least until the accused's guilt has been determined, could help reduce the negative impact that media coverage may have on victims and accused persons, without undermining the important role the media can play in deterring crime.

Women may also be concerned about the risk that very personal matters may be dealt with in the press:

There should be no identification of the victim. The media needs to recognise the right to privacy. The victim's choice should be respected. There should be no harassing of the victim to disclose more. There should be more accountability and a process to make complaints.

Other issues raised with the Taskforce included the publication of the names of victims before the family has been advised, and the lack of sensitivity for women's privacy, for example, the practice of filming women as they leave the court.

Radio and television stations are regulated by the Australian Broadcasting Authority, established by the Broadcasting Services Act 1992.

In general, radio and television stations operate under a system of industry developed codes of practice. While the Taskforce has not had the opportunity to examine these in depth, it would appear that these codes deal appropriately with several of the matters raised.

By way of example, the code of practice for television news and current affairs programs is dealt with in section 4 of the Commercial Television Code of Practice. The code states:

#### **News and Current Affairs Programs**

2.3 In Broadcasting news and current affairs programs, licensees:

2.3.1 Must not use material relating to a person's personal or private affairs, or which invades an individual's privacy, other than where there is an identifiable public interest for the material to be broadcast;...

2.3.1 Must take all reasonable steps to ensure that murder and accident victims are not identified directly or, where practicable, indirectly before their immediate families are notified by the authorities....

The print media is self-regulated by the Australian Press Council (the APC), which is funded by the newspaper and magazine industries. The APC's authority rests on the willingness of publishers and editors to voluntarily adhere to its ethical standards.

The APC's Statement of Principles includes:

3. Readers of publications are entitled to have news and comment presented to them honestly and fairly, and with respect for the privacy and sensibilities of individuals. However, the right to privacy should not prevent publication of matters of public record or obvious or significant public interest...."

5. A publication is justified in strongly advocating its own views on controversial topics provided that it treats its readers fairly by:

- Making fact and opinion clearly distinguishable;
- Not misrepresenting or suppressing relevant facts;
- Not distorting the facts in text, headlines, pictures, billboards or posters...

From time to time, the APC issues general guidelines on how the press should report certain matters. It has issued two guidelines relevant to the issue of the publication of names and details of criminal matters.

Its General Press Release No. 50 supports the suppression of the name of a victim/survivor of a rape during her lifetime, and the names of children involved in lower and Family Court proceedings whether as parties or witnesses. However, its general view is that:

...in the absence of exceptional circumstances, the Public has the right to be informed as to the names of persons appearing before the courts, especially in criminal matters. This is, generally speaking, in the interest of the parties as well as the proper administration of justice....the powers and procedure concerning the suppression of names in court hearings should be the matter of precise statutory provisions. Where a discretion to suppress exists, there should always be a presumption that publication would be in the public interest

The Taskforce considers that there is a need for guidance for the print media in relation to the way in which it represents issues related to crimes of violence against women, and, in particular, issues relating to the effects of domestic violence.

The Taskforce also believes that there should be a presumption that it is contrary to the public interest for information to be published which is likely to identify the complainant of any form of sexual violence. This would extend to those circumstances in which the naming of the accused and the circumstances of the alleged offence may lead to the identification of a victim who is, for example, a lineal descendent of the accused. While protection is provided in most circumstances by the provisions of the Criminal Law (Sexual Offences) Act 1978, it is desirable that the print media include protection in its own guidelines.

The Taskforce notes that neither the guidelines issued by the APC nor the codes of practice for the electronic media appear to deal adequately with the issue of the portrayal of women.

An excellent example of the sort of guidelines which could usefully be issued are those issued by the BBC to its producers:

## **Chapter 6 - Violence**

### **3.4 Violence Against Women**

Violence against women in drama should not encourage the notion that women

are to be exploited or degraded through violence or are, other than exceptionally, willing victims of violence. Rape is nothing but a tragedy for its victim and it would be wrong to suggest otherwise.

Violence against women should not be portrayed as an erotic experience. Where in rare cases, a link between violence and sexual gratification is explored as a serious theme in drama, any depiction must be justified by its context and not simply designed to arouse.

Similar sensitivities apply to violence against children.

## **Chapter 8 - Portrayal**

### **3. Women**

Women form the majority of the population in the UK (51.6% - 1991 Census). In spite of laws and changing attitudes women are still discriminated against in some respects and are often under-represented in programmes.

Use of non-sexist language is one way to avoid perpetuating the impression that certain activities are the preserve of one sex only.

For many words which refer to a time when women were barred from many types of work (busmen, policemen, taxmen, newsmen, manning) there are comfortable alternatives which are not sexist (bus-drivers, police officers, tax inspectors, journalists, staffing).

Some people are uncomfortable at the use of some non-sexist terms. It is always possible to re-write a sentence to avoid both sexism and political correctness. However, we should respect people's wishes about how we refer to them. If someone calls himself or herself the "Chair" of an organisation it is not for us to make them Chairman or Chairwoman

### **Recommendation 51**

51.1 That Government liaise with the Australian Press Council in relation to the establishment of clear guidelines for the publication of material in relation to crimes of violence against women, taking into account the view of the Taskforce that:

- in general, it is not in the public interest to publish details of a persons private affairs;
- in circumstances where a persons private affairs are identified, the onus should be on the publication to establish the way in which this is in the public interest;
- there is a high public interest in the fair and accurate reporting of issues relating to gender issues, and, in particular, domestic violence.

51.2 That Government actively monitor the way in which the press deals with these issues, and make complaints to either the Australian Press Council or the Australian Broadcasting Authority when appropriate.

51.3 That Government monitor the content of both the print and electronic media with a view to examine the question of any imbalances in the reporting of issues.

51.4 That Government liaise with the Australian Broadcasting Authority and the Australian Press Council about the inclusion of information about the portrayal of women and violence against women in industry codes of practice and guidelines.

51.5 That Government develop a media education initiative designed to combat stereotypes about women and the negative impact of the portrayal of violence against women.

51.6 That the Government liaise with relevant universities in relation to the inclusion of gender and other social context issues into the curriculum for undergraduate journalism students.

## **Attachment**

Information Provided by Education Queensland

Education Queensland Policies

Management of behaviour in a supportive school environment

### 1. Definition

1.1 The supportive school environment is one where (a) all members of the school community feel safe and are valued... (d) non-violent, non-coercive and non-discriminatory language and practices are defined, modelled and reinforced by all members of the school community...

### 2. Requirements

2.3 Social justice is the process of ensuring that educational outcomes for all students are maximised, taking full account of factors such as their location, gender, sexual identity, socioeconomic circumstances, ability, cultural background or any disability they may have.

2.3 ... Curriculum, interpersonal relationships and school organisational practices need to accommodate the diverse characteristics and experiences of students in a pluralistic society.

2.5 By providing a safe and supportive environment where non-violent, non-coercive and non-discriminatory language and behaviour are fostered and where expectations for all students are high, school communities reduce the educational impact of social disadvantage and empower participants to challenge inequity.

2.6 School communities must model and practise fair, equitable, non-discriminatory languages and behaviours and use safe and legal procedures.

### 3. Principles

Equity

3.2 The provision of an inclusive curriculum is an integral component of the supportive school environment. This involves recognising that curriculum design and delivery can exclude some groups through stereotyping, inappropriate expectations, racism and sexism, negative classroom interactions or failure to address barriers to participation and achievement.

#### 4. Requirements

##### Development of behaviour management plan

4.5 The plan...(b) clearly articulates an agreed code of behaviour based on the democratic values of respect, equality and concern for the welfare, rights and dignity of all members of the school community

##### Monitoring and review

4.6 The levels of truancy, absenteeism, violence, harassment, suspensions and exclusions should be monitored and documented, while taking particular note of gender and target groups ... in this documentation.

#### 6. Policy review and evaluation

6.3 As schooling is a major influence on all types of behaviours, systematic monitoring and reporting on trends is a responsibility of schools and the education system generally.

##### Gender equity in education

1.1 Education Queensland is committed to ensuring that all students regardless of sex receive a high quality education. Any aspect of schooling that leads to different educational outcomes for female and male students should be identified and addressed.

#### 2. Values and principles

2.1 ... Development and implementation of educational programs in schools should reflect the following shared educational values and principles: ... (f) Schooling will encourage the development of attitudes and behaviours in female and male students which promote social responsibility, empathy and sensitive, equal and non-violent relationships. (g) Schooling will ensure a supportive learning environment which discourages all forms of sexual harassment (verbal and physical).

##### Child protection

##### Accountabilities

This policy is based on the following principles: (a) Students must be protected from all forms of harm, including bullying, harassment and intimidation which is based on gender, culture or ethnicity, or on any impairment the person may have. (b) Education Queensland is to operate in cooperation with other relevant agencies and in partnership with educational communities in matters concerning child protection. (c) Employees must report all behaviours that can reasonably be considered harmful to students.

## Education Queensland Publications

"Enough's Enough: Sexual Harassment and Violence, A Resource Kit for Primary Schools" (Education Queensland, 1994). This kit is designed to describe the nature and impact of gendered violence, including sexual harassment, in primary schools. It describes processes used by schools to investigate issues of gendered violence in their communities.

"No Fear: a whole school approach towards creating a non-violent school community" (Commonwealth Department of Employment, Education and Training, 1995) This kit contains professional development and curriculum materials to support a whole school approach to exploring issues of violence, gender and power. A Primary and Secondary kit contains appropriate teaching and learning activities for teachers and students to work together investigating gender based violence.

"Bullying - No Way!: a Professional Development Resource for School Communities" (Education Queensland, 1998) This resource is designed for school communities to use as a professional development tool to raise awareness about bullying and to develop knowledge and understandings that guide preventive responses to these issues.

## Current Education Queensland Projects

### Boys, gender and schooling project

Ten schools are currently involved in action research projects in response to issues raised in their school communities related to boys, gender and schooling. Schools are investigating issues related to behaviour, participation, achievement and attitude of boys and girls to schooling. Many of these schools have collected and analysed data relating to gender based violence and are investigating strategies for addressing this issue.

### Boys, gender and schooling professional development modules

Six modules of professional development for educators examining issues relating to boys, gender and schooling. Encourages school community action research approach to investigating issues related to behaviour, participation, achievement and attitude of boys and girls to schooling.

### Eating disorders project

Publication of professional development program for educators examining issues related to eating and exercising disorders. This package examines the construction of gender and notions of femininity and masculinity.