

1986.1. Criminal Assault in the Home: social and legal responses to domestic violence.

Submitted 10 January 1986 to the Women's Policy Co-ordination Unit, Department of the Premier and Cabinet, Victoria [*but a submission date of August 1985 is mentioned in the Victorian Humanist, Aug. 1988: 3.] Published: Victorian Humanist, Feb. 1986: 10 – 13.* We regard criminal assault in the home as a particularly abhorrent crime and a grave social problem. The Royal Commission on Human Relationships reported that it is common in Australian society across lines of class, race and age. Severe and permanent physical damage often results, as well as psychological trauma. Its cost to the community is high. We therefore welcome public discussion of this problem, which hitherto the community has been reluctant to acknowledge openly. A subcommittee of HSV members with relevant expertise (social work, health care, psychology, general medical practice and law) participated in the following submission. We were impressed by the quality and depth of the discussion paper. Additional insights were obtained from the report of the Royal Commission on Human Relationships (1978) and Anne Deveson's book *Australians at Risk*. We comment on proposals and options as listed in the Summary Document.

Social and material resources for women in violent relationships

1. Information and Community Awareness

We support the proposals for extensive advertising campaigns through the mass media, milk cartons, local government venues etc., to inform women of their legal rights and available social supports. Likewise, extensive education programs for professionals and volunteers who have contact with women in violent domestic situations. But we propose, in addition, as a preventive measure, to include the problem of domestic violence into school curricula in the context of human relationships, a subject we believe should be essential rather than optional. This would seek to

- a) discuss realistically the failure and breakdown of relationships,
- b) present violence as criminal and unacceptable behaviour,
- c) indicate the need for self-dependence and economic and social alternatives for girls, [and]
- d) counteract the traditional socialisation of men to be dominant and aggressive, and women to be passive.

Violence and its acceptance is often the result of parental modelling. Schools must act to rectify it.

2. Women's Refuges and Emergency Accommodation.

We support the proposal to augment the existing Refuge Referral Service so that it can meet the demand for urgent assistance. Expansion of emergency accommodation should be given a high priority in view of the fact that at present only one third of women seeking such help can be assisted. We believe that women with psychiatric or addiction problems should utilise existing services for such needs. The creation of special refuges for these women would seem to be a duplication of these services.

3 & 4. Housing and Income

We believe the proposed reforms to public rental housing access would greatly assist the woman with children to live in safety and organise a new existence. A one-off financial assistance to establish a new household could be given where responsible money management can be expected. Otherwise the guidance of a social worker would be indicated.

5 & 6. Employment, Training and Education Access to employment for those with skills, and measures to enhance the employability of women who were not in the workforce before, are important long term remedies.

7. Advocacy Centre / Clearing House.

We particularly approve of this concept and the dual role such a centre would fulfil; the co-ordination and the overview of existing services and collection of information, as well as support and assistance given to women, particularly through legal proceedings. The victim undoubtedly should have priority to scarce resources. But we urge the establishment of counselling services for the offenders, in spite of low expectations of success. Perhaps in a group setting of assaulters discussing the problem and possible solutions, a counsellor could gain insight into their attitudes and give them guidance. The cost of such procedures would be lower than counselling on an individual basis and, at the very least, would provide a profile of the offender towards a greater understanding of the causes of domestic violence.

Legal issues

1. The Criminal Law, the Police and the Courts

As the law on criminal assault rightly does not make a distinction on the basis of relationship between assailant and victim, it should be enforced by the police and courts with equal vigour in cases of criminal assault of a spouse. Indeed we view an assault in the "sanctity of the home" as a particularly reprehensible act, given the pressures to keep the family together, the shame of disclosure, and the economic dependence.

It is therefore essential that the police lay charges of assault as is the norm in other cases of violence and not expect the victim to do so. The offender should be arrested. Such a practice would not only act as a deterrent, but would lessen the immediate danger to the victim. We urge that specific legislation, rather than guidelines or common law practice, be formulated to deal with domestic violence. We propose the creation of a special police squad to enforce this legislation. As in the case of the Drug or Vice Squads, such a unit would specialise in dealing with the unique aspects of this crime. It should be equipped with specially trained personnel who have the unequivocal right to enter and remain on private premises, to arrest, to lay charges and to prosecute. A well publicised (and easy to recall) telephone number would offer access to this service for victims, neighbours or witnesses of domestic violence.

The creation of such a task force would:

- a) demonstrate to the community at large that domestic violence is unacceptable,
- b) act as a deterrent and
- c) provide additional source of research material on this subject.

2. Compellability of Witnesses

We are in favour of changing the law so that women will have to give evidence in all domestic violence proceedings. Children as witnesses should be interviewed by trained family counsellors or psychologists, and not put in the witness box to testify against a parent.

3. Bail.

We favour option (b) i.e. the introduction of a *mandatory* "cooling off" period of 12 to 24 hours or longer. We do not regard the objection on the grounds of infringement of civil liberties as valid. Assaultants, we believe, can not expect to retain all civil freedoms.

4. Intervention Orders.

We strongly support this concept. In minor offences and as an alternative for those who are reluctant to involve the police, such orders would play an important positive role. They should not, however, operate in serious or repeated violence.

5. Other Legal Issues.

(a) Victims of domestic violence should have the same rights to compensation for injuries as other victims of criminal assault. (b) Rape in Marriage: Though the offence may not always be easy to prove, the law must be changed so that a man who rapes his wife is liable to prosecution. We regard this law reform as urgent.

(c) Homicide: The woman who kills her husband after years of being subjected to assaults should be able to plead self-defence and/or provocation in her defence. We urge the implementation of these rights, so far only recommended by the Victorian Law Reform Commission. [d] Access: Where violence is likely to continue after separation, supervised access to children should be organised

IN SUMMARY:

1. We state our attitude to this social problem.
 2. The preferred options are indicated; their choice justified.
 3. We propose the introduction of this subject into school curricula.
 4. We see the need for counselling the offenders. 5. We propose the creation of a specialised police squad to deal with criminal assault in the home.
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