Some studies also indicate that there is a longterm effect —-that childhood viewing of violence on television is related to more aggressive attitudes and behaviour in later life.

The acknowledged difficulty with all such studies, particularly experimental ones, is in excluding extraneous influences. Violence on television does not lead all children to exhibit violent or aggressive behaviour. There may be other factors operating, such as the nature of family relationships, which affect behaviour. However, studies done in natural settings, not in laboratories, do indicate some relationship. In that situation, one commentator has concluded that

> Television violence is as strongly correlated with aggressive behaviour as any other behavioural variable that has been measured (Murray, 17).

The nature of violence shown on television, and the variety of programs in which it appears, differ markedly. One type of program that appears to give rise to particular concerns is news and current affairs. The inquiry's terms of reference recognise the difficulty facing producers of such programs and the concerns about censorship. They require the inquiry to have regard to 'the media's responsibility to report events faithfully and accurately'. A question that arises here is whether a distinction should be made between violence shown in fictional programs, of whatever type, and violence shown in news and current affairs programs. One member of the inquiry, Mr George Negus, is reported as saying

> I am particularly concerned with the difference between actual violence and dramatically constructed, artificial violence on television (*SMH* 7 September 1988).

The subject of dramatised violence was also raised in a recent article by Dr Paul Wilson, Assistant Director (Research and Statistics), Australian Institute of Criminology ('Crime, Violence and the Media in the Future' *Media Information Australia* August 1988, 53). Dr Wilson noted that, in a study of the content of video material, it was found that R, M and PG-rated videos

> contained relatively frequent and relatively severe depictions of aggressive activity. Much of this violence is readily accessible to young people under the age of 18. These findings ... reflect the degree to which our society accepts aggression and the degree to which it is willing to expose its young people to film violence ... though exposure to media violence has not be proven to be a *direct* cause of violent behaviour, there appears to be enough evidence of its harmful effects to warrant real concern (id, 54).

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medical treatment for minors

> Accidents will happen in the best-regulated families.
>
> Charles Dickens, *David Copperfield*

advice on contraception. Often when children's medical treatment is the issue, discussion revolves on whether young women should make their own choices about pregnancy and contraception. The leading British case, *Gillick v West Norfolk and Wisbech Area Health Authority* (1985), features Mrs Gillick's attempt to prevent doctors in government clinics from giving contraceptive advice and treatment to any of her daughters under 16 (the age at which, by legislation they could authorise their own treatment).

Mrs Gillick finally lost her battle. The majority of the House of Lords decided that children under 16 could consent to some medical treatment, and specifically that women under 16 could consent to their own contraception advice and treatment. According to Lord Scarman, a child who has sufficient intelligence and understanding to understand fully what the decision involves can consent to the treatment and the parent's rights to control or restrain the treatment come to an end.

The *Gillick* decision suggested that a child's capacity to take responsibility for decisions about medical treatment depends on the child's 'maturity'. This could have wider implications than for medical treatment alone. For example, would it follow that if a child were 'mature' enough to make a particular choice about medical treatment all parental control over that child would disappear, for other purposes? Is 'maturity' a global concept which, once achived, means that parents lose all their rights? If not, does 'maturity' relate only to the particular medical decision to be made? If so, how is this different from 'informed consent'? Does the idea of a child's 'best interests' have any role to play?

discussion paper issued. The Western Australian Law Reform Commission (WALRC) has recently issued a discussion paper *Medical Treatment for Minors.* The emphasis of the DP is on the common law right of children to exercise autonomy over their own lives. The common law requires that anyone claiming authority over a child exercise that authority only so far as it is necessary. A 'mature' child can make decisions for him or herself. Parental authority 'dwindles' with maturity. It follows that the adult should inquire into the state of a particular child's maturity at the point where every significant decision is taken, or risk acting beyond authority. Most adults do nothing of the sort. The issue becomes clearer where third parties are asked to deal with children without parental involvement.

The WALRC suggests a statutory scheme.

- Children of 16 or more should have the statutory right to authorise their own medical treatment just as if they were of full age. This in itself is no answer to the difficulties doctors, children and parents experience, though many jurisdictions already recognise this 'de facto' age of consent to medical treatment.
- The statutory scheme should also expressly preserve the common law right of any child under 16 to consent to medical treatment if they are 'mature' – that is, if they understand the nature and implications of the proposed treatment.
- But the Commission suggests that a child of 13 or more should be statutorily presumed to be sufficiently mature to consent to his or her own medical treatment. A child under that age would have to satisfy a maturity test, with no presumption of maturity.

These proposals would not help children who might not be mature but have a need for medical treatment without parental consent – children with special problems such as substance abuse or victims of family crime such as assault or sexual abuse, or whose lifestyles expose them to serious risk. A requirement that parents be involved could be a major disincentive to their looking for, or obtaining, appropriate and timely medical help.

For these children, the WALRC suggests that doctors who treat them, without parental consent but with the child's assent, should not be liable to any criminal sanction or to any action based on the child's lack of capacity to consent if the doctor reasonably believed the child was mature, or the treatment was necessary to deal with a serious threat to the life or health of the child.

Should these rules apply differently in particular cases, such as specific health risks (drug or substance abuse, sexual promiscuity?) or specific medical procedures (sterilisation, 'heroic' or unorthodox medical treatments)?

Should doctors keep their child client's confidences? The WALRC suggests they should if the child is 'mature' or if the doctor believed the child's health needs require it be kept even if not 'mature'.

What about dying or badly handicapped babies or very young children? There is no question of such children making their own decision, and if they are not 'dying' then who should given consent to their treatment? Often the parents are in no emotional state to

make these decisions themselves. The paper does not offer any easy answers to these questions but poses them in a clear and challenging way.

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odds and ends

■ *guardianship and management of property.* The Attorney-General has given the ALRC a reference on guardianship and management of property. The reference requires the Commission to look into the needs of persons in the Australian Capital Territory who are incapable of managing their personal affairs or of managing their property due to such causes as disease, mental illness, intellectual impairment, brain damage, other physical injury or disability, senility or the effects of a drug. The ALRC has been asked to look into the desirability of new legislation and procedures and to draft such legislation if it considers it is necessary.

■ *defamation law.* The New Zealand Parliament is currently considering a Defamation Bill which the *New Zealand Herald* described on 29 August 1988 as too conservative. The newspaper's editorial said the Bill does not go far enough in correcting the imbalance currently favouring protection of reputation rather than freedom of speech. It also criticises the Bill's centrepiece – 'a recommended new statutory defamation defence for the so-called "news media" alone.' It concluded by saying 'there are good arguments for greater liberalisation than the Bill embodies. Fortunately there is still time for them to be heeded.' The Bill follows 13 years after a previous Labor government commissioned a committee to look at defamation laws in New Zealand. The current Bill is broadly based on the 1977 Report of that committee. Meanwhile the ALRC Report *Unfair Publication: Defamation and Privacy* (ALRC11) which was under consideration by the SCAG has been removed from the Agenda of that body. That Report has recently been reprinted due to public demand and is available from Australian Government Publishing Service Bookshops around Australia. The price of the Report is $24.95.

● *criminal defamation.* The New South Wales Government has introduced legislation that would restrict the opportunity for criminal defamation proceedings. Under the Defamation (Criminal Defamation) Amendment Bill, proceedings for criminal defamation can be commenced only with the consent of the Attorney-General. Introducing the Bill the Attorney-General, Mr Dowd, noted that, before the enactment of the Defamation Act 1974 (NSW), criminal defamation proceedings could be commenced only with the leave of a judge of the Supreme Court or District Court. Since then, however, no permission has been required. He also noted that in recent proceedings for criminal defamation

> there was criticism of the lack of any discretion to prosecute prior to the commencement of proceedings. The essence of that criticism was that this is an area of the law that requires, perhaps more than any other, the responsible exercise of prosecutorial discretion because of the manner in which criminal sanctions for defamation impinge on the right of free speech. The Government believes that the right of free speech should not be absolute, but any limitation by way of criminal prosecution can be justified only if it is invoked for the protection of the community as a whole ... A requirement that the Attorney-General's consent be obtained prior to the commencement of proceedings will restore this very necessary discretion, which will safeguard the public interest in preventing abuse of this type of prosecution ... I propose that in practice the prosecutorial discretion will be exercised by the Director of Public Prosecutions on my behalf. This delegation of authority is consistent with existing discretions vested in the Director of Public Prosecutions. The key criticism of the very existence of the offence of criminal defamation has been that it has the potential for abuse by the government of the day as a political weapon to suppress dissent. By reposing the discretion in the Director of Public Prosecutions, this