

Speech at the Soroptimist International Brisbane Club Breakfast Fundraiser: ‘Answer the Call from Women Experiencing Domestic Violence’

Pullman Hotel, Brisbane, 4 September 2015

Thank you for the kind invitation to speak to you today. May I first acknowledge the traditional custodians of the land on which we meet and pay my respects to their elders, past and present. I am sure we are a part of a long tradition of women, old and wise, young and full of ideas, meeting in this place to discuss and address these issues in their communities.

In some ways, the status of women has improved substantially in the last several decades. For example, it is no longer the case that women are considered the property of men, nor may a husband rape his wife simply on the basis that a marital relationship exists.¹ Complainants of sexual assault – far more likely than not to be female² – may not be questioned as to their sexual history or activities,³ nor may their evidence be deemed unreliable *prima facie* in the absence of corroboration.⁴ The law is now capable of dealing in a more nuanced manner with the situation of a woman who kills her violent partner – usually a man – to preserve her life,⁵ while the ending of a relationship can no longer be considered provocation that will downgrade a charge of murder to manslaughter.⁶

All of these steps are commendable; yet the immense problem of domestic violence continues to blight Queensland and, more broadly, Australia. The problem is certainly not becoming any less severe, as demonstrated by the impending trial of specialist domestic and family violence courts first in Southport and then across the State. This is just one of the many recommendations made in the Report of the Special Taskforce on Domestic Violence led by Dame Quentin Bryce. The existence of bipartisan support for a State-wide approach to dealing with domestic violence attests to the seriousness of the matter.

It cannot be denied that domestic violence is a gendered issue. For example, one of the most telling statistics cited in the Special Taskforce Report is that, while one in 19 men had experienced physical or sexual violence from a current or former partner since the age of 15, the figure for women was one in six.⁷ Further, of the 102 deaths in Queensland between 2006 and 2013 that occurred as a result of intimate partner violence, 79.41%, or 81 women, were killed by a current or former male partner.⁸

“Why don’t they just leave?” is a question often posed by those who have no personal experience of domestic violence. The answer is, for many reasons. One can talk of the unequal economic status of women leading to financial dependence, their function as primary

¹ See *Criminal Code, Evidence Act and other Acts Amendment Act 1989* (Qld) s 31, as referred to by Bell J in *PGA v The Queen* (2012) 245 CLR 355 at [176] fn 358.

² According to the Australian Bureau of Statistics, in the 12 months to the completion of its 2012 survey, 1.2% of all Australian women experienced sexual violence, as compared with .5% of men. At the same time, 19% of women had experienced sexual violence since the age of 15, as compared with 4.5% of men: ‘Measuring the Prevalence of Violence’, Personal Safety, Australia, 2012, cat. no. 4906.0, ABS, Canberra, 2013.

³ *Criminal Law (Sexual Offences) Act 1978* (Qld) s 4.

⁴ *Criminal Code* (Qld) s 632, as amended in 1997.

⁵ See *Criminal Code* (Qld) s 304B.

⁶ See *Criminal Code* (Qld) s 304(3).

⁷ *Not Now, Not Ever: Report of the Special Taskforce on Domestic Violence* (‘Special Taskforce Report’), 74, citing Australian Bureau of Statistics, ‘Actions Taken in Response to Partner Violence’, Personal Safety, Australia, 2012, cat. no. 4906.0, ABS, Canberra, 2013.

⁸ Of the remainder, three men were killed by their male intimate partner and, it is deduced, 18 men were killed by a female intimate partner: *ibid* 76.

caregivers in many families, and stereotyping as to the familial role of women that engenders shame at the thought of breaking up, rather than binding together, the family unit. Indeed, those issues in the context of domestic violence represent broader questions about how women are viewed and valued in society. But first and foremost, women put their lives at risk by trying to leave relationships of violence. For some, there is a morbid calculus of risk between staying to endure ongoing abuse, and facing the ire of a man scorned.

In the last three years, I have dealt with at least two cases of men responding to the attempted departure of their partner – women whom they supposedly loved – with such violence as to kill one and leave the other with horrendous injuries from which she will never recover. In the first, the offender commenced beating his wife with a golf club and, when it snapped from the force of the impact, stabbed her thirty-two times with the broken handle. He claimed to have been provoked by the deceased saying to him that his children either hated or did not deserve him; telling the children to pack their suitcases; and saying “you want to be a big f***ing man now” when he first brandished the golf club. In reaching their verdict of guilty of murder, the jury plainly considered that the allegedly provocative conduct either did not give rise to the offender’s conduct, or was not sufficient to cause a reasonable person to react as the offender did. As both the sentencing remarks and judgment on appeal show, the attack was both savage and premeditated: the offender had stated to several acquaintances in the context of previous separations that he would kill the deceased if she ever tried to leave him again.

The other matter involved a man who went to his partner’s house following her decision to end their relationship, having discovered his deceit. It took the intervention of her two daughters, a boarder and finally a next door neighbour to end the offender’s vicious onslaught of blows with a baseball bat. In sentencing for the attempted murder, it took me an entire page to sum up the victim’s injuries. Her life was only saved by the speedy intervention of emergency medical officers. As I stated in the sentencing remarks,

“It must be clear that a woman is entitled to end a relationship without having violence inflicted upon her. It is important to denounce the behaviour that you engaged in and to punish it, to deter you and people like you from thinking that that is a possible outcome of her decision, which she was entitled to make, to end the relationship with you”.⁹

I repeat those comments here today to reaffirm the right of every woman to choose how and with whom she spends her life.

Although we are here today to talk about women, it must not be forgotten that children are unwitting and particularly vulnerable victims of domestic violence as well. In both of the cases to which I have referred, the attacks were carried out in the presence of children. It is fundamentally important that children, too, receive independent support to address the impacts of domestic violence. This is so whether they are affected directly or indirectly by abuse, both for the wellbeing of the individual children and to break the intergenerational cycle of domestic violence.

We must also recognise the diversity of the women who experience domestic violence. They are young and old; they are from cities, regional towns, and rural and remote locations; some have disability, others do not; they are from diverse linguistic and cultural backgrounds; some

⁹ *R v Cable*, unreported, 14 April 2014.

are educated and employed, others are not; they have many other characteristics besides. These characteristics affect how they experience and cope with domestic violence, and what resources are required to assist them.

As the Special Taskforce Report showed, change is the responsibility of the entire community. These women are our mothers, daughters, sisters and friends. It is true that domestic violence affects everyone, insofar as it has an impact on family dynamics and, more broadly, social cohesion. But the point is that domestic violence affects *someone* – someone whose physical safety is at risk where it should be most secure. It is primarily for those individuals that change must occur.

The two men whose cases I have discussed are now in prison. Whether they will be rehabilitated is yet to be seen. Unfortunately, as the statistics show, there are many others like them. Of course, there are many men who are not. In these cases, however, domestic violence was an extreme manifestation of attitudes towards women as being lesser than men; as lacking independence and therefore freedom of choice; and as having only instrumental, rather than inherent, worth.

We must certainly focus on the frontline, protecting women whose lives are at risk, but for domestic violence to end, these attitudes must also change. I commend the Women's Legal Service for the work that it does in both respects, through systemic advocacy and working with individual clients. The provision of a new helpline can only enhance the invaluable assistance the WLS gives to women in crisis, and as a community, we must continue to support such truly vital efforts to eradicate domestic violence.

Justice Roslyn Atkinson AO

4 September 2015