

Broken promises

Patricia Easteal

Violence against immigrant women in the home.



Violence in the home is probably the most horrific sort of violence. We laugh about it. We talk about the horrors of war but not hitting in your own private home . . . I wouldn't feel safe if our country was attacked by another one but I think I would feel safer than if you feel threatened that you will be hit or be killed by someone you live with and share your life with. [Marguerite, migrated from France with her Spanish husband]

Many who marry undoubtedly cherish hopes for the future. For some, these images may be based on novels, television or other fictional portrayals of married life, and not be derived from a realistic framework. Whether oriented in realism or fantasy, it is certainly doubtful that any woman's dream of marriage or intimacy includes being kicked, shoved, slapped or punched by her partner. She also doesn't imagine being raped by him. Nor does that dream involve her being called a hopeless slut and other terms and language that we would define as verbal abuse. She doesn't picture herself being held a virtual prisoner controlled by financial or economic violence.

Refugees who are fleeing from persecution also have hopes for a new life in Australia; an existence without the violence, repression or lack of liberties that have propelled them to a new land. There are others who migrate 'down under' because of the desire for something better, a need to start over somewhere else, or by a multitude of push and pull factors that culminate in a global human maelstrom of movement. The migrant or refugee woman's dream of life in Australia does not, one thinks, involve the violence, suppression, and lack of liberties and human rights that she will experience if she is subjected to violence in the home.

The violation of her rights may be replicated in her experiences with government agencies and service providers or by her failure to access assistance. Successful support and policies dealing with immigrant survivors of marital violence need to be constructed upon an empirical foundation. Given the covert nature of violence against women, and quite possibly even greater secrecy within migrant communities,¹ how do we gather such knowledge? *Shattered Dreams*,² the book from which the following article is drawn, represents part of the answer. Its principal objectives are to enable more understanding about 'domestic' violence in general and to highlight the unique experiences of the overseas-born.

How was the study done?

- Over 800 victim surveys were completed by legal aid staff for domestic violence clients throughout Australia and by refuge residents in the ACT, NSW, Queensland, South Australia and Victoria.
- Three other surveys gathered the views of nearly 400 legal aid practitioners and ethnic welfare agency staff in all States and Territories and refuge workers in the ACT, NSW, Queensland, South Australia and Victoria.

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Information on a total of 3061 'domestic' calls was collected from police in all States except for Western Australia and Queensland.

21 survivors provided life histories through in-depth interviews.

With unknowns excluded, over four-fifths of the callers to police were Australian-born while one quarter of the victims in the legal aid sample had been born overseas. A higher proportion of refuge residents were migrants (58.7%), which may reflect, at least in part, which refuges chose to participate in the research. Nevertheless it would appear that more immigrant women go to legal aid or to refuges than to the police. And, their fairly high representation at those agencies should be interpreted in light of the lack of knowledge about legal and refuge services among many migrants. Those women who have accessed help may therefore represent only the tip of the iceberg.

Living in violence — immigrant and Australian-born

The dynamics in violent marriages, gleaned from survivors and workers, is the same, whether the women are Australian-born or overseas-born. The most pervasive image is that of isolation. Even if the women understand English and the legal and social service systems, they still become emotionally cut off from friends and family while some are secluded in their homes. Safia migrated from Turkey as a child; her marriage was arranged with another Turkish immigrant. Her description of going to a shop after she moved away from her husband, provides a dramatic insight into how total the captivity may be.

... I went to a milk bar and bought a packet of bread and I gave them one dollar. The shopkeeper kept on staring at me. He didn't put the money in the money thing and he kept looking at me. He said to me, 'Where is the rest of the money?' I said, 'How much is the bread?' He said, 'Where have you been, lady? It's a \$1.75.' I was so embarrassed. I left the packet of bread. I said to him I'd be back in a minute. I went home and got another dollar and came back and paid the man the money.

Both within the family and outside, the violence is generally not discussed. Not talking is the effect of numerous factors including the women's own feelings of responsibility for the abuse and the idea that such violence is no longer exceptional but just a normal part of what has become an abnormal reality.

How does this happen?

Picture assault within the home as centring around control — the male's desire to dominate his partner. Accordingly, different manifestations of this power quest appear. Starting with seemingly innocuous incidents that often involve jealousy, it culminates in treatment both as a possession and as a hostage and the erosion of the victim's self-esteem. As in Safia's experience:

He did everything very slowly. You get used to everything very slowly. One day you will be taught that he does not like the way your jeans are — either too loose or too tight — or no jeans at all. You don't like it but you say to yourself, 'Is wearing jeans more important than my marriage?' If you put both of them on a scale to have them weighed, of course your marriage is heavier, so you change that.

He doesn't like the way you dye your hair or the colour of your hair or don't wear makeup — every day it's one thing. When visitors come or you've gone to visit someone, the way you sit down, the way you stand up, the way you talked. When you come

back home or when the visitors go, he'll be at you: 'Stop talking and talking'. Or if you refused or disagreed or something like that, you'll get beaten up. So you listen. You don't say anything. You just listen.

And after a while, you will be looking into the mirror and you will not recognise who you are. The person you see reflected in the mirror is not you and you don't even know how this has happened because it is such a slow process. And then you just can't get out of it. You realise you're stuck. He has done it to you so slowly from the beginning. If he tells you he doesn't want you wearing jeans: 'I don't want you wearing jeans'. If straight away you did something about it, because at that time you are strong enough to do something about it really but you don't. You don't realise these things; it's okay, it doesn't mean that he is going to be possessive, he's going to be violent — you don't think. From the beginning he really does tell you what he is like, but you refuse to believe, refuse to see.

Melina, a Greek woman who migrated with her husband when she was just 17, believes that the emotional violence was worse than the physical.

Sometimes I would tell my husband to hit me rather than keep on that indirect manipulation that no one could see because I was the crazy one in the whole situation. No one could see that form of abuse. I would rather have that broken nose because at least I can show it.

Emotional violence was frequently followed by physical assault and then, they would be enacted concurrently. The following excerpt from Noraika's story dramatically depicts this coupling of physical hurt and insult. She had married her Australian husband in Malaysia, moved to Australia and found herself isolated in the bush.

We were on a property once and an Italian woman taught me how to make spaghetti bolognaise. I thought this was great and so I made it one night when it was very cold and he came home from the pub . . . Anyway, he came home and I served him the meal and he looked at it blurry-eyed and said, 'What is this wog food?'

He got up and it was all kept hot — I waited up for him, the children were all in bed — he picked up the plate — I'll never forget it — and walked towards me and I thought he was going to throw it out and he tipped the whole lot on my head. I had very long hair and we didn't have housing with hot water and we had to boil the copper outside, carry the water inside. I was washing my hair until about twelve and drying it until about one in the morning and cleaning the kitchen while he went off to sleep.

Two thirds of the legal aid cases and three quarters of refuge cases involved physical injuries. Thu, a Chinese-Vietnamese woman, who migrated with her Vietnamese husband, describes the onset of violence in her marriage.

The first time he hit me he was so drunk and I was about eight months pregnant . . . He hit me many times. Usually he grabbed my hair and pushed me to the wall. One time he broke a beer bottle and said he was going to kill me.

Francesca's Australian-born partner also became even more violent during her pregnancy. She was the child of Italian immigrants.

And then I fell pregnant. I was trapped. I had all his family around me. We moved while I was pregnant. I thought things would be better when we moved but he only got worse. He'd bash me really hard. A few times he knocked me unconscious. He used to hit me in the stomach. One time he threw me down the stairs.

For many survivors, one specific physical act of violence experienced was rape. Some women didn't define or see the

sexual acts perpetrated by their partner without their consent as violence while others minimised the impact. Susanne, who came to Australia from France as a baby explains how it can take place.

I was doing things to please him even though I didn't feel good about it but I thought I knew why — because I'd been abused. So in that sense, no, I don't think I knew any better. He only did what he could. I don't think sexually he really abused me; it was just the fact that he didn't understand maybe.

I wouldn't tell him I didn't want to because I thought it was because of my abuse. I didn't understand that no meant no. A lot of my problems — I wasn't allowed to say no to anyone, even when I didn't like things, because I felt that because my life had been pretty hard I could deal with practically anything.

Melina says that her husband also didn't see himself as a rapist, just as a husband.

He wasn't the typical bashing guy. Normally people classify abuse as when you are being punched in the face or in the gut. His abuse was more subtle. It was over a long period of time. For me it looked like a big mountain of abuse that I just wanted to get away from. It was things like sexual abuse. But he didn't see it as abuse because I was his wife and his property and I had to submit to his pleasure whenever he wanted it. If I didn't, then I'd be pushed and pulled around but that was 'normal', that was 'okay'. I've come out of it with a bit of bruising but that's 'all right, it's a part of sex play'.

For Safia, anal rape was the final straw.

Straight away — he's your husband and you're his wife and whenever he wants to have sex with you, you would do it. You don't have to even enjoy it — as long as they enjoy it. I would say that I was raped by him. My husband believes that God created women for men's pleasure. It's very embarrassing to say this but every part of your body belongs to him. There is a normal way of having sex with a man through the vagina. One day I was beaten up very badly and I fell on my face and he raped me, but from behind, not through the vagina. I have never been able to say this to anybody in my life because it is so degrading. I feel so small, so down. That was the only reason that I took my child and went away. I could put up with everything. I could put up with being beaten up. I put up with every abuse but I cannot put with the way that I got raped. That was the last blow for me.

In addition to other expressions of power, some husbands took absolute control of the finances. This economic violence may be more common among immigrants, especially in cases where the women don't have knowledge about their rights to family allowance or social security payments. The next two women, both sponsored from the Philippines, describe their total economic dependency on the violent partner. First, Maria:

I just only know now that I have family allowance for children and I didn't know. He didn't tell me that I was getting a family allowance . . . I'm just signing. I don't know that it is the family allowance for the kids. He puts it in his account and I don't have absolutely any money in my pocket. Sometimes I want to buy something for the kids. Luckily I brought all my clothes from the Philippines because if not, my God, I'd be naked because I cannot buy myself anything.

And, Rosa:

Then after that — a week, a week, a week — every time we went shopping he said to me [he didn't give me money anymore] 'The boss is the man. I told you before in the Philippines' . . . So I said it was no good and I had to talk to him. He said, 'No, if you want, I can give you \$15.00 as your allowance for the fortnight. That's your budget for yourself.'

I'm like a robot. He said to me, 'If you cook, don't cook one kilo of chicken wings. Cook only just a half a kilo of chicken wings. What do you expect?' The children are very innocent. They come from the province. They say, 'That's enough, two wings for one child and rice. And he is eating ice cream in front of my children. He doesn't want to give them ice cream.'

Abuse toward the children does often coexist with violence against the woman in the house. Among the refugee sample, children were direct victims in 59% of the cases (with known information). They were witnesses in more than four-fifths of the families. Melita, who came to Australia as a young adult and married another Maltese here, describes his abuse of their children.

So he was continuously shouting at the kids and bashing them up. He was physically violent towards the kids. One of the boys got these shoes with spikes. He hit one of the boys with that. That was about two years ago.

Rosa discovered that her husband had been assaulting their baby since she was a newborn:

And then in the night after we had been fighting, I was washing the dishes. I cleaned the kitchen. He is the one to look after the baby, my daughter, and she is only six months old at that time. And then I was just washing the dishes and the baby was screaming a lot, non-stop. I asked what had happened. He said, 'I don't know what I'm doing'. So I grabbed Linda and I held her to stop her and then I found out she could not move her hand and she cannot put it up — because when the baby is crying she is moving a lot. I found out that she had broken bones in the wrist. He was squeezing.

Contributing factors

The tragedy of violence repeating from generation to generation was illustrated by a number of the women who had experienced abuse in their own childhoods. In addition, some survivors specifically mentioned their violent partner's own traumatic childhood and their belief that it had somehow contributed to his violence.

In the context of contributors, what part, if any, does alcohol play? More than half of the police calls (with unknowns excluded) and legal aid cases involved an alcohol affected perpetrator; likelihood increased in the evening and night-time. Cultural heterogeneity was evident with offenders from areas such as the Middle East, Asia, Africa and Latin America more apt to be sober. Victims were far less likely to be under the influence although the likelihood increased if the offender was drinking.

Forty per cent of the refugee residents believed that the offender's alcohol consumption played a contributory role in his violence.

He gets drunk very often and it occurred when he was drunk because he was good other times. [El Salvadoran survivor, age 42]

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Often he would drink and get drunk with his friends, and become abusive in front of them and hit me when they left if I said anything. [Greek survivor, age 56]

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He's always violent but when he was drunk he became worse. [Vietnamese survivor, age 40]

Rajendra, a Fijian Indian who migrated to Australia as an adult and married an Eastern European migrant, describes how drunkenness and unemployment were intertwined in her husband's life, along with his violence:

He lost a few jobs because of his drinking . . . They only last for a couple of years. He gets the sack in direct relation to his drinking. That's what keeps him from work or he gets drunk at work. I think that's what it is. He gets drunk at work and he becomes very vicious to the people he is working with and he gets into more trouble. He was extremely irritable when he was out of work. He was very difficult and constantly irritated and cranky. I think he drank more when he was in trouble at work. He'd stay home and he'd drink 24 hours a day — just one long drinking binge.

What about the role of unemployment? With information unavailable in over a third of the cases, almost three quarters of the remaining offenders who had contact with the police were unemployed. For more than a third of these, their unemployment was long-term. The legal aid data showed a higher proportion of offenders employed, 45%. The refugee respondents' information about employment was similar with 42% of the violent partners employed full time. Almost one quarter of the employed offenders in the legal aid survey and one third of the employed partners of refugee residents were identified as professionals or self-employed. Migrant perpetrators were more apt to have jobs than were the non-Aboriginal Australian-born.

Slightly less than half of the female partners of unemployed men (in the refugee sample) felt that their husband's lack of employment had contributed to the violence.

Special issues for immigrant women

Many survivors and people who work with migrant women expressed the view that aspects of being a migrant contribute to abuse by the immigrant husband. Normative wife abuse within the culture of origin, belief in family privacy, changes in gender roles in Australia, isolation, lack of support, language difficulties, and downward shifts in employment status were a few of the factors reiterated. These same forces may militate against a victim seeking help.

In Vietnam, men have the right to hit their wives so it was accepted. There is an adage, 'If you married with a dog you have to follow him for all your life'. [NSW, Vietnamese welfare worker]

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Machismo and patriarchy within Argentinian culture and the status of women and men in Argentina vary greatly. [Argentinian survivor, age 51]

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Upset he cannot provide for family. And the experience of migration; unused to culture and cannot handle daughter growing up and living Australian lifestyle. [Iranian survivor, age 37]

The migration experience itself was cited by many as problematic since it meant leaving support systems behind and expectations that might not be met.

It was very difficult because we left all our family and friends in Croatia. The experience of migration has been very traumatic because we have no support networks. [Croatian survivor, age 53]

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I have believed it will be better, but you can change a planet and you cannot change a person. With our migration when you must start all your life from beginning, our problems are more evident and more obvious. We do not have any more our established life, families, friends, that contributed to staying in our hard marriage. [Croatian]

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The migration, the pressure of work and the alcohol, I wouldn't say they were the cause of the violence but they were factors that would prepare the ground. People who display violence have a very low self-esteem and being in another country aggravates your sense that you are not good enough. There was an obsession with making money. We had a reasonably good life but he had much higher expectations than that. [Marguerite, French survivor]

Solicitors, refugee workers and ethnic welfare staff all concurred that the issues of isolation and lack of support are particularly applicable to Asian women (who may have even less awareness of their rights) sponsored by non-Asian men. Their violent husbands can translate these women's lack of knowledge into threats based on false information. Take what Min's (a Chinese woman) Australian-born husband said to her:

He said that I only married him to get permanent residency, not for him. He told me if I didn't want to do the things he asked I should go back to China. I told him that life would be better for me in China because I was also very angry. He said he was going to report me to the Immigration Department and say that I was here under false pretences.

Aside from the Asian brides, another group emerged as particularly vulnerable to abuse by their husband and his parents. Brought to Australia to wed someone from their culture already resident here with his family, these sponsored women may experience particular isolation. The women's parents, back in the homeland entrust the care of their daughter to the parents of the groom who in turn violates that trust, either by overt abuse themselves or by the complicity of maintaining silence. Ruziye, whose marriage was arranged in Turkey, describes how it happened to her.

They became very violent and kept me in total isolation. I wasn't allowed to go anywhere. Each time he came home, he would beat me up over little reasons. He used to kick me out of the bed. I stopped going to my mother-in-law's house. We were reconciled a couple of times but then he became violent again and started bashing me up every day again.

Cemille, who was also brought over from Turkey to marry, explains why she stayed in the relationship for six years.

I was informed by some other people that there were some services available; that it's a crime in Australia but I had that fear with me all the time and it took me six years to overcome that fear. I was not confident enough to leave that relationship and start a new life on my own. That fear could be because it's a new country, I don't know the language but I always had that fear with me.

Telling family or friends

More than half of overseas-born and Australian-born refugee residents believed that they had experienced particular difficulties telling friends or family about the violence. The reasons articulated by immigrant women included the shame and humiliation expressed by those born here, plus there were additional factors attributable to being from another country.

Only dearest friend who helped me run away but they don't know the services so I was stuck. It is not my culture to tell other people about how bad my husband is. [Korean survivor, age 25]

A substantial number had no one to tell since they had no family in Australia.

My family is not here at all so I am very lonely. [Uruguayan survivor, age 26]

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I have no family here at all other than my kids and was too embarrassed to tell friends. [Greek survivor, age 50]

Going to the police

Women from Pacific, Asia, Middle East and Latin America cultural backgrounds were more likely to state that they had difficulties in contacting the police. There were some who were unable to because they could not speak English.

Because of language and because we don't trust police. [El Salvadoran survivor, age 26]

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My English-speaking is not well enough to express what I want to say. Moreover, I feel it is not right to go to the police station in order to report about my husband. [Vietnamese survivor, age 25]

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I cannot speak and understand English. I felt like the whole thing going to be big and of course I might get my husband into trouble by reporting to police. [Korean survivor]

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I felt embarrassed as my English is not good and I did not want it to become known that I had problems at home. [Italian survivor, age 60]

Some women didn't know that in Australia police are supposed to play an interventionist role.

I do not know much about women's rights in Australia. [Vietnamese survivor, age 35]

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Didn't know it was police's role. [Lebanese survivor, age 43]

Or the women were concerned about the perceived prejudice of the police.

Police would be prejudiced and say 'she's just a wog'. [Greek survivor, age 26]

In at least two cases the survivor's previous experience with the police, within the context of the violence, contributed to her reluctance to contact them again.

The first time I was badly hit by my ex-husband the police didn't do anything so I lost my trust of the police. [Philippino survivor, age 24]

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I felt uneasy at times because I felt I wasn't believed sometimes. As if they thought I may have provoked it somehow. [Argentinian survivor, age 45]

Lack of knowledge about rights and services

There was marked similarity between the responses of ethnic welfare, legal aid and refuge workers to some immigrant women's lack of knowledge about rights and support agencies.

The survivors concur.

Because I have no family here to help me, I could not leave — didn't know how. [Lebanese survivor, age 23]

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I didn't know anybody or any services to turn to. [Turkish survivor, age 21]

Refuges

Some immigrant survivors didn't know that refuges existed until directed there by police. Others had heard about them

but had been given a negative image. Once they attempted to get help, there wasn't always adequate availability of space. In addition, many women experienced difficulties relating to cultural differences and loneliness. Theresa, a South American woman who has been a survivor and a worker, explains:

Men have said really bad things about refuges. They say the women there are lesbians. Only a minority of migrant women are reaching support services. They might be scared of someone who doesn't present herself in the image of a woman. Workers should present themselves well.

Refuges may present problems because of the mixture of different cultures in one place, from family values to standards of cleanliness. Unless they are completely forced by the situation they are escaping, mostly they try but then they go back to their homes. If they have come to a refuge and go to a social event, people would find out and they would be talked about. For migrant women to open up they need to talk to other migrant women. Mostly women are surprised when they come to a refuge that it is an okay place and is comfortable. Sometimes the women become quite obsessive about cleaning the place.

Cemille also had received negative messages about refuges from people in the Turkish enclave:

I realised that I was not the only one. I have met other women who came out to Australia to arranged marriages. Refuges have a bad name in our community which has been created purposely by men. In order to deal with all those problems we need more refuge workers. There are so many women that I know that are stuck in violent relationships because they don't know the options.

What are the solutions?

Over the last decade particularly, the Commonwealth, largely through the Office of the Status of Women has highlighted the issues of domestic violence, has put moneys into education and service provision and has worked to revise many of the relevant laws. In addition, the Department of Immigration has made a number of changes in its policies, legislation, actions and funding in regard to domestic violence; most of these modifications have, however, focused on serial sponsors. In light of these positive measures, it is not surprising that the women who had come to Australia from other countries overwhelmingly thought that the services here to assist domestic violence survivors were far better than what was available in their homelands. Additionally, they identified Australian culture as more supportive and less apt to hide such violence away.

Despite the improvements, the research done for *Shattered Dreams* shows that there is an urgent need for further action to be taken. First, in the area of violence against women in general, the following areas require on-going (government commitment to) change:

- attitudes about domestic violence, both in mainstream Australia and in ethnic cultures — learn to see it as criminal assault;
- attitudes about jealousy — learn to recognise that it can be an early sign of serious problems;
- attitudes about alcohol abuse — learn the risks;
- the mainstream criminal justice system's response — the police and courts need to stop trivialising and minimising violence against women in the home.

Continued on p.63

- combat the myths about women who remain in a violent relationship: see *Runjanjic* (1991) 53 A Crim R 362; *Kontinnen*, (unreported decision of Supreme Court, South Australia, 27 March 1992); *Lavallee* [1990] 1 SCR 852.
16. ALRC, above, pp.183-4
 17. Lacey, N., Wells, C. and Meure, D., *Reconstructing Criminal Law*. Weidenfeld and Nicolson, 1990, p 33.
 18. Yeo, S., 'Power of Self-Control in Provocation and Automatism' (1992) 14 *Sydney Law Review* 3.
 19. Indeed a similar argument is used to justify sentencing decisions where payback by spearing within Aboriginal communities, while not condoned, is recognised as a factor relevant to the mitigation of sentence: see *R v Minor* (1992) 70 NTR 1 at 11, per Mildren J; *R v Wilson Jagamara Walker* unreported, Supreme Court of the Northern Territory, Martin CJ, 10 February 1994, SCC No. 46 of 1993.
 20. See *Watson* [1987] 1 Qd R 440. By contrast, the law still permits adults to use some force for the 'reasonable chastisement' of children.
 21. See Evatt, E., 'Cultural Diversity and Human Rights' in P. Alston (ed.), *Towards an Australian Bill of Rights*. Centre for International and Public Law, Australian National University and Human Rights and Equal Opportunity Commission, Canberra, 1994.
 22. *Weal v Bottom* (1966) 40 ALJR 436.
 23. *Sherras v De Rutzen* (1895) 1 QB 918 at 921 per Wright J. See also *Tolson* (1889) 23 QB 168 at 172 per Wills J.
 24. The rule has been enacted in s.9(3), *Criminal Code Act 1995* (Cth). Mistake and ignorance are conceptually different, reflected in the earlier debates whether a mistake of law (positive belief) or ignorance of law (absence of belief) should ground a defence: see Keedy, E., 'Ignorance and Mistake in the Criminal Law' (1908) 22 *Harvard Law Review* 77, cf Hall, J., *General Principles of Criminal Law*, 2nd edn, 1960. The better view, reflected in s.9(3), is that there is no legal difference between mistakes and ignorance: 'ignorance is the genus of which simple ignorance and mistake are the species' in Williams, G., *Criminal Law: The General Part*, 2nd edn, 1961, pp.151-2.
 25. Several justifications have been provided for the rule including the presumption that everyone should know the law: see Blackstone, W., 4 *Commentaries* 27; utilitarian arguments: see Holmes, O., *The Common Law*, 1881, p.48; pragmatic concerns: see Austin, J., *Jurisprudence*, 1861, p.688; and more recently and more interestingly, duties of citizenship: Ashworth, A., *Principles of Criminal Law*, 1991, p.209. Ashworth argues that each citizen has a duty to acquaint themselves with the criminal law. For criticism of Ashworth's views see Husak, D., 'Ignorance of Law and Duties of Citizenship' (1994) 14 *Legal Studies* 105.
 26. Husak, D., above, p.115; Amirthalingam, K., 'Mistake of Law: A Criminal Offence or A Reasonable Defence' (1994) 18 *CrimLJ* 271.
 27. ALRC, above, p.179.
 28. See Hart, H.L.A., *Punishment and Responsibility: Essays in the Philosophy of Law*, Clarendon Press, Oxford, 1968, pp.180-3. 'Criminal law is concerned with social control through the deterrence of crime, but it is a system of control qualified by the requirement that justice be done to the individual': Norrie, A., 'Freewill, Determinism and Criminal Justice' (1983) 3 *Legal Studies* 60.
 29. See s.9(4), *Criminal Code Act 1995* (Cth); *Lim Chin Aik* [1963] AC 160 (Privy Council).
 30. ALRC, above, pp.179-81.
 31. See Editorial Note, 'The Cultural Defence In the Criminal Law', (1986) 99 *Harvard Law Review* 1293 at 1298.
 32. Amirthalingam, K., above, ref.26, pp.277-80.
 33. *R v Esop* (1836) 7 C & P 456; 173 ER 203.
 34. *Maintenance Officer v Starke* [1977] 1 NZLR 78; *Bonollo* [1981] VR 633.
 35. For crimes of *mens rea*, a mistake of fact (which if true would render the defendant's conduct innocent) will operate as a defence even though the mistake is unreasonable in the circumstances: *DPP v Morgan* [1976] AC 182. For crimes of strict liability (where *mens rea* is not required), a mistake of fact to operate as a defence must be reasonable in the circumstances: *He Kaw Teh* (1985) 157 CLR 523.
 36. *Thomas* (1937) 59 CLR 279.
 37. The common law defence has been codified in some jurisdictions, see s.9(5), *Criminal Code Act 1995* (Cth); s.22, *Criminal Code* (Qld), s.22, *Criminal Code* (WA); s.12, *Criminal Code* (Tas.). In those jurisdictions adopting the UK model of the *Theft Act*, a belief based on claim of right negates dishonesty: see s.73(2)(a), *Crimes Act 1958* (Vic); s.96(4)(a), *Crimes Act 1900* (ACT).
 38. *Bernhard* [1938] 2 KB 264, *Walden v Hensler* (1987) 163 CLR 561, *Mitchell v Norman*; *Ex parte Norman* [1965] Qd R 587, *R v Love* (1989) 17 NSWLR 608.
 39. *Walden v Hensler* (1987) 163 CLR 561.
 40. For consideration of the arguments for the recognition of an inherent Aboriginal criminal jurisdiction which survived settlement, see Yeo, S., 'Recognition of Aboriginal Criminal Jurisdiction' (1994) 18 *CrimLJ* 193. The High Court, per Mason CJ, recently rejected these claims to recognition in *Walker v New South Wales* (1994) 182 CLR 45.
 41. Braithwaite, J., 'Towards Criminology' in K.Hazlehurst (ed.), *Crime and Justice: An Australian Textbook in Criminology*, LBC Information Services, 1996.
 42. Lacey, N., *State Punishment*, Routledge and Kegan Paul, 1988.

Easteal article continued from p.57

Specifically in resolving or improving the plight of immigrant women:

- further modification of the immigration laws as they affect battered women;
- improving migrant women's access to information about their rights;
- further screening of sponsors;
- improving migrant women's access to information about domestic violence and services;
- improvements to refuges and more assistance for women trying to leave the violence;
- increased outreach programs for remote and rural areas;
- appropriately skilled and bilingual workers;
- greater co-ordination of government services.

Violence against women is about control. Policies and practices that are constructed without an understanding of what it means both to be a migrant and a battered woman collude in the victimisation of these women. It is also too

easy to ignore or minimise the predicaments of people whose words we may not understand. And yet if we look a bit closer and start to put names like Marguerite, Safia, Melina, Thu, Maria and Rajendra to the numbers, then perhaps they become a little harder to forget and their hope of a better tomorrow becomes a tenable dream.

References

1. In *Killing the Beloved* (1993) Easteal pointed to a higher than expected incidence of marital homicide among overseas-born, speculating that it could reflect either a higher incidence of domestic violence or a lower reporting rate.
2. Easteal, Patricia, *Shattered Dreams. Marital Violence Against Women: the Overseas-Born in Australia*. Bureau of Immigration and Multicultural Population Research, Melbourne, 1996. The research was conducted with a grant from the Bureau.