

her nose at the system', and 'messing them around' because she had been encouraging the defendant to have contact with her. Theresa alleged that the defendant would frequently come to her house, saying he wanted to see the children, and would refuse to leave, despite her repeated requests. Theresa could not afford to install a telephone, and in order to report any breach to police she had to walk a kilometre to a public telephone. The defendant would refuse to let her leave the house to do so. Indeed, on the one occasion Theresa did report a breach of the order she was deemed to be drunk by the police and was taken against her will to a sobering up shelter for the night. The defendant was not charged on that occasion.

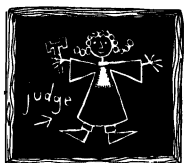
In the police view, these women were equally responsible for the violence and the failure of the defendant to have regard to the terms of the restraining order. Indeed, women have a responsibility to report breaches and a legal obligation to stay away from the defendant. Failure to do so indicates a failure to conform with the norms of appropriate victim behaviour and incurs police resentment. The difficulty that women, particularly Aboriginal women, have in gaining access to the criminal justice system is not acknowledged. The unequal power relationship between the parties is not a factor. There is no room for the notions of acquiescence, compliance or the role of fear. The effect of past violence on the victim is not acknowledged. The perpetrator is excused from responsibility for his behaviour, and, perhaps, the victim is seen to be asking for the violence.

'Stop in the name of love'

The Office of Women's Policy (OWP) has recently adopted the slogan 'stop in the name of love' to promote the domestic violence strategy in 1997. The OWP states that this slogan is intended to draw attention to the fact that domestic violence is not an expression of love, it is in fact a crime. The more obvious interpretation of the slogan however, would be that if you loved someone you would not abuse them. The new slogan coincides with the development of the perpetrator's program which appears to emphasise the relationship between the perpetrator and the victim, the commitment of the perpetrator to the relationship and his willingness to change for the sake of the relationship.

The notion 'Stop in the name of love' seems to serve only to locate domestic violence squarely in the private domain, as a relationship problem that needs to be resolved. It might be seen to send the wrong message to the police, the courts and the general community.

The Strategy has been extremely effective in setting up services for victims of domestic violence at many levels. It is working to successfully promote the idea that violence in any form is unacceptable. However, in order to go anywhere near seriously achieving its aims, it must tackle questions of ideology, sexism and the material conditions of women's subordination. Failure to do so will only continue to undermine its effectiveness.



LEGAL STUDIES

The suggestions for class work and discussions below are based on the article 'Citizenship in Australia: An Indigenous Perspective' by Michael Dodson on p.57 of this issue.

Questions

1. What were the justifications for assimilation. How was the law used during this period to promote its aims?
2. What was the 1967 referendum? What did it mean for Indigenous peoples in Australia? Why do Indigenous Australians believe what was promised by the referendum has not been delivered?
3. Why is the existing Australian Constitution unacceptable to Aboriginal and Torres Strait Islander peoples? What suggestions for its acceptable reform are made in the article 'Citizenship in Australia: An Indigenous Perspective'? How do you think such reform may effect the reconciliation process?
4. What arguments are presented for justifying the continued non-recognition by non-Indigenous culture of Indigenous political, social and legal systems? How do Indigenous peoples challenge these assertions?

5. The *Mabo* and *Wik* decisions have caused great controversy in the Australian community. What were the findings of these decisions with respect to Indigenous rights to land in Australia? What, if anything, do these findings mean for non-Indigenous land law?

Discussion

In the last year there has been much debate about the 'special treatment' of Aboriginal and Torres Strait Islander peoples. Many argue that 'equality' cannot be achieved unless all people, regardless of race, are treated the same. On the other hand it is asserted that the unique situation of Indigenous peoples in Australia, particularly their disadvantage and their status as this country's First Peoples, necessitates their differential treatment. This second argument contests that different treatment is the only way to ensure that Aboriginal and Torres Strait Islander peoples enjoy out-

comes which are equal to those of other Australians. Discuss this equality of treatment/equality of outcome dichotomy. How does the legal system address this issue? — consider in particular the operation of the anti-discrimination regime.

Research

Research Indigenous citizenship in Australia. Specifically look at:

- the situation existing before the 1967 referendum and the referendum itself;
- the current economic, social and cultural position of Indigenous Australians and what implications this status has for Indigenous inclusion in the Australian citizenry;
- Indigenous aspirations for citizenship — what Aboriginal and Torres Strait Islander peoples perceive as necessary for their exercise and enjoyment of full Australian citizenship;
- suggestions for reform which would accommodate these aspirations.

Debate

The recognition of Indigenous systems and structures, including legal systems, will threaten the sovereignty of the Australian nation.

Catherine Duff

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