



Engender
Equality

Submission to the Department of Justice on Section 194K *Evidence Act 2001 (TAS)*
10 May 2019

About Engender Equality

Established in 1989, Engender Equality is the leading non-government agency in Tasmania supporting people who have experienced family violence. Engender Equality is a dynamic and evolving professional organisation, founding our philosophies, practice and resources on current research. Engender Equality has a high level of skill, knowledge and experience working with women, children and families impacted by family violence and abuse.

Engender Equality's core work provides therapeutic counselling to people who are currently or have previously experienced family violence, abuse and other violations. Engender Equality provides training on family violence and gender inequality. Engender Equality also plays an active role in Tasmania in advocating for systemic changes in order to address gender inequality and reduce violence against women and their children.

Given Engender Equality's specialisation in working with women and families who have experienced family violence, this submission is informed by their experiences. This submission is also guided by the work we do in our Advocates for Change program. In partnership with Our Watch, Engender Equality coordinates Advocates for Change, a group of women who have experienced violence and abuse who, after comprehensive training, are supported to speak to the media about their experiences.

Introduction

With 30 years of experience providing client-centred counselling and specialist support services to women affected by family violence in Tasmania, Engender Equality has extensive experience working with the dynamics and impacts of multiple forms of violence against women, including assault, sexual violence, emotional abuse and coercive control. We use a social-ecological approach to service provision and advocacy, which conceptualises violence as a multifaceted phenomenon grounded in an interplay of individual, family, community and societal levels (Our Watch, 2015).

We start from the position that violence against women is not a collection of random and unrelated acts of abuse. It is the result of structurally reinforced imbalances of power that systematically disadvantage women and gender-diverse individuals and serves as both the context and cause of violence against women. These imbalances of power can affect women of all backgrounds, although the dynamics and impacts may vary depending on a woman's intersecting experiences of oppression. Consequently, family violence, and violence against women generally, will continue to be an issue as long as access to opportunities, outcomes, rights, and obligations are impacted by gender, and the distribution of power and influence are disproportionately skewed towards people with privilege.

From this standpoint, we work for the elimination of violence and abuse against women in Tasmania through policy submissions, individualised advocacy towards policymakers, creating educational literature and resources, hosting awareness-raising events, and partaking in media representation.

Submission by Laurel House

Engender Equality endorses the submission made by Laurel House.

In particular, Engender also calls for a complete review of the laws to adequately understand how they impact on all members of the community and create laws that meet objectives aligned to the prevention of violence against women.

Adult victims of sexual assault should be able to move into public spaces in whichever way they wish. Anything less than this is compromising the experience of victims and needs in-depth analysis to remove any bias that stigmatises victims and protects perpetrators.

Submission by End Rape on Campus Australia and Marque Lawyers

Engender Equality endorses the submission made by End Rape on Campus (EROC) and Marque Lawyers.

Of particular interest to Engender is the promotion of women's voices in the movement to end violence against women and the emphasis of lived experience voices in the EROC Marque Lawyers Submission.

The Voice of Lived Experience

As described by ANROWS, "community attitude toward issues of sexual activity and consent share that sexual violence, and in particular intimate partner sexual violence, is not understood well, or taken seriously" (2019, p. 3). This is in part due to social norms that can be reinforced and perpetuated in the media.

Survivors of sexual assault speaking out in the media has a multifaceted impact on the prevention and response to violence against women. These include:

1. Survivors telling their stories in public reduces the stigma and discrimination of sexual assault and enables other people to come forward to report abuse/assault and seek services and justice interventions.
2. Self-representation restores agency to the survivor by allowing the survivor to dictate how they want their case to be represented publically.
3. Broadcasting survivor's stories holds perpetrators to account. The responsibility of men's violence against women lies with men and any mechanism that protects perpetrators for being accountable and responsible for the violation will aid to perpetuate criminal, exploitative and invasive actions towards women.
4. Sexual assault victims/survivors need to be portrayed as compelling authorities on the subject of gender, criminality, policy and other issues that relate to improve the response and prevention of sexual assault.
5. Sexual assault against women is positioned within a pyramid of gender inequality and violence. As depicted in Figure 2, sexual assaults against women are not random acts

against individuals but the progression of socially tolerated norms that start with an acceptance of sexism and end in explicit violence. Survivors representing sexual assault reallocate power away from the formal systems of the court and police mechanism (as well as the representation of the defence), towards the impact on the victim, which accurately depicts the full impact of the crime on women as a population.

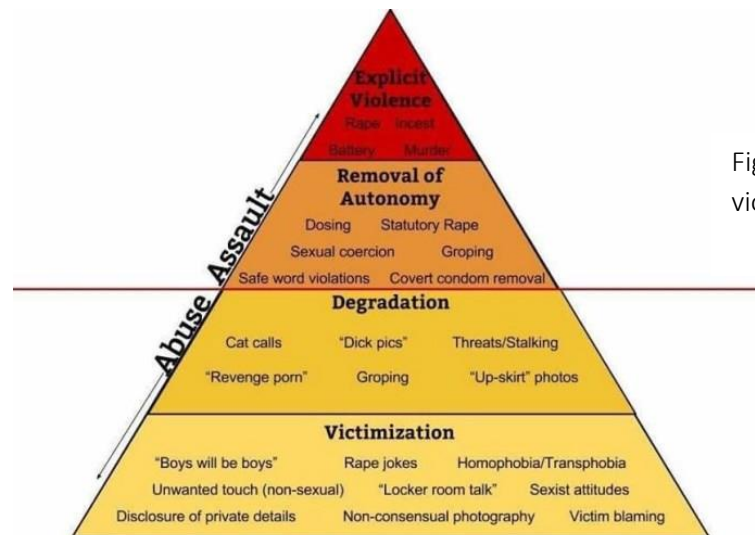


Figure 1. The pyramid of violence. www.genderequal.nz

6. Reinforcing primary prevention efforts – primary prevention addresses the drivers that enable violence against women from happening in the first place. Broadcasting survivor voices helps to address the drivers of violence against women.
7. *Co-design* is a community engagement approach currently being endorsed by the Tasmanian public service (Communities Tas) as a mechanism for building the durability and relevance of policy and service design. Under this approach, people who experience violence and abuse need to be consulted as experts in policy and service design. The voices, perceptions, wants and ideas of women subjected to violence and abuse are often missing from related decision making, policy design and service provision. Real mechanisms for meaningful consultation and engagement that acknowledge and value lived experience is long overdue.
8. Demonstrating to people who use violence and abuse that targets of abuse are considered worthy in the broader community and in doing so tells people who use violence that society does not support them.
9. Reducing the prevailing tolerance of sexual assault in the community by addressing victim blaming.

Given section 194K of the *Evidence Act 2001* (the Evidence Act) is compromising the above results from being achieved, it needs to be radically altered.

Sexual Offence Proceeding

It should be stated that the rates of reporting sexual assault are particularly low. Many people who experience sexual assault do not pursue reporting. Occasions where the case develops to criminal charges being laid are even lower (see Figure 2). This means that section 194K covers less than 2% of people who have experienced sexual assault. Therefore, under the current Evidence Act people who are successful under the formal processes are disadvantaged in a way that others are not.

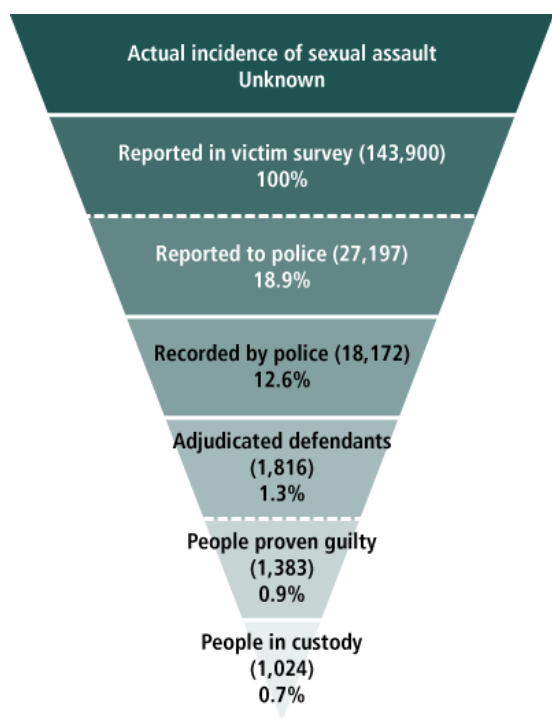


Figure 2. South Eastern Centre against Sexual Assault, About Sexual Assault Introductory Workshop, Victoria 2012

This point is made to highlight the fact that people who report sexual assault offences to the police are disadvantaged in a way that they would not be if they had not attempted to elicit a police response.

Publications

Engender Equality recently completed a submission to the Department of Justice on the *Criminal Code Amendment (Bullying) Bill 2019*. A feature of the amendment was to address on-line bullying; however, no reference is made in the amendment as it was thought imprudent to be referring to a phenomenon (cyber-bullying) that will change exponentially over the coming decades.

This same thinking should be applied to the concept of “publication”. The advent of social media and smart phones has brought a dramatic change to journalism and the media. Similar to the Bullying Amendment, this law should consider what is a “publication” and how this can be defined or contained into the digital future so that its relevance is maintained.

Advocate for Change, Natalie (Survivor)

I am lucky. I am lucky because I survived, and my children survived.

I am lucky because I get to tell my story.

I get to tell my story in the hope that it will be heard.

I get to tell my story in the hope that someone else might start telling theirs.

And that they might reach out. And seek help. And stand up. And find others who understand.

I get to tell my story in the hope that if enough people tell their story, we will begin to shift the shame.

Because if we can shift the shame back to where it belongs, we can all move together and create a future free from violence against women.

Women's voices matter because women's lives matter. As a society we need to insist that women be respected, always, and that their voices are present and heard in all arenas, from the playground to parliament.

Next time you hear about a woman's exposure to violence, don't ask what she did to cause the violence, ask what our government didn't do to ensure she was respected, valued, and heard. Speech delivered May 2019

Engender Equality further asserts that no law should be influenced by the assumed "shame" that might be experienced by sexual violence survivors. Shame about sex and sexuality, which extends to sexual assault, is a burden that women have carried for many thousands of years and it is a shame that needs to be abolished. The wide spread experience of shame enables sexual assault perpetrators to target women and if the law can support community initiatives to annihilate this experience then it must promote a consistent message.

Conclusion

In Tasmania the voice of lived experience of sexual assault has been excluded from media, and public acts of lobbying and advocacy. This is despite real stories often making deeper personal impacts. In terms of changing community attitudes, it is widely recognised that “lived experience speaking” changes more attitudes than hearing about policies and statistics.

Engender Equality asserts that the law should be used as a guide for behaviour and a tool for changing community attitudes towards gender inequality and violence against women. The law can, through both direct and indirect enforcement mechanisms, govern and guide the behaviour of individuals in our community (Forji, 2010). We firmly believe that sexual violence and abuse is behaviour that should not be accepted in Tasmania. Therefore, the law must be used to its full influential capacity to challenge community attitudes regarding power dynamics and family violence. Engender Equality further asserts that laws must be based on common sense principles that are practical and administrable. Therefore, in terms of advancing the prevention of sexual assault, 194K of the Evidence Act must be amended to allow sexual assault survivors to speak openly about their experiences. This process should unfold without hindrance of any kind.

References

Australia’s National Research Organisation for Women’s Safety (2019), *Intimate partner sexual violence: Research synthesis* (ANROWS Insights, 05/2019), Sydney, NSW:ANROWS.

Forji, A.G., (2010), *The Correlation between Law and Behaviour as Pillar of Human Society*, International Journal of Punishment and Sentencing, 6(3), 84-96.

Our Watch, Australia’s National Research Organisation for Women’s Safety (ANROWS) and VicHealth (2015), *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*, Melbourne, Australia.

World Health Organization (2010), *Preventing Intimate Partner and Sexual Violence Against Women: Taking Action and Generating evidence*. Geneva.