

Australian Law Reform Commission
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Inquiry into justice responses to sexual violence in Australia

Who we are and why we are making a submission

Wesnet is Australia's national peak body for specialist women's domestic and family violence services, with almost 350 eligible members across Australia. Wesnet represents a range of organisations and individuals including women's refuges, shelters, safe houses, and information/referral services.

Wesnet thanks the Australian Law Reform Commission for the opportunity to make a submission to this inquiry. The key points (outlined in detail below) we wish to highlight are:

- the intersection of sexual violence and domestic and family violence, and
- the impacts of social inequities.

Intersection of sexual violence and domestic and family violence

Many victim-survivors of domestic and family violence (DFV) have also experienced sexual violence. [Cox](#) (2015) characterises these women's experiences in two key ways: re-victimisation – when a woman, over her lifetime, experiences both sexual assault and DFV; and intimate partner sexual violence (IPSV) – when the sexual violence is perpetrated by an intimate partner, often as part of a pattern of various forms of abuse.

Sexual violence and the concept of consent (and criminality) is particularly fraught in the context of DFV, due to a number of often overlapping dynamics.

- DFV involves the exertion of power and control, and the exploitation of power imbalances, enabling the more powerful to drive and develop relationship parameters which may involve sexual violence. As [Tarzia](#) (2021) notes, “the complex dynamics of consent within an intimate relationship are also poorly understood. There is a lack of knowledge around how coercive tactics, blackmail, and implicit threats can be used as strategies to force women into having sex without the perpetrator having to utilise physical force”.
- The nature of DFV and the coercive control inherent within it, blurs the lines between ‘normal’ and not. This, combined with the effect of trauma on diminishing self-worth, self-esteem and autonomy, can render people more likely to enter into and stay within an abusive relationship. A [University of Melbourne study](#) (2021) found that over a third of

the IPSV victim-survivors in the study had a previous history of sexual assault, child abuse or family violence, “...this led many of them to have poor self-esteem and they often couldn’t recognise a healthy relationship versus an unhealthy sexual one”.

- Community perceptions based on the historical patriarchal notion of women – and particularly wives – being sexually available and subservient to men continue to exist. These perceptions can exist within relationships as well as being felt as external societal pressure on individuals within relationships. As the Australian Law Reform Commission noted in 2010, up until the 1980s it was “not possible for a man to be charged with, and prosecuted for, raping his wife or, in some cases, de facto partner”. These attitudes are slow to change, with the National Community Attitudes Survey (2017), for example, showing that almost one in five respondents did not understand that it is a criminal offence for a man to have sex with his wife without her consent, and 1 in 3 Australians are unaware that a woman is more likely to be sexually assaulted by someone she knows than by a stranger.

These factors inform WESNET’s keen interest in this inquiry, particularly in advocating for legislative and policy settings that drive and support a holistic approach to achieving gender equality and eliminating violence against women and children.

Impacts of social inequalities

Wesnet represents specialist services that specialise not only in preventing and responding to domestic and family violence, but also on how it impacts particularly within their own communities, including with respect to First Nations women, migrant and refugee women and women with disabilities. While all communities are affected by sexual violence, research shows that the impacts of violence fall more heavily on certain communities and individuals because of marginalisation experienced as a result of historic and current power imbalances between social groups.

Women who live at the intersections of multiple marginalised identities – like women living with disabilities (ABS, 2016), or Indigenous women (McCalman, 2014) – experience sexual violence at higher rates. For example, Indigenous women are particularly at risk of violence, being 12 times more likely to be the victim-survivors of assault than non-Indigenous women; in rural and remote Western Australia Indigenous women are 45 times more likely to be assaulted by their spouse or partner than non-Indigenous women (Keel, 2004).

First Nations women are at significantly higher risk of sexual abuse because they are more likely to have multiple risk factors including being young, female, having a low income, and experiencing housing and job insecurity. Higher levels of disadvantage also increases the likelihood of exposure to stressful life events (McCalman, 2014), and other studies have noted that “for Indigenous women who utilise dating apps, sexism and misogyny are often accompanied by racism and threats of violence” (Carlson, 2020). It is essential to note also that it is not people’s identities that cause vulnerability but is instead systems and practices that have a discriminatory and/or disproportionate impact on certain groups of people.

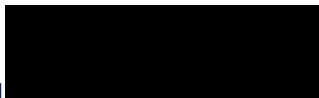
Factors such as race and ethnicity, socio-economic status, disability and age further complicate consent. These differences, which are indicative of social inequalities, can affect

people's ability to contest or request sexual encounters. While this is – as with experiencing domestic and family violence more generally – due largely to systemic power differentials, the ability to genuinely consent can also be impacted specifically by cultural, physical and language barriers.

People's experiences of the justice system will also vary considerably and can, unfortunately, result from discrimination - both conscious and unconscious. The AWAVA Young Women's Report (2021) survey results showed, for example:

- Nearly 30 per cent of young women felt discriminated against because of their race, ethnicity, religion, nationality, sexual orientation, gender identity, class, age, disability, and/or migration status when reporting violence.
- Many respondents who had experienced violence experienced multiple forms of discrimination (for example, both sexism and racism) when accessing support via institutions such as the police, hospitals and/or universities. Similar experiences, based on prejudice, accessibility needs and cultural safety, were recorded by participants who accessed community support services.
- Young women highlighted the need for support staff in both institutions and community services to be better trained. This included calls for more female staff and staff who undergo proper and comprehensive trauma-informed training, cultural competency training and training on diverse and complex forms of gender-based violence.

We ask that submissions from other organisations and individuals representing oppressed women – including, particularly, Aboriginal and Torres Strait Islander women, women with disabilities, young women, older women and migrant and refugee women – be given due weight in the inquiry.



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WESNET acknowledges and pays respects to the Traditional Owners and Custodians of all the lands on which we live and work.

References

Australian Bureau of Statistics (2016). [Personal Safety, Australia](#).

Australian Law Reform Commission (2010). [Family Violence – A National Legal Response \(ALRC Report 114\)](#).

Australian Women Against Violence Alliance (2022). [Young Women's Report](#). Canberra, WESNET.

ANROWS, 2017. '[Are we there yet? Australians' attitudes towards violence against women & gender equality: Summary findings from the 2017 National Community Attitudes towards Violence against Women Survey \(NCAS\)](#)'.

Carlson, B. (2020). 'Love and hate at the Cultural Interface: Indigenous Australians and dating apps', *Journal of Sociology*, 56(2), 133–150. [doi:10.1177/1440783319833181](https://doi.org/10.1177/1440783319833181)

Cox, P. (2015). '[Sexual assault and domestic violence in the context of co-occurrence and re-victimisation: State of knowledge paper](#)', ANROWS.

Keel, M. (2004). Family violence and sexual assault in Indigenous communities: Walking the talk (Briefing No 4., pp. 1-31). Melbourne, Victoria: Australian Centre for the Study of Sexual Assault.

McCalman J, Bridge F, Whiteside M, Bainbridge R, Tsey K, Jongen C. (2014). '[Responding to Indigenous Australian sexual assault: a systematic review of the literature](#)'. *SAGE Open*.

Tarzia, L. (2021). 'Toward an Ecological Understanding of Intimate Partner Sexual Violence', *Journal of Interpersonal Violence*, 36(23–24), 11704–11727. <https://doi.org/10.1177/0886260519900298>

Tarzia, L (2022). '[What drives intimate partner sexual violence?](#)', *Pursuit*, University of Melbourne.

Women's Safety and Justice Taskforce (2022). [Hear her voice - Report two - Women and girls' experiences across the criminal justice system](#).

