Part C

Women's Human Rights

Practical Strategies for Combating Violence Against Women

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Introduction

During this decade, the issue of violence against women has emerged as one of the priorities of the international community:

- In 1993, the Second United Nations World Conference on Human Rights emphasised the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of conflict between the rights of women and the harmful effects of traditional or customary practices, cultural prejudices and religious extremism. Responsive to increasing political instability resulting in armed conflicts, the Conference called for effective response to violence against women in national and international war.[1]
- On 22 February 1993, the United Nations Security Council, acting under Chapter VII of the United Nations Charter, decided to establish an International Tribunal for the Prosecution of Persons responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia.[2] Unlike the statutes governing the international military tribunals established after the Second World War, the mandate of the current tribunal contains an explicit reference to rape and it has been encouraged to give priority to cases of abuse of women and children.
- In December 1993, the United Nations General Assembly agreed the Declaration on the Elimination of Violence against Women[3] and in March 1994 appointed a Special Rapporteur on Violence Against Women.[4]
- In March 1995, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women – the Convention of Belem do Para – entered into force.[5]
- In September 1995, the Fourth World Conference on Women reiterated the world community's specific concerns and agreed obligations with regard to violence against women.[6]

Violence against women has been an increasing preoccupation of the Commonwealth Secretariat. The issue was considered at the 1985 Meeting of Commonwealth Ministers Responsible for Women's Affairs and the 1986 Meeting of Commonwealth Law Ministers. During the 1980s, the Secretariat hosted a number of Expert Group Meetings on Violence Against Women, and produced *Confronting Violence – A Manual for Commonwealth Action*, *Guidelines for Police Training on Violence Against Women and Child Sexual Abuse*, and *Violence Against Women – Curriculum Materials for Legal Studies*. During this period, the Commonwealth Fund for Technical Co-operation also provided expertise to draft model legislation and to train police.

Violence against women has been on the agenda of the 1990 and 1993 Meetings of Commonwealth Ministers Responsible for Women's Affairs and the 1996 Meeting of Commonwealth Law Ministers. Commonwealth Ministers Responsible for Women's Affairs mandated the Secretariat to establish a Clearing House on Violence against Women. The Clearing House is designed to provide on-line information on existing resources, materials and training models related to violence against women. The Secretariat has produced an annotated bibliography on violence against women and a resource book on actions taken by Commonwealth countries to combat violence against women.

Reflective of the current understanding of violence against women as constituting a fundamental contributory factor to the subordination of women, a form of discrimination and a denial of human rights, the Secretariat included the issue of violence against women and children on the agenda of the three regional judicial colloquia on the domestic implementation of international human rights norms relevant to women's human rights which were held in Victoria Falls for the Africa region and Hong Kong for the Asia/South Pacific regions in 1994 and 1996 respectively. The conclusions of both colloquia – the Victoria Falls Declaration of Principles for the Promotion of the Human Rights of Women and the Hong Kong Conclusions – urged Commonwealth governments to subscribe to the principles of the United Nations Declaration on Violence against Women and stressed the need for judges and judicial officers to be gender-sensitive and aware of the need to protect women against violence through a proactive interpretation of the law.

Since the identification of violence against women as a Commonwealth concern by the 1985 Commonwealth Meeting of Ministers Responsible for Women's Affairs, significant progress has been made by Commonwealth governments to confront the various forms of violence against women. Measures which have been introduced have fallen into three broad categories: service and support provision; substantive and procedural law reform; and training and education for specific groups, and for the general public. In many Commonwealth countries, measures have been introduced as a result of non-governmental organisation (NGO) advocacy and activism, and the focus of measures and their level of development often reflect the primary focus of attention of these NGOs. Until recently, the primary focus of activist attention in individual countries has been violence against women that occurs in the private sphere. Thus, sexual assault generally and all forms of violence against women in the family have received the most attention. Accordingly, at national level, the measures in these contexts are most developed. Sexual harassment in the workplace and elsewhere has also attracted attention. Some countries have addressed particular forms of violence based on culture, tradition or religion. In African countries, for example, female genital mutilation has been a priority and in South Asia, violence related to the dowry tradition has been a primary focus.

Since the beginning of the 1990s, and particularly with the identification of violence against women as an issue of human rights, activist attention has expanded to encompass violence against women in the public sphere. Although activism relating to violence against women in this setting has largely been devoted to achieving a better application of extant international standards and procedures of implementation, as well as bilateral and multilateral co-operation between countries, some countries have introduced specific measures which relate to violence against women in the public sphere.

Existing national measures to confront violence against women do not approach the various manifestations of such violence as stemming from a uniform structural cause, but rather, address each form of violence separately, generally in accordance with where such violence occurs. Thus, different measures have been employed to address violence in the family, the community and elsewhere. The following describes government measures which have been initiated to confront a number of forms of violence against women. The areas considered are: violence against women in the household; sexual harassment; sexual assault; violence related to tradition and culture and the exploitation of prostitution and trafficking in women. Legal approaches, service provision and research, training and education measures which have been employed in each context will be examined.

Where each manifestation of violence against women is concerned, national governments have concentrated predominantly on legal and service strategies, and to a lesser extent, sector specific and public education programmes or campaigns which address values, attitudes, and actions related to gender-based violence. Countries have not usually implemented an integrated or holistic response to gender-based violence against women, but have introduced reactive responses, with the protection of the victim and the punishment of the perpetrator as their primary concerns. Australia, Canada and New Zealand are exceptional in this regard where some attempt has been

made to take a comprehensive approach to violence against women. In Australia, a National Committee on Violence Against Women (NCVAW), which has formulated a national strategy with respect to violence against women has been established[7] and Canada has set up the Canadian Panel on Violence Against Women which has also formulated a national action plan.[8] Those countries that take a more holistic approach to the issue have been able to identify the impact violence against women has generally, and factor that impact into apparently unrelated areas. So for example, some countries have identified the effect that a history of violent treatment may have on the reaction of individual women and have allowed such a history to be taken into account in the prosecution and sentencing of women for crimes[9]. Some now provide that violence by one spouse against the other, is a factor to be taken into account in making orders with respect to children[10] and that violence against women is a factor for consideration in immigration[11] and refugee cases[12].

The response of Commonwealth governments to the issue of violence against women has been laudable. However, strategies which have been introduced, continue to be undermined by lack of societal recognition and understanding of violence against women. Gender-based violence is still generally denied, its magnitude and cross-cultural and cross-class nature rarely appreciated. Further, in some Commonwealth countries the introduction of effective measures to confront various forms of gender-based violence and implementation of such measures are adversely affected by competing values or interests. The competing interest of the preservation of religion, custom and cultural values and ideals sometimes takes precedence over the interest in preventing victimisation of women, particularly within the household. The interest in maintaining various legal rights – such as due process or guarantees of fair trial for suspected perpetrators of crime or property rights – frequently competes with the interest of victim protection. Again, the interest in the protection of the privacy and integrity of the family is very often valued over the individual rights of family members to be free from gender-based violence.

National Strategies

Violence Against Women in the Home

Violence against women perpetrated by spouses, and other household members is increasingly recognised as a serious problem in Commonwealth countries. Nonetheless, in some countries, measures that have been introduced have been limited to legal provisions or relatively under-resourced services.

Legal Approaches

In most Commonwealth countries, legal relief available to women who are the victims of violence in the home is provided by the criminal law, matrimonial law and the civil system of compensation. Increasingly throughout the Commonwealth, however, new remedies, variously entitled injunctions, interdicts and protection orders have been introduced to provide more comprehensive protection and relief.

A central question which emerges at national level in the development of legal strategies to confront the question of physical, sexual and psychological violence against women in the household, whether perpetrated by the woman's partner, parent, child or other relative is whether the penal or criminal justice system is appropriate in the management of such violence. Two divergent views have emerged. The first is that the criminal law is totally inappropriate and that a conciliation/welfare approach stressing mediation and therapy is to be preferred. The second suggests that domestic assault, notwithstanding the fact that it takes place in the family and occurs between intimates, is criminal conduct and should be treated no differently from such conduct occurring in other contexts. All legal approaches to domestic violence in the Commonwealth move along a continuum, at one end of which is a purely welfare approach and at another is an approach

advocating criminal sanction in all cases. Increasing emphasis on the criminal nature of domestic abuse has been paid by Commonwealth jurisdictions in cases of domestic abuse, but even in those jurisdictions where the criminal nature of domestic violence has been stressed, it is unusual to find special crimes relating to "spouse abuse". Thus, except for those jurisdictions, such as India, whose penal code elaborates specific provisions relating to violence in the family,[13] criminal proceedings with respect to violent acts occurring within the family will be available if those acts meet the definition of general crimes.

In all countries of the Commonwealth, in principle, the criminal law is applicable to many forms of domestic violence as, in most systems, a man is not entitled by reason of marriage or cohabitation to inflict violence on his wife. In a number of jurisdictions, however, emotional or psychological abuse does not meet the definition of criminal conduct and in most jurisdictions, rape and other forms of sexual assault by a man on his wife[14] are not regarded as criminal offences. Furthermore, in a limited number of jurisdictions, husbands and other male family members are entitled to subject their wives or female relatives to a reasonable amount of physical chastisement. This right often reflects cultural practice and is frequently applied by judicial decision-makers.[15] In some jurisdictions, issues such as provocation or motivation are taken into account when sentencing perpetrators of crimes. These issues are frequently raised by husbands or other male relatives in cases where women are killed or assaulted and very often such men receive lighter penalties.[16]

In most Commonwealth jurisdictions, criminal proceedings are not brought against perpetrators of domestic violence. Many societies fail to recognise such violence as a serious issue. Most societies, and even some that recognise the issue as serious, consider violence in the family to be regrettable, but a private or family matter and outside the proper reach of the criminal justice system. In some jurisdictions, legal obstacles reflect these perceptions, with laws of criminal procedure limiting the availability of the criminal law in domestic circumstances. For example, some jurisdictions provide that the victim must initiate prosecution for all but the most serious crimes. In some countries, wives are prohibited from giving evidence against husbands, and police powers in cases of domestic crime are imprecise.

Reforms in a number of Commonwealth countries have addressed some of these difficulties. The requirement that the victim initiate prosecution has been removed in a number of countries, while others, such as Canada, direct the police to lay criminal charges in all cases of domestic assault even if the victim herself would prefer that the charge did not proceed. Some jurisdictions have removed the prohibition on wives giving evidence against their husbands, with some making wives competent witnesses in such cases and others going so far as making them compellable.[17]

Countries which have chosen to stress the criminal nature of domestic abuse have recognised the central role of the police in the management of the issue. Furthermore, they have recognised, that the police have been traditionally reluctant to intervene in such cases and these countries have sought to introduce measures to encourage such intervention. These measures include legal provisions which clarify police powers of entry, arrest and bail procedures in cases of domestic violence, as well as the introduction of force policies, such as presumptive arrest and charging policies and police training in the dynamics of legal approaches to, and support services for, such assaults. Furthermore, in a number of countries, civil protection orders, usually enforceable by arrest, have been introduced. The general pattern of these orders is described below.

In all Commonwealth countries, matrimonial relief is available to women who are subjected to violence by their husbands. Divorce is legally available, and in general terms, physical cruelty will entitle a spouse to divorce. Many countries also allow divorce in situations of psychological or emotional abuse, while others merely require irretrievable breakdown for divorce.

A small number of Commonwealth jurisdictions demand severe cruelty before the wife will be entitled to a divorce and these will not consider minor physical cruelty or emotional abuse as sufficient to justify divorce. Some jurisdictions, particularly those which do not recognise the concept of rape in marriage, or where legislation or the common law has defined sexual relations as

one of the obligations of marriage, do not consider unwanted sexual attention by the husband as grounds for a divorce.

Other matrimonial remedies are available to wives who have been abused by their husbands. Judicial separation and other separation orders, which relieve a spouse of the duty to cohabit with the other spouse, are available as an alternative to divorce. In many countries, matrimonial injunctions or interdicts are available to provide incidental relief in suits for divorce and separation. In some countries, legislation provides specifically for orders which prohibit spouses from interfering with each other, while in others, courts have used the general power to grant such relief to provide protection for wives who are at risk.

An increasing number of Commonwealth countries have introduced special legal approaches to confront domestic violence. Although some have introduced special criminal sanction which applies in the domestic context, most have chosen to expand civil remedies. The new civil remedy, frequently called a protection order or domestic violence injunction, provides for a court order, usually obtainable on the civil burden of proof – the balance of probabilities – which is designed to protect the victim from feared attacks or harassment. In most cases, a breach of the order is a criminal offence and the police can arrest, without warrant, a person who has contravened a protection order. Protection orders are usually available in addition, or as an alternative to, pre-existing criminal or matrimonial remedies. The terms of protection orders differ in detail from jurisdiction to jurisdiction and a number of those jurisdictions which adopted these orders some years ago, have introduced modifications and improvements in response to quality assessment.

Most protection orders entitle the court to require the offender to leave the family home, even where it belongs to him, forbid him to molest or harass the victim in any way, enter the premises where she works or come within a specified distance of the woman or the locality where she might be. Some provide for a range of ancillary or incidental orders. Examples of matters which are often the subject of incidental orders include orders with respect to shared possessions, such as household furniture or vehicles, financial support and custody and visitation arrangements with respect to children. In some jurisdictions incidental orders affect the conduct of the offender, for example, require him to surrender any firearms or other weapons, limit his intake of alcohol or attend counselling.

The conduct warranting the issue of a protection order varies according to the statute which authorises it, and thus varies from country to country. In all countries where there is provision for protection orders, relief is granted in circumstances where the offender has been physically violent to the individual seeking protection and has threatened to repeat this behaviour. Some provide relief where there has been sexual or emotional abuse, intimidation or threats of abuse. Eligibility for relief also varies. In some countries orders can be acquired by any individual who fears violence from another, irrespective of the relationship between them. In other countries those who qualify for relief are more limited, with remedy available to those who have suffered or fear future victimisation from a person with whom they are currently living or with whom they previously lived or with whom they never lived, but who is the father of their child. Some countries limit the availability of protection orders still further to former and current spouses and cohabitants, while some restrict relief to married couples who are still living together.

The procedures which govern the acquisition of protection orders are broadly similar. The appropriate court is petitioned, a notice is sent to the defendant and the matter is heard by a judicial officer. In most cases, however, *ex parte* orders are available where there is immediate or present danger to the applicant and some allow for the issue of emergency protection orders outside normal court hours. Some go so far as to allow orders to be acquired by telephone. In most countries, protection orders are only available on the application of the victim, but in some jurisdictions access to such orders has been widened by granting state authorities, such as the police, or an agent of the woman – a friend or woman's refuge – the right to seek an order on the woman's behalf.

Service Provision

Research suggests that the law is usually the last resort for victims of domestic assault, reached only after others, such as family and friends, priests, pastors or mullahs, nurses, doctors and social workers, have proved to be unhelpful. However, governments have chosen to concentrate on legal reform.

In general, the response of the health and welfare sectors to violence against women in the family has been disappointing. Professionals in these sectors, usually uneducated in the dynamics of domestic assault, have chosen to concentrate on the victim, rather than the offender, as the key to their response. In general, both sectors have looked at such violence as an individual, rather than a structural problem and have stressed the importance of the maintenance of the family.

Some Commonwealth countries have sought to address the question of service provision by the developing guidelines and training materials. Australia is notable here, where training, as well as guidelines for training, have been formulated for service providers.[18]

In many countries, services for victims of domestic violence have not been introduced because of government initiatives, but rather as a result of activity by individual women or groups of women. In a number of cases, however, once services have been put in place by the efforts of such women, governments have stepped in and either taken over such services or introduced services of their own modelled on those introduced by the voluntary sector.

Shelter provision has proved to be the most important service for victims of domestic violence. Shelters, which were originally conceived as advice centres for women at risk and ultimately developed to provide short to medium term residential accommodation for them and their children, exist in such varied countries as Australia, Canada, Trinidad and Tobago, Malaysia, South Africa, Zimbabwe and India. Although many are now government staffed and funded, most were initiated by volunteer women who themselves had been victims of violence. In countries where government has adopted the shelter model, it is often the case that specific shelters are established for different groups of women: for example, immigrant women, women with disabilities, aboriginal women. However, even where countries have introduced and supported shelters, they are inadequate in number, underfunded, oversubscribed and understaffed. Other services that exist for victims of domestic assault include toll free advice lines, counselling services, support groups and advice centres.

Some governments have chosen to implement programmes for offenders. Like shelters for battered women, many of these programmes began as community based responses to the problem and many were linked to shelters. In certain cases these programmes are part of diversion schemes or a court sentence. These schemes are new, take various models and have as yet to be analysed for effectiveness. Some commentators have suggested that counselling and treatment programmes for perpetrators of domestic violence may subtly perpetuate violence by easing feelings of guilt and allowing men to express violence in more socially acceptable ways. Others question the value of such programmes when the media, social and governmental institutions tolerate the subordination and violation of women.

Research, Education and Training

Government funded and sponsored research into the various aspects of violence against women in the family is well developed in some countries, with some having information clearing houses on the subject and others, such as Canada establishing Family Violence Initiatives. In most, however, research remains rudimentary.

A number of Commonwealth countries have initiated training programmes for professionals involved in domestic violence. Most of these programmes focus on the police, regarded as the front

line of response. The programmes vary in duration, scope and target group. Few countries offer police comprehensive and in-depth training in the dynamics of domestic violence, the legal response available and the services available for the victims of domestic assault. Police in some countries, moreover, never receive training in this area.

In a number of jurisdictions, police training has been accompanied with new models of response by the police to domestic assault. In the United Kingdom, for example, many police stations now have dedicated domestic violence units, staffed by specially trained officers who advise and assist victims of abuse. In other jurisdictions, women officers are specially trained to deal with incidents of domestic assault. In other jurisdictions, such as in New Zealand in its Hamilton Abuse Intervention Pilot Project, the police form part of a multi-disciplinary response team, which includes lawyers, social workers and psychologists.

In some countries law students, lawyers, magistrates and judges are made aware of domestic violence during their training, as are other professional groups, such as nurses, doctors, welfare and social workers. Again, this training is not routine and varies in quality and duration. Some countries, including Canada,[19] have focused on the judiciary and attempted to ameliorate the justice system response where crimes against women are concerned, by addressing elements of gender bias in the justice system generally and the judiciary in particular.

Some countries have recognised that domestic violence is the result of social norms and values that produce stereotypical roles for men and women and have come to the view that this can be best addressed by formal and informal education. Accordingly, in some countries, the subject of family violence and peaceful methods of conflict resolution form part of the primary and secondary curricula.[20]

Many countries rely on informal education strategies, both to inform women of their legal rights, available options and support systems and to convey to both women and men that family violence is to be deplored. Such strategies have included poster campaigns, booklets, videos, television and radio advertising and folk theatre. In both Australia and Canada, however, the crucial importance of education in its widest sense in changing attitudes toward violence against women generally and, particularly, in the home has been appreciated. The Australian Federal Government initiated a National Domestic Violence Education Programme for the three year period 1987-1990, the aims of which were fourfold: to raise awareness of domestic violence as a matter of community concern, provide accurate information on domestic violence, encourage widespread community participation in the campaign against domestic violence, and change attitudes which cause such violence.

In the first year of the Programme, a national survey was undertaken to provide information on community attitudes to abuse. This revealed, alarmingly, that one in five of the respondents condoned the use of physical force by a man against his wife in some circumstances, one third of the respondents regarded domestic violence as a private matter, more than a quarter would ignore a case of domestic violence in their neighbourhood and nearly half knew either a victim or perpetrator of domestic violence personally. In the light of this response, revealing that the Australian community viewed domestic violence as a private, non-criminal matter, National Domestic Violence Month took place. Activities, including local debate, the preparation of information kits, posters and pamphlets were co-ordinated at local level as a lead up to this month. The Month was launched by the Prime Minister and particular attention was paid to the development of materials for Aboriginal and Torres Strait Islander women, immigrant women, women in isolated and rural communities and young women. Videos, booklets and radio programmes were developed. The Programme ended with a National Forum on Domestic Violence Training attended by over 500 people, which stressed the need for training for those who work with domestic assault. Although the Programme has now concluded, it established an important momentum which affected further domestic violence strategies. It resulted in increased government funding for domestic violence programmes and evaluation of community attitudes after the Programme indicates that the Australian community no longer views domestic assault disinterestedly.

In Canada, similarly, a public awareness campaign on the theme of Zero Tolerance, aiming to highlight the prevalence of violence against women in the home, debunk the myths surrounding the issue, stress the criminal nature of the violence and the responsibility of the perpetrator for its occurrence, began in 1992. The Zero Tolerance campaign, consisting of striking and high-profile publicity which seeks to empower women and challenge men, has been adopted in other countries, including Scotland and England where, as in Canada, it has proved to be both controversial and effective.

Sexual Harassment

Legal Approaches

Legal approaches in this context are governed by the nature of the offensive conduct and by the circumstances in which the harassment occurs, with legal remedies dependent on whether the harassment constitutes a crime, such as rape, sexual assault, indecent or common assault or a civil wrong.

A number of obstacles stand in the way of women who wish to use the general criminal law in cases of sexual harassment. First, in most countries, the general criminal law criminalises only actual physical assaults or molestation and, accordingly, only the most egregious forms of harassment women experience are within its reach. Second, the decision of whether criminal proceedings will be initiated is almost always that of the police or a government official, such as a prosecutor, rather than the woman. Hence in those cases where the third party official considers the harassment to be trivial, the case is unlikely to proceed. Third, the proof required in a successful prosecution is high, the fundamental principle of the criminal law being that an accused is innocent until proven guilty. Fourth, as harassment usually occurs in private, evidence which establishes the allegation is difficult to obtain, particularly in jurisdictions which limit the use of the uncorroborated evidence of the victim. Finally, although a successful criminal prosecution will punish the harasser and discourage other would-be harassers, it will not provide the victim with compensation, nor will it, if it occurs in circumstances such as the workplace, impose liability on the employer for the acts of employees.

Fewer obstacles stand in the way of a woman who wishes to rely on the civil law for remedy. Although, again, the conduct of the alleged harasser must fall within the definition of a civil wrong, there is a greater possibility that this conduct will fall within the rubric of wrongs such as assault and battery, defamation, nuisance, malicious falsehood or breach of contract than within the definition of a crime. Moreover, there are significant advantages where the remedy is pursued through the civil law. The evidence required to establish the claim is lower than that required in a criminal suit, the successful claimant will be entitled to compensation, which can be substantial and an injunction or interdict to prohibit the conduct recurring, and where the harassment occurs in the workplace, the harasser's employer may be vicariously liable for the actions of the employee.

Some countries have specific legislation which addresses sexually offensive behaviour falling short of rape, sexual assault, indecent assault or common assault. In most cases these are general provisions designed to protect the "modesty" of a woman.[21] Various countries have also introduced special legislation to confront particular forms of sexual harassment. For instance, the Delhi Metropolitan Council has criminalised "eve teasing", which it defines as words, spoken or written or signs or visible representations or gestures, or acts, or reciting, or singing indecent words in a public place by a man to the annoyance of a woman, and the Pakistani Penal Code criminalises the specific offence of stripping a woman of her clothes and exposing her to public view.[22] Again, in England and Wales "kerb crawling" soliciting a woman, for the purposes of prostitution is proscribed.[23] Very recently, also, some Commonwealth jurisdictions, including New South Wales, South Australia and Queensland,[24] have introduced "stalking" legislation, which criminalises persistent harassing and intimidating behaviour.

A number of countries have become aware of the prevalence of sexual harassment in particular contexts, especially the workplace and educational institutions, and the implications that such harassment can have for the individual woman and the effectiveness of an organisation. Thus, some countries have allowed women who have been subject to such victimisation to seek remedies under legislation pertaining to employment, such as sex discrimination or equal opportunities statutes, concluding that harassment in the workplace amounts to less favourable treatment on the grounds of sex.[25] Remedies have also been provided under employment protection legislation which exists in some countries to protect workers from unfair dismissal, under provisions concerning health and safety in the workplace and under miscellaneous statutory duties which devolve on employers in relation to the workplace.

Some jurisdictions have enacted legislation prohibiting sexual harassment in specific contexts, usually employment, the provision of goods and services and in educational institutions and provide remedies where such harassment occurs. This legislation is broadly similar in approach. However, some statutes are more effective than others, having wider definitions of harassment, extending coverage to contract and commission agents, allowing representative actions by unions and fixing employers with vicarious liability for the harassment of their employees.[26] It is to be noted that even where this specific legislation is concerned, the emphasis has been on harassment in the workplace, with remedies generally confined to the formal sector. In general, the informal sector where cases of sexual harassment appear to be most prevalent and destructive for victims is outside the reach of legal remedy. Again, sexual harassment legislation often does not apply to small businesses[27] and frequently certain categories of workers, such as domestics or migrant workers, types of employees, who are particularly vulnerable to sexual harassment, are excluded from the coverage.

The European Commission issued a Code of Practice on sexual harassment for member states in October 1991. The Code, annexed to and enhanced by the Recommendation of the European Commission of 27 November 1991, recommended that European Community member states implement the Code in the public sector and take action to promote awareness of the unacceptability of sexual harassment. It encourages employers to issue a policy statement on harassment, communicate this effectively to employees, develop a procedure for advice, assistance and formal complaints and treat sexual harassment as a disciplinary offence. Recommendations relating to the responsibility of trade unions and employees are also made in the Code.

Non-Legal Approaches

Governments have usually confined their activity to eradicate sexual harassment to the introduction of legislation. Campaigns and publicising the issue has, in general, been left to the initiative of trade unions, worker's associations and private organisations. A number of governments have, however, produced protocols or guides indicating how sexual harassment can be eliminated in both government and non-government institutions. A limited number of governments have drafted standard form contracts, such as New Zealand, used when government contracts are concluded, which contain clauses forbidding harassment.

In some states, measures to address sexual harassment have been introduced at enterprise level in both the public and private sectors. Collective bargaining agreements, containing specific provisions concerning sexual harassment, cover workers in a number of enterprises in some countries.[26] Policy statements, directives or guidelines, incorporating internal disciplinary procedures, have been issued by public sector and large employers in a number of states.[28]

Education

Some government bodies, trade unions, employers" organisations, women's groups, other NGOs and private consulting firms have worked to increase awareness of sexual harassment, its serious

short and long term implications and the measures that can be used to confront it by general and specific education measures. These measures have often served to initiate research and raise public awareness, to advocate legal change and to provide training and advisory services.

Measures have included the production of pamphlets, protocols and advertisements. In Australia, for example, the Human Rights and Equal Opportunity Commission conducted a poster, magazine and advertising campaign, which incorporated a toll free complaint line, aimed at young women in vulnerable occupations in 1990. Women responded positively to the campaign and its effects are continuing. Although other Commonwealth countries, including Canada, have initiated campaigns relating to harassment, predominantly, campaigning has primarily been the task of trade unions, employers" organisations and non-governmental bodies dedicated to the issue.[29]

Perhaps because of the substantial impact sexual harassment has on industry and, inevitably, economic output, as well as the fact that such conduct may involve the vicarious liability of employers, numerous training programmes related to sexual harassment have been developed. Most of these have been the work of trade unions, employers" organisations and independent consultancy firms, a market having been found by the latter group in concerned employers. In the main, training programmes have been confined to sexual harassment in the workplace and within that broad category, the formal, and generally, large workplace.[30]

Sexual Assault

Legal Approaches

In all Commonwealth countries sexual aggression against women and girls is criminalised in a broad range of legislative offences which are variously entitled abduction, defilement, indecent assault, procuration of a woman to have sexual intercourse by threats or false pretences, unlawful detention for immoral purposes, carnal knowledge and rape. Most legal systems criminalise some forms of activity involving minors, consanguines, affines – and sometimes dependants – and those who are mentally disabled, even in cases where the victim consents.

Over the last decade, many countries have witnessed demands for reform to both the substantive and procedural law governing sexual offences. In response to these demands, some Commonwealth jurisdictions have chosen to widen the definition of sexual assaults regarded as particularly heinous beyond penile penetration of the vagina and the anus to other sexual assaults and, for example, penalise forced oral intercourse heavily. Some have made their legislation "gender neutral", thereby allowing both victims and offenders to be both female or male. A number have graded sexual assault in terms of seriousness, providing higher penalties where sexual contact is forced by violence or where sexual assault is perpetrated by a group. Some countries have removed the word "rape" from the statute book.

An increasing number of Commonwealth countries now provide that unwanted sexual contact within marriage is unlawful, thus removing the rule that a wife, by the act of marriage, consents at all times to sexual contact with her husband. Such countries acknowledge that prosecutions may not be common and proof may be difficult, but their legislation indicates that the wife is no longer subservient to, or the chattel of, her husband.

Substantive legislative reform in some countries has sought to remove the focus of the trial for sexual assault from the complainant to the accused. Reforms here have been addressed at two areas of substance: the question of the complainant's consent and the offender's perception of the complainant's consent.

In most jurisdictions, the prosecution must prove that the complainant did not consent to sexual contact before the crime of sexual assault is made out. The standard of proof required of the prosecution is high in all countries. In some, however, the standard is almost impossibly high: those

countries which apply strict Islamic law requiring the testimony of four male eye-witnesses. In many, unless the complainant suffers fairly severe injury, it will be very difficult to prove that she did not consent. It will be an almost impossible task to prove she did not consent in most jurisdictions if the complainant is a prostitute or if she knew the offender had a past sexual relationship or was involved with him in some way.

Some reforming statutes have sought to shift the focus from the complainant's consent by defining situations in which the complainant's consent will be deemed to be absent. These include, for example, where she or another person is threatened with physical or economic retaliation or situations where the accused falls into a particular category, such as a hospital worker, employer, prison official or police officer.

Many jurisdictions require an accused to have a particular mental state before he can be regarded as having sexually assaulted the complainant. In general, the prosecution must prove that the accused intended to have sexual intercourse with the complainant against her will or that he was recklessly indifferent to her wishes. In effect, this means that an accused who is able to show, no matter how unreasonably, that he believed his victim consented to his attentions, must be acquitted. Some countries, alive to the fact that this allows the accused to allege that the complainant enjoyed sexual contact in demeaning circumstances, have introduced reforms which require the accused, once the prosecution has proved that the woman was not consenting, to show that he believed, on reasonable grounds, that she consented. Such reforms preclude allegations by an accused that although most women would be averse to sexual contact in the circumstances, the complainant under consideration had unusual sexual habits and desires.

Although there has been significant focus on the reform of the substantive law of sexual assault, evaluations of legislative reforms that have been made, reveal that most women place more significance on the reform of evidentiary and procedural aspects of this area of the law. Modifications of the requirement of fresh complaint, corroboration and rules allowing introduction of evidence of the past sexual history of complainants have been welcomed as significantly ameliorating the ordeal and limiting the humiliation that a complainant endures both in the courtroom and before. Other measures, which have included provisions allowing complainants anonymity, court procedures which hide their identity and deny the offender bail, or at least make the complainant aware of where the offender is, have also been enthusiastically received.

These modifications go some way to redressing the entrenched gender bias in the legal system which reflect perceptions of female behaviour in the context of sexual assault. At the same time, however, some of these modifications affect the opportunities that accused men have to introduce all relevant material relating to the offence at trial and, accordingly, can be construed as offending guarantees of civil liberties. In some jurisdictions accused men have mounted challenges to these reforms on the basis that they offend fair trial guarantees. In Canada, for example, a blanket provision prohibiting evidence of the victim's past sexual history was successfully challenged,[31] although a similar provision, allowing the accused to apply for a judicial determination, which is heard *in camera*, for the introduction of such evidence, was subsequently introduced.[32]

Support and Services

Support and services for victims of sexual assault have, as in the case of domestic violence, usually been initiated by individual women and women's groups. As with domestic violence, the models used have often been adopted by government at a later stage. It must be noted, however, that although some countries have been quick to introduce legal reform in the area of sexual violence against women, they have been slow to introduce services, perhaps reflecting societal discomfort with, and hostility towards women who have been victims of such assault.

In many countries rape crisis services, provide toll free advice lines, advice services and accommodation for women who are the victims of sexual assault operate. Some are run by women's groups

with no support from government, others are operated by a combination of such a group and government and some are operated by government. Some operate independently, others co-operate with the police and some are integrated formally with the police.

In most countries the traditional sexual assault reception agencies are police stations. In many, little attention has been paid to the singular ordeal that a rape complainant endures and in most countries police stations are not equipped to alleviate this. Some, however, have taken account of the particular needs of sexual assault complainants and offer a multi-disciplinary approach to such complaints, often co-operating with hospitals or special clinics. In some countries, such as the United Kingdom, police have introduced special examination rooms, away from the station, to render the ordeal of the victim as inoffensive as possible. A number of countries offer victim support services which aim to support the victim before, during and after any trial.

Training and Education

Victims of sexual assault are usually ashamed, guilty and afraid of how people will react to them. Many are humiliated, ridiculed, scorned and stigmatised by police and other workers and treated with suspicion and hostility by their family and friends. In some societies, such victims are rejected and shunned by husbands and other family members. Indeed, there is evidence that even women who have been sexually assaulted in detention or in conflict situations are blamed by their family members for their victimisation.

The negative response to the victim of rape stems from attitudes to women, rape victims and rape which is the result of myth and prejudice. Women are believed to provoke sexual assault by the way they dress, where they go, the way they move and behave. They are considered to be responsible for their own protection and must ensure that they do not arouse male sexuality.

Evidence from many countries suggests that the police are particularly at risk of being misinformed by these stereotypes. They are, thus, frequently suspicious of complainants, particularly in cases where there is no obvious sign of injury, where the offender is known to the complainant, where she delays reporting her assault or appears calm and unemotional. If the complainant is perceived to be morally dubious, for example, where she is a prostitute or sexually experienced, her allegation is highly likely to be doubted.

Police suspicion may manifest itself in various ways: the complainant may be totally disbelieved and discouraged from pursuing her complaint; the investigation may be conducted in such a way as to test her story – insensitive, bullying interrogation may take place, for example, involving a series of officers and a medical examination in unpleasant or threatening circumstances; and the complainant may be kept uninformed of the progress of the investigation.

In most countries, police officers receive basic training in the law and practice relating to sexual assault: usually, however, this training is brief and under-resourced. Some countries have recognised the importance of training and education in this context and have introduced specific training and education at basic, refresher and advanced level. Most of this training has been in methods of obtaining the best evidence for conviction and has thus been technical, but some has included attitude training and sensitisation. This has usually taken the form of training courses. However, some countries have employed Kits and Protocols which the investigating officer is directed to use in cases of complaints of sexual assault. This ensures that officers are meticulous in their collection of evidence and also direct their inquiries sensitively.

Police officers are not the only group who need to be educated in the dynamics of sexual assault. Prosecutors, defenders, judges and the general public require such training. Unfortunately, although some countries do conduct specific training for lawyers and judges, this area is not as developed as, for example, training in the area of domestic violence. Although poster and advertising campaigns around the issues of domestic violence and sexual harassment have been conducted in many countries, sexual assault has not received the publicity it warrants.

Violence Related to Tradition and Custom

In a number of countries, women are subjected to violent or harmful treatment because of practices which are regarded as traditional, customary or prescribed by religion. Four such instances are: violence related to dowry, widowhood rites, *sati* and female circumcision.

In all four instances legal strategies have been introduced to criminalise the practice, in the hope that this will lead to its eradication. However, here more than in other contexts where women are the subject of abuse, the law alone cannot be relied on to change practices which are rooted deeply in tradition and culture and which, to a certain extent, are defended by both women and men, despite the fact that they have patently harmful consequences.

Harmful traditional and customary practices will be eradicated only when there is fundamental societal change which will occur with attitudinal change at all levels. This sort of change can be achieved only with a combination of short and long term measures which are aimed at the particular practice and the cause of the practice. Such measures include formal and informal education, effective use of media and clear commitment from government, which is prepared not only to condemn such practices legislatively, but to ensure that such legislation is implemented in good faith.

Legal Strategies

A succession of statutes in India, Bangladesh and Pakistan have sought to criminalise violence related to dowry.

In India and Bangladesh, the payment of dowry has been outlawed, the Indian Central Government passing the first *Dowry Prohibition Act* in 1961. This statute defines dowry as "any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to another at or before or after the marriage as consideration for the marriage". The statute set out severe penalties for those who demand, give, take or advertise dowry. Bangladesh, similarly, imposes substantial penalties for the giving or taking of dowry in legislation which follows the pattern of the Indian act. In Pakistan, however, a different approach is taken in the Dowry and Bridal Gifts (Restriction) Act 1976 which limits the amount of dowry, bridal gifts and presents and expenditure on marriage and also provides that any property given as dowry or bridal gifts vests absolutely in the bride.

Further substantive and procedural measures to discourage dowry-related violence are to be found in the provisions of the Indian Penal Code 1860, the Criminal Procedure Code 1973 and the Evidence Act 1872 introduced in 1983 by the Criminal Law (Amendment) Act. Two new offences have been created. The first is dowry death, defined to occur where a woman, subject to cruelty or harassment by her husband or his relatives in connection with any demand for dowry, dies within seven years of marriage. The second refers to cruelty to a woman by her husband or the relatives of her husband, defined as any wilful conduct which is of such a nature as to be likely to drive the woman to commit suicide or to cause her grave injury to life, limb or her physical or mental health, as well as any harassment of the woman where this is intended to coerce her or any of her relatives into parting with any property or valuable security. It also includes any harassment which occurs because of her failure or the failure of her relatives to meet such a demand. These two offences attract heavy penalties. Prosecution of these offences is facilitated by provisions which presume that the crimes have occurred in specified circumstances and strengthen police powers.

Some countries, such as Ghana, have been prepared to criminalise those who compel a bereaved person to undergo any custom or practice which is cruel, immoral or grossly indecent, while India introduced comprehensive criminal legislation at both federal and state level to address *sati*, a historical practice, which has experienced some revival, wherein widows practice self-immolation on the funeral pyres of their husbands.

Except for Ghana with its 1994 Criminal Code Amendment Act, criminalisation of female circumcision has occurred only in countries, such as Australia, Canada and the United Kingdom, where the practice is confined to immigrant groups. Countries where the practice is customary choose to rely on education, information and consciousness-raising campaigns to eradicate the practice. Although at least one medical practitioner in the United Kingdom has had his practising certificate terminated for perpetuation of the practice, criminal prosecution of circumcisers and others involved in the practice is rare.

Education

Legal strategies have not proved to be very effective in the context of traditional and customary practices. Certainly, dowry has not been eradicated in South Asia and deaths and injuries occurring as a result of the practice continue to rise. *Sati*, on the other hand, is not a common practice. Widowhood rites appear unaffected and the incidence of female circumcision in those countries that have criminalised the practice continues to rise.

Some commentators argue that stringent legal measures in the context of traditional practices may be counterproductive, serving to drive the practice underground or, indeed, encouraging it, because these legal measures may be perceived to be an attack on the particular tradition or cultural and societal system, rather than on the harmful practice itself. Accordingly, these commentators advocate education strategies.

Education and information campaigns have been introduced in South Asia to discourage the practice of dowry and its related evils and to eradicate *sati*. Thus, the Indian Government, for example, has instituted television and cinema advertising campaigns which employ uncompromising commercials to discourage such practices. Furthermore, in India a number of special police dowry units headed by women officers have been established, public lawyers have been appointed to assist women in the prosecution of dowry related matters, and many women's organisations have actively campaigned on the issue.

Action taken to eradicate female circumcision has not been as focused as action to stop dowry related violence, but in those countries where the practice is customary, poster campaigns and training modules for service providers have been introduced. These have aimed at the transformation of the social, religious and cultural bases of the practice. Furthermore, in a number of these countries, high level members of government have been prepared to make statements condemning the practice, drawing attention to the health risks to girls and women.

Prostitution and Trafficking in Women

Approaches to prostitution at international, regional and national level reflect an underlying dilemma: whether all prostitution is inherently coerced, and accordingly, represents a form of violence against women or whether only coerced prostitution falls into this category. Early international regulation of prostitution concerned coerced trafficking, while the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others[33] draws no explicit distinction between coerced and voluntary prostitution. The dilemma relating to prostitution remains, with Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women requiring states parties to "suppress all forms of traffic in women and exploitation of prostitution in women" and the Declaration on the Elimination of Violence against Women addressing only trafficking in women and forced prostitution.

Whether or not prostitution is compelled in all cases, coerced prostitution certainly falls within the category of violence against women, while all prostitutes, coerced and voluntary, are at the risk of violence from their clients, their organisers and the authorities. *A fortiori*, coercion of women and

girls for prostitution abroad amounts to violence against women, with these women and girls even more vulnerable than other prostitutes to further abuse.

Legal Approaches

In essence, national jurisdictions take three approaches to prostitution: the "prohibitionist" approach, under which prostitution is forcefully suppressed with penalties against all, including the prostitute, associated with it; the "regulationist" system, whereby prostitution is regulated[34] and the "abolitionist" approach under which the prostitute herself is not penalised, but soliciting, procuring, pimping and brothel-keeping are offences.[35] None of these approaches has proved to be effective in reducing either the incidence of prostitution or the risk of further violence to prostitutes. On the contrary, criminalisation of prostitution and activities associated with it appears to have increased its incidence, creating opportunities for police corruption and allowing for exploitation of the human rights of prostitutes. Moreover, criminal sanctions have proved to be obstacles to prostitutes and their clients openly seeking safe sex education and health services particularly in relation to HIV/AIDS.

Although a number of national jurisdictions have legal provisions which relate specifically to child prostitution, these and general laws relating to prostitution have rarely been enforced rigorously, especially against foreigners. Recent extra-territorial criminal legislation has also encompassed the sexual exploitation of children. Australian nationals who sexually exploit children in other countries can be prosecuted in Australia[36], as can Canadian nationals in Canada.[37] France and New Zealand are considering similar legislation.[38]

At national level, trafficking in women and girls is variously confronted by penal provisions criminalising traffic and those who facilitate such traffic, provisions in immigration legislation preventing the entry of traffickers into national jurisdictions and provisions in labour legislation which regulate employment and labour agencies and protect migrant workers. Furthermore, in some countries, regulations provide for the screening of passport applications for women and the screening of marriages between nationals and those from abroad.

Service Provision

In most countries, non-legislative measures to confront the exploitation of prostitution and trafficking in women has been the work of NGOs. Women have reflected the dilemma of whether all or only coerced prostitution amounts to violence against women. In a number of countries, prostitutes themselves have formed organisations to provide support for other women and to lobby for effective legal change.

Particular programmes have been aimed at young women so as to prevent them from entering prostitution. International and national NGOs in a number of countries have introduced safe house and education projects and specific programmes for "street children". In some countries, programmes have been developed to assist women who have been trafficked, to provide them with legal advice so as to protect them from immediate deportation, and harsh treatment on return to their country of origin. Specific assistance exists in some countries for women who have entered as "mail order" brides or as assisted immigrants who find that, in fact, they have been the victims of trafficking.

Service provision for prostitute women, be they indigenous or trafficked, remains undeveloped, with too little attention being paid to economic and educational disadvantage which is the root cause of these abuses.

Research and Education

Although there is increasing research into the causes and dynamics of prostitution, its exploitation and trafficking against women, there has been little in the way of education measures at international, regional and national level to prevent their occurrence. In some countries, specific information measures to address HIV/AIDS have been aimed at prostitutes, but specific and general education measures with respect to the issues of prostitution and trafficking have not occurred.

Conclusion

Commonwealth countries have responded well to the identification of violence against women as a priority concern. However, in most countries of the Commonwealth the response has been to address various forms of such violence discretely rather than to consider these various manifestations as interrelated or interlinked in any way. In most countries responses have been law centred and have predominantly concerned law reform. Many of the legal responses which have been employed, and reforms that have been introduced, are based on a model of gender neutrality in a gender specific area and do not take into account the reality of victimisation and the systemic inequalities in society. The laws which are applied are based on a perception that the law is neutral, but, in fact, perpetuate outdated sexual stereotypes and result in unfair and unequal treatment of women. Furthermore, the legal response has usually been piecemeal so that although useful legislative reform has been introduced, its effectiveness has been undermined by other laws or provisions which impact on the particular issue.

The central difficulty with current strategies, however, is that, as yet, countries have been wary of allocating sufficient resources to create a harmonised and integrated response. It has been more convenient to concentrate on legal measures, where costs are few and rhetorical gains are high. Lack of resources, combined with competing values and beliefs about women, their place in the family, the community and society have been sufficient to dictate that the achievement so far, even in those countries where violence against women has been a priority concern for some time, is that individual women have been able to resolve their particular problems, but little substantial or substantive change has occurred.

Commonwealth countries should now move towards a harmonised and integrated response to the various manifestations of violence against women. They should adopt the interrelated definition of violence against women to be found in the United Nations Declaration on Violence against Women and ensure that the practical strategies recommended by the Declaration are in place. Countries must ensure that they have appropriate legislative provisions in place and should be encouraged to co-operate bilaterally and multilaterally. Countries should share evaluations of legislative measures that have been introduced and consider producing manuals of "good practice" in the area. Those countries that introduced reforms to address violence against women some years ago and are now introducing measures to improve these reforms should be particularly encouraged to share their knowledge and insights with other countries whose laws may not be so developed. Close co-operation should be fostered between the Commonwealth Secretariat and the various parts of the United Nations that are concerned with violence against women.

Particular emphasis should be placed on measures that might change attitudes to women and violence against women. Innovative public and sector specific education strategies should be developed and shared, and the Commonwealth Secretariat should take a lead role in acting as a clearing house for the sharing of such strategies. In co-operation with the Secretariat, Commonwealth countries should develop training materials for relevant sectors, organise workshops on critical areas concerning violence against women and concentrate on judicial training and education. Most importantly, a holistic approach should be taken to the problem of violence against women. It should be understood as the most blatant manifestation of the subordination of women and the denial of their human rights. Strategies to eliminate violence should be

seen as an indispensable part of the process of eliminating discrimination against women and achieving equality for women.

Countries must go beyond formalistic legal provisions and reach a deeper consensus and sustainable commitment to the eradication of violence against women. Violence must be made as costly to its perpetrators as it is to individuals, the community and to the state.

Notes

1 The Vienna Declaration and Programme of Action, June 1993, Reprinted in 32 *International Legal Materials* (1993) 1667 paragraph 38.

2 SC Res. 808, paragraph 1 UN Doc. S/RES/808 (1993).

3 GA Res. 48/103, 20 December 1994, UN Doc. A/RES/48/104 (1994).

4 CHR Res. 1994/45, UN Doc. E/CN.4/1994/132 (1994).

5 33 ILM 1534.

6 Beijing Declaration and Platform for Action, Fourth World Conference on Women, UN Doc. A/CONF.177/20 (1995) Declaration, paragraph 29; Platform, paragraphs 112-130.

7 NCVAW. (1992). The *National Strategy on Violence Against Women*. AGPS: Canberra.

8 *Changing the Landscape: Ending Violence – Achieving Equality* (1993). Ministry of Supply and Services: Canada.

9 See the approach of the Supreme Court of Canada to the prosecution of a woman who killed her partner who had treated her with violence in *R v Lavallee* [1990] 55 CCC (2d) 97.

10 New Zealand, *Domestic Violence Act* 1995 provides that violence perpetrated against a partner by the other can be taken into account in child cases.

11 Regulations introduced into Australian immigration law in 1991 allow domestic violence to be considered in immigration cases: *Review of the Operation and Effect of the Domestic Violence Provisions for Spouses Applying for Permanent Residence*, Domestic Violence Monitoring Committee, Department of Immigration and Ethnic Affairs, 1993.

12 Canada's *Guidelines: Women Refugee Claimants Fearing Gender-Related Persecution*, Immigration and Refugee Board, Ottawa, Canada, March 9, 1993 include gender-based violence against women as one of the possible grounds for claims for refugee status.

13 These crimes concern violence against wives to encourage dowry payments.

14 In some states, criminal codes expressly exempt sexual assault by a husband on his wife from the coverage of the criminal law, while in most states this exemption is implicit. A number of US states have extended the marital immunity to cover other situations, such as cohabitation or former intimacy: Sonya Adamo, "The Injustice of the Marital Rape Exemption: A Survey of Common Law Countries", *American University Journal of International Law and Policy*, Volume 4, 1989, p.555, pp. 562-566.

15 Physical chastisement of wives and other female relatives is acceptable in a number of societies. Many states with predominantly Muslim populations accept physical chastisement of wives, with Verse 4:32 of the Qur"an commonly being used to justify this practice. It is common for the defence counsel in these states and in others, to suggest that husbands have a right to discipline wives. Note the statement of Maisels JP in the Botswana case of *Losang v The State* (Crim. App. No 11 of 1985) where the defendant husband had beaten his wife to death..."I wish..to state quite emphatically..that the law does not and will not recognise what is alleged to be an accepted custom in Botswana, that a husband may physically assault his wife..I mention this because Counsel for the State, of all people, appears to have thought there was nothing wrong in this alleged custom".

16 Susan Atkins and Brenda Hoggett. (1984). *Women and the Law*, Oxford, Basil Blackwell, p.138.

17 For example, UK, Police and Criminal Evidence Act, 1984, s.80.

18 NCVAW. (1993). *National Guidelines for the Training of Service Providers Working in the Area of Violence against Women*. Canberra. AGPs.

19 Department of Justice, Canada, *Gender Equality in the Canadian Justice System* (1993). Ottawa. Department of Justice.

20 The Canadian Teachers Federation, for example, has developed a curriculum guide containing sample lessons for kindergarten to grade 12 called "Thumbs Down, a Classroom Response to Violence against Women".

21 Indian Penal Code, s. 509.

22 Pakistan Penal Code, 1860, s.345 inserted in 1984 in response to a particular incident.

23 Sexual Offences Act 1985.

24 Crimes (Domestic Violence) Amendment Act 1993 (NSW); Criminal Law Amendment Act 1993 (Qld); Criminal Law Consolidation (Stalking) Amendment Act 1994 (SA).

25 *Strathclyde Regional Council v Porcelli* [1986] IRLR 134; *Wileman v Milenic Engineering Ltd.* [1988] IRLR 144. Michael Rubenstein (1987) *The Dignity of Women at Work: A Report on the Problem of Sexual Harassment in the Member States of the European Communities* V/412/1/87. See ILO, *Conditions of Work Digest*, Volume 11, 1/1992 for a comprehensive analysis of approaches to sexual harassment around the world .

26 ILO, *Conditions of Work Digest*.

27 In the United Kingdom the Sex Discrimination Act 1985 applies only where the employer employs six or more workers.

28 For example, Air Canada, New Zealand Post and Telecom Australia. Sexual harassment policies and procedures are common in universities and other educational establishments throughout the Commonwealth.

29 For example, Women Against Sexual Harassment (WASH) in the UK.

30 ILO, *Conditions of Work Digest*, Volume II, 1/1992.

31 *R v Seaboyer* (1991) 83 DLR (4th) 193.

32 Criminal Code s.276, introduced by Bill C-49, 1992.

33 Laura Reanda, "Prostitution as a Human Rights Question: Problems and Prospects of United Nations Action" 13 *Human Rights Quarterly* 202, 207-211 (1991).

34 Victoria, *Prostitution Regulation Act* 1986 and the related *Prostitution (Advertising) Regulations* 1990.

35 For the classification of approaches see Joan Fitzpatrick, "The Use of International Human Rights Norms to Combat Violence against Women" in Rebecca Cook (ed) *Human Rights of Women: National and International Perspectives* (19940. Philadelphia, University of Pennsylvania Press p.532 at p. 552.

36 Crimes Act (Cth) 1914 as amended by the Crimes (Child Sex Tourism) Act 1994.

37 Bill C-27.

38 Douglas Hodgson, op. cit., pp.530-532.