

29 June 2018

New South Wales Law Reform Commission
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Sydney, NSW, 2001
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Dear Commissioner

Review of consent in relation to sexual assault offences

Thank you for the opportunity to contribute a preliminary submission to this important review of sexual consent provisions in the Crimes Act 1900. We commend the New South Wales Government's commitment to this latest review of consent in relation to sexual assault offences as the first priority action of the Sexual Assault Strategy.

White Ribbon Australia focuses on the prevention of men's violence against women. Our organisational purpose is 'engaging men to make women's safety a man's issue too'. We want all men to understand and act on their role in the prevention of men's violence against women.

In holding perpetrators to account and supporting victims, effective legal responses can deter potential perpetrators of sexual assault, prevent reoffending and encourage women who have experienced sexual assault to seek help.

White Ribbon Australia endorses Recommendations 3, 17 and 19 of the Rape and Domestic Violence Services Australia submission to the review. We also refer you to the DV NSW submission, which includes important insights into the terms of reference for this review from specialist women's services and domestic and family violence practitioners.

Yours sincerely

Nicholas Cowdery AM QC

Chair

Preliminary Submission to the New South Wales Law Reform Commission

Review of consent in relation to sexual assault offences

About White Ribbon Australia

White Ribbon Australia (“White Ribbon”) engages men to make women’s safety a man’s issue too. We mobilise and support men to understand and act on their role in the prevention of men’s violence, including sexual violence, against women.

To achieve this, we offer a range of violence prevention initiatives in schools, workplaces, online and through grassroots community events. These activities highlight the positive role men play in preventing men’s violence against women and support them to be part of this social change.

The briefing document attached to this submission gives an overview of the nature and reach of our program and campaign work, as at June 2018.

In this submission, we reflect on the need for enhanced investment in sexual assault prevention to occur alongside law reform. Recommendation 17 and 19 of the Rape and Domestic Violence Australia submission to this review also notes the importance of community education to improving criminal justice responses to sexual violence and preventing it from occurring in the first place.

A review of sexual consent provisions could better protect victims and survivors of sexual assault and, when coupled with investment in sexual assault prevention programs and campaigns that focus on consent, can bring about the cultural change required to decrease rates of sexual assault and promote respectful relationships between men, women, boys and girls.

What Australians think about sexual assault and consent

We commend the focus of the review on the experiences of sexual assault survivors. This is central to understanding any issues with the current sexual consent provisions. We also refer the review to the DV NSW submission, which details the perspective of specialist women’s services and domestic and family violence practitioners from their decades of experience.

Current perspectives on consent and rape more generally are also important to consider. The National Community Attitudes Survey (NCAS) found that while Australians understand that forced sex is a form of violence against women and consider it a serious offence, 43% believe that rape results from men not being able to control their need for sex and 38% believe that a lot of times women who say they were raped led the man on and later had regrets (VicHealth 2014, pps. 2-5). This highlights the ongoing need for cultural change to support systems change that shifts gender norms and ends victim blaming.

There is also a need for targeted and culturally appropriate approaches to sexual assault prevention campaigns and education. People from non-main English speaking countries were significantly more likely than Australian-born respondents to agree that ‘if a woman doesn’t physically resist then it isn’t really rape’ and to agree that ‘if a woman goes alone into a room with a man at a party it is her fault if she is raped’ (VicHealth 2014b, p. 8).

We recommend the Commission review the relevant findings when the latest NCAS results are released later this year.

White Ribbon Programs and Campaign: supporting legal approaches and systems change

The issue of consent in sexual relations is addressed across White Ribbon Programs and Campaigns, as demonstrated in Table 1.

We use a community development model to ensure that our work reaches diverse audiences across Australia including young people, teachers, sports clubs and the general public. The White Ribbon Diversity Program expands this reach by tailoring workshops, forums and resources to the needs of culturally and linguistically diverse and Aboriginal and Torres Strait Islander communities.

Table 1: Discussions about consent and sexual assault occur across White Ribbon Programs, Campaigns and activities.

Breaking the Silence Schools Program	<ul style="list-style-type: none"> • Promotion of respectful relationships • Workshops • Online training • Resource library • Promoting the active bystander
White Ribbon Campaign	<ul style="list-style-type: none"> • White Ribbon Day • White Ribbon Night • 16 Days of Activism • Social media campaigns e.g. 'Myth-busting May' • Opinion pieces • Newsletters
White Ribbon resources	<ul style="list-style-type: none"> • Elearning • Factsheets translated into 6 languages • Videos • Website
Ambassadors and Advocates Programs	<ul style="list-style-type: none"> • Forums • Workshops • Training (online and face-to-face) • Resource portal • Networking events
Youth Program	<ul style="list-style-type: none"> • Training • Events in tertiary education settings
Workplace Accreditation Program	<ul style="list-style-type: none"> • Codes of Conduct required for all participating workplaces • Online library
Diversity Program	<ul style="list-style-type: none"> • Workshops • Forums • Resources

Going beyond the 'yes is yes, no is no' understanding, this work explores consent through, for example:

- Linking attitudes to behaviours, and challenging attitudes that excuse and minimise sexual violence.
- Challenging gender norms e.g. those that promote male entitlement and female submission.
- Promoting the role of the bystander by showing people what they can do if they witness or become aware of sexual violence and giving advice on how to challenge attitudes that excuse and minimise violence (e.g. how to respond to a rape 'joke').
- Promoting respectful relationships, and the central role consent plays in this.

Insights from social media

White Ribbon reaches an average of 3,948,627 people each month on Facebook. Discussions on our Facebook page give some insight into the knowledge, attitudes and behaviours of the general public.

Facebook user comments demonstrate various levels of understanding in regards to consent and issues related to consent. Some examples are provided below. These comments reinforce the need for heightened investment in social awareness campaigns in order to:

- improve people's understanding of sexual assault and consent, including legal frameworks;
- clearly explicate the link between sexual assault and attitudes that excuse and minimise violence;
- encourage honest conversations about consent and sexuality that help challenge gender norms;
- support victims and survivors to share their experiences and seek help; and
- build the confidence of people to act as bystanders and to deal with disclosures of sexual assault.

██████████ And that's why women don't report sexual assault
Like · Reply · 6w  4

██████████ I've always thought if something like this happened to me, I wouldn't even bother reporting it, there is zero justice for victims of sexual Assault. I'd probably sooner go vigilante
Like · Reply · 6w  1

██████████ I know what you mean. I would do the same.
Like · Reply · 6w

██████████ Yet when there is a report of rape on Facebook you see guys joking about it and tagging their mates. We have still have so far to go.
Like · Reply · 1y  10

██████████ These 'guys' don't represent normal. They are pathetic individuals.
Like · Reply · 1y  9

██████████ Really ?
Like · Reply · 1y

██████████ Yes, really
Like · Reply · 1y

██████████ Actually they do represent normal for a lot of women. Male failure to LISTEN to our experiences is part of the problem.
Like · Reply · 1y  1

██████████ And this ,everything explained in this article is what we mean when we say "rape culture " That is rape culture .where men are conditioned to not take consent seriously and where women are shamed and blamed for rape .
Like · Reply · 1y  20

██████████ I don't think it's so black and white. I've experienced sexual assault by partners. Saying no sometimes isn't an actual option.

██████████ A lot of us take our sexual assault with us to the grave. . Why? Because is too much to deal with.
Like · Reply · 6w   4

██████████ The other day my 7 yo son said to his 5 yo brother "let's call ourselves the "REspect No!" brothers!" Music to my ears 😊
Like · Reply · 45w · Edited

██████████ Thanks for a great article. It's powerful when men speak out against sexual assault.
Like · Reply · 4w  2

Next steps

This review, and any subsequent reform to sexual consent provisions in the Crimes Act 1900, is an important opportunity for violence prevention agencies operating in NSW to shine a spotlight on the issue of consent and sexual assault. We will be able to draw upon this reference in our practical work. However, this work needs to be adequately funded for maximum impact.

We commend the NSW Government's recent budget announcement of \$380,000 for supporting the implementation of the Sexual Assault Strategy and hope that some of this funding will be allocated to prevention.

This approach will ensure that the important work of this review, regardless of the outcome, is consolidated and supported across the continuum of responses to sexual violence.

References

VicHealth (2014). *Australian's attitudes to violence against women*. Retrieved from:

<https://www.vichealth.vic.gov.au/media-and-resources/publications/2013-national-community-attitudes-towards-violence-against-women-survey>.

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