Battered woman syndrome

What is 'reasonable'?

Patricia Easteal

Is an objective standard meaningless if the jury is not equipped to understand what is indeed reasonable behaviour for a woman who has experienced long-term battering?

During the late 1970s in the United States, battered woman syndrome (BWS) was introduced in some trials of women charged with murder. Self-defence, for so long narrowly defined in a perspective suitable to describing violent interactions between two males, began to be interpreted in a broader framework. The courts acknowledged that, in many cases, both due to physiological and socialisation differences, a female simply cannot defend herself in the same manner as a male and, even more specifically, that living in a battering situation for an extended period of time impacts on the individual's ability to act according to the way that 'a reasonable man' would behave.

A history of battering has been used in sufficient cases to merit US Senate approval of an amendment which requires the Attorney-General and Secretary of Health and Human Services to review the use of BWS and its assessment by legal practitioners. It has achieved a degree of legitimacy that has prompted two States' governors (Ohio and Maryland) to grant clemency to women imprisoned in their gaols for murdering battering husbands.[1] It is not possible to ascertain the exact number of cases in the US in which BWS has been used to prove self-defence.[2] Certainly, it is not featured in every situation or accepted by all trial judges, nor is it always successful when it is used. Lenore Walker reports that in the first 100 cases which she assessed for BWS, 25% of the defendants were acquitted.[3]

The following article will examine what BWS is, how it has become grounds for self-defence in the United States and Canada, look at its recent appearance in Australian courts, and discuss some of the objections to its use.

Battered woman syndrome

This is a term that refers both to a certain pattern of violence and to the psychological consequences on the recipient of the violence. BWS is considered to be a sub-type of post-traumatic stress syndrome which has been identified as a consequence of enduring years as a hostage or other high stress environments such as concentration camp internment. According to its adherents, the syndrome is the culmination of three stages which can recur in the domestic violent situation.[4] The first phase of tension building may lead to the second stage of severe bashing which is followed by the third phase, exemplified by the batterer's contrition, promises, and temporary cessation of violence. This latter period acts to keep the woman in the relationship believing that the nightmare is over, when in fact, most often it has just begun. The cycle continues with stage two violence increasing in type over time.

A psychological condition may develop with the victim acquiring a learned helplessness response to the situation. She becomes convinced that her options are negligible, that the batterer is all powerful, and her repertoire of responses becomes very limited. '. . . [L]earned helplessness explains how people lose the ability to predict whether their natural responses will protect them after they experience inescapable pain in what appear to be random and variable situations'.[5] Contributing to and resulting from the dynamics of the violent relationship are both the victim's increasing loss of self-esteem and her isolation from others.[6]

Studies have shown that, in cases where the battered victim ultimately kills her partner, there are factors that differentiate the situation from other batterings when homicide is not the result. First, the cases which end in death more often contain alcohol abuse, death threats, threats with weapons, more severe battering and sexual violence toward the woman and/or others in the family.[7] The actual killing is usually preceded by an unusual incident; something done by the male that is not in his usual repertoire of violence. This often concerns the children in the family: he either threatens their lives, begins to sexually assault one or more of the children, or the wife first learns of the latter.

BWS as the grounds for self-defence

Both in the US and in Australia there are three components of the self-defence law that may be problematic for battered women who kill: requirements that the threat was imminent and the responding amount of force equivalent; and the obligation to retreat or try to

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escape from an attack. The perception of imminence and severity of the assault plus the individual's perception of how much force is requisite to counter it must all be reasonable.[8] Psychologists and lawyers in the US and, more recently, Canada, have worked hard to redefine the terms in this definition to fit the actions of a victim of BWS and place the defendant's actions against the norms of a reasonable battered woman, not a reasonable man.

(Reasonable belief in) the immediacy issue

Traditionally, in the context of male vs male, this has been narrowly defined to mean that the attacker is in the process of attack; the defender is thus in immediate danger and strikes back in self-defence. However, one must remember that the definition states '. . . reasonably believes that one is in immediate danger'. Two landmark cases did not involve battered women but were relevant to the issue of differing concepts of 'reasonable'. In *State v Wanrow*[9] the Washington Supreme Court ruled that the accused who had been on crutches had committed the killing in self-defence when the deceased, a known child molester with a history of violence, entered her home. The court stated that the jury was entitled to consider all of the circumstances surrounding the incident in its determination of whether the defendant had reasonable grounds to believe grievous bodily harm was about to be inflicted. In *State v Garcia*[10] the defendant had been physically and sexually assaulted by two men who threatened to return. Garcia went home, got a gun, found them and killed. In her second trial she was acquitted on the grounds of self-defence.

It has since been argued successfully in US courts that the victim of BWS who kills during a lull in her partner's violence — even while he is asleep — may be seen to believe that she is in immediate danger.[11] This is only true if one defines the reasonable perception as based on the reasonable perception of a battered woman and not the reasonable perception of a white middle class male. BWS theory suggests that the woman is living in a constant state of terror convinced that one day her partner will kill her. In this state, the immediacy of danger is a constant. Thus, the battered women homicide perpetrators are not alleging that because they are battered they have the right to kill, but that, because of the 'history of violence in the relationship', they become 'sensitive to cues from the batterer' that generate a feeling or belief of imminent danger.[12] Accordingly, the Supreme Court of Canada recently held in *Lavallee v R*[13] that gender can be relevant to reasonableness and that the need for imminent danger in the traditional sense does not have to be present to prove self-defence.

Reasonable amount of force

In *Wanrow* the issue of whether a woman can use a weapon to defend herself if the male is not armed was dealt with. That particular court recognised that to fight equally with a man, a woman may need to use a weapon. The idea of equal force being defined the same for a woman/man conflict and a male/male conflict is somewhat nonsensical given not only the physical differences but also the gender differentiation in socialisation that is commonplace.

When considering BWS victims, one must also remember that most of these women have endured long term punching, throwing, choking and kicking. Their partners' hands, fists and feet have, in fact, been dangerous and potentially lethal weapons. Yet, until recently in North America and Australia, case law has not been interpreted to include the danger of these body weapons as grievous enough or as a serious enough threat to permit self-defence with a non-body weapon. Juries, without understanding BWS and the dynamics of battering, see a gun or a knife as excessive force in relation to the batterer's violence. Looking at proportionality of response in BWS killings necessitates a comprehension of the terror and the history involved.

Use of such force necessary, or 'Why didn't she just leave?'

BWS evidence, if allowed in the court, helps to explain to the jury why a reasonable battered woman does not leave. It is not that she was a masochist, but that as a victim of the syndrome, for a multiplicity of reasons, she has become incapable of such action. Aside from the psychological constraints, she may have practical problems such as where to go, and a fear of retaliation which may be justifiable since such women are often threatened with death if they dare to go.

The use of expert witnesses

Without the expert witness, it is difficult for the jury to consider the battered woman's actions as self-defence since the knowledge of what is reasonable for a BWS victim has been found, both through survey research and by courts in the US, as beyond the ken or the understanding of the average juror.[14] *Ibn-Tamas v United States*[15] was the first case to hold that expert testimony about BWS was worthy of consideration where a woman had killed her husband. Numerous other American courts have made similar rulings that have permitted the BWS expert's evidence.[16]

Battered women who kill in Australia

There is comparatively little mention made of battered women who kill their violent partners in the Australian literature in contrast to the plethora of US books on the subject. The limited amount of research which has been conducted indicates that, in comparison to the United States where about an equal number of men and women kill their partners, in Australia the major proportion of marital murders are perpetrated by the males.[17]

For those women who do kill their battering partner, self-defence (without BWS) has been raised in Australia. Tarrant reports that in ten such cases in Western Australia from 1983-1988, a self-defence plea was only used directly in two and peripherally in two others; it was successful in one case.[18] In a New South Wales sample of 13, it was raised for only two of the women, by the court for one and mentioned in two.[19] Success was directly correlated with the conformity of the events preceding the killing with the traditional interpretation of immediacy.

In lieu of self-defence, what has emerged in Australia is the sometimes successful use of a provocation defence which can reduce the charge from murder to manslaughter. Provocation was used by seven of ten women in one study and by five of the 13 in another.[20] The use of provocation can act against the introduction of self-defence as the former becomes normative in this type of case. Provocation is problematic in the current legal environment when there is no immediate incident that can be construed as threatening. In other words, if the woman waits until her partner is asleep, which is understandable given what we know about BWS and the physical and socialisation differences between the sexes, it is doubtful that the court would accept provocation.

Cases like *R v R*[21] in South Australia continue to take place. Although the deceased had essentially tortured his family for almost three decades, since R killed him while he slept, self-defence was not an option as the law is currently interpreted. Further, since provocation

also involves the idea of immediacy, the trial judge refused to allow provocation to go to the jury. Fortunately, due to public pressure, the Appeal Court held that such a decision should have been left to the jury. Ultimately, R, who had learned within 36 hours of killing her husband that he had raped and wounded one daughter and had sexually abused all the daughters frequently, was acquitted.

A New South Wales appellate court judgment[22] confirms that judicial denial of the impact of severe battering and its criminality continues to take place. The applicant was appealing her eight year sentence for the homicide of her husband. She had pleaded guilty to manslaughter. The appeal judge reiterated the abuse which the defendant had endured for years including being hit on the head, made to sit in a cupboard, and forced to look in a mirror and listen while her husband made derogatory comments. A lengthy description of the events which had immediately preceded the killing was also enumerated. The deceased had held a knife to his wife, threatened to kill her, locked her in a closet, and urinated in her face. Three reports from mental health practitioners attested to the defendant's passive dependency (the psychological profile found for victims of BWS although this was not indicated in the judgment since such knowledge had not been provided to the court).

The fact that the appellant had killed her husband with an axe while he was in bed and her 'loss of self-control' were also mentioned. The judgment further states that, although the defendant was provoked, no provocation can condone the act of killing as a solution to marital problems.

The appearance of BWS in Australian courts

Until mid-1991 there is no record of the mention of BWS in Australian courts. Then, in *Runjanjic and Kontinnen v The Queen*[23] an appeal judge ruled that the defendants should be retried on the charges of false imprisonment and causing grievous bodily harm since the trial judge had not permitted the admission of expert evidence on BWS. The defence was trying to show that long-term battering had affected the ability of the defendants, Runjanjic and Kontinnen, to act freely; that they had been under duress.

The Crown Prosecutor's address to the jury in that trial illustrates how the Crown can imply, assert and rebut the concept of duress by using an objective standard which excludes BWS in the absence of expert testimony to the contrary.

In April 1992 BWS was used in a New South Wales case[24] and in a South Australian murder trial.[25] In both instances, the defendant was acquitted. In Sydney, a psychologist appeared for Cynthia Hickey to explain why she had not been able to leave the violent relationship. Ms Hickey had been involved with the victim for several years and had been beaten frequently during the course of their relationship. The killing took place during the course of a physical fight; she had been thrown on the bed and head-butted. The circumstances in this homicide were more identifiable as self-defence in the traditional terms of immediacy. BWS testimony was not needed to redefine immediacy but to explain why she had no other recourse but to kill.

In *The Queen v Kontinnen* however, the victim, Hill, was asleep at the time the defendant shot him. The defence presented extensive evidence concerning the severity of physical, sexual and mental abuse which Hill had inflicted on Kontinnen. The details provided depict an existence for Kontinnen and Olga Runjanjic (Hill's *de facto* wife) that was more than nightmarish. The violence was shown by witnesses to have increased in type and frequency over time and had begun to involve the child of the 'family'.

Two clinical psychologists examined the defendant pre-trial and testified about BWS and the effects of the syndrome on Erika Kontinnen. These included why she was unable to leave Hill and how the threat of danger was imminent to her, as a reasonable battered woman. Hill had calmly announced that he was going to kill the two women and Olga's son when he woke up. Was that the turning point? Similar to many overseas cases discussed in the literature, Kontinnen did not remember shooting him. Fear of his retaliation, plummeting self-esteem, and dependence kept her from leaving, as explained in detail by the experts. The cycle of violence, post-traumatic stress disorder, and learned helplessness were also described both theoretically and specifically in reference to the defendant.

Kontinnen was acquitted. The jury, through expert evidence, apparently became convinced that, for her, the danger was imminent and that the homicide was committed in self-defence. Whether this outcome was the result of BWS testimony or the extreme nature of the violence which the defendant had endured, cannot be assessed except through time and the continued use of BWS in the courts.

Arguments against BWS

Numerous arguments and concerns have been presented in the literature. These include the idea that BWS gives women special dispensation under the law to kill, and violates the due process rights of male homicide defendants and victims.[26] This argument presupposes that the existing or archaic self-defence interpretation is equitable to both genders. Further, BWS is a problem that affects females; woman battering occurs and the syndrome results from a plethora of overt and covert gender inequities that permeate the attitudinal, behavioural and organisational levels of our culture.

Concerns about the medicalising of women's experiences are expressed by some feminist lawyers and academics: 'We risk transforming the reality of this form of gender opposition into a psychiatric disorder'.[27] This objection is derived in part from the belief that syndromising minimises the role of the batterer and the woman's victimisation. Further, the syndrome, it is argued, reinforces stereotypes of women as emotional and passive.

Another source of dissatisfaction concerns the need for expert witnesses to translate the woman's experience. Detractors believe that the defendant should be able to speak for herself and be heard. Further, experts may be expensive, time-consuming, or not even readily available (as appears to be the case in Australia).

The syndrome itself has not been without its detractors who question both the validity of the concept and the fact that it is not applicable to all women who live in battering situations or to all women to kill their partners. Freckelton points out that, as with other syndromes, those who do not fit the model may be severely disadvantaged in court.[28] Both the cycle of violence the scientific acceptability or reliability of Walker's field work in promulgating the concept have been questioned.[29] Concern with the apparent paradox of the theory has also been raised: that a victim of learned helplessness, in fact, finally takes action (the turning point).[30] All of these criticisms can be countered, and have beer in court. BWS, like many other co

cepts that are used in courts, such as alcoholism, mental illness, epileptic seizures, is deemed as acceptable or not, partly because of individuals' ideological and theoretical orientation.

Discussion

Why has BWS been used in the US since 1979 yet only recently made its first appearance in an Australian court? Scutt states:

> The interpretation of the law is significant and must be seen in context. Judges interpret the laws. Lawyers fight the cases for judicial decisions. Judges and lawyers, until the early twentieth century, have all been men, and even now proportionately few women practise as solicitors or barristers. Men dominate the profession, so laws are interpreted with men, not women, in mind. This is nowhere more clear than in cases of murder.[31]

Further, the courts undoubtedly act as mirrors for the values about women and battering that are held by a proportion of the general Australian population; however, similar attitudes have been identified in North American research. Acceptance of wife battering has been found and the perception of its private nature among a significant percentage of the Australian population, including both professionals and the general public.[32] The preceding articles, plus surveys of victims, have found that within Australia battered women are not receiving satisfactory community or practitioner support. And who could expect otherwise when nearly one out of five Australians apparently continue to believe that it may be acceptable for a man to strike his wife.[33]

However, patriarchal judiciaries and conservative public attitudes are not the monopoly of Australia. There must be additional factors in this country that retard the advent of grounds such as BWS. The first obstacle may, in fact, be simple ignorance. In a recent seminar presented to practitioners at the New South Wales Legal Aid Commission, most of the participants were eager for information, stating that they had never heard of BWS and its use in North America.[34]

Secondly, at another seminar for solicitors (Legal Aid Commission of Victoria) several lawyers who have handled the defence in cases of battered women who killed their partner pointed out that, in their experience, the defendant may not be willing to expose the violence of their deceased spouse to the public. Still 'in love', she may desire the protection of his character more than her own future.[35]

Thirdly, the solicitors above were concerned about the need for expert witnesses, particularly in relationship to testifying about a syndrome. (A number of lawyers said that they had already experienced difficulties in having post-traumatic stress disorder admitted as evidence.) The reluctance to allow the testimony of expert witnesses that would be a necessary component of showing exactly what is reasonable behaviour for a battered woman may stem from the courts' adherence to the common knowledge rule and the ultimate issue rules. These both promote the inadmissibility of expert testimony. The common knowledge rule states that experts are not permitted to present testimony about subjects which are already fully understood by the layperson; the latter rule dictates that experts may not provide their opinion on the ultimate issue, the guilt or innocence of the defendant. As described earlier, knowledge about battered women and the syndrome has been found to be beyond the comprehension of the average person in the US. Further, the experts in the US, Canadian, and Australian cases did not express a viewpoint about the guilt of the defendants. They explained the effects of living in a long-term violent situation and why a woman would be unable to leave and might perceive the danger of attack as psychologically imminent.

Without experts, jurors (and judges) are left with their own preconceived notions of reasonable behaviour for a battered woman. Thus, the objective standard is meaningless if the jury is not equipped to understand what is indeed reasonable behaviour for a woman who has experienced long-term battering. Although BWS is not a panacea, it has, at the least, provided a precedent for broadening the interpretation both of what is 'reasonable' and of self-defence.

References

1. See 22 *Crim.Just.Newsl.* (1)4; (5)1; (13)7.
2. Maguigan's analysis of US appeals found that in three-quarters of trials where women killed partners, BWS evidence was unnecessary since the facts at trial met the traditional definition of confrontation and imminence. See (1991) 140(2) *U.Penn.L.Rev.* 379-486.
3. Lenore Walker, the psychologist who has written in most detail about BWS and has testified in many US trials, recounts these experiences and specific cases in *Terrifying Love*, Harper and Row, 189. The cases described by Walker and others include diverse histories of violence, including reciprocal abuse and a range of homicide scenarios, such as hiring a third party to do the killing.
4. For further discussion of the cycle of violence see Walker, above, at 35-36; Thyfault, (1984) 20(3) *Cal.W.L.Rev.* 485-510.
5. Walker, above, p.38.
6. See Douglas, M., 'The Battered Woman Syndrome' in D. Sonkin (ed.), *Domestic Violence on Trial*, Springer Publishing Co., New York, 1987, pp. 39-54.
7. Browne, A., *When Battered Women Kill*, Th Free Press, New York, 1987; Ewing, C., *Battered Women Who Kill*, D.C. Heath and Co., USA, 1987.
8. Thyfault R. and others,'When Battered Women Kill: Evaluation and Expert Witness Testimony Techniques', in D. Sonkin (ed.), *Domestic Violence on Trial*, above, pp. 71-85.
9. 88 Wash. 2d 211,559 P.2d 548 (1977).
10. CR. No. 4259, Sup. Ct, Monterey Cty, Calif. (1977).
11. In *People v Diaz*, No. 2714 (Cup. Ct, Bronx Co., NY 1983), the defendant was acquitted of killing her husband, a New York City Police Officer, who had been asleep at the time of the killing. BWS expert evidence was admitted to explain the perception of immediacy of danger in the battered woman's conceptual framework.
12. See Thyfault, R. and others, 'Battered Women in Court: Jury and Trial Consultants and Expert Witnesses', in D. Sonkin (ed.) above, at 59.
13. *Lavallee v The Queen* (1990) 55 CCC(3d) 97.
14. Kromski, D., and Cutler, B., (1989) 2(3) *Forensic Reports* at 173-186.
15. *Ibn-Tamas v United States*, 407 A.2d 626 (D.C. 1979).
16. See Walus-Wigle, J. and Meloy, J. in (1988) 16(3) *J. Psychology & L.* 389-404 for a list of cases.
17. From 1989-1991, women committed 19% of the homicides between sexual intimates. In all but one of these cases, the homicide had been preceded by a history of wife battering. See Easteal, P., paper read at the Australian Institute of Criminology Conference on Homicide in Melbourne, May 1992.
18. Tarrant, S., 'Provocation and Self-Defence: A Feminist Perspective', (1990) 15(4) *LSB* 147-150.
19. Bacon, W., and Lansdowne, R., 'Women Who Kill Husbands: the Battered Wife on Trial', in *Family Violence in Australia*, C. O'Donnell and J. Craney (eds), Longman, Cheshire Pty Ltd, 67-94, 1982.
20. See above refs 17 and 18.
21. *The Queen v R* (1981) 28 SASR 321.
22. *Regina v Whalen* (Unreported, NSW CCA, April 1991).
23. *Runjanjic and Kontinnen v The Queen* (1991) 53 A Crim R 362.
24. *Regina v Hickey*, unreported, NSW Sup.Ct., April 1992.
25. *The Queen v Kontinnen*, unreported, SA Sup.Ct, April 1992.

Continued on p. 227

LEGAL STUDIES

Questions

1. What are 'penalogical objectives'? Are any of these objectives achieved by the Day in Prison programs?
2. What is 'recidivism'?
3. The authors claim that the Day in Prison programs may infringe upon 'children's rights'. What rights do children have? What rights do you consider may be infringed by the programs?
4. What are the questions raised in relation to the Day in Prison programs by the operation of the scheme in Victoria?
5. What is meant by the 'shift from the rehabilitation theories of the 1970s' to the 'back to justice movement of the late 1970s and 1980s'? What reasons can be put forward to explain this shift?
6. The Prisoners Legal Service suggests that the scheme benefits inmates by giving them 'a sense of purposeful activity in an otherwise unproductive and stifling environment'. Comment.
7. 'Subjecting juveniles to a dehumanizing and brutal environment . . . will only increase the sense of helplessness felt by many young offenders'. Do you agree? Why do you think that young offenders may have a 'sense of helplessness'?
8. Do you agree with the authors that such initiatives as the Day in Prison programs are 'politically expedient' rather than genuine attempts at crime control?

Discussion

Do such initiatives as the Day in Prison program focus on the result, rather than the cause of youth crime? Are there alternatives to such programs which would be more appropriate?

Research

Research youth crime. In particular, consider:

- The types of crimes committed by young people.
- The possible correlation between youth crime and unemployment.
- The disproportionate numbers of young Aboriginal people in the Australian justice system.

Debate

The Australian justice system sufficiently safeguards the interests of young offenders.

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Continued from p. 223

26. Kuhl, A., 'Battered Women Who Murder: Victims or Offenders, in *The Changing Roles of Women in the Criminal Justice System*, I. Moyer (ed.) 1985; and Rittenmeyer, S., (1981) 9 *J. of Crim. Just.* at 389-395.
27. See the discussion by Martinson, D., and others on the case of *Lavallee v The Queen* in (1991) 25 *UBC Law Rev.* 25.
28. Freckelton, I., 'Evidence: Battered Woman Syndrome' (1992) 17(1) *Alt.L.J.* 39-41.
29. See discussion between Stubbs and Easteal in (1992) 3(3) *Current Issues in Crim. Just.* 356-61.
30. O'Donovan, K., 'Defences for Battered Women who Kill', (1991) 18(2) *J. Law and Society* 219-40.
31. Scutt, J., *Even in the Best of Homes*, Penguin Books, Victoria, 1983.
32. See an extensive literature review done for the Office of the Status of Women in 1988 by P. Easteal. Also Mugford, J., Mugford, S., Easteal, P., *'Social Justice, Public Perceptions and Spouse Assault in Australia*, (1989) 4 *Social Justice* 103-123.
33. These are some of the results obtained by the Public Policy Research Centre for the Office of the Status of Women, 1988.
34. Invited seminar by P. Easteal, 1 February 1992.
35. Invited seminar by P. Easteal, 30 June 1992.

LETTER

Dear Editor,

The *Alternative Law Journal* has an important role to play in developing people's attitudes on legal issues. We are normally flooded with conservative, right-wing views on legal issues and it is quite refreshing to read alternative arguments in publications like yours. Generally, you have done an excellent job.

However, I was disappointed to read your coverage on the *Mabo Case* in Volume 17, No. 4, especially in the article written by Gordon Brysland. Both writers tended to get trapped into taking large chunks of extracts from the judgments. As a result they both tended to regurgitate the views of the judges within the narrow confines of the judgment itself. Neither really considered the decision in the context of political aspirations of Aboriginal people and the effects that the judgment will have on those aspirations.

Mark Gregory at least made an attempt. Furthermore, it was not surprising to see that Gordon Brysland's article was developed along pretty 'safe' lines when considering that a good deal of assistance for his article was taken from ATSIC. In the context of the real world of Aboriginal political development, ATSIC is hardly a radical alternative group.

I know that it is always difficult for articles on Aborigines to be obtained in time for printing. However, an *alternative* journal should seek alternative views other than those of the mainstream. The articles would hardly be seen in the Aboriginal community as representing an alternative view to that of government. This may sound nothing more than critical but it is not intended in that way.

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Editor's comment:

I have no difficulty with the point that there should be as diverse a range of alternative views as possible expressed in the *Alternative Law Journal*. I do not agree, however, with the criticisms of the Gregory and Brysland articles as being 'trapped into taking large chunks of extracts from the judgments' resulting in a regurgitation of 'the views of the judges within the narrow confines of the judgment itself'. Such criticism is unfair for a number of reasons.

The *Mabo* decision is complex in its legal reasoning as well as being a long decision. Given the nature of our readership it seemed to me that there was a need for an analysis of the judgment which focused on the actual words of the judges and which would thus provide a foundation for further informed discussion. I believe both articles achieved this admirably.

If there was insufficient 'political' analysis as defined by Michael Mansell, it was probably because the articles were not those types of articles. In addition, I believe the authors were sensitive to the need not to attempt to articulate the response of the Aboriginal people from outside that community.

As an editor, I was keen to receive articles on this decision from as many different perspectives as possible. Perhaps I could have more vigorously sought out articles from Aboriginal people. As the debate on the decision is no doubt just commencing perhaps such articles will now be forthcoming. I hope this will be the case.

Brian Simpson

August 1992 editor.