

'SIT DOWN GIRLIE'

Girlie takes a look at the Law



'I hate you and anyone who looks like you..!'

Psychological violence has been made a crime in France. According to Henry Samuel (*The Age*, 2 July 2010) couples who insult each other about physical appearance or make false accusations of infidelity could face up to three years' jail and a AU\$108 000 fine. Criticisms of the new law have come from the magistracy who say the definition of an insult is too vague and verbal abuse too hard to prove. The junior family minister Nadine Morano said the law has been introduced to recognise psychological violence, 'because it isn't just blows [that hurt] but also words.' The law defines mental violence as 'repeated acts that could be constituted by words' including insults or repeated text messages that 'degrade one's quality of life and cause a change to one's mental or physical state.'

Look at me!

In Oklahoma USA a law requiring women seeking abortions to be shown an ultrasound of their foetus was suspended after six days in existence pending a legal challenge. If a woman being shown the ultrasound refused to look at it doctors were required to describe the foetus to her in detail at least one hour prior to the abortion. It exempted women requiring abortions for medical reasons but not victims of rape or incest. While an abortion clinic director described the law as 'intrusive and cruel' anti-abortionists said it would allow the woman to make a more informed decision. (*Herald-Sun*, 1 June 2010).

Don't look at me!

As part of its election campaign platform, the Victorian Labor government has proposed a ban on advertisements exploiting women. Unsurprisingly the advertising industry has protested arguing it is self-regulating and already has an industry Code. The plan would encourage advertisers to declare when an image has been digitally altered. Media analyst Steve Allen is quoted (*The Age*, 16 June 2010) as saying: 'Regulations by and large are a proscriptive form and you can't proscribe creative.' *Cosmopolitan's* former editor and Chair Mia Freedman, now a member of the federal government's National Body Image Advisory Group says the status quo is appalling. 'If you look at any billboard, if you open any magazine, you would be excused for believing that women are uniformly five foot 10, size six to 10, white Anglo-Saxon and made of plastic.'

Indefensible defence

Mary Crooks and Sarah Capper of the Victorian Women's Trust (*The Age*, 23 May 2010) and Adrian Howe (*The Age*, 15 July 2010) have argued that a 2005 legal reform which removed the defence of provocation and replaced it with defensive homicide is being misused and requires reform. Defensive homicide was a partial defence to be applied when

a person believed it necessary to kill to protect themselves (or another), but that belief was ultimately unreasonable. The reform was aimed at situations such as domestic violence usually against women. It has, however, been used by men accused of killing their partners in a way the legislators had not intended.

Exceptional cases

The domestic abuse and post-traumatic stress suffered by a woman has been taken into account by the Federal Magistrates' Court when it applied provisions relevant to exceptional cases. The husband spent four and a half years in prison between 1999 and 2009. He had assaulted his partner, stalked her, made threats to kill and breached 22 intervention orders. While in prison he took action in the Federal Magistrates' Court seeking \$154 500 from his former partner but instead was ordered to pay \$100 425 to her. He had made more payments on the matrimonial home than she but her lawyers argued successfully his continuous violence had made her contributions much more onerous. (*The Age*, 15 June 2010).

Cruel punishment!

The Times has reported that an Iranian woman, Sakineh Ashtiani has been spared the punishment of death by stoning only to face possible hanging. Accused of adultery Ms Ashtiani, a 43-year-old mother of two, has already received 99 lashes and her plight has provoked international outrage. The British Foreign Secretary described stoning as, 'a medieval punishment that has no place in the modern world.' He warned if it was carried out it would disgust and appal the watching world. Many other world leaders and celebrities have made similar protests. Ms Ashianti was unable to divorce her abusive husband and was accused and convicted of an 'illicit relationship'.

Say what you @#\$%&*!!!!-well like!

A US Appeals Court had decided a law banning 'fleeting expletives' on television breaches the First Amendment. The 2004 law introduced by the Federal Communications Commission ('FCC') was described by the Court as vague, inconsistent and unconstitutional. Judge Rosemary Pooler said the FCC had found some commonly used expressions to be indecent while others such as, 'pissed off' 'up yours' and 'kiss my ass' were not 'patently offensive.' The Court found that the law kept the television networks second guessing about which expressions the FCC would find offensive and thereby imposed self-censorship.

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