

SPRING  
EDITION



DOMESTIC, FAMILY, AND SEXUAL VIOLENCE

# READER

CENTRE FOR WOMEN'S SAFETY AND WELLBEING

## Acknowledgement of Country

Centre for Women's Safety and Wellbeing acknowledges the Whadjuk Nyoongar people as the Traditional Owners of the land where our offices are located. We acknowledge Aboriginal and Torres Strait Islander peoples of this nation, and we pay respect to Elders past and present. We acknowledge the continued deep spiritual attachment and relationship of Aboriginal and Torres Strait Islander peoples to this country and commit ourselves to the ongoing journey of reconciliation.

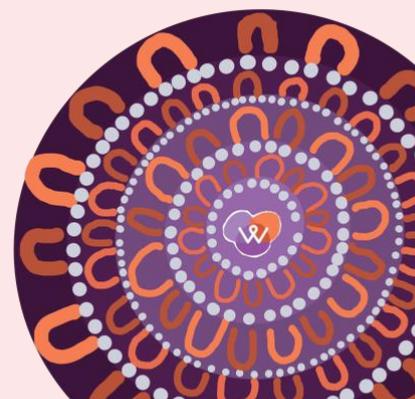
## Recognition of victims and survivors

Centre for Women's Safety and Wellbeing recognises the strength and resilience of adults, children, and young people who have experienced domestic, family, and sexual violence and acknowledge that it is essential that responses to domestic, family, and sexual violence are informed by their expert knowledge and advocacy.

We pay respects to those who did not survive and acknowledge friends and family members who have lost loved ones to the preventable and far-reaching issue.

Artist: Rosie Paine

Rosie Paine is a proud Yilka/Wongutha/Noongar/Yamatji woman from the North East Goldfields of Western Australia.



In the past eighteen months, the issue of sexual violence has gained unprecedented attention nationwide due to ongoing efforts by victim-survivors and advocates to have their voices heard. Increased visibility of the issue of sexual violence has led to greater recognition of the pervasiveness of sexual violence throughout society. Calls for increased accountability of governments and industries to prevent and respond to sexual violence have led to several actions being taken.

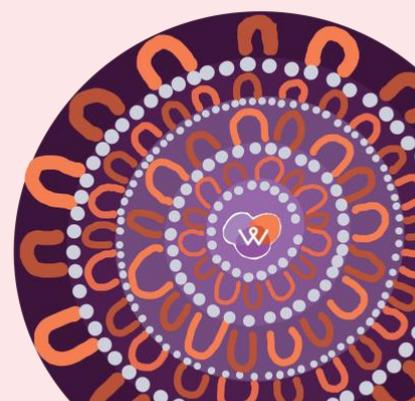
The development of national and state-wide strategies to address gender-based violence, and specifically sexual violence, coincide with this national conversation. At the same time as this, many state and territory governments are addressing systemic barriers to accessing justice through reviews of their legislation and criminal justice systems. These actions coincide with the commissioning of several inquiries and reports into the prevalence and nature of sexual violence within institutional environments.

This reader aims to provide an overview of the current landscape in which the sexual violence sector is operating.



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## CURRENT LEGAL AND POLICY CONTEXT

The national conversation on sexual violence has demonstrated the need for governments to address the underlying drivers of sexual violence and improve responses to better support victim-survivors. Recent stories in the media have highlighted the continued underfunding of specialist sexual violence services, despite persistent calls by the sector for sufficient funding to meet community need and demand. Sexual violence services and advocates have also highlighted the failure of the criminal justice system and legislation across jurisdictions to hold perpetrators accountable and provide victim-survivors with access to redress. In response to increased public pressure, several state and territory governments have undertaken sexual violence strategies and reviews of their criminal justice systems and legislation.

In September 2021, Western Australia's Office of the Commissioner for Victims of Crime and the Department of Communities announced that together they are leading a project to develop WA's first *Sexual Violence Prevention and Response Strategy*. The purpose of the Strategy is to improve outcomes for victim-survivors of sexual violence, focusing on primary prevention, support for recovery, and holding perpetrators to account.

In November 2021, the Department of Justice, Department of Communities, and Centre for Women's Safety and Wellbeing hosted a consultative forum to engage with organisations that work to address sexual violence in Western Australia. The purpose of the forum was to discuss consultation and community engagement for developing the strategy. A public consultation process is being developed based on the findings of the consultative forum. An announcement will be made when the consultation process opens.

A Sexual Violence Prevention and Response Reference Group has been established to guide the consultation process and the development of the Strategy.

The group is made up of people from both government and non-government organisations with expertise in the prevention of, and response to, sexual violence for diverse cohorts, alongside individuals with a lived experience of sexual violence. Nicole Lambert, Chief Executive Officer at Allambee Counselling and Vice-Chairperson of the National Association of Services Against Sexual Violence, has been appointed Independent Chair of the group.

Western Australia is the fourth state to develop a strategy specific to sexual violence, following New South Wales' *Sexual Assault Strategy 2018-2021*, Queensland's *Sexual Violence Prevention*



*Framework: Prevent. Support. Believe.* in 2019, and *Northern Territory's Sexual Violence Prevention and Response Framework 2020-2028*.

These strategies recognise the need to support interagency collaboration to increase primary prevention efforts with a whole-of-community approach; embed primary prevention into the education system; increase funding for specialist services; provide-trauma informed training for generalist and frontline services; ensure culturally appropriate practice; and systemically reform justice responses.

In February 2021, Chanel Contos's campaign *Teach Us Consent* gained nation-wide attention and reiterated calls to embed primary prevention into the education system. In February 2022, Education Ministers across the country agreed to mandate age-appropriate consent education in the national curriculum. This has now been endorsed in the *Australian Curriculum, Version 9.0* and is expected to be implemented in all jurisdictions from 2023.

However, concerns remain regarding the scope of content embedded within the curriculum – particularly the lack of comprehensive Relationships and Sexuality Education (RSE) due to the narrow focus on consent; the inconsistency of education delivered within and across jurisdictions; and the lack of resourcing for the provision of

education by people with specialist training, knowledge, and skills, as well as for a holistic whole-of-school approach to sexual violence prevention. These concerns reflect the need for comprehensive RSE to be embedded within the curriculum and for schools to be adequately resourced to ensure accessible, safe, and effective delivery of sexual violence prevention education to children and young people across the country.

Western Australia's *Sexual Violence Prevention and Response Strategy* coincides with two complementary reviews which will examine the state's sexual offence and consent laws and the complaint and criminal justice processes for victims of sexual offences.

The legislative review will assess the need for amendment to the *Criminal Code Act 1913* in regard to the definition of consent; whether an affirmative model of consent should be adopted, and how consent may be vitiated. This will include consideration of stealthing – the non-consensual removal of, non-use of, or tampering with a condom. The review will also assess the scope of sexual offences and the terminology used, the application of the 'mistake of fact' defence, and whether special verdicts should be used within trials for sexual offences. This review is being undertaken by the Law Reform Commission of Western Australia and the final report is due to be released in July 2023.



The review of criminal justice processes will examine victim-survivors' experiences throughout all stages of engagement with the criminal justice system, explore factors which contribute to the underreporting of sexual offences, and consider alternative mechanisms for accessing justice. This review is being carried out by the Department of Justice and the final report is due to be released in May 2024.

Western Australia's reviews follow several criminal justice and legislative reviews undertaken within various jurisdictions across Australia.

In March 2021, Queensland's government announced a review into the experiences of women within the criminal justice system, and the efficacy of the legislative framework in which the criminal justice system operates. The review was undertaken by the newly established Women's Safety and Justice Taskforce, with the purpose of improving outcomes for women and girls who are victim-survivors of sexual violence, and/or accused or offenders of a criminal offence.

In July 2022, the findings from this review were published in the *Hear Her Voice: Report Two*. The report highlighted the need for sweeping reform across criminal justice, police and correction systems, and the consent and sexual offence legislation. The report outlined 188 recommendations for reform. However, the Queensland Government has not yet

stated which recommendations it will enact as of the date of publication of this reader.

This follows the Victorian Law Reform Commission's publication of the report *Improving the Justice System Responses to Sexual Offences* in September 2021 and the Victorian Legislative Council's publication of their *Inquiry into Victoria's Criminal Justice System* in March 2022.

The former sought to identify barriers to reporting and prosecution of sexual offences, ways to reduce retraumatisation for victim-survivors within the criminal justice system, and alternatives to criminal justice responses. The scope of the latter extended beyond, but intersected with, matters relating to sexual offences – with a focus on factors contributing to growing remand and prison populations, strategies to reduce recidivism rates, and judicial knowledge and appointment processes.

The reviews across jurisdictions consistently found that the justice system does not hold the majority of perpetrators accountable; too often silences and retraumatises victim-survivors, and makes them feel unsafe. In addition to the criminal justice system, alternative redress pathways and victim compensation schemes prove themselves to be difficult to access and navigate, entrenched with systemic discrimination, and lacking in trauma-informed practice.



Reviews of the criminal justice systems have come alongside legislative reviews. In June 2020, the Queensland Law Reform Commission (QLRC) published a *Review of consent laws and the excuse of mistake of fact*. This was followed by the New South Wales Law Reform Commission's *Report on consent in relation to sexual offences*, published in November 2020.

In response to these reviews and increased public pressure on governments to address systemically harmful responses to sexual violence, certain states have taken actions to increase perpetrator accountability and improve access to redress for victim-survivors.

In 2004, Tasmania became the first state to introduce an affirmative model of consent, stating that a person must actively take reasonable steps to ascertain consent and cannot use 'mistake of fact' as a defence without taking reasonable steps. Tasmania remained the only state to have adopted this model until November 2021, when the New South Wales Parliament passed a Bill proposing an affirmative model of consent. Alongside changes to consent legislation, the Bill introduced five jury directions to address common misconceptions about sexual violence and targeted education programs for judges, lawyers, and police. The amendment came into effect on the 1<sup>st</sup> of June 2022.

In May 2022, the Australian Capital Territory became the third state to pass an affirmative model of consent.

In November 2021, subsequent to the recommendations outlined in the report *Improving the Justice System Responses to Sexual Offences*, Victoria announced it would adopt an affirmative model of consent and criminalise stealthing.

Following this, in early August 2022, the *Justice Legislation Amendment (Sexual Offences and Other Matters) Bill 2022* was introduced to the Victorian Parliament, proposing these amendments. In late August, this Bill was passed, with amendments due to come into effect in July 2023.

However, stakeholders agree that legislative reform alone will not improve outcomes for victim-survivors without significant and meaningful investment in systems reform. Stakeholders identify several reforms as essential in order to increase access to redress for victim-survivors, increase perpetrator accountability, and minimise harm to victim-survivors engaging with the criminal justice system. These include increased access to criminal justice support and advocacy, specialist training for professionals engaged with the criminal justice system, and safety embedded within criminal justice processes, in the form of trauma-informed and culturally appropriate practices.



Though legislative progression has been observed in some jurisdictions, it is unclear whether other states are to follow.

In June 2020, QLRC's *Review of consent laws and the excuse of mistake of fact* assessed the need for legislative amendments to the definition of consent, circumstances when consent is not free and voluntary, and the use of 'mistake of fact' as a defence. It concluded that an amendment to give effect to an affirmative model of consent should not be made. Furthermore, it was recommended that circumstances when consent is not free and voluntary should not be extended to include stealthing, nor explicitly address consent within the context of domestic and family violence, nor increase recognition of any other circumstance in which consent is negated. They did however recommend that a subsection be inserted to provide that a person is not taken to give consent to an act only because they did not say or do anything.

In response to these recommendations, the domestic, family, and sexual violence sectors expressed concern over the lack of positive duty to ascertain consent and the consequent emphasis on the victim-survivor's behaviour. Despite warnings that the implementation of these recommendations would likely have adverse outcomes, in March 2021, Queensland's Government passed several legislative amendments in line

with the recommendations made. Due to this, Queensland's *Review of women's experiences within the criminal justice system* assessed the efficacy of these legislative amendments. Their report reiterated calls for an affirmative model of consent to be adopted.

Jurisdictions such as South Australia and the Northern Territory have shown no intention of introducing affirmative models of consent, nor any reform to their sexual offence legislation.

Western Australia's *Sexual Violence Prevention and Response Strategy* and upcoming reviews into the criminal justice system and legislation will also be undertaken within the context of the new *National Plan to End Violence against Women and their Children 2022-2032* (the National Plan).

The National Plan comes as a follow up to the previous *National Plan to Reduce Violence against Women and their Children 2010-2022*, which focused on increasing primary prevention capacity; improving integrated service delivery for victim-survivors; increasing access to interventions for perpetrators; improving economic security for women; strengthening justice responses; driving whole of community action; expanding the evidence-base; and respecting and responding to the diverse lived experience and knowledge of victim-survivors.



The National Plan will be accompanied by five-year action plans, and for the first time, will include dedicated Aboriginal and Torres Strait Islander action plans. These action plans will be directed by the Aboriginal and Torres Strait Islander Advisory Council on Family, Domestic, and Sexual violence. They will build on strategies outlined in the *Closing the Gap* report to address the unique and systemic drivers and impacts of violence against Aboriginal and Torres Strait Islander

women and children, including institutional violence. The monitoring and evaluation of the new National Plan will be led by the Commissioner of the National Domestic, Family and Sexual Violence Commission, which was established in July 2022.



## THE COMPLEX INTERPLAY BETWEEN CHILD SEXUAL ABUSE, ADULT SEXUAL ASSAULT, AND DOMESTIC AND FAMILY VIOLENCE

Child sexual abuse, adult sexual assault, and domestic and family violence tend to be conceptualised and responded to as distinct types of violence, despite consistent findings of a significant interplay across these forms of violence<sup>5,10,21,22</sup>. Naming individual issues is important in giving them their own space and legitimacy, however these violations, and their impacts on victim-survivors, often do not occur in isolation of each other<sup>5,10,22</sup>. Furthermore, these interrelated forms of violence share common underpinning gender-based drivers<sup>9,23</sup>. It is important for this to be recognised and reflected in research efforts, prevention strategies, and policy and practice responses to violence against women and children.

In August 2022, Australia's National Research Organisation for Women's Safety (ANROWS) released a research report on the Australian Longitudinal Study on Women's Health (ALSWH). This longitudinal study assessed the prevalence and impacts of sexual violence over the life course for Australian women. This was conducted through a population-based survey disseminated annually or tri-annually – depending on the cohort. Since 1996, over 57,000 women participated in the study, making it the largest and longest-running project of its kind to have been conducted in Australia.

The study revealed prevalence rates of sexual violence which are significantly higher than past national data has suggested: 51% of women in their twenties, 34% of women in their forties, and 26% of women in their sixties and seventies reported experiencing sexual violence within their lifetime<sup>21</sup>.

The study revealed long-term impacts on physical and mental health, health behaviours, and economic security<sup>21</sup>. Furthermore, childhood sexual abuse was identified as a factor which increased risk for adverse health outcomes and victimisation of sexual violence and domestic violence during adulthood. The findings from this study are consistent with past research which finds a complex interplay between childhood sexual abuse, adult sexual assault, and domestic and family violence<sup>21</sup>.

Research reveals that child sexual abuse is often perpetrated in homes where other forms of domestic and family violence are present<sup>16</sup>. The literature also reveals that more than half of female victim-survivors of child sexual abuse experience revictimisation in the form of sexual and/or physical violence in their adult lives – particularly in the absence of important protective factors for recovery, such as strong family supports and access to quality education and employment opportunities<sup>10</sup>. This is consistent with findings that women who have experienced child sexual abuse are more likely to experience adult sexual assault and/or domestic and family violence than women who have not<sup>1,21</sup>.

One of the most common forms of adult sexual assault is intimate partner sexual violence, which is any act of sexual



violence perpetrated by a current or former partner<sup>1</sup>. Intimate partner sexual violence usually co-occurs with, and is part of a pattern of, other coercive and controlling behaviours and should be considered a tactic of domestic and family violence, not a separate phenomenon<sup>10,22</sup>. Women who experience intimate partner sexual violence are more likely to experience repeated sexual assaults than women who experience adult sexual assault outside of an intimate partner context<sup>14</sup>. Furthermore, women who experience intimate partner sexual violence are more likely to be strangled by their current or former partner and have a higher risk of being murdered by their current or former partner, than women who experience domestic and family violence without intimate partner sexual violence<sup>5,6,15</sup>.

The perpetration and experience of violence is highly gendered. Perpetrators of child sexual abuse, adult sexual assault, and domestic and family violence are almost always men (94-97%), while women, girls, and gender-diverse people experience significantly disproportionate rates of victimisation across all of these forms of interpersonal violence<sup>1,2,8,9</sup>.

Further to this, the way in which violence is perpetrated against and experienced by differing genders is markedly different. Australian research shows that women are more likely to experience violence by a known person, whereas males are more likely to experience violence perpetrated by a stranger<sup>1</sup>. Girls are more likely to experience child sexual abuse perpetrated by a father or other male relative, as opposed to strangers or known people outside of the house<sup>17</sup>. Whereas boys are more likely to

experience child sexual abuse perpetrated by a non-familial person outside of the home. Furthermore, girls are three times more likely to experience penetrative abuse than boys, and are more likely to experience abuse over a longer period of time<sup>9,11</sup>. This does not diminish the seriousness or impact of child sexual abuse experienced by boys, but highlights the relevance of gender, and the necessity of gender-responsive approaches, to sexual violence prevention and response.

The aetiology of violence is extremely complex, with several layers interacting with each other to engender, support, and enable perpetrator attitudes and behaviours<sup>10</sup>. These factors occur at the individual, interpersonal, socio-cultural, and structural levels. Gender-based drivers are embedded within a history of structural inequalities and are shared across child sexual abuse, adult sexual assault, and domestic and family violence. These include, but are not limited to, heteronormative beliefs and attitudes, male-dominated environments, and weak laws, policies, and sanctions related to violence against women<sup>4,10,12,20,23</sup>.

In 2017, the *National Community Attitudes Survey* measured 17,500 Australians' knowledge of, and attitudes towards, violence against women. The responses affirmed an association between heteronormative beliefs and the acceptance, minimisation, and justification of violence against women. It found that dominance and coercion were accepted as normative expressions of masculinity, which functioned to normalise perpetrator behaviours. This was applicable to all forms of gender-based violence, however it was particularly significant in regard to



how people interpreted intimate partner sexual violence.

Concerningly, the survey revealed that people considered intimate partner sexual violence to be less serious and more justifiable than adult sexual assault perpetrated by a stranger or acquaintance<sup>23</sup>.

Conversations on gender-based violence have historically centred on how victim-survivors 'put themselves in vulnerable positions' and respond to violent situations, as opposed to centring on the act of perpetration itself. The 'perfect victim' narrative places an expectation on women to avoid, resist, and respond to gender-based violence in ways which fit cultural expectations. These expectations themselves are informed by the very systems which foster gender-based violence in the first place.

Cultural notions of 'real rape' and the 'perfect victim' fail to recognise sexual coercion as an act of sexual violence and function to shift the responsibility of sexual violence onto the victim-survivor<sup>10</sup>. Victim-survivors often do not identify their own experiences as adult sexual assault when perpetrated by an intimate partner and tend to excuse their partners' behaviour by saying that their own behaviour justified or contributed to the abuse<sup>10</sup>. This points to the strength of commonly held perceptions of what 'counts' as adult sexual assault.

The perception that sexual violence is an exclusively physically violent act intersects with, and extends to, the way in which domestic and family violence is perceived. Non-physical forms of asserting control commonly go

unidentified as abuse due to the normalisation of verbal, emotional, financial, technological, and sexual abuse. The way in which gender-based violence is viewed, and the dominant narratives which underpin these views, fosters an environment which enables male violence against women and children<sup>10</sup>.

Furthermore, these narratives have significant psychological impacts on victim-survivors and serious consequences for how gender-based violence is responded to – particularly within the criminal justice system<sup>1,6,10</sup>.

The corpus of literature outlines several factors by which prior experiences of child sexual abuse, adult sexual assault, and domestic and family violence increase risk of revictimisation<sup>10</sup>. It is important to emphasise that risk factors do not cause victimisation, but rather, women who experience risk factors are more significantly burdened by victimisation.

The literature indicates a bi-directional relationship between gender-based violence victimisation and poor mental health outcomes, where victimisation significantly increases risk for mental illness, which in turn increases risk for revictimisation<sup>10,19,21</sup>. Further longitudinal research is needed to understand the exact mechanisms by which this occurs, however it is theorised that this is mediated through the symptomology of trauma – including poor emotional regulation; shame; substance use; incarceration; earlier onset of sexual activity; and greater number of sexual partners<sup>10,21</sup>.

With important implications for practice, the literature highlights that the impact of



clinically significant distress on revictimisation may be mediated through the service response the victim-survivor receives<sup>10,21</sup>.

Previous victimisation was found to heighten risk even further when abuse was perpetrated over a long period of time, intersected with other forms of violence, occurred frequently, used force, involved penetration, and/or was perpetrated by a known person or guardian<sup>10</sup>. Given what is known about the nature of girls' and women's experiences of child sexual abuse, adult sexual assault, and domestic and family violence, the gendered element of these risk factors is significant.

Furthermore, the research demonstrates an ongoing interplay between multiple forms of disadvantage that compound increased risk for revictimisation. In a study which found a strong correlation between child sexual abuse and domestic and family violence victimisation, the strongest predictive factors for revictimisation were found to be low education attainment and poverty. Conversely, high education attainment and income were identified as protective factors<sup>10,19</sup>.

Women from certain population groups experience compounding risk factors for victimisation and compounding barriers to accessing support. Research indicates that complex social contexts may alter the prevalence and impact of gender-based violence<sup>3,4,10,21</sup>.

Aboriginal and Torres Strait Islander People's ongoing experiences of colonisation, dispossession, racism, and discrimination place women at increased

risk of victimisation and decreased access to necessary supports<sup>10</sup>.

Women from cultural and linguistically diverse (CALD) backgrounds can experience a range of social disadvantages which can increase risk for victimisation and present limitations to help-seeking. These include language barriers, discrimination, lack of familiarity with local laws and supports, lack of social support, financial dependence, and visa complications<sup>10</sup>.

Women with physical and intellectual disabilities are particularly vulnerable to victimisation – especially if assistance is required for mobility and communication. Power imbalances with carers present an increased risk for victimisation, and may prevent women from seeking and/or accessing support<sup>10</sup>.

These findings were supported in the recent ANROWS report, which revealed that 3 in 4 women with a disability or illness in their twenties reported an experience of sexual violence in their lifetime compared to 1 in 2 women in their twenties who did not have a disability or illness<sup>21</sup>. The disproportionate reporting rates were present across all age groups<sup>21</sup>.

Women experiencing homelessness are at increased risk of victimisation due to exposed conditions, power imbalances in seeking shelter and safety, and intersecting risk factors such as prior victimisation, mental illness, substance use, and sex work<sup>16</sup>. Women may also experience barriers to accessing support due to stigma and discrimination<sup>10</sup>.



Women living in rural communities have limited access to specialist domestic, family, and sexual violence services. This increases barriers to accessing support and in turn, increases risk of revictimisation. Furthermore, research shows that rural communities are sometimes characterised by close social ties and conservative beliefs and attitudes, in comparison with metropolitan areas, which may increase social acceptance of gender-based violence<sup>10</sup>.

People who identify as LGBTQI+ face increased risk of gender-based violence and decreased access to services, due to stigma, discrimination, and lack of accessible service provision<sup>10</sup>.

These findings were also supported by the recent ANROWS report, which revealed that women who identified as bisexual and/or exclusively or mainly lesbian were more likely to have reported sexual violence than women who identified as exclusively or mainly heterosexual. This was found across all age groups<sup>21</sup>.

Women who are, or have been, incarcerated are at increased risk of victimisation due to the inextricable overlap between risk factors for incarceration and risk factors for victimisation. Incarceration itself can perpetuate the very risk factors which lead to it, due to discrimination, and difficulty in accessing employment and support services<sup>10</sup>.

Aboriginal and Torres Strait Islander women are disproportionately represented in prison populations. In a study of 50 Aboriginal and Torres Strait

Islander women within a NSW prison, 75% had experienced child sexual abuse and 50% had experienced adult sexual assault<sup>13</sup>. A study found that women who had previously been incarcerated and experienced intimate partner sexual violence were 2.4 times more likely to have previously experienced child sexual abuse than women who had been incarcerated, but not experienced intimate partner sexual violence<sup>18</sup>.

This research demonstrates the strong intersection between child sexual abuse, adult sexual assault, and domestic and family violence. Furthermore, it highlights the complex social contexts which interplay with gender-based violence. It is essential to apply an intersectional lens to research, prevention, and response approaches in order to address the systemic inequalities which drive these disproportionate outcomes<sup>3,4,10</sup>.

Despite significant revictimisation and connection between issues, there is a continuing tendency to segment child sexual abuse, adult sexual assault, and domestic and family violence. This theoretical and practical separation deters us from conceptualising and responding to the complex interplay of these issues.

The extant literature on violence against women and children sees inconsistent definitions, terminology, and thresholds for what constitutes different forms of gender-based violence. This is problematic in terms of identifying and measuring victimisation and its impacts.

Furthermore, longitudinal studies which examine the life course of revictimisation across multiple forms of violence are lacking – particularly for marginalised



women at the intersections of disadvantage<sup>10</sup>. It is critical that longitudinal research be expanded to address this gap, with dedicated surveys for target populations.

Prevention strategies as they currently stand differ across intersecting forms of violence. Approaches to adult sexual assault and domestic and family violence employ a public health framework, based on social-ecological principles which recognise the relationship between individuals, families, communities, and the wider social environment. This framework takes a systemic approach to defining the problem and evaluating interventions.

These interventions can be at the individual level, target at-risk populations, or be delivered at a universal population level. A whole-of-community approach to prevention is essential, however community and societal factors have the fewest programs available, are the most difficult to change, and the most difficult to evaluate<sup>12</sup>.

Approaches to child sexual abuse focus less on prevention, and more on child protection, addressing the presence of risk and harm within individual families<sup>17</sup>. Where prevention efforts are present, they continue to focus on 'stranger danger', despite research showing that the majority of offenders are known to the victim<sup>17</sup>. The literature suggests a reluctance amongst child protection practitioners to recognise the gendered nature of child sexual abuse, as this is sometimes interpreted as implying 'all men are child molesters'<sup>17</sup>. Due to this, drivers of child sexual abuse are not well understood within the child protection

system and a gendered lens is not often applied to child sexual abuse<sup>17</sup>.

Since all forms of gender-based violence share common factors which drive perpetration, a more effective and efficient way of preventing violence against women and children may be to address the underlying drivers and risk factors present across all areas of violence against women and children.

Currently, generalist and specialist services continue to operate in silos due to government funding models, despite this being continually raised as ineffective and problematic. Furthermore, mainstream health and social services are not supported to deliver trauma-informed care and do not always have the infrastructure in place to identify and respond to gender-based violence. Specialist services are not sufficiently resourced to facilitate integrated care, and even within child sexual abuse, adult sexual assault, and domestic and family violence sectors there is a lack of understanding of the mutually constitutive nature of gender-based violence. This has significant impacts on how victim-survivors access support, and can significantly affect the psychological impact of trauma and risk of revictimisation<sup>10</sup>.

It is essential that policy and practice responses recognise the prevalence and impacts of gender-based violence over the life course. Services must be sensitised to the nature, dynamics, drivers, and impacts of victimisation and revictimisation through the resourcing of professional development and improved screening tools. These services must be supported to deliver trauma-informed



responses and streamline referrals to specialist services where necessary. Specialist services need to be sufficiently resourced to better recognise the multifaceted and interrelated nature of abuse, and to enrich cross-sector coordination.

In October 2021, the former Prime Minister announced the establishment of the *National Centre for the Prevention of Child Sexual Abuse* to reduce stigma, support help-seeking, and guide best practice for service providers. This coincided with the release of the first *National Strategy to Prevent and Respond to Child Sexual Abuse*, which focuses on raising community awareness; preventing online harm; increasing intervention; supporting victim-survivors; and improving the evidence-base.

These developments follow recommendations made in the *Royal Commission into Institutional Responses of Child Sexual Abuse* in 2018. They

come at the same time as the release of the new *National Plan to End Violence Against Women and Children* – which addresses all forms of gender-based violence – and the development of Western Australia's first *Sexual Violence Prevention and Response Strategy*.

The development of these strategies provides reason for optimism, however their development alone will not ensure the safety of women and children. It is essential that governments work together to sufficiently resource and support the ongoing implementation and evaluation of the strategies. It is also imperative that governments respond to sector demand and improve funding models to enable cross-sector integration.

Given the prevalence and impact of men's violence against women and children across the life course, collaborative and mutually reinforcing approaches to research, prevention, and service response demand our urgent attention.



## SEXUAL VIOLENCE IN THE MINING INDUSTRY AND WORKPLACE



In February 2022, the *Everyday Respect* report was released following a review into Rio Tinto's workplace culture conducted in 2021 by Elizabeth Broderick, the former Australian Sex Discrimination Commissioner. The review aimed to measure the prevalence of sexism, sexual harassment, and sexual assault, as well as racism and discrimination in the workplace. The review came in response to significant public criticism of the company, following the emergence of several stories revealing harmful workplace culture and the company's destruction of Juukan Gorge, a site of immense cultural significance for the Puutu Kunti Kurrama and Pinikura People.

The *Everyday Respect* report revealed that the majority of women working at Rio Tinto experienced sexism from managers and colleagues, in the form of making overtly gendered assumptions about their ability in the workplace,

requests to do menial tasks which were not part of their job description, and assertions that they were only employed due to 'positive discrimination'. Further to this, women described being left out of decisions and overlooked for progression, being subjected to comments on their appearance, and being dismissed when raising the need for gender-specific facilities. Women reported these experiences as taking a toll on their self-esteem, personal relationships, general health, and ability to progress within the workplace.

Furthermore, sexual harassment was found to be a significant and gendered issue within the workplace, as it was reported to be experienced by 28% of women and 7% of men. Prevalence rose to 34.4% for women under 25 years, 38.7% for women aged 25 to 34 years, and 43% for women working on FIFO sites. Reports of sexual harassment by managers and colleagues included unwanted sexual advances, sexually explicit comments, and harassing and/or threatening behaviours when walking to accommodation after work. In addition to this, women reported experiencing actual or attempted rape or sexual assault within the workplace. Consequently, women reported avoiding public spaces such as dining halls and gyms, and eating alone in their rooms, in attempt to be safe within the workplace.

At the same time as this review, Western Australia began a *Parliamentary Inquiry into Sexual Harassment against Women in the FIFO Mining Industry*. This inquiry aimed to assess the prevalence, nature, outcomes, and reporting of sexual harassment in the FIFO mining industry, and to review how current systemic

factors within the government and industry interplay with these outcomes.

In June 2022, the final report on the inquiry, *Enough is Enough*, was released. The report reaffirmed findings within the *Everyday Respect* report of frequent perpetration of sexual harassment and sexual assault within the FIFO mining industry. Forty-seven women shared experiences, of which many included unwanted sexual comments and advances; the misuse of information technology to access women's mobile numbers without permission, send unsolicited messages, and stalk women; breaking into women's bedrooms; recording women in shower facilities; and sexual assault. While some incidences were one-offs, many involved repeat offenders and multiple incidents. Many of the victim-survivors described long-term consequences, and some required medical and psychological support. This sometimes resulted in women being forced to leave the industry in order to access treatment.

The inquiry revealed that although mining companies identified the health and safety of their staff as their highest priority, they failed to take appropriate action to safeguard employees from sexual harassment and sexual assault within the workplace. However, the inquiry did note that some companies have taken preliminary steps to mitigate risk. Mining companies largely acknowledged that sexual harassment and sexual assault of women is a serious problem in the mining industry, however they fell short in taking responsibility of their failure to act on the issue within their workplaces.

The Rio Tinto review and Western Australia's *Parliamentary Inquiry into Sexual Harassment in the FIFO Mining Industry* both come following the publication of the *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* report by the Australian Human Rights Commission in 2020. This inquiry examined the nature, prevalence, drivers, impacts, and reporting of sexual harassment in Australian workplaces, the existing measures to address it, and the legal framework surrounding it.

Through extensive research and widespread consultation, the *Respect@Work* inquiry found that 1 in 3 people had experienced sexual harassment in Australian workplaces in the past five years. Prevalence rates were significantly higher for women than men, with almost 2 in 5 women disclosing an experience of workplace sexual harassment. Furthermore, the inquiry identified the mining industry as a primary area of concern, with elevated prevalence rates in comparison to other industries. It was identified that 74% of women working in the mining industry had experienced sexual harassment, in contrast to 39% across all industries.

The *Respect@Work* report identified male-dominated industries, overrepresentation of men in leadership roles, and work being considered 'non-traditional' for women as key risk factors for perpetration of sexual violence in the workplace. These factors were also found to contribute to inadequate and/or detrimental responses to sexual violence, which was itself identified as a risk factor for further perpetration.



In 2018, at the time of the *National Survey on Sexual Harassment in Australian Workplaces*, on which the *Respect@Work* report was built, the Workplace Gender Equality Agency revealed that women made up approximately 16% of the workforce within the mining industry. By the time Rio Tinto's review and Western Australia's *Parliamentary Inquiry into Sexual Harassment in the FIFO Mining Industry* had commenced in 2021, this figure had increased to 19%.

The *Everyday Respect* report echoed statements regarding the heightened risk associated with male-dominated culture, noting that 79% of Rio Tinto's workforce is made up of men. However, a shift in commitment towards addressing this issue can be observed. The report pointed out that the proportion of female graduates increased by 6% between 2019-2020, and within the same time period, the proportion of women in leadership positions increased by 3.5%.

Nevertheless, when incidences of sexual violence occurred, reporting procedures were found to be ineffective, unsafe, and damaging for victim-survivors. Accounts of victim-survivors facing negative consequences or being threatened with facing negative consequences for disclosing were common, as were accounts of perpetrators being protected and/or rewarded following a disclosure. When workers did report, their experiences were often dismissed or minimised, and confidentiality was often broken. This, in addition to lack of knowledge regarding reporting mechanisms, contributed to 97% of people who experienced sexual violence not making a formal report.

In response to these findings, as well as common accounts of bullying, racism, and other forms of discrimination, the *Everyday Respect* report outlined a Framework for Action. The Framework stressed the importance of a visible commitment from Rio Tinto's leadership to create a safe workplace for all employees and contractors, and to adopt a comprehensive whole-of-company approach to achieve sustained cultural change. In total, 28 recommendations were made, all of which Rio Tinto has committed to enacting. However, concerns remain surrounding the company's accountability to this commitment.

The *Enough is Enough* report reaffirmed findings within the *Everyday Respect* report of unclear, inadequate and unsafe reporting mechanisms and responses across the FIFO mining industry. As such, these reporting pathways left victim-survivors feeling unsupported, demoralised, confused, retraumatised, and afraid. The report also reaffirmed findings of chronic underreporting of sexual harassment and sexual assault.

Furthermore, within the inquiry, mining companies admitted to often not reporting incidents of sexual harassment and sexual assault to their regulator – the WorkSafe WA Commissioner (previously the Department of Mining, Industry Regulations and Safety). The *Enough is Enough* report highlights that this is partly due to the absence of legislative requirement to do so.

In addition to this, required processes for data collection and information sharing on incidences of sexual harassment and



sexual assault in the mining industry are unclear. Consequently, data collection and information sharing is inconsistent and incomplete within, between, and across mining companies and government agencies. This reflects a broader issue with legislative and policy frameworks.

The legal framework in which industries currently operate is complicated, due to differences across legislation, both between State and Commonwealth law, and within Western Australia. Furthermore, until recently, distinct legislative requirements applied to distinct industries, and were regulated by different government bodies, creating further disjunction. This has recently been addressed through repeal and replacement of previous legislation. However, further reform is needed to establish clear requirements for employers on prevention and notification of sexual violence within the workplace.

In Western Australia, sexual harassment is made unlawful within a range of environments, including the workplace, under the Commonwealth's *Sex Discrimination Act 1984* and the State's *Equal Opportunity Act 1984*. However, in order to meet the definition of 'sexual harassment' within the State legislation, a victim-survivor is required to prove that the incident has or would cause disadvantage to their employment.

In August 2022, the State government announced the drafting of a Bill to amend the *Equal Opportunity Act 1984*. If passed, the amendments are set to remove the 'disadvantage test' and extend the prohibition against sexual harassment to government staff, volunteers, and unpaid workers. This

would bring Western Australian law in line with other jurisdictions across the country. A date for the tabling of the Bill has not yet been set, as of the date of publication of this reader.

Furthermore, neither of these Acts place a positive duty on employers to take preventative measures. In contrast to this, the legal regime as it currently stands incentivises employers to deter employees from complaining, and side with the defendant to argue they are not responsible when a complaint is made.

This is reinforced through the State and Commonwealth's employment and workplace health and safety legislation.

The Commonwealth's *Fair Work Act 2009* and the State's *Industrial Relations Act 1979* govern employment law. Until recently, neither of these Acts explicitly prohibited sexual harassment. Furthermore, these Acts limited their coverage to employees – inadvertently excluding volunteers, interns, and independent contractors. However, in the past year, both Acts were amended to prohibit sexual harassment, expand their coverage to interns, volunteers, and independent contractors, and provide powers to their respective Commissions to issue stop orders relating to sexual harassment.

The Commonwealth's *Model Work Health and Safety Act 2011* and the State's *Work Health Safety Act 2020*, govern workplace health and safety law. While the Commonwealth legislation does place a positive duty on employers to minimise hazards to workers' health and safety – accounting for sexual harassment – the State's legislation does



not even mention sexual harassment. Furthermore, the *Work Health Safety Act 2020* restricts 'notifiable incidents' to injuries which require immediate treatment or prevent a person from being able to do their normal work for ten days. Evidence given during the inquiry highlights that this does not account for the nature of sexual violence and its impacts – and is therefore limiting in its application to sexual harassment and sexual assault.

The State's legislation is supported by a series of Regulations and Codes of Practice and Conduct. Regulations for the mining and petroleum industries are distinct from all other industries – though neither sets of regulations mention psychological or psychosocial harm and risk, nor sexual harassment.

In February 2022, several Codes of Practice and Conduct were released, which do specify sexual harassment and sexual assault as 'inappropriate and unreasonable behaviour' and a 'psychosocial hazard or risk factor'. However, the inquiry highlights that Codes of Practice and Conduct do not have the same legal force as regulations, and a lack of compliance in itself, is not sufficient grounds for prosecution under the legislation.

In addition to this, the inquiry found that regulatory bodies are inadequately resourced to investigate all notifications and complaints of workplace sexual harassment. Furthermore, the inquiry raised concerns around the lack of specialist training on sexual harassment and psychosocial harm and risk for regulators and mining inspectors tasked

with investigating and reporting on workplace health and safety.

Based on these findings, the *Enough is Enough* report recommends that Western Australia's legislative and regulatory framework adopts a comprehensive and consistent definition of 'sexual harassment', removes the requirement to prove disadvantage to the victim-survivor's employment, reverses the onus of proof on victim-survivors, and places a positive duty on employers to mitigate risk for sexual violence within the workplace. Furthermore, the report recommends that the threshold for 'notifiable incidents' be amended to account for the nature of sexual violence and its impacts, and that standards and guidelines for handling notifiable incidents be introduced. Finally, the report recommends that regulating bodies, the mining industry, and relevant stakeholders establish a specialist group with expertise, experience, and training to deal with reports of sexual violence within the mining industry.

The systemic failures to prevent sexual violence within the workplace and provide victim-survivors with access to redress recognised within the *Everyday Respect* and *Enough is Enough* reports are not unique to the mining industry. The *Respect@Work* report identifies similar findings across industries.

These reports highlight the need for governments and industries to treat sexual violence within the workplace as a health and safety issue and invest in genuine efforts to create meaningful and sustained change. The reports demonstrate the urgency of increasing representation of women in leadership



positions; implementing primary prevention and early intervention strategies aimed at reforming workplace culture; applying existing and specialised risk mitigation frameworks to the issue of sexual violence; delivering trauma-informed support services and reporting pathways to victim-survivors; and minimising barriers to accessing redress.

The reports emphasise the need for systemic reform – including but not limited to legislative reform – in providing

a consistent definition of sexual harassment across legislation and placing a 'positive duty' on employers and employees to take reasonable and proportionate steps to eliminate sexual violence within the workplace. It is imperative that governments and industries resource the necessary infrastructure to ensure the effective implementation of, and ongoing compliance with, these reforms.



## STORIES FROM THE FIELD

Nicole Lambert is the CEO of Allambee, a specialist family, domestic and sexual violence service based in the Peel region.

Thank you to Nicole Lambert for talking with us about your work.



### Can you share some of the history of Allambee and its beginning?

Allambee is a Peel-based service. For over thirty years, we have been providing specialist trauma therapeutic interventions for people who've experienced, or been impacted by, sexual violence and/or family domestic violence.

Allambee started as a sexual assault service and came about because of a number of strong women leaders who had been involved in starting many of the core community services in the region. The former Mayor, Paddi Creevey, and our current Vice-Chairperson, Terri Coughlan, were two of the founding members of

Allambee. Terri has been heavily involved in the organisation since its founding in 1991, so there's a lovely strong legacy there.

We started as a sexual assault service because women who worked in the family and domestic violence space could see the strong need for a standalone specific service to support people with their experiences of sexual assault.

Overtime, we've branched out to become more comprehensive, but we've really kept our focus on interpersonal violence trauma. We provide therapeutic services for adult sexual assault, child sexual abuse, and family and domestic violence impacting adults and children. We also have a youth service to support vulnerable and marginalised young people, and do a lot of work in primary prevention space including the *Building Healthy Relationships in Peel* project and leading the *Peel Says No to Violence Alliance*.

### How long have you been working in the area of sexual violence?

I have been at Allambee for ten years. I started in what was the manager's role, which has evolved into the CEO as the organisation has grown. My background is as a counselling psychologist, and I have worked in quite a few sectors.

Prior to coming to Allambee, I worked in child protection. That was a really good grounding in sexual violence and family and domestic violence, because it was so much of what we saw. Then the opportunity came up at Allambee, and I was very keen to come across.



The benefits of coming to a not-for-profit, from working within a government system, was that a not-for-profit has a lot more flexibility to be more responsive to where the needs are. You have a lot more autonomy over how you deliver services to respond to the needs of the local community.

### Why were you drawn to working in the area of sexual violence?

It was really working in child protection and seeing how much need there is in this space. The need to work in a holistic way with children, young people and families, and adult victim-survivors. Working with young people particularly drew me in.

The importance of creating change at that early age, to help people heal from their trauma and go on to have healthy and happy lives. If we don't get that critical intervention at that early time, we know that the trauma – particularly from child sexual abuse – has such profound and long-lasting impact, not only on the individual, but also on the whole family functioning over the course of their lives. So, for me, I think it is the fact that the need is so great, as is the potential to create change if we intervene early.

### How would you describe Allambee's service model?

We provide a range of services and have a strong focus on prevention as well as response, which we see as critically important. We are also really grounded in the community sector here. It is about collaboration and integration with other services in our community, to create

change and better outcomes for everyone in our community. Our model is very place-based in that sense.

We run primary prevention interventions in the high schools, and we lead the *Peel Says No to Violence Alliance*, which is a community-led primary prevention initiative.

As a trauma specialist service, it is of course imperative our work is guided by principles of trauma informed care and practice. We work from an evidence-based approach and have a series of practice principles which underpin our work. Our foundation principle is that empowering people to create futures that are healthy and free from violence and abuse requires a trauma-specialised and holistic approach to healing and supporting clients to overcome the complex challenges they face due to their past trauma experiences. This means we really need to understand each of our clients within the context of their unique circumstances and their unique trauma histories.

### How does Allambee's staff walk alongside a victim-survivor from initial contact throughout their journey?

First and foremost, it is about recognising the ongoing and significant impacts that trauma has on people's lives and meeting clients where they're at, then walking with them slowly and gently through their story and through their journey at their pace. Our goal is to be as responsive as possible.



Every person's journey to healing is quite different. A lot of the people that we work with have significant complexities. The journey can be quite long for a lot of people. We really build strong and trusting relationships with our clients and with the community. We find that people come back to us again and again over the course of their life, as they reach different developmental milestones, or as they go through periods of change, or episodes of re-traumatisation.

It's really important that we're here for the long haul. It's about clients knowing they can trust that we're here, that we'll always be here, and that we'll always be responsive – even if staff change, Allambee is the same. If they came here ten years ago and come back again, they're going to get the same level of experience, the same feeling, the same trust, the same nurturing, the same safety, and the same quality of support.

### **Does Allambee provide any support for family of victim-survivors?**

Absolutely. Particularly in our service for child sexual abuse, we have a family systems approach. But for our adult services as well, the impact of trauma is not contained to the direct victim-survivor. It has a profound impact on the whole family, so we absolutely provide support for family members.

### **As the national conversation on sexual violence has grown, has Allambee noticed any trends arising for victim-survivors presenting to the service?**

There has definitely been a significant increase in demand for our services over the last two to three years. I think that has been influenced by the #MeToo campaign, and more recently in the last 18 months to two years, by the really strong voice of victim-survivor advocates on a national level. The issue of what happened in our national parliament has been a major concern, and as a consequence, we've seen a lot more victim-survivors speaking out.

There are a couple of different reasons this has increased demand in our services. We've found a lot of people are contacting us because it's been triggering and re-traumatising for them. There are also a lot of clients contacting us because they feel inspired to finally say something and seek support.

### **What are some of the challenges the sexual violence sector is currently facing?**

Demand has been growing steadily over the last ten years, since I've been with Allambee, but the recent surge in the last couple of years has posed a particular challenge. We need to be as flexible and innovative as possible, to try and stay true to the quality of services that we deliver to our clients and the relationship that we're able to maintain with them. It is challenging to do that, but we do the best we can.

We also haven't reached the level of comfort that we need as a community or as a society, in talking about sexual violence. People are still uncomfortable to talk about the concept of sexual violence – particularly sexual assault and child



sexual abuse. Somehow, sexual harassment seems more palatable. There's a lot of work to do in that space, in terms of shining a light on sexual violence. I think we're on the right path, but I do see that as a significant challenge.

### What are the top three issues, in the area of sexual violence, that require urgent attention?

First and foremost, it is the unprecedented demand for services that we're seeing, and the inadequate resourcing for services to meet the demand. In the past twelve months in particular we are seeing more and more victim-survivors speaking up for the first time and reaching out for support. Services across the country however have been unable to keep up with this increased demand. This means that victim-survivors throughout the country don't have access to services that they deserve.

Prevention is something we really need to look at. There has been some significant progress made in family domestic violence prevention over the last five or six years, but we're not seeing the same in-roads being made in sexual violence prevention. We really need to turn our attention to this space in a focused and consistent way across the country. We need national primary prevention campaigns and initiatives, and resourcing for existing specialist services to deliver these initiatives. We need localised, tailored, place-based prevention initiatives, that really target what's happening in various communities. I'm a

firm believer that specialist services are best placed to deliver these.

*Respectful Relationships Education (RRE)* is an area where we are seeing a lot of work being done nationally. We need to see consistency across the country in how this is implemented, because it currently varies from state to state, with varying degrees of success. It is essential for RRE to be embedded in the curriculum, but this alone is not enough. We need dedicated strategies and resourcing to support a whole-of-school approach. It is problematic that teachers are often relied on to coordinate and deliver RRE, when they do not have specialist knowledge or skills. We need people within schools who have specialist knowledge and expertise to support students and staff, and deliver RRE.

Consent laws and the surrounding law reform is another issue. We're seeing some good traction in that space right now across the country. Ideally, we'd have nationally consistent laws around affirmative consent. If we could at least get close to that, then that would be a really good start. I'd also like to see that there are more reports being made to police and that there are more prosecutions being achieved as well, so that victim-survivors are actually getting access to justice responses.

### Where would you like Allambee to be three years from now?

First and foremost, I would love if there were no need for our services. But that is completely unrealistic. Ironically, I would like our sexual violence services to be busier than they are now because that

would mean that more people are coming forward and seeking support.

I'd also like us to be able to work in a much more holistic and integrated way than we are now. The siloing of the family and domestic violence and sexual violence sectors does create difficulties from a consumer's perspective, in terms of the service responses they see. So, I'd love to see a much more coordinated service response system, and I'd love to see Allambee leading the way in that.

### What gives you hope in the work that you do?

You always have to have hope. There are always things that we can be doing to improve outcomes for victim-survivors, improve our service responses, and improve policy and practice. Now is a time where we should be filled with hope in the sexual violence sector, because in the last couple of years we've started to see some real change.

In Western Australia in particular, we are seeing significant development. With the establishment of the Centre for Women's Safety and Wellbeing, we finally have a peak body to take an active leadership role in representing the sexual violence

sector. Western Australia's first ever *Sexual Violence Strategy* is currently being developed. We have the law reform referral to review sexual offenses and laws around consent, as well as a full review of the victim-survivors experience of criminal justice processes. For the first time we're doing a full review of what the sector looks like, where we stand, what we need, and what needs to happen. We have the opportunity to put an action plan into place to really make a difference. That's absolutely ground-breaking. We also have the *Parliamentary Inquiry into Sexual Harassment Against Women in the FIFO Mining Industry*, and I have high hopes for what will come from that. There's a lot of work to be done in that space and it will be quite a challenging road, but it is important work.

There is quite a lot of work happening in the sexual violence space nationally too. The new *National Plan to End Violence Against Women and their Children* has a significantly increased focus on sexual violence, which is really encouraging. There is also the *National Centre for the Prevention of Child Sexual Abuse* and the new *National Strategy to Prevent and Respond to Child Sexual Abuse*. All these initiatives which have the potential to drive positive change are the sort of things that give me hope.



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