

Child abuse, systems abuse and media coverage

A tale of a young woman's courage in Victoria's Supreme Court

Chris Goddard

The media play important roles in fighting child abuse at all levels. Reports of individual cases may be criticised as seeking to sensationalise, but in some circumstances the true horror of child abuse is missed or too terrible to report. A recent case in Victoria's Supreme Court received prominent media coverage and led to demands that more be done to protect children in court proceedings.

Some people are extraordinarily courageous. Dr. Clyde S.F.E. Roper sounds as if he is a man of courage and tenacity. He is a marine biologist who is 'the world's foremost authority on the systematic zoology and biology of cephalopods' (Gilbert 2000:35). In other words, he studies squids and octopuses (or is that squid and octopi?). He is reported to have caught squids that are smaller than his thumb and been attacked by others bigger than a man and fierce enough to kill a marine biologist.

According to Gilbert's (2000) story about Dr. Roper, he is obsessed by the giant squid, an invertebrate up to 18 metres in length, with eight arms and two tentacles at one end, a tail at the other end, and a head in the middle. The arms and tentacles have hundreds of tenacious suckers. According to Gilbert, 'nobody has ever seen a giant squid alive' (2000:35) but it might be more accurate to add 'and lived'. We know that they are out there, or down there, because occasionally a body is washed up on a beach. Most of us would rather avoid such creatures but Dr. Roper wants to see one and he and his colleagues go to extraordinary lengths (or depths) in tiny submarines to attempt to do so.

Such stories are heartening. The world needs courageous people like Dr. Roper. The world also needs the giant squid, because it reminds us how large the world really is, and how much there is still to learn about our environment. The world also needs more people like the young woman known as AB.

A few years ago, in this column (Goddard 1996a), I was rather rude about *The Age*. I complained that the editorial staff had treated very poorly a colour piece that I contributed. The article, on the NSW Royal Commission into the Police Service (Goddard 1996b), appeared in a very attenuated form and I was not pleased by this. If I remember rightly, a couple of colleagues suggested that I was being rather precious and that I should be grateful that anything at all got published.

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This column is about a different, very positive, experience with *The Age*. In June, AB brought a case against the State of Victoria alleging that her primary school teachers had failed to respond appropriately to evidence that she was being sexually abused by her step-father. The case was widely reported, in part at least because it was believed to be the first case of its kind in Australia.

Reading the newspaper coverage of the Supreme Court hearing, I felt that much of the reporting missed the most important aspect of the case. On Friday June 9, the report across the top of page three of *The Australian* was headed 'Jury distress halts case as victim rages at man who raped her' (Gough 2000):

A girl being cross-examined by the man convicted of raping her five times broke down and began screaming hysterically yesterday, bringing her court case to a halt several times.

"I just want to kill you," she yelled angrily at her former step-father...(Gough 2000: 3)

The headline across the top of page four in *The Age* read 'Abused girl quizzed by step-father' (Gregory 2000):

A Supreme Court trial was adjourned twice yesterday when a teenager broke down while being cross-examined by her stepfather, who has been convicted of raping her.

The 17-year-old, who was giving evidence by video link from a separate room, cried and shouted at him: "I just want to smash him...I'm going to kill you." (Gregory 2000:4)

The *Herald Sun* took a similar line under the headline 'Tears of rage in court ordeal' (Howell 2000).

A teenage girl who was raped by her stepfather at the age of nine yesterday threatened to rip his neck off in an extra-ordinary outburst before a Supreme Court jury. (Howell 2000:13)

Television and radio coverage appeared to me to take a similar line. The reports concentrated on the response of the young woman in the court – the fact that she swore and threatened her stepfather – rather than on what the court was doing to her. It appeared to me that she was behaving entirely reasonably in response to entirely unreasonable

circumstances. The man who had been convicted of raping her and indecently assaulting her was being allowed to cross-examine her.

It was this aspect of the case that appeared to me to be the *real* story. This young woman was being further abused by the system. Over the weekend I checked, and confirmed, my belief that this had been banned in criminal cases in the UK. By Monday 12 June I decided that something should be done about this. I telephoned *The Age*.

I spoke to the editor in charge of the Opinion page, and asked if he would be interested in a piece about AB and the issues raised by the case. The editor asked me what line I planned to take. I replied that I thought that the main issue behind the story had been missed, that AB's stepfather should not have been allowed to cross-examine his victim. I said that I thought that there were other issues and stated what those were. Overall, I proposed that once again an adult perspective was prevailing, that the case was being considered in terms of what it meant for adults, especially teachers, rather than what had happened to this girl.

The editor of the Opinion page asked if I had considered looking at the transcript, and I said that I had not, that I was not even certain if it would be available. He suggested that if I could do so it would probably help my proposed piece. I am grateful for his suggestion. I admit, however, that I was less than impressed the next day when I read *The Age* Editorial (2000a). It led with what was to be the main thrust of my piece: it was extraordinary that AB's stepfather, convicted of raping her, had been allowed to cross-examine her.

I telephoned the Supreme Court to find out how I might view the transcript. I thought that the privatisation of the transcription service might limit my chance of access but my fears were ill-founded. The staff were very helpful on the telephone and said that they would make the transcript available the next day.

To say that the transcript of AB's cross-examination at the hands of her stepfather was depressing reading is an understatement. At the end of several hours reading, I felt depressed and angry about what had happened in court.

When I got home, I was determined to write something about AB's experiences. I started at 9.30 pm and finally finished about 2.30 am. It was an extremely difficult piece to write. For me, there were a number of issues. Firstly, given AB's traumatic experiences in court, I was concerned that my writing something might make matters worse for her. Secondly, there seemed to me to be a fine balance between adequately describing the cross-examination, bringing to light the full horror of it, and avoiding salaciousness. Finally, there was the challenge of confining myself to 1200 words or so (I had already asked if *The Age* would consider a Feature rather than an Opinion piece when I realised how much material there was).

The third issue defeated me completely. On Wednesday morning, when I emailed my work it was still nearly 300 words too long. On Friday, it was published. The Editor of the Opinion page discussed how it was to be trimmed (including a paragraph off the front and another off the back) and helped me to write a vastly improved, more powerful conclusion. Thanks to *The Age* it was a better article.

A CASE OF REPEATED ABUSE

By CHRIS GODDARD

The Age, Friday 23 June 2000

Child abuse is not only committed by adults, it is defined by them too. How adults respond can make things better or worse for the abused child. It is the double tragedy of child abuse: children who have been badly hurt sometimes get hurt again as adults respond.

This is the story of AB, a 17-year-old girl who on Thursday last week was awarded \$490,000 in damages by a Supreme Court jury, which found that the primary school AB had attended should have acted on warning signs that she was being sexually abused. The school had failed in its duty of care to a grade 3 girl.

The most distressing lesson of AB's story is almost too painful to recount. For anything resembling justice to be done, AB had to tell her story over and over again. She had told her mother, her father and the police. She had been

cross-examined in a committal hearing. She had been further cross-examined in the trial of her stepfather, who was found guilty of repeatedly raping her (he spent only three years in jail).

Then, in the Victorian Supreme Court last week, AB suffered what one prays will be the final assault. She was cross-examined by her stepfather, the man who raped her. He chose to represent himself and was allowed to further traumatise his victim, this time in front of a jury.

AB was allowed some protection – some of her evidence-in-chief was given through an affidavit, and she was cross-examined by the rapist through audio-visual link from a remote witness room in a nearby building – but both shields provided inadequate protection.

By the time her stepfather started his cross-examination, AB had already

been taken through 'incidents' of rape, of beatings that were worse when her mother wasn't there, of disregarded intervention orders. She had lost contact with her grandmother and her half-sister. She had even lost her mother; the day her stepfather was sentenced was the last time she talked to her mother.

In the court last week, AB was asked by Jeremy Ruskin, QC, senior counsel for the state, if she would feel better once this case was over. She replied: 'It's always – always going to be in my head, it's always – it's never going to go away and this court case is relating to the actual abuse, so the court case is always going to be there as well.'

Then her stepfather began.

His first question was: '...your evidence ... refers to pain in your vagina, right?'

'Yes.'

'In your first statement, you said it was up and down for a long time, right, you remember that?'

'Yes.'

'...do you recall saying that I inserted my penis into your vagina, do you remember that ... no?'

'Yes, I do.'

'And then you said it seemed for a long time up and down, is that right?'

'Yes that's correct.'

And so it goes on. A convicted rapist, seven or eight years later, is cross-examining his victim, who was nine or 10 at the time of the rapes. There are questions about whether there was blood, about who checked the sheets.

It is hard to understand how any of this is necessary, how it might be relevant when he has already been convicted.

'...You say that I forced your legs apart ... right?'

The stepfather then reads from one of the statements the girl had made years earlier: 'I can remember him walking over ... drawing the curtains ... pulling down my pants...'

He attempts to suggest there are contradictions in her statements.

AB: 'I don't know which paragraph to look at because you are not telling me...'

The stepfather persists: '...you say ... that 'I was on my stomach and (he) pushed my legs apart by grabbing my knees at the back...'

And he persists: 'If you look at one statement, and look at the other statement, one statement is very blunt, right, is very plain, but the other statement is more graphic...?'

After some explanation, AB replies: 'I'll knock your f---ing block off.'

The judge, Bill Gillard, interjects. To AB he says: '...just, please, listen to the question', and to the stepfather: '...You cross-examine as you see fit.'

The stepfather says he is lost. The judge advises him: 'If you seek to show there is a difference between the two statements, you first of all refer to the first statement, draw (her) attention to the parts you're dealing with, ask her to read that and then ask her to read the similar paragraph in the second statement involving the same incident, if you wish to highlight there is a difference.'

And it still goes on. The stepfather, convicted of rape, talks of 'allegations'. In response to this insult, AB threatens to come into the court and 'f---ing rip your neck off your shoulders'.

'Every question you ask ... it takes you 10 ... minutes to ask it, obviously you don't know what you are talking about...'

At one point, Peter Galbally, QC, counsel for the victim, intercedes: 'I think the jury are a little bit distressed.'

Later, Justice Gillard says to AB: '...I do ask you to listen to the question and answer it, and stay calm. I think we all appreciate the ordeal, but I can assure you the whole procedure will go a lot quicker if you just listen to the question and answer it to the best of your ability.'

She asks if her stepfather can be made to ask his questions more quickly.

The stepfather asks questions about 'the secret'. He suggests she had a 'secret' with her natural father. 'Did you do this...?' 'So you totally deny this...?' 'I am stating to you...'

The words 'Witness distressed' appear in the transcript. It goes on, 'Justice Gillard: 'All right, now come on ... please.' (Witness distressed). AB: 'You're telling

me to come on, and you're letting this arse-wipe cross-examine me and I'm not even in the court room to smash him. Don't give me that shit.'

And later, 'Justice Gillard: 'Look, this is getting a bit out of hand...' (Witness distressed). AB: 'Well you guys are the ones that wanted him to cross-examine me, not me - not me...'

In Britain, a series of much-publicised rape trials has led to a ban on rape defendants, rather than their lawyers, cross-examining their alleged victims. In one case, reported in *The Daily Telegraph*, the victim was questioned for six days about the details of her 16-hour rape ordeal. The rapist wore the same clothes he had worn when he assaulted her.

The victim later spoke about the case in the hope that other women would be spared such experiences. 'I feel that I have been raped twice, once in his filthy den and once in front of a judge and jury... When a rapist is asking the questions, he knows what he has done, and is furthering the act,' she said.

AB's case was even worse than this. AB's was a civil case, not a criminal trial involving life and liberty. Her stepfather had already been convicted of repeatedly raping her when she was a child. Even now, AB is barely more than a child.

The courage and resolve that young woman showed last week must not be in vain. What happened to AB in that Melbourne courtroom must never be allowed to happen to any rape victim ever again.

(Goddard, 2000, reprinted from *The Age*)

This was the first piece I had done for a newspaper where my email address was included. The internet has clearly created what is the newspapers' version of talkback radio, allowing the reader to respond to the writer with a new immediacy. As Hartley notes, there is a new 'right to communicate' (2000:43). By lunchtime, I had received nearly 30 emails. Many of the responses were very moving. Some came from as far away as the US, where the article had been put on a web site. Some described how they had felt tearful on hearing of AB's plight, others asked for messages of support to be passed to AB (I will attempt to do this through her lawyers), and others said that they were writing to the judge or others to complain. Sadly, some wrote of their own painful experiences of betrayal, abuse and violence.

On the following Sunday, *The Sunday Age* produced a more detailed argument in support in its Editorial (2000b). Referring to the report by the Australian Law Reform Commission and the Human Rights and Equal Opportunity Commission on children and the legal system, and the report by the Australian Institute of Criminology, the Editorial pointed out that:

AB's case is not an isolated one. Our justice system has been criticized in the past for its failure to protect children from being savaged in the courts... AB's case graphically demonstrates that we have not made progress since these reports were published. (Editorial, 2000b:24)

It is to be hoped that this will be the end of the systems abuse suffered by AB. We can all do our bit to assist, by writing to those who have the power to do something. This would be one way to acknowledge her courage, and how much we have to learn about respecting children's rights. The world might not be a better place if Dr. Roper meets his giant squid, but it will certainly be a far better place if other children avoid the tentacles and tenacious suckers of an insensitive legal system. □

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