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Domestic violence in Australia

The Lone Fathers Association (Australia) Inc makes the following submission to the Senate Finance and Public Administration Committee Parliamentary Inquiry into Domestic Violence in Australia.

In view of the short deadline for its preparation this submission may need to be added to as the Inquiry proceeds.

Terms of reference

The Committee is to consider and report on:

1. the prevalence and impact of domestic violence in Australia as it affects all Australians and, in particular, as it affects:
 - women living with a disability, and
 - women from Aboriginal and Torres Strait Islander backgrounds.
2. the factors contributing to the present levels of domestic violence;
3. the adequacy of policy and community responses to domestic violence;
4. the effects of policy decisions regarding housing, legal services, and women's economic independence on the ability of women to escape domestic violence;
5. how the Federal Government can best support, contribute to and drive the social, cultural and behavioural shifts required to eliminate violence against women and their children; and
6. any other related matters.

Prevalence and impact of domestic violence as it affects all Australians

The prevalence of domestic violence in Australia, as elsewhere, can be measured in a variety of different ways. These include, in particular, community surveys (e.g. rigorously conducted studies based on conflict tactics scales) and clinical investigations (e.g., police statistics).

Estimates were made by the LFAA some years ago of rates of domestic violence under various definitions and expressed as numbers of cases in the ACT. These figures can be roughly scaled up to represent Australia as a whole. (The ACT accounts for about 1.7% of the Australian population.)

The estimates revealed the following situation:

Incidence of Domestic Violence per annum, ACT

Details	Men as victims	Women as victims	Total victims	Proportion of total adult population (%)
Victims of physical abuse -				
Based on 100+ leading social-scientific studies(a) (A)	33,800	23,400	57,200	22.00
Straus, 2005 (A)	27,350	25,170	52,520	20.20
Headey, Scott, and de Vaus, 1999 (A)	7,400	4,800	12,200	4.7
Access Economics report (C)	840	5,700	6,540	2.52
Personal Safety Survey, Australia(b), 2005 (B)	340	1,180	1,520	0.58
ACT Police, 2003-04(c) (B)	184	736	920	0.35
Incidents brought to the attention of the police(d) (B)-				
Total	n.a.	n.a.	2,800	1.08
Distinct persons making contact	n.a.	n.a.	1,400	0.54

Injuries brought to the attention of the police(e) (B)-				
Minor	n.a.	n.a.	540	0.21
Requiring medical attention	n.a.	n.a.	150	0.06
Hospitalisation	n.a.	n.a.	6	0.00
Offences detected/action taken by police (d)(g) (B)-				
Offences detected, total	190	710	900	0.35
Common assault or ABH	70	250	320	0.12
Offences, spouse against spouse/ex-spouse	100	360	460	0.18
Common assault or ABH, spouse against spouse/ex-spouse(e)	50	180	330	0.09
Arrests	85	280	365	0.14
Protection orders issued (f) -				
Interim	160	640	800	0.31
Final	80	320	400	0.15
Court proceedings -				
Prosecutions	40	460	500	0.19
Convictions	35	395	430	0.16

(a) Assuming that 50% of the studies relate to a 12-month period, and the remaining studies relate, for victims, to the period since attaining adulthood.

(b) Inter-spousal violence only (current and/or former partners).

(c) Derived estimate of number of distinct persons.

(d) Includes children (about 10% of the total).

(e) Assuming that ratio of spouse/ex-spouse to total is the same as for total offences.

(f) In NSW, 27% of protection orders are granted to men.

(g) The figures shown for “Women as victims” in police and court statistics in the table indicate the number of female victims, mostly of male perpetrators. The figures shown for “Men as victims” in police and court statistics in the table indicate the number of male victims, mostly of female perpetrators.

As indicated in the table, the figures range from

- 57,000 victims of physical domestic violence (or 22% of the total adult population) per annum, to
- 6 victims hospitalised (or 0.002% of the total adult population) per annum.

If the homicide rate in the ACT were the same as in Australia as a whole, the number of victims would be 3 per annum, with perhaps 1 of those deaths (0.0003% of the total adult population) being domestic violence related.

For comparison purposes, there are on average (for every 300,000 or so people) about 15 deaths per annum from motor vehicle accidents, and 5 clients of the CSA who take their own lives.

It is important for governments to carefully consider the definitions underlying the figures before drawing conclusions, to be scrupulously honest in their assessments and public pronouncements, and to retain a sense of proportion.

Part of the explanation for the extremely wide range of estimates of domestic violence is provided by leading US domestic violence researcher Murray Straus (1997), as follows:

The clinical fallacy and representative sample fallacy

‘The discrepancy between the findings from surveys of family problems and findings based on criminal justice system data or the experiences of women in shelters for battered women does not indicate that one set of statistics is correct and the other not. Both are correct. However, they apply to different groups of people and reflect different aspects of domestic assault.

“Most of the violence that is revealed by surveys of family problems is relatively minor and relatively infrequent, whereas most of the violence in official statistics is chronic and severe and involves injuries that need medical attention. These two types of violence probably have different etiologies and probably require different types of intervention.

“It is important not to use findings based on cases known to the police or shelters for battered women as the basis for deciding how to deal with the relatively minor and infrequent violence found in the population in general. That type of unwarranted generalization is often made; it is known as the clinical fallacy. Representative community sample studies have the opposite problem, which can be called the representative sample fallacy (Straw, 1990, etc.).

“Community samples contain very few cases involving injury and severe assaults every week or more often. Men tend to be the predominant aggressors in this type of case, but representative sample studies cannot reveal that, because they include few if any such cases. Ironically, the types of cases that are not covered by community surveys are the most horrible cases and the ones that everyone wants to do something about. However, community surveys can tell us little about what to do about these extreme cases because the samples contain too few to analyze separately.

“The controversy over assaults by women largely stems from survey researchers’ assumptions that their findings on rates of partner assault by men and women apply to cases known to the police and to shelters, and the similar

unwarranted assumption by clinical researchers that the predominance of assaults by men applies to the population at large.

“Both community sample data and clinical sample data are needed. Community sample data are essential for informing programs directed at the larger community, especially programs intended to prevent such cases in the first place or to prevent them from developing into clinical cases. Conversely, it is essential to have research on clinical samples, such as those involved with the police or shelters for battered women, in order to have data that do apply to such cases and that therefore provide a realistic basis for programs designed to aid the victims and to end the most serious type of domestic violence.”

Given the public interest in the subject there could be more frequent and extensive data collection than at present. Information should be sought from both men and women on the same basis rather than confined to one gender (e.g., collection of certain types of health information from women only). Any research that throws significant light on the relationship between community surveys and clinical collections could, in the present state of knowledge, contribute to a better understanding of the nature and extent of domestic violence.

Attitudes to domestic violence

The LFAA is very strongly opposed to domestic violence. This opposition applies to violence against children, women, and men, and is not confined, in either principle or practice, to one gender.

Conflict, argumentation, and debate exist in most human interactions, and intimate or family relationships are not exempt from this fact. Mental illness and substance abuse are factors which often add to this volatile mixture. Therefore, conflict reduction and counselling or other appropriate treatment for specific problems need to be explored in a holistic approach to a solution.

Custodial restraint and judicial punishment has a role in the range of measures to provide for the safety and wellbeing of members of the public. However, outmoded and old-fashioned existing notions of help only being available to women to press allegations and a legal system which only sees situations in black and white is ultimately damaging to families, and needs to be challenged. There are currently over 300 refuges for women in Australia but none for men.

The LFAA has the utmost respect for the view that women should receive special consideration, sympathy, and protection in relation to domestic violence. However, such a view does not need to be (and should not be) bolstered by incorrect information about the nature and incidence of domestic violence.

Meaning of family violence

Governmental statements about domestic violence and measures for dealing with domestic violence should properly distinguish between the different types and degrees of seriousness of domestic violence, between real violence (dictionary-defined as

"involving great physical force; unlawful use of force") and non-violent abuse, and between non-violent abuse and mere conflict arising from differences of opinion.

If the definition of family violence is to be so elastic as to cover almost anything that a person might not like, the objective of eliminating family violence will not be approached, let alone attained.

Analysis of domestic violence

Domestic violence, properly understood, is not a gender-based phenomenon, but rather a phenomenon reflecting individual personality, cultural attitude, abilities, and opportunities. The way in which it is recorded is greatly influenced by the actions of agencies and law enforcement authorities.

Perpetration and incidence of domestic violence

200 or so family conflict studies have been conducted on a rigorous scientific basis in a number of countries, including Australia, over the last 40 years or so. The total sample size amounts to more than 300,000 informants, and 67 studies of this type have been carried out since 2005.

These studies have virtually all found that women are at least as likely to initiate and engage in domestic violence as men. Women are, however, more likely to be afraid of domestic violence, and perhaps somewhat more likely to be injured as a result of it.

Crime and quasi-crime studies indicate much higher ratios of domestic violence by men relative to violence by women, but much smaller numbers in total. Those results in part reflect the fact that actions carried out by a man may be regarded as criminal which if perpetrated by a woman may not be so regarded. That reflects traditional community attitudes and beliefs and the activities of the judiciary, the legal profession, and government departments and agencies, reinforced by the dissemination of doubtful "information" by gender lobbyists and governments concerning the incidence of domestic violence.

Men in Australia are only one-third as likely as women to report violence against them to the police, and police statistics are therefore only a poor reflection of the relative extent and distribution of domestic violence.

The claim that men *typically* wish to physically and/or psychologically dominate their wives and children, who are, in consequence, reduced to passive victimhood, is simply incorrect.

Service ideologies

The ACT Domestic Violence Crisis Service (DVCS) has stated in the "Australian Domestic and Family Violence Clearinghouse" that:

"we" (the DVCS) "recognise that the *vast majority* of people who are subjected to domestic violence are women and children, and the *vast majority* of those using violence in their relationships are men".

In the LFAA's view, the above statement demonstrates a biased interpretation of the nature of the phenomenon that the DVCS was set up to deal with.

Gender profiling

The Terms of Reference for the present Inquiry have gender-profiled men by over-emphasising the incidence of men as perpetrators and downplaying the incidence of male victims of domestic violence.

This gender profiling is inappropriate, and if persisted with will inevitably lead to policy decisions which will not be in the best interests of Australian families.

Consequences of disseminating incorrect information about violence

The claim that domestic violence is "overwhelmingly perpetrated by males" (ALRC 2010) leads to a general suspicion and lack of sympathy for men involved in domestic violence as victims, and also a great reluctance on the part of men to declare their victimhood, for the reason that they expect that they will receive little help and may even be automatically be blamed for the violence.

That then leads to the suppression of information about domestic violence against men and violence against children by their mothers, leading to further distortion of both administration and policy.

Gender profiling under international conventions to which Australia is a party

Institutions and individuals need to be aware that gender or racial profiling of offenders in legislation violates Australia's international human rights obligations since it creates a bias in the minds of judges and magistrates that a particular class of defendants is more likely to be guilty by reason of his/her gender or race than would be the case if he/she were of a different gender or race (and likewise the other gender more likely to be innocent).

Discrimination, including via gender profiling, is the prejudicial treatment of an individual based on their membership (whether voluntary or involuntary) in a certain group or category. It is the actual behaviour towards members of another group. It involves excluding or restricting members of one group from opportunities that are available to other groups. According to the United Nations, "Discriminatory behaviours take many forms, but they all involve some form of exclusion or rejection."

The essence of sex discrimination is that it is an adverse action taken by one person against another person that would not have occurred had the person been of another sex. This is a form of prejudice and is illegal in defined circumstances in most countries. Unfair discrimination usually follows the gender stereotyping held by a society.

There is a distinct possibility that a message focus that only men abuse and only women can be victims will see an increase in female-initiated domestic violence in Australia.

A society that condones domestic violence conditional upon the gender or ethnicity of the victim is not the kind of society that the wants our children and grandchildren to grow up in. The need is to adopt measures that reinforce the message that *all* domestic violence, whether committed by men or women, gay or straight, indigenous or non-indigenous, is wrong.

Statements against gender profiling

The following statements made by commentators on gender and family issues help to explain why gender profiling is not acceptable.

Lisa Scott

Lisa Scott, a practitioner in the area of family law and domestic violence, has commented on US legislation and practice which is similar in many respects to the system in Australia:

“For years, we have been told that domestic violence is a serious problem: it must not be tolerated in any form and every victim must be believed. Yet, countless victims of domestic violence are ignored by the system, dismissed as liars, and even charged as abusers. These victims have been hit, kicked, punched, bitten, choked, knifed, shot, run over with cars, and even set on fire. They are men.

“Male victim. It's sounds like an oxymoron. How can you be a male and a victim. Is it because they don't hurt when they are hit? Is it because they don't bleed when they are cut? No. It's because they don't count, literally ...

“Over the years, intense lobbying by women's advocacy groups resulted in enactment of the Federal Violence Against Women Act. The Act provides billions of dollars for domestic violence programs, battered women's shelters, law enforcement and criminal prosecution. To aid in passage of the Bill and ensure a continued stream of federal funding, these groups have deftly perpetuated myths that nearly all victims of domestic violence are female. They claim “the No. 1 reason women age 16 to 40 end up in the emergency room is violence,” and “95 percent of domestic violence is committed by men.”

“However, both government and academic studies repeatedly contradict these ubiquitous factoids ...

“Extensive research documents that men and women are almost equally likely to initiate domestic violence. And, despite clear evidence that both men and women suffer domestic violence, the federal Act remains blatantly gender-biased. The principle (sic) reason male victims are ignored is that no violence against women money can be used for male victims. Police and prosecutors

who spend time on male victims of female violence suffer a double whammy: they directly expend scarce resources on the cases, and they lose additional funding because for every such male victim there is one less female victim for which federal money is exclusively earmarked.

“If male victims even report a crime, they are usually victimized a second time by the system: at best treated with indifference or ridicule, at worst prosecuted as the “real” abuser. Gender profiling has become a prevalent practice in domestic violence cases. Like racial profiling, gender profiling presumes guilt based on bias and prejudice.

“Recent cases I have seen include ... men who have been punched, hit, choked, scratched, and threatened with weapons by female perpetrators, none of whom have been charged with crimes ...

“No victim can get real justice when only some victims are deemed legitimate. Every victim counts, and every abuser must be held accountable. Blaming only one gender for domestic violence in our society needlessly polarizes men and women, when we should be working together for better solutions.”

Melanie Phillip

Melanie Phillip, commentator, in an article in the “Sunday Times”, expressed the opinion that:

“Women are at least as violent as men, but the evidence is everywhere being dismissed or ignored ...

“(Radical) feminism has become the unchallengeable orthodoxy in even the most apparently conservative institutions, and drives forward the whole program of domestic social policy. Yet this orthodoxy is not based on concepts of fairness or justice or social solidarity. It is based on hostility towards men.

“The idea that men oppress women, who therefore have every interest in avoiding the marriage trap and must achieve independence from men at all costs, may strike many as having little to do with everyday life. Yet it is now the galvanic principle behind social, economic, and legal policy making.

“Buried within this doctrine, though, is an even deeper assumption. Male oppression of women is only made possible by the fact that men are intrinsically predatory and violent, threatening both women and children with rape or assault. Men are therefore the enemy – not just of women but of humanity, the proper objects of fear and scorn.

“This assumption runs through (radical) feminist thinking as a given ...

“According to Marilyn French, ‘men use violence both to threaten and control as well as actually harm. As long as some men use physical force to

subjugate females, all men need not. The knowledge that some men do suffices to threaten all women’...

“These generalisations are now the stuff of public policy. Virtually no-one questioned the premise that men were invariably perpetrators and women always their victims.

“There is no doubt that some men are violent against women: the evidence of female injuries is real enough. However, this is one side of the story only. There is another side: the story of women’s violence against men. That, though, is a story that ... (has been) successfully suppressed.

“There are now dozens of studies which show that women are as violent as their partners, if not more so, than men. Unlike most (radical) feminist research, these studies ask men as well as women whether they have ever been on the receiving end of violence from their partners. They are therefore not only more balanced than studies which only ask about violence against women, but are more reliable indicators than official statistics which can be distorted by factors affecting the reporting rate – women using claims of violence as a weapon in custody cases, for example, or men who are too ashamed or embarrassed to admit that they have been abused ...”

Phillips noted that:

“In any event the idea that women are never the instigators of violence is demolished by the evidence about lesbians. According to Claire Renzetti, violence in lesbian relationships occurs with about the same frequency as in heterosexual relationships.

“Lesbian batterers display a terrifying ingenuity in their selection of abusive tactics, frequently tailoring the abuse to the specific vulnerabilities of their partners. Such abuse can be extremely violent, with women bitten, kicked, punched, thrown down stairs, assaulted with weapons including guns, knives, whips, and broken bottles.’

According to a report by Natasha Rudra in the Canberra Times of 5 December 2010, “More than half of Canberra’s lesbian and bisexual women surveyed report having been in an abusive relationship”.

R L Davis

R L Davis, a senior police officer with advanced criminal justice qualifications, has noted that:

“It is vital for the feminist agenda that domestic violence continue to be perceived only, or primarily, as *a crime against women* and that it remain dramatically distinct and different from violence in general.

“Fundamental feminists have melded the issues of domestic violence with their agenda of women’s rights so that any attack on one is seen as an attack on the other. Hence they have turned our valid concerns about the issues of domestic violence (child, sibling, spousal, intimate partner, and elder abuse) into a “war between the genders”.

“The vast majority of demographic characteristics of domestic violence are similar to those of strangers: the majority of criminologists understand that the dominant variables for all crimes are opportunity and ability ... The only distinction between domestic violence and stranger violence is the location and number of the victims; the distinction is not in the dynamics.”

“Then how does the fundamental feminist claim that that domestic violence occurs because “the patriarchy makes men do it” account for child, sibling, same sex partner, and elder abuse? How is it that the vast majority of men are unaffected by their patriarchal past and do not beat and batter women? How does the patriarchy account for the fact that more women assault children than men?

“And none of these feminist claims can be used to dispute the reality of violence by women. Fundamental feminists continue to exclude violent behaviour by women as a non-event. When female violence cannot be excused, fundamental feminists require, with a complete lack of data, that it is most often defensive in nature.”

Senator Anne Cools

Trends in the handling of domestic violence in the English speaking world have been described by a Canadian senator (Senator Anne Cools) as:

“Until the 1970’s, family violence has been a neglected subject matter. The treatment of wife abuse, however, is now accompanied by literature, social services, law enforcement response, and coercive actions which largely view the wife as a passive innocent victim, beaten by an aggressive guilty husband. Spouse abuse and wife abuse have become synonymous, and wife battering has become the definition of domestic violence.

Here the concept of inherent moral inferiority of the male is buttressed by the male as the innate progenitor of all malice, violence, and aggression. These two concepts are supported by aggressive (radical) feminist ideologies, by the terrorism of political correctness, and are consistently seeking dominance in the discussion of domestic violence.”

Murray Straus

Murray Straus, distinguished sociologist and co-director for the Family Research Laboratory at the University of New Hampshire (USA), has observed that

“Women in the battered (women’s) shelter movement” deny that women physically abuse husbands, ex-husbands, and boyfriends, or play down such

abuse... There's this fiction that in all cases it's him not her who's responsible for the domestic assaults" ...

(A great many) "studies have shown both sexes to be equally culpable ... As these rates are based exclusively on information provided by women respondents the near equality in assault rates cannot be attributed to a gender bias in reporting."

Warren Farrell

As pointed by Warren Farrell, well-known author:

"Laws that make one sex more powerful than the other boomerang against both sexes - no one makes a commitment to a disadvantage. And when one sex doesn't commit, both sexes lose love. We can see this happening in Australia, for example ..."

"The solution to abuse ... comes with resocialising both sexes to listen in new ways - ways most of our parents never had the luxury to learn; it comes with resocialising both sexes to select partners who are secure enough to listen before they attack, and secure enough to leave if repeatedly attacked - either verbally or physically ... The solution comes with requiring communication in school ... with being as sensitive to the 20:1 ratio at which schoolgirls hit schoolboys as we are to the 1:20 ratio at which schoolboys hit schoolgirls. In brief, solutions to abuse start with counselling, not killing; with both sexes knowing how to protect themselves rather than permitting only one sex to use the government as a protector".

LFA service experience with domestic violence in the ACT

The LFA ACT's Men's and Children's Accommodation and Crisis Service (MAACS) in Canberra over the period 1999-2002 helped more than 100 men and 60 children.

MAACs was not established to deal with people affected by domestic violence, but rather to assist fathers and their children who were homeless for whatever reason. Nevertheless, 40% of the men at MAACS reported that they had been abused by their female partners (within the ACT Police's broad definition of "domestic violence"), and 20% reported that they had been victims of physical violence by their female partners.

Men assisted by MAACS included, inter alia:

- a man who had been stabbed by his ex-girlfriend. Charges were not pursued
- a man who had been physically attacked by his wife's relations, breaking his ribs, in an attempt to get custody of his child
- a man whose wife had restricted his social contacts, sexually abused him, made threats, threw objects at him, and locked him out of the house

- a man who was victimised by his girlfriend when he declined to purchase drugs for her. She had beaten him on a leg in which he had a metal implant. She invited some of her friends in to assault him in his sleep, which they did. When he sought assistance from the police, they declined to help
- a man who was hospitalised after his wife hurled a heavy ashtray at him. A DVO had been imposed on him even though he had not been violent to her. The man had been cut off by the court from any access to his own funds, while simultaneously being refused assistance by Centrelink
- a man who had been pushed down a flight of steps by his girlfriend after he declined to buy drugs for her, and had as a result suffered painful injury
- a man whose household was run by his stepdaughters, and whose wife had no behavioural boundaries. The wife had failed to send the 7 year-old son to school. The wife had been the violent partner - including kicking him frontally. A DVO was placed on the man
- a man whose girlfriend's brother had made physical threats against him
- a man who had returned from overseas when he learned that his brother-in-law was planning to sell the house that the man owned. On his return to Australia the man was served at the airport with a concocted DVO, whose significance his wife had not understood and that she much regretted. The man became ill as a result of the stress.

It became apparent during the operation of MAACS that the system for dealing with domestic violence in the ACT operates with a significant prejudice against male parents. Victimised men seldom complain to the police, and some of them end up with a DVO imposed on them rather than their partner.

Prevalence and impact of domestic violence as it affects Aboriginal women, women with disabilities, and women's employment, accommodation, and welfare

The LFAA supports the proposed effort to investigate the prevalence and impact of domestic violence as it affects:

- women living with a disability, and
- women from Aboriginal and Torres Strait Islander backgrounds, and
- women's employment, accommodation, and welfare

and suggests that that work should take into account the following considerations.

Disability and Aboriginal and Torres Strait Islander communities

Suggestions on the above subjects made in "Australian Domestic and Family Violence Clearinghouse – Under Transition, Special Collections, 2003", to wit:

Disability

“Research on factors concerning domestic and family violence against people with disabilities, and evidence and evaluation of strategies aimed to address such violence are critical to strengthening our understanding and response to disabled members of our communities. ... Research suggests that women with disabilities experience significantly higher levels of violence than other women, while facing greater challenges to accessing support and assistance.

Aboriginal and Torres Strait Islander communities

“In Australia the rate and severity of domestic and family violence in Aboriginal and Torres Strait Islander communities is recognised as a critical challenge by both indigenous and Non-indigenous people. Such violence plays a significant role in the morbidity and mortality of indigenous people. Women bear the brunt of the violence with indigenous women 35 times more likely to suffer family violence and sustain serious injury requiring hospitalisation, and 10 times more likely to die due to family violence, than non-indigenous women.

“The causes of domestic and family violence in indigenous communities are complex. The violence is situated in a context of colonisation and dispossession, marginalisation, entrenched poverty, and racism. The separation of indigenous children from their families over generations and the translocation of groups of indigenous people from their traditional lands are widely acknowledged as leading to a breakdown of community kinship systems, family relationships and aboriginal law. In some communities high levels of drug use contribute to the severity of violence experienced. In rural and remote regions, the limited access to police and other services also poses challenged to help seeking to help seeking and response.

“In rising to meet these challenges, many indigenous communities have developed their own responses to family violence, which include educational initiatives and men’s programs, as well as move to incorporate principles of customary law into the justice system. Community-led approaches are critical to promoting safety in indigenous families and communities”.

The above initiatives should be continued and further encouraged.

Employment, legal services, and accommodation

The LFAA supports the suggestions made in “Employment and Economic Security for Victims of Domestic Abuse”, 2007” by Prof. Nina W Tarr, viz:

Employment

”The common assumption (in the Twentieth Century) was that working class women were supplementing men’s income, thus all women were considered dependent. In the twenty-first century, we now expect women to be independent which means being wage earners who engage in ‘market work’.

However, because of the residual expectations left from the cult of domesticity, women are far from the ‘ideal worker’ who is available to work endless hours, to relocate for employment and in the case of low income or blue collar workers to be available for ever-changing shifts. Victims of domestic violence are even further from the ‘ideal worker’ but must find a means of reaching that same level of economic independence. “

Legal services, accommodation, and welfare

“Any law or remedy that relies on the Order for Protection or criminal justice system to determine the authenticity of a woman’s struggle against domestic violence is under-inclusive. A victim’s right to employment security, accommodation and unemployment benefits cannot depend on her cooperation with the police or prosecutors or her classification as a ‘worthy’ victim’.

Family law

“Separation has been recognised for some time as a risk factor in domestic violence. Indeed, several high profile tragedies involving child homicide victims have brought the issue to the attention of the community at large. Research on post separation violence and the impact of family law decision making, particularly in relation to parenting arrangements provides an important information backdrop to violence prevention strategies and responses to children’s need for safety and well being.”

Related matters – denial of access, child abuse, and child support

Access denial and incentives to lie in order to obtain an advantage in divorce settlements

As explained in the LFAA submission of 12 June 2014 to the House Standing Committee on Social Policy and Legal Affairs Inquiry into the Child Support Program:

Australia needs to have a Child Support Scheme that is recognised as fair to both parents. Unfortunately this is not at present the case with the Australian Scheme. The problem with the Scheme has (in part) been caused by 2011 legislation which greatly over-extended the definition of domestic violence and which now provides a strong incentive to lie in order to obtain an advantage in divorce settlements. This legislation has major implications, in practice, for both access and child support.

The 2011 legislation has caused a number of good, innocent fathers to feel that the system had failed them and that all they had left was to take their own life to ease their pain.

The House of Reps was alerted by the spokesperson and National Welfare Officer for the two largest Single Parent organisations in Australia (namely the PWP and LFAA) that this would happen. These organisations, comprising 60% women and 40% men, respectively, have been in operation in Australia for more than 40 years helping both parents in relationship and marriage breakdown.

The Government chose to ignore that warning and follow advice received from those with a vested interest in legislation which discriminates against men and fathers.

Under the 2011 legislation one only has to be accused of domestic violence and one is then, in effect, treated as guilty. And when the accused after perhaps a year or more is found to be innocent of the accusation no punishment is imposed on the person making the false accusation. (This is to our knowledge the only law in Australia where one is assumed guilty even before any court is involved.). The court gives the man supervised access, and orders mediation. The cost of these two operations, which the man has to pay, is in most cases out of his reach when added to the cost of the child support. Justice in these cases strongly suggests that there should be a reduction in the child support amount until the matter is finalised.

Police have stated they are compelled to attend disputes and in many cases find that the accused is actually the victim. Nevertheless, if the dad is the victim he still has to leave the family home, as the police have been instructed that they must protect “the mother and the child” at all times, not the father and the child. Police are being put into a no win situation, even if the mother has initiated the conflict or is affected by drugs, etc.

Many payee parents are now using this discriminatory piece of legislation to gain more child support from the payer, because child support is calculated, in part, on time spent with the children. This means the less opportunity the payers get to spend time with their children the more they pay. So when they cannot see their children, even if they have court orders stating they have equal shared care or substantial time, the other parent refuses to allow the children to go to the other parent for access. After 14 weeks pass the CSA can and does raise the child support payments from the paying parent, to almost double in some cases.

Denial of parental-child access (unless court-ordered for some weighty reason) is a serious form of child abuse. It both amounts to domestic (control) violence in itself and is likely to cause further violence. The consequences of this should be considered within the context (being examined by the Committee) of:

- ways in which the Australian Government can best support, contribute to, and drive the social, cultural and behavioural shifts required to eliminate this form of violence
- factors contributing to the present levels of this type of violence
- adequacy of policy and community responses to this form of violence, and
- effects of policy decisions regarding housing, legal services, and parental economic independence (and other factors) on the ability of both parents to eschew this type of violence.

Major steps which should be taken towards reducing this type of violence have been outlined in the LFAA’s evidence to the Inquiry into the Child Support Program referred to above (which see).

A key recommendation is that:

A Child Orders Enforcement Agency should be established, in accordance with earlier recommendations by:

the LFAA, in evidence to the House of Representatives Standing Committee Inquiry in 2003 to the effect that:

“An effective administrative mechanism for enforcing court orders is essential to restore balance in a system which rigidly enforces child financial support obligations, in part for the benefit of residential parents (and with draconian child support percentages in some cases), but effectively ignores enforcement of contact orders designed to provide for the emotional support and guidance of their children by non-residential parents”, and

a similar recommendation by the Family Law Council in October 2007 that:

“The Government establish a child orders enforcement agency, or in the alternative that the government provide additional specified funding to enable the State and Territory legal aid commissions to assist parents to bring applications about serious contravention to parenting orders before the family courts”.

Anti-domestic violence publicity campaigns

Australian Governments have spent millions of dollars of taxpayers’ money on advertising “No violence against women and children”, and as far as that campaign goes it is strongly supported by the LFAA and PWP. The LFAA has in the interests of justice and proper balance repeatedly asked Ministers to also include “No violence against men” in these campaigns. Successive Governments have refused, basing their position on the incorrect claim that only men are violent, and ignoring the complex realities of violence between men and women. Legislation already in place outlawing discrimination on the grounds of gender has been ignored.

This is a situation which must be corrected, in the interests of both the children and their parents. Incorrect assessment of the problem of domestic violence will lead to distorted and ineffective policies for dealing with it.

Recommendations

In the light of the above considerations, it is recommended that the Australian Government should:

Amend the legal definition of domestic violence to identify denial of access (except where court-ordered) as a serious form of child abuse, and require this to be taken into account by the CSA in calculating child support.

Repeal or radically modify amendments made to family law in 2011 which encourage the making of false accusations of domestic and sexual violence

Enlist the cooperation of both men and women in reducing the incidence of domestic violence *without gender-profiling* good husbands and fathers as “perpetrators”

Undertake more frequent and extensive data collections relating to domestic violence, with a view to pinpointing areas where expected reductions in violence are not being achieved

Collect data on awareness of men and women’s experience of domestic violence, including collection by police intervention teams and State health departments, and

Develop sensitive, well informed, and honest anti-domestic violence campaigns targeting all perpetrators (not just men).

The LFAA looks forward to assisting the Committee with further information in relation to the above matters, and will be pleased to answer any questions.

Yours sincerely

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