

Finance and Public Administration References Committee Inquiry into Domestic Violence Australia

With regards to item (e) of this inquiry relating to 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, it seems obvious that one of the easiest and more significant shifts that needs to occur is communicating through legislation, government policies, and the Criminal Justice System, that violence used in relationships is as serious (in many ways more serious) than violence perpetrated against strangers or others with whom the offender is not in a relationship.

For many offences the relationship of trust that is breached by an act of criminal behaviour is an aggravating factor that increases the penalties imposed. For example, if an adult sexually abuses a child, but is known to the child, particularly if they are in a relationship of trust with that child (for example a, teacher, sports coach, minister etc), this is deemed to be an Aggravated Sexual Assault, and attracts a more serious penalty than a sexual assault perpetrated against a child not known to the offender. Similarly, Stealing as a Servant attracts a more serious penalty than a normal Stealing offence, again because a relationship of trust has been breached.

Why are assaults perpetrated in intimate relationships not viewed as more serious than street violence? Far from being an aggravating factor, the fact that domestic violence happens within intimate relationships appears to be considered a mitigating factor and is most often dealt with in the civil jurisdiction rather than the Criminal Justice System. A significant relationship of trust has been breached by the use of violence in a relationship, yet what governments and society appears to communicate to the victim of this violence is that it is not as serious as experiencing violence by a stranger, because they (the victim) have chosen to be in this relationship and are in some way culpable for the violence perpetrated against them. The Child Protection polices throughout Australia of further punishing the victim by removing her children because she has “failed to protect them” further entrenches this societal belief that at some level the victim is responsible for the perpetrators use of violence. Since 1998 in North America some states have abolished this unethical and unjust policy and returned the focus to the perpetrator and the Court declares he has “created a dangerous environment” and he is removed from the family home.

As a facilitator of a Men’s Domestic Violence Program for the past nine years I have seen men referred to the program who have raped their partners, put cigarettes out on their partners chests, pushed their partners out of second story windows, repeatedly strangled their partners to the point of unconsciousness, and one who kicked his partner multiple times in the stomach while she was seven months pregnant causing the death of the baby. Yet all they have been charged with is

Breach of a Domestic Violence Order and been sentenced to Probation and to attend the Men's Domestic Violence Program. If these offences had been perpetrated on strangers they would have been charged with Rape, Torture, Assault Occasioning Grievous Bodily Harm, Attempted Murder, and Manslaughter (or Infanticide), and the offenders would have been sentenced to lengthy terms of imprisonment.

Government policies, federal and state legislation, and the Criminal Justice System should be communicating messages of accountability to the perpetrators of domestic violence, and messages of help to the victims of domestic violence – a message that says you are not responsible for his decision to use violence, and his violence against you will be treated with the full force of the law that would be expected for any violent offender. Perhaps the first step to achieve this would be a federal Violence Against Women Act (like the one enacted in the United States of America in the late 1990s) which could consistently communicate this message throughout Australia.