



Women Everywhere Advocating Violence Elimination Inc (Australia)

Women Everywhere Advocating Violence Elimination Inc (WEAVE Inc), formed in 2009, is a National Women's Alliance that aims to eliminate gendered violence (including sexual assault, domestic violence, stalking, sexual exploitation and trafficking). As a non-partisan coalition WEAVE Inc brings together groupings that have sometimes worked separately from one another, such as sexual assault services, women's health services, women's legal services, domestic and family violence services, and organisations working against trafficking. In drawing together key stakeholders that make up the 'violence against women sector' as well as survivors, and activist and interest groups, WEAVE embeds a wealth and diversity of experience and expertise within a single body.

WEAVE Inc Vision

To ensure that all women and children are able to live free from all forms of violence and abuse.

WEAVE Inc Values and Principles

HUMAN RIGHTS

WEAVE Inc employs a human rights framework that recognises that gendered violence is one of the most serious and widespread violations of fundamental human rights, in particular, the right not to be treated in an inhuman and degrading way, the rights to respect, physical, sexual and psychological integrity.

FEMINIST FRAMEWORK

WEAVE Inc works within a feminist framework that recognises that gendered violence is both a consequence and cause of gender inequity, embedded deeply within all levels of our society, and that efforts to end such violence must be accountable to women and promote women's empowerment and gender equality.

EQUITY, DIVERSITY & INCLUSIVITY

WEAVE Inc is committed to representing and working respectfully with the diversity of women in Australia. WEAVE Inc recognises, and seeks to advocate and lobby for, the particular and urgent needs of Indigenous women, women from immigrant, refugee and/or non-English speaking backgrounds, women with disabilities, as well as the challenges faced by young women, older women and women in rural and remote areas.

WEAVE Objectives

- (a) To provide leadership and advocacy at state and national levels in relation to all aspects of gendered violence.
- (b) To bring together in a single body the key stakeholders concerned with all aspects of gendered violence in order to access and disseminate the wealth and diversity of knowledge within the sector as a whole.
- (c) To contribute to and monitor policies, legislation and programs which impact on women and children experiencing gendered violence.
- (d) To promote and prioritise equity of access to services for all women including Aboriginal women, Torres Strait Islander women, women from immigrant, refugee and/or non-English speaking background, women in rural and isolated areas, older women, young women and women with disabilities.
- (e) To promote greater community awareness of gendered violence and its personal and social consequences using community development and educational strategies.
- (f) To build and promote alliances and collaborative relationships with other key stakeholders and networks.
- (g) To promote, further develop and disseminate 'cutting edge' knowledge of gendered violence arising from practice, research, community and activism.
- (h) To connect with international developments in advocacy, research and practice concerning gendered violence.

Inquiry into a better family law system
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Parliamentary inquiry into a better family law system to support and protect those affected by family violence

Terms of Reference

The Committee will inquire into and report on how the federal family law system should be improved to better protect people affected by family violence. The inquiry will consider:

1. how the family law system can more quickly and effectively ensure the safety of people who are or may be affected by family violence, including by:
 - a. facilitating the early identification of and response to family violence; and
 - b. considering the legal and non-legal support services required to support the early identification of and response to family violence;

1. (a) The early identification of family violence should be possible through all avenues of information including advice from a party to proceedings or their representative, advice from a professional service provider who has worked with the family (eg state child protection), intake risk assessment, skilled observations by trained workers, disclosures by children or any other relevant party such as police or corrections. Family violence and abuse needs to be carefully assessed within contemporary scientific neurological knowledge of trauma impacts on children and adults expressed in the work of Bruce Perry <https://childtrauma.org/> and Bessell van der Kolk <http://www.traumacenter.org/> amongst others. The science makes it clear that the risks of ignoring exposure to violence and abuse carry long-term developmental impacts which far outweigh the risks of restricting contact with a parent who uses violence. Currently the system treats loss of parental relationship (except relationships with protective alleging parents) as more important than the child's safety. Parents who make allegations are more likely to have contact and residence removed than those who use violence and abuse.

1. (b) Safety is the first need of victims of family violence. Continued exposure to the perpetrator after separation is primarily achieved through child support, child contact, court proceedings and stalking – physically and cyber stalking. Victims need to be protected from threats, vexatious litigation, holding children to ransom against particular outcomes, being cross-examined by perpetrators, being defamed by perpetrators circulating court documents containing damaging allegations made by the perpetrator, being ordered to reach agreements with the perpetrator, being required to have the children spend time with the perpetrator. Victims need to be safe in their homes, to not have to communicate with the perpetrator, to have access to child and adult trauma recovery counselling, to maintain care of their children.

2. the making of consent orders where there are allegations or findings of family violence, having regard to the legislative and regulatory frameworks, and whether these frameworks can be improved to better support the safety of family members, as well as other arrangements which may be put in place as alternative or complementary measures;

The problem rests with the insistence that children should spend time with parents who use family violence to exert fear and control. The family law system, police and criminal courts currently work together to avoid criminals being held to account for domestic assault. Intervention orders have become a mechanism to exclude family violence from criminalisation in the first instance and police frequently fail to prosecute breaches of such orders. The family law system engages in the dangerous fantasy that violent abusive parents have the right to harm their children expressed in their repeated propensity to provide contact with criminally abusive parents, despite the legal principle that children have a right to safety. The courts should not be able to require children to attend parents who use family violence or abuse. Any orders or agreements which expose children to parents who use violence or abuse should be subject to ongoing scrutiny for safety and child wellbeing assessment paid for by the perpetrator parent.

3. the effectiveness of arrangements which are in place in the family courts, and the family law system more broadly, to support families before the courts where one or more party is self represented, and where there are allegations or findings of family violence;

Perpetrators should not be able to cross-examine their victims in court. Any questions in such contexts should be delivered by a neutral 3rd party after scrutiny for their suitability. Questions which do not go to the issue should not be allowed. Where there is an established history of family violence or abuse, perpetrators need to be refused repeated applications to the court except under exceptional circumstances.

4. how the family law system can better support people who have been subjected to family violence recover financially, including the extent to which family violence should be taken into account in the making of property division orders;

Victims of family violence are financially harmed in the following ways:

1. Being prevented from working or having their wages appropriated
2. Having lay-by debts in their name
3. Having property in the name of the perpetrator
4. Losing income due to injury and illness
5. Costs of health care
6. Being forced into litigation, often over years
7. Being forced to claim child support and claim they receive what they do not in order to avoid penalty from the government
8. Caring for children affected by violence trauma inhibiting workforce participation
9. Being ineligible for housing support because their name is on a property they can't live in due to his dangerous conduct.

Victims and their children should be compensated via property division orders. They should be compensated for health and wellbeing losses, loss of earnings, loss of earnings opportunities and direct costs arising from violence and abuse.

5. how the capacity of all family law professionals—including judges, lawyers, registrars, family dispute resolution practitioners and family report writers—can be strengthened in relation to matters concerning family violence; and

Compulsory education is needed in the dynamics of child abuse and family violence and the impacts of trauma on child development.

Case law which provides that children can be safely cared for by perpetrators needs to be retired. Because the courts are tasked with making prospective arrangements in an essentially unknowable future, there needs to be stipulation with regard to identified family violence guiding the making of orders, on the premise that past actions are the most reliable guide to future action. Past events of violence or abuse must be recognised as risks for the future. Orders or agreements which expose children to the care of proven perpetrators should be a rare exception requiring justification and ongoing scrutiny for children's safety.

The Briginshaw standard needs to be removed from the consideration of evidence regarding family violence. Court personnel who recommend or decide children should be placed with perpetrators should be over-ruled, educated or retired.

There is currently opportunity for corruption in the tight knit world of accepted 'experts' as family report writers and ICLs. The referral of clients is not anonymous or transparent and open to the development of reciprocal benefit and obligation. This needs to change. Recognised experts should be only accepted after proof of expertise rather than repetition of poor practice.

There needs to be much more transparency in the conduct of assessments. These need to be recorded and reports contested against recordings where discrepancies are alleged.

The courts need to be prevented from ordering parents not to take their children for medical or therapeutic care as this breaches their human rights.

The courts need to be prevented from using 'a possibility of mental illness' or 'enmeshment' as speculative reasoning to account for untrue allegations. Such arguments should only be heard if there is independent evidence supporting such views.

Children should not be able to be arbitrarily placed with the accused perpetrator parent without independent assessment of the likely impact on their mental health. Currently children whose protective parent is alleged to be falsely alleging can be forcibly and suddenly removed without scrutiny of the emotional and developmental impacts of such decisions on the children. It creates an irony whereby perpetrator parents gain access to harm children and the children's protector is removed from the relationship.

6. the potential for a national approach for the administration and enforcement of intervention orders for personal protection, however described.

There is a clear need for a national system of information sharing about intervention orders and child protection orders and their enforcement. This idea has been around for decades and is only avoided through lack of prioritization of the safety of women and children.