

Chairperson
Domestic Violence Prevention Council
c/- ACT Department of Justice and Community Safety
Canberra
ACT
dvpc@act.gov.au

Comments on Draft Whole of ACT Government statement on family violence by Domestic Violence Prevention Council

The ACT Government has asked the Domestic Violence Prevention Council to prepare a Whole of Government Statement on Family Violence. The announced aim of the Statement is to articulate a clear and concise message about the Government's position that everyone has a right to live their lives free from family violence in all its forms.

The Statement, together with the ACT Prevention of Violence Against Women and their Children Strategy which is currently under development, is intended to provide overarching guidance to shape all future policies, and to assist with the updating of current policies.

The LFAA considers that there is a fundamental problem in both the Draft Statement and in the Violence Against Women and their Children Strategy in that they *gender profile* men by grossly over-emphasising the incidence of men as perpetrators and downplaying the incidence of male victims of domestic violence.

LFAA's views about domestic violence

Women make up 30% of the membership of the LFA, and 50% of its National Executive.

The LFA 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 all human institutions, 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.

Obviously, custodial restraint and judicial punishment also needs to be part of 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 institutionally challenged.

General remarks and gender profiling

The general remarks in the Draft Statement about the rights of *everyone* to be safe within their homes and their extended family are to the point, and are strongly supported.

However, the Statement seriously detracts from that level of generality and objectivity by the gender profiling of men as the supposedly predominant users of domestic violence and women and children as their victims. The Statement gives the strong impression that its intention is to give effect to a gender-ideological opinion that men are the cause of the problem.

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

There appears to be a general view in the community that women should receive special consideration, sympathy, and protection in relation to domestic violence incidents, but that this consideration, sympathy, and protection need not be extended to men.

This is evidently because of women's generally (but not always) smaller physical size and strength, their role in bearing and physically nurturing children, and associated traditional and patriarchal notions of chivalry by men towards women.

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 false information about the nature and distribution of domestic violence.

Definition 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, and between actual violence (dictionary-defined as "involving great physical force; involving unlawful use of force") and non-violent abuse, and between non-violent abuse and mere conflict arising from differences of opinion. The draft Statement fails to provide any understanding or guidance in relation to such important distinctions.

If the definition of family violence is to be made so elastic as to cover almost anything that a person (and, given gender profiling, especially a woman) might not like, the objective of "eliminating family violence" will certainly be a bridge too far.

Domestic violence not essentially a gender-based phenomenon

Domestic violence is not essentially 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.

Gender distribution of perpetrators

The gender distribution of perpetration set forward in the draft Statement is misleading.

200-odd family conflict studies have been conducted on a professional scientific basis in a number of countries, including Australia, over the last several decades (total sample size of 250,000 informants) which have found that women are at least as likely to initiate and engage in domestic violence as men. Women are, however, somewhat more likely to be afraid of domestic violence, and 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 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 incorrect information by gender lobbyists and governments about the incidence of domestic violence.

Men are only *one-third* as likely as women to report violence against them to the police, and police statistics are therefore only a very poor reflection of the actual 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 contradicted by research revealing the high incidence of female dominance in families.

Service ideologies

The ACT Domestic Violence Crisis Service (DVCS) stated in the January 2003 edition of 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 statement demonstrated a basic misunderstanding of the nature of the phenomenon that the DVCS was set up to deal with.

Consequences of disseminating incorrect information

The myth 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.

Illegality of gender profiling under international conventions to which Australia is a party

As an organisation concerned with human rights issues, the Domestic Violence Protection Council needs 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 the false and misleading focus of the message that only men abuse and only women can be victims will see a considerable increase in female-initiated domestic violence in Australia. This could, in the not too distant future, turn community opinion strongly against anti-domestic violence campaigns.

A society that condones domestic violence conditional upon the gender or ethnicity of the victim is not the kind of society that we want 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.

Why gender profiling is not acceptable

A selection below from statements made by leading commentators on gender and family issues helps 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 that proposed for 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, 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 ...

“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 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 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 went on to note 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 feminist ideologies, by the terrorism of political correctness, and are consistently seeking dominance in the discussion of domestic violence.”

Murray Straus

Murray Straus, a 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".

MAACS experience with domestic violence

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

40% of the men at MAACS reported that they had been abused by their female partners (within the ACT Police's definition of "domestic violence"), and 20% reported that they had been victims of serious physical violence by their female partners.

Men assisted by MAACS included, inter alia:

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

Significance of domestic violence issues in the context of family law

Some recent reports commissioned by the federal Government on domestic violence (*not* including the AIFS study), have, without any support from empirical evidence, attempted to roll back the encouragement to shared parenting provided in the 2006 amendments to the Family Law Act.

The material in those reports indicates that their authors have difficulty in understanding the significance of the failure to redress the scandalous and highly damaging lack of balance between female and male parents in Australian law pre-2006. As a result of that lack of balance, 1,000,000 Australian children now live away from their biological fathers, with all the lifelong disadvantages suffered by those children as a result.

There is a basic failure in the reports in question to appreciate the concerns that the community has about the long-standing failure of the judicial system to take into account the broader social implications of family law, as opposed to an exclusive and narrow concern with the application of short-term “quick fixes” to particular cases. One effect of the pre-2006 system was - and could again be if report recommendations are implemented - to encourage the continued placement of children with abusive (often female) parents because they are envisaged, by default, to be the children’s “primary carer”.

This would be a tragedy for Australian families.

ACT Government and the protection of human rights

If the ACT Government proposes to “to take a strong leadership position to protect and support human rights in the ACT”; it will be incumbent on it to protect the rights of men and their children, rather than just being confined to the rights of women.

Suggested drafting changes to the Draft Statement

The LFAA supports all the comments and drafting recommendations in the submission made by “One-in-Three Campaign” (Mr Andresen).

Those amendments all necessary to ensure the factual integrity of the Statement.

Supporting material

Attached, for information and perusal, are copies of the following papers:

- pb687 Comments by LFAA on Protection Orders Legislation Review (ACT) (-/5/04)
- pb1149 Australian law reform and the issue of domestic violence (9/5/08)
- pb1298 Some reported cases of domestic violence by female perpetrators resulting in attempted or actual homicide (24/7/09)
- pb1371 Submission to Family courts violence review (27/10/09)
- pb1378 Supplementary submission to Family courts violence review (19/11/09)
- pb1399 Professor Chisholm’s family courts violence review (14/4/10)
- pb1491 Is this the face of the new domestic violence laws? (20/11/10)

Copies of this material should be made available to all individual members of the Council, for their information.

Yours sincerely

B C Williams
President
LFAA
9 November 2010