

Submission by the LFAA to Senate Inquiry into “The Effectiveness of the Commonwealth Sex Discrimination Act 1984 in Eliminating Discrimination and Promoting Gender Equality”

This submission

The following is a submission by the Lone Fathers Association (Australia) Inc. to the Inquiry into the Effectiveness of the Commonwealth Sex Discrimination Act 1984 in Eliminating Discrimination and Promoting Gender Equality.

There are many important areas of sex discrimination in Australian society which are not even mentioned in the Sex Discrimination Act. They are very largely areas of discrimination against men. In that sense, the Sex Discrimination Act itself contributes to sexist discrimination through of its almost exclusive preoccupation with matters of primary interest to women.

This may have been acceptable 20 years ago, but that is no longer the case. The administration of the Sex Discrimination Act has largely failed to address male disadvantage. If the current review of the issues in sex discrimination is intended to “find new ways of reducing sex discrimination, harassment, and violence”, it must seriously address discrimination against men as well as women.

The objects of the Sex Discrimination Act 1984

The objects of the Sex Discrimination Act embrace the principles contained in the Convention for the elimination of all forms of discrimination against women (CEDAW). But there are no corresponding objectives for discrimination against men.

Section 7 (b) of the Act stipulates that:

Matters to be taken into account in deciding whether a condition, requirement, or practice is reasonable in the circumstances include:

- (a) the nature and extent of the disadvantage resulting from the imposition or proposed imposition of the condition, requirement, or practice and
- (b) the feasibility of overcoming or mitigating the disadvantage, and

(c) whether the disadvantage is proportionate to the result sought by the person who imposes or proposes to impose a condition, requirement, or practice.

Particular areas where, according to the Act, discrimination may be a problem include:

- Work
- Accommodation
- Education
- Provision of goods facilities and services
- Activities of clubs
- Administration of the Commonwealth's laws and programs

Marital status, family responsibilities, and potential pregnancy are all key issues.

The Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)

As defined in CEDAW's article 1, "discrimination" is understood as "*any distinction exclusion or restriction made on the basis of sex... in the political, economic, social, cultural, civil or any other field*".

As stated:

"The Convention gives positive affirmation to the principle of equality or requiring state parties to take 'all appropriate measures including legislation to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men'" (article 3).

"...and unlike other human rights treaties, the Convention is also concerned with the *dimension of human reproduction* as well as of the impact of cultural factors on gender relations".

"Finally, in article 16 the Convention returns to the issue of marriage and family relations, asserting the *equal rights and obligations of men and women* with regard to choice of spouse, *parenthood*, personal rights, and command over property."

"Aside from civil rights issues, the Convention also devotes major attention to a most vital concern for women, namely *their reproductive rights*. The preamble sets the tone by stating that the role of women in procreation should not be a basis for discrimination. The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example, it advocates in article 5 'a proper understanding of maternity as a social function, demanding *fully shared responsibility for child rearing by both sexes ...*'"

"The Convention also affirms women's right to reproductive choice. State parties are obliged to ...develop family codes that guarantee women's rights to

decide freely and responsibly on the *number and spacing of their children* and to have access to the information, education, and means to enable them to exercise these rights.”

Article 4 of CEDAW advocates the taking of special measures to “protect maternity’, but ignores the need to protect paternity.

Article 11(f). Refers to “right to...safeguarding of reproduction”.

The general approach taken by the Convention is that any special advantages perceived to belong specifically to men should be made available also to women, but any advantages belonging specifically to women should remain theirs exclusively.

Areas under the Act that should be examined in the current Inquiry

Three areas of particular importance to men and boys that the Sex Discrimination Commissioner, and this current Inquiry, should be giving attention to are:

- provision of facilities and support services
- education, and
- administration of Commonwealth laws and programs.

These areas embrace, inter alia, the subjects of marital status and family responsibilities.

Perceived discrimination against women

The present era, when gender ideologues assert that women can do anything that men can do (but not the reverse) has been made possible by the enormous advances in productivity and income over the last century or so. A key manifestation of this has been the introduction of all kinds of labour-saving devices into the home, which have greatly lightened the drudgery of housework and released women for a wide range of other occupations.

These advances have been primarily due to the creativity, ingenuity, dedication, motivation, and passion of men in developing the scientific, technological, political, legal, cultural, commercial, and industrial basis for the huge increases in wealth which have occurred. Women have made this creative work by men possible, through their efforts in nurturing and sustaining the members of their families and their other supportive work.

Women have benefited from the increase in wealth and improvement in health and wellbeing as much as or more than any other group in society. There has, for the most part, been fruitful and effective cooperation between the sexes. Men and women have, in spite of gender-ideological propaganda to the contrary, been seen as essentially equal in worth and status, but with (somewhat) different roles in society.

Each sex, to an extent, has had special privileges and special disadvantages, but these have tended to balance each other. That state of affairs could be and has been interpreted by some as meaning that men were being discriminated against in some areas, or that women were being discriminated against in others. But that would be to misunderstand what was really happening during this long period of growth and development.

Gender ideologues, nevertheless, claim that women are *not* equal to men in Australia, and will not be equal unless and until women are treated exactly the same as men in every area - except for areas where women are to receive special consideration and/or have special privileges. The current legislation in Australia relating to human rights, because of this exclusive preoccupation with perceived discrimination against women, is seriously unbalanced. It has become increasingly clear that this imbalance needs to be corrected in the interests of all Australians.

Discrimination against men

By ignoring the experience of men, the Sex Discrimination Act 1984 has helped to entrench and intensify many serious forms of discrimination against men. These, *inter alia*, include:

- the dismissal of men's equal reproductive rights,
- the denial by courts of the rights of hundreds of thousands of fathers to love, guide, and instruct their children,
- the higher age-specific male rates of illness, trauma, and death, especially suicide,
- the imposition on male youth of educational methods deliberately biased towards assisting females, and
- the more severe sentences imposed on men for the same crimes.

While CEDAW, on the face of it, contains some helpful general references to inequality between men and women, these references have not been made use of by Australian governments. Only interpretations of CEDAW which are of specific interest to women have been actually implemented.

Reproductive rights

CEDAW states, *inter alia*, that "(This) Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations." But there is no reference in CEDAW to the reproductive rights of men.

As remarked by commentator Cathy Young:

"In the old days, a woman's biology was a woman's destiny. Today, woman's biology is a man's destiny (W. Farrell). The rhetoric of pro-choice advocates

rarely mentions a man at all, except to celebrate women's freedom from male control over their reproductive lives. Many men and some women see a very different situation – one in which women have rights and choices while men have responsibilities and are expected to support any choice a woman makes. The expectation that men will switch to support a woman's change of heart is a fundamental denial of men's humanity. One in six men are never even told about the pregnancy”.

As noted by DOTA:

“In Australia today, only women have reproductive rights. Upon becoming pregnant, a woman can choose to have the baby, have an abortion, or put the baby up for adoption. A man has no legal right to choose whether he will become a father or even be notified that he has become a father.”

This form of discrimination relates to decisions about the very procreation of life itself.

Families and family law

There is a fundamental link between anti-discrimination law on one hand and the operation of the Family Law Act on the other. Fathers in Australia have in recent decades taken on a much more hands-on parenting role than in the past. But this has led to difficulties in many relationships, with a much increased probability of separation.

Hands-on parenting activities by fathers have become a risky option for them. There are now 1,100,000 children in Australia not living with their father, and 400,000 who only see their father once a year or not at all. This risk of men being separated from their children could be ameliorated if the family law system, and in particular the judiciary, takes seriously the 2006 endorsement by the Australian Parliament of shared parenting. There has been some improvement in this area, but a good deal more is required. Fathers are still much less likely to be the residential parent of children after separation. (See Attachment A to this submission.)

The Sex Discrimination Act needs to recognise that the procreation of children is not something which is exclusively a matter for the mother. There is always a *father* also involved. It follows that consideration of the impact of pregnancy on a family must take into account the father's role as much as that of the mother in care-giving. Discrimination against men in this area is of equal importance to discrimination against women.

Overtly sexist and dishonest propaganda campaigns that pretend that all domestic violence is perpetrated by men expose innocent men to the risk of being victimised by the judicial and law enforcement system through unjust restraining orders, often resulting in the loss of contact with their children. (See Attachment B to this submission.)

The number of divorces in Australia increased between 1970 and the present from about 12,000 to about 50,000. Meanwhile the crude birth rate (i.e., number of births

per 1,000 population per annum) declined from 20.6% to 13.0%, and the percentage of extra nuptial births increased from 8.3% to 27.4%. These statistics are illustrations of the extent to which the institution of marriage has declined in Australia since the 1976 legislation which introduced the concept of no-fault divorce.

Education

Higher School Certificate results in Australia have for years emphasised a trend for girls to do significantly better than boys in almost all subjects and almost all levels. Average TER is now 54 for girls and 46 for boys – and even for single sex schools, girls 60 and boys 53.

This reflects the major effort that was made from the 1980's onwards to help female students to complete the final years of their school education and to go on to tertiary education, and the failure to make any corresponding effort to assist male students.

The unrealistically “gender blind” approach to education in Australia is now closely similar to that recently reported on, in respect of the UK, by “The Economist”:

“Boys are doing worse at school at every age. Women dominate the jobs that are growing, while men are trapped in jobs that are declining. Men are not even trying to do women's jobs. Joblessness reduces the attractiveness of men to their partners. Men do not necessarily adopt social behaviour, except through work and marriage. Men are a growing social problem. High unemployment has fallen on the poorer end of the market. Women are taking up a majority of newly created jobs, mostly working part-time.

“Progressive thinking in education has championed girls, but largely ignored boys. Boys hate school and are very critical of feminist spokespeople. Boys need to release their energy. Boy's results in English are on average 25% below that of girls.”

Australia's schools and universities are to a significant extent failing boys and young men. National policy for the education of girls (1987) made a point of neglecting boys' needs. 15 years after the first examination of boys' education issues, the situation continues to worsen, with only 75% of boys completing year 12 in Australia, compared with 81% for girls, and there is no recognition that single-sex classes are more likely than mixed classes to break down gender stereotypes.

It is worth noting that in 2002, the proportion of teachers in the primary school system who were females was 79% in 2002, and in secondary schools was 55%.

After a proliferation over recent decades of institutions engaged in women's studies, there are still no institutions engaged in men's studies.

The work place

In Australia, both men and women work very similar hours in total (7.9 hours a day averaged over a week), with men working a larger proportion of their total hours in often more stressful work outside the home. The still (to some extent) complementary

nature of the roles of men and women in families is, however, not recognised in current “equal opportunity” legislation. A large proportion of the male workforce, at least 30%, receives only very low incomes

The Sex Discrimination Commissioner has stated that, “We do know that the Sex Discrimination Act has more limited protection for men than it does for women”. That being the case, the Act should now be altered to ensure that the same protection is provided to both men and women under the Act.

The Commissioner has noted that “men can only bring a complaint if they are sacked, not if they are put on the ‘daddy track’”, i.e., where men are denied promotion because they work part-time or have family responsibilities. The Commissioner indicated that she wants the law to be strengthened to protect men from this type of indirect discrimination. Although this is a highly desirable objective, it is unclear how it will be possible in many cases to determine whether an individual has been placed on the no-promotion track.

It was noted that the workplace culture prevents men from taking up part-time work and that they are still viewed as the primary breadwinners. But the reality is that men still are the primary breadwinners in a majority of cases, and this is a rational decision, supported by their partners.

Mark Wooden, a social researcher at the University of Melbourne, has recently noted that the pay gap between men and women in Australia “will not close” until women are prepared to work longer hours. Wooden remarked that men were earning an average of 15 percent more than women because they are putting in more time at the workplace. Even if workplaces were family friendly many women would not pursue jobs involving long hours.

Closing the “gap” would require a change in the traditional family structure. The only way that this could be achieved would be if there was a very considerable amount of role reversal, i.e., lots of men acting like women and lots of women acting like men. Wooden remarked that it seems doubtful that women in Australia would want that, or that women anywhere in the world would want it.

Sickness, injury, and death

Males have much higher illness, injury, and accident and death rates, especially from suicide, and die five years earlier than females. But research funding for male health is less than one third of that for female health.

Life Force has stated that:

“Research suggests that the majority of divorces are initiated by women, and that in most cases married men do not want to separate and have tried to resolve the problems. Further evidence suggests that the period of separation is one of the most stressful periods in a man’s life, and often this anxiety and frustration continues for many years.

“Where children are concerned, there is evidence to suggest that many men sense that they are being discriminated against in Family Court judgments, and often find themselves in financial straits having to pay legal fees and child support payments. The difficulty in maintaining access to children also heightens the frustration and isolation of separated and/or divorced men.

“It seems that stressed fathers will keep killing themselves and (in some especially tragic cases) their children until adequate support services are provided.”

Crime and punishment

A study by the ABS examining the demographics of female prisoners and their involvement in the criminal justice system found that females are more likely to be discharged or to do community service, and less likely to be sentenced to custody, and when females were sentenced they are given shorter sentences. Even within the particular offence groups, females are treated more leniently than men.

This is an important area of discrimination against men.

The activities of the Sex Discrimination Commissioner

Ideological basis

The Sex Discrimination Commissioner, following in the spirit of the Sex Discrimination Act itself, is almost exclusively concerned with sex discrimination against women.

Based on her own statements, the Commissioner is a partisan advocate for advantages to women, who refers to her activities as “*our* (i.e., female) ongoing quest”. The “*our*” in this case would be unlikely to include the majority of thinking men, or, for that matter, women.

One can imagine the furore that would result if the Sex Discrimination Commissioner was a man who declared that helping men to the disadvantage of women was “*our* quest”.

The Sex Discrimination Commissioner’s comments appear to be based on the gender-ideological point of view that:

- (1) women can do anything that men can do, and equally well;
- (2) women should be assisted to do all the things that men do- because then they can then receive higher personal, monetary, direct incomes from work outside the home, and this will make them more independent of men;
- (3) for the above arrangement to be possible, women will need to shift a good deal of housework and child care on to their partners;

(4) this shifting of housework and childcare will require that their partners be made available to perform the housework and undertake the child care in question; and therefore

(5) men must be presented with conditions - e.g., employment conditions - which will cause them to be available to do this work.

There is little real feeling for the importance of family in that sequence of thinking, but a lot of feeling after self-interest.

Research indicates that women seldom choose to marry men who earn less than they do, and, if their partner, e.g., through unemployment, continues to earn less than they do, women frequently are so resentful that they divorce the man. In most of these cases the women seek residency of the children, often cutting the children's father, who may have been the primary carer, out of his children's lives.

This is a poor result from "equal opportunity" legislation.

Public reports by the Commissioner on her consultations during 2007-08

Public reports by the Commissioner on her travels during 2007-08 on a "listening tour" around Australia indicated that the Commissioner is listening to women, but not taking notice of the basic concerns of men. While there are in the reports references to a need to involve men in discussions, the Commissioner has not evinced any interest in any of the major issues referred to above.

Matters addressed by the Commissioner as "men's issues" - e.g., a need for greater scope for men to help with housework and child care – appear to be being addressed mainly because of their potential to help women.

The report by the Sex Discrimination Commissioner on the "last stop" of her "listening tour", at Brisbane, 4 June 2008, listed the following issues:

- investigating ways in which the Government can increase *girls' and women's* participation in science, engineering and technology,
- "*sisters inside*" – women in prison,
- met the (female) future Governor General – "was thrilled to meet her" (self-professed advocate for *women's* rights, although as Head of State supposed to be representing all Australians impartially),
- the "gender pay gap" – compassion (concerns in relation to *women*), and
- lesbian *mums*.

Every one of these issues is a women's issue.

There are no men's issues on the list. Given that there are, in fact, many important men's issues, it appears that the Commissioner is not very interested in hearing about them.

The question may be asked as to why was there was no concern about:

- male students' low participation rates in the (far more numerous) areas of study currently dominated by women,
- the 93% of prisoners who are men ("brothers inside"),
- the present concentration of men in disagreeable and dangerous low-paid occupations, and
- gay fathers.

Preoccupation with "economic independence of women".

One of the ongoing preoccupations of the Sex Discrimination Commissioner has been achieving "economic independence of women". Claims are made, for example, that women have smaller retirement savings than men, and that this is inequitable. There are a number of reasons why these claims are misleading.

A woman who is single will, if a member of the paid workforce, receive superannuation payments and have other opportunities to accumulate savings, like anyone else. There is no distinction of any kind made by the law between men and women in this area.

Secondly, as women are generally younger than their husbands/male partners, and have a longer life expectancy, it is likely that their male partners will die many years before they do. These women will therefore be likely to inherit most or all of their male partner's accumulated superannuation as well as most or all of his other worldly goods.

Thirdly, under the Family Law Act 1976, a married woman can at any time make a unilateral decision to divorce or separate from her partner, regardless of fault, while at the same time, if the marriage or relationship has lasted any length of time, receiving a generous property settlement, probably including half of his accumulated superannuation. The reality is that approximately half of Australia's wealth is owned by females.

It seems not to be appreciated by the Commissioner that men are not, in general, "independent" of women. Certainly men are not independent when married, and this is even more true when there are children.

Surveys indicate that wives are typically responsible for spending something like 80% of a family's income, whether or not they are earning income directly themselves. Power over the spending of income is a clearer indication of real "economic power" than merely having the responsibility for earning the income in the first place.

Where men are unmarried, not by choice, this is very often because they have a low income – which does not amount to much in the way of “economic independence”.

Objectivity required in the administration of sex discrimination legislation

It is important that the position of Sex Discrimination Commissioner *itself* be exercised in a non-discriminatory way. The approach of the Commissioner should be a gender-neutral one. If not, the position will be seen by many (and perhaps most) men as having little legitimacy and being little deserving of respect. There are plenty of areas where the Commissioner can and should expand her areas of concern to embrace the actual and serious issues of discrimination that men face.

A proposed review of sexual harassment should not be conducted by the Sex Discrimination Commissioner. The work should be carried out by a competent and unbiased research organisation, whose credentials can be examined and verified by men’s groups as well as women’s groups. The selection of the contractor should also not be a matter for the Office of Women, which would inevitably, and in accordance with their charter, introduce bias into the selection.

The LFAA strongly supports genuine gender equity, but not the Sex Discrimination Commissioner’s apparent interpretation of what that means.

A serious change of thinking on the part of the Commissioner is required.

Comments on the Inquiry Terms of Reference

Arising out of the above analysis, comments on individual Terms of Reference for the Inquiry are as follows.

Scope of the Act

As noted, there is excessive emphasis being placed in the Act at present on perceived discrimination against women, and not enough attention being paid to the needs of others.

It is not realistic or appropriate through legislation to be attempting “social engineering” to create the new “feminist man”, in the spirit of other failed ideological stereotypes. Human nature will continue to be what it is.

Extent to which implementing non-discrimination

See points made in this submission in relation to discrimination against men.

To monitor progress towards equality

There is an ongoing and fundamental problem in measuring “equality” in many contexts.

The differences, both physical and mental, between men and women must be properly taken into account. Otherwise, “equality” would require, for example, that men should give birth to an equal number of babies as women, and monitoring “progress towards equality” would require counting the (increasing?) number of babies born to men over time.

The Office of Women receives tens of millions of dollars every year to monitor and pursue the interests of women. But where are the tens of millions of dollars of funding for an Office of Men?

Equality of results as an objective

With regard to “equality of results”, Grant Brown has pointed out:

“We simply *do not know*, yet, how much equality of result between the sexes is natural in the contemporary environment, or in which areas of human endeavour. While we should not presume that all children belong in the primary care of their mother, neither should we presume that every family unit would be best served by having both parents equally involved in child rearing.

“In fact, the deep complexities of human biology and culture can lead only to the cautious conclusion that *all presumption as to equality of result is highly dubious*. Social engineering by politicians and courts to produce a gerrymandered equality of result is bound to produce outcomes that are unwanted by every thinking person. What is called for the liberation of both sexes from externally imposed, constraining norms – cultural but especially legal.”

Consistency of Commonwealth and State legislation, and Impact on State and Territory laws

Examination of the issues in relation to consistency of Commonwealth and State legislation, and impact on State and Territory laws, should not be permitted to lead to the result that existing discrimination against men is made worse.

Preventing discrimination, including by education

The recent LFAA submission to this Committee in relation to the currently proposed Bill on Family Law De facto and Same-sex Relationships criticised attempts by feminist educationists to persuade judges and magistrates to apply distorted feminist theories about domestic violence.

It is recommended that the Committee consult that submission also in the present context.

Providing effective remedies

“Addressing discrimination on the basis of family responsibilities”, in terms of the Act as currently drafted, seems to be interpreted by the Sex Discrimination Commissioner as “getting as many women into the work force as possible”.

Impact on economy and employment

Artificial setting of wage rates for particular groups, e.g., in order to remove supposed “wage gaps”, will by distorting economic decisions in the allocation of labour resources have a serious deleterious effect on the efficiency of the economy generally.

Sexual harassment

Studies done recently have indicated that men in the workplace are just as likely to be recipients of sexual harassment as women. The results of these studies basically contradict the result of a “telephone survey” done by the Sex Discrimination Commissioner.

Scope of existing exemptions

Existing exemptions, in general, favour women. The existing exclusion of women from combat roles in the armed forces should be re-examined.

Postscript

We draw the attention of the Committee to a whimsical article by Sarah Churchill in the “Canberra Times” dated 9 August 2008, which reads in part:

“A report from Cambridge University has revealed ‘mounting concern’ that women who work do so at the expense of family life. This is like saying there is mounting concern about violence in Middle East. The anxiety surrounding the women’s roles is bordering on panic. We have been demanding whether women can ‘have it all’ (defined as ‘career and family’, although some of us might have a more comprehensive definition of entirety, for the record) for a decade or more. The question is never asked of men, and the answer given to women is unvarying. No.

“This report just confirms what many of us have recognised for some time, that we are witnessing a sharp reversal in attitudes towards professional women. We are a culture in retreat, clutching at the security blanket of archaic ideas about what women want. According to the report, ‘Both men and women in Britain are having second thoughts about whether women should try to pursue both a career and family life’. Take note of that prescriptive “should”. It is everywhere.”

“Ten years ago, half of men and women felt that a career did not hinder family life. That number is falling precipitously. And no wonder: people have

limited time and energy, and careers are taking increasing time from our personal lives.”

Similar observations can be made about Australia.

The LFAA will be happy to respond to any questions the Committee may wish to pursue in relation to this submission.

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10 August 2008

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Dissenting Justice Faulks Gets It Right

Appeal judgement by the Full Family Court, October 2007, in the case of Taylor v Barker

The case

In this case, Federal Magistrate Brewster made orders (22 December 2006) allowing a mother to relocate with her son from Canberra to north Queensland so that she could live with the man she wishes to marry. The father of the boy appealed the judgement.

Dismissal of the appeal

The Full Court of the Family Court, comprised of Bryant CJ, Faulks DCJ, and Finn J, dismissed the appeal, with Faulks DCJ dissenting.

Key point in the case

The key point in the original judgment, subsequently confirmed in the appeal judgment, was that the child has a “primary attachment” to the mother, and that if the mother were not permitted to relocate with the child to north Queensland, she (the mother) would be “unhappy and resentful” and this would impact on the child,

Problems with the judgments

The problems with the original judgment by Brewster FM were not technical. The problems, in the opinion of the LFAA, were more basic, viz., overemphasising “attachment”, and not giving adequate consideration to the roles of both parents in the developmental interest of the child.

For this reason, it was difficult for the appellant to directly tackle the position taken by the Federal Magistrate’s Court. Resort therefore had to be had to raising various technical issues, which the Full Court had little difficulty in dismissing. The real problem of substance raised in the case was, in the opinion of the LFAA, not dealt with effectively.

“Primary attachment” theory

In his judgment in the case (para 20), the Federal Magistrate stated that, “I infer from Ms (D’s) (family consultant’s) report that she believes that the primary attachment (of the child) is with the mother”.

A statement was made by a family counsellor during the original hearing that “(the child) is very attached emotionally to his mother, and that is because of his age and stage and the way he is. But he loves his father ...”

The statement by the Federal Magistrate appears to reflect a view that in any given case there will be a “primary attachment”, and that any other attachments must necessarily be “non-primary”. It is not clear why it is appropriate to make such a strong distinction in this case. The distinction may, not unreasonably, be interpreted as a rationalisation for allocating the care and control of a child to one parent to the disadvantage of the parenting role of the other.

“Attachment” considerations in both the original judgement and the appeal judgement in the case were exaggerated. While research gives some recognition to the idea of a “primary carer”, attachment research strongly supports the importance of *other* attachments, indeed a hierarchy of attachments. A child can survive with one, but he/she does much better with two or more. It is not necessary to argue equality of attachment. It is, however, necessary to recognise the importance of the paternal bond – supported in all studies – in complementing that of the mother. “Attachment” should not be interpreted in a way which overrides the clear legislative preference for shared parenting.

In the present case, the child was and is attached to *both* parents. Even if that were not the case, family law does not stipulate that one parent may be assessed to have, in effect, a superior status to the other parent purely on the basis of “attachment”.

A worrying reference was made in evidence in the case that:

"Particularly (the mother) describes (the child) as being very protective of her".

This suggests that the mother is emotionally needy, and that a responsibility is being placed on the child beyond his years (he is only 10 years old). To an extent, the child may be being encouraged to become the “parent”. If carried too far, emotional manipulation, if such is involved, can shade into child abuse.

“Unhappiness (of the mother)” principle

The Federal Magistrate stated in his judgement that:

“To a significant degree the happiness of (the child) depends on the happiness and contentment of his mother.”

In his paragraph 50, the Federal Magistrate said:

- "I infer that were she (the mother) was forced to remain in Canberra without (Mr B) she would be unhappy and resentful”.

However, it is not proposed that the mother be *forced* to remain in Canberra. The question being addressed is whether she should be allowed to *take the child* somewhere else if and when she moves.

It can be argued that the use of the “*unhappy and resentful*” consideration in the judgements, as upheld, was overdone and inappropriately directed, as well as being sexist. There was little or no regard paid in the judgments to the likelihood that the

father of the child might also be “unhappy and resentful” if the child was removed from his care, love, and guidance, and that this would also impact on the child. It is appropriate for a primary focus to be placed on the happiness of the child. But to the extent that the happiness of a parent is considered important, that consideration should be applied to *both* parents, not just the mother.

“Happiness” is at least a partly subjective state of mind, and can be engineered. Arguably, in the present case there is some responsibility on the mother to be “happy” in her present situation, which will then allow the child to be happy with its relationships with both the parents.

The Federal Magistrate referred dismissively to the possibility of using the judgment to undertake what he described as “social engineering”. There is a question as to whether that possibility would have been so readily dismissed if it was the father who wished to move, take the child, and pursue some new romantic attraction. The mother has already left one marriage. There is a question as to why it should be assumed that the proposed new marriage (and any associated “happiness”) will necessarily endure. The statistical probability of a marriage lasting, in Australia under present conditions, is less than 50%, and for second marriages, such as this one, the probability is considerably lower still.

Judgement by the Full Family Court

The majority judgement

The Full Court in its appeal judgement stated that Brewster FM had “regarded very seriously the practical effects on the child’s relationship with his father and his family of the move proposed by the mother ...” ...While this may be true, it is also arguable that the Federal Magistrate failed to take these practical effects into account *in the same way* and to the same extent as he took into account the effects on the mother of not being permitted to remove the child.

In endorsing the views of the Federal Magistrate, the two (female) judges forming the majority on the Full Court appear, like the Federal Magistrate, to have given priority weighting to the mother's feelings over the father’s feelings. It was not clear what the mother was supposed to be “unhappy” about exactly. Was it not being allowed to go to north Queensland? Or not being allowed to take the child?

The majority judges on the Full Court could not even agree that there might a need for further and better particulars about the supposed “unhappiness” (see below).

Dissenting opinion

In his dissenting opinion to the judgment, Faulks DCJ said that,

“Unfortunately, in my opinion, the unhappiness, stress, depression and isolation upon which His Honour (the Federal Magistrate) predicated his question were not otherwise proved.

“If that (unhappiness) were enough it seems to me that there would be very few applications for relocation which would not succeed.

“The Act does not prescribe parental happiness as such as a factor in determining the best interests of a child. It is another thing in my opinion to elevate an inference, not directly supported by evidence to the conclusive factor in preferring a new family the parent proposing to relocate to the relationship to the child and his or her other parent”.

The LFAA believes that Justice Faulks has made the correct interpretation of the law in the light of deliberations in recent years by the Australian Parliament.

The Judge, in effect, said in his opinion is that, as long as a child is safe, its right to be raised by both parents is, in general, more important in a legal sense than the state of mind (“happiness”) of any one parent. He made the fundamental legal point that “parental happiness” is *not listed in the legislation* as a “factor in determining the best interests of a child”, and therefore cannot properly be an *explicitly determining* factor in decisions.

Parental happiness cannot, of course, be totally excluded from consideration. There is an obvious connection between the state of mind of a parent and the welfare of his/her child. The state of mind of almost any parent will be affected by that parent’s enforced absence from his/her child. That is one important reason (amongst others) that the enforced absence of a parent from his/her child will affect, usually adversely, the welfare of the child. But courts, when considering these matters, should properly take into account the happiness of *all* the members of the family, not just one of them.

Short term thinking by the Court versus long-term social consequences

The context in which the original decision was made in the present case and received endorsement by two majority judges of the Court was, in the LFAA’s opinion, too narrow. The courts considered only *this* case, without considering the implications of this case for *other* cases.

Partly for this reason, the judgement flies in the face of the 2006 legislation.

The Court should, in the LFAA’s view, recognise that decisions about time spent with either parent should not be confined to indefinite continuation of an arrangement which, although perhaps appropriate at the beginning of that period, becomes increasingly less so as the child grows older.

It may be that, in many cases, very young children should indeed spend most of their time with their mother, but when older should spend the majority of their time with their father. This could be a suitable and beneficial arrangement for “shared parenting”. The Court must open its mind to these important options, and not become mired in providing short-term solutions to problems which have other quite different longer-term aspects. The Court should also make a major effort to become better acquainted with the ways in which shared parenting is handled in cultures other than just the traditionally dominant one.

The Australian Parliament has made it clear in recent years that it is seriously dissatisfied with the state of affairs where 1,100,000 Australian children are living away from their natural fathers, and 400,000 children see their fathers only once a year or never. This result is, to a very significant degree, an outcome of Family Court judgments made over several decades and other decisions taken by separating couples "in the shadow of law", i.e., in expectation that if they took the matter to court they would receive a decision similar to other decisions actually made by the courts.

The judgement in the present case will have the effect that any mother who claims that she would be "unhappy and resentful" if not allowed to move away with her child(ren) will be allowed do so, even if this largely severs the relationship between the children and their father. The effect of the judgment will be to send a clear message to the community that such requests by mothers are acceptable and will be endorsed, supported, and protected by the Court, as they have been quite explicitly in the past. The appeal judgment in this particular case cannot be considered in isolation. Hundreds of thousands of other cases will be guided by this case.

Need for additional legislation to correct the Family Court's current interpretation of the Family Law Act

Given that the judgment in Taylor versus Barker is a decision by the Full Court of the Family Court, not appellable to the High Court without the permission of the Full Family Court, further legislation would appear to now be required to correct the Family Court's current interpretation of the Family Law Act.

Jim Carter
Policy Adviser LFAA

11 July 2008

B.**Australian family law reform and the issue of domestic violence**

Statements are frequently made by feminist groups that “95% of domestic violence (or some such figure) is perpetrated by men”.

Those statements are completely incorrect. They are linked with opposition to the recent reforms to family law in Australia, and appear in many cases to be motivated by a desire to cast doubt on the capability of fathers to be protectors of their children when family separations occur. Claims of this kind can and do affect judicial decisions about shared parenting after separation, and impact on child support. It is therefore important that the truth about domestic violence is told.

Significance of domestic violence

Analysis by persons opposed to the recent family law reforms has been along the lines that:

1. Serious domestic violence, conflated with "personal safety", is endemic in Australian families.
2. Domestic violence is a principal reason for couples breaking up.
3. Domestic violence is perpetrated almost entirely by men, with the victims being women and children.
4. Equal shared parental time with children is a strategy employed by violent men to provide them with an opportunity to commit domestic violence against women and children.
5. Shared parenting should, therefore, through various strategies and devices be made subordinate to concerns about “personal safety”, interpreted as above.

A more realistic picture would recognise that:

1. While the incidence of domestic violence in Australia is certainly significant, and should ideally be reduced to zero, it is low by comparison with most other countries (see Table 1 below.)
2. Studies of the reasons why couples break up reveal that the presence or absence of domestic violence is statistically a minor cause of separations, compared with factors such as wives “not feeling appreciated”, a perception of partners’ “growing apart”, a desire for “more space”, infidelity, and so on.¹
3. Family conflict studies conducted in a large number of countries over the last several decades have demonstrated that women are at least as likely to initiate and engage in domestic violence as men. (See Table 2 below.) These studies have also

demonstrated, however, that women are 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, by contrast, indicate much higher ratios of domestic violence by men relative to violence by women. Those results reflect the reality that actions carried out by a man may be regarded as “criminal” which if perpetrated by a woman may not be so regarded. This 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.

Nevertheless, domestic violence is still domestic violence, whether recognised by the authorities or not, and whether carried out by a man or a woman.

4. 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 (see 3. above).²

5. The strategies and devices designed by gender lobbyists of a feminist persuasion to make family law reform subordinate to concerns about “personal safety” propose the creation of “specialist units” within the family court system, making use of feminist elements in the State child protection systems and feminist “investigators”, “reporters”, and “assessors” who will make decisions about future contact.

Gender lobbyists plan to push for greater use of interim DV Protection Orders which may be granted without objectively tested evidence (3. above), and which may, in a considerable number of cases, be designed primarily to gain an advantage in divorce settlements. Legislation has already been passed in most of the Australian States and Territories to facilitate such a process. This legislation provides encouragement for attendance by police at incidents where the female partner is the complainant, and for sexist methods of collection of evidence.

More details on points 1. and 3. are given below.

Studies of domestic violence

There are broadly three different ways of assessing the extent of domestic violence, namely:

(A) professional social-scientific enquiries into the nature of family conflict in the population generally,

(B) crime and quasi-crime surveys, and

(C) gender advocacy studies.

The different types of study tend to produce very different statistics. In order of meaningfulness and usefulness in the study of domestic violence, they may be ranked as (A), (B), and (C).

An example of Type A is the study done in 1999 for Australia by Headey, Scott and de Vaus entitled "Domestic violence in Australia: are women and men equally violent?"

Examples of Type B are the study done for the Australian Federal Police by the AIC entitled "Analysis of Family Violence Incidents July 2003 to June 2004" and the ABS "Survey of Personal Safety, 2005".

An example of Type C is the report in 2004 by Access Economics for the (Cwth) Office of Women entitled "The Cost of Domestic Violence to the Australian Economy".

Sex distribution of domestic violence by country – Straus 2005, a Type A study

Professor Murray Straus, University of New Hampshire (USA), has a pre-eminent international reputation in the area of domestic violence research, spanning 35 years of study and analysis. A 2005 study by Straus on "Dominance and symmetry in partner violence by male and female university students in 32 nations" examined the extent to which domestic violence in each country was perpetrated in a recent 12-month period by:

- the male partner only
- the female partner only, or
- mutually.

The Straus study is the most comprehensive study of domestic violence carried out to date in terms of the number of countries involved.

The study demonstrated that, for the adults studied, mutual violence between partners accounted for the greater part of domestic violence between adults. The next most prevalent type of domestic violence was found to be violence by female partners only. The least prevalent type of domestic violence was violence by male partners only.

Table 1 below shows the results of the study for selected individual countries.

Table 1

Country	Assault rate during the last 12 months (%)	Assault by male only (%)	Assault by female only (%)	Both violent (%)
Iran	77.1	4.0	1.3	94.6
Mexico	44.1	6.6	15.5	77.7
UK	37.5	4.2	19.2	76.5
Hong Kong	37.0	7.7	36.9	55.2
China	34.7	6.9	31.7	61.2
India	32.3	8.3	16.6	75.0
USA	30.0	8.7	20.6	69.6
New Zealand	27.9	8.7	28.2	63.0
Canada	24.9	9.4	22.1	68.3
Brazil	22.0	15.2	13.5	71.1
Japan	21.4	7.6	11.5	80.7
<i>Australia</i>	<i>20.2</i>	<i>14.0</i>	<i>21.0</i>	<i>64.9</i>
Sweden	17.9	11.8	28.4	59.7
Total for 32 countries	31.2	9.9	21.4	68.6

As the table indicates, for all the countries in the study combined, the proportion of female-only violence was more than twice that of male-only violence. There were only two out of the countries shown where male-only violence was more prevalent than female-only violence, namely, Iran and Brazil, and the difference was only marginal in the case of Brazil. The countries where men were most notably abused by their female partners were the UK, New Zealand, Sweden, and China.

The ratio between female-only violence and male-only violence in Australia was 150%, while the overall assault rate for Australia was low by comparison with most other countries surveyed.

The results of the study indicate that concerns about male-only violence in Australia in the context of child custody and child support need to be matched also by concern about female-only violence.

Gender distribution of domestic violence in English-speaking countries – Type A studies

The results describe above are corroborated by a large number of other Type A studies of domestic violence conducted by professional social scientists in the English-speaking world over the last three decades or so. There are well over a hundred such studies, with a total sample size of over 120,000 informants. Given such a large number of informants, the standard errors applying to statistical conclusions about the gender distribution of domestic violence are very small. The studies, without exception, show that females are as likely or more likely than males to assault their partners.

The following table gives a selection of Type A professional social-scientific studies showing levels of domestic violence by females and males, respectively.

Table 2

Author	Country	Type of violence	Violence by women	Violence by men
Monash University Accident Research Centre	Australia	Assault on partner causing hospitalisation through attacks to the head with a knife	More than men	Less than women
Archer and Ray, 1989	UK	Physical violence against partner	More than men	Less than women
Bland and Orne, 1986	Canada	Engagement in and initiation of violence	More than men	Less than women
DeKeseredi and Schwarz, 1998	Canada	Physical violence in intimate relationship since leaving school	Higher rate than for men	Lower rate than for women
Sharpe and Taylor, 1999	Canada	Partner physical violence	Twice the rate for men	Half the rate for women
Bland and Orne, 1986	Canada	Engaging in and initiating violence	More than men	Less than women
Archer, 2000	USA	Acts of physical aggression	More than men	Less than women
Caetano, Schafer, Field, and Nelson, 2002	USA	Violence towards partner	More than men	Less than women
Deal and Wampler, 1986	USA	Dating violence, other than reciprocal	Three times the rate for men	One third the rate for women

DeMaris, 1992	USA	Violence in current or recent dating relationships	The usual initiator of violence	Not the usual initiator of violence
Follingstad, Wright, and Sebastian, 1991	USA	Dating violence	Twice the rate for men	Half the rate for women
Goodyear-Smith and Laidlaw, 1999	USA	Initiations and use of violent behaviours	At least as often as men	The same or less than women
Harders et al, 1998	USA	Physical aggression, particularly pushing, slapping, and punching	Significantly more than men	Significantly less than women
Hoff, 1999	USA	Serious attack by being hit with an object, beaten up, threatened with a knife or being knifed	More than men	Less than women
Lo and Sporkowski, 1989	USA	Violence against partner	More than men	Less than women
Malik, Sorensen, and Aneshensel, 1997	USA	Dating violence	Three times as much as men	One third as much as women
Malone, Tyree, and O'Leary, 1989	USA	Violence against partner	More than men	Less than women
Marshall and Rose, 1990	USA	Pre-marital violence	More than men	Less than women
	USA	Premarital violence against partner	More than men	Less than women
McNeely and Robinson-Simpson, 1987	USA	Violence against partner	More than men	Same as women
Plass and Gessner, 1983	USA	Slap partner	Three times the rate for men	One-third the rate for women
	USA	Kick, bite, or hit partner with fist	Seven times the rate for men	One-seventh the rate for women
Rouse, Breen, and Howell, 1988	USA	Cause injury to spouse requiring medical attention	More than men	Less than women
	USA	Dating and marital relationships violence	More than men	Less than women

Sigelman, Berry, and Wiles, 1984	USA	Violence in dating relationships	More than men	Less than women
“Social Work”, 1989	USA	Violence in adolescent dating relationships	More than men	Less than women
Sorensen and Telles, 1991	USA	Hitting, throwing objects, initiating violence, and striking first against partner	More than men	Less than women
Sorensen, Upchurch, and Shen, 1996	USA	Hit, shoved, or threw something at spouse in the previous year	More than men	Less than women
Steinmetz, 1977	USA	Violence against partner	More than men	Less than women
Szinovacs, 1983	USA	Violence against partner	More than men	Less than women
White and Kowalski, 1994	USA	Aggressive acts committed in the family	Equal to or more than men	Less than or equal to women
Tang, 1994	Hong Kong	Violence against partner	Same as men	Same as women
Aizenman and Kelly, 1988	USA	Courtship violence	Same as men	Same as women
Basile, 2004		Overall level of psychological and physical aggression	Same as men	Same as women
Brush, 1990	USA	Violence towards spouse	Same as men	Same as women
Burke, Stets, and Pirog-Good, 1988	USA	Violence towards partner	Similar to men	Similar to women
Carlson, 1987	USA	Dating violence	Same as men	Same as women
Cascardi, Langhinrichsen, and Vivian, 1992	USA	Violence against partner	Same as men	Same as women
Coney and Mackey, 1999	USA	Violent behaviour between adult partners	Same as men	Same as women
Cunradi, Caetano, Clark, and Schafer, 1999	USA	Aggression against partner	Similar to men	Similar to women
Felson, 2002	USA	Violence, partner	Same as men	Same as women
Ferguson, Horwood, and Ridder, 2005	New Zealand	Partner violence, young people	Similar to men	Similar to women

Flynn, 1990	USA	Violence against partner	Comparable to men	Comparable to women
Flynn, 1990	USA	Violence in intimate relationships	Comparable to men	Comparable to women
Hamel, 2005	USA	Physical and emotional abuse	Same as men	Same as women
Henton, Kate, Koval, Lloyd, and Christopher, 1983	USA	Violence in dating relationships	Similar to men	Similar to women
Jouriles and O'Leary, 1985	USA	Violence between partners	Similar to men	Similar to women
Lane and Gwartney-Gibbs, 1985	USA	Courtship violence	Same as men	Same as women
Laner and Thompson	USA	Violence in dating relationships	Similar to men	Similar to women
Makepeace, 1986	USA	Courtship violence	Similar to men	Similar to women
Mason and Blankenship, 1987	USA	Violence against partner	Same as men	Same as women
Nichols and Dutton, 2001	USA	Intimate assaults	Same as men	Same as women
Sack, Keller, and Howard, 1982	USA	Violence against partner	Same as men	Same as women
Stets and Pirog-Good, 1987	USA	Violence against partner	Similar to men	Similar to women
Straus, 2005	USA	Initiation of physical assault on partner	Same as men	Same as women
Vivien and Langhinrichsen-Rohling, 1996	USA	Frequency and severity of assault	Same as men	Same as women

Milardo, 1998	USA	Likely to hit partner	83	53
Katz, Kuffel, and Coblentz, 2002	USA	Violent partners	73	58
Bookwala, 2002	USA	Victims of partner aggression	55.9	34.3
Langhinrichsen, Rohling, and Vivian, 1994	USA	Severely aggressive towards partner	53	36
Moffitt, Robbins, and Caspi, 2001	New Zealand	At least one act of physical violence towards partner	50	40
Arias, Samos, and O'Leary, 1987	USA	Aggression in dating history	49	30
Morse, 1995	USA	Violence against partner	48	37
	USA	Severe violence against partner	22.8	9.5
McKinney, 1986	USA	Dating violence	47	38
Merrill, 1998	USA	Physical violence from intimate partner	46.9	31.9
O'Leary, Barling, Arias Rosenbaum, Malone, and Tyree, 1989	USA	Violence against partner, at premarriage	44	31
	USA	Violence against partner, at 18 months of marriage	36	27
O'Keefe, 1997	USA	Physical aggression against dating partners	43	39
Clark, Becket, Wells, and Dungee-Anderson, 1994	USA	Physically abused a dating partner	41	33
Margolin, 1987	USA	Violence against partner	41	39
Pedersen and Thomas, 1992	Canada	Aggression against a dating partner	40.5	22.0
Stets and Henderson, 1991	USA	Aggression against partner	40	22
	USA	Severe aggression against partner	19.2	3.4
Simonelli and Ingram, 1998	USA	Physical aggression against a dating partner	40	23
Ryan, 1998	USA	Physical violence	40	34
Sugarman and Hotaling, 1989	USA	Violence in dating relationships	39.3	32.9

Sommer, 1994	Canada	Violence against partner	39.1	26.3
	Canada	Slapped, punched, or kicked partner	23.6	15.8
	Canada	Severe violence against partner	16.2	7.6
	Canada	Struck partner with a weapon	3.1	0.9
Riggs, O'Leary, and Breslin, 1990	USA	Violence against partner	39	23
Foo and Margolin, 1995	USA	Physical violence, dating partners	38.5	24.3
Arriaga and Foshee, 2004	USA	Adolescent dating violence	38	33
Magdol et al, 1997	New Zealand	Physical violence	37.2	21.8
NJ (study of all individuals born in Dunedin in 1972)	New Zealand	Minor forms of violence against partners, such as slapping and hitting	37	22
	New Zealand	Severe forms of violence against partner	19	6
McCarthy, 2001	USA	Physical aggression during the previous year	36	28
Capaldi and Crosby, 1997	USA	Psychological and physical aggression, young people	36	31
O'Leary, Barling, et al, 1979	USA	Physical aggression against partner during the course of the year, at 18 months after marriage	35.9	24.6
	USA	Kicking, biting, or hitting partner during the course of the year, at 18 months after marriage	10.4	3.9
Waiping, 1989	USA	Physical abuse of partner	35.3	20.3
Hines and Saudino, 2003	USA	Physical aggression in relationship, college students	35	29
Ferguson, Horwood, and Ridder, 2005	USA	Initiation of partner assaults	34	12
Simonelli et al, 2002	USA	Physical aggression against a dating partner	33	10

Lottes and Weinberg, 1996	USA	Violence by partners in the preceding 12 months	31	31
Gryl, Stith, and Bird, 1991	USA	Violence in the current relationship	30	23
Spencer and Bryant, 2000	USA	Partner physical aggression	30	25
Gray and Foshee, 1997	USA	Adolescent dating violence	29	4
Thompson, 1990	USA	Violence against partner within the last two years	28.4	24.6
Foshee, 1996	USA	Dating physical violence	27.8	15.0
Hendy et al, 2003	USA	Violence, current partner	26	16
Grandin and Lupri, 1997	Canada	Violence against partner	25.3	18.3
Russell and Hulson, 1992	UK	Overall violence against partner	25.0	25.0
	UK	Severe violence against partner	11.3	5.8
Shook, Gerrity, Jurich, and Segrist, 2000	USA	Physical force against a dating partner	23.5	13.0
Bookwala, Frieze, Smith, and Ryan, 1992	USA	Initiating of violence	22	17
Sommer, Barnes, and Murray, 1992	Canada	Physical aggression against partner at some point in the relationship	21	13
Bernard and Bernard, 1983	USA	Dating violence against partner	21	15
Murphy, 1988	USA	Kicked, bit, or hit with a fist	20.7	12.8
Hampton, Gelles, and Harrop, 1989	USA	Violence against partner	20.4	16.9
Ernst, Nick, Weiss, Houry, and Mills, 1997	USA	Current physical violence, partner	20	19
Stets and Henderson, 1991	USA	Physical aggression in relationships	19.2	3.4
Arias and Johnson, 1989	USA	Aggression against partner	19	18

Caulfield and Riggs, 1992	USA	Slapped	19	7
	USA	Kicked	13	3
Schafer, Caetano, and Clark, 1998	USA	Intimate partner violence	18.2	13.6
Carrado, George, Loxam, Jones, Templar, 1996	UK	Violence against partner	18	13
Mwamwenda, 1997	South Africa	Violence as seen by children	18	2
Brutz and Ingolby, 1984	USA	Violence towards partner	15.2	14.6
Capaldi and Owen, 2001	USA	Frequent physical aggression against partner	13.2	9.4
Capaldi and Owen, 2001	USA	Inflicting hurt in aggression against partner	13	9
Straus, 1985	USA	Assault on partner	12.4	12.2
Kwong, Bartholomew, and Dutton, 1999	Canada	Physical violence	12.3	12.9
O'Keefe, Brockopp, and Chew, 1986	USA	Teen dating violence	11.9	7.4
Russell and Hulson, 1992	UK	Violence to partner	11.3	5.8
Saenger, 1963	USA	Violence against partner	11.3	5.8
Bohannon, Dosser, and Lindley, 1995	USA	Military couples, physical aggression	11	7
Brinkerhof and Lupri, 1988	Canada	Violence towards partner	10.7	4.8
Billingham and Sack, 1986	USA	Initiation of violence	9	3
Ehrensaft, Moffitt, and Caspi, 2004	New Zealand	Clinical abuse of partner	9	9
Rollins and Ohenaba-Sakyi, 1990	USA	Severe violence against partner	5.3	3.4

Headey, Scott, and de Vaus, 1999	Australia	Slap, shake, or scratch partner during previous twelve months	5.1	3.2
	Australia	Hit partner with fist or with something held in hand or thrown during previous twelve months	4.1	2.5
	Australia	Kicked during previous twelve months	2.1	1.4
	Australia	Any physical assault during previous twelve months	5.7	3.7
Straus, Hamby, Boney-McCoy, and Sugarman, 1996	USA	Violence against partner	4.9	3.1
Kalmuss, 1984	USA	Severe aggression against partner	4.6	3.8
Mirrlees-Black, 1999	UK	Said likely to hit partner	4.2	4.2
Straus, 1993	USA	Severe violence against partner	4.0	1.9

Statistical Abstract of the United States, 1987	USA	Child maltreatment cases	57-61(a)	39-43(a)
NSW Youth and Community Services	Australia	Physical abuse of children	55(a)	45(a)
US Justice Department, 1995	USA	Slayings of offspring (defendants)	55(a)	45(a)
Daly and Wilson, 1988	Canada	Parent-child murders	54(a)	46 (a)
NSW Bureau of Crime Statistics and Research	Australia	Homicides involving victims under ten years of age	53(a)	47(a)
Stets and Straus, 1990	USA	Violence against partner	52.7(a)	47.3(a)
Pillimer and Finklehor, 1986	USA	Abuse of elderly partner	52(a)	48(a)

(a) Percentage of total women and men combined.

Note. Based on a paper by Martin Fiebert PhD, California State University, first presented to the American Psychological Society Convention in Washington DC in May 1997, as subsequently updated to 2005. Some further studies, e.g., for Australia, have been added.

Study by Headey, Scott, and de Vaus: “Domestic violence in Australia: are women and men equally violent?” – Type A study

The study by Headey, Scott, and de Vaus in 1999, based on a sample of 1,643 male and female informants (see also Table 2 above) produced the following results for the incidence of domestic violence in Australia.

Table 3

Type of assault	Men experiencing this type of assault (%)	Women experiencing this type of assault (%)	Gender differences significant(a)?
Slap, shake, or scratch	5.1	3.2	No
Hit with fist, or with something held in hand or thrown	4.1	2.5	No
Kicked	2.1	1.4	No
Any physical assault? (victim of one or more types of assault shown above)	5.7	3.7	No

NB. Includes husbands, wives, and de facto partners.

(a) Significance at 0.05 level.

The authors of this study summarised their results as follows:

- Men were just as likely to report being physically assaulted by their partners as women. Further, women and men were about equally likely to admit being violent themselves.
- Men and women report experiencing about the same levels of pain and need for medical attention resulting from domestic violence.
- Violence runs in couples. In over 50% of partnerships in which violence occurred both partners struck each other.
- People who had violent parents were significantly more likely than others to be violent to their own partners and to be victims of violence themselves ...

The authors remarked that the first two results ran counter to the hypotheses with which they began their study, but that some degree of confirmation or at least plausibility arises from the fact that men's and women's reports on rates of domestic violence more or less agreed. They commented that if the women are to be believed (as they have been by previous investigators) then so are the men. Further, the results relating to women being as violent as men are in line with some recent American research.

ABS Survey of Personal Safety, 2005 – a Type B study

The Survey of Personal Safety conducted by the ABS in 2005 followed on an earlier Survey of Women's Safety conducted by the ABS in 1996.

The preface to the ABS 2005 publication indicated that “It forms part of the commitment by the (ABS) to present a comprehensive view of crime and the criminal justice system in Australia. Information was collected from personal interviews with approximately 16,400 people in all States and Territories.

Some of the key results in relation to domestic violence in Australia were as follows.

Table 4

Category of perpetrator	Male victims (thousands)	Female victims (thousands)
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DURING LAST TWELVE MONTHS

Current partner	5.0	30.7
Previous partner	16.2	43.3
Total perpetrators	79.5	195.3

SINCE AGE OF 15

Current partner	46.2	105.6
Previous partner	259.3	674.7
Total perpetrators	641.1	1,530.3

Significant problems with the Survey of Personal Safety 2005 included that:

- only female interviewers were used - although domestic violence is obviously an area of considerable gender sensitivity,
- feminist groups were given disproportionate influence in the design of the Survey, which was as a result more sensitive to the concerns of women
- a much smaller sample was used for male informants than for female informants, and
- no data was published from the Survey for types of violence or injuries or threats received by male victims. This was in contrast to the earlier 1996 Survey of Women's Safety, which published no less than 50 pages of such statistics for female victims.

For the above reasons, and because the ABS Personal Safety Survey was/is subject to the same problems as other crime and quasi-crime surveys (see below), it was/is of very limited value as a source of information about the gender distribution of domestic violence.

Integrity in government requires that the ABS now publish information from the Survey of Personal Safety for men comparable to the information published ten years previously from the Women's Safety Study for women.

Australian Federal Police (AFP) analysis - a Type B study

The "Australian Federal Police (AFP) analysis of family violence incidents, July 2003-June 2004" is another example of a crime/quasi-crime analysis of domestic violence.

Numbers of "victims"

According to the "AFP analysis of family violence incidents, July 2003-June 2004", there were 2,793 domestic violence incidents in the ACT that came to the attention of police in that year. There were 5,891 people involved in the incidents who could be identified as an "offender", a "victim", or a "participant".

The AFP cannot indicate how many distinct persons were included in those incidents. It is necessary therefore to fall back on guesstimates. If, on average, each person was involved in two incidents brought to the attention of the police during any given year, the number of distinct persons would have been 5,891 divided by 2, or 2,945.

33% of persons were identified by the police as "victims", that is, on the above assumptions, about 970 persons, or 0.37% of the adult population of the ACT.

If, for the sake of argument, 70% of cases of domestic violence, according to the police definition, were *not* brought to the attention of the police, that would indicate that the total number of victims according to the police definition in any given year (but including cases not brought to the attention of the police) would be about 2,260, or 0.87% of the adult population of the ACT.

Mutual violence

The classification by the police does not recognise that any of the incidents examined involved *mutual* violence (see above). The AFP attempt to determine who is at fault in any particular case – i.e., who is "the" offender" and who is "the" victim - without recognising that the majority of the persons involved may be both perpetrator and victim. These decisions by the police may have been made, in the great majority of cases, on the basis that if the violence is mutual the person at fault must be the male partner. As one police officer, in response to the question, "How do you decide who is the 'offender'?", responded that "I just arrest the one who is bigger." Such a basis for apportioning blame would, in the great majority of cases, be sexist.

According to the police statistics, only a proportion of cases involving an identified offender were *also* cases where an offence had been disclosed. This means that in the police statistics there was in these cases an "offender", but no "offence".

Injuries sustained

Compared with the number of incidents and the number of persons involved, the number of injured according to the police statistics was comparatively small. In 2003-04, 542 persons sustained injury (0.2% of the adult population of the ACT), in 484 incidents. The number of distinct persons involved may have been significantly less. 71% of injuries were "minor", apparently defined as "not involving medical treatment". Medical treatment cases accounted for 27% of injuries, or 146 cases (0.06% of the adult population of the ACT), and hospitalisation cases accounted for 2% of injuries, or 6 cases (0.002% of the adult population of the ACT). There were no deaths in 2003-04.

Nature of offences

No offences were disclosed in 50% of total cases notified to the police, and there was insufficient evidence to proceed in 26% of cases.

35% of offences were accounted for by common assault, and a further 16% by other types of violence. There were 895 charges laid in total.

Criminal action taken

Criminal action was taken by the police in 16% of incidents.

Criminal action was much more likely to be taken against male adult offenders (30% of incidents) than females (14% of incidents). A key question is why the proportion of charges laid against men were so much higher relative to the number of "offences" by men compared with the corresponding ratio for women. This discrepancy in the ratios for men and women appears to reflect, in part, a discriminatory approach by the law enforcement authorities.

According to the AFP, the above difference in the treatment of men and women may arise as a result of unwillingness by men to disclose an offence to police and/or provide police with a statement (detailing violence by their female partner).

Access Economics report - a Type-C study

The report done in 2004 by Access Economics for the (Cwth) Office of Women entitled "The Cost of Domestic Violence to the Australian Economy" is an example of a Type C study. Since its publication, much use has been made of the report by gender lobbyists both within Government and outside it.

Problems arising from advocacy approach

The Access Economics study stated in its Executive Summary, under the heading “Main findings of the study”, that:

“It is estimated that in 2002-03 the total number of Australian victims of domestic violence may have been of the order of 408,100, of which 87% were women. It is also estimated that there were a similar number of perpetrators of domestic violence, 98% of which were male ... These findings support the overwhelming international research that women and children are the main victims of domestic violence.”

That statement was wildly wrong, and very seriously misleading. It was, in fact, out by more than 2,500%

The figures of 98% and 87% were absurd even in simple arithmetical terms. If, as the report generally assumed, there is in individual cases of domestic violence one victim and one perpetrator, and abstracting from same-sex abuse, the figures indicate that 2% of women would be victimising 13% of men. That would mean that, on average, every female abuser was abusing 6 men. And, given that that is an average figure only, for every one female abusing only one man there would on average be another woman victimising 12 men. And so on.

On page 7 of Volume 2 of the report, Access Economics showed the following victim data for physical domestic violence:

Australian Bureau of Statistics ,1996 –	
Women	2.5%
US National Violence against Women Survey, 1996 -	
Women	1.3%
Men	0.9%
Extrapolated ABS -	
Women	2.5%
Men	0.4%

Comparing the US NVAWS figures of 1.3% for women and 0.9% for men, according to that study men account for 41% of total victims of physical domestic violence.

The authors then adjusted the figure of 41% down to 14%, by assuming that 75% of domestic violence by women is in “self defence” while at the same time assuming (entirely incorrectly) that *no* domestic violence by men occurs in self defence.

For this adjustment, the authors claim the authority of Strauss and Gelles (1990). However, as Headey et al remark/ask, "Is women's violence towards men best understood as self defence? Conventional wisdom might say yes. But, reflecting on US studies, Straus (1993) concludes that ‘research on who hit first *does not support* the hypothesis that assaults by wives are primarily acts of self-defence or retaliation".

Having adjusted the 41% figure down to 14%, the authors of the report then further adjusted the 14% figure - down to 2% - via a calculation for which no meaningful

explanation was given whatsoever. The US NVAWS figure of 41% as a result of these manipulations was transformed into the Access Economics figure of 2%.

The main finding of the Access Economics report was therefore not a finding at all, but rather an *assumption* by the authors, on which they chose to base the rest of their argument.

The authors did not consult with groups having a specific interest in the impact of domestic violence on separated fathers and/or their children and on the ways in which allegations of domestic violence are dealt with administratively and judicially.

The report did not provide a proper evaluation or study of domestic violence against men by women, or the effects of that violence, and failed to meet its specified objectives.

Access Economics subsequently issued an amendment to its report adjusting the proportion of female perpetrators up by about 700%. But the authors claimed (highly implausibly) that the adjustment makes very little difference to their conclusions, and the figure of “98%” male perpetrators” continues to be the one quoted (see below).

Methodological problems

The analysis in the report, inter alia, made the basic error of assuming that in domestic violence cases there is only ever one perpetrator and one (adult) victim. The authors failed to appreciate that in at least half of cases domestic violence is mutual, where both partners could be fairly described as both perpetrators and victims.

There were also other significant problems in the report’s methodology. These problems involved apparent double counting of costs of violence, failure to recognise that payments and resource commitments by government provide benefits as well as incur costs, and failure to properly account for the very large costs incurred by fathers (and some mothers) who are effectively cut off from providing love, emotional support, and life guidance to their own children as a result of the flawed operation of the family law system.

The report, as a result, left itself open to an interpretation that it caters to a particular ideological view about the nature of relationships between men and women. The commissioners of the report had made claims along the lines that “no woman is ever an instigator or provocateur of violence in the home”. That opinion would seem to virtually guarantee that no such report would be able to both give an objective analysis of the issues and at the same time please the client.

Effects of the dissemination of incorrect and misleading information

Seriously incorrect and misleading statistics published in reports such as the above are not inconsequential. The “statistics” in question tend to be repeated by gender lobbyists in ways which may be influential in forming public opinion - including, most importantly, judicial determinations in family law cases. See for example the following seriously misleading quotation from the CCH “Australian Master Family Law Guide, 2007”, page 257:

“According to the to national Access Economics study, about 408,000 adult Australians experienced some form of domestic violence in the 2002/03 year. The study found that 87% of the victims/survivors were women and 98% of the perpetrators were men”.

As CCH says, "Our clients include barristers, solicitors, accountants, human resource managers, OHS specialists, business people and students. We aim to provide up-to-date, accurate, authoritative, knowledge-based practical information which customers can easily and quickly apply to their own specific circumstances."

Integrity in government requires that the Government explicitly recognises and repudiates the incorrect and seriously misleading information in the Access Economics report.

Comparison of the result of the different study Types - using the ACT as an example

Problems in estimating the prevalence of domestic violence in the ACT

There are considerable difficulties in piecing together the information available from various sources on the prevalence of domestic violence in Australia - or individual jurisdictions such as the ACT. These difficulties, as explained above, arise from the complexity of the issues, problems in achieving consistent definitions, gaps in the data, and difficulties in interpreting results.

The following calculations for the ACT give some preliminary indication of orders of magnitude. The figures are in some cases very rough. The ACT numbers can, nevertheless, be scaled up to give a broad indication of the corresponding statistics at the national level, by multiplying the ACT figures by 60.

Study types

Family dispute studies

If the figures given in the 2005 paper by Straus for domestic violence between adult students in a recent year were generally applied to all adults in the ACT, the number of cases of domestic violence in the ACT in a recent year would be about 53,000. This would involve perpetration of domestic violence during the year by about 27,000 females and 25,000 males, or about 20% of the adult population of the ACT.

An overall average of figures published from the 100 or so professionally conducted social-scientific family conflict studies in the English-speaking world, if applied to the ACT adult population, would indicate 34,000 male victims and 23,000 female victims of domestic violence during the year, or about 22% of the total adult population in the ACT. For the period since age 15, the figures would be about three times as high. But the great majority of these cases would involve relatively minor forms of physical "violence".

Australian Federal Police (AFP) analysis

The rate of domestic violence in the ACT as recorded by the AFP is about 0.4% for all domestic violence compared with 20% or so in the family conflict studies. That is, the family conflict figures are at least 50 times higher than the police figures.

The rate of offending by *spouse against spouse or ex-spouse* is much less, at about 0.2%.

The rate of common assault or actual bodily harm in total (i.e., including other than spouse on spouse or ex-spouse) is only about 0.12%.

Data comparison

A comparison of estimates for the ACT on the extent of domestic violence experienced for the last twelve months is as follows.

Table 5

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
Personal Safety Survey, Australia(b) (B)	340	1,180	1,520	0.58
ACT Police, 2003-04(c) (B)	184	736	920	0.35
Access Economics report (C)	840	5,700	6,540	2.52
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) (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.

What the above figures indicate is that, although men are 55-60% of total victims of domestic violence, women account for a mere 8% of convictions for domestic violence offences. The gender bias in the way that domestic violence is perceived and dealt with by the law and by society is obviously very large indeed.

Differences arising from methodology

Methodology

The extremely large differences in both prevalence rates and gender rates between studies Type-A and Type-B occur, according to Straus (2005), because crime-type

studies deal only with the comparatively very small proportion of domestic assaults that the participants “*experience as a crime*”. The prevailing extent of mutual violence is also not explicitly recognised in the crime studies. Nor is the reality that women are a large majority of those who contact the police about the violence.

According to Straus, the low rate of assaults found by crime-type studies largely results from a number of situational and unintended "demand characteristics". “Crime studies are presented to informants as personal safety, injury, and violence. However, when a survey of crime, violence, or injury is the context for estimating rates of domestic violence, the contextual message can take precedence over specific instructions to include all assaults, regardless of the perpetrator and regardless of whether injury resulted. Misperceptions then arise to the effect that the studies are only about assaults experienced as a crime or a threat to personal safety.”

The same "demand characteristics" of a crime-type study that produces the extremely low rates for both men and women also produces the high ratio of male to female offenders. The high percentage of male offenders in police statistics reflect the circumstances that lead to police calls. Injury is perceived to be more likely if the assailant is a male, even though injury may also be likely if the assailant is a female. There is also a reluctance on the part of many men to admit that they cannot "handle their wives", and police are reluctant to address violence by women against their husbands.

Straus points out that the tone of crime studies keeps threats, injuries, and violence before the respondent at all times. For a man to admit to being a victim of an assault on him by his partner is seen as the implying that the partner is criminal or is about to injure him. Being a victim of an assault is confined to "real crimes", and leaves out "harmless" assaults by women.

The “clinical fallacy”

Gender lobbyists commonly make the false claim that the (apparent) predominance of assaults by men in data from crime studies and battered women's shelters also applies to the population at large. Such a mixing up of two different data sets is very wrong and misleading. Statements such as that “50% of women are the victims of domestic violence and *also* that ”men are a great majority of the perpetrators of domestic violence” are nonsensical.

If it is meaningful to say that “50% of women are victims of domestic violence since the age of 15”, it is necessary to recognise that it is also true to say that “60% (i.e., an even higher percentage) of men are victims of domestic violence since that same age”. And, by the same token, if it is meaningful to say, on the basis of "crime" statistics, that “men are a great majority of the perpetrators of domestic violence” (a severe distortion of the truth), then it is necessary to recognise that “only about 0.2% of women (in Australia) are victims of violence by their male partners in the course of a year”.

As Straus points out, the circumstances explaining assaults by women have not been analysed theoretically. In the family and other intimate relationships, physical attacks by women are expected, and even lauded under certain circumstances. While society

has become less tolerant of attacks by husbands, it remains largely unconcerned about attacks by wives. The consequences of false assumptions about gender distribution in domestic violence are not taken seriously enough.

It is known that about 90% of women use physical violence against young children. Assaults by women on adults are often regarded as just an aspect of femininity. Attitudes include "I knew I wouldn't hurt him", or "He's a man, he can take it, or "He deserved it". Men, it is sometimes argued, are "less reachable" in resolving matters in dispute, and women usually have women's networks to fall back on. Women can usually get away with aggressive types of behaviour more easily than men. And, men who are in need of protection are themselves frequently arrested.

It is also known that lesbian relationships are just as violent as heterosexual relationships in general. This effectively disposes of the theory that domestic violence can never be initiated by women.

Assessments of the "criminality"/significance of particular actions

Women are encouraged to believe that when they are being violent they are merely expressing emotion ("expressive violence"), rather than using the violence to gain and maintain control over their partner ("instrumental violence"). In fact, both expressive and instrumental types of domestic violence can be and are used by both men and women at similar rates.

Even if a man considers an assault by his partner on him to be "criminal" in nature, he is, in a typical legal and social situation, much less likely than a woman to bring it to the attention of the authorities. This is the case for a complex of reasons, including perception of a community view that a man should be able to effectively manage his relationship with his partner, the shame involved in publicly admitting his victim status, a desire to hold his family together and protect his children from a violent partner, and/or a belief that if he did complain he would be unlikely to be taken seriously by the police or the judiciary. This last belief is currently being increasingly confirmed by State legislation which is strongly biased against males and in favour of females.

Many members of the judiciary continue to be overly influenced by chivalric notions about women only being capable of bearing a lower level of personal responsibility for their own actions. While this view is distinctly contrary to feminist theory, it is systematically employed in the service of feminist objectives via court decisions, and is implicitly supported, in that context and for that reason, by gender lobbyists.

Information about domestic violence is in many cases collected by hospitals in respect of violence against women only, and not violence against men, apparently on the grounds that such information, if it were available, would contradict feminist theory.

Free legal services are overwhelmingly available only to women, and not to men. The services typically coach women on how to gain advantage in separation situations, including instructing women not only about how to make allegations against men but also how to neutralise allegations by men.

Official surveys in Australia in the area of domestic violence have employed only female interviewers, in spite of the fact that the interviewers are collecting highly gender-sensitive and controversial information about interpersonal violence between males and females. No attempt has apparently been made to find out or allow for the obvious gender biases involved.

Politics, ideology, legislation, administration, information, propaganda, and outcomes

A complex situation

Incorrect assessments about the nature, extent, and gender distribution of domestic violence in Australia tend to arise as a result of a complex interaction between:

- the politics of self interest. In this case, a desire by gender lobbyists to gain power by undermining the country's supposed "patriarchy", by whatever means might be to hand
- ideology and its associated rationalisations, supported by the invention and employment of factoids directed at political targets - and seeking taxpayer funding to further develop and propagate gender lobbyist ideology and support gender lobbyist institutions, such as the Office of Women and women's legal centres
- legislation developed in pursuit of gender lobbyist self-interest, ideology, and the associated political agenda. In this case, State legislation designed to encourage the judiciary and law enforcement agencies to victimise men in family law cases by, in effect, identifying them as the prima facie source of domestic violence, and violating basic human rights through the use of "ex parte" court hearings and unnecessarily vindictive anti-male activities of sections of the domestic violence crisis establishment
- pressure applied to the judiciary and other administrators to administer the law in a way which favours gender lobbyist self-interest, ideology, and the associated political agenda
- failure by governments to collect and/or present or use basic information in an unbiased fashion
- propaganda in support of the ideology and policy prescriptions based on it. In this case, claims that women are systematically disadvantaged in the workforce and in their health, and rendered innocent victims of domestic violence by their male partners.

The political movement

Gender lobbyist theory is based on a desire for both (1) improved welfare for women and (2) more power to women.

Giving more power to women is, of course, an eminently legitimate objective, as long as it is not pursued in a way which causes disproportionate damage to other members of the community, and, in particular, damage to children and families, and as long as proper means are used to achieve it that do not cut across the basic human rights of other Australians.

Ideology

During the course of the political push by gender lobbyists, theories have been devised to provide an intellectual “justification” for the self-interested politics involved, and advocacy research and analysis has been carried out based in part on factoids and propaganda to bolster the politics.

The political push has been rationalised into a theory that men are typically violent to women and must be prevented by society from continuing to be so. Also, that men must be influenced, persuaded, and/or intimidated into agreeing that laws are passed to that purpose. The theory is widely believed not only by gender lobbyist women but also by a large number of other women, and a large number of men as well.

While it is asserted that no form of domestic violence is acceptable if perpetrated by men, domestic violence by women is not recognised to exist. Hence, any female violence against men is excused and tolerated – e.g., “she must have been provoked”, “she must have been acting in self-defence”, and so on.

The above theories and conventional notions influence both the law and the way in which it is administered. The theory and supposed facts supporting the theory are, inter alia, used to “educate” members of the judiciary, in order to further entrench the credibility of the theory amongst decision-makers, and in order to produce judicial decisions which excessively favour women. This leads in many cases to harsh decisions against men, to which many men understandably react in a hostile and sometimes aggressive manner, leading to further victimisation and further entrenchment of anti-male theory.

The principle that “any” form of “domestic violence” is unacceptable must, as a matter of fairness and justice, be applied to *all* persons, including females as well as males. This is also very important if women themselves are not to be injured as a result of domestic violence, given that women who initiate domestic violence are often injured themselves as result of retaliation by the men they abuse.

This last conclusion is important, because the above assumptions are crucial elements in almost all domestic violence prevention and treatment programs. Most of the current prevention methods are largely misconceived. As indicated by Straus, a fundamental revision is needed to existing programs, to act on the high rate of perpetration by women and the fact that dominance by a female partner is as strongly related to domestic violence as is dominance by the male partner.

As further pointed out by Straus, “A predisposition to ascribe expressive, and therefore more benign, motives to female perpetrators (where female violence is admitted at all) compromises the community’s ability to conduct a proper risk assessment and to fashion suitable treatment plans”. Dubious excuses are provided as

to why violence by females is not criminal. Violent, controlling women who may pose a serious dangers to their loved ones and who may benefit from intensive domestic violence-focused treatment are not helped when they are remanded to traditional psychology or no therapy at all. And, if presumed experts in the field tend to downplay violence by women, they are essentially putting people at risk - both male victims of these women and children and the women themselves, who are at an increased risk of being assaulted.

Collection of information

Extensive efforts have been made to mould the facts to support the ideological position chosen. For example, through:

- conducting the Women's Safety Survey for Australia a whole decade before any similar survey was conducted, namely the "Personal Safety Survey", covering also personal safety of men.
- basing consultant's reports, e.g., the "Access Economics Report", for the Office of Women for both male and female victimisation on a very narrow (and manipulated) range of studies, and not carrying out meaningful analysis of domestic violence against men
- collecting State information on domestic-violence related hospitalisations of women while making a point of not collecting such information for men
- adjusting data on domestic violence in hospitalisation statistics, apparently in response to complaints by gender lobbyist groups that previously published data was not favourable enough to their case.

Propaganda

The ascendancy of the gender ideology above is reinforced by government propaganda designed to strengthen a misguided belief on the part of many that that virtually all domestic violence is perpetrated by men. Such propaganda is at present being used to worsen an already unbalanced situation. The propaganda is seriously misleading. It is designed to, and does influence decision-makers in a major way in disputes between men and women.

Demonstrated gender bias in the domestic violence area

As Straus also points out, his studies provides empirical support for the existence of gender bias within the field of domestic violence to minimise (downplay) intimate partner violence perpetrated by women. "Even given the same facts in individual cases, it has been established that even personal violence professionals rate male violence as more coercive and intentional, while female violence is assumed to be more expressive (i.e., according to the interpretations coming from shelter workers and victim advocates)".³

To summarise, women are not, in general, less violent than men in the home. As Straus points out, "It is very likely that the pervasive bias amongst interpersonal

violence professionals will continue until policymakers at the highest level acknowledge the accumulated body of research that challenges traditional assumptions, and begin to advocate for laws that are evidence-based, to ensure that public policy will no longer be exclusively shaped by ideologically oriented special interest groups”.

Notes (provided by Greg Andresen) –

1. The study “Towards understanding the reasons for divorce”, by Ilene Wolcott and Jody Hughes, Australian Institute of Family Studies, Working Paper 20, June 1999, found that only “6% of respondents reported that physical violence was the main reason for marriage breakdown” (p. 9).
 2. The journal article, “The control motive and marital violence”, by Felson R B and Outlaw M C, “Violence and victims 2007; 22(4): 387-407, found among other things that, “For current marriages, the results reveal that husbands are *less* likely than wives to engage in controlling behaviour and less likely to be jealous. In former marriages, on the other hand, we find that husbands are slightly more likely to have been controlling than the wives. However, the effect is not quite statistically significant “(p. 394). Also, “Controlling husbands are not particularly likely to engage in verbal aggression or violence or generate fear. While controlling spouses in current marriages are more likely to act violently, *there is no evidence that this relationship is gendered*” (p. 396).
 3. An article by John Hamel, Sarah L. Desmarais, and Tonia L. Nicholls, “Perceptions of motives in intimate partner violence: Expressive versus coercive violence”, Violence and victims, Volume 22, Number 5, 2007, concluded, however, that, “women rated female perpetrated aggression as less coercive than male perpetrated aggression. In contrast, men *did not differ* in their ratings of male versus female perpetration”.
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25 June 2008

