



Australian Law Reform Commission Submission

The fundamental issue is that the terms of reference of the ALRC inquiry and the summary report do not recognise male victims of intimate partner abuse.

The executive summary of the research report on intimate partner abuse of men (copy attached) states:

However, we also identified one form of abuse that has not been researched before. We labelled this legal-administrative abuse. Legal-administrative abuse involves a person using legitimate services in a way that abuses the rights of others (p1).

Legal-administrative abuse refers to such issues as making false accusations in order to obtain a violence restraining order, denying a father access to his children and undertaking vexatious actions in the Family Court or through the Child Support Agency.

These forms of legal-administrative abuse have direct relevance to ALRC inquiry.

This is discussed in section 4.2.1.6 On pages 20 and 21.

The survey of service providers supported that this form of abuse existed. See Table 10 on page 49 and Table 12 on page 51.

However, the researchers do place a caveat on their findings:

Legal and Administrative Abuse needs more examination before we can be confident in accepting it as a distinct category of abuse. In our data it seems to be very closely linked to Family Court litigation and we cannot be sure that it reflects a more general abuse of legal and social systems to exert control over one's ex-partner's life rather than simply being a legal strategy. Of course, it is possible that reflects both legal strategy and an abuse of process aimed at exerting control over an ex-partner's life. More research is needed on this issue

There is also a problem when the phrase “violence against women and children” is used. It is usually assumed that the father is the person who has abused the child. A distinction needs to be made between biological fathers and other men such as the mother's partner, when describing male perpetrators of the abuse of children. In addition, it needs to be recognised that mothers also abuse children.

Two papers, one referring to the correction made by the Australian Institute of Criminology to its 2006-07 annual report (copy attached) and the other that analysed the 2007-08 WA child abuse statistics (copy attached) illustrate this point.

Proposals 4-5 and 4-22 seem to go outside of the terms of reference of the inquiry which specify only the protection of women and children (and exclude adult male victims). While it is laudable of the ALRC to recommend that state and territory family violence legislation include specific examples of emotional or psychological abuse or intimidation or harassment that illustrate acts of violence against certain vulnerable groups (e.g. indigenous persons, CALD persons, disabled persons, GLBT persons); surely these vulnerable groups must either be comprised entirely of women and children (as per the terms of reference), or *male victims of family violence* must be added as one of these vulnerable groups. The evidence is incontrovertible that male victims of family violence face unique problems, just like other vulnerable groups. The most common problem being that male victims are not recognised.

Stage one of the research was based on interviews with male victims, significant others and service providers. Section 4.2 on pages 14-44 of the report provides quotes from these people and clearly illustrates the special needs of male victims.

Appendix A on pages 76-80 provides some information on the additional barriers to reporting abuse by an intimate partner that are experienced by men in same sex relationships.

The ALRC report recommends (p.30) that the family violence legislation of each state and territory should contain a provision that explains the 'gendered nature' of family violence. While there is certainly some evidence to support the idea that women are more likely to be victims of family violence than are men, this is undoubtedly one of the most controversial areas of social science research. There is an equal amount of evidence supporting the claim that family violence is *not* a gendered crime. The following website provides references to hundreds of relevant studies:

<http://www.csulb.edu/~mfiebert/assault.htm> A copy of the bibliography is attached.

Also the Australian one in three website has extensive information on the frequency of male victims: <http://www.oneinthree.com.au/>

My concern is that, by labelling family violence a gendered crime, the needs of male victims will be ignored by a system that *only* caters for the so-called majority of victims (women and children) - as evidenced by the government's terms of reference for the current ALRC inquiry. Australia is signatory to a number of international human rights conventions that do not allow such discrimination ('gender profiling') on the grounds of sex. Family violence legislation should be gender neutral - i.e. it should treat all victims equally regardless of their gender.

Proposal 4-25 should include a third clause acknowledging that persons who fear or experience family violence and persons who use family violence are often not mutually exclusive groups. The research evidence shows that mutual or reciprocal violence is more prevalent than one-sided or unilateral violence, and is also the most harmful to children who witness it.

Therefore clause c) of proposal 4-25 should emphasise that the prevention of the exposure of children to mutual or reciprocal family violence is of the highest priority.

I strongly agree with proposal 5-4 (b). Police-issued protection orders that last for extended periods of time without recourse to the courts not only remove due process from persons accused of family violence, they are also open to police corruption.

I hold concerns about applying the concept of 'primary aggressor' and 'primary victim' in all cases of family violence (p.47, p.49 question 5-12). As mentioned previously, mutual or reciprocal violence is more common than one-sided or unilateral violence, and often there simply is no 'primary aggressor' or 'primary victim'. Of course, in other cases, the definition is entirely appropriate. The police should be given discretion in cases of mutual violence, and not be instructed to always identify the 'primary aggressor' and 'primary victim'.

Proposal 6-10 is problematic because it talks about 'persons' (male and female) against whom protection orders are made being required to attend rehabilitation or counselling programs. The problem is that no such programs currently exist for female offenders (in either same-sex or heterosexual relationships).

Proposal 6-13 appears to ignore the serious issue of *malicious* aiding, abetting, counselling or procuring of the breach of a protection order. I have heard reports of persons who have breached a protection order after the person protected by such an order maliciously aided and abetted its breach with the intent of harming the other person.

The Men's Advisory Network (MAN) is the peak body for service providers, organisations and individuals concerned with men's health, well-being and other issues affecting men and boys in Western Australia. MAN was established in 1997 and incorporated in 2000. It is a not-for-profit non-government organisation that receives financial support from the WA Department of Health.

The primary role that MAN plays is supporting service providers, organisations and professionals from various disciplines, who work with men and boys. In addition, MAN provides information to individuals about appropriate services and professionals, plus provides general community education and raises awareness of the issues affecting men and boys.

Further information is available on the website: www.man.org.au

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