

Senate Inquiry into  
Domestic Violence in  
Australia  
Submission

Australian Women Against Violence  
Alliance

AWAVA

Australian Women Against Violence Alliance

The Australian Women Against Violence Alliance (AWAVA) is one of the six National Women's Alliances funded by the Australian Government to bring together women's organisations and individuals across Australia to share information, identify issues and their solutions, to respond to and prevent violence against women and their children. AWAVA's role is to ensure that women's voices and particularly marginalised women's voices are heard by Government.

AWAVA's focus is to ensure that all women and children are able to live free from all forms of violence and abuse. The Alliance recognises that violence against women is both a consequence and cause of gender and other social inequalities, in all sectors of society and must be addressed by promoting women's empowerment.

AWAVA is able to provide supporting information or provide contacts for further discussion, on any of the issues or recommendations and proposals within this submission, as well as on other issues relating to violence against women. Please contact AWAVA's Program Manager Ms. Sophie Hardefeldt (0418574018) or email: [pm@awava.org.au](mailto:pm@awava.org.au)

## ENDORSED BY:

The submission is endorsed, in full or in part, by:

### AWAVA Member Organisations

1. Women's Services Network
2. Women With Disabilities Australia
3. Association of Women Educators
4. National Association of Services Against Sexual Violence
5. Australasian Council of Women and Policing
6. Australian Women's Health Network
7. Coalition of Women's Domestic Violence Services of South Australia
8. Domestic Violence Victoria
9. National Association of Services Against Sexual Violence Northern Territory
10. National Association of Services Against Sexual Violence ACT
11. National Association of Services Against Sexual Violence Tasmania
12. National Aboriginal and Torres Strait Islander Women's Alliance
13. Network of Immigrant and Refugee Women Australia
14. Domestic Violence NSW
15. National Union of Students
16. Queensland Domestic Violence Services Network
17. Women's Council For Domestic & Family Violence Services Western Australia
18. Women's Essential Service Providers Tasmania
19. Women's Legal Services Australia

### National Women's Alliances:

economic  
S4W

Lifelong  
Economic  
Wellbeing  
for Women



### Peak Bodies and Organisations



## FOREWORD

In this submission, the Australian Women Against Violence Alliance (AWAVA) outlines policy recommendations relating to domestic and family violence and sexual violence for consideration by the Finance and Public Administration References Committee. We welcome the opportunity to provide our advice and comment on the points of inquiry.

Over recent years, the Commonwealth Government has demonstrated leadership and commitment towards preventing violence against women, improving both community understanding and awareness of domestic violence, and ensuring that legislation and services are put in place to protect and support women who have experienced violence. AWAVA has welcomed this leadership and is firmly committed to working in partnership with Government and stakeholders across all sectors to address and ultimately prevent intimate partner violence.

AWAVA expresses our concern regarding the short timeframe allocated for this National Senate Inquiry into Domestic Violence in Australia. We are concerned not only by the short timeframe for submissions to the Inquiry but also by the allocation of only 4 months to investigate an issue that impacts 17 per cent of women across the country. We also note that there have been numerous inquiries into domestic and family violence and that now is a time for action.<sup>1 2</sup>

We hope that the implementation of these recommendations will be pursued by Government in partnership with the specialist women's services responding to and preventing violence against women sector, as we work together to support and empower all Australian women to live lives free of violence and abuse. It is also important that the recommendations made in earlier inquiries are also implemented.

## KEY RECOMMENDATIONS

### National Action Plan to Reduce Violence Against Women and their children

That the Commonwealth Government:

- Improve communication between government and civil society about the *National Plan* and create additional mechanisms for participation, engagement and advice from civil society;
- Ensure civil society is adequately engaged with the governance of the *National Plan* and that the gap left by the dissolution of the National Plan Implementation Panel is overcome;
- Ensure there is an independent mechanism to operationalise the Evaluation Plan, which will monitor and evaluate the implementation of the *National Plan*. Civil society should be adequately resourced to participate in this process;

<sup>1</sup> Commonwealth of Australia (2010) *Family Violence—A National Legal Response*. Available at <http://www.alrc.gov.au/sites/default/files/pdfs/publications/Report%20Summary.pdf>

<sup>2</sup> Commonwealth of Australia (2011) *Family Violence and Commonwealth Laws—Improving Legal Frameworks*. Available at [http://www.alrc.gov.au/sites/default/files/pdfs/publications/whole\\_alrc\\_117.pdf](http://www.alrc.gov.au/sites/default/files/pdfs/publications/whole_alrc_117.pdf)

- Proactively build the capacity of specialist women’s services as demand for services rises for their response, early intervention and prevention work, not only through resourcing but also by supporting meaningful structures to enable coordination across jurisdictions;
- Ensures flexibility in funding arrangements for services to employ holistic solutions that are culturally appropriate and effective in responding to women’s individual experiences of violence;
- Approach gender-based violence from a human rights perspective and ensure policy uses human rights language; and
- AWAVA endorses the policy recommendations outlined within Women with Disabilities Australia’s Stop the Violence project’s National Symposium on Violence against Women and Girls with Disabilities Discussion paper. These recommendations can be found on page 24-29 of the discussion paper, which can be accessed at [http://www.stvp.org.au/documents/STVP%20Discussion%20Paper\\_FINAL.pdf](http://www.stvp.org.au/documents/STVP%20Discussion%20Paper_FINAL.pdf).

### Housing Policy

AWAVA endorses the recommendations outlined within the Equality Rights Alliances’ Submission to the Finance and Public Administration Committee Inquiry into Domestic Violence in Australia:

1. “The Commonwealth government must develop a national affordable housing strategy as a matter of priority. This housing strategy must complement the National Strategy To Reduce Violence Against Women And Their Children (National Strategy on Violence) and priority should be given to addressing the housing implications which arise from the National Strategy on Violence and from the Second Action Plan under that Strategy.
2. Strengthen the reporting and monitoring mechanisms of the National Partnership Agreement on Homelessness. Include the improvement of housing options for women escaping violence as a performance indicator for the Agreement.
3. Ensure that specialist services demonstrating expertise in the diverse housing needs and experiences of women are adequately funded under the National Partnership Agreement on Homelessness.
4. Consider the inclusion of gender equity as criteria when selecting tenders for homelessness and housing services.
5. Ensure the ABS is adequately funded to provide gender-disaggregated and gender-relevant data necessary to permit meaningful reporting against our international human rights commitments under instruments such as CEDAW.
6. Review adequacy of funding to meet demand for homelessness services in the next round of National Partnership Agreement on Homelessness negotiations.”<sup>3</sup>

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<sup>3</sup> Equality Rights Alliance (2014) *Submission of the Equality Rights Alliance to the Finance and Public Administration Committee Inquiry into Domestic Violence in Australia*, p. 2.

### Legal Services Policy

That the Commonwealth Government:

- 1) Recognises the need for adequate funding of all legal assistance services, including specialist women's legal services, and increases funding amounts to an adequate and sustainable level;
- 2) Removes any restrictions on legal assistance services using government funding to engage in law reform and policy work; and
- 3) Provides separate funding for civil and family law matters, in addition to adequate funding for criminal law matters, as recommended by Australia's Productivity Commission;

### Legislative, Policy and Practice Reform

- 1) Remove the presumption of equal shared parental responsibility in family law matters involving children;
- 2) That the Australian and State and Territory Governments, where they have not already done so, introduce legislative protections to prevent vulnerable witnesses from being directly cross-examined by an alleged perpetrator of violence in domestic violence protection orders matters; and in family law matters;
- 3) Further implement outstanding recommendations in the Australian Law Reform Commission and NSW Law Reform Commission *Family Violence—A National Legal Response* (2010) (ALRC Report 114<sup>4</sup>) and Australian Law Reform Commission, *Family Violence and Commonwealth Laws—Improving Legal Frameworks* (2011) (ALRC Report 117<sup>5</sup>);
- 4) That there be ongoing training of judicial officers, legal practitioners, family report writers, court staff and police about the nature and dynamics of domestic and family violence;
- 5) Family Report Writers who provide evidence in family law proceedings must be accredited. They must have clinical experience in working with victims of domestic and family violence and be bound by standards and have an effective mechanism for complaints;
- 6) In circumstances of domestic and/or family violence, legal aid should not be withdrawn should a party wish to challenge the findings of a Family Report Writer; and
- 7) That a specialised domestic and family violence funding pathway in Legal Aid Commissions for family law matters be developed in conjunction with domestic and family violence experts to guide internal decision-making of merit of legal aid applications;

### Women's Economic Independence and Domestic Violence

That the Commonwealth Government:

- Increase funding for single parents;
- Ensure women enjoy income equality;

<sup>4</sup> Commonwealth of Australia (2010) Op Cit.

<sup>5</sup> Commonwealth of Australia (2011) Op Cit.

- Amend the *Fair Work Act 2009 (Cth)* to provide adverse action protection for victims/survivors of domestic and/or family violence and those caring for victims/survivors of domestic and/or family violence;
- Include the status of being a victim/survivor of domestic and/or family violence as a protected attribute in anti-discrimination laws in all areas of public life; and
- See AWAVA's submission:  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal and Constitutional Affairs/Completed%20inquiries/2010-13/antidiscrimination2012/submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed%20inquiries/2010-13/antidiscrimination2012/submissions) (sub 313)

## Driving Social, Cultural and Behavioural Change

That the Commonwealth Government:

- Expand respectful relationships programs and proactively build the capacity of education organisations to deliver gender equity and violence prevention curriculum to young people from the early years. However, ensure that all Respectful Relationships programs are evaluated against their education and messages promoting gender and social equality;
- Implement a sustained public media campaign on Domestic Violence;
- Provide community education to change beliefs and attitudes that are violence against women supporting;
- Address 'everyday' sexism, male privilege and entitlement approach to violence against women as a manifestation of power and control, which is supported by patriarchal beliefs, attitudes and stereotypes about women's and men's roles in society; and
- Support culturally secure organisations to build their capacity to deliver quality services in their community.

## 1. The Prevalence and Impact of Domestic Violence

The prevalence of domestic violence throughout Australia is alarming and contradicts the widespread perception of the family as a protector of women's safety and security. Across the country approximately 17% of all women over the age of 18 have experienced violence by a partner or former partner since the age of 15.<sup>6</sup> While there is no common definition of domestic violence across Australia it is generally understood to be violent, threatening or other behavior that aims to control and coerce. Domestic violence includes emotional and psychological torment, social isolation, threats, economic control, property damage, physical and sexual assault and any other behaviour that causes a person to live in fear. This violence varies in severity and almost one woman is killed by a partner or ex-partner each week.<sup>7</sup>

It is important to note that an estimate of 90% of cases of domestic violence in Australia go unreported.<sup>8</sup> A 2005 report found that in the twelve months preceding the research period only 5% of women who had experienced violence from a current partner had reported the last incident to police.<sup>9</sup> This demonstrates that current domestic violence statistics are a conservative estimation of the prevalence of intimate partner violence and that actual rates of violence are estimated to be much higher.

The impact of domestic violence on Australian women and communities is devastating. Domestic violence is the "single biggest health risk to women aged 15 to 44 years"<sup>10</sup> and can result in a range of significant health implications for women including physical injury, stress, anxiety and depression, and an increased risk of substance abuse and self-harm amongst others. Domestic violence often escalates over time and can result in hospitalisation and even homicide. In 2006–07, one out of every five homicides was domestic violence related. Further, more than half of the female homicide victims were killed by an intimate partner.<sup>11</sup>

The financial burden of family and domestic violence to the Australian community is well documented and was estimated at \$13.6 billion in 2008-09.<sup>12</sup> This is expected to rise and includes direct and indirect costs such as, "direct costs to employers from absenteeism, staff turnover and lost productivity; indirect costs, defined as employer tax share of public sector costs in the provision of services to victims and perpetrators

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<sup>6</sup> Australian Bureau of Statistics (2012) *Personal Safety Survey*. Available at <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4906.0Chapter7002012>

<sup>7</sup> Australian Institute of Criminology (2008) *Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report*. Available at <http://www.aic.gov.au/documents/F/F/B/%7bFFB9E49F-160F-43FC-B98D-6BC510DC2AFD%7d%7dmr01.pdf>

<sup>8</sup> Murray, S and Powell, S (2011) *Domestic Violence Australian Public Policy*, p59

<sup>9</sup> *Two Ways Together Report 2005*

<sup>10</sup> Australian Institute of Criminology (2009) *Research in Practise Summary Paper no. 7*, p. 3. Available at [http://www.aic.gov.au/documents/5/6/E/%7b56E09295-AF88-4998-A083-B7CCD925B540%7drip07\\_001.pdf](http://www.aic.gov.au/documents/5/6/E/%7b56E09295-AF88-4998-A083-B7CCD925B540%7drip07_001.pdf)

<sup>11</sup> *Ibid.* p. 3

<sup>12</sup> *The Cost of Violence Against Women and Their Children (2009) Commonwealth of Australia*, p 4



of domestic violence; direct and opportunity costs to victims, perpetrators, family and friends; and the shared impact of domestic violence on the wider community, including inter-generational costs.”<sup>13</sup>

Domestic violence is common to all social groups including gay, lesbian, bisexual, transsexual, transgender and queer (LGTBIQ) communities, younger women, older women and women in prison. However, some social groups experience a higher risk of domestic violence. This is often linked to their marginalisation from society as well as their lack of access to information and services relating to domestic violence. Specific social groups that experience higher rates of domestic violence include culturally and linguistically diverse (CALD) communities, Aboriginal and Torres Strait Islander communities, and people with disabilities.

## 1.1 Women living with a Disability and Domestic Violence

Women living with a disability make up approximately 9.5 per cent of Australia’s population and 20 per cent of Australia’s female population.<sup>14</sup> It is well documented that women with disabilities experience multiple forms of disadvantage that result from the intersection between widespread discriminatory attitudes towards people with disabilities and women. As a result, women with disabilities experience higher rates of socioeconomic disadvantage and social isolation. Further, they have less access to services, are more likely to live in unstable housing, have inadequate health care, and are denied opportunities to contribute to and participate actively in society.<sup>15</sup> This disadvantage is not only in comparison to women without disabilities but also to men with disabilities. “Only 16 per cent of all women with disabilities are likely to have any secondary education, and men with disabilities are twice as likely to be in paid employment as women with disabilities.”<sup>16</sup>

The social marginalisation and discrimination that women with disabilities experience can be compounded by their reduced mobility, which limits their capacity to escape violent situations. As a result, women with disabilities are at risk of the same forms of violence that other women face. However, they “also experience forms of violence that are particular to their situation of social disadvantage, cultural devaluation and increased dependency.”<sup>17</sup>

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<sup>13</sup> Laing, L and Bobic, N (2002) *Economic costs of domestic violence*. Available at [http://adfvc.arts.unsw.edu.au/PDF%20files/Economic\\_costs\\_of\\_DV.pdf](http://adfvc.arts.unsw.edu.au/PDF%20files/Economic_costs_of_DV.pdf)

<sup>14</sup> Disability Representative, Advocacy, Legal and Human Rights Organisations (DRALHRO) (2012) *Disability Rights Now: Civil Society Report to the United Nations Committee on the Right of Persons with Disabilities*. Available at [http://doc.afdo.org.au/CRPD\\_Civil\\_Society\\_Report\\_PDF](http://doc.afdo.org.au/CRPD_Civil_Society_Report_PDF)

<sup>15</sup> Women with Disabilities Australia (2009) *Submission to the National Human Rights Consultation*, p. 7. Available at <http://wwda.org.au/wp-content/uploads/2013/12/wwdahsub1.pdf>

<sup>16</sup> Women with disabilities Australia et al (2013) *National Symposium on Violence against Women and Girls with Disabilities: Background Paper*, p. 28. Available at [http://www.stvp.org.au/documents/STVP%20Background%20Paper\\_FINAL.pdf](http://www.stvp.org.au/documents/STVP%20Background%20Paper_FINAL.pdf)

<sup>17</sup> Women with disabilities Australia et al (2013) *National Symposium on Violence against Women and Girls with Disabilities: Discussion Paper*, p. 11. Available at [http://www.stvp.org.au/documents/STVP%20Discussion%20Paper\\_FINAL.pdf](http://www.stvp.org.au/documents/STVP%20Discussion%20Paper_FINAL.pdf)

There is a lack of available data on the prevalence of domestic violence against women with disabilities in Australia. However, disability support services report that “women and girls with disabilities were 37.3 per cent more likely than women and girls without disabilities to experience some form of intimate partner violence, with 19.7 per cent reporting a history of unwanted sex compared to 8.2 per cent of women and girls without disabilities.”<sup>18</sup>

Women with disabilities who live in rural and remote communities and have less access to services, information and education are particularly susceptible to domestic violence as well as other forms of gender-based violence. Aboriginal and Torres Strait Islander communities 2.2 times higher than other Australians to live with a disability. This increases Aboriginal and Torres Strait Islander women’s risk of domestic violence.<sup>19</sup>

Please note that AWAVA’s comments regarding women with disabilities and domestic violence draw heavily on reports released as a part of the Stop the Violence Project, which was undertaken by Women with Disabilities Australia (WWDA) and chaired by Australia’s Sex Discrimination Commissioner, Ms. Elizabeth Broderick. The full reports can be accessed at: <http://www.stvp.org.au/Resource-Compendium.html>

## 1.2 Women from Aboriginal and Torres Strait Islander backgrounds and Domestic Violence

Aboriginal and Torres Strait Islander women are 45 times more likely to experience domestic violence than non-Aboriginal women.<sup>20</sup> Further, their experiences of violence are likely to be more severe and to occur more often than for women from non-Aboriginal communities. This results in Aboriginal and Torres Strait Islander women being 38 times more likely to be hospitalised and 10 times more likely to be killed as a result of family and domestic violence.<sup>21</sup> The high rates of domestic violence within Aboriginal and Torres Strait Islander communities have led to the increased use of domestic violence orders to protect women who are experiencing violence.<sup>22</sup> Further, there is a higher rate of domestic violence order breaches within these communities.<sup>23 24</sup>

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<sup>18</sup> Women with disabilities Australia et al (2013) Op Cit, p.28.

<sup>19</sup> Ibid, p.28.

<sup>20</sup> Government of Western Australian (2001) Gordon Inquiry Report. Available at [http://www.strongfamilies.wa.gov.au/about/How\\_it\\_started/gordon\\_inquiry](http://www.strongfamilies.wa.gov.au/about/How_it_started/gordon_inquiry)

<sup>21</sup> Family Violence Prevention Legal Services (16 July 2013) *Research and Needs Analysis Report*, Nous Group.

<sup>22</sup> The Australian Institute of Health and Welfare (2006) *Family violence among Aboriginal and Torres Strait Islander peoples*, p. 101. Available at <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=6442458606>

<sup>23</sup> Queensland Police Service records reveal that in 2005-06 Aboriginal and Torres Strait Islander Australians, who comprise 3.4% of the population, committed 33.3% of the breaches of family and domestic violence orders.

<sup>24</sup> Queensland Centre for Domestic and Family Violence Research (2007) *Aboriginal and Torres Strait Islander Family Violence Facts and Figures*, p. 12. Available at <http://www.noviolence.com.au/public/factsheets/indigenousfactsheet.pdf>

The impact of this violence on Aboriginal and Torres Strait Islander women and their communities is extensive. Aboriginal and Torres Strait Island communities are overrepresented in the prison system with women comprising 30 per cent and men 24 per cent of the total prison population.<sup>25</sup> Further, Aboriginal and Torres Strait Islander children are overrepresented in the child protection system. In Western Australia, for example, they make up 49.5 per cent of children in out of home care.<sup>26</sup>

## 2. The factors contributing to the present levels of domestic violence

The primary causes of domestic violence in Australia are the unequal power dynamics between women and men, the gendered distribution of resources, and an “adherence to rigidly defined gender roles expressed institutionally, culturally, organisationally and individually.”<sup>27</sup> In addition to this the key factors contributing to the present rates of and exacerbation of domestic violence include:

- individual and cultural acceptance of domestic violence;
- entrenched ‘everyday’ sexism and values;
- police responses to violence;
- alcohol and illicit drug abuse;
- mental ill health; and
- lack of services and isolation in regional, rural and remote areas<sup>28</sup>

For Aboriginal and Torres Strait Islander communities domestic violence exists within a complex social and interpersonal context. While a gendered approach may give some insight into the factors contributing to the higher levels of domestic violence, the social and historical factors are also extremely pertinent. These include:

- Post colonisation impacts including dispossession of land, dislocation from family and culture due to forced removal of children;
- Disintegration of traditional family roles particularly for men as people were removed from traditional lands and the urbanization of families;
- Exclusion from the education system due to its lack of cultural relevance;
- Exclusion from the employment market;
- Housing stress;
- Welfare dependency and poverty;

<sup>25</sup> Australian Bureau of Statistics 2010a. Corrective Services Australia. *In*: Australian Bureau of Statistics (ed.). Canberra: ABS.

<sup>26</sup> SNAICC Family Matters: Kids safe in culture, not in care, Western Australian Issues Paper, p 6

<sup>27</sup> Victorian Health Promotion Foundation (2011) *Preventing violence against women in Australia: Research summary*, p. 8. Available at [http://www.vichealth.vic.gov.au/~media/ResourceCentre/PublicationsandResources/PVAW/VH\\_VAW%20Research%20Summary\\_Nov2011.ashx](http://www.vichealth.vic.gov.au/~media/ResourceCentre/PublicationsandResources/PVAW/VH_VAW%20Research%20Summary_Nov2011.ashx)

<sup>28</sup> *Ibid.* p. 8.

- The intergenerational experience of trauma (individual, cultural, community, family and economic);<sup>29</sup>
- Issues including family and domestic violence, substance abuse, incarceration, unemployment, poverty, insecure and inadequate housing, poor health, repeated and unresolved grief and loss, mental health problems.

### 3. The adequacy of policy and community responses to domestic violence

#### 3.1 The National Plan to Reduce Violence against Women and their Children 2010-2022

AWAVA commends the Federal Government for its leadership in prioritising the issue of violence against women and in promoting a whole of government response to this issue. The Government's leadership in addressing violence against women is imperative for strengthening mechanisms to prevent and respond to this violence. The release of the National Plan to Reduce Violence against Women and their Children 2010-2022 in February 2011 demonstrates the Federal Governments' commitment to reducing gender-based violence. COAG's (Coalition of Australian Governments) was also successful in pushing states and territories to develop their own State and Territory Prevention Plans. This is promising and for the first time ever, in theory, we have a national landscape where there is a policy understanding and appreciation of gender-based violence across Federal, State and Territory jurisdictions. However, there is still a need for some State and Territory Governments to develop their plans, which is limiting the implementation of the National Plan. Further, the United Nations Special Rapporteur on Violence against Women, Ms. Rashida Manjoo, highlighted the need for the Australian Government to approach the issue of violence against women from a human rights lens and to ensure that policy relating to gender-based violence uses human rights language.<sup>30</sup> Employing a human rights based approach to domestic violence is necessary to effectively address the issue, it is also essential for meeting Australia's international obligations under CEDAW.

The National Plan has also been hindered by poor communication between government and civil society. For example, NPIP representatives were initially required to sign confidentiality agreements. Following advocacy by NGOs representatives to NPIP the confidentiality agreements were lifted. However, since then, the sharing of information with the sector is often delayed due to the slow release of official summaries of meetings. Further, despite repeated requests by NGOs for information regarding the forming of the advisory groups to the NPIP, the advisory groups have not been established. It was envisaged NGOs would be represented on these advisory groups according to their expertise in primary prevention, service delivery, justice responses and building the evidence base and that they would meet "as soon as practical following

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<sup>29</sup> SNAICC (2014) *Family Matters: Kids safe in culture, not in care, Western Australian Issues Paper*, p. 13. Available at <http://www.snaicc.org.au/uploads/rsfil/03301.pdf>

<sup>30</sup> Australian Human Rights Commission (2012) *Australian study tour report: Visit of the UN Special Rapporteur on violence against women*, p. 9. Available at <http://www.humanrights.gov.au/sites/default/files/document/publication/UNSRVAW%202012%20Web%20Version.pdf>

the agreement of this [first] National Implementation Plan.”<sup>31</sup> This would be another conduit of sharing information between governments and civil society and, along with the NPIP, “provide a strong mechanism for the voices of women more broadly to be part of the [National Plan] work.”<sup>32</sup> That this has not yet occurred is a missed opportunity for engagement. In addition to this, the National Plan Implementation Panel (NPIP) has now been dissolved leaving a real gap in engagement with and advice from civil society expert delegates.

The National Plan has also been hindered by a lack of timely consultation and implementation of all National Plan Initiatives. These include communicating timelines for the publication and delivery of The ANROWS National Research Agenda, the publication and delivery of the National Data Reporting Framework, the delivery of National Standards for online and telephone counselling services and the delivery of working with GPs and effective risk assessment across the health sector.<sup>33</sup> Further, AWAVA acknowledges the importance of a national scheme for protection orders so they are valid irrespective of where in Australia the order is issued or the victim resides and welcomes the implementation of such a system. However, we note that this is not a new initiative. Such a scheme was announced at the launch of the National Plan in February 2011<sup>34</sup> and the National Implementation Plan for the First Action Plan refers to model legislation being ‘expected to be finalised in 2011-12’.<sup>35</sup> We understand this legislation is yet to be implemented.

The National Plan’s focus on awareness building endeavors, whilst vital, are also insufficient to effectively address violence against women and children. In addition to awareness building programs, robust funding is required for specialist women’s services. The lack of resourcing of these services as demand increases directly impacts on early intervention and prevention work and risks the safety of women and children’s lives;”<sup>36</sup> This is particularly the case in the face of improvements in community awareness about domestic and family violence and sexual assault. Increased awareness of domestic and family violence results in an increase in reporting and therefore an increased demand on front line services. However, according to Domestic Violence Victoria (DV Vic) the “unprecedented demand for services, without commensurate funding to match this demand, has left family violence services struggling and under incredible pressure.”<sup>37</sup>

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<sup>31</sup> *National Implementation Plan First Action Plan 2010-2013*, p12.

<sup>32</sup> *Addendum, Information provided by Australia on the follow up to the concluding observations of the Committee*, CEDAW/C/AUL/CO/7/Add. 1, 22 November 2012 at para 20 accessed on 27 July 2014 at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.AUL.CO.7.Add.1.pdf>

<sup>33</sup> AWAVA (2014) *Submission to inform the development of the Second Action Plan under the National Plan to Reduce Violence against Women and their Children 2010*, P. 9. Available at <http://awava.org.au/2014/03/24/news/submissions-development-second-action-plan>

<sup>34</sup> The Hon Robert McClelland & The Hon Kate Ellis, ‘National Plan to reduce violence against women and children’ *Joint Media Release*, 15 February 2011 accessed on 28 July 2014 at: <http://kateellis.com.au/newsroom/443/>

<sup>35</sup> *National Implementation Plan for the First Action Plan 2010-2013* at 24.

<sup>36</sup> *Ibid.* p. 4.

<sup>37</sup> Domestic Violence Victoria et al (2014) *Submission to inform the development of the Second Action Plan under the National Plan to Reduce Violence against Women and their Children 2010*, p.6. Available at [http://d3n8a8pro7vhmx.cloudfront.net/fairagenda/pages/174/attachments/original/1398574345/Joint\\_submission\\_to\\_NP\\_Action\\_Plan\\_-\\_Victorian\\_peaks\\_and\\_statewides.pdf?1398574345](http://d3n8a8pro7vhmx.cloudfront.net/fairagenda/pages/174/attachments/original/1398574345/Joint_submission_to_NP_Action_Plan_-_Victorian_peaks_and_statewides.pdf?1398574345)

As such, it is vital that funding target programs that “deliver multiple, mutually reinforcing strategies across individual, community and societal levels.”<sup>38</sup>

There is also a need for violence against women policy to address the root causes of violence, such as misogynistic cultural practices, values and institutions. Awareness building initiatives are imperative to address negative cultural attitudes towards women. However, they must be paralleled by education initiatives that deliver gender equity and violence prevention curriculum to young people from the early years.

The Second Action Plan was released in June 2014 and specifically targets high risk communities including Aboriginal and Torres Strait Islander women, culturally and linguistically diverse (CALD) women and women with disabilities. AWAVA commends the prioritisation of women who experience a particular vulnerability to violence. However, in order to effectively address domestic violence in high risk communities it is vital that both the policy and community responses take into consideration the cultural context and specific factors that are contributing to the high rates of domestic violence in those communities. For example, in Aboriginal and Torres Strait Islander Communities the contributing factors to the high rates of gender-based violence are based on the specific social and historical context. As such, the policy and community responses must also fit this context. Policy that embodies a human rights approach and ensures all Aboriginal and Torres Strait Islander people have equal access to adequate safety, housing, health, nutrition and education is a vital to address some of the basic human needs that detract from people’s ability to cope with other life stresses. Policy that focuses on addressing domestic violence within Aboriginal and Torres Strait Islander communities will continue to underachieve unless it is complemented by policy that effectively addresses these basic human needs.

There are also limitations to the funding frameworks, which require Aboriginal services to work with women only. AWAVA supports the need for specialist women’s services that provide support to women experiencing violence. However, we also recognise the need for diversity in service provision and availability so that women can access the services that are most appropriate for their needs. This includes women only services as well as services that work with women, men and children. In many cases Aboriginal and Torres Strait Islander women do not want to separate from their partner, rather many want the violent behaviour to stop whilst also preserving their family. This reasonable principle gains markedly more relevance in this century as communities continue to process the impact of the Stolen Generations, and continue to have children removed from them as a result of its impacts.

Holistic approaches to domestic violence require policy makers to allow flexibility in funding arrangements for services to employ holistic solutions. Services need to be provided not only to women, but to men, children young boys and young girls. A part of the holistic approach is to understand the complexities that culture brings to how policy plays out. The dominant policy may not work across the board and it is

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<sup>38</sup> *ibid.* p.5.

important for flexibility in the system to accommodate this. Here it is important for policy makers to consider the concept of domestic violence through a cultural lens:

“Indigenous women’s experience of discrimination and violence is bound up in the colour of their skin as well as their gender. The identity of many Indigenous women is bound to their experience as Indigenous people. Rather than a common experience of sexism binding them with non-Indigenous women, this may bind them more to their community, including men of the community.”<sup>39</sup>

A holistic approach does not override a victim’s safety and it should not protect a perpetrator from criminal sanctions. However, it would consider healing and preventative options for the perpetrator.

“Strategies for addressing family violence in Indigenous communities need to acknowledge that a consequence of this is that an Indigenous women ‘may be unable or unwilling to fragment their identity by leaving the community, kin, family or partners as a solution to the violence.’”<sup>40</sup>

AWAVA also endorses the policy recommendations outlined within Women with Disabilities Australia’s Stop the Violence project’s National Symposium on Violence against Women and Girls with Disabilities Discussion paper. These recommendations can be found on page 24-29 of the discussion paper, which can be accessed at [http://www.stvp.org.au/documents/STVP%20Discussion%20Paper\\_FINAL.pdf](http://www.stvp.org.au/documents/STVP%20Discussion%20Paper_FINAL.pdf).

### 3.2 Domestic Violence Legislation

While Australia has some sound legislative frameworks for responding to domestic violence there are still areas for improvement.

AWAVA welcomes the 2011 amendments to the *Family Law Act*, including the expansion of the definition of family violence and the prioritising of safety over a meaningful relationship with both parents. However, the presumption of equal shared parental responsibility remains. This is problematic particularly in situations where domestic and/or family violence may not be properly identified, for example, where a victim of violence is unrepresented. As each family is unique, rather than focusing on presumptions, decisions about children should be made on a case-by case basis in the best interest of the child.

Legislation protecting vulnerable witnesses from direct cross-examination by the alleged perpetrator in sexual offence trials has been passed in every state and territory jurisdiction within Australia.<sup>41</sup> In five of the

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<sup>39</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner (2006) *Ending family violence and abuse in Aboriginal and Torres Strait Islander communities – Key issues*, p. 5. Available at [https://www.humanrights.gov.au/sites/default/files/content/pdf/social\\_justice/family\\_violence2006.pdf](https://www.humanrights.gov.au/sites/default/files/content/pdf/social_justice/family_violence2006.pdf)

<sup>40</sup> *Ibid.* p, 5.

<sup>41</sup> *Criminal Procedure Act 1986* (NSW) s 294A; *Criminal Procedure Act 2009* (Vic) ss 356-357; *Evidence Act 1977* (Qld) s 21N; *Evidence Act 1906* (WA) s106G; *Evidence Act 1929* (SA) s 13B; *Evidence (Miscellaneous Provisions) Act 1991* (ACT) s 38D; *Sexual Offences (Evidence and Procedure) Act 1983* (NT) s 5; *Evidence (Children and Special Witnesses) Act 2001* (Tas) s 8A.

eight state and territory jurisdictions, specific protections are also included in legislation to prevent a vulnerable witness from being directly cross-examined by an unrepresented alleged perpetrator of violence. There is a lack of such a protection in family law proceedings so as to ensure a victim of violence is not directly cross-examined by the alleged perpetrator. To allow cross-examination in such circumstances condones the continuation of violence.

Where they have not already done so Australian and State and Territory Governments must introduce legislative protections to prevent vulnerable witnesses from being directly cross-examined by an alleged perpetrator of violence in domestic violence protection orders matters; and in family law matters.

While some of the recommendations in the Australian Law Reform Commission and NSW Law Reform Commission *Family Violence—A National Legal Response* (2010) (ALRC Report 114)<sup>42</sup> and a few of the recommendations in the ALRC *Family Violence and Commonwealth Laws - Improving Legal Frameworks* (2011) (ALRC Report 117)<sup>43</sup> have been implemented, further implementation of the recommendations from these Inquiries is required. For example, the implementation of recommendations relating to women on temporary visas who are experiencing domestic and/or family violence and the establishing of systemic and ongoing domestic and family violence death reviews in all states and territories.

Legislation can only be effective if those who it is designed to protect are able to access it. Access to legal representation is a key part of this. This is discussed in more detail below in the section of legal services policy and domestic violence.

The intersection of domestic violence, child protection, family law and housing is also of concern. While the family law jurisdiction has traditionally supported a meaningful relationship with both parents, in the child protection jurisdiction, victims of violence (generally mothers, noting the statistics show domestic violence is highly gendered) have often been punished for not acting in a so called ‘protective manner’. This is despite a general lack of willingness on the part of child protection workers to provide supporting evidence for a ‘no contact’ family law application. Women are therefore unfairly blamed and held accountable for the male’s violence. Furthermore, if women are to be empowered to leave a violent relationship there also needs to be adequate resourcing of and access to refuges and safe and appropriate housing.

AWAVA also cautions the Victorian Government in regards to its move to abolish defensive homicide, which was designed to consider the family violence context in circumstances where a woman kills her abusive partner, reducing murder to a lesser charge. Without this defense, women who kill their abusive partners may be convicted of murder. A study conducted by the Domestic Violence Resource Centre Victoria (DVRCV) and Monash University found that there is still a lack of understanding amongst the community and the legal profession as to why a woman who experiences ongoing domestic violence may feel she has no other option but to kill her violent partner. Further, they found that “misconceptions about family violence are

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<sup>42</sup> Commonwealth of Australia (2010) Op Cit.

<sup>43</sup> Commonwealth of Australia (2011) Op Cit.



entrenched and, until attitudes shift, it will remain difficult for women who kill abusive partners to successfully argue self-defense.”<sup>44</sup> AWAVA agrees with DVRCV that the abolition of “defensive homicide would be a backward step in legal responses to victims of family violence”<sup>45</sup> and implores the Victorian Government to consider the full impact of domestic violence on women and children when it considers the proposed changes to the state’s homicide laws.

In addition to this, AWAVA strongly supports the Victorian Opposition’s promise to hold a Royal Commission into Family Violence should they be elected to Government in the November 2014 election.<sup>46</sup> This should occur in conjunction with immediate measures to address domestic and family violence.

### 3.3 Community Responses to Domestic Violence

There has been marked improvements in community attitudes towards, and understanding of, domestic violence over the last 2 decades. In particular, there has been a substantial improvement in how the community defines domestic violence, with more people now recognising physical and sexual violence, threats of abuse, and psychological, verbal and economic abuse as domestic violence.<sup>47</sup> However, there still remains an unwillingness within the community to accept the prevalence of domestic violence and to acknowledge that this is the “leading contributor to death, disability and illness in Victorian women aged 15 to 44.”<sup>48</sup>

## 4. The effects of policy decisions regarding housing, legal services, and women’s economic independence on the ability of women to escape domestic violence

### 4.1 Housing Policy and Domestic Violence

Domestic Violence is the single biggest driver of homelessness for Australian women. According to Homelessness Australia 55 per cent of female clients and 25 per cent of all clients who present to specialist homeless services cite domestic violence as their reason for leaving their home.<sup>49</sup> For women, the intersection between domestic violence and homelessness is influenced by a range of factors. Women’s

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<sup>44</sup> Domestic Violence Resource Centre Victoria (2014) *Defensive Homicide an Essential Safety Net for Victims*.

Available at <http://www.dvrcv.org.au/knowledge-centre/our-blog/defensive-homicide-essential-safety-net-victims>

<sup>45</sup> Ibid.

<sup>46</sup> Victorian Labor Party (2014) *Media Release: Labor to Establish Royal Commission into Family Violence*. Available at <https://www.viclabor.com.au/media-releases/labor-to-establish-royal-commission-into-family-violence/>

<sup>47</sup> Victorian Health Promotion Foundation (2009) *National Survey on Community Attitudes to Violence Against Women 2009*, p. 7. Available at

[http://www.vichealth.vic.gov.au/~media/ResourceCentre/PublicationsandResources/PVAW/NCAS\\_CommunityAttitudes\\_report\\_2010.ashx](http://www.vichealth.vic.gov.au/~media/ResourceCentre/PublicationsandResources/PVAW/NCAS_CommunityAttitudes_report_2010.ashx)

<sup>48</sup> Victorian Health Promotion Foundation (2008) *Violence against women in Australia as a determinant of mental health and wellbeing: Research Summary 4*. Available at

<http://www.childrenandfamilies.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/57/13.pdf&>

<sup>49</sup> Homelessness Australia (2013) *Homelessness and Women Factsheet*. Available at

[http://www.homelessnessaustralia.org.au/images/publications/Fact\\_Sheets/Homelessness\\_and\\_Women.pdf](http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_Women.pdf)

prolonged experiences of intimate partner violence, which is largely perpetrated within the home, “erodes the sense of safety and sanctuary that underscores the concept of home life and when women choose to leave a situation of violence, this primarily comes at the heavy price of them having to leave their homes.”<sup>50</sup> In addition to this, there is a lack of adequate and affordable housing throughout Australia. This is resulting in increased rates of housing stress as well as increased homelessness amongst women, who are disadvantaged by gender inequalities in employment and income.<sup>51</sup>

Women who face multiple forms of disadvantage are particularly vulnerable to both domestic violence and homelessness. For example, Aboriginal and Torres Strait Islander women are 35 times more likely to experience domestic violence than other Australian women, they are also more likely to experience discrimination in the housing market and are less able to find adequate and appropriate housing. The housing waiting lists in rural, remote and metro regions are unsustainable and leave many women and children vulnerable to ongoing abuse. These factors lead to Aboriginal and Torres Strait Islander women experiencing an increased risk of homelessness, particularly domestic violence related homelessness.<sup>52</sup>

Women with disabilities also experience multiple forms of disadvantage, which increases their risk of homelessness. These include an increased risk of domestic violence, high rates of unemployment and experiences of gendered income inequality, and lack of access to adequate and affordable housing.<sup>53</sup>

AWAVA endorses the recommendations outlined within the Equality Rights Alliances’ Submission to the Finance and Public Administration Committee Inquiry into Domestic Violence in Australia.

1. “The Commonwealth government must develop a national affordable housing strategy as a matter of priority. This housing strategy must complement the National Strategy To Reduce Violence Against Women And Their Children (National Strategy on Violence) and priority should be given to addressing the housing implications which arise from the National Strategy on Violence and from the Second Action Plan under that Strategy.
2. Strengthen the reporting and monitoring mechanisms of the National Partnership Agreement on Homelessness. Include the improvement of housing options for women escaping violence as a performance indicator for the Agreement.
3. Ensure that specialist services demonstrating expertise in the diverse housing needs and experiences of women are adequately funded under the National Partnership Agreement on Homelessness.
4. Consider the inclusion of gender equity as criteria when selecting tenders for homelessness and housing services.

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<sup>50</sup> Oberin, J and Mitra-Kahn, T (2013) Stopping Violence before it Occurs: Responding to the Pathways into Gendered Homelessness, *Parity*, Volume 26(7), p. 1.

<sup>51</sup> Homelessness Australia (2013), Op Cit.

<sup>52</sup> Homelessness Australia (2013) Homelessness and Aboriginal and Torres Strait Islanders. Available at: [http://www.homelessnessaustralia.org.au/images/publications/Fact\\_Sheets/Homelessness\\_and\\_ATSIv3.pdf](http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_ATSIv3.pdf)

<sup>53</sup> Homelessness Australia (2013), Op Cit.

5. Ensure the ABS is adequately funded to provide gender-disaggregated and gender-relevant data necessary to permit meaningful reporting against our international human rights commitments under instruments such as CEDAW.
6. Review adequacy of funding to meet demand for homelessness services in the next round of National Partnership Agreement on Homelessness negotiations.”<sup>54</sup>

#### 4.2 Legal Services Policy and Domestic Violence

Women’s access to justice as well as their experiences within the justice system have strong impacts on their safety and security and their capacity to leave abusive relationships.

Legal assistance services for women in Australia include Legal Aid Commissions (LACs), Community Legal Centres (CLCs), Aboriginal and Torres Strait Islander Legal Services (ATSILS) and Family Violence Prevention Legal Services (FVPLS). Some of these legal assistance services provide specialist women’s legal services and others provide services for both women and men.

In December 2013, the Commonwealth Government announced a funding cut of \$43.1 million for legal assistance services over four years from 2013-14.<sup>55</sup> Since then further funding cuts have been announced to legal assistance providers generally,<sup>56</sup> as well as in relation to specific programs.

There is also an increasing focus by the Commonwealth Government on preventing legal assistance service providers from undertaking law reform and policy advocacy work. For example, the Government has defunded the National Aboriginal and Torres Strait Islander Legal Services and all Law Reform and Policy Officer Positions with state and territory Aboriginal and Torres Strait Islander Legal Services.<sup>57</sup> Community Legal Centres are no longer able to use Commonwealth funding for law reform and policy and advocacy work;<sup>58</sup> Legal Aid Commissions are prevented from using Commonwealth funding for the purpose of lobbying government or elected representatives, or to engage in public campaigns; and Family Violence Prevention Legal Services are being funded to deliver services other than law reform and advocacy services.

These changes will have significant effects as the law reform, policy, advocacy and lobbying work of legal assistance providers is crucial in identifying and encouraging reform of laws, policies and practices that

<sup>54</sup> Equality Rights Alliance (2014) *Submission of the Equality Rights Alliance to the Finance and Public Administration Committee Inquiry into Domestic Violence in Australia*, p. 2.

<sup>55</sup> Commonwealth of Australia (2013) *Mid-year Economic and Fiscal Outlook 2013-14*. Available at <http://budget.gov.au/2013-14/content/myefo/html/>

<sup>56</sup> For example, Attorney-General Portfolio Budget Statements 2014-15 at 19, 29;

<sup>57</sup> NATSILS (2013) *Government to defund Aboriginal Legal Services Peak Body and all Law Reform and Policy Positions*, Media Release. Available at <http://www.natsils.org.au/portals/natsils/Media%20Releases/17-12-13%20NATSILS%20MR%20Govt%20to%20defund%20NATSILS%20and%20all%20ATSILS%20Law%20Reform%20and%20Policy%20Positions.pdf>

<sup>58</sup> Community Law Australia (2014) *Brandis restrictions starting tomorrow seek to silence community legal centres speaking out on unfair laws, policies and practices*, Media Release. Available at <http://www.communitylawaustralia.org.au/brandis-restrictions-starting-tomorrow-seek-to-silence-community-legal-centres-speaking-out-on-unfair-laws-policies-and-practices/>

adversely or inequitably impact on disadvantaged people and vulnerable groups in the community, including victims/survivors of domestic and family violence.

These restrictions are contrary to the findings of the Productivity Commission's *Access to Justice Arrangements Draft Report*, which acknowledges the benefits and efficiency of law reform and advocacy.<sup>59</sup> They will also silence the voices of marginalised communities, including women whose experience of domestic and family violence restricts their capacity to engage with and actively participate in social and political dialogue.

It is important to continue to have specialist women's legal services, including Aboriginal and Torres Strait Islander women's legal services. Such services have a thorough understanding of the nature and dynamics of domestic and family violence and why such violence is primarily perpetrated against women and children. Such services are important for empowering and supporting women victims/survivors of violence. They provide a safe space for women and children and strongly support holding perpetrators to account. They also recognise the intersecting and compounding forms of disadvantage that women face for example, due to their sex; gender identity; sexual orientation or intersex status; race; disability; age; and/or social and/or economic disadvantage, which can significantly limit women's "full enjoyment of citizenship", including access to justice.<sup>60</sup>

It is also important that victims of violence have a range of legal services from which to choose so they can exercise agency or, where there is a conflict of interest, there is another legal assistance service to offer assistance. The Australian Government should therefore adequately fund all legal assistance services and increase funding amounts to an adequate and sustainable level.

The lack of understanding amongst police, legal practitioners, judicial officers, court staff and family report writers of the prevalence, risks, nature, dynamics and impacts of domestic violence for Australian women continues to be problematic. This prevents the justice system from ensuring women's safety as well as restricting women's access to justice. While in some jurisdictions there have been efforts to improve, for example, risk assessment, there is an ongoing need for training of police, legal practitioners, judicial officers, court staff and family report writers in the nature and dynamics of domestic and family violence.

There also needs to be separate and additional funding for civil and family law matters as recommended by Australia's Productivity Commission.<sup>61</sup> Such funding should not be taken from criminal law funding. Given the high number of domestic and family violence homicides in Australia referred to above, the loss of liberty

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<sup>59</sup> Productivity Commission (2014) *Access to Justice Arrangements*, Draft Report, p. 622-625. Available at [http://www.pc.gov.au/\\_data/assets/pdf\\_file/0008/135296/access-justice-draft.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0008/135296/access-justice-draft.pdf)

<sup>60</sup> Regina Graycar and Jenny Morgan (1995) *Disabling Citizenship: Civil Death for Women in the 1990's?* *Adelaide Law Review* 49, p. 76.

<sup>61</sup> Productivity Commission, *Access to Justice Arrangements – Productivity Commission Draft Report*, April 2014, Recommendation 21.1, at 632

and loss of life arguments which arise with respect to criminal law matters are just as pertinent in family law matters where domestic and/or family violence is present.

A number of concerns were raised in the recent Australian Institute of Family Studies (AIFS) *Independent Children's Lawyer Study Final Report (ICL Study Report)* regarding the focus given to some issues in Family Reports at the expense of giving adequate focus to the presence of domestic and/or family violence; the weight given to these reports; and the seeming lack of critical analysis of such reports results in the reports often going untested.

AWAVA is concerned that women who have been victims of domestic and/or family violence are often pressured to settle in accordance with the recommendations of Family Reports as legal aid is generally withdrawn should a party wish to challenge the findings. This is a concern that Women's Legal Services Australia (WLSA) raised in its submission to the Productivity Commission's inquiry into Access to Justice Arrangements.<sup>62</sup>

As WLSA argues, it is particularly troubling that even if there are aspects of the Family Report that should and could be challenged, many of their clients do not have the capacity or are too scared to self-represent if legal aid is withdrawn.

In situations of domestic and/or family violence, we believe access to justice and a fair hearing is jeopardised where legal aid is withdrawn simply because a parent seeks to pursue an application for orders which are different from those recommended by a Family Report Writer. In such circumstances it is important that the evidence is tested.

In circumstances of domestic and/or family violence, we therefore recommend legal aid should not be withdrawn should a party wish to challenge the findings of a Family Report Writer.

We also recommend Family Report Writers who provide evidence in family law proceedings must be accredited. They must have clinical experience in working with victims of domestic and family violence and be bound by standards and have an effective mechanism for complaints.

We refer to WLSA's submission to the Productivity Commission and support the development of a specialised domestic and family violence funding pathway in Legal Aid Commissions for family law that is developed with domestic and family violence experts to guide internal decision-making of merit.

There is also a need for an integrated and coordinated approach to service provision and to Government funding of services. However, AWAVA notes that specialist women's services are essential for any effective response to domestic and family violence and cautions against funding reductions for these services. Women who experience violence need access to a range of services concurrently. For example, a woman

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<sup>62</sup> WLSA, Submission in response to the Productivity Commission's Access to Justice Arrangements Inquiry, 4 November 2013 at 18. Available: [http://www.pc.gov.au/\\_\\_data/assets/pdf\\_file/0016/129121/sub029-access-justice.pdf](http://www.pc.gov.au/__data/assets/pdf_file/0016/129121/sub029-access-justice.pdf)

may approach a legal service for assistance with a protection order against her violent partner, yet her immediate physical safety may depend on whether she has access to a local women's refuge and whether the refuge has a bed available, will agree to accommodate her teenage son, or will accept her in her intoxicated state. Whilst most shelters do accommodate teenage sons, some Aboriginal and Torres Strait Islander women's shelters do not for cultural reasons. She may also need urgent and ongoing healthcare as well as counselling and financial support. The lack of coordination between many of these services makes it more difficult for women to access the support they need to ensure their safety and to leave abusive relationships. As such there is a need for policy makers to take into consideration the complex needs of women who experience domestic violence, the immediacy of the risk they face, as well as the extreme difficulties they may face in accessing services. AWAVA also notes and endorses Women's Legal Services NSW's concerns regarding information sharing without consent<sup>63</sup> and emphasises the need to uphold good practices in relation to privacy and information sharing.

### 4.3 Women's Economic Independence and Domestic Violence

Economic abuse is often a key component of domestic violence and is used as a way of controlling and manipulating women into a position of powerlessness and dependence. As such, women's financial security and economic independence are key factors in the way in which they respond to experiences of domestic violence. A study carried out by the Australian Domestic and Family Violence Clearinghouse in 2011 found that women's financial situation can be a key determinant in their decision to leave an abusive relationship or it can prevent them from doing so.

For the majority of the women in the study their financial situation impacted the way they responded to violence. Some women stated that the lack of financial security that resulted from their partner's control over financial resources led them to leave the relationship. As one of the participants stated:

"That was a lot of the reason why I left, because he preferred to pay for alcohol than buy nappies for our baby."<sup>64</sup>

In contrast for many women, financial insecurity and a lack of economic independence meant that they felt dependent on their abusive partner and unable to leave the relationship.

"He completely left us cactus, right down to disconnecting utilities on me when he was forced to leave the home, which was rented...It forced me to go back because [the baby and I] couldn't survive."<sup>65</sup>

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<sup>63</sup> Women's Legal Services NSW (2014) *Letter to The Hon Brad Hazzard Attorney General regarding the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014*. Available at <http://www.womenslegalnsw.asn.au/wlsnsw/wp-content/uploads/WLSNSW-Ltr-to-AG-Info-Sharing-Bill-2014-a.pdf>

<sup>64</sup> Australian Domestic and Family Violence Clearinghouse (2011) *Seeking Security: promoting women's economic wellbeing following domestic violence*, p. 29. Available at <http://www.adfvc.unsw.edu.au/PDF%20files/Seeking%20Security%20Report%20WEB.pdf>

<sup>65</sup> *Ibid.* p, 29.

For Aboriginal and Torres Strait Islander women, particularly those who are welfare dependent, women are frequently carers for other family members, which can mean their financial resources are stretched to support family members. This can restrict their capacity to access alternative accommodation particularly. Ensuring children are adequately cared for in these cases is also problematic, and again child protection issues can often arise due to poor nutrition (i.e. neglect). In cases where abuse is financial, women's economic situation can be even more precarious, which further limits their capacity to leave the relationship and to ensure the safety of themselves and their family.

Women with disabilities in Australia experience "multiple forms of discrimination, structural poverty and social exclusion,"<sup>66</sup> which increases their vulnerability in situations of domestic violence, particularly when it involves economic abuse. Women with disabilities "are less likely to be in paid work than other women, men with disabilities or the population as a whole. They are less likely than their male counterparts to receive adequate vocational rehabilitation or gain entry to labour market programs...earn less than disabled men, are in the lowest income earning bracket, yet pay the highest level of their gross income on housing, and spend a greater proportion of their income on medical care and health related expenses."<sup>67</sup> Women with disabilities precarious financial situation and lack of economic independence increases their reliance on their partner or family members and reduces their capacity to leave abusive relationships.

It is clear that financial security impacts the decisions that women in abusive relationships make and that policies that impact their economic security and independence either positively or negatively are likely to have strong impacts for women's safety and security. For example, cuts to single parent benefits adversely affect women who are substantially more likely to be sole parents than men. According to the Australia Bureau of Statistics, "in 2006, 87% of one-parent families with children under 15 years were headed by mothers."<sup>68</sup>

See also AWAVA's submission in response to the Human Rights and Anti-Discrimination Exposure Draft:

- Amend the *Fair Work Act 2009 (Cth)* to provide adverse action protection for victims/survivors of domestic and/or family violence and those caring for victims/survivors of domestic and/or family violence;
- Include the status of being a victim/survivor of domestic and/or family violence as a protected attribute in anti-discrimination laws in all areas of public life;
- See AWAVA's submission (submission no. 313):  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2010-13/antidiscrimination2012/submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/antidiscrimination2012/submissions)

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<sup>66</sup> Women with Disabilities Australia (2009), Op Cit, p. 7.

<sup>67</sup> Ibid. p. 7.

<sup>68</sup> Australian Bureau of Statistics (2007) *Australian Social Trends 2007 Article: One-parent families*, p.2. Available at [http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/3A8D1AA0F3AB7D66CA25732F001C94E6/\\$File/41020\\_One-parent%20families\\_2007.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/3A8D1AA0F3AB7D66CA25732F001C94E6/$File/41020_One-parent%20families_2007.pdf)

## 5. How the Federal Government can best support, contribute to and drive the social, cultural and behavioural shifts required to eliminate violence against women and their children

The elimination of Violence against Women and their children requires ongoing leadership from the Federal Government and strong and effective partnerships with State and Territory Governments. AWAVA supports the development of a national primary prevention framework, as recommended by the Time for Action Report.<sup>69</sup> The framework must include comprehensive programs that address the patriarchal elements of Australian culture that underpin gender-based violence and discrimination. These programs must reflect the prevalence and impact of the issue at hand and should be treated with the seriousness of other effective social change campaigns including the ‘stop littering’, ‘wear your seatbelt’, and ‘stop smoking where it affects others’ campaigns.

Expanding the provision of respectful relationships programs is a vital step for overcoming the harmful attitudes towards women that are embedded in our social and cultural institutions and traditions. Critical pedagogy and professional learning for social change programs recognize that the focus on the true primary prevention of gendered violence means supporting cultural change through engagement with citizens from an early age in the development of understandings about identity and relations of gender and power.

An anti-oppressive approach to education, informed by critical pedagogy, is central to confronting and transforming power dynamics in schools and in the wider community. Critical pedagogy makes the difference in the multiplicity of ways that dominant groups and power relations, and normative narrow and restrictive beliefs and identities, can be continuously analysed, debated, and challenged through the everyday curriculum and life of the school. There are countless opportunities within the everyday curriculum, as well as in designated programs, for reflection on concepts that expose prejudice, and to examine and overturn the negative attitudes that underlie many bullying and violent behaviours. Equally there are many opportunities to reflect on and foster positive, inclusive and proactive attitudes and practices.

Educators can engage students from an early age as active, empowered learners able to critically read the social and political world about them, and to negotiate the politics of daily life in the active pursuit of justice for self and others. Through critical pedagogy, educators provide a ‘discursive framework that forms the conditions of possibility for certain selves.’<sup>70</sup> They can cultivate understandings, attitudes and skills for resisting narrow ways of being that impact negatively on their own and others’ lives, for example by examining the ways individual and group identities and behaviours are shaped by social and cultural factors (race, class, ability, gender, family background, sexuality, language, culture, etc.) and the dynamics of

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<sup>69</sup> Commonwealth of Australia (2009) *Time for Action: The National Council’s Plan for Australia to Reduce Violence against Women and their Children, 2009-2021*, p. 49. Available at [http://www.dss.gov.au/sites/default/files/documents/05\\_2012/the\\_plan.pdf](http://www.dss.gov.au/sites/default/files/documents/05_2012/the_plan.pdf)

<sup>70</sup> Probyn, E (1993) *Sexing the self: gendered positions in cultural studies*, p. 168. London; New York: Routledge



privilege, status and power. Such understandings challenge dominant forms of masculinity and femininity, and support the construction of non-violent forms of gender identities.

Educators can also address the intense pressure that is placed on women and girls, boys and men to form relationships. This pressure, which is supported by social institutions and practices at all levels, can override other considerations such as safety, especially when so many 'dating' relationships are now commenced and conducted over the Internet.

It is vital that educators are recognised as leaders for social change who are integral in the realization of integrated, embedded and sustainable social change. Findings from local and international evidence-based research points to the primary importance of the teacher and teaching, supported by strategic teacher professional development<sup>71 72 73</sup> focused on critical understandings and attitudes to power dynamics.<sup>74</sup> As such it is imperative that there is a focus on:

- Supporting teachers' professional learning  
 'We must better prepare educators to critically examine the power structures of the school and the community so that they may act as role models and provide their students with the language and the tools to confront the inequalities (re)produced within that system.'<sup>75</sup>
- Nurturing of professional 'threshold' knowledge  
 Threshold knowledge about the spectrum of bullying and violent behaviours in relation to notions of identity and privilege, status and power, and all areas of social difference (race, class, ability, gender, family background, sexuality, language, culture, etc.) must be nurtured. Such support requires that teachers critically examine their own assumptions and behaviours and acquire a deep and critical understanding of how gender is constructed so as to identify and challenge (rather than

<sup>71</sup> McRae, D., Ainsworth, G., Groves, R., Rowland, M., & Zbar, V (2001) *PD 2000 Australia: A national mapping of school teacher professional development*. Canberra: Commonwealth Department of Education Training and Youth Affairs.

<sup>72</sup> Rowe, Ken. (2003). *The Importance of Teacher Quality As A Key Determinant of Students' Experiences and Outcomes of Schooling* [http://research.acer.edu.au/research\\_conference\\_2003/3](http://research.acer.edu.au/research_conference_2003/3)

<sup>73</sup> Astor, R. A., Guerra, N. G., & Van Acker, R (2010) *How can we improve school safety research: A tripartite integration of basic theoretical research, evidence-based programs, and translational science*. *Educational Researcher*, 39, 68-79.

<sup>74</sup> Twemlow SW, Fonagy P, Sacco FC, Brethour JR Jr (2006) Teachers who bully students: a hidden trauma, *Int J Soc Psychiatry*. May; 52(3):187-98.

<sup>75</sup> Meyer, E. (2008). *A feminist reframing of bullying and harassment: transforming schools through critical pedagogy*, p. 42. Available at <http://www.psychologytoday.com/files/attachments/31038/meyer-2008-mje-reframing-bullying-and-harassment.pdf>

reinscribe) the structures and practices that normalise and perpetuate gender inequity, and problematize and offer alternatives to dominant gender constructions.<sup>76 77</sup>

In addition to a focus on respectful relationships programs and critical pedagogy AWAVA recognizes the important role that Media, advertising and popular culture can play in either reinforcing or challenging the attitudes and norms which contribute to violence against women. As such the media is recognized as a key setting for the primary prevention of violence against women and their children. AWAVA endorses the recommendations of key Victorian Family Violence Peak Bodies regarding working with media to address violence against women specifically:

“In order to prevent violence against women from occurring in the first place we need to work to combat the widespread myths and misconceptions that surround the issue; this is why working with the media and with journalists is so important because they have the resources and reach to highlight the problem that is so often hidden from view. This involves working to increase evidence-based and accurate reporting on violence against women through promoting consistent and clear messages on violence against women and gender equality, and to improve community understandings of the nature, dynamics and impact of violence against women. Good quality reporting challenges misinformation and damaging stereotypes that tolerate or excuse violence against women and gives voice to survivors without sensationalising their experiences.”<sup>78</sup>

AWAVA also recognises the benefits of the EVAs Media Awards, which have been run in Victoria by DV Vic, No To Violence and the Centre against Sexual Assault Forum since 2008. The EVAs are making inroads into improved reporting on the topic of violence against women. AWAVA supports DV Vic’s call for “national EVAs Awards as sitting within a broader national PVAW in the media Framework which would aim to strategically address quality and consistency in media-reporting on violence against women across Australia.”<sup>79</sup>

Federal government programs must:

- Expand respectful relationships programs and Proactively build the capacity of education organisations to deliver gender equity and violence prevention curriculum to young people from the early years;
- Provide community education to change beliefs and attitudes that are violence against women supporting;
- Address ‘everyday’ sexism, male privilege and entitlement approach violence against women as a manifestation of power and control, which is supported by patriarchal beliefs and attitudes about women’s and men’s roles in society.

<sup>76</sup> Palmer, Parker. J (1998) *The Courage to Teach. Exploring the inner landscape of a teacher’s life*, San Francisco: Jossey-Bass.

<sup>77</sup> Howard, T.C. (2003). *Culturally Relevant Pedagogy: Ingredients for Critical Teacher Reflection*. *Theory Into Practice*, 42(3), 195-202.

<sup>78</sup> Domestic Violence Victoria et al (2014) Op Cit. p. 4.

<sup>79</sup> Ibid. p. 4.

The Federal Government must also support and build the capacity of specialist services that can effectively respond to the diverse needs of women who experience violence. In particular the Government must:

- Understand the continued rationalization of services will not decrease demand on these services by Aboriginal and Torres Strait Islander Women.
- Provide existing services with the resources required to be organisationally sustainable, with as much support to community-controlled organisations as possible to attract and retain suitably qualified staff;
- Support culturally secure organisations to build their capacity to deliver quality services in their community;
- Provide funding to services to deliver community education in local communities, to complement broader campaigns such as Freedom From Fear;
- Provide funding to services to evaluate their work to add to the dearth of evidence supporting best practice in family and domestic violence;
- Reduce red tape and administrative requirements of reporting within funding arrangements.