

Submission to the Royal Commission into Family Violence

25 May 2015

Introduction

One of the deficiencies in current responses to domestic and family violence (FV) is the paucity of legal assistance, from authorities like police, for males who experience family violence from females. I know this is a problem because that is my experience and I have spoken to other males in my situation, and I have observed that advocates for male victims are ignored in media discussions about family violence.

I am a male who experienced a severe form of mental abuse from a female. It left me disabled, without a job, assets, friends, or a social framework, essentially at the mercy of close family for some years until I recovered.

If you as a Commissioner believe that you have a “grasp” on the body of knowledge which is family violence, then open your mind to seeing family violence through my eyes. I don’t share the view that family violence is “gendered” in the meaning of that word indicated in paragraph 14 of the issues paper (asymmetry). It is also clear that the ABS acknowledges that there is a dispute about what should be defined as “domestic and family violence”.¹

Based upon my experiences, and discussions I have had with other victims, I believe instead the activity of family violence is “gendered” in that females and males enact it in very different ways, however those actions are probably equal in intensity, proportion and effect. It is perceived as asymmetric, probably because much of some males experience is intangible emotional and mental abuse, which is often invisible as it is outside their own ability to perceive and report on. That is, it is not reported, or as in my case, police complaints by males are ignored and not put into statistics.

Such intangible abuse is at present very difficult to record in complaints, so that it “registers” in ABS statistics as “family or domestic violence”. It is also very hard to have female domestic violence such as emotional abuse acted on through police, a problem you can perceive through my experience.

I believe institutionally, it is “taboo” to view FV as a problem of, partly, gendered activity, one half of which is female emotional abuse. Could you challenge your own beliefs if my story ran counter to your own knowledge about FV, regarding female abuse, for example? And would you be motivated to ask colleagues, possibly feminist colleagues, to accept that view and change their responses?

Core questions like those are barriers that prevent people in my group (males) from engaging with or benefiting from family violence services. My experience was painful, but probably quite common for men in Victoria. I think it is also a part of the “cycle” of violence in families.

It is also challenging to adapt programs or offer resources which might serve all humans in society, on that basis. I think one barrier that prevents male Victorians from accessing assistance where females engage in gendered abuse of the type I experienced, literally is this foundational reluctance

¹ Website www.abs.gov.au *DEFINING FAMILY AND DOMESTIC VIOLENCE*

to shift thinking to “mum (or female partner) might be a perpetrator of FV”. It literally is a societal taboo to view female partners and mothers as possible abusers.

I believe change to the body of knowledge about FV would be a long journey to have institutions shift their paradigms to accept the type of victimisation I experienced, and ensure that males may engage societal resources like police freely and as needed. In a nutshell, that is my experience: institutional rejection of the victimisation I experienced, which further aggravated it. Perhaps you can accept my story.

My experience

I was stalked by a past female partner to the point of nervous breakdown. My perception of her abuse was that she was angered that the relationship ended, and felt entitled to seek revenge and control after her relationship. After I recovered and privately confronted her, before going to the police, she made a false and retaliatory complaint about me for peacefully confronting her privately. Instead of her being charged with stalking, she had me charged by lying about me.

I was a really happy person, with a lot of friends and family who loved me. But in that moment she triggered my breakdown with a late night phone call, it was clear that she had revenge in mind, and knew that I was upset, and wanted her message to be “felt”.

I had enjoyed a successful career, but after the breakdown I didn't sustain full time work again for about five years. By then I had lost my social group, a house, cash and tested my relationships with family beyond breaking point. The breakdown affected all branches of my social sphere, each of those people who I had a relationship with felt the brunt of the breakdown, and in the case of my parents, they to some degree shared my torments. Her stalking was felt beyond my circle, too.

Note that not all females engage in malicious psychological abuse as a form of social control or for revenge. But as with male perpetrators of family violence, it is important that we don't brush aside powerless victims, and we address the problem to often socially powerful perpetrators.

Impugning her victim – the object of her false complaint

While it is uncomfortable to acknowledge, the point of the female abuser's complaint to police was to impugn my character to police, to block the complaint I had already made to them. It was done by skilful use of false information. It was done so that it reinforced the police's gender stereotypes about males and females, and it was very hard for police to verify or check that it was false. And her complaint exploited stereotypes about people with mental injuries, or disability.

That is, I was denied access to police, in a way that reinforced her emotional abuse, by blocking my access to the justice system, and causing me to be re-victimised by being charged by police for her.

It is generally understood by researchers in the area of female stalking, that retaliatory complaints by female stalkers about their male victims, done to counter complaints about their stalking, are a significant part of “female stalking”.²

² von Heussen, Evonne, 2000. *The Law and 'Social Problems:' The Case of Britain's Protection from Harassment Act 1997*. (First Published in Web Journal of Current Legal Issues in association with Blackstone Press Ltd)

It is also well understood that males and females tend to stalk in different ways, and that when victimised, males tend to confront a stalker, and females tend to ignore a stalker.³ Further, when males confront stalking, it has been documented that their contact with a female stalker can be used against them by the female stalker making a false complaint:

Most mischievous accusations are calculated attempts to either "get in first" and create sufficient confusion to delay or prevent their own prosecution, or a deliberate strategy to cause further distress to their victim. The accusation of stalking is particularly difficult for the police, or occasionally for organisations such as universities, as the pattern of contacts and intrusions can easily be reconstructed to make the victim appear the initiator. This is especially the case where victims have responded to their stalker in an attempt to appease, dissuade or threaten them into stopping⁴.

That "reconstruct[ion of records] to make the victim appear the initiator" is exactly what happened to me. It was a terrible and confusing injustice, and it was an extension of her victimisation of me.

I won't go into the details about what occurred after the charges were made against me, but suffice to say I was unable to have any kind of sensible justice outcome which involved the female stalker being accountable under the law, as a person who is "equal" to me in society. Charges against me were ultimately withdrawn.

What equality before the law means

Every human being deserves the right to be treated as "equal before and under the law". This is a simple idea within Article 26 of the *International Covenant on Civil and Political Rights (ICCPR)*, which Australia ratified in 1980:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

That meant that I was entitled to have the female stalker seen as equally accountable under the law, and I was entitled to the equal protection of the law from her stalking, without consideration of my sex. This idea is implicit also in Article 15 of the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* ratified by Australia in 1983:

1. States Parties shall accord to women equality with men before the law.

It is clear that *CEDAW* called societies like ours, to treat females as having full equality before the law, so that when they do stalking of males, when they do murder, or assault, or family violence, we treat them as we treat males who do those things.

³ Fremouw, W., Westrup, D., Pennypacker, J. 1997. *Stalking on campus: the prevalence and strategies for coping with stalking*. *Journal of Forensic Science*, 1997 Jul 42(4):666-9.

⁴ Michele Pathe, Rachel Mackenzie and Paul Mullen, 'Stalking by Law: Damaging Victims and Rewarding Offenders' (2004) 12 *Journal of Law and Medicine* 103.

I think all in society would have to agree, that the female stalker who abused me was not treated as “*equal before the law*”, under the ICCPR. Further, she clearly was not accorded “*equality with men before the law*”, under the CEDAW because had she been accorded that equality she should have been prosecuted and judged for her family violence, and possibly jailed. That would have assisted me to recover.

Recommendation 1 – open a conversation about female abuse of males

The *Family Violence Protection Act 2008 (Vic)* in s5(1)(a)(ii) defines family violence as including behaviour that “*is emotionally or psychologically abusive*”. Female abuse in my case was very hard to observe and evidence, as intangible “psychological abuse”.

In the short term, I recommend that the Victorian Royal Commission into Family Violence start a significant conversation about female emotional abuse of males, particularly abuse which is enacted via societal structures such as police. That is, review and discuss false complaints of family violence by females against males, which manipulate society by intentionally harming males’ social status.

In my opinion, lethal domestic violence by males against females is probably a response to the form of concealed emotional abuse that I was subjected to by a female. That is, males may act extra-judicially in killing females who abuse them, because they perceive that the justice system is literally inaccessible to them, as it was for me as a victim of female domestic abuse. (I strongly reject that choice, but I do think it is part of a cycle of abuse, including female abuse.) I believe that if we encourage male victims of abuse to use social structures like courts, alternative dispute resolution and police to resolve their family problems, then we could reduce the quantum of physical violence against female victims, and conversely reduce males’ victimisation by females.

To that end, longer term, police should be provided special training in how to provide sufficient and equal services to males who make FV complaints containing “emotional abuse”. Family violence resources should be made *equally* available to males, by ensuring an equal financial commitment. That should be accompanied by advertising that shows that males are victims of FV, the mode of their victimisation by female emotional abusers, and that encourages them to make complaints to police, about female abusers.

Recommendation 2 – legislate against the publishing of “gender stereotypes”

This is a quote from a person who is highly influential in the Australian Community. I don’t share this view:

That’s a key thing I would really like to see over the next decade, that we would actually without thinking challenge that male behaviour rather than constantly keep going back to ‘why doesn’t she leave?’⁵

By “that male behaviour”, that influential person was speaking about her own husband’s conduct in killing their son. She didn’t say, “this is what my husband did and don’t presume all males do that”, she said, by implication, that this is what “all males do”, by saying “that male behaviour”. It is illegal

⁵ News article: “*Challenge men not victims: Rosie Batty*” visited 17 October 2014, Website: <http://www.smh.com.au/breaking-news-national/challenge-men-not-victims-rosie-batty-20141017-3i804.html>

to encourage people to discriminate against a group of people based upon their sex, or on a “characteristic that is generally imputed to persons of the sex”, for example the trait of violence imputed to males, under s5(1)(c) and s105 of the federal *Sex Discrimination Act 1984*, which says:

105 Liability of persons involved in unlawful acts

A person who causes, instructs, induces, aids or permits another person to do an act that is unlawful under Division 1 or 2 of Part II shall, for the purposes of this Act, be taken also to have done the act.

I would also entirely reject the principle of prejudicing a group of people, based upon the presumed conduct of some in the group. It is not only offensive to me, as a society we have pushed the story in *To Kill a Mockingbird*, about almost identical prejudice, upon our school children. Any kind of prejudice toward a group, which accords traits like violence to members of that group, based upon the conduct of some in the group is in *direct contravention to international law, and the principle of non-discrimination we teach our children*. This passage from Harper Lee’s *To Kill a Mockingbird* expresses an almost identical sentiment to the public person’s statement about “that male behaviour”, assuming traits of every person in the group:

‘S-s-s Grace...it’s just like I was telling Brother Hutson the other day. “S-s-s Brother Hutson,” I said, “looks like we’re fighting a losing battle, a losing battle.” I said, “S-s-s it doesn’t matter to ‘em one bit. We can educate ‘em till we’re blue in the face, we can try till we drop to make Christians out of ‘em, but there’s no lady safe in her bed these nights.” (Mrs Farrow, referring to African Americans in the town of Maycomb, Chapter 24)

If police are “encouraged” by a person making a false complaint about a male, to discriminate against a male because the “characteristic” of “violence” is “generally imputed to” males, then the person who made a false complaint which encouraged police to refuse police services, is liable under the *Sex Discrimination Act*. Males are a group which are very underserved by police in all respects, so they should be encouraged, not discouraged from accessing policing services.

I find that public person’s imputation about me as a male **gravely offensive**. But it is not surprising, the same ideas formed the basis for the false complaint against me by the female stalker in my case, and I strongly suspect based upon anecdotal evidence, that it forms the basis of similar abuse of many males in Victorian society today. **Understand that it is illegal, and should be vigorously prosecuted by victims if they experience such discrimination.**

In the short term this issue should be raised as part of the current Commission’s inquiries. In the longer term, the community should seek to educate people and groups against engaging in such publications which prejudice males based upon solely their sex. Not all males are violent, and not all violence against females is against the law, some is lawful, and a part of everyday life.

The Parliament could consider special legislation to stop publications which are discriminatory to a group of people, similar to s18C of the *Racial Discrimination Act*.

Recommendation 3 – Legislation offending the principle of non-discrimination should be changed

The Preamble of the *Family Violence Protection Act 2008 (Vic)* states:

In enacting this Act, the Parliament also recognises the following features of family violence—

(a) that while anyone can be a victim or perpetrator of family violence, family violence is predominantly committed by men against women, children and other vulnerable persons;

(b) that children who are exposed to the effects of family violence are particularly vulnerable and exposure to family violence may have a serious impact on children's current and future physical, psychological and emotional wellbeing;

The Preamble contains an objectively false statement that “*family violence is predominantly committed by men against women, children and other vulnerable persons*”.

On the Australian Government’s Institute of Family Studies website, *Who abuses children?*⁶, it is fairly clear from their research that females account for about half, and more of some types of abuse against children which are categorised as “family violence”. The Preamble should read “violence toward children is equally likely to be engaged in by women as men”. The current statement is objectively false, based upon the current statistics.

The second problem is that while male violence is sensationalised, I don’t perceive it in my social group, and when I reported my experience to police, not only was my complaint ignored, I was then re-victimised by a female making a false complaint. I know by my personal research into family violence that experience of “gendered” responses to family violence complaints is quite common. I can see from the stalking research that:

- a. A proportion of stalking complaints by females are believed to be falsified⁷;
- b. One known form of victimisation of males by females is to make a false stalking complaint⁸;
- c. It is well known that males receive little response from police about female stalking⁹.

The ABS statistics are that about 34% of family violence, including stalking, in Australia in 2012-13 was reported by males¹⁰. I can say that my stalking complaint, even though it was genuine, was not reported to the ABS, but a false female complaint was reported. To illustrate that small changes can make a big difference to the “statistics”, let’s alter those statistics slightly, showing 10% of all complaints were like mine: the female made one false complaint that was counted in ABS statistics, and the male’s valid complaint was twice ignored, and didn’t appear as a complaint in ABS statistics. (I made two complaints: one of her stalking and one of her subsequent fraud in her false complaint.)

The following calculation shows that the ABS statistics for domestic and family violence can change to show that FV is equally experienced by males and females, when only small changes to reported complaints, input as data occur:

⁶Website: <https://aifs.gov.au/cfca/publications/who-abuses-children>, visited 24 May 2015

⁷ Sheridan, L.P., Blaauw, E., 2004, *Characteristics of False Stalking Reports*, CRIMINAL JUSTICE AND BEHAVIOR, Vol. 31 No. 1, February 2004 55-72.

⁸ von Heussen, Evonne, 2000. *The Law and 'Social Problems:' The Case of Britain's Protection from Harassment Act 1997*. (First Published in Web Journal of Current Legal Issues in association with Blackstone Press Ltd).

⁹ Pathe, M., Mackenzie, R., Mullen, P., ‘Stalking by Law: Damaging Victims and Rewarding Offenders’ (2004) 12 Journal of Law and Medicine 103.)

¹⁰ Australian Bureau of Statistics 2013, Personal Safety Survey, Australia, 2012, cat no 4906.0, ABS, Canberra. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>

- Take 1000 FV reports to police.
- 66% (660) are by females, 34% (340) by males.
- If I apply the correction for the 10% above, that changes to:
 - 10% of complaints, or 100 female complaints are false positives
 - 10% of complaints are not recorded, where two complaints were made, so 200 good male complaints were omitted from the statistics
 - $660 - 100 = 560$ female valid complaints
 - $340 + 200 = 540$ male valid complaints

A small change in “reported” complaints in ABS statistics makes the prevalence of family violence, based upon statistics altered to account for some false complaints by females and the police’s response to them, about 50/50 male/female. If we assume a reasonable percentage of reports by females are false, as in my case, the ABS statistics for domestic and family violence do not reflect the full extent of male victimisation and female perpetration, taking into account refusal to take complaints from males and very significant under reporting of abuse by male victims.

Furthermore, when I reviewed the ABS statistics on domestic violence, I was referred to a report on *The Gender Debate in Domestic Violence: The Role of Data*¹¹. Its first paragraph was:

The gender debate is one of the enduring controversies in domestic violence research. On the one hand, feminist researchers have long identified ‘gender asymmetry’ in domestic violence, arguing that women are the primary targets of abuse and that men comprise the large majority of perpetrators. On the other hand, family conflict researchers typically find ‘gender symmetry’, arguing that women and men experience and perpetrate violence at similar rates.

By reference to that paper, the ABS made it clear that the data they presented could be, and had been interpreted in a range of various ways, which, as the issues paper points out, gives gender asymmetry or gender symmetry in domestic violence victimisation and perpetration, depending on who is interpreting the data and how domestic violence is defined.

Therefore, the statement in the *Family Violence Protection Act* that “family violence is predominantly committed by men against women” is false and certainly should not appear in legislation, when that statement reflects a field of study whose researchers are divided on the issue, where data can be interpreted in a way that shows gender symmetry in family violence, and there is a significant question about the validity of ABS statistics, due to false complaints by females, as I experienced.

The *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, indicates:

8 Recognition and equality before the law

¹¹ Australian Domestic & Family Violence Clearinghouse, 2013. *The Gender Debate in Domestic Violence: The Role of Data*, University of NSW

- (1) *Every person has the right to recognition as a person before the law.*
- (2) *Every person has the right to enjoy his or her human rights without discrimination.*
- (3) ***Every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. [emphasis added]***

It is plain that the *Family Violence Protection Act* is not compliant with the human right of “equality before the law” in s8(3) of the *Charter of Human Rights and Responsibilities Act*, because a fair minded person would believe that the court could take the Preamble statement about who is “more likely” to commit family violence, as an indicator of how the court should judge the matter, thus making males and females “unequal before the law”. That is prejudicing males before the court, in a way that breaches a fundamental human right, and a principle of justice: that of fairness and equality of treatment. It might also breach sections 12, 13, 15, 20 and 24 of the *Charter*.

The “statement of compatibility” for the *Family Violence Protection Act*, made under s28 of the *Charter*, failed to address the injustice that could be caused by the wording of the Preamble, which unfairly impugns males, and unreasonably favours females. So the *Family Violence Protection Act* cannot be said to be compliant with the *Charter of Human Rights and Responsibilities Act*, where it would prejudice males before the law, and treat females preferentially. That is repugnant to justice, and to the law. I also note that males are in fact the higher proportion of victims of general violence, compared to females, in society. Prejudicing males further, where they are already victimised at higher rates than females, for violence against the person, is thoroughly unfair.

I ask that the Commission make a recommendation to the Parliament that the Preamble of the *Family Violence Protection Act* be changed to remove the offensive statement, or alter it to say that perpetration and victimisation is roughly gender symmetrical.

Recommendation 4 – Aim for gender equality in the “family violence system”

It is easy to alter the balance of the “family violence system” to facilitate the approaches that I advocate. That could be done by ensuring that administrative bodies in the area of family violence have gender equality in terms of their makeup. That is, they contain roughly the same quantities of females and males in decision making positions. That does not appear to be the case for the current Commission, yet this principle of gender equality in professional life is advocated by the Sex Discrimination Commissioner. To clarify, she means a 50%/50% breakdown of the sexes.