Royal Commission into Family Violence (Victoria)

Submission

Australian Women Against Violence Alliance

AWAVA

Australian Women Against Violence Alliance

The Australian Women Against Violence Alliance (AWAVA) is one of the five 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 (█████████) or email: pm@awava.org.au

CONTENTS

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

KEY RECOMMENDATIONS

National Plan to Reduce Violence against Women and their Children

AWAVA calls on the Council of Australian Governments to:

- 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* that will monitor and evaluate the implementation of the *National Plan.* Civil society should be adequately resourced to participate in this process;

- 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;

- Approach gender-based violence from a human rights perspective and ensure policy uses human rights language.

Targeted Funding for Family Violence and Specialist Women's Services

AWAVA calls on the Council of Australian Governments to:

- Establish a dedicated funding stream for family violence at the Commonwealth and State and Territory level.

- As a matter of urgency provide adequate and sustainable funding for specialist women's services so they can respond to the increasing demand on services that results in part from an increased awareness about domestic and family violence.

- Resource and support meaningful structures to enable front line services including specialist women's services to coordinate across jurisdictions.

- Ensure 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; and

- Approach gender-based violence from a human rights perspective and ensure policy uses human rights language.

Access to Justice

AWAVA calls on the Council of Australian Governments to:

- Recognise 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;

- Remove any restrictions on legal assistance services using government funding to engage in law reform and policy work;

- Provide separate funding for civil and family law matters, in addition to adequate funding for criminal law matters, as recommended by Australia's Productivity Commission.

- Remove the presumption of equal shared parental responsibility in family law matters involving children;

- 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;
- 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[1]) and Australian Law Reform Commission, *Family Violence and Commonwealth Laws—Improving Legal Frameworks* (2011) (ALRC Report 117[2]);
- Ensure ongoing training of judicial officers, legal practitioners, family report writers, court staff and police about the nature and dynamics of domestic and family violence;
- Ensure Family Report Writers who provide evidence in family law proceedings are accredited with respect to knowledge and understanding of family violence. They must have clinical experience in working with victims/survivors of domestic and family violence and be bound by standards and have an effective mechanism for complaints;
- Ensure that mechanisms are in place to prevent legal aid being withdrawn should a party wish to challenge the findings of a Family Report Writer; and
- Ensure 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.

Housing and Homelessness

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

- "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.
- 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.
- Consider the inclusion of gender equity as criteria when selecting tenders for homelessness and housing services.
- Review adequacy of funding to meet demand for homelessness services in the next round of National Partnership Agreement on Homelessness negotiations."[3]

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[1] Commonwealth of Australia (2010) *Family Violence—A National Legal Response,* Available at http://www.alrc.gov.au/sites/default/files/pdfs/publications/ALRC114_WholeReport.pdf
[2] Commonwealth of Australia (2011) *Family Violence and Commonwealth Laws—Improving Legal Frameworks,* Available at https://www.alrc.gov.au/sites/default/files/pdfs/publications/whole_alrc_117.pdf
[3] 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.

Responding to Technology Assisted Abuse

The Council of Australian Governments must:

- Ensure that there remains a strong focus on educating women and girls to safely use technology

Education Reform

The Council of Australian Governments must:

- Expand respectful relationships programs within an accredited framework 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.

FOREWORD

In this submission, the Australian Women Against Violence Alliance (AWAVA) outlines policy recommendations relating to domestic and family violence for consideration by the Royal Commission into Family Violence (Victoria). We welcome the opportunity to provide our advice and comment on the points of inquiry. As a national body AWAVA's focus is largely on policy and initiatives at the Commonwealth Government and Coalition of Australian Governments level (COAG). As such, most of our recommendations are directed to COAG or relate to Commonwealth jurisdictions. Nonetheless AWAVA is hopeful that these recommendations will be taken into account by the Victorian Government Royal Commission.

Over recent years, Governments at Federal and State and Territory levels have 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 Governments and stakeholders across all sectors to address and ultimately prevent domestic and family violence.

Action by COAG in April this year has once again demonstrated the high level of investment that Governments at all levels have in addressing domestic and family violence. The Victorian Government has shown particularly strong leadership in this regard and AWAVA commends the Government's decision to hold a Royal Commission into Family Violence and its 2015-16 budget, which provides $57.9 million funding for family violence services and initiatives.

AWAVA does note, however, that there have been numerous inquiries into domestic and family violence throughout Australia and that now is a time for action.[4] We hope that the implementation of these recommendations will be pursued by Victorian Government, and other Australian Governments, in partnership with the specialist women's services that are responding to and preventing violence against women. We also recognise the need for recommendations made in earlier inquiries to be implemented as well. We look forward to working together with Governments at all levels to ensure all Australian women are able to live lives free from violence and abuse.

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[4] 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, Commonwealth of Australia, *Senate Inquiry into Domestic Violence Interim Report*
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Domestic_Violence/Interim_Report, 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

THE FACTORS THAT UNDERPIN FAMILY VIOLENCE

Domestic and family violence is a manifestation of gender inequality and is directly connected to the unequal power dynamics between women and men and the widespread "adherence to rigidly defined gender roles." [5] These gendered roles and stereotypes are neither natural nor based on biological realities, rather they are socially constructed hierarchies that are "expressed institutionally, culturally, organisationally and individually."[6] Gender inequality is prevalent, to varying degrees, in all societies throughout the world. Within Australia gender inequality can be demonstrated by a range of factors including:

The Feminisation of Poverty

In 2011/12, 14.7 percent of all Australian women experienced poverty. This is significantly higher than the poverty rate of Australian men, which was 13 percent. Women's higher rate of poverty results from poorer employment opportunities, women's over-representation in lower level positions, the gendered wage gap, women's increased likelihood of taking on unpaid caring roles and as a result women's lower financial security in retirement.[7]

Gendered Division of Labour

Gendered divisions of labour impact on women in two ways. Firstly, in spite of women's established role in the labour market and increasing contribution to family incomes, traditional gender dichotomies still remain in regards to domestic and caring work. In 2006, where women and men were both employed full time, women "spent 6 hours and 39 minutes per day taking care of children" while men spent only "3 hours and 43 minutes." Between 1997-2006 the amount of time men spent on childcare did not change, while the amount of time women spent increased by 49 minutes.[8] Secondly, the traditional division of labour means that women and men are more likely to work in certain industries and that female dominated industries generally provide lower salaries than male dominated industries.[9]

Women's under-representation in Leadership Roles

Women continue to be excluded from leadership roles and, despite making up half of Australia's population, only 29% of our elected leaders are women.[10] In addition to this, women are under-represented in senior leadership positions across the breadth of employment sectors. In 2012, women

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[5] 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

[6] Victorian Health Promotion Foundation (2011) *Preventing violence against women in Australia: Research summary*, Ibid.

[7] Australian Council of Social Service (2014) *Poverty in Australia: 2014*, p. 17, Available at
http://www.acoss.org.au/images/uploads/ACOSS_Poverty_in_Australia_2014.pdf

[8] Australian Bureau of Statistics (2012) *Women in Leadership*, Available at
http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features30Dec+2012

[9] Workplace Gender Equality Agency (2015) *Gender Pay Gap Statistics*, Available at
https://www.wgea.gov.au/sites/default/files/Gender_Pay_Gap_Factsheet.pdf

[10] Australian Bureau of Statistics (2012) *Women in Leadership,* Op Cit.

made up only 3.5 percent of Chief Executive Officers and 12.3 percent of board directors within the top 200 ASX companies. Similarly, within the commonwealth public service women make up 57 percent of employees but only 39 percent of the Senior Executive Service.[11]

A gendered understanding of leaders and leadership is also widespread throughout Australia. "The traits most frequently used to describe leadership potential, such as strong, decisive and ambitious, are traits more readily ascribed to men than women. This means men are often seen as a better fit for leadership roles, not because of their skills and abilities, but because of their assumed personal qualities. While women hold this stereotype less commonly nowadays, it is still prevalent among men"[12] A consequence of this biased thinking is that women who defy these gender divisions and portray these leadership traits are often seen in a negative light and are punished for not conforming to social expectations.[13] Further, there is little questioning of these leadership styles and of the benefits that could come from expanding our understanding of strong leaders and of positive leadership traits to include characteristics and behaviors generally attributed to women.

Pay inequality

Australia's gender pay gap, which outlines the "difference between women's and men's average weekly full-time equivalent earnings,"[14] is currently 18.5 percent. This pay gap results in women earning, on average, $298.10 less than men per week. The gender pay gap has risen by 2.6 percent since 1994 and increased by 1.4 percent in the 2013-14 period.[15]

Women's experience of homelessness and housing insecurity

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.[16] For women, the intersection between domestic violence and homelessness is influenced by a range of factors. Women's 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."[17] In addition to this, there is a lack of adequate and affordable housing throughout

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[11] Australian Bureau of Statistics (2012) *Women in Leadership*, Ibid.

[12] The Committee for Economic Development of Australia (2013) *Women in Leadership: Understanding the Gender Gap,* p. 60. Available at:
http://adminpanel.ceda.com.au/folders/Service/Files/Documents/15355~cedawiljune%202013final.pdf

[13] The Committee for Economic Development of Australia (2013) *Women in Leadership: Understanding the Gender Gap,* p. 61, Ibid.

[14] Workplace Gender Equality Agency (2015) *Gender Pay Gap Statistics*, p. 3, Op Cit.

[15] Workplace Gender Equality Agency (2015) *Gender Pay Gap Statistics,* Ibid.

[16] Homelessness Australia (2013) *Homelessness and Women Factsheet*. Available at
http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_Women.pdf

[17] 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.

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.[18]

Entrenched gender stereotyping and sexism

Structural gender inequality has implications for women on a daily basis. Gender stereotyping impacts women and men, however, it has stronger implications for women as traditional gender stereotypes are underpinned by an assumption of women's inferiority and have been developed to reinforce men's position of power and privilege. Plan Australia carried out a survey with 1000 young girls and women between the ages of 15-25 and found the impacts of sexism were extensive. 75 percent of those surveyed had experienced sexist comments, 49 percent said that sexism affects their career choice and less than 1 percent wanted to take on a role in politics.[19]

The representation of women in the media

The representation of women in the media is largely underpinned by traditional gender hierarchies and stereotypes. Research released in 2010 by the Global Media Monitoring Project found that only 13 percent of stories had a women as a central focus and that women made up only 24 percent of news subjects. In addition to this the study found that only 6 percent of stories challenged gender stereotypes while 46 percent reinforced these stereotypes.[20]

Further, a study carried out by the Geena Davis Institute on Gender in Media found that only 28.3 percent of speaking characters in family films and 38.9% in prime-time programs are female.[21] The study also found that women are more likely to be sexualised by the media and are significantly more likely to be wearing sexy attire, to have exposed skin, be thin, and have their attractiveness referenced than their male counterparts.[22] Traditional values about women and men's labour roles were also shown to be reinforced within the media. The study found that within family films and prime-time shows:

"Only two women are shown in the executive office of major corporations (i.e., CEOs, CFOs, Presidents, VPs, GMs). Not one female character is depicted at the top of the financial sector (e.g., investor, developer, or an economic official), legal arena (e.g., chief justices, district attorney), or journalism (i.e.,

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[18] Homelessness Australia (2013), *Homelessness and Women Factsheet*, Op Cit.

[19] Plan Australia, *Our Book of Ambitions: Australian Girls' and Young Women's Priorities for the Post-2015 Agenda,* Available at
http://www.plan.org.au/~/media/Documents/Blog/BIAAG%20Our%20Book%20of%20Ambition_190914_FINAL.ashx

[20] Global Media Monitoring Project (2010) *Who Makes the News?,* p. xxii. Available at
http://cdn.agilitycms.com/who-makes-the-news/Imported/reports_2010/global/gmmp_global_report_en.pdf

[21] The Geena Davis Institute on Gender in Media (2012) *Gender Roles and Occupations: A Look at Character Attributes and Job-Related Aspriations in Film and Television*, p. 1. Available at http://seejane.org/wp-content/uploads/key-findings-gender-roles-2013.pdf

[22] The Geena Davis Institute on Gender in Media (2012) *Gender Roles and Occupations: A Look at Character Attributes and Job-Related Aspriations in Film and Television*, p. 3. Ibid.

editor in chief) across the sample of 129 G, PG, or PG-13 rated films. In comparison, women represented 25.5% of all chief executives in 2010."[23]

These factors, amongst others, reinforce gender hierarchies and traditional gender stereotypes that empower men and disempower women. Male violence against women, is a manifestation of this unequal power distribution. It results from social and cultural structures that reinforce tradition gender hierarchies, that fortify men's role as leaders, decision makers, and protectors and that strengthen men's control of social, cultural, political and economic institutions.

Male violence against women is also used as a mechanism for reinforcing gender inequality. As women's struggle for gender equality progresses and women have increasing capacity to exert their rights both within the public and private spheres, gendered violence can serve as a reminder to women of their inferior status in society and can be used as a way to strengthen traditional gender hierarchies and to stifle women's progress towards gender equality. This violence can occur both within the home and outside of it and it takes a range of forms including emotional abuse, physical and sexual abuse, sexual harassment and financial abuse amongst others. Whilst the focus of this Royal Commission is limited to family violence, and with full recognition of family violence's status as the most common form of male violence against women, it is important to remember that family violence cannot be approached in isolation from other forms of male violence against women. All forms of male violence against women result from gender inequality and the only way to prevent this violence is to facilitate the comprehensive social reform required to realise gender equality.

Factors that exacerbate Family Violence

Gender inequality underpins the phenomenon of male violence against women and a focus on achieving gender equality is essential for preventing family violence. However, there are a range of factors that can exacerbate family violence, which also need to be considered when developing policy and practice responses. These include:

- alcohol and illicit drug abuse;
- mental ill health;
- lack of culturally sensitive and appropriate services;
- lack of services and isolation in regional, rural and remote areas;
- economic insecurity and poverty;
- homelessness and housing stress; and
- police responses to violence[24]

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[23] The Geena Davis Institute on Gender in Media (2012) *Gender Roles and Occupations: A Look at Character Attributes and Job-Related Aspirations in Film and Television*, p. 4. Ibid.

[24] Victorian Health Promotion Foundation (2011) *Preventing violence against women in Australia: Research summary*, p. 8. Available http://www.vichealth.vic.gov.au/~/media/ResourceCentre/PublicationsandResources/PVAW/VH_VAW%20Research%20Summary_Nov2011.ashx

It is essential that our approach to family violence is holistic and ensures the immediate needs of women and children who are experiencing violence are met, that the factors that exacerbate this violence are addressed and that long-term initiatives are developed to breakdown patriarchal social, cultural, political and economic institutions so that we can begin to build a society that is underpinned by gender and other social equalities.

FAMILY VIOLENCE AND INTERSECTING INEQUALITIES

Family violence results from gender inequality and the biggest risk factor for experiencing violence within the home is a person's gender. However, the intersection between gender inequality and other social inequalities means that some women face a higher risk of violence. Women from minority groups are more likely to experience social, cultural and economic marginalisation, which increases their vulnerability to family violence. They also face a range of barriers to accessing the information and support services required to prevent violence and to effectively respond when violence is occurring. Specific groups that face a high risk of family violence include:

Aboriginal and Torres Strait Islander Women

Aboriginal and Torres Strait Islander women are 45 times more likely to experience family violence than non-Aboriginal women.[25] 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.[26] The high rates of family violence within Aboriginal and Torres Strait Islander communities have led to the increased use of family violence orders to protect women who are experiencing violence.[27] Further, there is a higher rate of domestic violence order breaches within these communities.[28]

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 percent of the total prison population.[29] Further, Aboriginal

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[25] Government of Western Australian (2001) Gordon Inquiry Report. Available at
http://www.strongfamilies.wa.gov.au/about/How_it_started/gordon_inquiry
[26] Family Violence Prevention Legal Services (16 July 2013) *Research and Needs Analysis Report*, Nous Group.
[27] 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
[28] 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. See also 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
[29] Australian Bureau of Statistics 2010a. Corrective Services Australia. *In:* Australian Bureau of Statistics (ed.). Canberra: ABS.

and Torres Strait Islander children are overrepresented in the child protection system. In Western Australia, for example, they make up 49.5 percent of children in out of home care.[30]

For Aboriginal and Torres Strait Islander communities family 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 family violence, the high levels of domestic violence in Aboriginal and Torres Strait Islander communities is inherently linked to the ongoing impacts of colonisation, including the continued dispossession from cultural lands, the breakdown of traditional social, cultural and legal institutions and the ongoing experience of discrimination and marginalisation that results in significantly lower health, education and employment outcomes for Aboriginal and Torres Strait Islander Communities. The social and historical factors that are particularly pertinent for these communities 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 families were urbanised;
- Exclusion from the education system due to its lack of cultural relevance;
- Exclusion from the employment market;
- Housing stress; and
- Welfare dependency and poverty

These factors increase the risk of Aboriginal and Torres Strait Islander women experiencing family violence. In addition to this, Aboriginal and Torres Strait Islander women's experience of social and cultural marginalisation, racism, and lack of culturally sensitive services also act as barriers their accessing of support services.

It is vital that adequate and culturally appropriate services are made accessible for Aboriginal and Torres Strait Islander women to ensure that have the necessary support if they are at risk of violence or when violence is occurring. However, we also need to address the systemic discrimination and disadvantage facing Aboriginal and Torres Strait Islander people that results in a life expectancy that is 17 years lower than the Australian average.[31] A key to addressing this disadvantage involves the recognition of Aboriginal and Torres Strait Islander people's land rights and their right to control the resources on their country. Further, Aboriginal and Torres Strait cultures and languages, including their customary laws, must be recognised and respected within mainstream social and political institutions.

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[30] SNAICC Family Matters: Kids safe in culture, not in care, Western Australian Issues Paper, p 6
[31] Australian Human Rights Commission, *Human rights and Aboriginal and Torres Strait Islander peoples,* Available at https://www.humanrights.gov.au/sites/default/files/content/letstalkaboutrights/downloads/HRA_ATSI.pdf

Women with Disabilities

Women living with a disability make up approximately 9.5 percent of Australia's population and 20 percent of Australia's female population.[32] 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 towards 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.[33] 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."[34]

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."[35]

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 percent more likely than women and girls without disabilities to experience some form of intimate partner violence, with 19.7 percent reporting a history of unwanted sex compared to 8.2 percent of women and girls without disabilities."[36]

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

[32] 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

[33] 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/wwdahrsub1.pdf

[34] 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

[35] 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

[36] Women with disabilities Australia et al (2013) *National Symposium on Violence against Women and Girls with Disabilities: Background Paper,* p.28, Op Cit.

Australians to live with a disability. This increases Aboriginal and Torres Strait Islander women's risk of domestic violence.[37]

The Women with Disabilities Australia (WWDA) Stop the Violence Project provides a strong framework for policy and practice reform to address violence against women with disabilities. This includes providing information and support to ensure women are aware of their rights and are empowered to speak out where violence is occurring, training for service providers to enable them to recognise and respond appropriately to women with disabilities, and legislative and policy reform at the national and state and territory levels. These reforms our outlined within the Stop the Violence Project reports, which can be accessed at: http://www.stvp.org.au/Resource-Compendium.html.

Women from Culturally and Linguistically Diverse Backgrounds

Women who are from culturally and linguistically diverse (CALD) backgrounds face a range of complex issues that result from and reinforce their social, cultural and economic marginalisation. These women have diverse cultural heritages, differing life experiences, including for recent migrants who have diverse experiences of and reasons for migrating to Australia, and varied experiences of discrimination and marginalisation within Australia. In spite of their differences, women from CALD communities experience commonalities in terms of their higher risk of family violence and the barriers they face in accessing support services.

There is a lack of disaggregated data relating to CALD populations, which means that we do not have a clear understanding of the extent of family violence in CALD communities. This is problematic as it restricts our capacity to ensure services are meeting community demands and to assess the adequacy of targeted funding. As such, there is a strong need for the collection of data on family violence within CALD communities.

For women from CALD communities who are at risk of or are experiencing family violence there are a range of barriers that prevent or restrict their disclosing of violence and their access to services. These barriers include:

- Lack of awareness of their rights under Australian Law;
- Lack of knowledge of services that are designed to support women experiencing family violence;
- Lack of access to linguistically diverse and culturally sensitive services;
- Lack of support within their community and social stigma associated with divorce and separation;
- Limited employment opportunities and reliance on partner for financial security; and
- Fear that reporting family violence will impact on their visa status

InTouch's report into family violence in CALD communities *Barriers to the Justice System faced by CALD Women Experiencing Family Violence*[38] outlines a range of policy and practice reforms required to address

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[37] Women with disabilities Australia et al (2013) *National Symposium on Violence against Women and Girls with Disabilities: Background Paper,* p.28. Ibid.

CALD women's particular vulnerability to family violence and to increase their access to support services. These include ensuring that translation services are available for women who have a limited understanding of English, increasing cross-sector partnerships to ensure that women who do not have access to family violence services or legal services and be referred to appropriate support systems and addressing intersecting inequalities including CALD women's increased risk of housing stress, lower access to education and employment and higher risk of financial insecurity.[39]

Lesbian, Gay, Bisexual, Transgender, Intersex and Queer Communities

There is little available data on the rates of violence within lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) relationships. It is vital that this data is collected so there is a clear understanding of the rates of violence within these communities and appropriate support services can be developed. LGBTIQ people also face widespread social and economic discrimination and marginalisation. This marginalisation provides a range of barriers to people from the LGBTIQ community accessing support services. These barriers include the perception that because family violence is inherently gendered what they are experiencing could not be family violence, the lack of understanding of their rights, the lack of access to support services that target LGBTIQ communities, a lack of confidence in police and service responses to reports of violence within LGBTIQ relationships and the lack of understanding within these services of family violence within LGBTIQ relationships. It is vital that funding is specifically tied to initiatives that target the diverse needs of LGBTIQ communities in order to reduce their vulnerability to violence.

Other Marginalised Groups

Younger women, older women, women from regional, rural and remote areas, and women in prison also face a higher risk of family violence due to their marginalised position in society, their increased isolation, economic insecurity and their lack of access to information and services.

THE IMPACT OF REFORMS AND DEVELOPMENTS ON RESPONSES TO FAMILY VIOLENCE

The National Plan to Reduce Violence against Women and their Children

AWAVA commends the Council of Australian Governments (COAG) for its leadership in prioritising the issue of male violence against women and in promoting a whole of government response to this issue. COAG's leadership in addressing violence against women is imperative for strengthening mechanisms to prevent and respond to this violence ad it is promising and for the first time ever, in theory, we have a national landscape where there is a policy understanding and appreciation of male violence against women across Federal, State and Territory jurisdictions. However, the United Nations Special Rapporteur on Violence against Women, Ms. Rashida Manjoo, highlighted the need for the Australian Governments to approach the issue of violence against women from a human rights lens and to ensure that policy relating to male violence against women uses human rights language.[40] Employing a human rights based approach

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[38] In Touch (2010) *Barriers to the Justice System Faced by CALD Women Experiencing Family Violence*, Available at http://intouch.asn.au/wp-content/uploads/2010/11/LegalBarriersReport.pdf

[39] In Touch (2010) *Barriers to the Justice System Faced by CALD Women Experiencing Family Violence*, pp. 26-28, Ibid.

[40] Australian Human Rights Commission (2012) *Australian study tour report: Visit of the UN Special Rapporteur on*

to family 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, the poor functioning and subsequent dissolution of the National Plan Implementation Panel (NPIP) has left a real gap in engagement with and advice from civil society expert delegates. Currently, there is minimal opportunity for civil society engage with or feed into the implementation of the National Plan and civil society has little understanding of how it is being executed, particularly in relation to the adequacy of funding allocations.

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.[41] 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/survivor 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[42] and the National Implementation Plan for the First Action Plan refers to model legislation being 'expected to be finalised in 2011-12'.[43] We now understand this scheme will be operationalised by April 2016.[44]

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;"[45] 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

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violence against women, p. 9. Available at
http://www.humanrights.gov.au/sites/default/files/document/publication/UNSRVAW%202012%20Web%20Version.pdf

[41] 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

[42] 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/

[43] *National Implementation Plan for the First Action Plan2010-2013*, p. 24, Available at
https://www.dss.gov.au/sites/default/files/documents/09_2012/imp_plan_25092012.pdf

[44] *Coalition of Australian Governments Press Conference*, 17 April 2015, transcript available at:
http://www.pm.gov.au/media/2015-04-17/coag-press-conference-canberra-0

[45] *National Implementation Plan for the First Action Plan 2010-2013,* p. 4. Op Cit.

pressure."[46] As such, it is vital that funding targets programs that "deliver multiple, mutually reinforcing strategies across individual, community and societal levels."[47]

As outlined earlier, there is also a need for violence against women policy to address the root causes, the social and structural drivers of violence - our 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. Real structural change within our social, cultural, political and economic institutions is also required so that unequal power dynamics between men and women and between majority and minority communities are replaced with new frameworks that are underpinned by social and economic equality.

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 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 and Torres Strait Islander 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.

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[46] 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

[47] 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.5. ibid.

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 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."[48]

A holistic approach does not override a victim/survivor's safety and it should not protect or excuse a perpetrator from criminal or social sanctions. However, it would consider healing and preventative options for the perpetrator within an accountability framework for the victim/survivor.

"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."[49]

AWAVA calls on the Council of Australian Governments to:

- 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* that will monitor and evaluate the implementation of the *National Plan.* Civil society should be adequately resourced to participate in this process;
- 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;
- Approach gender-based violence from a human rights perspective and ensure policy uses human rights language.

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[48] 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
[49] 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. Ibid.

GAPS IN RESPONSES TO FAMILY VIOLENCE

Targeted Funding for Family Violence and Specialist Women's Services

Since January this year, two women have been killed every week as a result of violence against women. Domestic and family violence costs the Australian economy an estimated $13.6 billion. If appropriate action is not taken this is expected to rise to $15.1 billion in 2021-22. The Government response to the epidemic of violence against women must reflect the nature and complexity of the issue and must be proportionate to its social and economic costs. The leadership shown by COAG in April this year is extremely promising and demonstrates a continued shift in Government approaches to violence against women, particularly family violence. However, to this point, this leadership has largely not been translated into appropriate funding allocations. This calls into questions the priorities of Governments at the Federal and State and Territory level.

The ways that the family violence 'system' is funded across Australia is largely the result of ad hoc, fragmented and band aid responses to gaps and barriers as they arise. Specialist women and children's family violence services have adapted, tweaked and innovated to meet the growing demand and understanding of the problem over a period of fifty years since the first government policy response to fund women's refuges in the 1970s.

Further, legislative and policy reform during the past decade has resulted in unprecedented demand on the system without commensurate investment in the service system to meet the escalating demand. While responses to family violence have continually expanded and improved and many pockets of excellent practice have developed the evolutionary process means that our responses can still be inconsistent, localised and poorly integrated and not always providing optimal outcomes.

This legacy continues to be reflected in a number of critical ways. The funding for family violence services – the 'system' is funded as though family violence is incidental and temporary, primarily buried within state homelessness budget programs and other community service funding streams. Family violence funding is insecure, short-term, cyclical and subject to the vagaries of changing governments and policy agendas. Despite political leaders at all levels of government calling family violence a 'national emergency', there is no clearly identifiable family violence system and no designated, guaranteed funding program to sustain a system to address the nation's most serious problem. This leaves family violence services competing for scarce resources as the demand increases exponentially. It means that programs are often time-limited and uncertain and the family violence workforce is poorly paid and insecure leading to low retention rates.

A dedicated funding stream for family violence is necessary at the Commonwealth and State and Territory level. This must outline clearly the funding allocate to family violence and must provide robust funding for specialist women's services that can respond appropriately to women and children impacted by trauma. Increased awareness of male violence against women results in an increase in reporting and therefore an increased demand on front line services. Therefore, it is vital that community awareness and attitudinal change initiatives are paralleled by an increase in funding for women's specialist services so that they are able to effectively respond to the needs of the increasing number of women and children who approach

their services. This will also enable services to prevent, where possible, women and children from entering homelessness services.

The failure to sufficiently resource specialised women's services as demand increases directly impacts on early intervention and prevention work and risks women and children's lives. It is clear that current funding for specialist women's services is not adequate. According to Domestic Violence Victoria the "unprecedented demand for services, without commensurate funding to match this demand, has left family violence services struggling and under incredible pressure."[50]

Designated, guaranteed, recurrent and appropriate funding is vital for family violence services to provide effective responses to address and prevent family violence. This funding program must be protected in legislation from changing governments and policy agendas at Commonwealth and State and Territory levels e.g. a National Violence Against Women Funding Agreement (similar to the National Affordable Housing Agreement).

It is vital that all Governments support and build the capacity of specialist services that can effectively respond to the diverse needs of women who experience violence. In particular Governments must:

- Establish a dedicated funding stream for family violence at the Commonwealth and State and Territory level.
- As a matter of urgency provide adequate and sustainable funding for specialist women's services so they can respond to the increasing demand on services that results in part from an increased awareness about domestic and family violence.
- Resource and support meaningful structures to enable front line services including specialist women's services to coordinate across jurisdictions.
- Ensure 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; and
- Approach gender-based violence from a human rights perspective and ensure policy uses human rights language.

Judicial Reposes to Family 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, Community Legal Centres, Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Legal Services. Some of these legal assistance services provide specialist women's legal services and others provide services for both women and men.

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[50] 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

"In 2013/14, 84 Community Legal Centres across Australia that provide frontline legal assistance revealed that they had to turn away more than 150,000 people."[51]

Funding for Legal Assistance Services

In December 2013, the Commonwealth Government announced a funding cut of $43.1 million for legal assistance services over four years from 2013-14.[52] The 2014/15 Federal budget included $15 million cuts in legal aid funding and a $9 million reduction in funding for community legal services over four years. This comes in direct contradiction to recommendations made by the Productivity Commission's *Access to Justice Arrangements Report*, which estimated that additional funding of $200 million a year was required to ensure legal assistant services are able to meet the needs of the community.[53] The Productivity Commission recommended that 60 percent of this funding be provided by the Commonwealth Government, with the remaining 40 percent coming from State and Territory Governments.

The Federal Government's decision to reverse funding cuts to legal assistance services in March 2015 has restored $25.5 million of funding over two years to legal aid commissions, community legal centres and Indigenous legal services providers. This includes $11.5 million for Indigenous legal assistance. However, there is still a need for additional funding from Federal and State and Territory Governments to implement the recommended funding allocation outlined by the Productivity Commission. Further, significant concerns remain regarding Commonwealth Government economic forecasting, which outlines significant reductions to Commonwealth funding from the 2017-18 financial year.[54] It is vital that the Commonwealth Government upholds its responsibility to fund legal assistance services, as outlined by the Productivity Commission. However, it is also critical that States and Territories also meet their financial responsibilities as outlined within the Productivity Commission's *Access to Justice Arrangements Report*. A key funding source that States and Territories could use to fund community legal services is the interest accrued from solicitors trust accounts. Some States and Territories are already directing some of these funds to community legal services and there is an opportunity for other States and Territories to follow suit.

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;

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[51] Fair Agenda (2015) *What Will it Take?* Available at http://www.fairagenda.org/whatwillittake
[52] Commonwealth of Australia (2013) *Mid-year Economic and Fiscal Outlook 2013-14*. Available at
http://budget.gov.au/2013-14/content/myefo/html/
[53] Productivity Commission (2014) *Access to Justice Arrangements: Overview*, p. 63. Available at
http://www.pc.gov.au/__data/assets/pdf_file/0016/145402/access-justice-overview.pdf
[54] The National Association of Community Legal Centres (2015*) Media Release: Plan for addressing crisis in legal assistance missing from Federal Budget*. Available at:
http://www.naclc.org.au/cb_pages/files/Media%20Releases/NACLC%20MR%20Budget%202015.pdf

and/or social and/or economic disadvantage, which can significantly limit women's "full enjoyment of citizenship", including access to justice.[55]

It is also important that victims/survivors 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. There also needs to be separate and additional funding for civil law matters (including family law matters) and criminal matters as recommended by Australia's Productivity Commission.[56] 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 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. The Commonwealth and State and Territory Governments should therefore adequately fund all legal assistance services and increase funding amounts to an adequate and sustainable level.

Law Reform, Policy and Advocacy Work

There is also an increasing focus by the Commonwealth Government and some State and Territory Governments on preventing legal assistance service providers from undertaking law reform and policy advocacy work. For example, the Commonwealth 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.[57] Community Legal Centres are also no longer able to use Commonwealth funding for law reform and policy and advocacy work;[58] 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 restrictions are contrary to the findings of the Productivity Commission's *Access to Justice Arrangements Report*, which acknowledges the benefits and cost efficiency of law reform and advocacy.[59] Further, the effects of these restrictions are significant 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 adversely or inequitably impact on disadvantaged people and vulnerable groups in the community, including victims/survivors of domestic and family violence. The restrictions are also silencing

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[55] Regina Graycar and Jenny Morgan (1995) Disabling Citizenship: Civil Death for Women in the 1990's? *Adelaide Law Review 49*, p. 76.

[56] Productivity Commission, *Access to Justice Arrangements – Productivity Commission Draft Report,* April 2014, Recommendation 21.1, at 632

[57] 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

[58] 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/

[59] Productivity Commission (2014) *Access to Justice Arrangements: Overview*, p. 62. Op Cit.

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.

Training of Law Enforcement and Judiciary

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 and their respective roles in identifying and managing risk.

Family Reports

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 experienced 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.[60]

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. We note the recent introduction of Australian Standards of Practice for Family Assessments and Reporting.[61] While we

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[60] 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

[61] Family Court of Australia et al (2015) *Australian Standards of Practice for Family Assessments and Reporting*, Available at: http://www.federalcircuitcourt.gov.au/wps/wcm/connect/51978e7d-4ec5-4bab-a55c-

welcome these standards, they are not binding. It is essential that family report writers are accredited with respect to knowledge and understanding of family violence. They must have clinical experience in working with victims/survivors of domestic and family violence 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.

AWAVA calls on the Council of Australian Governments to:

- Recognise 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;
- Remove any restrictions on legal assistance services using government funding to engage in law reform and policy work;
- Provide separate funding for civil and family law matters, in addition to adequate funding for criminal law matters, as recommended by Australia's Productivity Commission.
- Remove the presumption of equal shared parental responsibility in family law matters involving children;
- 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;
- 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[62]) and Australian Law Reform Commission, *Family Violence and Commonwealth Laws— Improving Legal Frameworks* (2011) (ALRC Report 117[63]);
- Ensure ongoing training of judicial officers, legal practitioners, family report writers, court staff and police about the nature and dynamics of domestic and family violence;
- Ensure Family Report Writers who provide evidence in family law proceedings are accredited with respect to knowledge and understanding of family violence. They must have clinical experience in working with victims/survivors of domestic and family violence and be bound by standards and have an effective mechanism for complaints;
- Ensure that mechanisms are in place to prevent legal aid being withdrawn should a party wish to challenge the findings of a Family Report Writer; and

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[62] Commonwealth of Australia (2010) *Family Violence—A National Legal Response,* Available at http://www.alrc.gov.au/sites/default/files/pdfs/publications/ALRC114_WholeReport.pdf

[63] Commonwealth of Australia (2011) *Family Violence and Commonwealth Laws—Improving Legal Frameworks,* Available at https://www.alrc.gov.au/sites/default/files/pdfs/publications/whole_alrc_117.pdf

- Ensure 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.

Housing and Homelessness Services

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.[64] For women, the intersection between domestic violence and homelessness is influenced by a range of factors. Women's 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."[65] 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.[66]

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.[67]

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.[68] In 2013-14, 423 people were turned away from homelessness services every day. Many of those unable to access vital homelessness services were women and children experiencing domestic violence.[69] Increased funding at the Federal and State level is required to ensure that homelessness services are able to meet demands and that women and children escaping violence are not forced to return to unsafe environments due to a lack homelessness shelters and refuges.

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[64] Homelessness Australia (2013) *Homelessness and Women Factsheet*. Available at
http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_Women.pdf
[65] 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.
[66] Homelessness Australia (2013), *Homelessness and Women Factsheet,* Op Cit.
[67] Homelessness Australia (2013) *Homelessness and Aboriginal and Torres Strait Islanders Fact Sheet*. Available at:
http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_ATSIv3.pdf
[68] Homelessness Australia (2013), Op Cit.
[69] Fair Agenda (2015) *What Will it Take?* Available at http://www.fairagenda.org/whatwillittake

A key factor preventing women from escaping violent relationships is also the lack of safe, secure and affordable housing. "The lack of affordable and available housing in Australia limits exit pathways from crisis accommodation for women and children leaving violence. The lack of affordable rental and purchase accommodation is compounded by the lengthy waiting list for public housing, with 154,566 currently waiting for public housing." There is need for comprehensive review of our housing system to ensure affordable housing is available for rent and purchase. In particular there is a need for reform of our taxation system including the negative gearing and capital gains measures, which disproportionately benefit the wealthy while women and children escaping violence are unable to access the affordable and safe housing they require.

It is vital that Governments at the Commonwealth and State and Territory levels develop "a long-term affordable housing strategy to address the soaring public housing waitlist and increasing unaffordability of private rental for low-income Victorians."[70] It is imperative that Governments at all levels invest in social (public and community) housing infrastructure to ensure that adequate safe, affordable and accessible housing is available for women and children escaping family violence. AWAVA acknowledges the work of ACOSS, The Community Housing Federation of Australia, Homelessness Australia, The National Association for Tenants Organisations and National Shelter in this area. AWAVA supports their call for Governments to invest $15 billion over 20 years in affordable housing with an initial investment of $10 billion in the first 5 years.[71] At the Victorian Government level an investment in for social housing of $200 million per year (indexed) over 20 years is required to address the shortfall in affordable housing.[72]

The Coalition of Australian Governments must:

- "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.
- 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.
- Consider the inclusion of gender equity as criteria when selecting tenders for homelessness and housing services.
- Review adequacy of funding to meet demand for homelessness services in the next round of National Partnership Agreement on Homelessness negotiations."[73]

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[70] JusticeConnect (2015) *Family violence, homelessness and affordable housing: Joint Submission to the Royal Commission into Family Violence.*

[71] ACOSS et al (2015) *An Affordable Housing Reform Agenda: Goals and Recommendations for Reform*, p. 5*.* Available at http://www.acoss.org.au/images/uploads/Housing_paper_March_2015_final.pdf.

[72] VCOSS et al (2014) *Making Social Housing Work: Better Homes for Low-Income Victorians*, P. 6. Available at: http://vcoss.org.au/documents/2014/04/Making-Social-Housing-Work-Web.pdf

[73] 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.

Responding to Technology Assisted Abuse

The misuse of technology to target, track, stalk, harass and commit other acts of violence against women and girls is increasing. We know that technology is here to stay; it is constantly evolving and can be a very powerful tool for the prevention of violence against women. It is important for victims and support workers to understand how technology can be used to facilitate harm. It is equally important to know how it can be used to capture evidence against the perpetrator of the abuse.

For women to achieve gender, social, economic and political equality it is crucial that they do not turn away from technology due to fear. Instead it is nececary for them to embrace it and learn how it can be used against them and how they can use it as an empowerment tool that can protect their safety and privacy.

WESNET (AWAVA's lead agency) has been leading the way on this issue through its training throughout Australia for domestic violence advocates, family services, homelessness services, lawyers, police and court staff etc.

Technology assisted abuse of women and girls is increasing rapidly and more effort needs to be made to this critical emerging issue. We urge the Council of Australian Governments to ensure that there remains a strong focus on educating women and girls to safely use technology.

EFFECTIVE RESPONSES TO FAMILY VIOLENCE

Comprehensive Social Reform

If we are to be successful in addressing family violence, and other forms of male violence against women, we must move beyond rhetoric to seriously analyse the extent to which patriarchal values, structures and frameworks are embedded in our social and cultural institutions. It is only by rebuilding these institutions from within that we will be able to achieve gender equality and prevent violence against women. This is neither an easy nor straight forward endeavor. It will involve widespread and comprehensive social and structural reform and it will ultimately result in men relinquishing some of their power. This process will likely be uncomfortable for men, who are accustomed to their position of social, cultural and economic privilege. However, it is clear that initiatives that attempt to address men's violence against women without challenging the misogynistic foundations of our social and cultural structures will not be successful in preventing this violence. We cannot achieve gender equality and also reinforce the status quo when the status quo is inherently gendered and unequal.

Government responses to family violence, and male violence against women more broadly, must include a focus on community-based primary prevention initiatives that are vital to achieve the cultural and attitudinal change required to prevent violence from occurring. This includes prioritisation of initiatives that change community attitudes towards male violence against women, challenge gender stereotypes, increase awareness on issues relating to women's rights and take steps to realise gender equality and wider social equality. Policies addressing men's violence against women must target the root causes and social and structural drivers of violence, including misogynistic cultural practices, values and institutions. Adequately funded, long term, evidence-based community attitude changing initiatives are imperative to address negative cultural attitudes towards women. However, they must be paralleled by education

initiatives that deliver strong unequivocal messages on gender equity and violence prevention curriculum to young people from the early years.

Effective early intervention must also be prioritised so that women and children at risk of violence are identified, and appropriate steps are taken to respond to this violence without causing further trauma to the victim/survivor, and to prevent it from re-occurring. These initiatives must be culturally safe, trauma informed and victim/survivor-led so that services respond to the complex experiences of women and children, meet their individual needs, and have the best outcomes for victims/survivors of violence. Such initiatives must hold perpetrators of violence accountable rather than blame victims/survivors. Adequate Government funding for crisis and support services is also necessary to support the many women and children that experience and will continue to experience violence until we are successful in bringing about substantive social and cultural change.

Education Reform

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. "Respect" however is necessary but not sufficient to institute social change. Critical pedagogy and professional learning for social change programs recognise 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. Any "Respectful Relationships" programs must be accredited and evaluated against addressing the primary social and structural drivers of violence against women.

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.[74] 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

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[74] Probyn, E (1993) *Sexing the self: gendered positions in cultural studies*, p. 168. London; New York: Routledge

of 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[75] focused on critical understandings and attitudes to power dynamics.[76] As such it is imperative that there is a focus on:

Supporting teacher's 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."[77]

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 reinscribe) the structures and practices that normalise and perpetuate gender inequity, and problematize and offer alternatives to dominant gender constructions.[78]

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[75] 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, 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, 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.

[76] 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.

[77] 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

[78] Palmer, Parker. J (1998) *The Courage to Teach. Exploring the inner landscape of a teacher's life*, San Francisco: Jossey-Bass, Howard, T.C. (2003). *Culturally Relevant Pedagogy: Ingredients for Critical Teacher Reflection*. Theory Into Practice, 42(3), 195-202.

The Council of Australian Governments must:

- Expand respectful relationships programs within an accredited framework 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.

Media Standards

AWAVA recognises 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 recognised 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."[79]

AWAVA also recognises the benefits of the Eliminating Violence against Women Media Awards (EVA's), which have been run in Victoria by Domestic Violence Victoria, No To Violence and the Centre against Sexual Assault Forum since 2008. The EVAs have made strong inroads into improved reporting on the topic of violence against women. AWAVA also supports Our Watch's work to develop a national framework to engage the media in the prevention of violence against women and to expand the EVA's to the national level. This was launched recently and will be administered in conjunction with the Walkley Foundation.

We thank the Victorian Royal Commission Panel for hearing our recommendations and we are happy to provide additional follow up verbal advice if required.

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[79] Domestic Violence Victoria et al (2014) *Submissions to inform the development of the Second Action Plan under the National Plan to Reduce Violence against Women and their Children 2010-22*, p. 4. Available at http://www.fclc.org.au/lrs.php#Family Violence