



Submission to the Senate Standing
Committees on Finance and Public
Administration

Domestic Violence in Australia

Central Australian Women's Legal Service

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About CAWLS

The Central Australian Women's Legal Service (CAWLS) is a not for profit organisation funded by the Commonwealth Attorney-General's Department and the Northern Territory Government. CAWLS provides free legal advice and assistance to all Central Australian women in the areas of domestic and family violence, family Law and children, family Law and property, discrimination, victims of crime, child protection and housing. CAWLS is based in Alice Springs, in the Northern Territory, and services women across the Barkly Region.

Foreword

For the purposes of this submission, we have used the terms 'domestic and family violence' and 'domestic violence' interchangeably, but draw upon the definition of 'domestic violence' as defined in the *Domestic and Family Violence Act 2007* (NT),¹ acknowledging the references to family relationships under this Act.

Submission

The prevalence and impact of domestic violence in Australia

Domestic violence in Australia continues to be a widespread and prevalent issue, affecting the stability and health of families and communities around the country. And while domestic and family violence affects men, women and children, data shows that it is women who are overwhelmingly subjected to domestic violence as victims.²

Given the fact that most incidents of domestic violence and sexual assault against women go unreported³ it is difficult to determine the true extent of domestic violence against women. However, research indicates that since the age of 15, around 34% of women in Australia will have experienced physical violence, and about 19% will have experienced sexual violence.⁴ Whilst domestic violence affects women from all socioeconomic and cultural backgrounds, some groups of women experience domestic and/or family violence at higher rates, or face increased vulnerabilities in terms of protection from domestic violence or barriers in accessing assistance.

¹ *Domestic and Family Violence Act 2007* (NT), s9.

² Anna Ferrante et. al, Crime Research Centre, University of Western Australia, *Measuring the extent of domestic violence* (Hawkins Press, 1996) 104.

³ Janet Phillips and Malcolm Park, *Measuring domestic violence and sexual assault against women: a review of the literature and statistics* (Parliamentary E-brief, December 2006), available at: http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/archive/ViolenceAgainstWomen. See also Australian Women Against Violence Alliance (AWAVA), submission no 62, to the Senates Standing Committees on Finance and Public Administration, *Domestic Violence in Australia*, 31 July 2014, 8: AWAVA estimates 90% of domestic violence cases in Australia go unreported.

⁴ Australian Bureau of Statistics *Personal Safety Survey, 2012*, available at: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4906.0Chapter2002012>.

Particular groups that face an increased risk of domestic violence, and are more susceptible to intersectional discrimination and disadvantage, include: Aboriginal and Torres Strait Islander women; women living with a disability; women in prison; women living in rural or remote areas; people from lesbian, gay, bisexual, trans, intersex and queer communities; women from culturally and linguistically diverse communities; young women; and mature age women. We have addressed the prevalence and impact of domestic violence on several of these identified groups in our submission below, namely: women living with a disability; Aboriginal and Torres Strait Islander women; women from culturally and linguistically diverse (CALD) backgrounds; and people from lesbian, gay, bisexual, transgender, intersex and queer (hereafter LGBTIQ) communities.

Domestic violence in a Central Australian context

Domestic violence is a core area for CAWLS casework, community legal education and advocacy. CAWLS is based in Alice Springs, in the Northern Territory, and provides service coverage to the Central Australian region (spanning 546,046 square km) and the Barkly Tablelands (an area of 283,648 square km). Given the enormity of these regions CAWLS visits Tennant Creek and Ti Tree community on a regular basis to maximise our service reach. Tennant Creek is host to the highest rate of domestic violence in the Northern Territory in relation to annual assault offences that occur in a domestic violence context.⁵ Domestic violence was present in 74% of assaults in Tennant Creek in 2011-12, and in Alice Springs, domestic violence was associated with 57.8% of assault offences.⁶

High rates of domestic violence in Central Australia creates an ongoing demand for the services provided by CAWLS with CAWLS providing support in domestic violence matters and associated housing, child protection, family Law and property issues. In Alice Springs between 1 July 2013 and 30 June 2014, there were 1,023 incidents of domestic violence related assault recorded by police.⁷ Domestic violence is a serious issue for our community with particularly high rates of domestic and family violence reported against women from Aboriginal and Torres Strait Islander backgrounds. Approximately 50% of CAWLS's client base identify as Aboriginal.

Alcohol related assaults also occur at high rates in Alice Springs, with 1,204 alcohol related assault offences recorded between July 2013 and end June 2014.⁸ There is significant overlap between domestic violence assaults where alcohol is present as a factor. In an ABS Personal Safety Survey from 2005 it was found that 49% of women had experienced an assault in the preceding 12 months where the perpetrator was male, stated that alcohol or drugs had contributed to the most recent incident.⁹

While alcohol is not a sole cause of domestic violence, it can play a role in its occurrence and in the severity of violence inflicted. In addition, a large proportion of domestic violence homicides are also alcohol related, at a rate of 44% of all intimate partner homicides between 2000 and 2006.¹⁰ Sadly, CAWLS has lost three clients as a result of domestic violence homicide, where alcohol was a factor.

⁵ Between 2011-12 this rate was 10,128 offences per 100,000 people, 500% greater than the overall rate of offences in the Northern Territory.

⁶ Northern Territory Annual Crime Statistics, Issue 1: 2011-12, 57.

⁷ Northern Territory Police, Northern Territory Crime Statistics, Alice Springs (2013-2014), available at: <http://www.pfes.nt.gov.au/Police/Community-safety/Northern-Territory-crime-statistics/Alice-Springs.aspx>.

⁸ Ibid.

⁹ Australian Bureau of Statistics, *Personal Safety Survey, 2005 (reissue)* 29.

¹⁰ Above n9, 21.

The Northern Territory is host to the highest rates of domestic violence death per capita, and the need for a death review mechanism in the Territory is discussed further below.

Many clients who present at CAWLS for assistance as victims of domestic violence also experience overlapping legal issues, for example, assistance may be sought in respect of child protection, or as defendants in violence matters.

Women from Aboriginal and Torres Strait Islander backgrounds

Approximately 50% of CAWLS clients identify as Indigenous. Disturbingly, women from Aboriginal and Torres Strait Islander backgrounds are 45 times more likely to experience domestic violence¹¹ and 35 times more likely to be hospitalised as a result of domestic and family violence than non-Aboriginal and Torres Strait Islander women.¹²

In addition to the factors that contribute to the current levels of domestic violence against women in Australia generally, there are a range of particular social and historical factors that influence the high rates of violence against Aboriginal and Torres Strait Islander women. Ongoing institutionalised racism; a history of dispossession and repression; intergenerational trauma; the presence of lateral violence; social marginalisation; historic exclusion from the mainstream economy and institutions; geographic remoteness; statistically poorer health outcomes; language barriers; suspicion and distrust of government agencies are all factors¹³ that continue to impact upon Aboriginal and Torres Strait Islander communities and play a role in the high statistics of domestic violence for these communities.

Remoteness often comes with a lack of resources, information, and service provision; and many Aboriginal and Torres Strait Islander women struggle to access assistance with domestic and family violence for these reasons. Most women living remotely will also be living in a small community where there may be a perceived lack of anonymity and privacy with respect to seeking help. This is especially problematic if a woman is living in the community of the offender's family, or if his family are otherwise closely located. Fear of further violence and harassment as a result of reporting matters to police is a real and ongoing concern for many Aboriginal and Torres Strait Islander women. Further research and consultation is required to determine the support, information and services that are most effective in improving the safety of women who live remotely.

There is a clear need for a greater understanding of the complex nature of domestic violence in Aboriginal and Torres Strait Islander communities and for greater levels of engagement between policy-makers, front line service providers and women from these communities. The *Second Action Plan 2013-2016* (the Second Action Plan), as part of the *National Plan to Reduce Violence Against Women and their Children 2010-2022* (the National Plan), itself states:¹⁴

¹¹ Jane Mulroney, 'Australian Statistics on Domestic Violence' (Australian Domestic & Family Violence Clearinghouse topic paper, 2003) 10.

¹² Fadwa Al-Yaman, Mieke Van Doeland and Michelle Wallis, 'Family violence among Aboriginal and Torres Strait Islander peoples', (Research Paper AIHW cat. No. IHW 17, Australian Institute of Health and Welfare Canberra, 2006) 71.

¹³ Above n12.

¹⁴ Commonwealth, *The Second Action Plan 2013-2016 of the National Plan to Reduce Violence Against Women and their Children 2010-2022* (2014) 23.

Given that Indigenous women and their children experience alarmingly high levels of violence, and can face unique difficulties in accessing information and support, it is critical that Indigenous women have avenues for their voices to be heard at a local and national level.

In respect of working with Aboriginal and Torres Strait Islander women, there is a distinct need for both culturally specific services and ‘mainstream’ culturally appropriate services for women to access. Many Aboriginal and Torres Strait Islanders do not have access to, or a distinct demand for, a culturally specific service, and the expectation that all Aboriginal people prefer or should attend an ‘Aboriginal’ service can be prohibitive in encouraging the development of a racially-inclusive and culturally-aware environment within mainstream organisations. Additionally, it is important that women have some choice as to whether to access a mainstream or culturally specific organisation. Whereas some women may prefer the familiarity of culturally specific assistance, for others this may present concerns regarding conflicts of interest or confidentiality if employees are personally known to them. There may be a greater degree of perceived anonymity in accessing a mainstream service, which could be preferable to some women.

These services, both governmental and NGO, would also benefit from financial support to be able to provide accessible and translated information to Indigenous and Torres Strait Islander communities, as well as other culturally and linguistically diverse groups.

We strongly support the Second Action Plan’s statement that, ‘For Indigenous women, it is important [these] service responses are appropriate and responsive to community, family, cultural and locational contexts’.¹⁵ Further, it is vital that in formulating policy and programs directed to Aboriginal and Torres Strait Islander women, and to women of particular geographic communities or areas, the government harness the existing local knowledge and expertise of both community members and experienced practitioners who in the instance of some organisations in the Northern Territory, have been working inter-culturally for decades around these ongoing issues. In determining best policies, practice and community responses to domestic violence, a range of methodologies should be adopted including high level research such as that conducted by ANROWS, but also engagement with the knowledge held specific to local service providers and community members themselves.

Women who seek protection through a Domestic Violence Order may experience compromised effectiveness of that mechanism due to issues relating remoteness and the mobility of defendants. A Domestic Violence Order is not enforceable until served on a defendant, and it is not uncommon for service to take many months in Central Australia due to frequent movement between remote communities and larger community hubs. Additionally, ongoing attempts at service on a mobile defendant can be difficult due to limited police resources.

Women from culturally and linguistically diverse (CALD) backgrounds

CAWLS provides legal services to a significant number of women from CALD backgrounds.

In promoting policy initiatives and community responses directed to assisting women from culturally and linguistically diverse (CALD) backgrounds, it is important to emphasise the non-homogeneity of

¹⁵ Ibid 35.

these diverse communities and individuals. The tendency to adopt a 'one size fits all' approach to working with CALD communities has the potential to stereotype women from CALD backgrounds, and deprive them of an individually tailored response to suit their specific needs. Women from CALD backgrounds do not all have the same needs and face different challenges in accessing justice, seeking support or dealing with domestic violence in their lives.

Women from CALD backgrounds face an increased risk of physical and sexual violence, primarily due to a lack of support networks, their higher likelihood of experiencing socio-economic disadvantage, pressure from their cultural community, and a lack of knowledge about their rights before the law.¹⁶

In June, the Alice Springs Family Law Pathways Network coordinated a series of community forums for CALD community members and professionals in the social/legal service sector to discuss family law issues. Consultative community forums were held for members of any ethnic group to come together to speak about family law issues and better ways to assist CALD families, with two facilitated sessions offered to enable separate discussions for women and men. The professionals forum provided feedback from these community forums to the sector, and focused on working in a culturally responsive way with CALD families in Central Australia. The community forums gave CALD men and women space to discuss their experiences with the Australian family law system, and provided insight into the barriers to seeking family support or assistance before or after separation. Whilst domestic and family violence was not the intended focus of the forums, it became clear that for many families this was a pressing issue that would significantly compromise a woman's ability to engage with the family law system. Incidentally, discussions turned towards barriers that may impair CALD women from seeking help with family and domestic violence.¹⁷

Generally, CALD women who victims of domestic violence may experience particular intersecting disadvantage or vulnerabilities not limited to:

- **Language barriers** – many CALD women may face difficulty in knowing where to access assistance, or in communicating their issues. Many CALD women may not be aware of their right to an interpreter, and service providers also need greater education about the engagement of interpreters. The availability of interpreters continues to be an issue within the court system, particularly for less common languages and dialects. Furthermore, in small communities including Alice Springs, where there is a stark lack of interpreters of particular languages, conflicts can easily rise where an interpreter may be well known amongst a particular community or to one or both parties in a matter. Language barriers also play a role in the lack of knowledge that some CALD women have about Australian law and their rights within it, especially given the lack of resources for services and government departments to provide translated material.
- **Vulnerable migration status** – CALD women on temporary visas may face increased barriers to addressing domestic violence. Women on tourist, study, spousal or bridging visas may fear the consequences for their visa if they report domestic violence, or indeed the threat of being 'reported' to Immigration may be part of the abuse they are experiencing. Further,

¹⁶ Natalie Taylor and Judy Putt, 'Adult sexual violence in Indigenous and culturally and linguistically diverse communities in Australia' (2007) 345 *Trends and issues in Crime and Criminal Justice* 1.

¹⁷ The forum for professionals in the legal and social services sectors was held on 16 June 2014, at the Chifley Hotel, Alice Springs.

CALD women on these types of visas may be socially and geographically isolated from their friends and family, and not know where or who to turn to for support.

- **Cultural norms and implications of cultural practice** – At the recent Alice Springs CALD forums, several issues were raised by women in respect of the way their particular communities viewed or dealt domestic violence, and highlighted that a woman’s cultural circumstances may greatly influence her ability or desire to seek help or departure from a relationship of domestic violence. Some of the issues raised included pressure in some communities for women to stay with an abusive partner because of cultural and religious belief and the emphasis on the family unit; and the financial implications of separation, including return of monetary/property settlements as part of a dowry. In terms of cultural practice, CALD women may also find the environment of a women’s refuge/shelter challenging in terms of their access to appropriate food or opportunities to observe religious practice.¹⁸
- **A history of trauma, uncertainty or displacement** – Some CALD women, in particular those from refugee backgrounds, may have experienced a history of torture, trauma, homelessness, poor health, and family/social dislocation in their home country. This is likely to impact upon the ways in which they recognise domestic violence or seek assistance. Women who resettle in Australia may also have had negative or traumatic experiences with figures or institutions of authority, which may lead to a distrust or fear of police and the justice system. Negative past experiences may create uncertainty about acting on human rights or exercising freedom to access justice before the law.

Addressing domestic violence in CALD communities must be approached holistically, in ways that recognise the difficulty and sensitivity of the topic and are respectful of the different languages, customs and traditions of individual communities and families. Education and empowerment of broader cultural communities is also an important step to cultivating community ownership of the issue, and encourages communities to form their own initiatives and support mechanisms for victims of domestic violence.

At the Alice Springs CALD forums, a range of suggestions were canvassed in terms of how service providers could be better meeting the needs of CALD families in terms of information provision and service outreach. These included services tapping into other services or places where CALD communities already meet or engage, to deliver programs or information sessions. For example, building cross-sector partnerships between legal services and local multicultural resource centres could be a starting point for delivery of community legal education to a designated audience.

We strongly emphasise the need for specific consultation with individual cultural groups and communities and the increased education of service providers in working with people of CALD backgrounds generally.

¹⁸ Nicole Benkert and Marlene Levine, *Case studies of community initiatives addressing family violence in refugee and migrant communities: Final Report* (New Zealand Ministry of Women’s Affairs and Ministry of Social Development 2011).

Women living with a disability

Women living with a disability are more likely than other women to be subject to violence, abuse and sexual assault, including domestic violence.¹⁹ The violence is also likely to be more severe and prolonged.²⁰ There are a range of reasons as to why women with disabilities may be more vulnerable to domestic violence, including the possibility that their abuser may also be their carer. A woman who is being abused by a partner on whom she relies for physical or economic support, or housing, will face particular barriers to seeking help. Women may not know how or where to access information or assistance or be prevented from doing so by those who care for them.

Sadly, many women living with a disability have reported experiencing prejudice and discrimination in terms of reporting crime to police and a correlating fear of not being believed or taken seriously by police if they do so.²¹ Women with cognitive impairments or speech difficulties in particular may be viewed as 'unintelligent' or unable to speak for themselves, and a lack of education amongst police and service providers mean that women with a disability may not be supported to effectively communicate their circumstances.

It is clear that police, and other government and NGO service providers, require greater education and training in terms of supporting complainants who have a physical or intellectual disability. It is crucial that people with disabilities be involved in such initiatives to draw on the expertise of people for whom disability is a lived experience.²²

The damage of responding inappropriately to a complaint of violence of abuse cannot be underestimated and impacts on a victim's psychological and physical safety, by increasing the likelihood that further violence will be perpetrated against the victim, and reducing the likelihood that the victim will report future violence.²³

There is also a clear lack of inclusive support services and programs currently available for women living with a disability who are experiencing domestic violence.²⁴ Women with disabilities face widespread discrimination and face higher rates of socioeconomic disadvantage and social isolation,²⁵ and service providers would benefit from increasing their awareness about the particular risk factors and potential vulnerabilities of women living with a disability who access their service as a victim of domestic violence.

¹⁹ Above n14 at 25; C. Jennings, 'Making Service Information Accessible', *Domestic Violence & Incest Resource Centre Newsletter* (2004) 18 – 20; Domestic Violence Resource Centre Victoria information sheet, *New research highlights greater incidence of violence against women with disabilities*, available at: <http://www.dvrcv.org.au/knowledge-centre/our-blog/new-research-highlights-greater-incidence-violence-against-women>.

²⁰ http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/domestic_violence_and_women_with_disabilities

²¹ Victorian Equal Opportunity and Human Rights Commission, *Beyond doubt: the experiences of people with disabilities reporting crime – Summary Report* (July 2014) 12.

²² Ibid.

²³ Office of the Public Advocate, Victoria, *Violence against people with cognitive impairments: Report from the Advocacy/Guardianship Program at the Office of the Public Advocate* (2010) 4.

²⁴ C. Jennings, above n19.

²⁵ Stop the Violence and Women with Disabilities Australia, 'National Symposium on Violence Against Women and Girls With Disabilities' (Discussion Paper, 2013) 9.

People from LGBTIQ communities

The prevalence of domestic violence amongst lesbian, gay, bisexual, transgender, intersex or queer (LGBTIQ) communities is an under-researched area, but, like domestic violence experienced in heterosexual relationships, takes a range of forms including physical, sexual, emotional or economic abuse.²⁶ In addition, domestic violence experienced by LGBTIQ people may include unique aspects of abuse, that perpetuates homophobia, hetero-sexism or gender-normative attitudes, for example, through threats to 'out' the victim's sexuality or gender without consent to their family, friends or work colleagues, or telling a victim the police will not take their complaint seriously because of their sexuality/gender. Furthermore, the separate (and often overlapping) LGBTIQ communities within a city or town may be relatively small, and victims of abuse may fear losing their social network or friends if they disclose domestic violence or pursue action against the perpetrator.²⁷

LGBTIQ people may face additional barriers in terms of accessing services that they view as available to them or as LGBTIQ-friendly. This is due in part to the lack of clearly identified LGBTIQ-friendly domestic violence services, as well as ongoing cultural assumptions or misconceptions about the prevalence of violence for people in sexually or gender diverse relationships.

The 'Another Closet' project identifies that LGBTIQ people may require specific support from services that demonstrate an understanding and accepting of the structures of LGBTIQ families and relationships, and an awareness of the barriers for LGBTIQ in accessing support:²⁸

Although women can access most general domestic violence services, like refuges, court assistance schemes, and counselling services, these services may have little experience in working with same sex domestic violence and therefore, may not offer the most appropriate service.

Education for service providers and the courts, as well as promotion of these as LGBTIQ-friendly institutions and services is vital to promote inclusivity and accessibility. Furthermore, we would advocate for the expansion and promotion of LGBTIQ specialist services,²⁹ as well as increased research into the prevalence and formations of domestic violence amongst these communities.

Furthermore, the National Plan would greatly benefit from the inclusion of this community under the Second Action Plan.

The factors contributing to the present levels of domestic violence

Domestic violence is intertwined with and cannot be viewed in isolation from the influence of broader social issues including but not limited to: homelessness and housing; access to justice; alcohol and other substance abuse; mental health; access to employment and economic opportunity; care of children and the importance of the family unit; racism; enforced performance of traditional gender roles; lateral violence; geographic isolation; and a deficiency in services to support victims of domestic violence. Whilst resources must be directed towards service responses to

²⁶ Carrie Chan, 'Domestic Violence in Gay and Lesbian Relationships' (Australian Domestic & Family Violence Clearinghouse topic paper, 2005) 2.

²⁷ Another Closet Project, *Unique Aspects of Same-Sex Domestic Violence*

<http://www.anothercloset.com.au/unique-aspects-of-same-sex-dom/>, accessed 19 August 2014.

²⁸ Another Closet Project at <http://www.anothercloset.com.au/information/> and *ibid*, accessed 19 August 2014.

²⁹ Such as the Inner City Legal Service's Safe Relationships Project, at http://www.iclc.org.au/srp/srp_ssr.html.

occurrences of domestic violence, consideration should also be given to the notion of justice reinvestment and the need to address underlying disadvantage and lack of opportunity that may increase the likelihood of domestic violence occurring in some communities.

In particular, we would like to make particular comment in regards to the issue of domestic violence and homelessness, given that domestic violence is the leading cause of homelessness in Australia.³⁰ Women who find themselves homeless as a result of domestic violence are then exposed to a further risk of physical or sexual violence whilst sleeping rough. For some women, the lack of available alternative accommodation may be a barrier to leaving a violent relationship. We note that housing issues are at crisis level for Aboriginal and Torres Strait Islander people in the Northern Territory, with a severe shortage of appropriate accommodation and long waiting lists for those who have applied. Many people living in Aboriginal communities experience severe overcrowding, and this can exacerbate tension and increase the risk of children being exposed to domestic violence. We also endorse the more detailed recommendations made in respect of housing by the Equal Rights Alliance in their submission to this Inquiry.³¹

The adequacy of policy and community responses to domestic violence

We welcome the establishment of national responses to domestic violence such as the National Plan and its associated Action Plans, as well as the related initiatives including the establishment of the Foundation to Prevent Violence Against Women and the Australian National Research Organisation for Women's Safety (ANROWS).

However, there is still a long way to go in terms of providing victims of domestic violence with adequate support and access to justice, and in terms of resourcing services that support victims of violence.

The Background Paper to Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children 2009-2021 by the National Council to Reduce Violence against Women and their Children found that 'all States and Territories have implemented, or are in the process of implementing, cross-departmental and inter-agency approaches to sexual assault and domestic and family violence, having recognised that single agency approaches to dealing with these issues are ineffective'.³²

This recognition of the importance of collaborative cross-sector and inter-agency responses to domestic and family violence should be echoed in partnerships between State, Territory and Federal governments and the services sector, particularly in terms of policy design and implementation.

Further, the development of greater cross-jurisdictional procedures for domestic violence, including the drafting of national domestic violence legislation, would assist in creating a consistent and streamlined national legal response to domestic violence. The First National Action Plan *Building a*

³⁰ Department of Social Services, *Women, Domestic and Family Violence and Homelessness: A Synthesis Report* (Flinders University 2008) 1.

³¹ Equal Rights Alliance, submission no 59 to the Senates Standing Committees on Finance and Public Administration, *Domestic Violence in Australia*, 31 July 2014, at 3 onwards.

³² The National Council to Reduce Violence Against Women and their Children, *Background Paper to Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children 2009-2021* (2009) 6.

Strong Foundation 2010-2013 included a commitment to considering the plethora of recommendations made in the Australian Law Reform Commission's (ALRC) 2010 report, *Family Violence - A National Legal Response*. These recommendations focused on reform to family violence and child protection measures including a national framework for domestic violence orders. This would alleviate some of the difficulties already canvassed regarding cross-border registration of domestic violence orders. Some of the recommendations of this Report have been adopted, and others are in the process of being actioned, such as the 'mutual recognition scheme' for domestic violence orders, which is in the early stages of implementation.

However, the overwhelming majority of these recommendations have not yet been implemented, and the Second Action Plan has not referenced either of the ALRC reports (name other report). Given the substantial work that went into these reports, it would be a logical step for the Government to reconsider these important recommendations in determining pathways forward for adopting new policy in respect of domestic violence.

More developed systems of cross-sector and cross-agency engagement and collaboration would undoubtedly improve the adequacy of policy and community responses to domestic violence, especially if this can be extended across jurisdictions. Women and families experiencing domestic violence may call on a range of specialist services, both NGO and Governmental. With the client's consent, increased interaction and communication between these services could enhance the overall systemic response offered, and provide an overview that would clarify gaps that need to be addressed.

Consultation and engagement from all levels of government with broader civil society is fundamental for not only gaining insight into appropriate policy implementation and community responses to domestic violence, but also to ascertain the effectiveness of existing initiatives and room for improvement. The Second Action Plan acknowledges the importance of 'a collaborative effort from governments, the community sector, business and the broader community'³³ in pursuit of the National Plan's objectives. There need to be clear structures and forums in place for this to occur and progress in a meaningful way. The consultative methods proposed by the Second Action Plan are welcomed, however, more extensive forums for engagement with broader society including groups most vulnerable to domestic and family violence, and those who service them at the frontline, must be considered.

In respect of specific legislative, policy and community responses, CAWLS wishes to highlight and endorse the reforms proposed by the submission to this Inquiry made by the Women's Legal Services Australia (WLSA) in conjunction with the National Association of Community Legal Centres (NACLC).³⁴ In addition we make the following comments.

³³ Above n14, 47.

³⁴ National Association of Community Legal Centres and Women's Legal Services Australia, submission no 26 to the Senates Standing Committees on Finance and Public Administration, *Domestic Violence in Australia*, 31 July 2014, 10-17.

Domestic violence death reviews

We particularly emphasise the need for a national prevention strategy for domestic violence homicides.³⁵ As part of this, we continue to advocate for robust domestic violence death review mechanisms in every State and Territory.

Domestic violence related fatalities are a gendered phenomenon, with women again disproportionately assuming this impact. Although women comprise only 41% of the total number of homicide victims in Australia, they make up the majority of *domestic* homicide victims, at around 60%.³⁶ In addition 78% of victims of domestic homicide are women killed by an intimate partner.³⁷ Disturbingly, Aboriginal and Torres Strait Islander women face an even higher risk of domestic homicide, representing 73% of all Aboriginal and Torres Strait Islander domestic homicides in the recorded period.³⁸

The Northern Territory is host to the highest rates of homicide per capita, at 8.2 homicides per 100,000 people, compared to the national average of 1.2 per 100,000.³⁹ In the Northern Territory approximately 61% of homicides occur in a domestic context,⁴⁰ meaning that women in the NT face higher risk of injury or death as a result of domestic violence than women in any other State or Territory. However, the Northern Territory is one of the last few jurisdictions in Australia to remain without a review mechanism for domestic violence homicides.⁴¹

As the *Second Action Plan* aptly states:⁴²

Domestic homicide reviews identify the sequence of events leading to domestic violence related deaths. The learnings from these reviews can be used to identify possible gaps in system responses to develop more effective interventions.

We strongly recommend that domestic homicide death review mechanisms in *every* State and Territory be robustly funded and supported to work collaboratively and cross-jurisdictionally. A strong network of well-resourced review structures will encourage the identification of system issues, and the formulation of solutions to address gaps in or barriers to effective service responses to domestic violence in the future.

Need for greater collaboration across the courts

Victims of domestic violence seeking redress through the justice system may face the challenge of being involved in multiple court proceedings. Domestic violence takes many forms beyond physical violence, and victims may seek protection for themselves and their children through a range of judicial forums. For example, a victim may be appearing as a witness in an assault matter where they

³⁵ Above n34, 15.

³⁶ Domestic homicides are defined as being incidents “involving the death of a family member or other person from a domestic relationship”. See Marie Virueda and Jason Pain *Homicide in Australia: 2007-2008 National Homicide Monitoring Program Annual Report*, (Australian Institute of Criminology, Canberra, 2010) 19.

³⁷ Ibid.

³⁸ Above n36, 22.

³⁹ No other State or Territory had a rate higher than 1.4 per 100,000. Above n36, 7.

⁴⁰ Ibid.

⁴¹ Domestic violence homicide review mechanisms exist in Victoria, Queensland, New South Wales and Western Australia.

⁴² Above n14, 36.

have been the victim of a physical act of violence by their ex-partner, and concurrently be pursuing custody orders or a property settlement through Family Court proceedings.

Enduring multiple and often lengthy court proceedings can be an incredibly financially and emotionally exhausting experience for victims of domestic violence. Victims also face the prospect of re-traumatisation through court proceedings, for example, when a defendant self-represents in contesting a domestic violence order, or through Family Court proceedings, where the presence of domestic violence in the relationship may not be made explicit, or where the dynamics of power and control are inadvertently allowed to continue to play out. We also again highlight the lack of protections available to vulnerable witnesses in family law proceedings, as discussed in the WLSA/NACLC submission to this Inquiry.⁴³

Mandatory reporting requirements in the Northern Territory mean that many mothers experiencing domestic violence come into contact with the child protection system. Whilst the best interests of the child are paramount to a court's determination of any care and protection proceedings, it is essential that awareness is raised amongst all involved agencies to avoid a punitive approach being taken towards women who have already been victimised through their experiences of family violence.

In addition, there is a clear dearth of free or low cost legal assistance in family law property settlement matters for vulnerable women who have experienced domestic and family violence, particularly where their matter involves debt or complex property pools.

The *Second Action Plan* has highlighted the complexity of multiple concurrent court processes, within or even across jurisdictions, and the impact it can have on victims, and we welcome any efforts to improve collaboration across Australian courts. We also applaud the commitment of government to pursuing means of improving information-sharing processes between courts.⁴⁴

Importance of a national domestic violence protection orders scheme

The need for a national domestic violence protection orders scheme has already been recognised by the COAG Council on Law, Crime and Community Safety.⁴⁵ The development and implementation for the mutual recognition of domestic violence orders across Australia should be prioritised. At present, women may face severe risk when moving between jurisdictions, especially at a time of separation from a violent partner. This issue is particularly pertinent in Central Australia, where a relatively transient population frequently cross through the jurisdictions of the Northern Territory, Western Australia and South Australia. In particular, members of remote Indigenous communities will often cross these borders when accessing regional hubs such as Alice Springs. Although cross-border legislation⁴⁶ and the Cross-Border Justice Scheme⁴⁷ are steps towards facilitating effective cross-jurisdictional law enforcement, issues in implementation remain. There is a need for further

⁴³ Above n34, 14.

⁴⁴ Above n14.

⁴⁵ As discussed in the Second Action Plan, above n14.

⁴⁶ *Cross-Border Justice Act 2009* (NT).

⁴⁷ Attorney-General's Department (South Australia), Northern Territory Government, Government of Western Australia, *Beyond the Border is Not Beyond the Law: The Cross-border Justice Scheme* at: <http://www.nt.gov.au/justice/crossborder/documents/Cross-Border-Justice-Scheme-FAQ.pdf>, accessed 20 August 2014.

training of police, courts and legal services in these jurisdictions to better understand the implication and operation of relevant cross-border legislation.

A national recognition scheme for domestic violence protection orders would support pre-existing cross-border legislation, and more importantly, will provide additional protections for victims of domestic violence who move between jurisdictions.

Perpetrator interventions

Our service emphasises the need for ongoing, consistent and robust funding for the provision of perpetrator interventions at a range of levels including in terms of primary prevention, and at crisis point. Increased awareness of and support for perpetrator interventions is essential to not only assist individual perpetrators in addressing their behaviour, but in helping to shift the broader pressure of responsibility on a victim to ensure his/her own safety at all times.

Perpetrator interventions in Australia are still relatively underdeveloped and there is a need for greater research in this area. They are a vital in changing perceptions around the responsibility and accountability for domestic and family violence, and have the potential to over time, contribute to changing societal attitudes about gender roles and power dynamics between men and women. Working with offenders of violence requires a holistic approach and a cognisance of the impacts of intergenerational trauma, lateral violence and a pre-existing lack of programs and support for violent offenders. Initiatives in this area should be strengthened through consistent funding.

The need for robust and consistent funding for specialist women's legal services (and their importance)

CAWLS wishes to emphasise the importance of specialist women's legal services, including Aboriginal and Torres Strait Islander women's legal services, and their role in supporting victims of domestic violence and their families. We strongly support the statements made in favour of specialist women's services by the WLSA/NALCLC in their submission to this inquiry, namely:⁴⁸

[Specialist women's legal 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. They provide a safe space for women and children and strongly support holding perpetrators to account. They also recognise the intersecting and compounding forms of disadvantage that women face for example, due to their sex; gender identity, sexual orientation or intersex status; race; disability; age; and/or social and/or economic disadvantage which can significantly limit women's 'full enjoyment of citizenship, including access to justice.

We strongly advocate for the robust and consistent funding of specialist women's legal services as a means of continuing to address the high (and gendered) rates of domestic violence in Australia, and providing holistic support to victims.

Education and awareness in addressing norms, values and attitudes

Increased public awareness about the prevalence and impact of domestic violence in Australia is vital in addressing broader cultural ideas about domestic violence. Family violence is an issue that

⁴⁸ Above n34, 11.

must be owned by the whole community – including both men and women from all cultural backgrounds. Responsibility for ending family violence must not be placed on victims themselves.

CAWLS supports early intervention programs including the NAPCAN *Respectful Relationships* and *Love Bites* programs as a means of educating young people about their rights and responsibilities in relationships. We also support increased public advocacy and awareness campaigns including the *Where's the Line* and *Project Respect* campaigns and the media's increasing interest in responsibly promoting awareness of domestic violence. We do however also support the development of guidelines for both media and organisations in how to advocate around issues of domestic violence in a sensitive and respectful way.

Greater legislative protections against increasing instances of domestic violence via technology

Increasingly we are seeing the online environment being circumvented by perpetrators of domestic violence to abuse, humiliate, isolate and control victims. Existing legislative provisions in the Northern Territory provide protection against some forms of domestic violence via technology, such as stalking and harassment via text message and email. However, there are limited options for redress for victims of 'revenge porn' or other calculated, malicious breaches of privacy through technology in the context of domestic violence. In the Northern Territory criminal law does not facilitate clear options for the prosecution of such offences, which creates difficulty in addressing these forms of abuse, leaving offenders largely unaccountable for such behaviour and failing to acknowledge the extent of harm experienced by victims. It is essential that specific criminal offences are created to prohibit these forms of abuse. This would raise awareness within the community as to the damage of such behaviour, and encourage better service responses to reports of domestic violence through technology.

A number of services raised this issue as part of the Australian Law Reform Commission's recent Inquiry into Serious Invasions of Privacy in the Digital Era. CAWLS particularly endorses the recommendations contained in the joint submission made to this Inquiry by the Domestic Violence Legal Service and North Australian Aboriginal Justice Agency (NAAJA).⁴⁹

Review of mandatory reporting laws and their effectiveness in the NT

All adults in the Northern Territory are responsible for adhering to mandatory reporting laws⁵⁰ in terms of domestic violence. CAWLS encourages a thorough, independent review of this legislation to assess its impact on reporting culture for, and in turn, incidents of, domestic violence in the Northern Territory.

Conclusion

Domestic and family violence remains a serious issue for women, men, children and families across Australia. It is a complex and challenging area that requires further research, as well as service provision. The especially high rates of domestic violence in the Northern Territory are of significant concern to our service and we highlight the need for greater collaboration between government and the service sector in developing initiatives to address this issue.

⁴⁹ Domestic Violence Legal Service and North Australian Aboriginal Justice Agency, submission no 120 to the Australian Law Reform Commission, *Serious Invasions of Privacy in the Digital Era*, May 2014.

⁵⁰ Section 124A of the *Domestic and Family Act 2007* (NT)