



# WHAT'S IN A NAME?

---

DEFINITIONS AND DOMESTIC VIOLENCE

*Domestic violence?*

*Family violence?*

*Violence Against Women?*

DISCUSSION PAPER NO.1 1998

Domestic Violence and Incest Resource Centre, Melbourne

## Contents

<b>Background</b>	<b>2</b>
<b>Classifying Violence</b>	<b>6</b>
Domestic Violence	9
Family Violence	12
Violence Against Women	14
<b>Legally Bound: Defining Domestic Violence in Law</b>	<b>17</b>
Federal Law	19
Victorian Law	20
Towards a Model Criminal Code	24
<b>Sub-categories of Violence</b>	<b>26</b>
Physical Violence	28
Sexual Violence	29
Emotional, Psychological and/or Verbal Abuse	30
Economic/Financial Abuse	31
Social Abuse	32
Spiritual Abuse	32
Child Abuse	33
<b>Conclusion</b>	<b>35</b>
<b>Bibliography</b>	<b>37</b>

## Background

Defining 'domestic violence' is a tricky business. We are surrounded by terms that seek to definitively name the violence that takes place within the private sphere, and there can be confusion about what each term includes and excludes, what it means. Yet many writers – of everything from research articles and books to service pamphlets – assume that a commonly shared understanding of the terms exists. Very few address what is perhaps a more important issue: the power that is involved in acts of naming, and the need for any preferred term to be critically analysed, rather than simply accepted as reflecting some particular 'truth'. Each name has a history that is ongoing, and often contentious.

A 1995 survey of community attitudes towards physical and sexual violence in Australia revealed the dynamic nature of meaning-making. It compared attitudes to these forms of violence in 1988 and again in 1995, and found that over the seven intervening years many more people had come to see that 'domestic violence' included a broad range of behaviours, extending beyond physical violence.<sup>1</sup> Community definitions of child abuse are also changing, as the line shifts between what is labelled 'discipline' (and is seen therefore as a legitimate form of violence) and what is labelled 'child abuse'.<sup>2</sup> However this is always a contested process – wars are fought over words. Some see the corporal punishment of children as a part of 'parenting' rather than 'violence'; and remnants remain of the old idea that within marriage husbands have the right to discipline their wives as well as their children. When that happens, the violence is being seen as part of 'marriage', rather than 'violence'.<sup>3</sup>

In multicultural countries in particular meanings will not always be shared. For example, the 1995 survey found that while some groups (mainly younger people and those with higher educational qualifications) readily saw certain scenarios as comprising domestic violence, others were less likely to do so (notably older people and those from lower socioeconomic groups and from non-English speaking backgrounds). Research into attitudes towards the physical disciplining of children has also revealed that community groups hold different views. For example, within the broad category comprising Cambodian, Chinese, Laotian and Vietnamese people, it has

1 The Office of the Status of Women funded both community attitude surveys, which are not directly comparable.

2 Interestingly, violence towards children (and elderly people) is often termed 'abuse' rather than 'violence'. There is a subtle difference between the two. 'Abuse' carries a connotation of a dereliction of duty: it means 'to use incorrectly or improperly; misuse; to maltreat, esp. physically or sexually'. 'Violence' does not contain the sense of misuse and is more clear-cut. It means the 'exercise or an instance of physical force, usually effecting or intended to effect injuries, destruction, etc.' (Collins English Dictionary, Australian edition, 1991). In this paper I have used the terms most common in the literature being discussed. Thus domestic and family *violence*, *violence* towards women, yet child *abuse*, and in the sub-categories, physical and sexual *violence* but emotional, economic, social etc. *abuse*.

3 When the corporal punishment of children was being debated in 1993, Professor Duncan Chappell, Director of the Australian Institute of Criminology, called for a nation-wide 'anti-spanking' law. An *Age* editorial disagreed: 'There is no reason to outlaw the calm, considered smack of the thoughtful parent' (*Echo Digest* June 5-11, 1993).

been found that while 85 per cent of respondents in one research project rejected the legitimacy of physical force towards a female partner, only 34 per cent disapproved of the physical disciplining of children. In Latin American communities the figures were 89 and 50 per cent respectively.<sup>4</sup> In addition, a recent report on child abuse in Torres Strait Islander communities noted a conflict between western definitions of child abuse and those that may apply in traditional Torres Strait Islander communities, in which:

*[P]hysical abuse, defined in western society today as child abuse, is regarded by traditional Torres Strait islander society and indeed by western society a few years back, as a "spare the rod and spoil the child" view of discipline. Traditional discipline by means of physical punishment could range from spanking to what would now be considered excessive beating.*<sup>5</sup>

The partner document for Aboriginal communities states that '[A]ny interpretation of child abuse and neglect must be sensitive to the cultural practices of the community'.<sup>6</sup>

There is certainly a need to take cultural perspectives into account. We do so all the time, after all, when the culture being taken into account is our own, without noticing that that is what we are doing. However there may be hard issues to be faced when cultures differ in their definitions of what is and what is not violence. We need to acknowledge that mainstream Australian culture can be far from perfect where child-rearing practices are concerned. Gaps exist between ideals and practices, both in the past and the present. The same historical complexities operate in cultures other than our own. Yet we do need to avoid 'a stance of extreme cultural relevance, in which all judgements of human treatment of children are suspended in the name of cultural sensitivity'.<sup>7</sup>

There are many reasons why we should be grappling with the issue of definitions. Firstly, when we read texts that claim to provide a measure of domestic violence we need to understand exactly what it is that the relevant research measured. In the interests of accuracy and clarity, we need to understand what is included and what is excluded from the statistics upon which interpretative statements are based. A recent survey of domestic violence prevalence studies found that estimates of partner

4 Seitz and Kaufman 1993: 52; Kaufman and Seitz 1994: 60-62

5 *Proposed Plan of Action for the Prevention of Child Abuse and Neglect in Torres Strait Islander Communities*, 1996: 5

6 *Proposed Plan of Action for the Prevention of Child Abuse and Neglect in Aboriginal Communities*, 1996: 5

7 Korbin, cited in Goddard 1996: 30-31

abuse in Australia 'varied from 2.1 per cent to 28.0 per cent, depending mainly on the definition of domestic violence used in each study'.<sup>8</sup> Similarly, estimates of incest vary from 1 per cent to 40 per cent, depending on the precise definition of the behaviour that is being measured.<sup>9</sup> The information that is collected depends upon the definition of violence they employ – and that varies. Without paying due attention to definitions we could, for example, easily assume that the 1996 survey carried out by the Australian Bureau of Statistics revealed that 7.1 per cent of Australian women who had experienced physical violence in the previous year were physically attacked. But the survey defined 'physical violence' to include those times when a woman was physically attacked as well as those times when she felt that she was going to be physically attacked.<sup>10</sup>

Secondly, when we understand that definitions are debated and change over time, we can critically evaluate those that underpin any particular piece of work. If we feel they are inadequate then we can argue our point from an informed base. We can see definitions as the work-in-progress that they always are.

Thirdly, understanding that definitions are formed and reformed through a process of inclusion and exclusion reveals that power is in play in the act of naming. One particularly contentious contemporary issue is the degree to which any given definition is universally applicable. For example, there is a fight over the naming (and practice) of 'female circumcision' or 'female genital mutilation'.<sup>11</sup> This practice could be seen to fall within the definition of 'child abuse' that operates in Victoria; but for some it is a legitimate culturally based practice – part of child-rearing, not 'child abuse' at all. The meaning is not universally valid. Of course power is involved on both sides of the argument. Who defines, for an entire culture, what is and is not 'appropriate' in that culture? The circumcision/mutilation debate is an area of great difficulty. While on a theoretical level many of us are comfortable cultural relativists, when it comes to a bodily practice that causes suffering to someone who, due to her age amongst other factors, is given no choice but to submit in the cause of 'culture', we may find ourselves retreating, *albeit* uncomfortably, to a universalist position.<sup>12</sup> Adults make definitions, and therefore meanings, on children's behalf. It has been argued that we need to understand the intention or cultural meaning behind practices.<sup>13</sup>

<sup>8</sup> Hegarty and Roberts 1998: 49; see also Ferrante *et al* 1996: 1

<sup>9</sup> O'Sullivan 1991: 4

<sup>10</sup> The Australian Bureau of Statistics survey based its definition of violence on actions that could be considered offences under State criminal law. The word 'could' is significant.

<sup>11</sup> For a fuller discussion, see also Model Criminal Code 1996a.

<sup>12</sup> It should be noted that the label 'female circumcision' comprises a great variety of practices, not all of which are equally invasive to the person upon whom they are performed. See Family Law Council 1994: 6-7.

<sup>13</sup> For a discussion, see Seitz and Kaufman 1993: 8.

I think it is possible to understand that intention and meaning exist while still condemning a practice.

Making a definition is essentially a boundary-making (and patrolling) exercise, as sub-sections are carved out of that amorphous whole, 'interpersonal violence'. The process is necessary, for there are differences between forms of interpersonal violence that may otherwise be inadequately understood. For example, interpersonal violence is largely a male-towards-male phenomenon, and if that is our focus of attention, then those forms of violence that are primarily enacted towards women may be seen as less important in the work to prevent violence.<sup>14</sup> But erecting boundaries is a difficult business, for in the process we may be so focused on what we have decided is the main issue that we lose sight of, or are perhaps afraid to notice, connections that will muddy the waters. Two examples will illustrate the point.

- Recently at DVIRC we received a telephone call from a woman who was being physically beaten by her 29 year old son. We telephoned a regional domestic violence service to link the woman in with a support worker, only to be told that the service was 'only funded for domestic violence', defined as violence by one partner towards another. By act of definition, this woman was denied the service she would have received had it been her partner who had beaten her.<sup>15</sup>

- In the quest to mark out a territory for 'Violence Against Women', which is often used as a shorthand term for domestic violence and sexual assault, the focus of the definition is on the gender (and age) of the victim. With this focus, other forms of domestic violence and sexual assault may be seen as some kind of subsidiary to the main game, or be placed outside the area of concern altogether, such as the violence to which children are subjected. Similarly, violence that is perpetrated by women can, through the focus of the definition, be sidelined.

There is a danger that we can position ourselves as some kind of boundary riders,<sup>16</sup> so busy policing the borders of our practice and its discourse that we refuse to follow connecting threads that run across the borders we have erected, and that make our definition tenuous.

Definitions of domestic violence are everywhere: in the law, in service documentation, in research projects, conference papers and books. The task is to retain an awareness that they

**14** A breakdown of violent crimes in Victoria between the years 1991 and 1996, undertaken by the Australian Institute of Criminology, reveals that males are the primary offenders. The figures are (a) for homicide, 111 males vs 15 females; (b) for serious assaults 5,726 males and 677 females; (c) for common assaults 7,388 males and 1,350 females (Mukherjee *et al* 1997: 27).

**15** Services which have insufficient resources to work with every victim of domestic violence do, of course, need to find some way to ration what they can provide. In this case that was accomplished by using a very narrow definition of domestic violence.

**16** One 'whose job is to maintain fences in good repair and to prevent stock from straying' (Collins English Dictionary, Australian edition, 1991).

are socially constructed interpretations that may not be shared; that between definitions there are shady areas that should not be dismissed because they stray into territory with which we (as definers) are less comfortable; and that we need to be clear about what has been included and excluded from the definition we work with, and the reasoning behind that.

### Classifying Violence

According to the Australian version of the Collins English Dictionary, violence is:

*the exercise or an instance of physical force, usually effecting or intended to effect injuries, destruction, etc.; an unjust, unwarranted, or unlawful display of force, especially such as tends to overawe or intimidate.*

Violence is frequently interpersonal, but the term 'interpersonal violence' is so general that it provides no clear picture of the various forms that such violence can take. However it is disconcerting to find that once we have detached 'domestic violence' from interpersonal violence, a similar feeling of terminology-related vertigo can strike! We may begin from an understanding that it is about men beating their wives (as in 'wife battering') or that it is violence between 'intimate partners' (which could take into account same sex relationships).<sup>17</sup> However we will soon be feeling dissatisfied with this singular focus and find ourselves asking questions such as, is it domestic violence when:

- sexual acts are forced upon someone else within the family?
- an older person is treated badly by others living in her home?
- siblings are violent towards each other?
- a parent inflicts 'corporal punishment' on a child?

For all of these forms of violence also take place within the domestic sphere. Such questions lead us to wonder about the shadier areas encompassed by the term 'discipline'. Speaking of child abuse, Jocelyne Scutt goes to the crux of the matter:

*Asking "when does hitting become abuse" highlights the central problem: as a society we accept a need for disciplining children by corporal*

<sup>17</sup> Such terminology also requires a definition – what is an 'intimate' relationship? Many assume that it is based upon a sexual relationship, however relationships can be intimate without being sexual, as in 'intimate friends' etc.

*punishment. In condoning child abuse in some of its forms, sometimes even requiring it, society faces insurmountable problems of definition: when does punishment become abuse? when does a parent overstep the boundaries of obedience training and become criminal in intent? how much abuse justifies removal of a child from a parent, or requires society to remove the parent from the child, by imprisonment?*<sup>18</sup>

As we extend our thinking about the various forms that violence can take in the family, we are straying further into a landscape that has not been adequately mapped in the literature, and about which there are unlikely to be shared meanings (and a shared sense of outrage) that can provide us with signposts. This can be illustrated by a short excursion into how definitions work in research projects.

Definitions operate on a range of levels – in the sphere of the law, in service documentation, and in the research reports that seek to increase our knowledge about domestic forms of violence. Within each setting they include and exclude what is 'relevant' to their purview. Most researchers and service providers work from a social, rather than a legal definition of domestic violence. This may be a narrow definition, as when the work concentrates only on the incidence of physical assault, or on violence against women; or it may be a broad one, as when various forms of violence, in addition to the threat of such violence, in 'emotionally intimate' relationships, past and present, is studied.<sup>19</sup>

Usually researchers go into the field armed with a preferred definition of domestic violence, then ask research participants for their views on, or experiences of, that form of violence. They do not generally seek from participants their own understanding of the violence.<sup>20</sup> In other words, the meaning of the subject matter is imposed upon those who participate in the research. This is understandable, for it is always necessary to define the parameters of your task, and tempting to assert exactly where it is that domestic violence begins and ends. However it means that an understanding that 'domestic violence' is a phenomenon that is constantly being socially created in language, and that its meaning may not be one that is shared between researchers and participants, rarely informs the work.

Indeed, some research reports pay scant attention to definitions at all, as if the words used need little explanation or reflective analysis. A reader can find herself halfway through a text before its definitions and therefore limitations are

<sup>18</sup> Scutt 1983: 38-9

<sup>19</sup> E.g. Roberts *et al* 1993

<sup>20</sup> For exceptions see Bailey 1998, Bavin-Mizzi 1995, Bates *et al* 1995, and Office of the Status of Women 1995.