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
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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.\(^1\) 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’.\(^2\) 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’.\(^3\)

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 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).
\(^3\) 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. 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:

"Physical 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."

The partner document for Aboriginal communities states that "Any interpretation of child abuse and neglect must be sensitive to the cultural practices of the community".

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'.

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

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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'.

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. 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.

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'. 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. 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.

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8 Hegarty and Roberts 1998: 49; see also Ferrante et al 1996: 1
9 O'Sullivan 1991: 4
10 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. A fuller discussion, see also Model Criminal Code 1996a.
11 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.
12 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. 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.

- 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, 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
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). 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, Jocelynne 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

17 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? 18

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. 19

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. 20 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
explained. For example, the seminal 1985 report *Criminal Assault in the Home* did not address definitional issues until pages 82-83 (although the very title of this report would, at that time, have been so unnerving to many that they must have wondered about what, exactly, the book would be addressing). Similarly, a recent national study of law reform pertaining to sexual assault did not broach definitions until page 58; and an evaluation of Victoria’s *Crimes (Rape) Act 1991* did not address the issue of definitions until page 67.21 This late discussion of definitions is especially a problem when it comes after the (tirosomely obligatory) ‘Executive Summary’22 or ‘Overview of Findings’ that often begins such texts – and may be the only part of them that is thoroughly read.

In summary, the umbrella terms we use are important because they guide the extent to which we are encouraged to think about such issues. Some that have been suggested, over time, as best naming the violence that we understand to be domestic in nature are:

- Wife battering
- Criminal assault in the home
- Violence in the home
- Intimate violence
- Domestic violence
- Family violence
- Violence Against Women.23

When women gradually began to speak ‘out’ about what was happening to them, facilitated by the women’s movement in western societies,

> ... there was no specific term that identified the emergent issue; “wife-beating”, “wife abuse”, “battered women”, and “battered wives” were used interchangeably, and apparently unproblematically, to name, make visible, and assert the need for action.24

Each of these terms has a history. This Paper will concentrate on the last three, which are most commonly used to name domestic violence in Australia. It will then move on to a brief discussion of the sub-categories of the violence that are encapsulated by the umbrella terms.

22 Now there’s a term awaiting some critical analysis!
23 Note the use of capitalisation.
24 Walker 1990: 24
Domestic Violence

Domestic violence. It sounds like an oxymoron. Like military intelligence.\textsuperscript{25}

The concepts of 'domestic' and 'family' relate to the private sphere, which is often seen as a site into which the state steps only at its peril. This idea has contemporary resonance on many levels — in the saying that a 'man's home is his castle', the belief that the home is 'a haven in a heartless world', and even in the terminology of international relations, in which 'foreign' and 'domestic' policies are rigorously differentiated.

The home is a metaphor with tremendous power. To debate a government's right or responsibility to intervene in a private home is to raise some of the most explosive issues of our day: What is a nation? What is sovereignty? Under what circumstances must outsiders act?\textsuperscript{26}

The name 'domestic violence' can be used to trivialise the violence, placing it as a private matter that does not warrant outside intervention. The terminology has historically been associated with a dismissive attitude towards the seriousness of violence in the home. "It's only a domestic" is the phrase that has allowed too many women to be left unassisted in dangerous and demoralising circumstances.\textsuperscript{27}

The hearth and home evoked by the word 'domestic' is both a physical and a social setting. It should, therefore, be readily understood that the violence that takes place there could involve any of the relationships within the home, not just the relationship between a couple who are sexually intimate with each other. This understanding underpins the definition we use at DVIRC. We define domestic violence as:

\begin{quote}
violence [which] happens in the family. It includes any behaviour which causes damage to another person (the damage may be physical, sexual, emotional, financial) or which causes someone to live in fear. It includes damage to property and threats to damage a person, pets or property.\textsuperscript{28}
\end{quote}

\textsuperscript{25} Deltufo 1995: 6
\textsuperscript{26} Sharon Capeling-Alakiya, Director of the U.N. Development Fund for Women, cited by Charlesworth and Chinkin 1994: 15
\textsuperscript{27} Charlesworth and Chinkin 1994: 15
\textsuperscript{28}
However many definitions of domestic violence are much more narrow. Domestic violence is often seen as comprising only partner-to-partner violence. When the term is given this narrow meaning, other forms of violence that take place within a domestic setting – parent to child or adolescent, sibling to sibling, adolescent to parent – fall outside the name and may become invisible. Yet children

... are the victims of domestic violence in a number of ways. They may be physically, emotionally and/or sexually abused similarly to their mothers, and they may be murdered. They may be witnesses to the violence inflicted on their mothers, and caught up in trying to protect their mothers by running for help or lying when interrogated by their fathers about their mothers.

A narrow definition of domestic violence can make some violence in the home 'not count' as 'domestic violence'. Young people, for example, are unlikely to recognise their experience of violence in the family as 'domestic violence'. Of those young people escaping abuse and using Supported Accommodation Assistance Program (SAAP) services, only 9 per cent were escaping abuse by a partner, while 70 per cent were escaping abuse by a parent.

The narrow meaning has been rationalised in the literature. The authors of an early Victorian report that took as its focus 'criminal violence in the home' rejected a recommendation that 'domestic' should include anyone who had reason to fear violence from another, feeling that this inclusionary meaning would deter a focus on what made 'domestic violence' distinctive. Thus the final text argued against a legal definition of 'domestic violence' that would include children, on the rather spurious grounds that to include children 'may cut across the efforts of other bodies that are currently examining the issue of child welfare', and that a broader 'ambit' would 'dilute the capacity of violence between spouses to play an educative role' relating to domestic violence. Thus in their definition:

The victim of domestic violence ... is an individual who has suffered persistent or serious verbal, economic, social, sexual or physical abuse at the hands of her partner which has sustained emotional/ psychological effect.
Because the term domestic violence has been used so often to describe partner-to-partner violence, understood as being overwhelmingly male to female partner, there can be an assumption that it does not include violence towards males within domestic relationships.\textsuperscript{34} There are no Australian statistics that measure the incidence of violence towards adult males that has been perpetrated as a form of domestic violence. In such cases the perpetrator of the violence may be male or female. Nor is 'domestic' or 'family' violence necessarily seen as correctly naming violence that takes place between partners of the same sex, though they reside in domestic places and may be living as families. In fact, some legislation that deals with domestic violence defines a 'domestic relationship' to mean only a heterosexual relationship.\textsuperscript{35} In Australia, even the definition of 'de facto spouse' excludes same-sex couples, since it is given the meaning of 'a person who is living with a person of the opposite sex as if they were married although they are not'.\textsuperscript{36} Yet there is increasing recognition that violence in same sex relationships bears a profile that is similar to the violence that takes place in heterosexual relationships, which has to do with power and control.

'Domestic violence' can also structure a narrow view in another sense. The 'domestic' place with which it is primarily concerned is most likely to be understood as a family home. Yet for many people the home in which the violence takes place is an institutional setting (such as a nursing 'home', boarding house, or hospital). For example,

\begin{quote}
women with disabilities live in a variety of settings such as institutions, group homes, rented and privately owned dwellings in the community. They do not necessarily live in "intimate relationships"... with the people who may abuse them, such as family and non-family carers. [Yet] institutions are places in which women with disabilities are particularly vulnerable to abuse and neglect.\textsuperscript{37}
\end{quote}

Similarly, much of the 'dating violence' experienced by young women happens in public places like schools. The term domestic violence may therefore not be one to which people relate when they are experiencing violence in such non-domestic settings.

\textsuperscript{34} Most cases of family violence to which police are called in Victoria involve violence towards women, and women are overwhelmingly those who seek Intervention Orders for protection (Victorian Community Council Against Violence 1996: 2).
\textsuperscript{35} See, for example, the Northern Territory Domestic Violence Act, 1992
\textsuperscript{36} Equal Opportunity Commission Victoria 1997: 3
\textsuperscript{37} Queensland Women's Consultative Council, cited by Scerha 1996: 5
Family Violence

'Family violence' is the term preferred by most government departments in Victoria, and is the language of current Federal law. In its favour, this term clearly broadens the focus of concern to include violence between family members, such as sibling violence or cross-generational violence, as in the following definition:

[family violence occurs between people who are known to each other by way of familial or other domestic relationships, past or present. It includes abuse of parents, siblings and other relatives, but predominantly involves violence against sexual partners and the abuse of children.]

Indeed, one of the main arguments in favour of this term relates to the need to include all forms of violence towards children within the definition of violence that takes place within the private sphere. Reasons for the inclusion of child abuse as a form of family violence, rather than naming it as a separate phenomenon, include that:

- Where violence and the threat of violence are features of family life, both adults and children are likely to be its victims in some way. Children who live in a relationship in which one adult is abusing another are affected, in both short- and long-term ways, both directly and indirectly. Studies have shown that children who witness violence against a parent are also likely to be direct victims themselves. Even when the violence is not primarily directed at them, they experience the violence by witnessing it, fearing it, and/or 'accidentally' getting in the way of an attack.
- Child abuse takes many forms that are similar to spousal abuse: the sub-categories of physical, sexual, and emotional abuse are also perpetrated towards children in families.
- Violence towards a woman can be intimately related to her role within the family, for example as a mother. Pregnancy may increase the likelihood that a woman will be subjected to domestic violence. In addition, a mother may consciously act as a 'buffer' between her violent partner and her children, with consequences for herself.
- Some research has found a link between the experience of family violence as a child, and the chances that a child will become a perpetrator of violence in the family as an adult.

38 Family Violence Professional Education Taskforce 1991: 60
39 This includes incest (see Linda Gordon, cited in O’Sullivan 1991: 4). Christine Nolan has noted that there is no detailed consideration of the plight of 'trapped children' in most State/Territory reports on domestic violence, the 1988 Queensland government inquiry into family violence being the exception. Yet the phone-in conducted by the Queensland Domestic Violence Taskforce found that 88 per cent of respondents reported the presence of dependent children in a household during the course of the violent relationship (Family Violence Professional Education Taskforce 1991: 205).
40 James 1994(b): 2
41 Webster et al 1994
42 The research on this issue is inconclusive, cause and effect being perhaps impossible to establish. Estimates of intergenerational transmission of child maltreatment range from 7 to 70 per cent (Tomison 1996).
The broadened focus enabled by the use of the term 'family violence' is preferred by indigenous people, who have argued that:

- It more accurately describes 'how violence reverberates through the entire family'\(^{43}\) or community.\(^{44}\)
- It takes into account the range of relatives who may be perpetrating the violence.\(^{45}\)
- It is not dependent, to the same extent as is 'domestic violence', on a clear delineation between private and public spheres, which are more blurred for indigenous than for non-indigenous people.

Indigenous women have stated that they do not want family violence to be considered a 'women's issue'. They see it as a community issue that 'impacts on us all in some way or another; [family violence] is also becoming a generational problem ...'\(^{46}\) Some governments have taken notice of this preference for 'family violence'. The Northern Territory Government Domestic Violence Strategy, while retaining the term 'domestic violence' for the overall strategy, uses the term 'family violence' when referring to violence in indigenous families.\(^{47}\)

However 'family violence' is a less adequate name in other ways. Much depends upon the way in which 'family' itself is understood — whether as a narrow biological unit (as in a 'nuclear family' comprising parents and their children), a broader biological unit (when an 'extended family' includes people such as grandparents, aunts and uncles, nieces and nephews), a unit combining biological and non-biological relatives (families and step-families), or as comprising a group of people who are not biologically related to each other at all (as when friends live together on a long-term basis, or people with disabilities live with carers). Some people include their pets in their understanding of what comprises their family. As Justice Alastair Nicholson has noted:

... there is no such institution as the Australian family ... Blood may often be thicker than water, but we must never underestimate the importance of friendship or fail to recognise how other communities, such as religious orders or the peer relationships of so-called "street kids", can create the atmosphere and feeling of a family. These bonds can be stronger, less threatening and more supportive than those formed through biological connection.\(^{48}\)
A further criticism is that 'family violence' is a gender-neutral term, the effect of which, it has been argued, is to soften the focus provided by such terms as 'wife battering': both 'family violence' and 'domestic violence' remove the actor (the 'batterer') from the violence, and make problematic any clear apportionment of roles (victim/perpetrator) strictly along gender lines. However this use of gender-neutral language may be based upon an understanding that shows that both men and women are violent towards, or neglect children in relationships; and that they are equally likely to report having been abused during childhood.

Violence Against Women

At first glance, 'Violence Against Women' appears to get around these problems relating to place ('domestic') and relationship ('family'). Actually, it is a name that may just muddy the waters.

In this terminology the focus of concern is clearly on the gender of the victim. Less obviously, it is also on the age of the victim (she is a 'woman', not a 'child') and on the gender of the offender (the term is often 'Male Violence Against Women'). In Australia, the seminal document that placed domestic violence and sexual assault beneath the umbrella term 'Violence Against Women' was the National Strategy on Violence Against Women, which defined:

[male violence against women [as] behaviour adopted to control the victim which results in physical, sexual and/or psychological damage, forced social isolation or economic deprivation or behaviour which causes women to live in fear.

The term has been promoted because it links domestic violence and sexual assault, removing what is seen as an artificial separation between the two. However taking 'Violence Against Women' as an umbrella term for domestic violence and sexual assault is problematic, for it attempts to confine our view of these forms of violence to the instances in which they are perpetrated 'Against Women', rather than when they are perpetrated against children of either gender or men. The term cannot therefore be used, as it often is, as a shorthand way of

49 Where the gender of the perpetrator is concerned, most child sexual offenders are men, as are most people who kill children (Tomison 1995; Strang cited by Tomison 1995: 5). However for other forms of child abuse and in particular neglect, the perpetrators are more likely to be women. It has been argued that this may be tied to perceptions of women's role within the family (Tomison 1996: 5). Where the gender of the victim is concerned, female and male children are equally likely to be the victims of substantiated cases of neglect, physical abuse and emotional abuse; while female children are the victims in 75 per cent of substantiated cases of sexual abuse (James 1994a: 3). In cases of child abuse and neglect, parents are responsible for over half of substantiated cases; pseudo-parents (step, de facto, foster or guardian) for 10 per cent of cases, siblings and other relatives for 6 per cent of cases, friends or neighbours for 8 per cent of cases (James 1994a).

50 Roberts et al 1993: 308

51 National Committee on Violence Against Women 1993: vii

52 An Australian study has found that 29 per cent of women who had suffered domestic violence had also been subjected to attempted rape or rape by the perpetrator of that violence (see Bates et al 1995: 297)

53 As, for example, when research on 'domestic violence' takes as its definition that provided by the National Committee on Violence Against Women 1992 (see for example Keys Young 1996).
Even some literature that uses a different umbrella term can engage in this kind of slippage. For example the 1991 publication by the Family Violence Professional Education Taskforce, despite the ‘family violence’ in its title, actually focuses on ‘male violence’ perpetrated in a spousal relationship. The result of this focus is visible in the unexplored assertion that only a small proportion of spousal violence is perpetrated by women (p. xvii), and in the decision, when child abuse is mentioned, to concentrate on its sexual forms (which are primarily perpetrated by men) (p. 60). In this book the last chapter alone focuses on the plight of children where family violence is concerned.

In this report those aged between 0 and 17 years are defined as children.

For an interesting discussion of the genealogy of definitional grappling with this issue in Canada – from ‘wife battering’ to ‘male violence against women’ – see Walker 1990.

Incest towards boys and young men could only be prosecuted as ‘sodomy’ or ‘indecent assault’. Governor Arthur Phillip, a man of his times, asserted that ‘there are two crimes that would merit death (in the new colony) – murder and sodomy. For either of these crimes I would wish to confine the criminal till an opportunity offered to deliver him as a prisoner to the natives of New Zealand, and let them eat him’. His solution combined two cultural stereotypes which

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speaking about domestic violence and sexual assault, for this would allow violence against children in families to be placed outside the frame of reference, and women’s violence in families to go unexplored. It would also encourage ignorance of the fact that the majority of sexual assaults are carried out against children rather than against adults. This is not Violence Against Women, but Violence Against Children.

The problem for which Violence Against Women is seen to be the solution, is a political one: how can the violence that is perpetrated against many women in their relationships, and that has been ignored for so long in human history, be retained as a focus of attention if it is seen to be part of something larger, violence in the family? Enlarging the focus from ‘woman’ to ‘family’ blurs the boundaries and makes what had appeared to be clearly distinct subject positions within violent families (‘men/perpetrators’, ‘women/victims’) difficult to maintain. It may also be feared that work that explores the violence of some women towards others within families will feed into uninformed views that such violence is coterminous with men’s violence in the family, and has similar effects. The need to understand whether there is a different context to women’s violence in the family and, if so, to disentangle its performance and effect, is not facilitated by the term Violence Against Women.

In a strange way, the ignorance encouraged by the term mirrors late 19th century problems with definitions. Then, rape, carnal knowledge and incest were defined in such a narrow way that they ‘precluded the existence of either male complainants or female defendants’: by act of definition, men could not be raped and women could not be the perpetrators of incest. To think otherwise would have gone against the grain of strongly held belief systems that operated at the time.

The discourse on Violence Against Women is usually silent about women’s violence. The National Committee on Violence Against Women understood violence against women to be ‘a product of the social construction of masculinity’. In a particularly simplistic statement, it insisted that ‘[v]iolence will stop only when men stop being violent and when the community stops condoning it’. Violence equals men, full stop! Such an assertion constructs women either as some kind of victims of false consciousness who unwittingly collude in the social construction of masculinity, though it is against their best interests
to do so; or as seeming to be incapable of enacting violence (and when they do, as not really being responsible for their behaviour since they live in a society that is dominated by men).

Yet ironically, the feminist insistence that domestic violence needs to be broadly defined (on a continuum that includes physical, sexual, emotional or psychological, economic and other forms of abuse) has worked to make the denial of women’s violence in relationships tenuous. The only forms of child abuse that are predominantly perpetrated by men in families are sexual violence and the more extreme forms of physical violence. Other forms are more likely to be perpetrated by women.\(^{59}\) Clearly some of the forms of violence with which the National Committee on Violence Against Women was concerned, perhaps all, are also enacted by women, and against men.

In addition, ‘Violence Against Women’, with its focus on gender, sometimes seeks to include under its aegis forms of violence that do not primarily relate to the gender of the victim at all. Two examples will suffice:

- The National Committee on Violence Against Women lists ‘racial violence’ as a form of ‘Violence Against Women’. However racial violence is a much broader phenomenon than can be understood through this blinkered framework of analysis. While it may be enacted in gendered ways — as when a non-indigenous man rapes an indigenous woman because he sees her as a lesser being due to her race — it cannot be confined to the gendered interpretation that underpins the Committee’s stated intention to ‘eliminate violence against women from our society’.\(^{60}\) This (impossible?) task cannot be achieved if the framework for viewing racial violence against women is limited in its understanding of such a complex phenomenon. Much more than gender is at work in racist violence.

- Perversely, ‘robbery’ was included as ‘Violence Against Women’ in the 1996 survey by the Australian Bureau of Statistics. Yet robbery is a crime that is primarily committed ‘Against Property Holders’ rather than ‘Against Women’. Again, it is not a crime that can be primarily understood in gendered terms.

Nor is Violence Against Women a term that has much resonance with the Australian community. The attitudinal survey undertaken by the Office of the Status of Women in 1995 found that:

\(^{58}\) National Committee on Violence Against Women 1993: 47
\(^{59}\) See Footnote 49
\(^{60}\) National Committee on Violence Against Women 1993: 45
the term "violence against women" is not part of the common lingo... the community finds "violence against women" difficult to define because of its all-encompassing nature — not only does it cover an array of types of violence, but also a variety of settings and perpetrators. The setting of women as only victims by the use of the word "against" is also a limitation of the use of this term in a communications context.61

Legally Bound: Defining Domestic Violence in Law

While many research projects and all service pamphlets define domestic violence broadly, as a patterned form of behaviour that comprises much more than bodily assault, the law is more parsimonious in its approach. Some forms of domestic violence are not legally proscribed. Those that are include physical and sexual assaults, as well as threats to kill or assault, damage to property, and conduct endangering life. However within documents that seek to make the law more familiar to the community a broader definition of domestic violence is included.62

The fact that the law has historically had difficulty in defining assaults that take place in the home as 'violence', rather than as force legitimately wielded in the exercise of a husband's authority in the interests of 'chastisement' and discipline, is by now well known. This is not to say, however, that any degree of violence towards a wife has historically been seen as legitimate by the law. Some 'wife beating' was legislated against, as in the 1889 Wife Beater's Punishment Bill.63 Over time things have changed, and during the 1980s every State and Territory government in Australia legislated against domestic violence. In addition, some international conventions to which Australia is a signatory relate to family violence, although it should be noted that such international agreements do not become legally effective in Australia until the Commonwealth government legislates to give them effect, through an Act of Parliament.

The two United Nations Conventions that include a focus on issues relevant to family violence are:
• The U.N. Declaration on the Elimination of Violence Against Women, which was adopted by the United Nations General Assembly on 20th December 1993. In it, 'Violence Against Women' means:

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61 Office of the Status of Women 1995: 23, their emphasis. In contrast, 75 per cent of the women who had experienced violence or the fear of violence from someone close to them said 'that they would call the incident "domestic violence"' in the study carried out by Bates et al in 1995.
62 See, for example, Victoria Legal Aid 1997
63 Family Violence Professional Education Taskforce 1991: 171. In the United States, the first pieces of legislation against what we would now call 'family violence' appeared in the 1640s in New England (Pleck 1989).
... any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.  

The Declaration goes on to disaggregate these forms of violence, stating that they include:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

The wording of this Declaration is the result of an extremely complex process of negotiation between representatives of states that have vastly different domestic policies where women are concerned. Governments are not legally bound by the Declaration, which notes that states 'should' condemn violence against women, 'and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination'.

- The U.N. Convention on the Rights of the Child, which was adopted by the U.N. General Assembly in November 1989 and ratified by the Commonwealth government in Australia in 1990. This Convention has been highly contested in Australia and elsewhere, in particular from groups promoting 'parents' rights'. These people see the Convention as 'undermining the family' (to the extent, for example, that it would contravene some forms of 'discipline') or as undermining 'cultural traditions'. However the Convention places 'the family' at the centre of things where children are concerned, seeing it as 'the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children' and recommending that the family 'should be afforded the necessary protection and assistance so that it can fully assume its responsi-
bilities within the community.

Article 19 of the Convention stipulates that 'children have a right to be protected from abuse, neglect and exploitation'.

**Federal Law**

**Family Violence**

It was not until the *Family Law Reform Act 1995*, that family violence was specifically dealt with under Australia’s *Family Law Act*. Reforms to the Act have focused on the matter of parental contact with children following the breakdown of a marriage, and on resolving inconsistencies that may exist between State-based protection orders (in Victoria, 'Intervention Orders') and orders under Family Law ('Family Violence Orders'). In Section 60D of the Act, family violence is defined (in rather convoluted language!) as meaning:

> conduct, whether actual or threatened, by a person towards, or towards the property of, a member of a person’s family that causes that or any other member of the person’s family to fear for, or be apprehensive about, his or her personal well being or safety.

The Family Court understands 'family' broadly, as previously discussed. In addition, outside the Court Chief Justice Alastair Nicholson has warned that the 'attempt to set limits on what a family can be... can be discriminatory... and nowhere is this more apparent than in the treatment of long term same sex relationships'.

**Child Abuse and Neglect**

There is currently no nationally applicable legal definition of child abuse and neglect in Australia, although for the purposes of data collection the Commonwealth defines child maltreatment as:

> ... a situation wherein a parent(s) or any other person(s) having the care of a child inflicts or allows to be inflicted on the child physical injury or gross deprivation which may cause or create a substantial risk of death, disfigurement, impairment of physical or emotional health or development, or create or allow to be created a substantial risk of such injury other than by accidental means. This definition includes sexual abuse or sexual exploitation of the child.
The Family Law Amendment Act 1991 brought into being significant changes on matters affecting children involved in Family Court proceedings. In the Act, 'abuse' was defined (s60) as:

(a) An assault (including a sexual assault) which is an offence under the written or unwritten law of the State or Territory in which the assault occurs.
(b) Involving a child in sexual activity in which the child is used directly or indirectly as a sexual object.\textsuperscript{71}

Victorian Law

Family Violence
Since 1982, all States and Territories in Australia have legislated against family violence. In Victoria, the Crimes (Family Violence) Act was introduced in 1987. Under the Act family members can apply for Intervention Orders if they have been subjected to a range of behaviour (i.e. more than physical assault), where the action/s are likely to happen again. The relevant behaviour includes:

- assault
- damage to property
- threats to assault or damage to property
- harassment
- molestation
- behaving in an offensive manner.\textsuperscript{72}

When an Order has been served on the offender and he breaks its terms, he has committed a criminal offence.

Originally, under this legislation, a 'family member' could be a spouse, a former spouse, a de facto spouse, a relative, a child aged under 17 who normally resides with the offender or of whom the offender is the guardian, or any person who is/has been ordinarily a member of the household.\textsuperscript{73} The definition of family member was extended by the Crimes (Amendment) Act 1994 to also include a person 'who has or has had an intimate personal relationship with [the defendant].'

Stalking
In addition, amendments to the Crimes Act 1958 have made 'stalking', which may be perpetrated by a family member, an offence against the person. The law defines stalking to mean:

\textsuperscript{71} Kennedy (no date): 44
\textsuperscript{72} Family Violence Professional Education Taskforce 1991: xvi, 184
\textsuperscript{73} Family Violence Professional Education Taskforce 1991: 185
a course of conduct, which includes any of the following:
(a) following the victim or any other person;
(b) telephoning, sending electronic messages to, or otherwise contacting the victim or any other person;
(c) entering or loitering outside or near the victim’s or any other person’s place of residence or of business or any other place frequented by the victim or other person;
(d) interfering with property in the victim’s or other person’s possession (whether or not the victim has an interest in the property);
(e) giving offensive material to the victim or any other person or leaving it where it will be found by, given to or brought to the attention of, the victim or the other person;
(f) keeping the victim or any other person under surveillance;
(g) acting in any other way that could reasonably be expected to arouse apprehension or fear in the victim for his or her own safety or that of any other person —
with the intention of causing physical or mental harm to the victim or of arousing apprehension or fear in the victim for his or her own safety or that of any other person.

Rape in Marriage
Until very recently, rape in marriage was not illegal in Australia. In Victoria a law passed in 1980 allowed a husband to be prosecuted for raping his wife where they were living 'separately or apart' at the time of the offence. 74 However it was not until 1985 that South Australia became the first State to legislate against rape in marriage, and the High Court’s ruling in The Queen v L (1991) addressed the issue nationally. Outrageous as it now seems to us, prior to this, 'rape' was considered not to be possible within marriage, according to the law, as the marriage contract was assumed to give a man and woman sexual access to each other:

... the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife has given up herself in this kind unto her husband which she cannot retract. 75

Despite the law now clearly stating that rape in marriage is illegal in every State of Australia, vestiges of this way of thinking remain, as in the now notorious case of Justice Bollen, who judged in 1992 that:

74 Scutt 1990
75 Chief Justice Matthew Hale, writing in the 17th century, see Model Criminal Code 1996b: 7
There is, of course, nothing wrong with a husband, faced with his wife's initial refusal to engage in sexual intercourse, in attempting, in an acceptable way, to persuade her to change her mind, and that may involve a measure of rougher than usual handling.76

The definition of rape has also changed in two other ways:

- Rape is now understood to include more than the penetration without consent by a penis of a vagina. In Victoria, for example, it has expanded to include penetration of parts of the body other than the vagina, by parts of the body other than the penis, acts that had previously been defined as 'indecent assault' rather than rape.77
- Discussion has been taking place for at least a decade about whether the word 'rape' or the term 'sexual assault' best describes such crimes.78 'Rape' is used in Victoria, South Australia, Queensland and Tasmania; 'sexual assault' in New South Wales and the Australian Capital Territory; 'sexual penetration without consent' in Western Australia and 'sexual intercourse without consent' in the Northern Territory.79

Incest

Under the Crimes Act 1958

(1) A person must not take part in an act of sexual penetration with a person whom he or she knows to be his or her child or other lineal descendant or his or her step-child.
(2) A person must not take part in an act of sexual penetration with a person under the age of 18 whom he or she knows to be the child or other lineal descendant or the step-child of his or her de facto spouse.
(3) A person who is aged 18 or older must not take part in an act of sexual penetration with a person whom he or she knows to be his or her father or mother or other lineal ancestor or his or her step-father or step-mother.
(4) A person must not take part in an act of sexual penetration with a person whom he or she knows to be his or her sister, half-sister, brother or half-brother.

Child Abuse

The relevant Victorian Act is the Children and Young Persons Act, 1989. In it, a child (i.e. someone who is under the age of 17 years) is defined as being in need of protection when:

76 Cited in Seth-Purdie 1996: 2
77 Heenan and McKelvie 1997: 68. However including all of these acts within the definition of 'rape' has not been easy for some members of the judiciary to accept (see Heenan and McKelvie 1997: 72).
78 There is also an ongoing theoretical debate about whether rape is primarily a matter of 'sex' or 'violence'. As Bavin-Mizzi has noted, rapes are more complex than this dichotomously structured argument allows (Bavin-Mizzi 1995: 67).
79 For a discussion, see Model Criminal Code 1996b: 21-29.
The child has been abandoned by his or her parents and after reasonable inquiries (i) the parents cannot be found, and (ii) no other suitable person can be found who is willing and able to care for the child.
- The child’s parents are dead or incapacitated and there is no other suitable person willing and able to care for the child.
- The child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child’s parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child’s parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child’s emotional or intellectual development is, or is likely to be, significantly damaged and the child’s parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child’s physical development or health has been, or is likely to be, significantly harmed and the child’s parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.\textsuperscript{80}

The Act clearly contains terminology which itself needs to be defined. For example what does ‘significantly damaged’ mean? When such terms are left to the courts to define, judges must puzzle over what is meant, as when Justice O’Bryan declared in the Supreme Court of Victoria that:

\textit{In my opinion, in choosing the word significant the legislature intended that harm to the child’s emotional or intellectual development will be more than trivial or insignificant but need not be as high as serious . . . The word significant means "important", "notable", "of consequence" . . . For the purposes of the act "significantly damaged" means that the child’s emotional or intellectual development is likely to be damaged in some respect that is important or of consequence to the child’s emotional or intellectual development.}\textsuperscript{81}

A declaration which itself contains words in need of a definition . . .

\textsuperscript{80} Cited in Department of Human Services booklet (no date)
\textsuperscript{81} Cited in Tomison and Tucci 1997: 5
Towards a Model Criminal Code

At present the laws that operate in individual States and Territories differ from each other where domestic violence and sexual assault are concerned. However there are moves towards the enactment of a national Model Criminal Code. If adopted by all States and Territories, the national Criminal Code would supercede State-based laws.

Domestic Violence
The Model Criminal Code proposes a Domestic Violence Act in which domestic violence is defined as being:

\[ \ldots \text{any of the following acts that a person has committed against a protected person:} \]
\[ (a) \text{causing or threatening to cause personal injury, abduction or confinement;} \]
\[ (b) \text{causing or threatening to cause damage to the protected person's property;} \]
\[ (c) \text{harassing or offensive behaviour.}^{82} \]

The term 'protected person' was preferred over 'family member' on the grounds that to use the latter term would fuel a 'fruitless debate about what is or is not a family'.\(^{83}\) A 'protected person' is:

\[ (a) \text{the spouse of that person;} \]
\[ (b) \text{a person who is or has been a relative of that person;} \]
\[ (c) \text{a child who normally or regularly resides with that person;} \]
\[ (d) \text{a child of whom that person is a guardian; [or]} \]
\[ (e) \text{a person who has or has had an intimate personal relationship with that person;} \]
\[ (f) \text{another person who is or has been ordinarily a member of the household of that person}^{84} \]

with a 'relative' meaning a person:

\[ (a) \text{whom the person regards as a relative;} \]
\[ (b) \text{who regards himself or herself as a relative of the person;} \]
\[ (c) \text{in the case of de facto spouses — a person who would be such a relative if the de facto spouses were married to each other;} \]

\(^{82}\) Model Criminal Code 1997: 6
\(^{83}\) Model Criminal Code 1997: 11
\(^{84}\) Model Criminal Code 1997: 10 (their emphasis)
(d) in the case of a person who is not within the ordinary concept of a relative — a person if it is reasonable to regard that person as a relative, especially considering that for some people the concept of a relative may be wider than is ordinarily understood (for example Aboriginal people, Torres Strait Islanders, members of certain communities with non-English speaking backgrounds and people with particular religious beliefs).

and 'spouse' being defined to include a 'former spouse, a de facto spouse, a spouse of that person according to Aboriginal or other cultural definition'.

In these definitions we can see the struggle to produce meanings that are relevant in a changing and multicultural society.

Incest

'Incest' is a word that entered the Australian statute books in Victoria with the Crimes Act 1891, in which it was defined as 'sexual intercourse with a daughter or other lineal descendant or stepdaughter'. Sexual intercourse between close relatives seems to be universally 'taboo'. In Australia indigenous people advise that before colonisation, incest was proscribed in their communities.

The Model Criminal Code has issued a Discussion Paper on Sexual Offences Against the Person. This Paper notes present inconsistencies across jurisdictions (for example, in the age of consent) and proposes a simplification of the scheme of offences. It also suggests that the word 'incest' be dropped in favour of the term 'child sexual assault', and that the sexual assault of children in the family be dealt with under general offences rather than within a specific offence called 'incest'.

Some arguments in favour of replacing 'incest' with 'child sexual assault' are that:

- The word 'incest' focuses attention on the relationship between the people involved, rather than on the illegitimate use of power by one person against another, something that is highlighted by the use of terms such as 'child sexual assault' (the preference of the Model Code) and 'father-daughter rape'.

Other suggestions include 'family sexual abuse' or 'intra-familial sexual abuse'.

- The state has no legitimate role to play where consensual sexual relationships between people who are related to each other, and who have reached the age of consent, are concerned.
In the past its role was based on a fear that 'in-breeding' would lead to the conception of children with genetic defects, or on Christian prohibitions against such sexual relationships. Neither should be the concern of the legislature.

- As family formations change there is a need for terminology to be re-evaluated.

There are also arguments for retaining incest as a separate offence:

- Sexual assaults perpetrated against a child by an adult in her/his family may be qualitatively different to sexual assaults perpetrated by someone outside the family. In the family, they are more likely to be ongoing in nature, and are a form of violation perpetrated in a social setting in which a child should feel safe and secure. The child who is a victim of such sexual assaults is unlikely to be able to tell a trusted family member about it. Retaining incest as a specific offence signifies community disapproval of this breach of trust.

- Social definitions of incest do in fact take into account the changing nature of families (and therefore who counts as a 'relative') in Australia. A relative within the family is no longer necessarily someone whose relationship is based on biological connections. Some definitions name the various types of relatives between whom sexual activity is understood to be incestuous. Others create a broad definition, for example when incest is understood to be 'the involvement of dependent, developmentally immature children and adolescents in sexual activities they do not fully comprehend, are unable to give informed consent to, and that violate the social taboos of family roles'.

**Sub-categories of Violence**

One further aspect of definitions remains to be discussed, and that concerns the main forms that domestic violence can take. Most reports and service pamphlets contain a list that briefly spells out these sub-categories of violence. Surprisingly, even those that use the umbrella term 'family violence' rarely focus on how these sub-categories relate to children. Rather, they are discussed as if, for example, 'physical violence' or 'emotional abuse' mean the same thing whether they are perpetrated against...
an adult or against a child. The most common sub-categories of violence in pamphlets and texts are briefly discussed here, and I have added a further one under the heading of 'child abuse'.

These sub-categories (variously termed 'violence' or 'abuse') cannot of course be seen as discrete forms of violence. Violence in relationships does not recognise linguistic boundaries! Physical violence, for example, will also be emotional or psychological violence, since it will leave its victim, at the very least, living in dread of the next outburst.

Much thinking and reflection lies behind the construction of these lists in documents about domestic violence. They probably emanated from an understanding that many people who are subjected to violence do not recognise what is happening to them as being 'domestic violence'. However when domestic violence is disaggregated into its constituent parts, many people will come to name, for example, constant verbal abuse as 'domestic violence'. One service explicitly facilitates such an understanding in its pamphlet, which asks its readers:

DOES HE . . . control your contact with family and friends . . . always have to know where you are and is suspicious or disbelieving when you tell him . . . become angry and jealous when you talk to other guys . . . put you down so much that you end up feeling you can't stand up for yourself . . . believe that men are superior and puts women down, even if he tells you that you are different . . . force or pressure [sic] you to do things against your will to the point where you are unable to make decisions [?] THIS IS DOMESTIC VIOLENCE.\(^{92}\)

In this way the meaning of domestic violence is extended, and the likelihood that more people will recognise what is happening to them as domestic violence, and seek assistance in increasing their safety, is fostered.

There is some evidence that different groups in society perceive these aspects of violence differently. A recent survey in the United States found that women and men differ significantly in terms of which sub-category of domestic violence they perceive to be violence. While equal numbers of women and men agreed that acts of physical violence were 'abusive' and threats of such violence were abusive, they were more likely to disagree about other forms of violence. Slightly more women than men felt that socially isolating a woman and verbally insulting her was
abusive; and it was women, in the main, who perceived other forms of controlling behaviour, such as telling a woman how to dress, or refusing to give her money, were abusive. 93

As with any naming exercise, these sub-categories of violence are chosen through a process of questioning what will be included, and what will be excluded from a list of forms of abuse that are to be known as ‘domestic violence’. Questions include:

- What is the difference between a ‘common couple’ fight over the allocation of family resources, and ‘economic abuse’?
- Does the ‘list’, which must begin and end somewhere, facilitate a hierarchical understanding about the sub-categories, so that if it begins with physical violence and ends with spiritual abuse it is read as moving from what will always be experienced as the most important down to the least important form of violence?
- What is a tool (the voice – verbal ‘abuse’? money – ‘economic’ abuse?) and what is an effect of violence (social isolation – ‘social abuse’)?

These things are not always clear.

In addition, the list is rarely prefaced with a general description of domestic violence that includes its most salient factor, i.e. that it is a patterned form of behaviour. The difference between non-abusive and abusive relationships is the repetitive nature of the abuse and its intention to control the victim through such means. 94

Some reports emphasise in addition that domestic violence takes the form of deliberate acts, based on an understanding that ‘the great majority of men who are violent towards their partners are not violent towards “others” such as friends or work colleagues’. 95

The most commonly used sub-categories are discussed below. Since there is general understanding about what physical and sexual violence mean, these are only briefly discussed, drawing upon definitions in two major national documents. Other forms of abuse, which are less generally understood, are discussed in a little more detail.

Physical Violence

Physical assaults are the form of violence that is most likely to be recognised as domestic violence within Australia. 96 The Australian Bureau of Statistics survey used the term ‘physical violence’ to include an assault, an attempted assault, or a threat to assault (all

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93 Victim Services 1998: 1-3
94 Hegarty and Roberts found great variance in the definitions used in prevalence studies, ranging from ‘all types of violence in relationships (including a single minor violent incident), through to only those violent incidents that are classified as a crime’. They have argued that domestic violence cannot be understood through the use of prevalence studies that fail to collect frequency data (Hegarty and Roberts 1998: 49). Johnson has argued for an understanding of violence towards women which disaggregates it into two forms: ‘common couple violence’ (comprising ‘occasional outbursts of violence by a husband or wife’); and ‘patriarchal terrorism’ (comprising systematic male violence) (cited in Hegarty and Roberts 1998: 53).
95 NSW Women’s Refuge Referral and Resource Centre (no date): 1
96 Office of the Status of Women 1995: 11. Respondents were asked to nominate the main form of domestic violence, and were then probed for other forms. First mentioned were beating or bashing (25 per cent), general physical violence (23 per cent), hitting or punching (11 per cent) and verbal abuse (11 per cent). After probing, those mentioned were violence towards children (21 per cent), hitting/punching (17 per cent), sexual violence (12 per cent), emotional abuse (11 per cent) and alcohol-related violence (9 per cent) (OSW 1995: 24). This illustrates decreasing certainty that forms of violence which are other than physical comprise ‘domestic violence’.
of which are offences under State and Territory criminal law). The survey defined physical assault as meaning 'the use of physical force with the intent to harm or frighten.' Such force encompassed a range of actions including pushing, grabbing, shoving, slapping, hitting with something, choking, beating, stabbing, shooting, burning, scalding and dragging by the hair. The National Committee on Violence Against Women included in its definition of physical violence both threats of future violence towards a woman, and such threats towards her children.

Where physical violence is concerned, a hierarchy of behaviours is involved, the most severe of which result in the death of the victim. We have no certainty about the extent of domestic homicide, due to further problems with definitions. Such homicides may be recorded as 'domestic', and may or may not include family members other than partners. If they are recorded as 'spousal homicide' de facto partners may or may not count as 'spouses'. Many domestic murders are committed by men who kill their female partners and/or children in relationships with a history of violence. Less often, a woman kills her partner after suffering years of violence at his hands.

Sexual Violence

Again, the Australian Bureau of Statistics survey included in its definition of sexual violence both assaults and threats to assault, incidents which would be an offence under State and Territory laws. Sexual assault was defined as including:

Acts of a sexual nature carried out against a woman's will through the use of physical force, intimidation or coercion. It includes attempts to force a woman into sexual activity ... [as well as] rape, attempted rape, aggravated sexual assault (assault with a weapon), indecent assault, penetration by objects and forced sexual activity that did not end in penetration. It excludes unwanted sexual touching.

The National Committee on Violence Against Women used a broader definition, since its purview was not inhibited by what would be against the law. Thus it included as an example of violence against women 'forcing [a woman] to view pornographic material.'
'Emotional', 'Psychological' and/or 'Verbal' Abuse

Here, I have collapsed what are often listed as three different forms of violence: the emotional and the psychological, as well as the verbal means through which they are often perpetrated, since in the lists these forms of violence frequently overlap. Verbal abuse has been defined as consisting of:

derogatory comments, such as constant put-downs and comments about being inferior, unattractive or incompetent ... [and] includes threats of physical violence and violent verbal outbursts.\textsuperscript{103}

Such verbal strategies have emotional/psychological effects. The three terms are also muddled in the National Strategy on Violence Against Women, where psychological abuse is defined as 'incessant condemnatory abuse', including:

damaging to their self-concept and mental well-being.\textsuperscript{104}

In the 1995 Australian attitudinal survey, 58 per cent of respondents mentioned 'psychological violence' as a form of domestic violence.\textsuperscript{105} One definition of psychological violence that goes to some trouble to display what is meant by the label is that it means:

[H]aving to live in constant fear of physical violence ... Other forms [of psychological violence] include being told repeatedly that you are not good enough, that you are a bad mother, that if you were a better person you would not get beaten, and regular accusations of being ugly, useless, dumb, stupid and/or incompetent. Psychological abuse has been likened to systematic brainwashing ... Emotional abuse often consists of threats concerning access to the children: for example, "if you leave, you won't be able to see the children".\textsuperscript{106}

The Australian Bureau of Statistics survey defined emotional abuse as including trying to prevent contact with family or friends, trying to prevent knowledge about or access to family money, trying to prevent use of the telephone or family car, and insults with the intent to shame, belittle or humiliate — examples which also stray over into the territory of 'social abuse' (see below).\textsuperscript{107}
Economic/Financial Abuse

Again, it may be that means is being confused with effect here, however 'economic' or 'financial' abuse is consistently listed as a form of abuse rather than as a means through which abuse takes place. For the National Committee on Violence Against Women, economic abuse refers to:

'[t]he inequitable control over access to shared resources. In the family context ... this may mean the man is in a position to allocate insufficient funds for household purchases and/or [to] control the woman's income, assets and expenditure.'\(^{108}\)

Elsewhere, financial abuse has been defined as taking place when:

a woman [is forbidden] to have a job, or [a man] insist[s] that she hand over her entire pay packet. He may give her a tiny allowance from which she has to buy all the groceries and then demand that every cent be accounted for. He may force her to take sole responsibility for debts he or she has run up. Common threats may include "if you leave, I will get all the money".\(^{109}\)

One criticism of the list approach is that its categories tend to become entrenched over time, being printed and re-printed without much analysis taking place between reprints. This may be illustrated with reference to 'economic abuse', which has appeared in publications in virtually the same format for some twenty years now – a time period during which the proportion of married women in the workforce has increased dramatically. Frequently, women are now economic actors in their own right (which is not to say that they participate equally with, or are paid equally to men). Yet the list continues to be printed as if this social change has not taken place. It has been argued that to keep stating that women in Australia have little choice but to remain in violent relationships due to financial reasons is to 'collude in their disempowerment'.\(^{110}\) In Australia, women who are the victims of violence in their relationships have more economic choices than do women in many other countries, even if the choice is a very difficult one involving a decision between living in relative wealth or relative poverty.
Social Abuse

Social abuse refers to the ability of one person in a relationship to socially isolate others in the relationship, perhaps even keeping them virtual prisoners in the family home. It comprises 'systematic denigration and controlling behaviour so extreme that it leads to social isolation and severe dependency'. Social abuse involves constant monitoring and control of a woman's activities, outings and friends; 'public insult and denigration, forbidding any contact with family and friends, imprisoning the woman in the home and disconnecting the telephone.'

A perpetrator of domestic violence may:

lock [his partner] inside the house, monitor phone bills or disconnect the phone altogether. He may abuse the woman's family and friends until they no longer visit, or seek to humiliate her in front of them. For women living in rural and isolated areas, geographic isolation and the lack of public transport are major barriers to escaping domestic violence. The use of private transport may also become impossible if the violent partner constantly monitors the car, checks the odometer and the petrol gauge.

When a victim is socially isolated, other forms of abuse can be enacted against her and remain undetected.

Whereas fighting may occur frequently without destroying the extended relations of family, community or cultural life, 'battering' appears only when persons have been forcibly isolated from their potentially supportive kin and peer relations and virtually locked into family situations where their objectification and continued punishment are inevitable.

Spiritual Abuse

The Family Violence Professional Education Taskforce defined spiritual abuse broadly (as 'the damage family violence does to the spirit of those who have been abused'). It then went on to promote a definition that steps outside the family violence framework, perhaps in order to take into account indigenous women's insistence that such violence is a problem for whole indigenous communities. They defined spiritual abuse as being:

111 Seth-Purdie 1996: 3
112 Family Violence Professional Education Taskforce 1991: 64
113 National Committee on Violence Against Women 1993: 46
114 NSW Women's Refuge Referral and Resource Centre (no date): 2.
115 Stark et al cited in Seth-Purdie 1996: 24
deeper than an individual's experience of betrayal: it involves the shame experienced when everyone in the community is aware of the violence, and when they too are implicated as victims of the violence. The victimisation may be based on race, colour or other forms of identification with that community, and it includes the abuse suffered from a history of genocide or persecution.

This is confusing, and is followed by yet another definition that focuses on Christian women, for whom spiritual abuse is said to be 'the way the violence is conceptualised within Church tradition'.

Elsewhere, spiritual abuse has been spelled out as including:

alienating a woman from her cultural and religious beliefs. Her partner may destroy religious symbols, shrines and statues, or forbid her to pray or worship in an effort to isolate her.

Child Abuse

Violence towards children can and does include many of the above categories. However not all are relevant to children — we would hardly wish to see a persistent lack of pocket money being labelled 'financial abuse'! But there is also something distinctively different about such forms of abuse when they are aimed at children, and further differences depending upon factors such as the age of the child and her/his position in the family.

Child abuse consists both of actions (such as physical assault) and a lack of action (such as neglect, which can itself take physical, emotional, medical, educational and social forms). This latter aspect of child abuse — neglect — is not considered to be a form of abuse that is relevant where adults are concerned. In addition, it is becoming clear that witnessing another family member being treated abusively is itself abusive. This is increasingly well understood where the witness is a child. However it is also relevant where the witness is an adult, as when a woman witnesses her child being abused by a violent partner.

Marianne James has discussed the historical separation of the fields of domestic violence and child protection, noting that:
Domestic violence ... has commonly been applied to various forms of violent and abusive behaviour which occur in a marriage or de facto relationship [and] at an institutional level [it] has been regarded as a matter for the police, courts, women's refuges and other women's support services. In contrast, child abuse refers to the physical, sexual or psychological damage caused to the child by the abusive behaviour of others, or the failure of others to protect a child from such damage and has been more of a health and welfare issue. Child protection has therefore involved an additional group of people as well as additional legislation.\textsuperscript{122}

Victoria's Department of Human Services defines child abuse as:

an act by parents or caregivers which endangers a child's or young person's physical or emotional health and development. Child abuse is not usually a single incident, but takes place over time.\textsuperscript{123} In Victoria, a child or young person is a person under 17 years of age. The use of the term 'child' ... includes adolescents. Child abuse includes:

- **Physical injury** which results from abuse or neglect — refers to a situation in which a child suffers or is likely to suffer significant harm from an injury inflicted by a child's parent or care giver. The injury may be inflicted intentionally or may be the inadvertent consequence of physical punishment or physically aggressive treatment of a child. Physical injury and significant harm to a child may also result from neglect by a parent or care giver.

- **Sexual abuse** — refers to a situation in which a person uses power or authority over a child to involve the child in sexual activity, and the child's parent or care giver has not protected the child. Physical force is sometimes involved. Child sexual abuse involves a wide range of sexual activity. It includes fondling of the child's genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or other object, or exposure of the child to pornography.

- **Emotional abuse** — refers to a situation in which a child's parent or care giver repeatedly rejects the child or uses threats to frighten the child. This may involve name calling, being put down or continual coldness from the parent or care giver, to the extent that it significantly damages the child's physical, social, intellectual or emotional development.

- **Neglect** — refers to a situation in which a child's parent or care giver fails to provide the child with the basic necessities of life, such as food, clothing, shelter medical attention or supervision, to the extent

\textsuperscript{122} James 1994b: 1
\textsuperscript{123} Others are not so sure, and include isolated events in their definition of child abuse (Goddard 1996: 29).
that the child's health and development is, or is likely to be, significantly harmed.\textsuperscript{124}

There are clear crossovers here between the different subcategories, in particular between emotional abuse and neglect. Emotional abuse may be the most prevalent form of abuse against children, yet it is also the form of abuse which suffers most from a lack of clear parameters:

\textit{Research into the impact and prevalence of emotional abuse has been plagued with disagreements about how to define it, measure it and treat it \ldots The failure to overcome these issues has been taken as an explanation for the omission of emotional abuse from most policy agendas and research programs [where children are concerned] \ldots [Yet] it is increasingly considered to be the core issue in all forms of child abuse and neglect.}\textsuperscript{125}

Where children are concerned, emotional abuse includes both forms that are also experienced by adults (verbal abuse) as well as forms that are specifically experienced by children (as in a 'non-organic failure to thrive' that has its roots in psychosocial factors).\textsuperscript{126} In addition, another form of crossover is often at work, with research pointing to the fact that if a child is being subjected to one form of abuse, she or he is significantly more likely to also be subjected to other forms of abuse.\textsuperscript{127}

Such differences need to be further explored in the interests of adequately representing the subcategories of \textit{family violence}.

\textbf{Conclusion}

\textbf{What's in a name?} Quite a lot it seems, for in choosing a name within which to fit an experience we are also making decisions about boundaries, and so problems arise. In Australia, the term 'domestic violence' came into common usage through the 1970s, when such forms of violence were first being spoken about as a discrete category. Initially the boundary was drawn to include violence by a male towards his female partner (actually, by a husband towards his wife, for the trendy 'partner' had yet to enter popular culture). Other forms of violence in the family were generally placed outside the boundary. This usually (but not always) meant that within the discourse of domestic violence,
violence towards children, as well as between siblings, and towards elderly family members was excluded from the main focus of concern. However there is no inherent reason why domestic violence needs to be understood in this limited way.

The term family violence has appeared more frequently over the years as a response to the narrow understanding encouraged by the term domestic violence. However both 'domestic violence' and 'family violence' have been criticised by some for not being gender specific. 'Violence Against Women', it has increasingly been asserted, is a better umbrella term for domestic violence and sexual assault. Here, the boundary is drawn to focus the gaze on 'male violence against women', a cartographic device that generally leaves outside the boundary those forms of violence in the family that victimise people who are not women, and also the violence that some women use against others within the family.

The name by which we choose to explain these forms of violence will never perfectly contain the phenomenon. They may even serve to exclude from view things that should be taken into account when we seek to understand domestic violence in all its complexity. Based on the research undertaken during the writing of this Paper, I think that the term 'family violence' best names the forms of violence that take place in close relationships. It is the most inclusive term, and is capable of encompassing changing ideas about what 'family' means in late 20th century Australia. We have seen that in both social and legal definitions, a family is increasingly being understood as comprising people who form, or have in the past formed, 'domestic' relationships with each other, whether or not those relationships are biologically based, or hetero/homosexual. Since there will never be a perfect term for this violence — names are always provisional — the most important thing we can do is to recognise that every act of naming involves choices that need to be justified, and must be based upon evidence rather than rhetoric.

Finally, just as there is no perfect term, there is no perfect Discussion Paper! We hope that this Paper encourages your interest and involvement in a conversation about definitions. Like us, you have probably been thinking about them for some time. We would love to hear your views, and can provide an ongoing forum for this discussion in our quarterly Newsletter.
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