

Good morning

In this my second and detailed submission (supporting my initial “issues paper” response - submitted 16/08/2024) my intention in making this submission is to propose a relationship model that addresses the entire spectrum of family and domestic abuse behaviours (not just violence) occurring within our communities.

Firstly , as welcome as the recent government announcements are, simply building 4000 new dwellings for women and children fleeing violent partners does NOT address the root cause issues /enabling factors that may precede unacceptable violent behaviour.

As previously stated in my initial submission, the absence of pre-relationship education for both young women and men is a major factor contributing to the exploding levels of domestic abuse (not just violence) occurring across Australia today.

If we as a nation are serious about addressing the scourge of domestic abuse in all its formswe must address the often institutional enablers of domestic/family abuse at their source.

1. The Role of the Family Law Profession

Currently, the reactive business model of private practice family law professionals is to generate profit via expensive, combative and protracted family law interactions at the end of a failing relationship or marriage when partners are often conflicted/no longer able to communicate with each other effectively.

I suggest that the current reactive role of the family law profession should be expanded to incorporate a proactive role, whereby the core role of the private practice family law professionals is to educate and coach both women and men on how to establish sustainable and equitable relationships prior to couples cohabiting together (e.g. prior to marriage or committing to a defacto relationship).

Clearly, family law professionals are ideally placed to advise their clients on how to avoid the common relationship missteps and errors that overtime can morph into relationship conflict (e.g. the merging of finances/bank accounts and/or failing to share parental responsibilities).

2. The Role of Legally Binding Agreements in Establishing “Equitable and Sustainable Relationships”

Family Court Judges have historically stated that their preference would be to have separating /divorcing couples negotiate division of property settlements /child care arrangements without referring these matters to the Family Court for resolution.

However, these same Family law professionals have apparently made no effort to create and implement an alternative settlement process that avoids the need for combative separating /divorcing couples to refer their matter to the Family Court.

In my opinion, it’s this absence of a workable “alternative process” that needs to be addressed.

2.1 Creation of a Suite of Legally Binding Agreements

Having utilised the WA Family Court process myself, I suggest that couples contemplating marriage or entering into a de-facto relationship be encouraged (not compelled) to negotiate (with the assistance of a facilitator) the creation of four (as a minimum) legally binding agreements:

1. A legally binding “Partnership Agreement”
2. A legally binding “Financial Agreement”
3. A legally binding “Parental Agreement”
4. A legally binding “Dissolution of Relationship Agreement”

Recognising that as individuals we are all different in terms of our life aspirations and priorities, such binding agreements are infinitely customisable and could be of limited duration (e.g. 5 years) or fixed duration (e.g. separation/divorce) and will be unique for each couple.

The rationale behind couples negotiating and formalising a legally binding “Partnership Agreement” is to ensure that couples contemplating committing to a relationship, do so fully informed and confident that both they and their partner are fully aware of their individual responsibilities and commitments to each other and their children. Many couples have not established that relationship clarity.... and hence disagreement occurs.

With regards to creating a legally binding “Financial Agreement”, its common knowledge that disagreement and differing gender expectations around how “matters financial” are to be managed are a major cause interrelationship conflict and eventual divorce. So once again, creating “financial clarity” can do much to mitigate the risk of future relationship conflict. Where couples cannot proactively reach agreement, then logic dictates it would be appropriate that both partners to take a step back and consider if entering into such a relationship is advisable.

When discussing a legally binding “Parental Agreement, young couples may not even be thinking about children. However, as we know children are not always planned. So it is important that prior to cohabiting, parental responsibilities are discussed, negotiated and formally agreed (e.g. no unplanned pregnancy to proceed for a pre-agreed period of first cohabitating together). This is especially important for young men who are extreme risk of “entrapment by pregnancy” and young women who may wish to defer pregnancy for personal reasons (e.g. to achieve educational /career goals). Once again creating clarity is critical.

With regards to negotiating a legally binding “Dissolution of Relationship Agreement”, the intent of entering into such an agreement is for couples to pre-agree how property is to be shared (or not - should they choose that option) including how children are to be cared for and financially supported until they become adults. The objective being to avoid the festering conflict that often develops amongst previously amicable partners. This festering conflict driven largely by the combative negotiating tactics and unrealistic financial expectations created by each partner’s legal representative.

We should never forget that children have a right to grow-up knowing that they are loved and cherished by both parents. This non-negotiable must be prioritised above and beyond the desire of the legal profession to prolong negotiations for their own vested financial interests and/or governments population objectives.

2.2 Transitioning to Sustainable and Equitable Relationships

Clearly, making the above transition to what I call a “sustainable and equitable relationship model” will be a gradual process and controversial for many, especially those who struggle with social change/automatically reject any challenge to an established orthodoxy of thinking.

It occurs to me that inviting couples applying for a marriage licence to voluntarily participate in a trial education and evaluation programme based on the above relationship model would be one possible methodology providing quantitative data and stimulating conversation amongst the general public whilst gently conditioning the population in advance of possible future regulatory change within family law.

In closing my submission, I am very mindful that transitioning to a “sustainable and equitable” relationship model that puts the needs of women, children and men above the demographic needs of governments will undoubtedly be fiercely rejected by governments and the legal profession. Especially the family law profession who for the last 50 plus years have profited greatly while willingly accepting the resulting relationship carnage they create as ...”simply a cost of doing business”.

Doing nothing is not an option if we are to address the entire spectrum of domestic abuse (not just violence) that has infected our communities and will continue unabated if government driven change doesn't occur.

May I leave you with the following thought when your Royal Commission deliberates the appalling rates of domestic abuse within our communities;

"If a man is physically abusive with a female partner, he will find the police at his front door and himself in front of a court immediately"..... If that same woman is being domestically abusive (e.g. financially abusive or coercive with her male partner) that man has no legal pathway to obtain justice. He is just simply expected to endure such abuse".

Can someone please explain to me how the above situation is allowed to occur in a so called developed country like Australia ??????

Thank you again for the opportunity to make my submissions. I look forward to reading the submissions of others and the SA Royal Commissions final report.

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