

**"The Criminalisation of Women: The Impact and  
Implications of Financial Abuse".**

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**Townsville International Women's Conference - AUSTRALIA**



3 - 7 July 2002 ~ James Cook University  
"Poverty, Violence and Women's Rights:  
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**This international conference is for all who care passionately about improving women's position in the world, who demand justice and full human rights for women everywhere and who believe that a feminist analysis is essential to defining a fairer globalised world.**

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## **CONFERENCE PRESENTATION**

### **Part 1**

This paper seeks to acknowledge FEMINIZED POVERTY as a consequence of Financial Abuse within the context of Domestic Violence.

The underpinning philosophical framework of this paper is a blend of Humanist and Feminist theory.

We chose these frameworks because of the inherent nature of abuse within the context of cohabiting relationships, which assaults the dignity and personhood of women by denying them the most basic of human rights: access to food, shelter, finances, education, supportive relationships, community, self-determination, mutual respect and participation in the decision-making processes of human relationships.

Within these frameworks dwell the concepts of empowerment, the recognition of institutionalised power imbalances based on gender and the acknowledgment of the role that access and equity contribute to resources for growth and social development hinge.

We acknowledge that the area, which this paper addresses, is but a small component of the overall horrendous implications and impact of financial abuse.

Our intention is to stimulate debate on this and the wider areas of concern that we as practitioners hold including:

- The increased representation of women and their dependent children who are living in poverty.

- The increased representation of women in legal and para-legal (what we define as para-legal are investigations, interviews and proceedings conducted by Centrelink) where their experience of financial abuse within the context of domestic violence is a key contributing factor.

We also seek to challenge

- Lack of community awareness concerning financial abuse.

Domestic Violence Attitude Survey of 1988 found that 82% of respondents sanctioned “denying money” as justifiable.

We have also found in our practise within the group settings either of the support group, focus groups or community education that financial abuse is not readily identifiable as domestic violence.

**Respondents to survey: Bankstown Women’s Refuge and Resource Centre: Re Financial Abuse**

- “I don’t know about the bills or rent. I think my husband pays them
- “I’m not allowed to have a job
- “My husband spent all our money on drugs and gambling

- Government and bureaucratic inflexibility and unwillingness to acknowledge financial abuse within the context of domestic violence

The lack of acknowledgment of the presence of Domestic Violence within relationships denies women a voice in their dealings with statutory instrumentalities.

There appears to exist a bizarre expectation that places the principle onus on women to disclose domestic violence within the context of their intimate relationships. The reluctance to develop and apply best practise indicators and organisational protocols of the presence of domestic violence permits complicity to further oppression and abuse of women and their dependant children.

*(Quote from Probation & Parole)*

*“Unless a woman discloses domestic violence in the interview for pre-sentence report we would not know”*

*(Quote from Counsellor, Women’s Health Service)*

*“Domestic violence does not come up in counselling sessions”*

The definitions and language, which is used to determine the existence of a “member of a couple” is somewhat, influenced by social stereotypical expectations of “marriage like relationships” and the assumed “pooling of resources”. Both of these false assumptions do not recognise the power imbalance and destruction/dissolution of relationships/partnership where domestic violence is present.

- The pursuit of the legal response and its inherent manipulation to further oppress women by discrimination of application

*In the same way that law reform advanced to acknowledge that you could not imprison a young woman for being “in moral danger” evidenced by habitual running away from home when in reality her experience was of physical and sexual assault.*

*(O’Connor: Model of Juvenile Justice in Juvenile Crime, Justice and Corrections. A Brodowski & I O’Connor eds. Longham; Melbourne 1997; 235)*

It now needs to be acknowledged that the practise of punishing a woman for providing for herself and her dependent children when she is subject to financial abuse is at its best a cruel and unusual punishment.

*“Some acts of violence are not crimes in law, others are legitimised in custom or court opinion and most are blamed on the victim”*

**Quote from Corinne Kumard’Souza “The Universality of Human Rights Discourse”**

The definition that we choose to use in our practise and support of women in domestic violence is from Kay Douglas.

*“When one partner consistently controls, dominates or intimidates the other by means of manipulative, punishing or forceful behaviour, abuse is occurring” ...Invisible Wounds: A Self Help Guide for women in Destructive Relationships (pg 24)*

We have consciously incorporated women’s stories throughout the presentation because we seek to challenge the imposition of silence regarding this issue. It is imperative to hear women’s voices for the further evolution of the structures of society.

We acknowledge and thank the women who have shared their stories and experiences with us in our groups and through the survey.

## Part 2

### NAMING

Financial Abuse is one of the most frequently experienced yet invisible features of Domestic Violence. Extensive inroads have been made in gaining the recognition of physical abuse, sexual abuse, verbal abuse and psychological abuse. However financial abuse and social isolation have lagged behind.

It would seem that financial abuse is the “missing link” which if acknowledged might well have unpalatable changes of policies and practices to those existing patriarchal structures within society. If we were to invite a paradigm shift in viewing this as a social and community issue we believe the response to this form of abuse would be somewhat different.

*July 1999- June 2000*

- *4862 women were accommodated in 53 refuges throughout New South Wales due to domestic violence*
- *6946 children were accommodated in the same period*
- *9254 women accessed non residential support due to domestic violence*

*SAAP NDCA DATA*

*In the period July 2000- June 2001*

- *8300 support periods for women escaping domestic violence*

*Source: SAAP:NDCA Data(Supported Accommodation Assistance Program; National Data Collection Agency)*

We acknowledge the temptation to extrapolate the general theory from the specific incidence however the percentage demonstrated would indicate that it is a far greater phenomenon than otherwise recognised.

The current definition of financial abuse fails to encompass the varying strategies imposed by the perpetrating partner. Whilst it may be argued that the varying methods of abuse can be as diverse as the men who perpetrate them, by constrictive definitions we fail to validate the multi-faceted scope

and never ending creativity of means to financially oppress women and children.

*DVAS: WDV CAP Training*

*“Preventing a woman from accessing financial resources, not allowing her to have her own bank account, demanding that she hand over her pay, depriving her and her children of basic physical needs”*

*Domestic Violence Advocacy Service: Women’s Domestic Court Assistance Program Training Manual*

Financial abuse takes on many forms:

- ❑ The conscious decision to withhold financial support of partner and dependent child/children. Her experience may be one in which his earned income is not shared with the household and remains totally his own to dispose of as he determines. Her earned income may be paid into his account for his exclusive use and distribution, or into a joint account to which she has no access.
- ❑ No participation in financial decision-making or expenditure of funds/allocation of financial resources of the household.
- ❑ No knowledge of partner’s income or tax arrangements. This has dire implications for women when their partners decide to income split for their tax benefit without her knowledge or approval, particularly when she has to project what the household’s income might be in the applications of Family Allowance levels. Many women have unwittingly found themselves placed in the position of having to attend Centrelink interviews for overpayment of benefits.
- ❑ Intimidation and coercion to apply for additional welfare payments
- ❑ Harassment to sign loans
- ❑ Refusal to allow partner to work
- ❑ Forging of the woman’s and signature on credit provider applications and company returns

- The complicated maze of sexually transmitted debt which heightens the ability to hide financial abuse

The failure to recognise financial abuse as a critical component of domestic violence has left women open to increased criminal proceedings through over-payment and debt recovery through the Department of Social Security, forced bankruptcies, prostitution, shop lifting, petty theft and an array of other illegal activities.

There is an historical context of the discriminating practises of application of law and its consequences based on gender. The reticence of legal, government and the community to acknowledge the existence of domestic violence and its impact on women's lives has led to a protracted campaign over some 15 years. This has resulted in a raft of legislative reforms, the development of education campaigns and packages, policing standards and operational and response practises.

It is interesting to note that Section 44 of the 1900 Crimes Act has never been repealed or amended and to the best of our knowledge has never been utilised to assist women in domestic violence. It is also interesting to note that within the confines of the Act, domestic violence in all of its current recognised forms would fit succinctly within the framework.

*Crimes Act 1900- Section 44*

*Whosoever:*

*Being legally liable to provide any wife, child, ward, apprentice or servant or any insane person with necessary food, clothing or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, or maliciously does or causes to be done any bodily harm to any wife, child, ward, apprentice or servant or to any insane person so that, in any such case, his or her life is endangered or his or health becomes or is likely to seriously injured, shall be liable to imprisonment for five years."*

Whilst our feminist beliefs would preclude us from arguing the invocation of the patriarchal underpinning application of Section 44, it could however be argued:

- That men should be targeted as perpetrators of aiding and abetting where domestic violence (financial abuse) is present, in any proceedings for over payment, false statement for application of welfare payments or other illegal activities are being dealt with.

In taking this view it could be argued that it goes some way towards identifying the “hidden culpability” which the perpetrator shares in the commission of the alleged offence.

It could also be argued that:

- Women and children by their experience of domestic violence are disadvantaged on a number of levels and, when drawn into the criminal justice system, disadvantage is compounded.

This is indeed the point at which debate needs to proceed.

Any debate must include a critical analysis of the use of the criminal justice system.

The phenomena which we are seeing in the issue of Financial Abuse that is, the increasing criminalisation of women is not the ideal solution when dealing with the complexities of domestic violence. If this debate is to occur we also need to include and acknowledge how the criminal justice system has historically been used to further oppress women.

We would submit, that future proposed changes to legislation and introduction of reforms could include the establishment of a Body whose role would be to conduct a “Social Impact Study” on any proposed reform.

This Body’s function would include critical debate and analysis of any proposed change or reform. Such members could include the Department for Women, Law Reform Commission, Domestic Violence Advocacy Service, Welfare Rights Centres, ACOSS, Women’s Health and Family Support Services representation.

We also have found in the course of writing this paper, the increased use by men of reforms that were intended to support and assist women, which are now reaping an unintended negative experience for women and children.

In particular Child Support as well as the option to income split Sole Parent Benefits to provide additional income to non-custodial fathers during weekend contact visits. Both were identified as key areas where men were able to continue their imposition of financial abuse of their former female partners long after the relationship had ended.

There has been a failure to acknowledge not only the immediate impacts of financial abuse but also the long-term impact and the capacity for the abuser to continue the abuse.

When we couple this with the further likely consequences of long term paying off of the debt, criminal proceedings, custodial and non-custodial sentences and the seizure of assets from property settlement to recover debt, we are dealing with an issue that has the power to further debilitate women emotionally and psychologically and contribute to eroding her sense of well being.

### Part 3.

#### The Criminalisation of Women

Having established that Financial Abuse is a critical, yet neglected component, of Domestic Violence, and having listened to women's stories that graphically illustrate the impact such behaviours have on individual lives, we should now look at how some theorists conceptualise Financial Abuse. This will have implications for our practice.

Most of those present will be familiar with the work of the Minnesota Domestic Violence Intervention Project, including the Duluth Power and Control Wheel.

- ***Using Economic Abuse (segment on Duluth Power and Control Wheel)***
  - Preventing her from getting or keeping a job***
  - Making her ask for money***
  - Giving her an allowance***
  - Taking her money***
  - Not letting her know about or have access to family income***

During our group work, we have used the wheel to great effect to demonstrate to women the range and scale of the abuse they have been subjected to. We ask them to highlight the behaviours they have experienced and then join in discussion to elicit their stories. The Duluth wheel devotes 12.5% of its space to Financial Abuse, yet like many other practitioners, I am sure we do not spend a commensurate amount of time exploring its impact or on developing strategies to set boundaries and move towards a partnership based on equality.

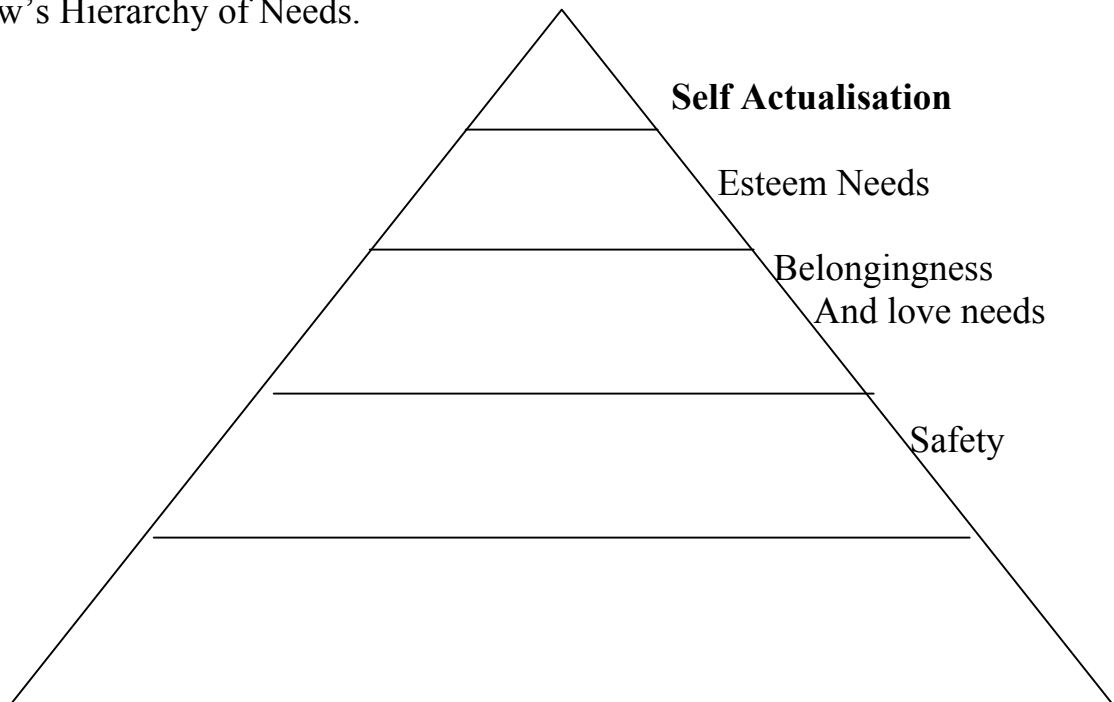
- ***Economic Partnership (segment on Duluth Equality Wheel)***
  - Making money decisions together***
  - Making sure both partners benefit from financial arrangements***

However, for women who have been forced into falsely claiming a sole parent benefit, in order to provide basic necessities, such as food, shelter, medication and clothing for themselves and their children, it is nonsense to believe that such ideal boundaries are possible. If they leave the relationship, they stand the risk of being reported to the authorities for

making a fraudulent claim, by the very person who has caused the claim to be made in the first place.

*Helen was married to a violent man for ten years. She was a victim of regular beatings. She and her partner had three children during their marriage, and from the beginning, he had refused to provide any money from his wage for the basic necessities. He had told Helen, quite openly, that the kids were her responsibility and the government could pay. Helen claimed Sole Parent Benefit for the whole duration of the marriage. We worked with Helen for two years, before she finally took one beating too many and fled with her children to a refuge. He, in turn, carried out the promise that he had made throughout the marriage – “leave me and I’ll tell CentreLink about you”. Helen was charged and despite the best efforts of us, and the Welfare Rights Centre, resulted in Helen being required to pay back to the government coffers, \$88,000 in overpayments. Given that Sole Parent Benefits are already inadequate to provide a decent standard of living, with the impost of \$100 per week deductions from that amount, what are Helen’s options to support herself and her children, without recourse to other dubious methods of income generation?*

In the beginning of this paper we declared that we took both a feminist and humanistic approach, and as such, in our practice we use Maslow’s Hierarchy of Needs.



Our group work is designed primarily to enhance women's self esteem in order to move them towards their full potential (the self-actualisation in the diagram). We would be deluding ourselves if we thought that we could achieve client self-determination without attending fully to the physiological, safety or belongingness needs of women first. Yet for Helen and many like her, the state in its efforts to recoup overpayments, are thwarting our best efforts to address the basic physiological needs of our clients. Although Helen has left a destructive relationship to address her safety needs, these will still be compromised by her part time prostitution to supplement her depleted benefit.

Duluth and Maslow both put forward what ideal states look like. Both are optimistic theories of Human Potential. Our contention is that Domestic Violence in particular and Financial Abuse specifically cuts across those concepts and what we are left with is that we are dealing with a basic human rights issue. Unless we recognise that as a truism, we shall not assist our clients effectively. Article 25 of the Universal Declaration of Human Rights, adopted and proclaimed by the UN General Assembly resolution 217 A (III) of 10 December 1948 states:

- Everyone has a right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control
- Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

*Source: General Assembly of the United Nations, Universal Declaration of Human Rights Article 25, 10.12.1948*

For too long many facets of Domestic Violence have been regarded as a 'private sorrow' rather than a publicly accountable crime. We are now at a stage in our development of resistance to Domestic Violence that we can move the focus from physical and sexual abuse to the more insidious and hidden strategies employed to subjugate women. Our final section will be a series of recommendations that practitioners can embrace as well as a starting point for legislative reform.

Respect, Trust and Support are as essential to women's emotional well being as Safety and Security.

## Part 4

### The Criminalisation of Women: The Way Forward.

As a matter of urgency we need to agree that debate must be initiated to stem the increased criminalisation of women.

We have stated previously that:

The debate must address whether the criminal justice system is the adequate or ideal solution when dealing with the complexities of domestic violence.

Other pertinent areas, which must also be included in any debate:

1. The language selected to define intimate relationships.

In the discussions we have had with various organisations and practitioners, an area that was highlighted was the term “marriage” or “marriage like relationship” and the influence wielded by entrenched stereotype expectations and projections. Within the investigative process there is a hesitancy to determine what is a good or bad marriage, the complexities of determining if a “marriage like relationship” does exist or has ever existed.

We would propose that the concept of partnership be included in any accepted description of intimate relationships.

2. The absence of recognition/acknowledgment or presence of Domestic Violence within partnerships.

Section 24 of the Social Security Act 1991 states that in certain circumstances which fit within its stated criteria that person may be treated as not being a member of a couple (subsection 4(2))

We propose that the presence of Domestic Violence dissolves the agreed expectations and experiences of partnerships therefore where domestic violence exists the notion of couple does not.

Domestic violence must be included as an essential indicator when decisions of the Secretary are linked to Section 24.

We advocate for this inclusion because it would irrevocably accept that “domestic violence” exists within the context and landscape of intimate relationships and partnerships. It would also accept once and for all the wide-ranging impact and implications that domestic violence has in women and children’s lives. We as practitioners, social lobbyists, advocates and community educators would be somewhat relieved from the never-ending cycle of having to continually fight for the recognition of domestic violence in all its insidious forms.

We have slogged long and hard at grass roots level in a bottom up approach, which is in itself the essence of social activism. What we need now is a top down approach. What we are proposing now after some 20 years of activism is that domestic violence be finally included in Section 24.04 “special circumstances” in determining Person may be treated as not being a member of a couple (subsection 4(2)).

3. Additional Community Education Projects must be developed that clearly name and define financial abuse in all its forms. Information and education we all agree is an important component in the continuance of the empowerment of women. What we have found in our discussions with practitioners is the lack of knowledge which women have surrounding their legal rights in financial arrangements.

In discussions we have also identified a growing concern surrounding the ethics of credit providers and lending institutions where it is clear that women are signing contracts under duress, without full knowledge or consent.

In the context of the support groups and the focus groups that were held across the Bankstown Local Government Area, we consistently found that women were not able to identify financial abuse in their relationships.

We need to begin as a community of practitioners to question how we collect our data. On an organisational level we need to examine protocols and best practise standards relating to the identification and response to domestic violence.

- Do they exist and if they do not how will they be developed?

- If they are, do we use them?

Key players such as Probation and Parole, Emergency Relief providers and Health Facilities who are coming in contact with women in various settings need to look at first contact interviews and the quality of current information gathering.

We identified a number of times during our limited survey, that practitioners could readily identify that yes, their experience also indicated an increase in the criminalisation of women, however no hard data could be gathered.

We also identified that research to date in this area has been undertaken in limited capacities like small pieces of a bigger puzzle. What we know is useful but fragmented.

This paper is itself a small piece of a bigger puzzle, which builds a picture of the overall impact of financial abuse. There are many areas that we have not been able to cover in this presentation.

We would hope that from this paper we could undertake to develop a comprehensive research project that would clearly identify the impact and implication of Financial Abuse on Women and Children.

As we move forward we must include a comprehensive discussion, which clearly identifies:

- The fundamental social implications of financial abuse on women and children's lives.
- The increased experience of poverty
- The influence that lack of access to adequate income has on the experiences of life choices and opportunities for both women and children, which further marginalise and disenfranchise them from fully participating in life.