For the sake of the children?
Children, domestic violence and public policy

Suellen Murray and Anastasia Powell

More attention than ever before is being paid to children in Australian public policy concerned with domestic violence. In family law and in the areas of child protection, policing and in the provision of specialist services, there is recognition that children are affected by domestic violence. Yet the 'discovery' of the impact of domestic violence on children and the development of public policy responses have not been straightforward processes of problem identification and solution. Rather, there are a number of competing discourses which underlie various policy approaches. Drawing on Bacchi's (1999) 'what's the problem represented to be?' approach, we examine the discursive constructions of children's experiences of domestic violence and the responses to them as evident in Australian public policy. In identifying these particular understandings, and considering the implications of these meanings for current policy and practice, we aim to contribute to debate on the future direction of domestic violence policy concerned with children.

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More attention than ever before is paid to children in Australian public policy concerned with domestic violence[1]. In family law and in the areas of child protection, policing and in the provision of specialist services, there is recognition that children are affected by domestic violence. While public policy is concerned with a range of interventions, in this paper we are specifically concerned with the tertiary end of these experiences, that is, after the event, rather than primary or secondary prevention, which is concerned with preventing violence before it has occurred or reducing the likelihood that it will occur, in vulnerable populations.

There are large numbers of children experiencing domestic violence. In an Australian survey of 5000 young people aged 12 to 20 years in 1999, nearly a quarter (23 per cent) reported witnessing at least one act of physical domestic violence against their mother or step-mother (Indemaur 2001, pp. 2-3). According to the *Personal Safety Survey* of 16,300 people, nearly a half (49 per cent) of people who experienced violence from a current partner had children in their care at some time during the relationship, and over a quarter (27 per cent) said that these children had witnessed the violence. When violence by a previous partner is considered, these percentages are higher: 61 per cent and 36 per cent respectively (Australian Bureau of Statistics 2006, p.11).

While most people do not seek assistance from formal support services when domestic violence occurs (Australian Bureau of Statistics 1996), we do know how many children come to the attention of support agencies. For example, in 2003-2004, there were a total of 34,700 children accompanying female clients who sought assistance regarding domestic violence from Supported Accommodation Assistance Program (SAAP) funded crisis accommodation agencies across Australia. Most of these children (89 per cent) were aged twelve years or under (Australian Institute of Health and Welfare 2005, p.13).

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[1] While we are aware of the considerable debate about the terminology used to name violence between intimate partners and other family members, for convenience we have chosen to use the term 'domestic violence' throughout this paper, except in circumstances where we are referring to material in which other terms (such as family violence) have been used. For further discussion of the use of language around domestic violence, see MacDonald (1998) and Murray (2005).

Furthermore, according to Victorian data, domestic or family violence is identified in over half of all notifications to child protection authorities and, for children less than two years of age, family violence is reported as 'a parental characteristic' in 57 per cent of cases (Department of Human Services 2005, p.1). In Victoria in 2003-2004, there was at least one child recorded as being present in approximately 65 per cent of family violence incidents recorded by police; in that year, over 25,500 children were present at family violence incidents recorded by police and nearly 40 per cent of these children were aged four years or under. Moreover, in Victoria in 2003-2004, approximately 45 per cent of the children accompanying parents seeking assistance from SAAP services for domestic violence were aged four years or under (Victorian Community Council Against Violence 2006, pp.37-41). This data confirms international research that shows that children under five years are 'disproportionately represented' in homes where domestic violence occurs (Fantuzzo et al. 1997, p.116).

While there has been acknowledgement for at least twenty years that children are affected by domestic violence, public policy has been slow to respond. Women's refuges, established in the 1970s, were certainly aware of the impact of domestic violence on children: mothers came to their services and brought with them children who were distressed and anxious (Blanchard 1999; James 1994; Murray 2002). Government inquiries that took place in the early to mid-1980s noted that domestic violence not only affected women, children too were harmed. The South Australian Taskforce, for example, acknowledged that the effects of domestic violence on children could be 'profoundly disturbing' and 'physically dangerous' (cited in Task Force on Domestic Violence 1986, p.22). But the 'discovery' of the impact of domestic violence on children and the development of public policy responses has not been a straightforward process of problem identification and solution, nor have there been consistent understandings and responses across and to the various public policy constructions.

How, then, can we begin to make sense of these diverse constructions of children's experiences of domestic violence as a public policy problem? The conception of what constitutes a policy problem, what causes it, and thus what policy should do about it, is not straightforward (Edelman 1988). Nor would we argue that public policy is based on an objective assessment of the reality or nature of a problem. We take the position that rather than simply reflecting an objective 'truth' of domestic violence and, therefore, what is best to be done about it, there are competing sets of understandings or discourses of violence that policies draw upon and that, therefore, influence different policy approaches. In other words:

> ... every policy proposal contains within it an explicit or implicit diagnosis of the 'problem' ... A necessary part of

policy analysis hence includes identification and assessment of problem representations, the ways in which 'problems' get represented in policy proposals (Bacchi 1999, p.1).

As noted by Flood and Pease (2006), naming and defining a policy problem is both political and contested.

In this paper, we draw on research from an Australian Research Council (ARC) funded project that is analysing key Australian public policy documents concerned with domestic violence, and consider, in particular, how the 'problem' of children's experiences of domestic violence is described and represented, identifying what explicit or implicit assumptions are being made, and considering some of the potential implications. Drawing on Bacchi's (1999) 'what's the problem represented to be?' approach, we are also interested in what is left unproblematised and unaddressed in domestic and family violence policy concerned with children. In identifying these particular understandings, and considering the implications of these meanings for current policy, we aim to contribute to debates on the future direction of domestic violence policy concerned with children. To examine how children's experiences of domestic violence have been problematised and to begin to reveal the underlying beliefs and values, we firstly consider how public policy concerned with domestic violence has been broadly framed. We then turn to a discussion of the naming and defining of children's experiences of domestic violence in public policy and, finally, consider their implications.

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FRAMING OF DOMESTIC VIOLENCE IN PUBLIC POLICY

Recent Australian domestic violence public policy has been informed by several approaches. In most states of Australia, domestic violence is now located within a broader public policy approach responding to violence against women (e.g. Office of Women's Policy (Victoria) 2002). In doing so, there is recognition that domestic violence is one form of violence among others, including sexual assault and sexual harassment, that is experienced by women, and that is predominantly or almost exclusively perpetrated by men (in relation to domestic violence, see Ferrante et al. 1996; Victorian Community Council Against Violence 2006). Within this framework, domestic violence is understood as a

way in which power and control is exerted within or after relationships. Moreover, a gender-based framework of violence against women recognises that domestic violence occurs within the wider context of social disadvantage and inequality experienced by women relative to men which, for some women, means that their vulnerability is heightened. Hence, domestic violence reflects gender relations and also contributes to the construction of ideas and practices about gender, further enforcing gender relations. This approach particularly focuses on women and, while at the level of practice it is not possible to ignore the presence of children, at the policy level, children can be invisible or regarded as secondary (Bagshaw & Chung 2001).

An alternative approach to the gendered analysis of domestic violence is one that pays attention to strengthening families (rather than empowering women), sometimes within the wider context of conservative 'family values' (Murray 2005; Phillips 2006; Weeks 2000). This approach may use un-gendered concepts of domestic violence such as 'interpersonal violence' and leave space for women's violence against men within interpersonal relationships. Within this discourse of domestic violence, attention is also paid to children as family members who may experience violence. For example, the Howard Federal Government's contributions in the area of domestic violence through the Partnerships Against Domestic Violence program were at least partly premised on the notion of 'strengthening families' (Partnerships Against Domestic Violence 2000). At the same time, there was increasing evidence available about the impact of domestic violence on children and this resulted in greater attention being paid to children in public policy, including the identification of children as a priority theme within Partnerships Against Domestic Violence.

Understandings of Indigenous family violence are the most obvious examples where discourses concerning gendered violence alone have been less relevant (Atkinson 2002; Taylor et al. 2004). Here, family violence is also linked with the impacts of colonialism, trauma and family breakdown and male violence is understood as stemming from lack of status (Blagg 2000). The terminology of family violence (rather than 'domestic violence') aims to capture the experience of Indigenous people, including women and children, against whom violence may have been perpetrated by a range of family or community members, not just male partners. Characteristic of this approach to family violence is the preservation or healing of families and communities, and violence against children is a central concern.

These discourses of domestic violence, then, contribute to the responses to children who experience domestic violence; for example, whether children are considered to be primary or secondary victims, whether children are responded to in their own right with their own needs and concerns, and how those people around the child are taken into account in terms of the public policy responses. Before proceeding to discuss

how public policy has responded to children's experiences of domestic violence, in the next section, we will consider how they have been named and defined.

NAMING AND DEFINING CHILDREN'S EXPERIENCES OF DOMESTIC VIOLENCE IN PUBLIC POLICY

The naming and defining of children's experiences of domestic violence are important not only in identifying and claiming the issue to be of serious public importance and thus the target of a public response, but also in the meanings and potential implications of the language used. Itzin (2000, p.357) suggests that:

> ... how violence is conceptualised and defined will determine what is visible and seen and known ... and what is and is not done about it through policy and practice.

Thus the language used to describe children's experiences of domestic violence reflects to some extent the attention paid to the problem.

The most significant shift that has occurred, and one that is consistent with this increasing concern with the emotional impact of domestic violence on children, is the naming of children as primary victims in their own right.

The earliest Australian public policy references to children's experiences of domestic violence named them as 'witnesses', a term somewhat ambiguous in its ability to identify the seriousness of the problem. Similarly, children were described as being 'exposed' to domestic violence (Laing 2000). The term 'witness' suggests a level of emotional distance between the violence and the children; the violence was directed at the child's mother and therefore the child is unaffected. Moreover, if children were harmed, they were regarded as secondary victims (Bagshaw & Chung 2001). However, while the language of public policy might have suggested otherwise, as early as 1981, the New South Wales Task Force on Domestic Violence reported that:

> the fear of threatened violence and/or actual violence experienced by the mother can be damaging to the children as well as to the mother (1981, p.72).

Children's experiences of domestic violence can entail being physically hurt when intervening to protect their mother, being physically hurt accidentally in the course of violence towards their mother or being encouraged to participate in

the abuse of their mother (Kelly 1994; Laing 2000; Tomison 2000). Children may also experience emotional harm and trauma from being present or being aware of the violence, with the effects of this harm varying by the child's age, gender, stage of development, the frequency of the violence and other factors (Bagshaw & Chung 2001; Edleson 2004; Laing 2000). Children can also be directly targeted for emotional or physical harm, as research on the co-occurrence of child abuse and domestic violence has revealed (Bagshaw & Chung 2001; Edleson 1999; Stanley & Goddard 2003; Tomison 2000).

Despite considerable resistance, emotional harm as an area of impact of domestic violence on children has received increasing recognition. There is a long history in public policy of the assumption that a man who is violent towards his female partner would not harm their children. This view is reinforced by comments such as:

> It is acknowledged that there are parents who, although violent towards their spouses, nevertheless have close loving relationships with their children (Task Force on Domestic Violence 1986, p.99).

These understandings assumed that a father who is violent to the child's mother can still be a 'good' father. However, the experience of living in a home where violence occurs and where this violence, or the fear of violence, is directed at a person highly significant in their lives, must impact emotionally. The effect of the violence is to create an environment of threatened security and fear, evident even to the youngest children (Blanchard 1999; Laing 2000). And there may be further consequences for children living in these circumstances. If the mother leaves the relationship, it is possible that the children will leave behind their home, friends, school, pets, toys and other belongings, which have serious material and emotional repercussions.

The most significant shift that has occurred, and one that is consistent with this increasing concern with the emotional impact of domestic violence on children, is the naming of children as primary victims in their own right. The increasing use of the term 'family violence' in public policy (rather than domestic violence or violence against women) has allowed for the greater inclusion of children as victims. At the same time, there has been increasing interest in the naming of children's experience of domestic violence as 'child abuse'. Moreover, recent research identifying the co-occurrence of child abuse and domestic violence has added to the view that children's experiences of domestic violence are a form of child abuse (Bagshaw & Chung 2001; Edleson 1999; Stanley & Goddard 2003; Tomison 2000). Some have expressed concern about this shift in terminology because it takes the focus off the particularity of these experiences within an environment of domestic violence (which have their own public policy framings and responses) and moves them towards child protection responses, where there is a

long history of tensions of working with others in the area of domestic violence, a point we will return to later in this paper (Davies & Krane 2006; Tomison 2000).

Having considered how children's experiences of domestic violence have been constructed as a policy problem, we now turn to consider what the public policy responses have been. We ask, have these responses reflected what has come to be recognised as the seriousness of the harm?

PUBLIC POLICY RESPONSES TO CHILDREN'S EXPERIENCES OF FAMILY VIOLENCE

In some public policy discussions, children's experiences of domestic violence have been invisible or, if not invisible, discussed as if these experiences did not need redress; in other areas, there is a response, but there are tensions around what is in the best interests of the child. In this section we will consider three key areas – provision of services by SAAP-funded agencies, family law and child protection – and examine the ways in which public policy has responded to children's experiences of domestic violence.

Historically, child protection responses have tended to engage with mothers, who are often the primary care-givers and held responsible for the safety of their children, even when they are victimised themselves and may experience negative effects from living with domestic violence.

Even though as early as the mid-1980s children's experiences of domestic violence were identified as 'profoundly disturbing', public policy responses to those children who found their way into the SAAP service system were largely dealt with through the provision of child care, a strategy that was often of greater assistance to their mother than the children themselves. Reflecting the focus on women from within the developing gendered discourse, public policy did not identify children as of central concern. Indeed, a common view at this time was that children would be supported by supporting the mothers. That children might have different needs to their mothers has not always been a consideration (Bagshaw & Chung 2001; Institute of Child Protection Studies 2006; Norris et al. 2005).

Further reflecting the central concern with women rather than children, in the earlier years of SAAP funding, children were not counted, even though they make up to two-thirds of the population of women's refuges. More recently, children

are counted but continue to be identified as 'accompanying children' and are not funded as clients in their own right, despite the implementation of case management in refuges (Institute of Child Protection Studies 2006; Norris et al. 2005). While refuges are much more likely to provide child support now (rather than child care), and there is much good work occurring in refuges to support children (Lesley Gevers Community Management Services 1999; Oberin, Foster & Kirkwood 2005), there is still an urgent need for increased resourcing of existing programs and specialist support services for children (Institute of Child Protection Studies 2006; Laing 2000; Wilcox 2007).

In family law, there is recognition that domestic violence must be taken into account when negotiating residency and contact. In determining what is in the child's best interests, the Family Court must consider:

> ... the need to protect the child from physical or psychological harm caused or that may be caused by ... any family violence involving the child or a member of the child's family (*Family Law Act* 1975, Section 68F(2), cited in Kaye, Stubbs & Tolmie 2003).

The *Family Law Act* gives the rights of contact to the child which are subject to their best interests. However, increasingly a 'pro-contact culture' has developed where the violent partner's contact with the child is prioritised over the safety of women and children (Flood 2006; Kaye, Stubbs & Tolmie 2003; Rhoades 2002). In effect, contact is about the rights of parents to have contact with their children, rather than the children's best interests.

There is a long history in Australian public policy around family law of parental rights to contact, even when violence exists. Even when the presence of violence is acknowledged, it is about managing contact, as indicated here from the 1981 New South Wales Task Force on Domestic Violence:

> The Task Force would by no means suggest removal of the rights of children of access to their father. However, it is felt that some responsibility should be taken by the Family Court to make such visits safer and less threatening for a woman who has been assaulted by her partner (1981, p.72).

Parental rights to contact, strengthened in recent years under the Howard Government with the influence of the 'men's rights' lobby (Flood 2006; Kaye & Tolmie 1998), is a significant area of concern. They reflect to some extent a 'strengthening families' approach to domestic violence (even if the family is no longer together) and operates under the guise of 'for the sake of the children'. Ironically, thirty years ago, mothers were encouraged to stay in violent relationships 'for the sake of the children'. Today, women and their children can still be put at great risk by the contact arrangements that are put in place and this reflects a lack of seriousness attributed to the impact of domestic violence.

In child protection, domestic violence is not routinely named as a form of child abuse, although as indicated earlier, this is increasingly the case. For example, in 2006, New South Wales introduced a new *Children and Young Persons Act* which explicitly names domestic violence as placing children at risk of harm for the purposes of child protection:

> ... the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm (Section 23D).

Legislation in Tasmania and the ACT similarly names domestic violence. By contrast, Victoria's recently amended (July 2005) *Children and Young Persons Act* does not explicitly name or define domestic or family violence as grounds for protection. However, this would not necessarily preclude a protective response on the grounds of psychological or physical harm from witnessing or experiencing family violence.

In family law, the rights of parental contact can override children's safety and, in child protection, a lack of accountability for violence by the perpetrator can also jeopardise children's safety.

Child protection work is aimed at protecting children from harm and meeting unmet safety needs. As indicated previously, children may be at direct risk of harm from a perpetrator of domestic violence and child protection responses need to be geared towards preventing this harm from occurring. Children may also be at risk of harm or in a situation where they cannot be protected within the family from violence or where their needs cannot be met, leading to safety issues. Historically, child protection responses have tended to engage with mothers, who are often the primary care-givers and held responsible for the safety of their children, even when they are victimised themselves and may experience negative effects from living with domestic violence (Bagshaw & Chung 2001; Davies & Krane 2006; Laing 2000; Risley-Curtiss & Heffernan 2003; Tomison 2000). The invisibility of the violent father (and a lack of action against him), however, can jeopardise the children's safety. Whereas in family law the father is now very present and a beneficiary of the 'pro-contact' culture, in contrast, in child protection, the male partner (and father) may be invisible (and, in effect, also a beneficiary to the public policy) and the responsibility placed on the mother to ensure the children's safety (Davies & Krane 2006). We do not, of

course, mean that the needs of a child in this situation be ignored because their mother is not responsible for what has happened. Rather, in instances where mothers are experiencing domestic violence, there is a need for child protection responses to engage in ways which support women's and children's safety, while, at the same time, perpetrators of violence are held accountable (Edleson 2004; Humphreys 2007). In recent times, there have been attempts to develop shared understandings and practices in the fields of domestic violence and child protection (e.g. Department of Human Services 2004; Department of Human Services 2005).

CONCLUSION

In this paper we have analysed the ways in which children's experiences of domestic violence have been named, understood and constructed as policy problems. We have then considered the implications of these understandings for public policy, legislation and service delivery. While Australian public policy frameworks concerned with domestic violence continue to have a gendered focus, there is much greater attention now not just to women, but to families and children. Moreover, there is much greater awareness of the seriousness of harm to children, as reflected in the shifts in language used to name these experiences.

However, across the three public policy areas considered here – the provision of SAAP-funded services, family law and child protection – there are inconsistencies in the recognition of the seriousness of the harm to children. In the funding of SAAP-funded services, children are not recognised as clients in their own right, constraining the capacity of services to provide adequate responses to children. While there is much good work occurring in refuges to support children, there is still an urgent need for increased resourcing of existing programs and further specialist support services for children. In family law, the rights of parental contact can override children's safety and, in child protection, a lack of accountability for violence by the perpetrator can also jeopardise children's safety. In both family law and child protection, maintaining the visibility of who is responsible for the violence (and increasing accountability for its occurrence) would be a step forward. While there has certainly been increasing attention over the past two decades, these examples indicate that further public policy shifts are needed in the area of children's experiences of domestic violence. ■

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