

EDITORIAL

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In the words of Rosie Abella, Justice of the Supreme Court of Canada,

Family law is the legal system's metaphor, the crucible with which so much else in law intersects ... It is also, because it is the area of law by means of which most people will come into contact with it, the area by which the legal system will be judged by most people.¹

A large proportion of Australians who come into contact with the family law system will be the victims of violence in their own homes.² But possibly an even larger number of those who experience violence will not seek recourse or refuge in a legal system which is meant to protect them. This Forum of the *UNSW Law Journal* explores the challenges facing law and policy makers in devising a system that will provide the best possible outcomes for victims of family violence.

Violence in the Australian home is, however, a problem that transcends the family law system and begs questions of the legal community as a whole. Furthermore, any effective preventative strategy will not be provided by the law alone. Family violence is a community problem requiring a community response. Focus on the prevalence of violence in the home is a welcome recognition that acts of violence behind closed doors are not beyond the reach of government intervention; that a man's home is not in fact his castle.

While it is not only women who are the victims,³ the articles in this Forum affirm that the gendered nature of family violence cannot be overlooked. Repeated throughout the Forum are findings of the National Council to Reduce Violence against Women and their Children that one in three Australian women will experience physical violence during their lifetime and that one in five will

* Editor, General Edition 33(3) and Forum 16(2), 2010.

1 Rosie Silberman Abella, 'The Law of the Family in the Year of the Family' (1994) 25 *Ottawa Law Review* 533, 533.

2 In over half of parenting cases that come before the family courts one or both parties allege violence; see Richard Chisholm, *Family Violence Court Review* (Attorney-General's Department (Cth), November 2009).

3 The National Council to Reduce Violence against Women and their Children recognised that Aboriginal and Torres Strait Islander women report higher levels of violence during their lifetime than do non-Indigenous Australians, as do women with disabilities; National Council to Reduce Violence against Women and their Children, *Time for Action: The National Council's Plan to Reduce Violence against Women and their Children, 2009–2021* (2009) 9 ('*Time for Action*').

experience sexual violence.⁴ While there is considerable scepticism about the ability of law to effect positive change for women, the articles in this Forum reiterate that it must act as a site of engagement,⁵ and that new legal norms must challenge social norms that have long perpetuated violence against women.⁶

It is my hope that this Forum will promote timely discussion of the imperatives for reform highlighted by recent government reports on family violence.⁷ This Forum aligns itself with the efforts of so many in government and the community to ensure that there is not a return to the stigmatisation of domestic violence victims. The government must not simply commission inquiries; it must also act to address the concerns unearthed.

I am extremely grateful to the contributors to this Forum for enriching the *Journal* with their own experiences with the law surrounding family violence. As always, the *Journal* relies on the wise advice of the Dean of the Law School, David Dixon, and our Faculty Advisors, to whom I extend my sincere thanks. This edition would not have been possible without the tireless work of the Editorial Board, and in particular I would like to thank Libby Sivell and Qi Jiang for their hard work, constant support and good humour throughout the year.

4 Ibid.

5 See also Reg Graycar and Jenny Morgan, 'Law Reform: What's in it for Women' (2005) 23 *Windsor Year Book of Access to Justice* 393.

6 As argued by Patricia Easteal in 'The Cultural Context of Rape and Reform' in Patricia Easteal (ed), *Balancing the Scales: Rape, Law Reform and Australian Culture* (Federation Press, 1998) 1.

7 See, eg, Chisholm, above n 2; *Time for Action*, above n 3; Australian Law Reform Commission and the New South Wales Law Reform Commission, *Family Violence: Improving Legal Frameworks*, ALRC Consultation Paper No 9, NSWLRC Consultation Paper No 1 (2010); Rae Kaspiw et al, 'Evaluation of the 2006 Family Law Reforms' (Report, Australian Institute of Family Studies, 2009); Lawrie Moloney et al, 'Allegations of Family Violence and Child Abuse in Family Law Children's Proceedings: A Pre-reform Exploratory Study' (Research Report No 15, Australian Institute of Family Studies, 2007).