

Tuesday, 8 September 2020

Opening Statement: Inquiry into family, domestic and sexual violence

Pauline Wright, President, Law Council of Australia

My name is Pauline Wright and I am the President of the Law Council of Australia, and we thank the Committee for the opportunity to provide evidence to its inquiry into family, domestic and sexual violence in Australia. I am joined today by two leading experts in the area of family law - the President Elect of the Law Council, Dr Jacoba Brasch QC, and Mr Jason Walker, Member of the Executive of the Family Law Section of the Law Council.

As the Committee would be aware, the Law Council is the peak national body representing the legal profession in Australia. The Law Council and its Family Law Section are committed to promoting the administration of justice and the development of meaningful policies and law reform in the best interests of the families, children and community we serve.

Family violence is an insidious and pervasive problem in Australia. The COVID-19 pandemic has served to heighten and magnify this problem.

The Law Council's submission to this Inquiry primarily focuses on the family law system. However, there is significant empirical evidence which suggests a correlation between families with complex needs and those who require the courts as a form of dispute resolution. Such families tend to face a combination of factors that adversely impact on the health, safety and well-being of children and caregivers alike. Addressing these factors may be the key to improving the ability of these families to access justice and other supports where family violence occurs. More importantly, it may also remove families' need to do so by preventing violence from ever occurring.

Family breakdown is a tragic and difficult occurrence in the lives of many Australians. Separation is a highly stressful and dangerous event which is disproportionately associated family violence. This is illustrated by the fact that 70 percent of proceedings before the family law courts involve allegations or the risk of family violence.

The Law Council and its Family Law Section have long advocated for the Australian Government to change its policy responsiveness to issues of family violence between separated couples, including to improve the safety of children who have been victims of or exposed to family violence. A significant number of inquiries have looked into this issue and whilst some progress has been made, many recommendations have been ignored. It is a key role of the Australian Parliament and the Government to ensure that the Australian family law system is properly designed and resourced to deliver justice and to provide protection for victims of family violence.

While the Family Law Act acknowledges the profound effect of family violence on children and families, the family courts are not adequately resourced to deal properly with violence and its effects. From the absence of a court environment in which litigants are, and feel, consistently safe, through to the inadequacy of resources to investigate allegations and risk and the inaccessibility of victim support services, the system is comprehensively underfunded.

The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.

The Law Council strongly supports the use of family dispute resolution services through non-court-based interventions to resolve issues arising from the breakdown of family relationships. However, the family courts provide a vital resource for those unable to resolve issues using these services. These vulnerable parties need a court system which is flexible, accessible and adequately resourced.

Elaborations on these points are contained within our written submission to the current inquiry, and we are now happy to respond to any questions the Committee may have.

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