

1003CCJ – Law, Government and Policy

Assignment Two: Engaging With Politics

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Date: 29th January 2017

Part 1

Question 1 – What is the issue, and why is it important to liberalism, democracy, and/or justice?

An epidemic across Australia, especially Queensland (QLD), is domestic violence and accounts for increasing number of deaths in Australia, especially for women aged under 45. A report by NT Opposition (2015) specifically suggests that every week, more than one women is murdered by her former or the current partner. It is also highlighted that the number of children affected by domestic violence is also increasing – reaching up to 1 million in 2016. Mulroney (2003) highlighted that the prevalence of domestic violence is higher for Aboriginal and Torres Strait Islanders (ATSI) and there are 45% chances that an ATSI will be facing domestic violence. A significant number of difficulties exists for the victims to access violence support services (ANROWS, 2014). The State Government has taken some effective steps to reduce such cases in QLD, but the issue is current criminals are not punished toughly and are simply getting away from the court. The issue being raised and discussed is the enforcement of laws upon breaching a DVO and the main argument is that not enough steps are taken to ensure that laws are enforced upon the breach of a DVO (ABC News, 2016).

Democracy is all about liberty and representation, thus, having the probability of increasing or decreasing domestic violence. However, the issue is significantly important to democracy since such governments represent the majority of the people having control, rising number of people getting “free” without any tough punishment is a major concern. Justice, according to Aristotle, is the key for providing happiness to the community and if it does not exists, the state cannot exist at all (Chroust & Osborn, 1942). It’s now evident – domestic violence also impairs justice in a society, a state and a nation, whereas, for maintaining justice, it is required that all who tries to damage justice must be punished hard. Therefore, this issue is important to both the democracy and justice.

Question 2 – What sources did you use to research the issue? Briefly, explain your research process?

A number of sources were used for comprehending the insights of this issues, especially the article published by ABC News (2016) was of extreme importance to know this issue. This issue is widely covered by media all across Australia, some descriptive and explorative studies were also used for this study including Douglas (2008) and Tually et al. (2008, 2009). The Australian's National Research Organisation for Women's Safety (ANORWS) (2014) published their findings on domestic violence with indigenous women, illustrating the increased number of violence against ATSI's. Finnane (2016) points that an indigenous woman, Kumunjayi McCormack, was murdered but not had been charged for her death. Finnane also mentions that a number of repeated breaches has been reported; making it an important source for this proposal as well. Silva (2015) summed up, "many women in the Queensland territory have no realistic way to escape violence, domestic violence". All in all, such sources containing current facts about domestic violence in the QLD, the total number of breaches related to domestic violence, the harm domestic violence posits on the community as well as the community, and information related to the importance of breaching DVOs were reviewed for this research.

Question 3 – Briefly explain the different levels of government in Australia. Which level of government would you target primarily if you wanted to be heard on the issue? Why?

In Australia, three levels of governments exist, federal (national), state/territory and local level. The local government is only responsible for providing services within their area. On the other hand, the state level looks after a number of local governments and works in the sector of health, transport, education, development of the state, law and order, community services and so on. The federal level looks over all of the state governments and is mainly responsible for defence, immigration, trade and policy, social services (pensions etc.), unemployment and employment rates, policy making and so on. All of the levels have different responsibilities and work collaboratively for the development of Australia as a whole (Victorian Electoral Commission, 2017).

Despite the fact that this issue is significantly impacting the individuals at local and community level, and the national level should be targeted, I would prefer to target the state level for addressing this issue. This will be done through contacting a Queensland House of

Representatives. Under the *Domestic and Family Violence Protection Act 1989 (QLD)*, domestic violence is strictly prohibited and can be effectively addressed in a realistic manner. The reason for this level of the government stems from the fact that the local government (councils) in the QLD have made a number of attempts to prevent domestic violence but the facts clearly evidence that they have failed in doing so. Although contacting federal level might be the next step to solve this issue, results after discussing this issue with the state level will be first monitored and then the national level government will be contacted.

Question 4 – Who have you chosen to write to about the issue? Are they a member of the Government or the Opposition? Why did you choose this person?

As the preference is on the state level, rather than on Local or Federal level, a number of members of the Queensland Parliament can be selected and argued for this issue. The selected member to address this issue with is Ros Bates, a member of the Liberal National Party of the Queensland Parliament and represents the electorate of Mudgeeraba. She holds the position of “Shadow Minister for Communities, Child Safety, Disability Services and the Prevention of Family and Domestic Violence” and that is why thought as the best person for debating this issue. Another reason to select this member stems from Ros Bates own comment in an article of ABC News (2016), “I’m a survivor, personally, of domestic violence, so I want to see as tough an action as their possibly can be to make sure that we're not having this same conversation in 25 years' time.” This evidence that as she also has faced this crime, she will try her best to make the DOVs and law enforcement agencies to be more stringent.

Part 2

Ms Ros Bates
Member of the Queensland Legislative Assembly
Shadow Minister for Communities, Child Safety, Disability Services and the Prevention of Family
and Domestic Violence
PO Box 897
Mudgeeraba QLD 4213

Dear Ms Ros Bates,

I, Isaac Joel Bell, a student at Griffith University, Queensland would like to express my concerns regarding increased cases and prevalence of domestic violence Queensland and despite many attempts made by the local government authorities and police agencies, I and the community are unable to see any difference. Upon a wide range of review on this issue, I found that you have shown particular interest in making the law enforcement more stringent so that criminals who breach the Domestic Violence Order (DVO) are “toughly” punished. This explains that you are devoted to solving this issue at the state level and having trust on you in this regards, I will be attempting to highlight some of the major flaws in the criminal justice system of Queensland leading towards increased incidents every year. But, before moving on such issues I would like to present a brief overview of the issue, rather my findings of this issue. First of all, I noted that there is a “paucity” of empirical researches on domestic violence in Queensland. If that would not have been the case, the current situation might have been a bit different. Flaws in the legal and justice system of QLD to handle this issue can effectively be illustrated through the comment of Australian Law Reform Commission (1994) that, “All over Australia women came to the Commission to explain how the legal system had failed them.... How the horror of the violence against them ... had been compounded by the law’s failure to protect them. They complained of ... their humiliation by a system of justice that they perceived as trivialising their injuries and disbelieving them.” It is unfortunate to know that during the year 2013-2014, 66,016 cases of domestic violence were reported to the QLD police department (“66,000 Domestic Violence Incidents in Queensland last year”, 2015). The number of cases being reported each year is increasing significantly and this, on one hand, might demonstrate the increasing number

of trust people have in the QLD police department, but, on the other hand, demonstrates the failure of the justice and legal system to prevent and decrease the total number of cases.

Six-and-a-half months back, the former governor-general Dame Quentin Bryce introduced the *Not Now, Not Ever* report which included over 140 recommendations on effectively reducing the total number of cases related to domestic violence. However, Silk (2015) argues that, as a matter of fact, the evidence is suggesting the QLD Police Department and law enforcement agencies have failed to implement this recommendation accordingly and effectively (Douglas, 2015). The key here was to, “trying them quickly enough”, but that is not the case, unfortunately. Despite the need of protection and formalised support, the victims of domestic violence, are hesitant to contact the Criminal Justice System (CSJ) of Queensland (Meyer, 2011). Subsequently, various policies were implemented in all over Australia in order to facilitate the protection and support for victimised women as well as their children (Douglas, 2008; Ursel, 2002; Braaf, 2008). Rollings and Taylor (2009) highlighted that though these reforms in policies addressed the needs of shifting towards proarrest policies, training and various protocols for the collection of evidence in the CSJ of QLD, a number of victims still doubt that their partner (offender) will be punished by the law system of QLD as the perceived status of men is higher than that of women in QLD (Scutt, 1990; Gillis, et al. 2006). Therefore, women are always hesitant to contact the CSJ of QLD as they believe it to be non-useful to handle their situation (Gillis et al. 2006). Due to this, many help-seeking decisions of the victims are constrained or limited (Koss, 2000).

A number of evidence demonstrates that such victims who approach the CSJ of QLD faces a system which is completely covered by victim-blaming and stereotypical attitudes of the professionals including judges, police and even magistrates (Fugate, et al. 2005; Carcach, 2005). Felson & Pare (2005) mentions that this is due to the lack of understanding of the dynamics surrounding various types of domestic violence crimes which lead to an inadequate fulfilment of the needs of the victim. Previous studies with the QLD police department have also revealed that the police offers shows an attitude of “superiority” which leads to the development of a hostile environment and very limited partnership between the social workers and the law enforcement agencies working for the women to protect them from domestic violence (Stover, et al. 2010;

Garrett, 2004). The study of Meyer (2011) also found that the victims were also reluctant to contact the judge and/or the magistrate in this regard and those contacted were found having a DVO. Meyer (2011) in this regards highlighted that the decision of victims to contact the judges or magistrates, even after having a DVO, is the result of the unsatisfactory response from the QLD police department who rather than discouraging, encouraged them to contact other authorities, whereas, they should have handled the problem by themselves. Such victims who contacted the judge or magistrate to also experienced various negative reactions. Some reported that when applying for a DVO for themselves and for their children (if necessary and applicable) they found the court procedure to be disrespectful and traumatising (Meyer, 2011). The victims reported that the judges never accepted to include the name of their children on the DVO because they did not face any physical harm. It is important to note that under Section 21 (1a-d) of the *Domestic and Family Violence Protection Act 1989* (QLD), the protection for the children and/or any relative is allowed if they are likely to be threatened, harassed or intimidated as the victims. Despite this fact, the judges denied to include the names of children due to which it can be said that the judges even do not have the necessary understanding of domestic violence and its prevention.

A number of victims also reported unsatisfactory responses related to the outcome of the breach of a DVO, they specifically mentioned (Meyer, 2011):

“The courts are really bad I could say. The court system is pathetic you know? Like he’d assault me all the time, get charged [and] get out of the watch-house—I think he got charged like [with] breaching a domestic violence order nine or 10 times and that still did not put him in jail. You know what I mean?”

In order to foster collaboration between multi-agencies and to improve the initial responses, specialised and consistent training should be provided to the police officers, magistrate and judges. The need for training has been emphasised since many years because the time allocated to the understanding of domestic violence during training was very short but no attention has been paid to such recommendations (New South Wales Government, 2010). Furthermore, the responses of the criminal justice system in QLD must be evidence-based and should draw on knowledge obtained from the analysis and evaluation of best models as well as practices from all

around the world. Some of these models discuss on consistent and integrative response to domestic violence – the responses of the police and court are combined with specialised multi-agencies so that specialization at the criminal justice level can be facilitated and to ensure that proper responses are provided to the victims for their protection and support (Robinson, 2006; Hovell, et al. 2006).

I hope that you will be looking into the arguments presented above and will take some time to discuss these issues with your members and will resolve it on the state level. The recommendations highlighted are from evidence-based literature and I highly believe that they will help in decreasing the prevalence and cases of domestic violence in QLD.

Thanks for taking out time to read this letter.

Yours Sincerely,

Isaac Joel Bell

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