WOMEN'S EXPERIENCE IN COURT: 
THE IMPLEMENTATION OF FEMINIST LAW REFORMS IN CIVIL 
PROCEEDINGS CONCERNING DOMESTIC VIOLENCE 

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ABSTRACT

This dissertation investigates how civil courts hear and understand women's experiences of domestic violence, and examines women's experiences of attempting to tell their stories in those settings, focusing on domestic violence intervention order and family law proceedings in Australia. The legislation governing both of these jurisdictions is either partly or wholly a product of feminist legal activism. The dissertation therefore seeks to determine whether the feminist claim that the criminal law silences women is also true of new civil claims specifically designed to respond to women's experiences.

The dissertation begins with the hypothesis that feminist law reforms will not be implemented as intended, due to both structural and cultural factors. Structural factors include legal forms, categories, doctrines, procedures, evidentiary rules, physical facilities, and broad issues of access to justice, while the internal legal culture of lawyers and judges may incorporate narratives about the incidence, causes and dynamics of domestic violence, and its impacts on women and children, that are at odds with the feminist understandings upon which the reforms were based. This hypothesis is tested by reference to an empirical study of the two jurisdictions, together with evidence from other relevant studies undertaken in Australia and overseas. Field work consisted of court observations, an analysis of Family Court files and reported cases, and interviews with survivors of violence, lawyers and support workers with experience of the relevant proceedings.

The study found that survivors of violence enjoyed considerable success in their cases, but at the same time, the legal processes were unsatisfactory, women's 'success' did not necessarily guarantee their own or their children's safety, there was little systemic
acknowledgement of women’s experiences of violence or of the widespread nature of domestic violence, and non-feminist understandings of domestic violence went unchallenged. As anticipated, different combinations of structural and cultural impediments operated in each jurisdiction, including factors not previously documented in the literature. The study also uncovered examples of good practices among lawyers and judges. The dissertation concludes with recommendations for future feminist activism, suggestions for overcoming the implementation problems identified, and an assessment of the possibilities for further reform.
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