State architectures and gendered policy making in Australia and New Zealand*

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What effect do differences in vertical state architecture have on women’s policy making? Does the presence of multiple levels of government in a single polity open up greater opportunities for policy innovation and policy learning? Or, do such arrangements frustrate efforts to bring about policy reform in areas relating to women’s lives? Do unitary systems allow for more progressive policy making or does a centralized system block such initiatives? Through an examination of policy making in the area of family and domestic violence in Australia and New Zealand, the former a federal and the latter a unitary state, we seek to explore these questions and draw some initial findings about the impact of state architecture on gender sensitive policy making.

In this study we have selected violence against women as the policy area to be compared because it is an issue that occurs in all states and goes to the heart of women’s equality. Influenced by the comparative work of Laurel Weldon (2002), we are interested in measuring state responses to violence against women in terms of legislative and non-legislative action, including service delivery and policy based responses. Due to limited space, we have restricted our study to issues concerning family and domestic violence, (which we define in detail below), and unlike Weldon, exclude efforts to address sexual assault, although we recognize these as critical to addressing women’s experiences of violence. We pay particular attention not just to the development and implementation of laws, policies and services, but whether or not they are informed by a gendered conception of the problem, which links such acts of violence against women to power inequalities between men and women in society. Like Weldon, we are interested in considering whether provision is made for the co-ordination of government responses to this issue (2002, 13), both horizontally, given the multi-faceted nature of the problem, and vertically, especially in the Australian context where the states and Commonwealth share concurrent jurisdiction over the problem.

This paper is an attempt at a matched pair comparison, as suggested by Riker (1969, and discussed by Fenna workshop paper, 5). We have selected two cases that, aside from their vertical state architecture, are as similar in as many respects as possible. Australia and New Zealand are probably as close in all other regards as any two states can be. They are geographically contiguous, both are settler societies with multicultural populations, including an indigenous population, and are former colonies of Great Britain. The legacies of the colonial past are reflected in each adopting a Westminster parliamentary system with strong Cabinet government. In terms of the status of women, both were early adopters of the female franchise, with New Zealand holding the honour of being the first state in the world to do so in 1893 and the Australian Commonwealth following nine years later; both are signatories to all major human rights conventions related to women’s rights and both now have experience of women political leaders, although New Zealand again can claim credit for having a female Prime Minister, Leader of the Opposition and Governor General earlier than Australia. Both Australia and New Zealand have had active, autonomous women’s movements who have been engaged in advocating for women’s issues, defined in feminist terms. Both have enjoyed a long history of state feminist engagement through bureaucratic agencies in the central government in New Zealand (Curtin and Teghtsoonian 2010), and across all governments in Australia (Sawer 1990).
Even with this close pairing, there are some significant differences between the two states. Without a federal imperative, New Zealand had no need for an entrenched written constitution. However, it did sign the Treaty of Waitangi with Maori in 1840, and while this document was ignored by Pakeha governments for over 100 years, it has come to inform policy and legal initiatives across a wide range of domains since the passage of the Treaty of Waitangi Act 1975. Although New Zealand began its self-governing days as bicameral, the upper house was never a democratically elected body, and was dissolved in 1951. By contrast Australia has a bicameral parliament that includes a relatively powerful Senate that plays an important check on the executive (while bicameral parliaments operate in all states aside from Queensland). Voting rules also vary with NZ adopting in 1996 a multi-member proportional electoral system that has diluted the dominant two party-system that remains in evidence in the Australian context. Nevertheless, despite these institutional differences, the physical proximity and similarities of historical development of Australia and New Zealand make these two countries useful comparators for each other (Castles, 1984; Castles and Mitchell, 1993; Curtin, Castles and Vowles, 2006).\(^1\)

In this paper, we are interested in investigating the impact of state architecture – that is, formal institutional structures - on policy outcomes. In doing so, we do not intend to dismiss the role that actors play in shaping legislative and policy outcomes; we understand feminist policy leadership, political parties and feminist activists in civil society are critical to successful progressive policy developments. However we do not explore agency questions in detail in this paper in favour of attempting to untangle questions related to institutional effects. Here we argue that state architecture do matter for policy innovation in the policy domain of domestic violence, but its impact is mediated by other ‘variables’ such as party in government, “intermediate” - level institutions, and the capacity to combine intergovernmental and interagency coordination.

**Federalism, Unitarism and Progressive Policy Making**

The mainstream literature is divided on the effects of federalism and unitarism on progressive policy making. In this section we address the core arguments made in favour and against these different forms of state architecture, consider how feminists are situated within these debates, and the sketch out the specific details of the Australian and New Zealand variants of each model.

*Federalism*

There are three main arguments advanced in defence of federalism in regard to policy making: its ability to promote innovation in policy making; its ability to promote policy transfer and learning across jurisdictions; and its ability to open up more venues for policy actor engagement.

The innovation argument is probably the most commonly rehearsed and it based on the contention that subnational units are able to operate as laboratories, experimenting with different policy responses which, if successful can spread to other jurisdictions. Through this process, federalism provides scope for governments to take bold policy steps and develop new approaches to old problems; conversely, it also allows

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\(^1\) New Zealand has a written constitution and a Bill of Rights, but neither are entrenched and can be changed without recourse to a referendum.
governments to risk policy failure, on a smaller and less damaging scale than if tried by a centralised national government. Policy innovation arguments emphasise the virtues of competition within federal systems (Kerber and Eckart 2007, 228). Subnational units can use policy innovations to attract investment or other resources, including people, to their jurisdiction. Of course, as Fenna and Hueghlin point out, this view presumes that the states or provinces “have the relevant powers and capacities together with sufficient policy space” (2006, 347). Such arguments are also less relevant in territorially based federations where policy conditions are likely to vary more across the different units, making policy innovations in one jurisdiction less transferable to another.

For policy innovation to have an impact, there also needs to be the potential for policy learning to take place between jurisdictions (Kerber and Eckart, 2007, 229). Based more on a collaborative than a competitive federalism model, this idea suggests that where policy experiments work in subnational units, these ideas and practices can be shared, and adopted, across governments. This can include horizontal transfer, that is, across other subnational units with similar policy powers and problems, as well as vertical transfer, where national government adopt innovative policies from below (see Hueghlin and Fenna 2006, 247). An important ingredient in ensuring that this learning can take place is the presence of effective intergovernmental institutions capable of co-ordinating policy development and implementation.

A third argument put by advocates of federalism about its influence on progressive policy making relates to its ‘democratic advantage’; specifically, that is opens up more venues for input and influence by policy actors (Elazar 1972). The core aspects of this argument are that federalism ‘brings politics closer to the people, increases avenues of political representation... and proliferates the number of contact points through which interest groups can be heard’ (see Erk and Swenden 2010, 8). Theoretically, the possibility of giving voice to progressive policy prescriptions at both a national and sub-national level helps to secure better policy responses across federal states.

Others are less convinced by these arguments. Detractors argue that this form of state architecture inhibits innovative progressive policy making because it places power in the hands of local elites more inclined towards supporting parochial, territorially based issues (Maddox 1996, 152) leaving ‘other groups and issues downgraded or hidden from the gaze of federal politics’ (Smith 1995, 18). Public Choice theorists argue that because federalism involves ‘a large number of protagonists with considerable ideological polarization’ this ‘increases the transaction costs necessary to implement a policy change, therefore increasing the probability of retaining the status quo’ (Tebelis 1995 in Obinger 1998, 245-6). A long held and almost unanimous position in the welfare state literature is that federal institutions are inimical to high levels of social spending (Castles 1999 in Obinger et al 2005) which is essential to successful redistribution. The perceived inefficiencies of federalism, including duplication and overlap, are considered an impediment to progressive policy making because they waste the scarce public resources needed for successful policy interventions. Instead, strong centralized unitary governments are favored for their ability to push through major reform initiatives.

Some scholars also reject the multiple venue argument of federalism. Lisa Miller
sums up this position when she argues:

Federalism may provide multiple pathways of access, but it also divides and conquers, isolating poorly resources groups from one another and making it difficult for them to hold legislators account to their interests…Thus, federalism exacerbates the classic collective action problem by increasing the number of potential veto points for single-minded, narrow interests, and by isolating potential allies from one another (2008, 175).

The recent federalism literature reflects a ‘third way’ for analyzing its effects on policy making. This literature has tended to avoid making normative assumptions about the benefits or disadvantages of federalism, instead arguing that federalism’s influence depends on contextual facts. Paul Pierson’s comparative work on the effects of federalism on the welfare state has been influential in developing this strand of research (see Pierson 1995). For Pierson it is clear that federalism does matter to the development of social policy, in terms of shaping the interests involved and policy outcomes. However, as he demonstrates, it is not possible to generalize about its effects because of the ‘substantial variation among federal systems in crucial features of institutional design’ (1995, 451). The job for federalism researchers, as Erk and Swenden point out, is to demonstrate “how it matters, to what extent it matters and what it matters for” (emphasis in original 2010, 7). The effects of federalism on policy development are ‘multiple, time dependent, and contingent on a number of contextual parameters, including, most conspicuously, the design of federal institutions and the power resources of social and political actors’ (Obinger et al 2005, 7). Undertaking comparative analysis is obviously essential to making evaluations about the contextual operation of federalism.

The growing literature on feminism and state architectures has been influenced by this third way approach. Much of this research argues that it is difficult to view federalism as either an absolute impediment or opportunity on the development of progressive, gender sensitive policy (Vickers, 2010). In this view: ‘federal characteristics and their effects vary between institutions, across institutional arenas, and policy or issue sectors, and with time and space’. In other words, ‘federalism’s effects depend on characteristics of specific federations, at specific times’ (Vickers, 2010 419-20).

Recent research on gender and federalism suggests there are some core characteristics of federal states that will make them more or less open to feminist and progressive government’s efforts to advance gender equality policies. An important feature is the division (and exercise) of powers, specifically, the capacity of governments in a federal system to exercise jurisdiction over and to implement women’s policy. Where policy capacity exists at both the national and subnational levels, there is greater opportunity for innovation and experimentation in this field, and the possibility of vertical and horizontal ‘contagion’ and policy learning (see Brennan 2010). However, policy capacity may mean little without fiscal capacity. As yet there has been little feminist research in this area (but see Franceschet 2011 on women and Latin American federations), but it seems reasonable to hypothesise that in federal states where there is more fiscal ‘symmetry’ (at least in per capita terms), the opportunities for venue shopping and policy innovation are stronger than in states where the subnational level is fiscally weak and less likely to be able to afford to make inroads in what have traditionally been considered ‘non-essential’ policy areas, such as those related to gender equality.
As noted earlier, policy innovation is of itself of limited value, unless it can be transferred. Intergovernmental processes, which provide venues for policy learning, are therefore critical to the development of gender policy in federal settings. Closed intergovernmental machinery, which lacks transparency and accountability, and which has been dominated by male politicians and non-gendered policy analysis, has led feminists to be skeptical about opportunities for gender policy development and transfer in some federations (on Canada see Grace 2011). However, others have shown that when feminists have been able to get behind the door of intergovernmental relations institutions and influence deliberations on gender policy issues, they have been able to achieve policy transfer to good effect (Sawer and Vickers 2010; Gray, 2010, 24; Chappell et al forthcoming).

As policy advocates, feminists face potential advantages and disadvantages operating within a multi-layered system (Sawer and Vickers 2010, 11). For instance, research on the US case shows that federalism fractured and frustrated efforts of the pro-choice movement in influencing the policy agenda across 50 states (Haussman 2010). By contrast, the cases of Australia and Canada, and in the case of Scotland, indicate that federalism, or at least devolved government, can provide an opportunity for gender equality seekers to advance their policy agendas by moving between levels to avoid blockages (see Chappell 2001, 2002; Gray 2006; Mackay 2010).

Multiple levels of government, the division and exercise of powers, fiscal and intergovernmental relations are all aspects of state architecture influencing the political opportunity structure open to feminist policy activists. However, mainstream federalism research has long made the point that ‘[c]onstitutional structure alone does not predict the causal impact of federal institutions or the internal political dynamics of federal countries’ (Gibson 2004, 7). This holds equally true in relation to understanding feminist policy efforts. The party system is one critical element both mainstream and feminist scholars have emphasised as important in this respect (see Chappell 2002; Erk 2006; Franceschet forthcoming; Riker 1964; Vickers 2010). The extent to which political parties are willing to support and facilitate gender equality policy, through the appointment of ‘femocrats’, the establishment of women’s policy machinery, dedicated funding and other mechanisms at each level of government makes a significant difference to the political opportunity structure open to feminist policy actors. Existing research to date highlights a discernable pattern: parties on the left, operating at national and subnational levels, tend to offer (but do not guarantee) (see Teghtsoonian and Chappell 2008) a more favourable environment for the development of feminist inspired women’s policy. In undertaking comparative research, other aspects of the political architecture, especially whether it operates as a congressional or responsible government system obviously also makes a crucial difference (see Vickers 2010).

As the alignment of these institutional configurations shifts over time, so too does the effect of federalism on gender policy development. As feminist work on institutions in general (see Krook and Mackay 2011), and on federalism in particular (Vickers 2010; Chappell 2002) has shown, even subtle changes within and between institutions can influence their operation including in terms of the opportunities they offer feminist policy activists. Such findings further complicate generalising about the
effect of federalism on the development of gender policy, and calls attention to the need for detailed, temporally sensitive comparisons.

Unitarism
The desire to see more systematic and deep analyses of federalism in comparative perspective, in order to better understand both the constitutive and causal effects of federal structures generally, and for feminist politics specifically, is a valid one. It implies however, that we already know how unitary state architectures matter. Yet, as Pierson (1995) notes, case selection often prevented attention to the relative centralization of political authority and its impact on policy outcomes. Historically, federalism was portrayed a deviation from unitarism, institutionalizing a division of powers that would otherwise be concentrated and centralized (Elazar, 1997). As such, unitary states were accepted as the ‘norm’ or the default setting, unsurprising perhaps given there were twice as many unitary democratic states than federal ones when Lijphart drafted his categorization of state architecture (1999).

Just as comparative federalism was largely left unattended, little scholarship has been dedicated to the varieties of unitarism. Early studies that sought to take account of whether and how politics mattered operationalised the federal/unitary distinction as dichotomous, most often represented by a dummy variable (Castles and McKinley, 1979; Krane 1987). Over time, this approach has come under scrutiny. As early as 1964, Riker argued that a systematic study of how federalism matters was too difficult a task because of the variations that existed cross-nationally between federal states. And, increasingly we could say something similar about unitary states: there have been increasing trends towards institutionalizing regionalism (Spain, Belgium, France), devolution (United Kingdom), and varying degrees of decentralization in terms of law-making, administrative and fiscal autonomy (for example, Sweden, Japan, Colombia; see Baldi, 1999; Loughlin, 2011; Outshoorn and Kantola, 2007). Moreover, while the EU principle of subsidiarity has increased the impetus for some policy independence being granted to lower levels of government, enhancing minority representation post democratic transition has also prompted the creation of more federal-like architectures (Bermeo, 1999).

Sawer and Vickers (2010: 9; see also Gray, 2010) argue that almost all state architecture has more than one level. We see older and newer federations, transnational systems, unitary systems with relatively strong and autonomous local government as well as newly devolved regional legislatures. It is the case that single tier democratic unitary states do not exist (Breton and Fraschini, 2003); all have additional or subsidiary levels of elected government of some sort. However, outside Europe (and therefore not bound by the subsidiarity principle), there are a number of countries that remain distinctly and almost purely unitary. By this we mean that the division of power is highly one-sided, strongly centralized, and pyramid-like in form (Elazar, 1997). While some powers might be shared, the centre retains ultimate ownership and control and can repossess these powers at any time. Of the nine non-European centralized unitary states, seven are former British colonies and thereby inheritors of the Westminster model of democracy; New Zealand is one of the seven.

What does this centralised form of state architecture mean then for policy making in the first instance, and for advancing feminist policy change? Federalism scholars argue that policy innovation emerges out of competition between sub-national and
national governments and so in centralized unitary states, where vertical intergovernmental competition is absent, we might be less likely to see policy innovation emerge. In addition, the opportunities for policy learning either horizontally between jurisdictions, or vertically between levels, are also structurally limited. Finally, with law, administrative and financial powers concentrated in a single level of government, the number of venues available for policy advocacy is severely limited.

Of course, policy innovation is not absent in centralized unitary systems. Indeed, most would accept that radical policy change is often significantly easier in such systems; the question then becomes a normative one of whether we would consider particular policy innovations a success or failure. For example, New Zealand’s welfare state initiatives of the 1930s were seen as policy innovation, as was the radical and rapid deregulation of the state by a Labour government in the 1980s.

Indeed, the speed and degree of the latter set of policy changes, when compared to the more measured pace and type of change occurring at the same time in Australia, has been attributed to New Zealand’s centralized unitary state architecture (Castles et al; Easton, date; Kelsey date).

That policy innovation is more likely to appear in federal systems is in part linked to the idea that opportunities for policy learning are more explicit, multi-dimensional and structured in federal systems compared to centralized unitary systems. In particular, the presence and policy effectiveness of intergovernmental co-ordination institutions is considered an important mechanism for affecting policy learning. Centralised unitary states may participate in policy learning (derived from the international level), and in the case of New Zealand, horizontally across national borders through ministerial participation at intergovernmental meetings. In this sense, New Zealand could be seen as piggy-backing on its geographical and historical connectedness to Australian federalism. However, whether policy learning actually takes place is contingent on a range of other factors; New Zealand governments may lose little by choosing not follow an Australian national or sub-national innovation, whereas the incentives associated policy learning and intergovernmental coordination of policy, are likely to much stronger within Australia.

There are both positive and negative aspects to the involvement of multiple levels of government in policy making. While additional levels with constitutional powers, increases the representation of citizens and offers policy activists the opportunity to venue-shop for progressive policy outcomes, this comes with a range of economic and political costs. For example, unitary systems often provide more cost-efficient (because of economies of scale) and arguably more equitable redistribution of resources, while the motivation to migrate across jurisdictions to benefit from differential policy benefits is absent. Moreover, as Scharpf (1996) has argued, the more direct the form of citizen involvement in democratic states, the more legitimate are the political and policy decisions that result. In this view, democratic autonomy

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2 Initially, in 1852, New Zealand began its period of self-government as a decentralized unitary state or sorts, with provincial councils providing subordinate legislation and administration to the then isolated and distinct population centres scattered across two islands. The provinces were abolished in 1876, but the central government of the colony of New Zealand went on to participate in the constitutional conventions dedicated to creating an Australian federation in the late 1800s. Indeed, Australia’s constitution still allows for New Zealand to become a state of Australia.
will be “stronger in unitary systems with a clear allocation of decisional competence and political responsibilities” than when policy decisions are produced by the ‘horizontal’ or ‘vertical’ collaboration of representatives with separate bases of legitimisation. Thus, if policy change emanates directly from a national government elected by the voters, without any intergovernmental involvement, the policy outcome could be deemed to be more legitimate (see also Saunders, 1989 and Gray, 2010 on the ‘disadvantages of executive federalism’). Certainly, centralized unitary systems, with their unified control of policy, can produce “starker policy consequences” (Dixit and Londregan, 1998), but whether these are regressive or progressive is likely to depend on the government in power as much as institutional design. And the lines of accountability for such policy decisions and consequences are clearly visible to voters in unitary systems.

There can be no doubt that the absence of alternative policy venues could be considered a disadvantage for feminist policy activists. Feminist scholars have questioned whether a worse option would be for policy power to be concentrated in the hands of just one government (Sawer and Vickers, 2010: 11). The works of Chappell (2002) and Bashevkin (1998) have highlighted the importance of the transnational level to UK feminists during the long period of Conservative government. So, although centralized unitary government may avoid the need to acquire organization resources across multiple jurisdictions, it may also leave women vulnerable to the “whims” of a single (conservative) government that is unsympathetic to their claims (Rubenstein, 2006: 13). This may be especially so in unitary countries that have no recourse to a transnational authority. But as with our preceding arguments there is a flipside to this: women may also benefit from the election of a progressive national government, with a core group of feminists in cabinet, whose policy agenda can be implemented without regard for jurisdictional demarcation and negotiation.

Feminist scholarship dedicated to interrogating federalism is split on such issues, but as with mainstream scholarship, there has been little problematisation of what unitarism means for feminism. It is argued that corporatism and political centralization have been more likely to suppress the emergence and strength of women’s movements while pluralism or dispersed power is more open to women’s activism and claims (Gelb, 1989; Weldon, 2002). Yet it is problematic to assume political centralization and pluralism are mutually exclusive. In the non-federal Westminster world, women’s movements flourished, within existing parties and trade unions, as well as autonomously. While such activism may now be in abeyance (Grey, 2008), it is problematic to suggest that such systems are not pluralist (Mulgan 1989). In the case of New Zealand, the combination of an active, autonomous women’s movement, and women activists within the Labour Party and trade union movement culminated in a record number of feminist women being selected as Ministers in the 1999 Labour government under Helen Clark, and a range of centralized policy reforms dedicated to advancing gender equality. Such feminist activism also resulted in the creation of a central standalone Ministry of Women’s Affairs that remains intact after 25 years, despite radical state sector reforms (Curtin and Teghtsoonian 2010).

Finally, it may be that the ‘effects’ of centralized unitary state architectures are ameliorated by intermediate-level institutional change. For example, electoral reform
may result in a wider range of parties open to feminist policy demands; and, legal recognition of indigenous authorities may enable the provision of additional services to communities of women. Both these ‘intermediate’ level changes have occurred in New Zealand, without altering the degree of centralized unitarism. None of these suggestions preclude the idea that federalism matters; there is already sufficient evidence to indicate that federalism provides opportunities for feminist policy change. However, this finding tends to come with the qualification “under certain conditions” (Gray, 2010: 27). Through a comparison of a federal system and a centralized unitary system, we hope to unpack further what these conditions might be, and how the configuration and context of varying state architectures matters to feminist policy change.

Specific features of Australian and New Zealand State Architecture

The above discussion has highlighted some of the perceived opportunities and obstacles presented by different forms of state architecture. Our task is to assess these claims in relation to the opportunities or constraints presented within the Australian federal system and the unitary New Zealand state in relation to the creation of one key gender equality policy domain – domestic violence. Here we sketch out some of the key design features of each system to help us better understand how the specific features of state architecture in both countries matters, to what extent it matters and what it matters for.

If one considers the formal design features of Australian federalism, as Lijphart does (1999: 185-199), it looks like one of the most decentralized examples of a federation. However, if one assesses its operation in practice, Australia is considered to be at the other end of the scale being one of the most centralized in the world (Erk and Koning 2010). In founding the Constitution, the designers enumerated a narrow range of powers for the Commonwealth, and left the residual with the states and territories with the expectation that the states would remain the dominant parties in the federation. Over time however, this power dynamic has been reversed. High Court constitutional interpretations in favour of Canberra vis-à-vis the states has been one key reason for the expansion of national government powers (Hollander and Patapan 2007). With few exceptions, since the 1920s, the High Court has paved the way for the Federal government to ‘trump state laws’.

Another centripetal force has been fiscal control by the Commonwealth. Since the 1940s, when the federal government gained control over income tax powers (as a result of a High Court ruling), Canberra has maintained a dominant fiscal position. Overtime, this dominance has resulted in a severe vertical fiscal imbalance, with the Commonwealth collecting 80 per cent of all taxation and the states collecting only 45 per cent of their revenue needs (see Fenna 2008, 509). On the horizontal dimension, the imbalance is nowhere near the same problem. Through the Commonwealth Grants Commission, which divides revenue between the states, horizontal fiscal equalization has largely been achieved. The formula used to allocate grants has, according to Painter, always been ‘one of a “fair go”: the right of all citizens to an equal opportunity of being provided with an equivalent range of public services’ (Painter 1997, 203). Compared with other federations, Australia also has a relatively institutionalised system of intergovernmental relations, including Commonwealth and State Ministerial Councils across major portfolio areas, as well as the Council of
AUSTRALIAN GOVERNMENT’S (COAG) THROUGH WHICH THESE COUNCILS REPORT AND COORDINATE POLICY ACTION (KILDEA AND LYNCH 2011).

WHILE MUCH OF THE LITERATURE ON AUSTRALIAN FEDERALISM EMPHASISES ITS CENTRALISED NATURE, IT MUST BE REMEMBERED THAT EVEN THOUGH STATES AND TERRITORIES DO NOT ENJOY STRONG FISCAL CAPACITY, THEY DO HAVE LEGISLATIVE AND POLICY CAPACITY, EITHER UNILATERALLY OR CONCURRENTLY WITH THE COMMONWEALTH, IN SOME KEY AREAS. POWER OVER CRIMINAL LAW AND MAJOR RESPONSIBILITIES FOR SERVICE DELIVERY ARE TWO SUCH AREAS. THESE POWERS MEAN THE SUBNATIONAL UNITS REMAIN KEY AUTONOMOUS PLAYERS IN THE FEDERATION, AND AS WILL BE OUTLINED BELOW, INCLUDING IN THE AREA OF ADDRESSING VIOLENCE AGAINST WOMEN.


While Lijphart’s categorisation of Australia does not reflect federalism in practice, his listing of New Zealand as a strongly centralised unitary system is sound. During the latter half of the nineteenth century, New Zealand experienced centralizing tendencies with the early provincial governments abolished in 1876 and power consolidated at the centre. In the same year local governments and other (non-Māori) local authorities were established formally in law, and proliferated in number and often ad hoc in form. While local councils continue to perform a series of important functions, they have always been the creatures of central government and their powers are not constitutionally guaranteed. They are financially dependent on a variety of rates (including a land tax. The parameters for setting rates are constrained by the central government’s Local Government Rating Act 2002), and central government subsidies, and their policy-making role is curtailed by the doctrine of ultra vires (Palmer et al, 1997). In recent history there have been a variety of changes to the Local Government Act (1974, 1989, 2002), with a view to making local government more democratic, more effective and more streamlined.

Amalgamations consolidated the number and functions of councils in 1989 (Bush, 1991): there are now 11 regional councils, 12 city councils (urban-based), 54 district councils and the Auckland Council. In 2002, the Local Government Act expanded the

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3 Tasmania is the exception. It uses the multi-member Hare-Clark system.
4 Definition here. In 2009 a new Act created the Auckland Council with an Executive Mayor, and elections were held in late 2010. It remains to be seen whether the establishment of this new “super city” institution challenges the traditional central/local government relationship.
roles of responsibilities of councils, mandating that specific regard be given to the promotion of social, economic, environmental and cultural wellbeing of communities “in the present and for the future” (Cheyne, 2010: 271). This forward-looking strategy is required by law to involve consultation with communities and Maori as well as adhering to a sustainable development principle. In theory the 2002 legislation is more permissive in terms of possible policy initiatives open to local government including social policy. However, the degree of planning and accountability prescribed by central government, and the lack of additional devolved funding forthcoming, has meant there have been few incentives for local councils to expand their repertoire of services. Moreover, the legislation was never designed as an intergovernmental transfer of power or autonomy over ‘mainstream’ policy domains, thereby leaving intact the centralized tendencies of New Zealand’s unitarism.

While the shift to a proportional electoral system (MMP) in 1996 has changed New Zealand’s political landscape, particularly with regard to the number of political parties now gaining parliamentary representation and in some cases ministerial positions outside of Cabinet, New Zealand’s two major parties continue to form governments and dominate the policy agenda (Curtin and Miller, 2010). The smaller parties have proved to be alternative venues for activists seeking to advance gender equality policies (Curtin 2008), but MMP itself has done little to dilute centralist tendencies.

Perhaps the most interesting development in terms of New Zealand’s state architecture in recent decades has been the state’s acknowledgement of the centrality of the Treaty of Waitangi in addressing issues of justice, equality and self-determination for Maori. In 1975, the Treaty of Waitangi Act established the Waitangi Tribunal to make recommendations on claims made by Maori that they had been “prejudicially affected by Crown actions or omissions” (Ruru, 2005: 331). Jacinta Ruru argues that by 2005, over 20 statutes required policy makers to take account of the Treaty. In addition, iwi (tribal) authorities became incorporated entities, giving them a recognized place in law, and enabling them to fund and deliver services, as well as participate in a range of governance networks and decision-making frameworks. For example, local governments are required by law to involve iwi authorities in all aspects of local and regional resource management. Similarly, the Children, Young Persons and their Families Act (1989), required cooperation and collaboration between both Maori and Crown (state) welfare and youth justice agencies (Love, 2006: 253). The extent to which this relatively new dimension to New Zealand’s state architecture has disrupted or mediated the degree of centralized government authority has yet to receive systematic analysis. For our discussion however, it becomes clear that the presence of iwi authorities as legal entities in their own right, and as substantive representatives of Maori people and culture, has been important in the development of law, policy and services dedicated to domestic and family violence.

**Family and Domestic Violence: Australian and New Zealand experiences**

Violence against women goes the heart of women’s equality. Acts of violence violates multiple rights simultaneously, including: the right to life; the right not to be subject
to torture or to cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person; the right to equal protection under the law and the right to equality in the family. Acts of violence against women can also interfere with their enjoyment of physical and mental health and with their right to just and favourable conditions of work. Violence against individual women is not just an individual matter. Individual women’s experience of violence limits the rights of all women because they all need to modify their behaviour to minimise the risk of such violence (Weldon 2002, 10). Violence against individual women reinforces gender inequality more broadly because, as Weldon notes, it ‘restricts the ability of all women to take advantage of their rights as citizens of a democratic public’ (2002, 10).

Violence against women is a widespread and multi-faceted problem in both Australia and New Zealand. In Australia, 40% of women reported experiencing at least one incident of physical or sexual violence since the age of 15, and although men who experience violence are most likely to be assaulted by a stranger, women remain most likely to be assaulted by a current or former partner or family member (Australian Bureau of Statistics, 2006). Similar patterns are evident in New Zealand. The New Zealand Crime and Safety Survey 2006 showed that 30% of women reported they had experienced partner violence in their lifetime. Another regional-specific study found that on average, 36% of women had at least one experience of physical or sexual violence by their partner during their lifetime (Fanslow & Robinson, 2004). All women, regardless of their socioeconomic status and background are at risk of suffering this violence however some women, especially Indigenous, Maori and Pacifica women, are particularly vulnerable. Some studies suggest that Aboriginal and Torres Strait Islander women are up to 40 times more likely than non-indigenous women to experience family-based violence (NCRVAWC 2009, 5). In New Zealand, Māori women are far more likely to be victims of family violence (46 percent) than European women (30 percent) (MWA, 2009). In 2009 a leading Australian accounting firm estimated the cost to the Australian economy of domestic and family violence to be $13.6 billion per annum (KPMG 2009). In the case of New Zealand, one independent report puts the estimated cost at anywhere between $1.7 billion and $7.5 billion (2009), while applying the average cost per violent act calculated by the New Zealand Treasury (2006) would place the cost of homicides of women and girls at $97 million per year (Herbert et al, 2009).

Not only is violence against women a common and expensive problem, like many women’s policy areas, it is a ‘wicked’ problem with multiple causes, including deeply entrenched gender inequalities, and involving many policy arenas such as policing, criminal and civil law, housing, health and employment. Its complexity defies a simple policy response. Violence against women is clearly one area that does not fit into a neat jurisdictional box but extends across an array of institutional sites including the legislature, legal and bureaucratic realms, at both the national and, in the Australian case, the subnational level.

Domestic and Family violence is one form of violence against women. The most commonly recognised definition of domestic violence comes from the United Nations Declaration on the Elimination of Violence against Women (DEVAW). The declaration covers public and private acts of violence against women, and sees the
latter as including “Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation” (Article 2, a). In the Australian and New Zealand context, the term domestic violence has not sat comfortably with indigenous women and men who see it as a way of individualizing the problem and failing to recognize that in these communities violence against women and children is ‘perpetrated by potentially multiple abusers connected by extended family relationships located within the community’ (Vincent and Eveline, 2008, 327). In New Zealand, one study found that Māori overwhelmingly believed that they were responsible for their own violence. Having whanau (family) involved in owning the issue and made to be part of the intervention process was the most appropriate way of dealing with the problem of violence against women. Similar views were expressed by Pacifica respondents; it is argued that perpetrators are more likely to respond to community elders than to outsiders (McNeill et al, 1998; see also Ruru, 2005). By contrast, Pakeha (white New Zealanders) viewed domestic violence as an individual issue, for both victim and perpetrator (McNeill et al, 1988). For many Indigenous Australians the term family violence is preferred as it encompasses “the broad range of marital and kinship relationships in which violence may occur” (NPRV 2011, 3 also see Vincent and Eveline 2008). In this discussion we use the term Family and Domestic Violence (FDV) to recognize these perspectives.

The terms domestic and family violence can be applied in a range of ways spanning along a continuum from a degendered perspective, which treats such acts of violence as a problem arising from a general culture of violence or the action of a few ‘bad’ men, to a gendered approach which situates women’s and children’s experiences of violence in broader system of gendered or patriarchal social and political relations (Murray and Powell 2009, 533; Weldon 2002). This latter approach underpins the DEVAW (see articles 3&4) and has been critical to feminist advocacy on the issue within both the Australian and New Zealand contexts. So in this study, we are not only interested in whether government’s act on domestic/family violence issues, but when they do, whether they conceptualize the problem through a gendered analysis.

In this paper we focus on government responses to FDV through legislative and non-legislative, specifically policy and service, initiatives. Law and services, although often treated separately, are linked in important ways. While the law can help to discourage acts of FDV, through criminalising the behaviour of the perpetrators, while also demonstrating to victims that punishment of abusers is forthcoming (see NCRVAWC 2009, 5; Busch, 1994; Busch and Robertson, 1995), it does not address the direct needs of the victims in such areas of homelessness, counselling and advice nor can it completely address prevention issues. While legislative responses are an important step, other policy initiatives and the provision of services often have a deeper impact on the budget bottom line, and therefore demonstrate an important

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6 The focus on framing the issue as “family violence” in New Zealand is also related to two additional aspects: the Roper Report’s (1987) findings that 80 percent of all violence was family-based; and the increased demand for intervention and prevention strategies for children as victims of violence (cited in Gregg, 2007).

7 This is a controversial issue, with some arguing the use of family violence reduces the focus on women’s experiences of violence (Murray and Powell 2009, 538; Herbert et al 2009).
level of commitment by government to address these other dimensions of the problem.

Given the multi-faceted nature of FDV it is a challenge for all governments, but especially those operating in a federal environment, to ensure that all their efforts to address violence are vertically integrated. Horizontal integration, in terms of different legal responses—such as criminal and family law—and between legal and service delivery provision, is also critical in all systems to successfully address FDV. Without the integration of services in both directions, victims suffer secondary victimization—falling through the cracks entirely, or traumatised by being forced to re-tell their stories at every level of the process (Wilcox 2010, 1014). Achieving a ‘joined-up’ response in terms of legislative and service provision functions, including developing a common definition of FDV across all the policy sectors involved, is therefore critical to improving women’s safety and rights in this area (Wilcox 2010; Herbert et al, 2009).

For the last three decades both Australian and New Zealand governments across the board have responded with legislative and non-legislative responses to feminist calls to address the problem of FDV. This discussion provided an overview of the main trends of these developments and considers some of the remaining gaps in the system. In measuring government responses to FDV across the two states we are interested in two factors. 1) The willingness of governments to introduce legislative, policy and service delivery frameworks that are informed by a gendered understanding of the power differences that create and sustain the problem; 2) the ability of governments to develop a horizontally and vertically integrated response to the issue.

Legislative responses
In Australia, state responsibility for criminal law has meant the onus has rested on subnational jurisdictions to introduce legislation to criminalize the act of FDV. Since the 1980s onwards, states have taken up their responsibilities in this area. All states now have in place legislation, which in each case has been amended at least once to strengthen it towards a more gendered view of the problem (Murray and Powell 2009; NCRVAC 2009, 113). Most notably, several states, including Western Australia and Tasmania have broadened their definition of domestic violence to include economic and emotional forms of abuse while a number of states have recognized a wider spectrum of situations in which violence can occur, including same-sex, patient/carer and non-co-habiting relations (Murray and Powell 2009).

During the same time period, states and territories have also each adopted a system of domestic violence protection orders, provided for under civil law. Despite some differences in these civil schemes, a recent expert review into their application found that ‘in very broad terms...the provision made in all jurisdictions is of largely similar effect’. In respect of: the definition of domestic violence; types of orders and speed with which the orders can be made; and, the criminal effect of contravening the orders the civil provisions across the states are “clear, comprehensive and robust” (NCRVAWC 2009a, 13).

There is some evidence of policy integration, as well as innovation and learning at the subnational level in these legislative responses to domestic violence. Tasmania’s ‘Safe at Home’ legislation is a case in point. It aims to integrate the various aspects of
violence against women under one Act, and includes within it some innovative measures such as: removing the decision to prosecute domestic violence from the victims to the police; provisions to encourage violent offenders, rather than victims, to leave the family home and to improve home safety for those who remain at home. The ACT was an early adopter of such a model, instituting it in 1986. In devising its ‘safe at home’ program in 2003, Tasmania borrowed from the ACT model, and also the Hamilton New Zealand model (see below) but took it further by adopting a ‘pro-arrest’ and ‘pro-prosecution’ of offenders move toward in order to keep the primary victims, mostly women and children, safe in their homes (McFerran, 2007, 7; Wilcox 2010). In 2004, the Victorian government introduced its own home-based policy, with a ‘pro-arrest’ element that borrowed heavily from the Tasmanian model (McFerran, 2007, 8). In 2004, NSW also began a number of pilot programs in the area while Queensland altered its legislation along the same lines (Queensland Department of Community Services).

At the Commonwealth level, legislative intervention in the area of FDV occurs primarily through the Family Law Act (FLA 1975). This Act provides the federal Family Court with powers to issue orders related to ‘guardianship, custody, maintenance and access’, all of which require the Court to take into account family violence matters (Astor and Croucher, 2010, 865). (Issues concerning child protection and adoption remain with the states). A gendered analysis of violence in this arena has not been so well advanced as in the states. A number of commentators have argued that its treatment of domestic violence in gendered terms actually regressed after the introduction in 2006 by the Howard Coalition government of The Family Law (Shared Parental Responsibility) Amendment Act 2006 which reflected pressure by men’s rights groups to have the Court direct its focus towards co-parenting arrangements (Wilcox 2010; Laing and Andrews 2009). Among the many problems identified with these amendments are potentially exposing victims of domestic violence to further abuse by the perpetrator (Astor and Crouch 2010; Wilcox 2010; Nancarrow 2010).

These criminal and civil law developments, especially at the subnational level, have gone some way towards developing a gendered legislative framework to address FDV in Australia. However, these measures are not without problems. At the subnational level, the 2009 National Council to Reduce Violence against Women and their Children (NCRVWC) Time for Action report found the criminal laws in place tended to be under-utilized in all jurisdictions in favour of civil law provisions with the effect of decriminalizing the problem (Nancarrow 2010, 845). Other problems link directly to federal arrangements. ‘Dis-intergration’ between Federal parenting provisions and state based domestic violence protection orders, especially apparent since the 2006 FLA amendments, has been a major concern (see Laing 2009; Wilcox 2010, 1028). As Wilcox explains: [state based domestic violence] ‘protection orders may require an abuser to stay away from victims, yet parenting order or arrangement require contact, and thus override the protection order’ (2010, 1028). Another significant problem has been the lack of portability of protection orders across jurisdictions (NCRVWC 2009a). These gaps haven’t gone unnoticed. The Australian Law Reform Commission is currently investigating these problems after a referral from the Commonwealth Attorney General (NCRVWC 2009) while the Federal government has included strategies to address these problems in its 2011 National Action Plan to Reduce Violence against Women and their Children (see National Outcome 5, 26)
In the New Zealand system, legislative responses are initiated only by central
government. The development of law in the area of domestic violence has been
incremental and path-dependent in its approach. The Domestic Protection Act was
enacted in 1982 with bipartisan support and was a significant first step, containing
provision for non-molestation and non-violence orders, and empowering police to
detain for 24 hours without charge any person who had breached a non-violence
order. However, unless charges were laid, an offender had to be released, and
section 10 of the Act gave police considerable discretion about whether or not to
arrest in the first place, urging them to use their powers with caution. Evaluations of
the law’s impact indicated that without the instigation of police training and education
on domestic violence, little change would result (Busch, 1994; this also supports the
arguments made by Weldon (2002)). More than ten years later, the Domestic
Violence Act (1995) was passed, and expanded the definition of what constituted
domestic violence beyond physical violence to include psychological and emotional
abuse, with a single act of violence or a pattern of behaviour being grounds for a
protection order. The Act expanded on who could apply for protection orders,
including siblings, carers and those in same-sex relationship, and mandated
rehabilitative programmes for offenders. In 2009, the Domestic Violence
Amendment Act was passed, extending police powers to issue safety orders when
they believe that domestic violence has occurred or may be likely to occur, even if
there are insufficient grounds to make an arrest. The orders ensure the immediate
safety of a victim because the person issued with the order must leave the address for
up to five days. Other changes strengthen bail provisions and reduce the barriers to
police arresting people suspected of breaching protection orders (MWA, 2010).

Several points are worth noting on these legislative strategies and how they differ
from the case of Australia. First, while feminist activists and legal scholars in New
Zealand recognise that these amendments over time have worked to close a series of
persistent gaps between law and practice around intervention, they remain critical of
the fact that there has been little attempt to move beyond the employment of gender-
neutral language (Herbert et al; 2009; Middleton, 2006). This suggests an implicit
resistance by governments in recognizing the gendered power dimensions associated
with domestic violence (Davis, 2008). Second, the three legislative initiatives above
have all been enacted by (conservative) National governments, albeit with bipartisan
support, (and the 2009 Amendments did appear as a different Bill under a Labour
Government in 2008). This political dimension may in part explain the focus on
criminal law with the limited focus on protection orders and police intervention, as
well as the gender-neutral approach to the issue. As Weldon (2002: 58) argues, law
reform on violence against women can fit easily with governments committed to
neoliberal reforms because it requires little in terms of funding or redistribution. We
could go further and suggest that conservative governments may be open to domestic
violence law reform because they are more likely than their labour counterparts to

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8 Jim McLay was Muldoon’s Minister of Justice and was probably one of the more liberal (rather than
conservative) ministers in the National Government’s cabinet at that time.
9 In 1985, under Labour, the Crimes Amendment Act (no. 3) made rape of a spouse a criminal offence.
Amendments were again made to the Crimes Act in 2007, which made it illegal to use parental force in
disciplining a child (a Green Party MPs initiative which gained support from the Labour minority
government.
10 National MP, Jenny Shipley, who later became New Zealand’s first woman Prime Minister, was
active around this issue in her role of Minister of Women’s Affairs (Curtin and Teghtsoonian, 2010)
pursue law, order and policing strategies more generally. In addition, the maintenance of gender neutral frames should be an expected outcome from a conservative government (which is regularly subject to pressure from men’s rights groups and the small right wing party ACT which often advocates similar policies to these men’s groups). Thus, in the New Zealand case, the lack of alternative subnational law-making venues in combination with conservatives in government has prevented a more explicit gendering of the issue of domestic violence.

At the level of national policy, there have been a number of initiatives established since the 1980s that have increasingly attended to the need for prevention strategies, interagency coordination and support for women victims. For example, the interagency committee, Family Violence Prevention Coordinating Committee chaired and serviced by the then Department of Social Welfare began ran from 1986-1992. Out of this was developed the Hamilton Abuse Intervention Pilot Project (HAIPP) 1991-1994 (explicitly modelled on the Duluth, Minnesota project). This project was designed and run as a pilot project, not unlike the laboratory-style strategies undertaken at state government level in federal systems. After it was evaluated the project was extended into two additional policy initiatives: another Hamilton specific project (the POL400 cross-agency reporting form utilised by police that has since been adopted nationally), as well as the Family Safe Team project (2005), which is a national program aimed at coordinating early intervention (Gregg, 2007).

Underpinning these strategies was the introduction in 1989 of a national “pro-arrest” policy by the Office of the Police Commissioner (Carswell, 2006) with increasing attention given to police training to support an attitudinal shift in understanding domestic violence.

Over the past decade, there has been increasing emphasis on the need to explicitly address family as well as domestic violence. This is in response to concerns for child safety but also because of an increasing recognition of different cultural (particularly Maori) perspectives of how family violence should be understood and addressed in law. The incorporation of Treaty of Waitangi principles in both law and policy practice by government, local agencies and women’s refuges, has led ensured a more collectively framed response. While this might serve to detract or constrain the adoption of feminist-preferred definitions that focus on gendered power relations and violence against women explicitly, this shift has facilitated both political and cultural traction around the issue of domestic and family violence. This approach informed the Labour government’s national policy document: Te Rito: New Zealand Family Violence Prevention Strategy (2002) which outlined a five year implementation strategy aimed at furthering both intervention and prevention strategies with attention to horizontal coordination. The review process began in 2001 and involved 25 government agencies, community organizations and networks (although again local government was absent). Overall what we see here are several points of similarity and difference: compared to Australia, New Zealand has had fewer “national plans of action” dedicated explicitly to domestic violence. However, given the centralized nature of New Zealand’s system it is unlikely that the same degree of vertical

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11 The Report of the Ministerial Committee of Inquiry into Violence was also handed down in March 1987.

12 see Maynard and Wood 2002 for an evaluation of this wide-ranging degree of involvement by policy activists, service providers and agencies
coordination is required. However, like the case of Australia, New Zealand agencies have recognized the need for horizontal coordination around the issue of domestic and family violence, and this recognition has informed a variety of policy strategies aimed at both prevention and intervention since the late 1980s. Finally, we see policy innovation resulting from sub-national pilot projects, (that interestingly did not involve local government agencies), and policy learning from the internationally sphere, suggesting that alternative venues can be either created or sought to mirror the opportunities structurally present in federal systems like Australia.

**Service Provision**

In Australia, the second area in which the states have demonstrated their capacity in addressing violence against women is in the area of service delivery. The states have been responsible for delivering to the victims of domestic violence crisis and longer term housing, health services including counselling and medical responses, police support and other forms of support such as telephone crisis and/or support helplines. They have also undertaken their own public information campaigns. Funding for these activities has come through general revenue as well as through specific purpose payments from the Commonwealth, including under the long-running Supported Accommodation Assistance Program (SAAP) as well as various state-based projects funded under federal initiatives such as Partnerships Against Domestic Violence (PADV) Mark I (see further below). The complexity of domestic violence means many agencies are involved at the state level in providing services. In recent years, in an effort to bring about a greater level of coordination across these areas, many jurisdictions have developed integrated violence against women strategic plans (McFerran 2007) (see appendix 3). Interestingly, some of these plans, such as those in NSW and Victoria, have linked efforts on violence against women directly to Australia’s international commitment through the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (see Murray and Powell 2009; Chappell 2006, 173-4). While these plans have helped to provide greater horizontal co-ordination within states, and to come extent between jurisdictions, problems still exist in meeting the needs of victims of violence in a co-ordinated and timely manner, and providing the specialized services for women from minority sectors of the population (COAG 2011).

These subnational legislative and policy initiatives to address violence against women were not developed in isolation from each other. There is evidence to suggest that in the course of the past 20 years, there has been a great deal of innovation within, followed by horizontal policy learning between, the states and territories. Jurisdictions have borrowed from each other in defining the crime of domestic violence and while not all have adopted the same terms, the intent is broadly similar. In establishing strategic plans, ‘follower’ states have draw on earlier blueprints. For instance in developing the South Australian Women’s Safety Strategy (2005), policy officers drew heavily upon the identically titled Victorian Women’s Safety Strategy model of three years earlier. This included direct and open acknowledgement from the policy officers involved that the Strategy was being based upon, and sought to learn from the
experience of, the Victorian model in terms of structure, content, and implementation.\textsuperscript{13}

The Commonwealth too has used its fiscal authority to enter the field of service delivery in the area of violence against women. For instance, in 2004 the Howard Coalition Government established a national hotline for victims of domestic violence, an initiative that has continued under the Rudd and Gillard ALP governments. The primary efforts at the federal level have been in education and research programs starting with the Hawke ALP government’s 1990 National Domestic Violence Education Program, the Howard Government’s Partnerships Against Domestic Violence (PADV) program (I and II) and No respect, No Relationship advertising program and, most recently the Rudd ALP Government’s social marketing campaign \textit{The Line}, launched in 2010.

Advocates from the sector have expressed concern with the framing used in of some of these programs. For instance the Howard Government was strongly criticized for the de-gendered language used in PADV II (Costello 2009). However, overall, Commonwealth service initiatives, especially under Federal ALP governments, have demonstrated a gendered analysis of the problem, including referring to international women’s rights statements on the issue (see Chappell 2001).

In terms of integration, the Commonwealth has a mixed record. Compared with its state and territory counterparts, it seems Canberra has not gone as far in achieving horizontal co-ordination in the key violence against women service delivery areas over which it has some responsibility including homelessness, social security, health and family law (Wilcox 2010). However, Commonwealth governments on both sides of politics have played a very important role in driving forward a national agenda around vertical co-ordination. The 1992 ALP National Strategy on Violence against Women, stage I of the Coalition government’s PADV program and the most recent Rudd and Gillard ALP government’s 2011 National Plan have each attempted to achieve better co-ordination across the legislative and non-legislative components of violence against women in Australia. Each of these plans have had a gendered analysis of the problem, but the latest plan makes this more overt that ever before, with statements such as “[t]he unequal distribution of power and resources between women and men and adherence to rigid…gender roles and stereotypes reflects gendered patterns in the prevalence and perpetration of violence” (2011, 15) and strategies to bring about greater gender equality in society, including increasing women’s position in politics and improving their economic participation and independence (see 1.3).

The 2011 plan is the most comprehensive of all these initiatives. It has a 12-year time span, addresses prevention, provision of services and prosecution elements of violence against women and children across all jurisdictions and horizontally across the Commonwealth. In an important first, it also seeks to connect with other intergovernmental strategic plans, including indigenous, child protection, health and homelessness agendas (see NPRVWC 2011). As with other national plans, the

\textsuperscript{13} This assertion is based on personal communication with a policy officer in involved in the development of the South Australian Women’s Strategy between 2003 and 2005 while at the Department of Human Services and later Department of Health in South Australia.
Council of Australian Government’s (COAG) – the intergovernmental machinery through which interjurisdictional agreements are made, and implementation and reporting co-ordinated – has been given a central role in this latest version (for its role in earlier plans see Chappell 2001).

As with Australia, women’s refuges were established throughout New Zealand in the 1970s and created a national collective organization in 1981. With the election of the Labour government in 1984, the Collective received government for the first time, In the same year, the Labour government created Te Kakano o te Whanau which was a nationwide strategy to provide services for Maori women victims of incest, rape, sexual abuse and related violence. Refuges dedicated to the needs of Pacific and Asian women were also established during the 1980s and 1990s and have received varying degrees of government funding. However, funding has been erratic during periods of conservative government rule, despite the refuges being key actors in the interagency initiatives outlined above, and funding has become increasingly tied to agencies associated with family violence initiatives and family-based strategies of prevention. While this is culturally appropriate for Maori and Pakeha, there has been concern that other agencies and refuges are being defunded in the process (Moroney, 2010).

In addition to the explicit attention given to consultation and coordination across agencies and ethnic/indigenous organizations, there have been a number of initiatives dedicated to the prevention of family violence established by iwi authorities at the subnational level. In some instances these have been self-funding by iwis themselves (as a combined initiative) while others have been government-funded through contracts (Grennell and Kram, 2008). While the results of such programmes have yet to be fully evaluated, what we do see happening in New Zealand, is a dedicated and explicit commitment to the needs of Maori communities and Maori women. This approach has been integrated through law, policy and services in a number of ways and at a number of levels, thereby becoming an ‘institutionalised’ part of the policy making process. A similar degree of integration of indigenous perspectives is not evident in Australia, suggesting that the presence of the Treaty of Waitangi is an important distinguishing feature of New Zealand’s state architecture, despite not being entrenched in law.

**Conclusions**

State architecture matters to women’s policy making primarily by configuring the environment within which these policies are formulated. Some of the effects of state architecture show up the benefits of federalism and the disadvantages of unitary systems for advancing women’s policy, but the opposite is also obvious. We do not argue that one system is any better than the other for developing FDV policies. Rather, both appear to provide different opportunities and obstacles in three key areas: in relation to policy innovation and learning possibilities, a progressive policy response, and policy co-ordination.

The first way state architecture matters is in influencing the availability of venues for innovative policy making and learning. We have seen in the Australian federal case evidence of laboratory federalism at work in subnational areas, especially in the area
of legislation, but also in some service delivery and policy processes. Policy transfer has also occurred horizontally, across other subnational jurisdictions, and vertically, between states and territories and the Commonwealth Government. However, it is clear from this case that policy innovation and learning is not unique to federal systems; it is just done differently in unitary environments. In New Zealand, where there are no subnational units able to provide a ‘natural’ laboratory for decentralised policy innovation, the central government has been prepared to create FDV pilot projects, such as in Hamilton, which essentially provide the same function—an opportunity to test an innovative policy idea without the risk of widespread failure. Policy learning from this experiment has been transferred upwards to the national level. Moreover, in New Zealand, national policy makers have been influenced by new policy ideas from elsewhere. But rather than looking to the subnational level, they have looked internationally, such as to the Minnesota Duluth project, for their inspiration.

The second way it matters is in opening opportunities for a progressive, gendered response to the issue. Evidence of a stronger articulation of the gender aspects of violence against women in legislative and non-legislative actions in Australia compared with New Zealand can be seen in part as a result of state architecture arrangements. Arguably, this perspective has been maintained in Australia through the years because no one central conservative government has been able to permanently (re)frame the problem in a de-gendered manner. The Coalition did this federally in the early 2000s, but states, headed mostly by ALP governments, maintained an alternative, gendered, framing of the issue. When the ALP returned to Canberra, national policy framing drew on best practice in the states and the latest iteration of a national plan provides the strongest statement yet of the gendered foundations of the problem. In New Zealand, where Conservative governments have introduced law reform in relation to FDV, and without existing alternative frames, it has been more difficult to entrench a feminist interpretation of, and gender sensitive solutions to, the problem.

A final influence of state architecture on FDV policy making relates to co-ordination. As we have discussed, this is a policy area that requires a great degree of horizontal policy co-ordination across a range of areas regardless of the type of state architecture. A complicating factor in federal systems is that policy co-ordination must be multi-directional—not only horizontally within each jurisdiction, but also horizontally across all subnational units (to enable for example the portability of protection orders for example), as well as vertically between national and subnational units. In Australia, in the last three decades a significant amount of effort has gone into developing national plans that work across the three co-ordination dimensions, where as in New Zealand specific FDV national plans have been less of a focus. Australia’s increasingly institutionalised intergovernmental relations system, especially COAG, has helped to overcome the usual impediment to comprehensive vertical policy co-ordination. However, as recent reports demonstrate, in both Australia and New Zealand, significant policy gaps remain.

Vertical state architecture matters, but it is certainly not the only thing that counts. The significance of New Zealand being a unicameral system with a multi-member electoral system compared to Australia’s bicameral preferential voting system also requires further analysis.
Our study also raises questions about, but does not fully explore, the importance to policy outcomes of political actors interacting with specific state architecture arrangements. It is clear that parties can make a big difference to creating or frustrating feminist policy efforts in regard to FDV. We suggest that Labo[u]r parties within both the federal and unitary setting provide a more favourable environment than conservative parties for the development of a gendered FDV policy. We also hypothesise that policy leaders, both political and bureaucratic, and civil society actors, especially autonomous women’s movements in both settings have been critical to these outcomes. Finally, we are mindful of the importance of international forces, including in terms of the ideational frameworks provided by international women’s conventions that provide a hook for domestic policy actors claims. In conclusion then, we see that while state architectures may be fixed in form, by virtue of constitution or historical convention, the ways in which they structure policy responses around domestic violence are not.