Does Federalism Matter? Evaluating State Architecture and Family and Domestic Violence Policy in Australia and New Zealand

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Does federalism make a difference to policy making in the area of family and domestic violence (FDV)? This article explores this question through a comparison of Australia and New Zealand whose state architecture aside from federalism is very similar. It argues that Australian federalism has provided laboratories for innovative policy making and the continual articulation of a progressive policy response to FDV. By contrast, in New Zealand subnational experiments have occurred, but continuous progressive policy responses have been less evident because centralization accentuates the need for left-wing governments to substantively advance the issue.

This article explores some perennial questions of federalism scholarship: *how* does federalism matter, to *what extent* does it matter and *what* does it matter *for?* (Erk and Swenden 2010, 7). It examines federalism's impact on legal and policy responses to family and domestic violence (FDV)—an area central to women's equality—through a comparative study of Australia, a centralized federation, and New Zealand, a centralized unitary state. The starting point for the article is that policy results cannot be read off the design of state architecture. While federalism may offer some advantages to those pursuing any reform, including policy innovation and learning, it can equally pose additional barriers including achieving a coordinated and integrated policy response. By contrast, the unitary alternative offers fewer veto points and coordination challenges, but arguably provides less scope for experimentation and learning. We suggest that in Australia the development of "progressive" FDV policy has been influenced by opportunities for policy innovation and learning on one hand and coordination challenges on the other, whereas in New Zealand capacity for greater coordination has been possible, but innovation has been less "progressive" and more dependent on the presence of a left-wing party in government.

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In acknowledging the "dual face" of state architectural design (see Celis, Mackay, and Meier this volume), this article aligns with recent federalism scholarship that resists making normative assumptions about federalism and focuses on its operation within specific contexts. Comparative federalism and welfare state scholarship (Pierson 1995), as well as feminist analyses (Gray 2010; Vickers 2010) argue generalizations about federalism are difficult to make because of the "substantial variation among federal systems in crucial features of institutional design" (Pierson 1995, 451). Similarly, the extensive variation between unitary states makes generalizations difficult. Regionalism and devolution means that very few countries remain purely unitary—that is, where the division of power is highly one-sided, strongly centralized, and pyramid-like in form (Elazar 1997; see Ortbals et al. 2012 for examples in the women's policy field). Rather, researchers need to undertake thick contextual comparisons in order to provide the "building blocks" for a theory on the performance of different state architecture.

This article provides such a comparison in an area neglected in federalism scholarship—family and domestic violence (FDV). While some studies have considered the effect of federalism on this policy area within specific countries (on Australia see Chappell 2001; Chappell and Costello 2011; Wilcox 2010) and within decentralized and regionalized systems (Krizsán et al. 2007; Mackay 2010; see Weldon 2002 for a comparison of both systems), no systematic comparative study exists that isolates the effects of federalism on FDV policy innovation. A comparison of Australia and New Zealand allows us to explore this relationship given these two cases can be considered "most similar" across a range of institutional variables. The article first discusses the significance and meaning of the FDV policy and outlines what constitutes "policy innovation"—our dependent variable—in relation to this issue. It then reviews how federalism matters to policy making and discusses the logic of our case selection. A comparative evaluation of the legislative and policy initiatives follows before an analysis that reveals that federalism and left-wing governments are both significant in the pursuit of FDV policy reform.

Framing FDV

FDV is particularly interesting to students of state architecture because it represents a "wicked" policy problem.[1] It presents challenges in all settings because it requires an *integrated* response; that is, it requires horizontal action across a range of policy portfolios—health, housing, policing, criminal and family law, employment—to comprehensively address the problem. In federal states, the "wickedness" of the problem is exacerbated by the need for vertical *coordination* between jurisdictions (see Wilcox 2010). In many federal and decentralized systems, different levels of government hold separate responsibility for relevant policy areas, while sharing others, requiring simultaneous horizontal integration *and* vertical coordination responses.

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FDV policy is also wicked in that there exists a contest over what "the facts" are and how these are framed and interpreted (Ney 2009, 28). While domestic violence usually refers to violence by a man against his female partner or ex-partner (Murray and Powell 2011, 44), a continuum of alternative frames can be identified (Krizsán et al. 2007). At one end is the equality/power frame that sees FDV stemming from power differentials between men and women. In the center sits a de-gendered frame, where victims and perpetrators are defined in gender neutral terms and where violence is understood as the outcome of societal ignorance and state failure. At the opposite end is an individualized view of the problem, where genderless perpetrators are violent towards unidentified victims, and systemic factors are not considered (see Krizsán et al. 2007, 144–45; Murray and Powell 2011, 36–42). These variations in diagnoses, lead to different prognoses or reform options (Krizsán et al. 2007). Policy responses to FDV range from efforts to shift gender norms, stereotypes, and power relations to more conservative law and order measures to punish and deter individual offenders (Murray and Powell 2011, 42).

Further complicating the policy frame is the need to add the term "family" to domestic violence. Our use of "family" does not align with the view that the solution to private violence is strengthening family bonds and building greater family harmony in a traditional sense (Murray and Powell 2011, 39–40). Rather, it is the frame used by many Māori and Indigenous Australians who prefer it to "domestic violence" because it captures the way violence is "perpetrated by potentially multiple abusers connected by extended family relationships located within the community" (McNeill et al. 1988; Ruru 2005; Murray and Powell 2011). This frame can be seen to reflect a sensitivity to cultural diversity and a recognition that "one size does not fit all" when it comes to FDV policy (Boshier 2009). While debate exists within indigenous and Māori communities about whether the term "family" obscures the fact that women and children bear the brunt of violence in these communities (see Greer in Murray and Powell 2011, 61–62), many nevertheless see as providing a more contextual understanding of the problem.[2]

In this article we use the gender-neutral nomenclature "family" and "domestic" violence, rather than violence against women, to capture the range of frames outlined above. In doing so we also acknowledge the evidence that demonstrates women globally are the majority of FDV victims while the majority of perpetrators are men including in Australia and New Zealand (UN Women 2011). All women, regardless of their socioeconomic status and background are at risk of suffering this violence, but some women are particularly vulnerable. In Australia and New Zealand this includes Indigenous, Māori, and Pacifica women (MWA 2010; NCRVAWC 2009a, 5).

The article measures the development (and not the implementation or funding) of legislative and policy FDV initiatives in each country. It is restricted to issues concerning FDV and excludes sexual assault that has been treated separately in law and policy. Particular attention is paid to whether a gender or power frame is used

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to diagnose and treat the problem, which we take to be representative of "progressive" policy innovation. In developing a progressive measure we have relied on Laurel Weldon's framework (2002) combined with the UN *Declaration on the Elimination of Violence Against Women* (DEVAW) and UN Women's report, *Progress of the World's Women* (2011).

Federalism: How and Why It Matters

Federalism, with its constitutionally protected division of powers between two levels of government, is thought to make a difference to policy making including by enhancing opportunities for policy innovation. According to Kerber and Eckardt (2007, 233) federalism supports innovation because it enables: "decentralized experimentation, mutual learning, and competition." Meso-level governments operate as laboratories, experimenting with policy responses that can spread across jurisdictions. Given adequate policy capacity and competency, subnational units can explore bold policy options and risk policy failure on a smaller and less damaging scale than if tried by a centralized national government.

If this is so, we would expect to find greater policy innovation in Australia compared to New Zealand due to the capacity of both national and subnational units to develop policy in relation to FDV (H_1).

Second, multiple venues allow for policy learning to take place between jurisdictions (Kerber and Eckhardt 2007, 229). In federal systems, ideas and practices can be shared across governments through horizontal transfer—across other subnational units with similar policy powers and problems—as well as vertical transfer, where a national government adopts innovative policies from below (Hueglin and Fenna 2006, 247). In order to facilitate learning it is important to have effective intergovernmental institutions. Intergovernmental machinery such as coordinating policy and fiscal institutions, formal and informal meetings of political and policy officials from each jurisdiction can work to enhance learning between and across portfolio areas. For those seeking to advance gender-sensitive policy, such as FDV, it is critical that such machinery includes both women's voices and officials with gender policy analysis skills (Chappell, Brennan, and Rubenstein 2012; Sawer and Vickers 2010).

Intergovernmental institutions are also critical for ameliorating frequently identified frustrations of federalism—policy coordination and integration—arising from their "complex web of rules and norms" (Fenna forthcoming). Challenges in *coordinating* government actions vertically or inter-jurisdictionally are matched by the difficulty of *integrating* policy responses horizontally or intra-jurisdictionally, especially in areas that require action across a range of policy portfolios.

Third, policy innovation is driven by inbuilt competition within federal systems whereby subnational units seek to "leapfrog" their counterparts to be more

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attractive to citizens or capital (Kerber and Eckardt 2007, 228). This competition can produce a "race to the bottom" but equally a "race to the top" (Pierson 1995). As Baumgartner and Jones have noted in relation to the U.S. case, "the multiple venues of the states and the federal government sometimes coalesce into a single system of positive feedback, each encouraging the other to enact stronger reforms than might otherwise occur" (Baumgartner and Jones 1993, 232).

Unitary states, by virtue of their centralized state architecture, do not offer the same opportunities for experimentation, learning, and competition. This does not mean that policy innovation will be entirely absent: trans- and international influences, coalition arrangements, progressive parties in government or external actors engaged in policy networks can all encourage experimentation and learning. In the case of feminist politics, UN bodies concerned with human and especially women's rights are important. However, the lack of formalized institutional settings in unitary states makes the prospects for the latter considerably more contingent. Centralized unitary systems, with their unified control of policy, may produce more radical policy change but whether these are regressive or progressive may depend on the government in power as much as institutional design.

Thus, we would expect the presence of informal and formal intergovernmental policy mechanisms in Australia to ameliorate coordination issues and facilitate policy learning opportunities. The absence of *institutionalized* policy learning settings in New Zealand means policy innovation is contingent on political factors, such as party in government (H_2).

The impact of party in government is not mentioned by Kerber and Eckhardt, but as Schmidt argues (1996) it is difficult to ignore the cross national evidence that indicates this factor matters to policy instrument choices and policy outputs. Nevertheless, the degree of influence of parties on public policy is necessarily related to institutional design features including federalism and as a consequence, separating the effects of *party in government* and *state architecture* is, remains an important task of comparative public policy research (Schmidt 1996).

While we do not take up the methodological challenge of separating effects, we recognize that in federations policy actors can potentially play a two-level game, seeking out sympathetic governments at one level when blocked by an inhospitable government at another. For feminist actors, the presence or absence of leftist parties in government, which have tended to be more sympathetic to their agenda, makes a difference to when they can work between governments (Chappell 2001). The relatively integrated nature of the Australian party system across jurisdictions—which sees the major parties "united by common membership, governance structures, and sharing a common ideological position" (Thorlakson 2006, 470)—arguably supports this multilevel game as well as encouraging policy learning across jurisdictions. While multilevel governance may pose resource problems for feminist advocacy (Haussman 2010), a worse option may be for policy power to be

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concentrated in the hands of just one government (Sawer and Vickers 2010, 11), especially when that government is conservative, and there is no structural incentive to mimic successful experiments elsewhere.

Thus we suggest that federalism is a necessary but not sufficient condition to produce progressive FDV policy reform as left-wing governments within an integrated party system are also likely to be significant to such policy responses (H_3). To this end, we explore whether the interaction between these two variables represents an example of a compound causation (Steinberg 2007)[3] whereby left-wing governments and federalism mutually influence progressive policy responses, in part because of the built-in learning and competition effects.

Australian and New Zealand State Architecture

In this article, we utilize the "most similar" method where, aside from federalism, the other features of the political systems of our cases are as similar to each other as possible. Australia and New Zealand have long been considered a perfect pair for comparative policy research because they are alike in so many respects (Riker 1969; Curtin, Castles, and Vowles 2006). They are geographically contiguous and are settler societies with multicultural and indigenous populations. Concerning the status of women, both were early adopters of the female franchise,[4] are signatories to all major women's rights conventions and have had women political leaders at all levels. Both states have experienced, active, autonomous women's movements and both have a long history of feminist engagement with bureaucratic agencies (Curtin and Teghtsoonian 2010; Sawer 1990).

An inherited Westminster parliamentary system is another common feature, though there are other institutional differences between the two states. Since 1996 New Zealand has had a multimember proportional (MMP) electoral system that has increased the number of political parties in parliament. Nevertheless, New Zealand's two large parties—the Labor Party (NZLP) and the National Party—continue to form governments and dominate the policy agenda (Curtin and Miller 2011).[5] In Australia, minor parties and independents have a parliamentary presence, primarily in upper houses due to proportional representation voting systems. Australian government alternates between the two major parties—the nominally centre left Australian Labor Party (ALP), and the centre right Liberal Party of Australia (referred to here as the Coalition because it usually rules with the regionally based National Party). None of these institutional differences are overly significant. Bicameralism in Australia and MMP in New Zealand produce similar effects: adding veto points as well as increased opportunities for alternative views in the policy or legislative process.

One unique aspect of New Zealand's state architecture is explicit legal recognition of Māori: the 1975 Treaty of Waitangi Act, based on the 1840 Treaty, informs a range of

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policy and legal initiatives. By 2005, over twenty statutes required policy makers to take account of the Treaty while many iwi (tribes) have a recognized place in law.[6] Apart from this, it is federalism that stands out as the key institutional difference between Australia and New Zealand. Australia's federal features include a strong state-based upper house at the national level and an entrenched written constitution.[7] Contra the founders and Lijphart (1999, 185–99), Australia is now a relatively centralized federation, due to High Court rulings and the Commonwealth's control of income taxing powers (Fenna 2008, 509). At the same time, Australian states and territories enjoy legislative and policy capacity in some areas, either unilaterally or concurrently with the Commonwealth. In relation to FDV, state and territory jurisdiction over criminal law and responsibility for service delivery mean that they remain autonomous players (Chappell and Costello 2011).

By contrast, Lijphart's categorization of New Zealand as a strongly centralized unitary system is sound. New Zealand's local councils perform a series of important functions, but they have always been the creatures of central government. They do not have constitutionally guaranteed powers or financial independence and their policy-making role is curtailed by the doctrine of *ultra vires* (Bush 1995, 123). Legislative amendments in 1989 and 2002 expanded council responsibilities in social, economic, environmental, and cultural areas, but did not result in a transfer of intergovernmental power.

FDV: Australian and New Zealand Experiences

In Australia and New Zealand, legislation and policy has been introduced to tackle FDV. In this section we consider the details and identify the "progressiveness" of these efforts.

Legislation[8]

In Australia, constitutionally criminal law rests with states and territories leaving them responsible to introduce legislation to criminalize FDV. Since the 1980s states and territories have borrowed from each other in defining the crime of domestic violence and each has criminalized FDV. This is evident in the timing of law reform across jurisdictions (see Appendix 1 as supplementary data at *Publius* online). In each case, legislation has been amended at least once to expand the definition of FDV to include a wider range of crimes including economic and emotional forms of abuse while the majority of states recognize a broad spectrum of situations in which violence can occur, including same-sex, patient–carer and non-cohabiting relations (NCRVAWC 2009a, 113; Murray and Powell 2011). In most jurisdictions the legislation reflects gender neutral language, which discusses the way "people" experience violence,[9] thereby failing to identify the fact that women are the majority of victims and men the majority of perpetrators of these crimes (Murray and Powell 2011).

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During the same time period, states and territories each adopted a system of civil-law domestic violence protection orders. These allow courts to stop (potential) perpetrators from approaching (potential) victims. Despite some differences in civil schemes, a recent review into their application found that across jurisdictions the provisions largely had similar effect. In respect of the definition of domestic violence, types and speed with which the orders can be made, and, the punishment for contravening orders, the civil provisions across the states are "clear, comprehensive and robust" (NCRVAWC 2009b, 13).

There is some evidence of intra-jurisdictional policy integration as well as innovation and learning between subnational units regarding legislative responses to FDV. In 1986, the Australian Capital Territory (ACT) attempted greater integration by placing all aspects of FDV under one act. In 2004 Tasmania built on the ACT experience, as well as the Hamilton New Zealand model (see below) and introduced its "Safe at Home" legislation that included innovative measures to shift the onus for prosecution from victims to the police; encourage violent offenders, rather than victims, to leave the family home; and, to improve home safety for those who remain at home (McFerran, 2007, 7; Wilcox 2010). The Victorian government borrowed heavily from the Tasmanian model the same year with its own home-based, "pro-arrest" legislation (McFerran 2007, 8). At the same time, New South Wales (NSW) also began a number of pilot programs in the area while Queensland altered its legislation along the same lines.

At the Commonwealth level, legislative intervention in FDV occurs primarily through the *Family Law Act* (FLA 1975). This act provides the federal Family Court with powers over "guardianship, custody, maintenance and access," and insists it take into account family violence matters (Astor and Croucher 2010, 865) (issues concerning child protection and adoption remain with the states). Under the Hawke and Keating ALP governments the legislation maintained a gender neutral frame but this shifted under the Howard Coalition government to a conservative individualized frame. The Coalition's amendments to the *Family Law (Shared Parental Responsibility) Amendment Act 2006* changed coparenting arrangements to reflect the view that FDV is the exception to the norm and a problem of a few "bad" individuals (Laing 2010; Wilcox 2010). Among the many problems identified with these amendments was the potential of exposure of victims of FDV to further abuse by the perpetrator through custody orders (Astor and Crouch 2010; Nancarrow 2010; Wilcox 2010).

The Australian FDV legislative framework has problems. The 2009 National Council to Reduce Violence against Women and their Children (NCRVWC) *Time for Action* report found criminal law was underutilized in all jurisdictions in favor of civil-law provisions with the effect of decriminalizing FDV (Nancarrow 2010, 845). Lack of coordination between Commonwealth parenting provisions and state-based domestic violence protection orders that were especially apparent after the

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2006 FLA amendments, and the portability of protection orders between jurisdictions have been major concerns (Laing 2010; Wilcox 2010, 1028). The system has been described as a "complex maze" through which vulnerable people, mostly women and children, have difficulty navigating (Astor and Croucher 2010, 857). However, these concerns have not gone unnoticed. In 2009, the Australian Law Reform Commission commenced an investigation into a number of these problems, while the 2011 *National Action Plan to Reduce Violence against Women and their Children* identifies them as priorities for action (see National Outcome 5, 26). The Gillard ALP government responded with the 2011 Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 that overturned many of the 2006 changes by taking better account of violence in custody matters and attempting to better coordinate the FLA with state and territory family services.

In New Zealand, the development of law in the area of family and domestic violence has been incremental in its approach (Appendix 1 as supplementary data at *Publius* online). The *Domestic Protection Act* (1982) enacted by the Nationals but with bipartisan support, was a significant first step. It contained provisions for non-molestation and nonviolence orders, and empowering police to detain for twenty-four hours without charge any person who had breached a nonviolence order. The act gave police considerable discretion about whether or not to arrest in the first place. Evaluations of the law's impact indicated that without police training and education on domestic violence, little change would result (Busch and Robertson 1995).

The National's 1995 *Domestic Violence Act* extended the definition of domestic violence to include psychological and emotional abuse, expanded who could apply for protection orders to include siblings, caregivers and those in same-sex relationship, and mandated rehabilitative programs for offenders. It was amended in 2009 to extend police powers to issue safety orders, even where there are insufficient grounds to make an arrest. The orders ensure the immediate safety of a victim, forcing the perpetrator to leave the address for up to five days. Other changes strengthened bail provisions and reduced barriers to police arresting suspects of protection order breaches (MWA 2010).

Australian and New Zealand's legislative efforts to address FDV share some similarities. In both countries there have been ongoing incremental efforts to close the gap between law and practice, although with more venues in the Australia legislative action there has been more regular and constant reform (see Appendix 1 as supplementary data at *Publius* online). Furthermore, in each case a gender-neutral framing of the issue has been the norm (Herbert, Hill, and Dickson 2009). However, there does seem to be some gender sensitivities underlying the "safe at home" initiatives: these laws expect that it is women and children who are victims and who should stay at home, while it is men who are violent and who should leave the domicile (Murray and Powell 2011, 111). An interesting difference is that unlike Australia where almost all the recent legislative initiatives have been enacted by the ALP, in New

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Zealand the opposite is the case with (conservative/liberal) National governments introducing the legislation,[10] albeit with bipartisan support. This outcome was in part a result of key ministers taking up the need for law reform, albeit with focus on the justice system and protection rather than on the provision of community support services and refuges (Boshier 2009; Curtin and Teghtsoonian 2010).

Policy Plans[11]

Over the past two decades all Australian jurisdictions have developed FDV strategic plans in an effort to bring about policy integration (McFerran 2007) (see Appendix 2 as supplementary data at *Publius* online). These plans have included efforts to engage police and legal services, housing and refuge services, and employment and health service amongst others (Chappell and Costello 2011). Federalism has contributed to the development of these policy integration plans through subnational innovation followed by horizontal policy learning, most obviously in the past ten years. In establishing FDV plans, "follower" states have drawn on earlier blueprints. For instance, in developing the 2005 *South Australian Women's Safety Strategy*, policy officers in Adelaide drew heavily upon the identically titled *Victorian Women's Safety Strategy* devised three years earlier (Chappell and Costello 2011).

Compared with legislative initiatives, these plans have applied an overt gender or power frame to the issue and names women as the primary victims of FDV. The NSW definition that "recognises that domestic violence is gender-based violence and a violation of human rights" (NSW Plan 2010) is reflective of that used in the other plans. The gender or power lens is further strengthened in many of these plans through a link to the definition used by the UN *Committee on the Elimination of All Forms of Discrimination against Women* (CEDAW) (Chappell and Costello 2011; Murray and Powell 2009).

These plans have not addressed all FDV policy challenges at the subnational level. Ongoing problems exist with "dis-integrated" services, funding, and specialized services for women from indigenous and other minority sectors of the population (Wilcox 2010; NPRVAWC 2011). Nevertheless, the plans have gone some way in bringing the issue to the fore and pointing out the need for "joined up" responses to FDV.

Compared with its state and territory counterparts, the Commonwealth government does not have the same record of integrating FDV areas over which it has responsibility including homelessness, social security, health, and family law (Wilcox 2010). Where the Federal government has had more impact is through driving forward vertical coordination. The 1992 ALP *National Strategy on Violence against Women*, the 2011 Rudd/Gillard ALP *National Plan* and to a lesser extent, the 1997 Coalition *Partnerships Against Domestic Violence* (PADV), have each attempted to secure better intergovernmental coordination across the FDV policy field.

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The ALP's 2011 national plan, which picks up many of the initiatives from 1992, is the most comprehensive to date. It has a twelve-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. It draws particular attention to the high levels of violence suffered by indigenous women and children and points to the failures in earlier collaborative efforts to address FDV in this community (NPRVWC 2011, 20). 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 Council of Australian Government's (COAG)—the intergovernmental machinery through which inter-jurisdictional agreements are made, and implementation, reporting, and evaluation are coordinated—has been given a central role in this latest version (see Chappell, Brennan, and Rubenstein 2012).

Following other ALP national plans, the 2011 version uses a gender or power frame. It states "[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" (NPRVWC 2011, 15). Its prescriptions include achieving greater gender equality in society, increasing women's position in politics and improving their economic participation and independence (outcome 1.3). This sits in contrast to the frame used in the Howard government's PADV, which individualized the problem and focused increasingly on perpetrator programs (Chappell and Costello 2011; Murray and Powell 2011).

As with Australia, since the mid-1980s New Zealand agencies have recognized the need for horizontal integration in addressing FDV. In 1986 the Labor Government established an interagency committee, the Family Violence Prevention Coordinating Committee, serviced by the then Department of Social Welfare.[12] From this committee, the *Hamilton Abuse Intervention Pilot Project* (HAIPP) (1991–94) was developed (explicitly modeled on the Duluth, Minnesota project, see Shepard and Pence 1999), whereby key agencies utilized agreed protocols to provide linked-up advocacy and support for victims and implemented an active arrest and education program for perpetrators (Dominick 1995). This project was designed and run as a pilot and after an evaluation, was extended and expanded to include two additional policy initiatives that were subsequently adopted nationally: a cross-agency reporting form for police as well as the national Family Safe Team Project (2004–7) aimed at coordinating early intervention (Gregg 2007). Underpinning these strategies in 1989 the Office of the Police Commissioner introduced a national "pro-arrest" policy (Carswell 2006) and improved police training to encourage an attitudinal shift around FDV.

In 2002 Labor devised a five-year national plan: *Te Rito: New Zealand Family Violence Prevention Strategy (2002)*, which aimed to improve integration and increase both intervention and prevention strategies for Māori (Maynard and Wood 2002). This was followed in 2005 by the Family Violence Ministerial Team

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and an Interagency Taskforce for Action on Violence within Families. Located within the Ministry of Social Development, the role of the latter is to gather research, monitor outcomes, and advise governments on strategic development (MSD, 2011). While vertical coordination between national agencies and local family violence community networks was also goal of *Te Rito*, a recent evaluation suggests only partial success on this measure (FACS 2009).

The less frequent action on national plans in New Zealand has not gone unnoticed by FDV activists. They have argued for a national plan to address problems with integrated services and data collection and to reframe the issue in gendered terms. In a recent report produced by the Roundtable on Violence Against Women (Trust), the Australian National Plan was identified as an example of best practice in developing national responses to FDV (Herbert, Hill, and Dickson 2009).

One area where New Zealand has provided a better integrated response to FDV than Australia is in regards to cultural dimensions associated with family violence. While Australian governments at all levels have undertaken reports into and adopted policies to address FDV issues in indigenous communities, many have failed to address the different context in which this violence occurs, and responses have suffered from lack of vertical and horizontal integration (NCRVAWC 2009a). By contrast, in 1984 the New Zealand Labor government created *Te Kakano o te Whanau*, which was a nationwide strategy to provide services for Māori women victims of incest, rape, sexual abuse, and related violence. Attention has been given to consultation with Māori and to coordination across agencies and indigenous organizations, as well as a number of preventative programs established by iwi authorities at the subnational level (Grennell and Kram 2008). These efforts have seen the needs of Māori communities and Māori women in law and policy over time have become institutionalized in the policy-making process. Policy initiatives that have sought to address explicit the needs of Māori women across a number of policy domains have tended to be initiated by Labor governments in New Zealand until recently. In addition, the Ministry of Women's Affairs established a bicultural focus in its gender policy audits from its inception (by Labor) in 1986 (Curtin and Teghtsoonian 2010).[13]

In New Zealand FDV policy the preference has been to explicitly focus on family as well as domestic violence, reflecting in part concerns of the Māori community. While this might have constrained the adoption of an explicit feminist-inspired gender or power frame, it has resulted in a more collectively framed and culturally diverse response and facilitated political and cultural traction around the issue FDV. Table 1 summarizes our findings in the areas of FDV in Australia and New Zealand.

Does Federalism Matter to FDV Law and Policy Making?

Using the indicators outlined in table 1, this article finds that the Australian and New Zealand cases share many similarities in terms of legal and policy responses to

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FDV and over time have built up a similar profile in terms of their strategies and solutions in this policy domain. Legislative reforms have been introduced by both left- and right-wing governments in power, albeit more so by the latter in New Zealand, suggesting as argued by Weldon (2002, 58–59) that FDV legal reform is undertaken by parties across the political spectrum. Where the presence of left parties in government does make a difference is in the production of coordinated policy plans and, in the Australian case, plans that use a gender or power frame.

Key differences are also apparent. In Australia, there appears to be a cascade effect, where one or two states or territories take the lead in FDV initiatives and others then follow. In New Zealand, substantive outcomes have been more punctuated and policy (as opposed to law) reform dependent on Labor being the party in government; Labor governments in New Zealand have also enabled a greater emphasis on cultural diversity compared to Australia. In this section we evaluate the extent to which these differences in degree of policy innovation can be attributed to differences in state architecture and revisit our original hypotheses.

Table 1 Measuring progressive policy change in FDV in Australia and New Zealand[a]

	Australia	New Zealand
Basic legal reform dealing with physical domestic violence	√	√
Legal reform recognizing a range of violent acts and wide definition of victims	√	√
Legal or policy reform requiring specific police and judicial training	√	√
Legal or policy initiatives to promote horizontal integration	√	√
A central agency coordinating national policies (vertical coordination)	√	√
Joined-up service provision that enables women to stay in their home	Partial	√
Explicit recognition of the needs of indigenous women	Partial	√
Law or policy providing combined prevention and intervention strategies (through national plans)	√	Partial
Recognition in *law* that FDV is a manifestation of historically unequal power relations between men and women.	×	×
Recognition in *policy* that FDV is a manifestation of historically unequal power relations between men and women.	√	×

Sources: Weldon 2002; DEVAW and UN Women 2011. *Notes.* See Appendices 1 and 2 in supplementary data at *Publius* online for specific dates of legislation and policy plans.[a] Partial suggests these categories are more dependent on party in government and have not become institutionalized over time.

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As expected (H_1) we have seen in the Australian federal case evidence of laboratory federalism at work in the development of legislation and policy. Initiatives in FDV have been initiated subnationally followed by horizontal policy transfer across jurisdictions, and there is also evidence of vertical transfer between the Commonwealth and states and territories; the latter having been facilitated through COAG. Policy experimentation and learning have also occurred in New Zealand. The central government has been prepared to create FDV pilot projects, as in Hamilton. These projects essentially provide the same function as laboratory federalism—an opportunity to test an innovative policy idea without the risk of widespread failure. They also lead to policy learning. The Hamilton experiment was transferred transnationally, from Minnesota, then upwards to the national level in New Zealand and across the Tasman Sea to Australia, where it was adopted across the states and territories. In both New Zealand and Australia, national FDV policy makers have also been influenced by new policy ideas from elsewhere, including UN initiatives, reflecting the increasing importance of the international arena to policy innovation, learning, and diffusion.

The second influence of state architecture on FDV policy making relates to integration and coordination. FDV requires intra-jurisdictional integration whatever the state architecture. It is complicated in federal systems because shared competencies require coordination across all subnational units (to enable the portability of protection orders for example), as well as vertically between national and subnational units. The Australian federal government has put significant effort into developing national plans that work across these dimensions. Its increasingly institutionalized intergovernmental relations system, especially COAG, has helped to overcome some of the impediments a multilevel system poses for addressing such a "wicked" policy area, but gaps and complexities remain. While New Zealand has been able to overcome some of the issues related to horizontal coordination at the national level, vertical coordination remains a concern, confirming that FDV is a "wicked" policy area, irrespective of the presence or absence of federalism.

The most obvious variance in policy innovation between these two countries lies in two areas: recognition of cultural diversity and the application of gender or power frames. In New Zealand, since the 1980s FDV legal and policy reforms have reflected a strong commitment and responsiveness to the culture and interests of Māori women. The institutionalization of the Treaty of Waitangi, facilitated in part by a centralized state architecture, is an important explanatory factor here.[14] In Australia, the absence of constitutional recognition for indigenous people and the difficulties in achieving collaboration across governments on indigenous issues generally has combined to produce poorly coordinated legal and policy responses for indigenous women.

Evidence of a stronger articulation of the gender or power aspects of FDV in policy responses in Australia compared with New Zealand can also be linked to state architecture arrangements. Arguably, in Australia this frame has been

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maintained in policy-making because no one conservative government has been able to permanently (re)frame the problem in a de-gendered manner. When the Howard Coalition government shifted toward a conservative frame at the Commonwealth level in the early 2000s, ALP governments at the subnational level maintained a gendered framing of the issue. When the ALP returned to Canberra in 2007, it drew on earlier federal ALP government initiatives as well as subnational and international developments to draw up its national plan. The influence of state and territory ALP government policy in the area on Federal Labor was facilitated by the integrated nature of the Australian party system, where joint party conferences and formal and informal party networks and intergovernmental machinery encouraged the spread of policy ideas from the periphery to the centre. In New Zealand, the absence of alternative domestic gender or power frames has been challenged by nongovernmental organizations, but neither right- nor left-wing governments have sought to shift the framing of this issue from one that is gender-neutral. We would argue the absence of subnational governments (and the built-in incentives for learning and competition that come with multilevel policy capacity) have contributed to inertia in policy framing on this issue in New Zealand, but a commitment to Māori understandings of the importance of "family" have also prevented a feminist frame from gaining further traction.

In conclusion, this study demonstrates that the state architecture of Australia and New Zealand have provided both opportunities and obstacles to advancing progressive FDV law and policy reform. Australia's centralized federalism and integrated party system has provided some opportunities for innovation but has brought with it coordination challenges, especially for addressing indigenous FDV. New Zealand has not struggled with the same coordination issues, but has had to seek external impetus for its reform agenda. The comparison also highlights the importance of other factors—especially political parties—to furthering or frustrating feminist FDV policy efforts. It suggests that Labor parties within both federal and unitary settings provide a more favorable environment than conservative parties for the development of a gendered FDV policy. This does not mean that conservative governments have ignored this area entirely. They have undertaken some legislative reform, and in doing so have defined the nature of the problem and policy solutions to fit within a conservative frame; one that has the potential to overlap with indigenous perspectives. FDV policy initiatives remained under the Howard Coalition government and successive New Zealand conservative governments, but they did little to foster more effective integration in terms of services and intervention, and nor did they embrace the gender or power frames that indicate further progression on the issue.

These findings leave us with important questions for further research. First, what is the mutual influence of state architecture and left-wing governments in advancing gender equality policies such as FDV? We suggest this link could be

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tested in at least two ways: first, researchers could interrogate an alternative policy issue, such as pay equity or reproductive rights, within these two countries to consider the relationship between party, state architecture, and policy innovation and coordination and integration. They could also explore this question through a matched-pair comparison, whereby multiple pairs of federal or unitary systems are compared (as Riker suggests) across a single gender equality policy issue—such as FDV—to further explore the federalism effect. The second question is what difference federalism makes to the *implementation*, as opposed to the design of laws and policies. As public policy scholars have demonstrated, even most well-designed policies can be thwarted through poor implementation. Whether a multilevel system frustrates the implementation of FDV policies, or assists it, is an important matter for future analysis. The Australia/New Zealand comparison of FDV presented here makes a start, but also clearly demonstrates that there is a rich vein of research in the field of gender equality policy that will help better explain how federalism matters, the extent it matters and what it matters for.

Supplementary Data

Supplementary data can be found at www.publius.oxfordjournals.org.

Notes

1 Rittel and Webber (1973 in Ney 2009) first coined the term in reference to the intrinsic complexity of policy "problems."

2 The term "family" also extends to incorporate same-sex and de facto relationships. Over time legislation around FDV has come to recognize these forms of family arrangements.

3 Compound causation describes situations "in which multiple antecedents are each necessary but insufficient for producing a given outcome" (Steinberg 2007, 189).

4 Although in Australia extension of the vote did not include all indigenous women until 1962.

5 The New Zealand Labour Party includes a "u," whereas Australian Labor Party does not. In this article we will use the term Labor to refer to the parties in both countries.

6 These are tribal organizations whose mandates to represent their *iwi*/*hapū* (subtribe) have been recognized by the New Zealand Government.

7 Bicameralism is a feature of all Australian states except Queensland. New Zealand has a written constitution and a Bill of Rights but neither is entrenched and it has been unicameral since 1951.

8 Appendix 1 outlining all legislative initiatives in FDV in Australia and New Zealand from the 1900s through to the present is available in supplementary data at *Publius* online.

9 The NSW Crimes (Domestic and Personal Violence) Act 2007 reflects the general trend "The object of this Act is to ensure the safety and protection of people exposed to violence by empowering the courts to make apprehended violence orders."

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10 Women Ministers in the National Government including New Zealand's first woman prime minister influenced this (Curtin and Teghtsoonian, 2010).

11 Appendix 2 outlining all the policy plans in Australia and New Zealand is in supplementary data at *Publius* online.

12 The Labor Government's *Report of the Ministerial Committee of Inquiry into Violence* was handed down in 1987.

13 In 2005, the National Party leader Don Brash attempted to derail an explicit focus on Māori in policy making. This changed in 2008 when the newly elected minority National government chose to work with the Māori Party and some new policies addressing the needs of Māori generally have been forthcoming. However, over the same period funding cuts to family violence support services have also resulted under National (Collins 2011, 2012).

14 For example, The Waitangi Tribunal was established by the Labor Government in 1974 to address Māori land claims and to help protect the rights of Māori under the Treaty.

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