

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Women's Electoral Lobby (NSW)

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**NSW Parliamentary Joint Select Committee
on Coercive Control
Supplementary Paper to the
Submission of Women's Electoral Lobby,
New South Wales**

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Menaka Iyengar Cooke would be glad to appear before the Coercive Control committee regarding points made in this submission. She requests that the Case Studies be kept confidential in any publication of submissions afterwards.

Women's Electoral Lobby, established in 1972, is national, independent, non-party, feminist, political lobby group dedicated to creating a society where women's participation and their ability to fulfill their potential are unrestricted, acknowledged and respected and where women and men share equally in society's responsibilities and rewards. WEL NSW has worked tirelessly for nearly 50 years to improve the position of women in Australian society.

WEL applies a feminist approach to all its work from policy analysis and development to campaigning. In proposing and analyzing policy solutions, we measure fairness and justice for all women (Indigenous, CALD, ability/disability and sexual preference) and thus fairness and justice for society. WEL lobbies and works with governments at all levels to achieve better and fairer legislative, policy and program outcomes in order to achieve equality for women of all ethnicities, colour, ability/disability, and Indigenous women.

WEL NSW welcomes the establishment of a Joint Select Committee on Coercive Control to report on this issue in domestic relationships as well as to respond to the 15 questions raised in the NSW Government's Discussion Paper on Coercive Control released in October, 2020 by Attorney-General, Mark Speakman.

WEL NSW supports new legislation or amendment to existing laws to criminalise coercive control. WEL NSW recognizes that there are a range of definitions extant of coercive control, including those in the Discussion Paper and one in Section 14A and B of the Bill introduced in the NSW Parliament by Anna Watson MP which proposes to amend the **Crimes (Domestic and Personal Violence) Amendment (Coercive Control – Preethi's Law) Bill 2020**.

The NSW Parliamentary Research Service in its **Issues Backgrounder**, Number 4, October 2020: *Criminalising coercive control in the context of domestic and family violence: key sources*, also provides an overview of existing laws in Australia and some coverage of laws in the United Kingdom, recently enacted.

What is important to recognize is that any law or amendment to an existing law must capture a "course of conduct" rather than an incident-based model of criminalization. Coercive control includes a range of behaviours or pattern of behaviours. The objective of such a law should be to enable earlier intervention into a domestic relationship to prevent an escalation into severe physical and sexual violence too often leading to the murder of a partner and harm to children or their murder.

Background – Coercive control experience in CALD communities

Women from CALD backgrounds experience a range of intersecting and compounding challenges (cultural, linguistic, economic, social, legal and more) that place them at greater risk of experiencing Domestic and Family Violence (DFV). These challenges and attendant risks restrict their ability to seek support and redress for the varied experiences which make up the spectrum of abuse within intimate partner and family relationships.

Additionally, DFV agencies generally and those in multicultural sectors are concerned for the safety of women potentially isolated with the perpetrator during the pandemic; the risks are marginally mitigated by online checks by frontline staff and invitations to attend webinars.

Other challenges are that migrants and refugees have the highest level of unemployment and work in lower paid jobs (Harmony Alliance, 2019). Many are not aware of and don't know how to access Centrelink resources and may not be eligible for income support (e.g. refugees, temporary visa holders). Therefore, they are more likely financially dependent on a perpetrator.

Other challenges include a lack of understanding of gender equality, power and control within CALD communities. Many CALD communities are patriarchal in nature and men in the family (father, uncle, husband, son) as well as religious elders (usually male) rule and instruct women in what is acceptable in the home and societal environment.

CALD communities have a lower level of understanding English and how legal and regulatory instruments affect them. Many have come from cultures where patriarchy and the primacy of men was an established axiom of life. Interpreting such laws and regulations and their effects into various languages is not a solution due to low levels of literacy in some CALD communities. There may also be a lack of or limited access to relevant TV and radio stations which may carry messages showing how to access help for and support for people experiencing DFV along with low levels of cultural understanding that the scope of DFV includes coercive control

Coercive control in the CALD community has many forms including:

- Financial control – limiting access to money i.e. doling out money for necessities, limiting access to bank accounts or available finances or credit cards, closely monitoring and questioning women’s spend. In many instances, the husband has used the wife’s lack of education and financial understanding to get her to sign away sums of money into his name or into a trust that only he has access to or the deeds to the family dwelling. During the pandemic, we have seen instances where the abuser (usually male) has started doing the family shopping thus denying the spouse any funds or social access to people outside the immediate family
- Denying freedom or autonomy to the spouse/partner by forbidding them from going to school, work, shopping, attending doctor’s surgeries or clinics. In some instances we have seen men controlling aspects of women’s health and diets, their beauty regimen, sleep or bathroom time
- Many CALD women (particularly those older or less educated) have lower levels of digital literacy. Additionally, the spouse/father may limit access to digital and mobile devices, giving them very little access to or providing very limited data for internet access. In many CALD homes, there is only one mobile phone and/or laptop/personal computer, which is used mainly by the males or older children.
- Many women have their daily activity monitored during the day via cameras and recording devices; in some cases, the passwords may be changed regularly and/or spyware installed on mobile phones and other devices (‘technology facilitated coercive control’).
- Many women report verbal abuse, name–calling, criticising, jealous accusations, putting the person down, constantly showing them their deficiencies, and bullying in a variety of ways. When added to lower levels of education, understanding of and access to help in the community it leads to ‘Gaslighting’.
- Turning the children against the spouse/mother by abusing, ‘brainwashing’ and criticising the parent (usually mother) in front of the children, then asking the children to spy and report on the abused parent
- Making sexual demands not just about the amount of times when there is sexual intercourse but also insisting that the spouse participate in pornographic fantasies and scenarios. Some women have been coerced into prostitution or into ‘swingers’ groups’ at their husband’s will. A number

of CALD service providers report a steep rise in people (usually male) watching pornography and acting out fantasies during the pandemic and forced isolation at home last year

- Isolating a person from their support system (family and friends) or limiting contact with them unless closely supervised. Women, often traumatised by being in a new country far from their family in their home country, talk of not having access to phones or being able to ring family back home but also not having access to people in the local community whom they may have met at community events or religious functions.
- Many women have reported that their feelings of sadness and depression either due to migrational trauma, isolation and/or continuing abuse in the family home in Australia have been used by their husbands to threaten that they will be 'committed to psychiatric wards', thus losing access to their children, or as a grounds for divorce, or loss of residency/citizenship leading to deportation
- Women have experienced threats of pulling their sponsorship (permanent residency or spouse visas in order to stay in Australia or forcing them to return to the home country) where there are disputes over joint finances, savings or dowry
- Many husbands have also denied wives/families access to assistance from agencies or community elders

Some points of intervention

Services and agencies supporting CALD communities report a low level of engagement of victim-survivors with the criminal justice system. Limitations are seen in the criminal justice response in prosecuting and supporting the needs of victim-survivors and getting them to engage (proactively or reactively) with the criminal justice system. There is a need to enhance the use of civil and non-legislative remedies, particularly with respect to accessing support which would add significant value to protection for victim-survivors.

- Investment in primary prevention and early intervention services for newly arrived migrants and newer communities.
- The language used in primary prevention work needs to be nuanced for CALD communities to be more effective. The narratives and primary prevention models need to start at the point where communities are currently at; it needs to include an understanding and reference to cultural mores of the countries where the migrants come from
- Broadening service delivery to aspects beyond Intimate Partner Violence. This means cultivating an understanding of how various aspects of coercive control play out in CALD communities so it is more relevant to the experience of CALD women
- Investing in collaborative in-language and in-culture adaptation of programs with the support, involvement and consultation of CALD communities including involvement of community leaders
- Increasing the focus and education regarding sexual assault in CALD communities – including the role of consent within marital relations, effect of pornography and its role within a relationship
- Just translating pamphlets, leaflets, TV messages into a number of languages is not enough! Many women from CALD communities may not watch or listen to such programs and even if they do, they do not understand the scope and depth of 'coercive control'

- This means funds for specialist services for supporting women affected by coercive control but also funds for community education and consultation at a grass-roots level

Additionally,

- The national women's alliances including CALD representative organisations should be used to inform government policies and actions
- States/territories need to recognise and agree on the specific manifestations of DFV including coercive control, particularly as the state/territory police are in a better position to identify instances of this particular form of violence.
- All planning instruments should include communities including CALD services in disaster scenario planning
- There needs to be coordination and harmonisation between efforts of the Commonwealth, states/territories is of great concern—as seen in Victoria.

Key Points for the Family Law Court Community:

- Two-thirds of state domestic violence statutes require the victim to prove they are victims of physical violence or were threatened physically in order to be considered victims of abuse and be able to petition for a civil protection order.
- Non-physical abuse can be just as, if not more, devastating than physical violence for victims.
- Coercive control is a catch-all term that emphasizes the core of most domestic abuse i.e. the need for power and control over another person and incorporates numerous types of non-physical domestic abuse.
- Adding coercive control under the definition of abuse in these statutes will better match the reality of intimate partner abuse, afford protection to victims, and aid in preventing further abuse.
- The definition of coercive control must be gender neutral in order to provide protection for all potential victims of this form of abuse and not bar anyone from recovery based on gender.

Conclusion

The criminalization of coercive control must not serve as another legal token. It must be accorded full political and legal leadership in partnership with the many professional women's, community (including CALD communities) and legal organisations advocating for women's safety and equality.

Criminalisation must make a material difference to people's lives particularly those of victim-survivors'. Besides reducing fatalities, it must address, ameliorate and reduce the experiences of physical and sexual violence. It must better protect children from trauma and exposure to abuse. It must aim to reduce domestic and family violence in the longer term and contribute to major system wide reform. It offers a generational opportunity for more effective intervention and prevention.

The NSW Government needs to seize this legislative reform opportunity to construct a strategic framework with enough resources allocated to specialist agencies, services and consultations so that the laws with system change take women and children escaping domestic violence and abuse into living safely and securely.