

**Submission
No 50**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Ethnic Communities' Council of NSW

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Ethnic Communities' Council of NSW Inc.

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28 January 2021

Dear Joint Select Committee on Coercive Control,

Re: Inquiry into Coercive Control in Domestic Relationships

The Ethnic Communities' Council of NSW (ECC NSW) welcomes the opportunity to make a submission to this Inquiry; please find below our submission.

The ECC NSW is the State-wide peak body representing culturally and linguistically diverse (CALD) communities. Our membership comprises of hundreds of organisations and individuals representing new, emerging and established communities; our core activities include advocacy, education and community development.

We are making a submission as we are of the view that coercive control and the matters raised by the Inquiry including but not limited to domestic abuse, financial abuse, psychological control and manipulation, controlling behaviour, limitation of movement and domestic violence not only affect members of NSW CALD communities but bear particular ramifications for many members of NSW CALD communities and overwhelmingly so for many female members of these communities. Further, we are of the view that strengthening legislation to counter said actions and that addressed below would be of great benefit to members of NSW CALD communities.

Irrespective of any legislative reform in this sector we are of the view, as referenced in the October 2020 Discussion Paper, that education and awareness raising is too tantamount in addressing these issues and informing NSW communities of current and prospective legal recourses. We raise the above because many members of NSW CALD communities are recent migrants or have otherwise grown up predominantly within countries and cultures where the coercive, violent and controlling behaviours in addition to the existing criminal and civil offences raised by this Inquiry are neither adequately articulated nor effectively countered by Governments or the societies in which they operate.

Further, language-specific education in these regards is essential as many members of NSW CALD communities will not find English language materials as immediately accessible. We are of the view, as referenced in the Discussion Paper, that whole of population approaches alongside specific messaging within primary, secondary and tertiary educational institutions and individual communities is necessary. We are too of the view that specific messaging should include but not be limited to education on individuals' financial rights inclusive of their right to control their own money and

establish their own bank account. Messaging to this effect and how to navigate this would prove significant in tackling many of the issues raised by this Inquiry.

We appreciate that recourse for the offences intendedly addressed by the proposed Bill fall in respects under the remit of other criminal legislation as well as provisions regarding apprehended violence orders and apprehended domestic violence orders. We are however of the view that a specific offence relating to coercive control can be effective in discouraging this behaviour while too providing an appropriate recourse to victims of this behaviour which, to the extent that it addresses the particular nature and ramifications of such harm, will deliver a more just outcome.

As raised in the Discussion Paper, we share the view that “ascribing separate criminal liability to coercive control would provide recognition to the distinct and harmful impact these behaviours can have on an individual,” and further believe that the prospective “tailoring (of) rehabilitative programs in order to curb recidivism,” a foreseeable consequence of the introduction of an actionable coercive control offence, would be of benefit to individuals and NSW communities. We are also of the view, as raised in the Discussion Paper, that the introduction of the offence would “improve a victim’s ability to identify their own experiences as DFV and encourage them to report it or seek out support services.”

Further, and as regards sentencing reform and distinct criminal provisions, we are in support of reforms that require coercive control offending to be taken into account as a specific aggravating factor in sentencing. We are of the view that this would send an important message to the community and to victims on the seriousness of this behaviour, encourage reporting of abuse and discourage offending behaviour.

We note the concern raised in the press that this legislation could have the effect of criminalising financial actions within domestic relationships in which abuse does not play a factor. In consideration of this, and too in ensuring any prospective legislation is both an effective recourse and deterrent, we are in support of legislation which distinguishes abusive domestic relationships through an approach that prioritises the investigation by law enforcement and consideration by Courts of the whole of a domestic relationship’s circumstances.

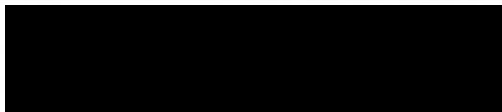
We appreciate that evidence gathering to the standard required for criminal prosecution may be onerous for victims and Police. For the purposes of negating re-victimisation and ensuring that authorities can glean an adequate and accurate account of a domestic relationship’s circumstances and the extent to which abuse is a factor, we support legislation which accounts for a focus on the emotional, psychological and physical consequences of the behaviour rather than just patterns of behaviour as well as an emphasis on available evidence of both generalised and specific abusive conduct.

To these ends, we share the view, as raised in the Discussion Paper, that “any potential criminal offence would need to be complemented by comprehensive social-services support and adequate front-line training.”

Regarding the Discussion Paper's references to the state of mind of the offender, our above comments as to the lack of awareness among some members of CALD communities in NSW as to the extent to which the behaviour intended to be addressed by this legislation is deemed unacceptable within NSW may apply to both victims and perpetrators. Abusive partners may not be aware or accepting of the extent to which their behaviour is deemed unacceptable within NSW and we are concerned that prospective legislation could negate culpability through an emphasis on the perpetrator's state of mind that does not adequately and necessarily account for the nature of the harm and impact on the victim. For this reason, as above, we are in support of a criminal deterrent and process which investigates and accounts for the whole of a relationship's circumstances in addition to evidence of specific and generalised abusive conduct.

We are available should you seek any clarification or have any queries regarding our submission, or if we can otherwise assist further. We too note the Discussion Paper's comments as regards funding to support victims and survivors, the continued presence of which we support and recommend. As regards the NSW Government's work with "non-government and community organisations to develop and enhance DFV services," we continue to make ourselves available to these ends and proudly so.

Yours,

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Mr Peter Doukas OAM

CHAIR

On behalf of the Board of Management of the Ethnic Communities' Council of NSW