

**Submission
No 69**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

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The Hon Mrs Natalie Ward MLC,
Chair,
Committee on Coercive Control Enquiry,
Parliament House,
SYDNEY NSW 2000

Dear Madam Chair,

I have tried to fully understand the various issues the Committee will have to consider however I am very concerned at the danger that trying to formally legislate to introduce crimes for behaviour within a domestic relationship. Just formulating definitions will provide major education as to interpretation.

I observe that in the discussion paper there is the following statement:

But here's the clincher: in 111 of the 112 cases, the relationship between the domestic violence victim and the domestic violence perpetrator was characterised by the use of coercive and controlling behaviours.'

With great respect this statement is grossly misleading and is approaching the issue from entirely the wrong direction.

The questions that have not been addressed clearly are:

- [1] How many domestic relationships are there in NSW in each year ?
- [2] What is the estimate of how many domestic relationships exist on any day in total just in NSW ?
- [3] Of those, in how many is there any element of coercive control ?
- [4] Of those, with elements of coercive control, involve incidents of domestic violence ?

I have completed over 50 years in practice as a lawyer with a wide range of experience in considering all types of disputes in family law, family arguments which result in Local Court proceedings.

As a member and then Chair of a Legal Aid Review Committee of NSW Legal Aid for over 36 years I reviewed thousands of cases involving coercive control leading to domestic abuse and my view would be that a close analysis of these cases would find it very difficult to resolve just who was the "controlling" person.

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It seems to me as I reflect on the cases I have advised on and reviewed I could not reach a sensible conclusion as to what behaviour is "normal" or reasonable" because it is different for each relationship,

I could provide many examples, but I will restrict this submission to two:

[A] I was asked to advise a twenty-three year old lady who worked in a factory on a day shift on the production line. She was very popular. She indicated that she had been married for three years and thought she was happy in the marriage. Her work colleagues had told her that she was being badly treated by her husband.

It appeared that her husband had a girlfriend with whom he would go to the beach on the weekend. She had been told that it was unreasonable for him to ask her to cook for them after the day at the beach.

The simple message is that this lady was not complaining from her own experience or about her relationship but because of peer pressure.

Who was right ?

[B] A daughter who I knew, asked me to urgently see her mother who had recently separated from her husband. The wife explained that her husband was going to kill her. She referred to an incident where he had come to her work and told her he was going to kill her. She said he had blood in his eyes.

The daughter was not convinced that her father would be violent and had no history of violence.

I proceeded and sought an urgent injunction in the Family Court. The husband arrived at the Court when the application was being heard. He was well dressed and appeared to be particularly reasonable, apologised to the Judge and assured the Judge that he had no such intention.

I convinced the Judge to make an order preventing the husband from any contact with the wife. A copy was provided immediately to the Police stations in the vicinity of the address of the wife and they were alerted to a potential risk.

The husband came around to her apartment that evening with a shotgun and attacked the wife.

It transpired that in his view the husband regarded the control exercised by the wife had led to the breakdown of the marriage.

Given the well established and documented difficulties that female partners have in finding refuge from abusive relationships and particularly in reporting these incidents to the Police one wonders why anyone would attempt to report controlling behaviour.

I would counsel against the introduction of further legislation. In my view an education campaign would be much more productive with resources for abused persons to find proper assistance as well as their partners.

Yours Faithfully

Kim Garling