

**Submission
No 94**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

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21 January 2021

The Honourable Mark R. Speakman SC, MP
Minister for the Prevention of Domestic Violence,
Attorney-General for New South Wales.

The Chair, Joint Select Committee on coercive control, Parliament House, Macquarie Street,
Sydney NSW 2000.

**JOINT STANDING COMMITTEE ON THE PREVENTION OF DOMESTIC
VIOLENCE AND ENACTION OF LEGISLATION FOR COERCIVE CONTROL**

Prepared: December-January 2020/2021

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To the Joint Select Committee

As the plague of domestic violence becomes more apparent, New South Wales looks at the likes of Scotland and the United Kingdom, in preventing coercive control, as well as Tasmania, in our own backyard.

Since domestic violence was first recognised as a social issue, and not one that should have been kept quiet and behind closed doors, it was defined in S 4AB(1) of the *Family Law Act 1975* (Cth) which prohibited

Violent, threatening or other behaviour by a person that coerces or controls a member of the person's family or causes the family member to be fearful.

This landmark piece of legislation, amended in 2011, continues to outline forms and definitions of domestic violence, and some aspects of coercive control. These forms include, but are not limited to

- (a) An assault;
- (b) A sexual assault or sexually abusive behaviour;
- (c) Stalking;
- (d) Repeated derogatory taunts;
- (e) Intentionally damaging or destroying property;
- (f) Intentionally causing death or injury to an animal;
- (g) Unreasonably denying the family member financial autonomy they otherwise would have had;
- (h) Unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, their child, at a time when the family member is entirely or predominantly dependent on the person for financial support;
- (i) Preventing the family member from making or keeping connections with their family, friends or culture;
- (j) Unlawfully depriving the family member, or any member of the family member's family of their liberty;

However, many people who have been in abusive relationships do not understand that it is abusive, because the Australian context has only ever, until recently, focused on the physical aspects of domestic violence.

Upon interviewing many people, my entire opinion and attitude towards domestic violence has changed. Again, the approach in the Australian context tends to label domestic violence victims as typically being people of colour, those with indigenous heritage, those who do not speak English as a first language, or those who are less educated than others.

Reform needs to occur to recognise these coercive forms of domestic violence, as has been done by the federal government.

Domestic violence plagues the community however, different socioeconomic areas experience different types of domestic violence; whether it is physical and emotional, or emotional and financial.

TABLE OF CONTENTS

1. Background with Coercive Control.
2. Definitions.
3. Secondary education reform.
4. Improved and revised approaches to government advertising;
5. Police inaction.
6. Breaches of DVO.
7. Police failures.
8. Centrelink fraud.
9. New Zealand – domestic violence forms ‘no relationship’.
10. Financial crimes.
11. Emotional abuse.
12. Psychological abuse.
13. Judicial-based abuse.
14. Social isolation and defamation.
15. Natural disaster response coordination plan.
16. Funding for in-house doctors consultation – rethinking call helplines.
17. Summary and recommendations.
18. Interstate and Territorial legislation.
19. My Personal Experiences.

**1. BACKGROUND WITH COERCIVE CONTROL – Joint Committee for
Coercive Control:**

My background with coercive control is unfortunate – a situation where people like me, do not understand the severity or issues of these behaviours, until they have become entwined in lies, deceit and mental manipulation. People like me, who often think “why don’t they leave?”

Until it’s them.

I come from a family where my parents’ combined income is between \$350,000 and \$450,000 per year. This places us in the highest taxation bracket and within the top 5% earners in Australia. We are by no means disadvantaged.

We never believed that domestic violence would affect people like us – but it does. Nobody is ever immune.

My parents are well educated, successful, and incredibly loving and supporting. In 2018, I came out to them as gay. Everything was rocky, but I believed it would pass. My partner, at the time, was supportive on the surface, but behind closed doors, he was working to ruin everything we had worked for. Everything we were. Everything we are.

He stole from us. Myself individually, and from my parents. He lied, slandered and coerced me into doing things that I never would have done.

I was raised to be brave. Have courage. Fight against wrongs. Stand up for those who did not have a voice. Yet, my voice was silenced. I screamed, but nobody could hear me.

However, that voice was stolen from me. I felt I had nowhere else to turn. Nobody to trust. So, I trusted him.

He stole tens of thousands of dollars from me. Removed financial autonomy from me. My friends drifted. He began to own me as I lost my sense of self.

I moved out of home to try and clear things with my parents – it proved to be fatal to everything I once was.

I still have nightmares of the physical abuse.

I began to drink heavily to cope with the loss of who I was; the loss of friends; the loss of family.

While I was working two jobs and doing whatever I needed to find extra money, he was siphoning it away to whatever he pleased. Other men and their wants. Whatever he needed. Whatever he wanted.

We faced homelessness.

I opposed. He hit.

I spoke up. He beat me down.

I pleaded. He isolated me further.

He refused to work – demanding that I ought to provide for everything. He would apply for loans, phone plans and credit cards, for which I was liable.

I would withdraw cash on my weekly grocery shop, tear carpet up in our home and hide money under there.

Until one day, he found out. He beat me.

I was abandoned in a park after I was raped – again, people like me, don't believe that these concerns affect us. They do.

Nobody is invincible. Nobody is immune.

He promised he would be there for me no matter what. In my darkest time, he was not. He was too busy spoiling another man with money that I had earned.

I sat in a park in Chatswood crying, praying that I would die. Bleeding, sore and drugged up on a concoction of medication prepared by practitioners at Sydney Hospital.

From then on, I no longer trusted him.

I prayed every night that I wished to die. The emotional abuse was unbearable. Scars that feel as if they will never heal. The sexual assault was blamed on me, I was told that I should never have been out in Sydney at 3am – I thought that I could drown the deceit and despair in cocktails. Finding out again that he was unfaithful, was shattering.

I had no friends.

I had no family.

I had not faith.

Four friends who did stick by me, promised me that everything would be okay. Again, privileged people, who do not understand the extent that coercive control has on people.

However, nine months on from leaving him – almost debt free, but psychologically scarred, I am here, writing to the Joint Committee about my experiences.

I am scared. Scared that he will continue to taunt and haunt me for the remainder of my life. Worried that he will blackmail me into his demands with threats of slander and abuse.

The social media posts that people send me about his “victories” make me slip further into a hole that seems impossible to shovel myself out from.

I am here.

I need to be heard.

I no longer pray for death.

I am healing.

I am succeeding.

I am alive - a privilege I hold over so many countless and unnecessary deaths caused by domestic violence.

2. DEFINITIONS – Joint Committee on Coercive Control:

- a. Financial Abuse:** The act of abusing another which could include stealing money, property or engaging in fraudulent conduct to obtain a financial advantage. It could include applications for loans, phone plans, or other forms of credit which prevents the victim from leaving the “relationship”.¹

¹¹ Annecrafttrust.com, 'What is Financial Abuse', <https://www.annecrafttrust.org/what-is-financial-abuse/>

- b. Emotional Abuse:** Emotional abuse is the act of verbal abuse, harsh criticism, intimidation, manipulation and refusal to be pleased with anything. It often includes attrition to the point where the victim becomes submissive in all aspects of the “relationship”.²

- c. Psychological Abuse:** The regular and deliberate use of words that manipulate, hurt, weaken or frighten the victim, where they are mentally and emotionally distraught and confused. It may lead to a skewed sense of self and harmed wellbeing.³

Recommendations: Consult with mental health organisations to develop a clear definition of these behaviours to implement laws that could be successful in prosecuting against these social concerns

3. SECONDARY EDUCATION REFORM – Joint Committee on Coercive Control;

This is an issue that would need federal government support.

² Reachout.com, <https://au.reachout.com/articles/what-is-emotional-abuse>

³ Safe Lives UK, ‘Psychological Abuse’, <https://safelives.org.uk/psychological-abuse>

However, to identify unhealthy relationships and break the cycle or minimise the harm of domestic violence, an important step could be developing a syllabus in the secondary education curriculum.

It would teach students what unhealthy relationships are, how to find support and what behaviour are and are not okay.

With this curriculum, it would help students understand that domestic violence is never okay and can never be justified.

Recommendation: Implement a syllabus for secondary students that identifies unhealthy relationships and where to seek help if they experience one. It could be introduced and taught in the same outline as sexual health.

4. IMPROVED AND REVISED APPROACHES TO GOVERNMENT

ADVERTISING – Joint Committee on Coercive Control:

Currently, the government has improved their approach to domestic violence within the physical context, and included approaches such as signage with translations for different languages and strong language condemning domestic violence.

However, many of the advertisements only focus on the physical aspect of domestic violence and does not adequately approach the issue by identifying behaviours that constitute domestic violence – including financial, psychological and emotional abuse.

By developing an advertising strategy to identify these crimes, it would help people understand that many of these behaviours are prior to the physical aspect of domestic violence.

This could include the joint approach with non-government organisations, charities and companies to develop advertising strategies to explain that coercive behaviours are also not acceptable and can constitute domestic violence on a level which is not always visible.

Recommendations: Develop an advertising strategy with non-government organisations, companies, charities and community services to assist people in understanding that coercive control is also a form of domestic violence.

5. POLICE INACTION - Joint Committee on Coercive Control;

From my own experiences, Police have been incredibly unhelpful. Whether it's because I'm in a same-sex relationship and I'm expected to defend myself easily, or possibly for some other unknown reason, it has been found that police are incredibly underequipped to deal with certain situations, with appropriate emotional intelligence.

Many times I had visited police stations and had the doors either closed on me, or told that "nothing can be done".

It seems as if police have minimal care, compassion or effort when assisting those in diverse relationships, and even little more concern when needing to take reports down accurately and investigating appropriately.

The [REDACTED], pertaining to my particular case, has had failed prosecutions, and a prosecutor that only said "Oh, well that was my first case."

I think that it's incredibly embarrassing to have incompetent police prosecutors pressing a case losing to something that an inexperienced, third year university law student pointed out, which was ignored.

It not only undermines any credibility, sensibility or sense of protection the police are supposed to provide, it diminishes hope. Cases like this, makes it difficult for victims to report further abuse or, a story in its entirety.

Police do not see these cases as peoples' lives – but merely a pay cheque, and a number.

RECOMMENDATION: A cohesive training programme to assist police in effectively identifying and understanding that domestic violence is also actions that are not physical. The introduction of GLLOs has assisted in aiding those people in gender diverse and same sex relationships, however, not every police station has one. Referrals to stations who have GLLOs would be beneficial in assisting LGBT people in being understood. Assistance and Liaison Officers assisting other minorities also assist in minimising domestic violence in all its forms in the broader community.

6. BREACHES OF DVOs – Joint Committee on Coercive Control;

Breaches of DVOs seem to be ineffectively dealt with. I have been fighting to keep my DVO since I learned of a revocation order, made by the defendant, to “join the police force”. This right they are able to access, refuses to acknowledge the severity of domestic violence in all forms, and silences the lived experiences of those victims.

Breaches of DVOs seem to be black and white, with standard conditions stating that a defendant must not:

1. Assault or threaten;
2. Stalk, harass or intimidate;
3. Intentionally or recklessly destroy or damage property in their possession;

However, in the attached letter that was sent to the entire Berejiklian cabinet, it is evident that the Police failed to act, and did not acknowledge the breaches, as they continued to occur. It was only after contacting Minister Elliott, that the Police actually began to investigate thoroughly.

The breaches are a sign that individuals are not scared of the law. These breaches often lead to acts that are more sinister, more severe, and reckless.

It should not take a death or grievous bodily harm to occur before Police act on individuals. It should not take people begging to the Attorney-General, the Premier, the Police Commissioner or LECC before investigations are launched.

The investigation of breaches needs to be taken seriously. I refuse to be another rose laid down in Hyde Park by an Attorney-General who could have enacted better legislation to prevent this.

Recommendations: Develop a clear, concise and comprehensive list of what examples of breaches are, how to identify them, how to stop them, and how to adequately deal with defendants who have breached the ADVO conditions against them. Continue to ensure that the victim has support and attempt to ensure that the DVLO has continuous updates, no matter to whom the report is made.

7. POLICE FAILURE – Joint Committee on Coercive Control;

Often, police failures are due to laziness, a lack of compassion or the expectation that those who do need help, do not know or understand the way in which it is appropriate to navigate the legal system.

Interviews with people affected by domestic violence have shown that the police are often inadequately trained, even when other officers are advised by the Domestic Violence Liaison Officer (DVLO).

By having police officers who are inadequately trained to deal with domestic violence, it does not allow adequate response to their experience. It prevents people from reporting reoffending defendants and fails to provide government bodies with appropriate data to adequately allocate funds and services to victims.

The development of a coordination plan or a task force will allow people to have faith in the police force, report offenders, reoffenders and allow the government to identify socio-demographics and area in need, hopefully, minimising the occurrence of domestic violence in New South Wales.

Recommendation: Adequate training for DVLOs, and the entire police force by developing a comprehensive training guide, and developing a task force to understand how to deal with breaches of Domestic Violence Orders, and to appropriately identify breaches without officers fabricating excuses which suggests laziness and lack of empathy. To have a successful government statistical approach, police appropriately dealing with domestic violence should result in more people reporting, without feeling neglected and letting the cycle continue.

8. CENTRELINK FRAUD – Joint Committee on Coercive Control;

I understand this is an issue for the federal government, but perhaps it is an issue that could be passed to Senator Ruston for consideration.

Many people I have spoken to are concerned about their partners activities with Centrelink and possible repercussions when it comes to being found of fraud charges. Not only is coercive control a major issue in financial abuse, it is also a major concern that people could be forced to endure not only abuse from their former partners, but also face secondary trauma with prosecution from the Commonwealth.

Financial coercion needs to afford protections for those on Centrelink assistance, where one partner may force the other to declare that they are not in a relationship, therefore, receiving more assistance than what they are entitled to.

It would be both morally, and legally unjust to have somebody experience a traumatising relationship, to then be exposed to legal action from the Commonwealth.

People who are often in abusive relationships and on government assistance are hesitant to contact available services for assistance because they are worried about repercussions that they may be facing.

Further, although it is hard to prove, a development of a potential threshold or requirement setting could be established to identify potential abusive relationships, and how to best support a victim once they have left.

I have known a person who stayed on Centrelink for eight months after the relationship ended, and they continued to report all of their earnings.

They did not do this to defraud the government, but to repay the debts that were caused by their ex partner.

This debt exceeded \$10,000, however, most of the government funds went towards repaying the debts.

It has been found in other common law countries that *domestic violence* constitutes that there was ‘no relationship’ to be established. Please view below **“New Zealand: Common law – domestic abuse forms ‘no relationship’”**.⁴

This would need to be coordinated with the Federal Government.

QUOTE: “I’m worried that because I did not update my study details, nor my address but continued to report to assist myself in rebuilding my life, I will be prosecuted by the government, facing imprisonment, fines, or other penalties.”

RECOMMENDATION: Establish a committee to assist those who have been coerced in failing to declare their relationship, whilst looking at other aspects of domestic violence that existed during the time of the relationship. It is not always easy to leave and needs to be recognised as a traumatising experience by all tiers of government. This includes requesting analysis from independent expert witnesses and potentially approaching mental health experts to see if they would be willing to relinquish information that has been considered privileged.

⁴ NZSSA A Matter No. 2004/143 [50].

9. NEW ZEALAND; Domestic abuse forms ‘no relationship’ – Joint Committee on Coercive Control:

The New Zealand Policy stems from the Administrative Appeals Tribunal which establishes that domestic violence does not form grounds to suggest a relationship existed⁵; however, in Australia, this evidence of an abusive relationship is used to *identify* the existence of a relationship, allowing emotional, physical and financial abuse to occur, leaving vulnerable victims open to a second round of trauma, including criminal convictions and prosecution.

However, this seems to contradict the provisions of an Apprehended Domestic Violence Order (ADVO) as it identifies that

*Most relationships do not include fear, control or violence. You are now part of a minority of people who has one of these orders and is recorded on the NSW Police system.*⁶

By looking at the system of New Zealand, it can be found that to establish whether or not domestic violence has occurred, relevant evidence has been referred to an independent expert, with their evidence and statements being regarded as credible.

The nature of relationships, as outlined by the police, places those who hold a DVO as a ‘minority’ suggesting that there ought to be more protections for those who experience domestic violence, instead of allowing them to suffer further distress at the hands of a legal system which fails to adequately protect them.

In one interview, it was found that one person had been threatened to be reported to the Department of Human Services for under-declaring income, despite it being untrue, and then facing the added stress of being discovered as having defrauded Centrelink, despite it being under duress and with necessity.

These threats continue to be considered coercive, harassing and intimidatory in their nature.

⁵ Dr. Lyndal Sleep, *Domestic Violence, Social Security and the Couple Rule*, Australia’s National Research Organisation for Women’s Safety to Reduce Violence against Women and their Children.

⁶ Apprehended Domestic Violence Order, page 3.

It has been found that in Australia, the Administrative Appeals Tribunal (AAT) has used evidence against victims of domestic violence to identify that a relationship exists, normalising these behaviours and punishing people for protecting themselves and their children.

It also punishes people who decide to leave, which is incredibly unfair. It is even more so unjust when it is looked at through a DVO, which identifies that these behaviours within a relationship are not normal.

If they are not normal, then ultimately, they should not be prosecuted against, for being in an unfortunate situation. The law needs to find a balance between genuine relationships and those who have been coerced into financial crimes and fraud against the Commonwealth.

This would need to be coordinated with the Federal Government.

RECOMMENDATIONS: Establish an independent inquiry to identify legitimate claims of domestic abuse, in forms of visible or invisible types of abuse, and to establish a criteria and elements needed to differentiate between a genuine relationship and one that falls onto grounds of a void relationship.

It is important to protect vulnerable people who have experienced this abuse, and to not punish them further for being courageous enough to leave a situation or utilise government assistance to help them regain financial autonomy.

10. FINANCIAL CRIMES – Joint Committee on Coercive Control;

“I’ll get away with everything and there is no way you can prove I did any of this!”

Those words still haunt me every day. I am in debt. I am being forced to be held to account for credit I never applied for. Applications online do not have the same requirements to be checked for authenticity, compared to those made in-branch,

Photos of my ID that were used; my passport, driver licence, medicare cards were all used to make these applications. This was by the same man who abused me and stole money from the family trust.

Although fraud is contained within S 192E of the *Crimes Act 1900* (NSW), it is not a comprehensive definition of fraud, nor does it recognise the severity of fraudulent applications made in a person’s name.

These financial crimes are incredibly sinister – the constant application for lines of credit in a person’s name leaves them vulnerable, and unable to leave because their access to credit has been hindered.

This coercion included paying and applying for credit that was not necessary; otherwise, if I didn’t, he would become physical; and if I didn’t allow him to drive my car that he did not contribute running costs to; then he would make my life even more miserable.

Police have emailed me stating pointless advice such as “you will need to learn to live with each other”, disregarding any potential conflict and danger to my safety, when this was raised with them.

RECOMMENDATION: Establish further protections for banking institutions and clients which include more thorough checks on applications and customers’ needs to prevent fraudulent and coercive applications being made. Training within community groups to understand what all forms of domestic violence looks like and how to approach a victim sensitively and compassionately.

11. EMOTIONAL ABUSE – Joint Committee on Coercive Control;

As identified, New South Wales provides inadequate legislation regarding the protection of emotional abuse within abusive relationships. Emotional abuse can include verbal abuse, rejection, taunts and gaslighting.

Often, these aspects of emotional abuse remove any sense of independence and allows the perpetrator to continue to make demands of the victim, It is often easier to comply with demands, in the hope that physical aspects won't arise, if opposition is made to their requests.

Emotional abuse is incredibly difficult to identify, however, it leaves mental scars that physical abuse often does not. It is invisible, and leaves trauma that can take many years to heal, affecting personal, intimate and social relationships with the victims life, long after the abuse has stopped.

It is imperative that New South Wales maintains the same burden of proof required to successfully prosecute a perpetrator for the crime of emotional abuse.

The elements needed to prove this case ought to include similar elements already contained within the *Crimes Act 1900* (NSW) such as s 93D: mental elements.⁷

A person to be found guilty of emotional abuse, if they intend to use or threaten to use violence, coercion or actions, where a reasonable person would understand that their conduct may amount to emotional distress.

Recommendation: Establish a section of legislation that appropriately outlines elements of emotional abuse and how it can be identified. Ensure that the requisite burden of proof can be met to protect those who have false allegations, whilst also allowing for protection on perjury and false statements made by defendants.

12. PSYCHOLOGICAL ABUSE – Joint Committee on Coercive Control;

⁷ *Crimes Act 1900* (NSW), s 93D: mental elements.

Psychological abuse should be identified as an invisible form of domestic violence however, it will be hard to prosecute and legislate against however, a similar approach as discussed above should be taken in proving psychological abuse.

As discussed above, mental elements in s 93 D of the *Crimes Act 1900* (NSW) could be used as a template to identify how to legislate against psychological abuse.

This could include identifying guilt of psychological abuse, if they intend to use or threaten to use violence, coercion or actions, where a reasonable person would understand that their conduct may amount to psychological harm and distress.

This would prevent people from using psychological tactics to coerce people into financial contracts or other forms of coercion, preventing victims from leaving abusive and domestically harmful relationships.

It would also be helpful to have mental health professionals, psychologists and psychiatrists in assisting with the development of appropriate legislation to arrive at a common definition of psychological abuse.

It is known that psychological abuse is often neglected by legislators and governments is that there is an assumption seems defensible and it suggests that physical abuse is more harmful to societal cohesion and an understanding of relationships than those who experience psychological abuse.

It is also the opinion of many government organisations and legislators that psychological abuse can almost never be proved to the required requisite standard needed for prosecution – however, without legislation and elements, it cannot be known whether or not the legislation enacted would be entirely effective.

It has been shown through interviews with survivors, that those who experience physical abuse at the extreme end of the spectrum, that psychological and emotional abuse precedes physical abuse – with the need to prevent psychological abuse, before it becomes physical.⁸

Recommendation: Focus funding into psychological and invisible forms of abuse, before it becomes physical. Use existing legislation as a template to legislate against psychological abuse and allocate funding into identifying and preventing psychological crimes. Create a definition of psychological abuse with the assistance of mental health experts to identify elements that could aid in successfully prosecuting perpetrators.

Establish a section of legislation that appropriately outlines elements of psychological abuse and how it can be identified. Ensure that the requisite burden of proof can be met to protect those who have false allegations, whilst also allowing for protection on perjury and false statements made by defendant.

⁸ O’Leary, K. Daniel, *Psychological Abuse: A Variable Deserving Critical Attention in Domestic Violence*.

13. JUDICIAL BASED ABUSE – Joint Committee on Coercive Control;

It is important that the government begins to recognise that defendants often exploit the generosity by the courts to grant extensions, leaves and other forms of periods to allow ‘investigations’ or ‘time to find legal assistance.’

Many times, this is not done with those intentions, but intentions that continue to leave the victims open to financial and psychological abuse; with time off work, study or in therapy, away from healing and recovering from the traumatic experiences they have gone through.

It is worsened, especially when cases are *dismissed* due to poor police prosecutors and perjury. This continues to put victims at a disadvantage as they are unable to repay damages to their items, have fair and just court cases and to rebuild their lives.

Judicial based abuse also allows the defendant to request adjournments to ensure they have more time to “seek” legal advice, even though, many times they have not. It is understood that legal representation is a fundamental pillar of society where people have the right to a lawyer, and if not, the government is able to provide a person with a lawyer, if necessary.

The request for adjournments ought to be limited, as many people still use the request for adjournments as an element of control, with the victim needing to constantly see the perpetrator more than what is required.

Concessions to victims’ attendance ought to be considered. The introduction of video links, phone calls or other ways of communication instead of face-to-face attendance also needs to be considered.

This judicial based abuse disadvantage those it seeks to protect.

Recommendation: Allow the court systems to assist those who are unable to navigate the system themselves to lodge appeals. Introduce better training for police prosecutors to understand what they are doing and how to be ruled with successful outcomes. Also provide compassionate support and understanding, potential further training to understand how to deal with emotional and distraught victims.

14. SOCIAL ISOLATION AND DEFAMATION- Joint Committee for Coercive Control:

Social isolation is the act of ensuring a person does not have contact, or has minimal and controlled contact between themselves, and their friends and family. It can often be subtle, or be more direct such as social media posts that are slanderous, malicious and falsified.

Social isolation allows the perpetrator to have more power, control and influence over the victim, making it more difficult and dangerous to escape.

Many cultures, socio-economic classes and religions have quiet approaches when dealing these issues, which is why it remains to be such a taboo topic in modern-day Australia.

By allowing the NSW government to legislate against social isolation and defamation under domestic violence, coercive control laws, it would send clear messages to the broader community that irrespective of religion, class, gender, culture or any other identifiable difference, that domestic violence, either physical or coercive control is not acceptable and if not accepted by the government and wider community, then religious, cultural and minority community stakeholders would assist in aiding to combat social isolation and invisible forms of domestic abuse.

Domestic abuse is not always physical and better campaigns, government and stakeholder involvement, education and training and community awareness would assist people in leaving, and preventing it from occurring to others as severely, and potentially even stopping it before it occurs.

A reasonable definition within domestic violence legislation would allow for the courts to understand that if the defamatory posts are ‘targeted’, ‘malicious’, and have ‘the ability to lower a person’s reputation in the eyes of reasonable members of the community.’⁹

⁹ ABC.com.au (2016), *Reporting on Domestic and Family Violence*.

RECOMMENDATION: Legislate social isolation as an offence under new domestic violence laws and create a framework to identify what it is, define it as a crime and to ensure that there are certain elements met to be able to prosecute this crime.

15. NATURAL DISASTER COORDINATION RESPONSE – Joint Committee for Coercive Control:

This is an issue that would need to be coordinated with the Federal Government and possibly enacted in every state and territory in Australia, without the potential hurdles it would need to pass through as a law, but a direct funding allocation to prevent and provide assistance to those experiencing family and domestic violence.

This was identified with the study of Hurricane Katrina, with Schumacher et al (2010) where it was identified that victimisation and physical abuse increased at a four-fold and a 98% increase of physical victimisation of women*.¹⁰ There was no study focusing on LGBT relationships, minorities, non-English speaking communities or isolated and sheltered religious communities.¹¹

This increased of family and domestic violence saw that replicated in the Black Saturday bushfires, where thirty women and forty-seven workers provided evidence of increased domestic violence.¹²

This was not a comprehensive or exhaustive study, as it had silenced women and those who may have seen their husbands, partners or relatives as heroes at the time of fighting the fires and did not want to cause more psychological harm to them, essentially silencing them from receiving or requesting assistance.

It must be noted that it is fundamentally important to ensure that the funding allocated for natural disaster coordination responses and the allocation for domestic violence prevention, also needs to have funds and services directed at preventing Post-Traumatic Stress Disorder (PTSD) and other mental ailments.

This would need to be coordinated with the Federal Government.

¹⁰ Saeed, S., 26 August 2009. *Shock of Black Saturday will hit now*, Diamond Valley Leader.

¹¹ Further research required on minority groups to understand domestic violence in these communities.

¹² Ibid.

Recommendations: Develop and coordinate a natural disaster response plan with the federal government to ensure that those victims in New South Wales experiencing natural disasters have funding to prevent domestic violence in all forms. This would include floods, fires and other natural disasters. Domestic violence prevention funding should be at the forefront of a recovery plan, alongside physical rebuilding of affected communities. Also provide funding to minimise the effects of PTSD and other mental ailments.

**16. FUNDING FOR IN-HOUSE DOCTORS' CONSULTATIONS – RETHINKING
CALL HELPLINES– rethinking call helplines – Joint Committee for Coercive
Control:**

Funding for call helplines is a fundamental start in providing support and access to services for victims looking for assistance and attempting to leave abusive relationships. However, it is not always possible for victims to make phone calls to these services, in fear of perpetrators having access to their phone, or call records.

Funding for in-house consultations with doctors, paired with privileged communications will allow for doctors to ensure that all information is held without fear of their partners uncovering what their doctors have been disclosed with.

It would also be appropriate to expand legislation, to have medical practitioners to report physical and domestic abuse, if they hold the reasonable belief it is safe to do so. It is important that doctors are obliged to provide information to services to victims, such as housing, charities, food charities and other assistance helplines which aid the victim in leaving.

Existing legislation such as the *Children and Young Persons (Care and Protection) Act (NSW) 1998*¹³ would be appropriate to use to develop a template to ensure mandatory reporting prevents and minimises the occurrence of domestic violence.

Recommendations: Expand legislation and use s 27: *Mandatory Reporting* from the *Children and Young Persons (Care and Protection) Act (NSW) 1998* to extend reporting to adults and those experiencing domestic abuse. As per s 27(2)(b) it would need to explain why the practitioners believe the individual is at risk of significant harm.

17. SUMMARY AND RECOMMENDATIONS – Joint Committee for Coercive Control:

¹³ S 27: *Mandatory Reporting. Children and Young Persons (Care and Protection) Act (NSW) 1998.*

Domestic violence has been recognised at a federal level with 2011 reforms that identified coercive behaviour and controlling tendencies, however, state and territory reform has been failed by state and territory governments.

Recommendations and Reforms:

1. A cohesive training programme to assist police in effectively identifying and understanding that domestic violence is also actions that are not physical. The introduction of GLLOs has assisted in aiding those people in gender diverse and same sex relationships, however, not every police station has one. Referrals to stations who have GLLOs would be beneficial in assisting LGBT people in being understood. Assistance and Liaison Officers assisting other minorities also assist in minimising domestic violence in all its forms in the broader community.
2. Consult with mental health organisations to develop a clear definition of these behaviours to implement laws that could be successful in prosecuting against these social concerns.
3. Implement a syllabus for secondary students that identifies unhealthy relationships and where to seek help if they experience one. It could be introduced and taught in the same outline as sexual health.
4. Develop an advertising strategy with non-government organisations, companies, charities and community services to assist people in understanding that coercive control is also a form of domestic violence.
5. Adequate training for DVLOs, and the entire police force by developing a comprehensive training guide and developing a task force to understand how to deal with breaches of Domestic Violence Orders, and to appropriately identify breaches without officers fabricating excuses which suggests laziness and lack of empathy. To have a successful government statistical approach, police appropriately dealing with domestic violence should result in more people reporting, without feeling neglected and letting the cycle continue.
6. Develop a clear, concise and comprehensive list of what examples of breaches are, how to identify them, how to stop them, and how to adequately deal with defendants who have breached the ADVO conditions against them. Continue to ensure that the victim has support and attempt to ensure that the DVLO has continuous updates, no matter to whom the report is made.
7. Establish a committee to assist those who have been coerced in failing to declare their relationship, whilst looking at other aspects of domestic violence that existed during the time of the relationship. It is not always easy to leave and needs to be recognised as a traumatising experience by all tiers of government. This includes requesting analysis from independent expert witnesses and potentially

approaching mental health experts to see if they would be willing to relinquish information that has been considered privileged.

8. Establish an independent inquiry to identify legitimate claims of domestic abuse, in forms of visible or invisible types of abuse, and to establish a criteria and elements needed to differentiate between a genuine relationship and one that falls onto grounds of a void relationship.

It is important to protect vulnerable people who have experienced this abuse, and to not punish them further for being courageous enough to leave a situation or utilise government assistance to help them regain financial autonomy.

9. Establish further protections for banking institutions and clients which include more thorough checks on applications and customers' needs to prevent fraudulent and coercive applications being made. Training within community groups to understand what all forms of domestic violence looks like and how to approach a victim sensitively and compassionately.
10. Establish a section of legislation that appropriately outlines elements of emotional abuse and how it can be identified. Ensure that the requisite burden of proof can be met to protect those who have false allegations, whilst also allowing for protection on perjury and false statements made by defendants.
11. Focus funding into psychological and invisible forms of abuse, before it becomes physical. Use existing legislation as a template to legislate against psychological abuse and allocate funding into identifying and preventing psychological crimes. Create a definition of psychological abuse with the assistance of mental health experts to identify elements that could aid in successfully prosecuting perpetrators.
 - Establish a section of legislation that appropriately outlines elements of psychological abuse and how it can be identified. Ensure that the requisite burden of proof can be met to protect those who have false allegations, whilst also allowing for protection on perjury and false statements made by defendants.
12. Allow the court systems to assist those who are unable to navigate the system themselves to lodge appeals. Introduce better training for police prosecutors to understand what they are doing and how to be ruled with successful outcomes. Also provide compassionate support and understanding, potential further training to understand how to deal with emotional and distraught victims.
13. Legislate social isolation as an offence under new domestic violence laws and create a framework to identify what it is, define it as a crime and to ensure that there are certain elements met to be able to prosecute this crime.

14. Community education on what domestic violence looks like and how to prevent it. Training for public servants, community services (already implemented by The Hon. Gareth Ward, but could be expanded) and education in schools about healthy relationships, alongside sexual health and education courses.
15. Expand legislation and use s 27: *Mandatory Reporting* from the *Children and Young Persons (Care and Protection) Act (NSW) 1998* to extend reporting to adults and those experiencing domestic abuse. As per s 27(2)(b) it would need to explain why the practitioners believe the individual is at risk of significant harm.
16. Identify signs of economic abuse and incorporate them into legislation; including coercive conduct, control, forced applications, spending money without knowledge, making applications to lenders without express or implied consent;
17. Reform definitions of phrases such as ‘stalk’, ‘harass’, ‘intimidate’, regarding Domestic Violence Order breaches. Police often use their discretion, and it is often laziness or poor judgment that prevents adequate action;
18. A Commission to investigate credit lenders response to online transactions and ensure that signatures are required; not just checked boxes accepting responsibility. More stringent regulations on online transactions such as verification via phone and verified signatures to proceed with transactions. It is irresponsible to assume that a checkbox on a profile holds somebody liable for a loan that was applied for online.

15. INTERSTATE AND TERRITORIAL LEGISLATION – Joint Committee on Coercive Control:

Tasmania: Pt2, *Family Violence Act 2004*;

- S7: Family Violence;

- S8: Economic Abuse;
- S9: Emotional Abuse or Intimidation;

South Australia: Pt3, Div2, *Intervention Orders (Prevention of Abuse) Act 2009*;

- s8: Meaning of Abuse;
- ss4: Emotional and Psychological;
- ss5: Unreasonable and non-consensual denial of financial, social or personal autonomy;

Queensland: Pt2, Div2, S12, *Domestic and Family Violence Protection Act 2012*;

- s8: Meaning of Domestic Violence;
- s8(a): physical or sexual abuse;
- s8(b): emotional or psychological;
- s8(c): economic abuse;
- s8(d): threatening;
- s8(e): coercion;
- s9(f): dominating or causing the victim to fear for their safety;

ACT: Div 2.2 S8(A)(IV) *Family Violence Act 2016*;

- s8(1): meaning of family violence;
- s8(1)(i): physical violence or abuse;
- s8(1)(ii): sexual violence or abuse;
- s8(1)(iii): emotional or psychological abuse;
- s8(1)(iv): economic abuse;
- s8(1)(v): threatening behaviour;
- s8(1)(vi): coercion or other behaviour that controls or dominates, or causes fear for safety;

Northern Territory: Part 1.2, Div2, Ss1, S8, *Domestic and Family Violence Act 2017*;

- s5(a): conduct causing harm;
- s5(b): damaging property, including the injury or death of an animal;
- s5(c): intimidation;
- s5(d): stalking;
- s5(e): economic abuse;

- s5(f): attempting or threatening to commit conduct mentioned in paragraphs (a) to (e);

Western Australia: *Family and Domestic Violence Act 2004*.

- s6: Meaning of “Act of Family and Domestic Violence” and “act of personal violence”.
- s6(1)(a): assaulting or causing personal injury to the person;
- s6(1)(b): kidnapping or depriving the person of their liberty;
- s6(1)(c): damaging the person’s property, including the injury or death of an animal;
- s6(1)(d): ongoing behaviours that are intimidating, offensive or emotionally abusive;
- s6(1)(e): causing the person or a third person to be pursued;
- s6(1)(e)(i): intent to cause intimidation;
- s6(1)(e)(ii): in a manner that could reasonably be expected to intimidate and does so;
- s6(1)(e): threatening to commit any act described in paragraphs (a) to (e) against the person;

Although some of the points that have been raised are issues that are dealt by the Commonwealth, it is important to understand that these issues are real, affecting real lives, real people and causing real stress and trauma.

These issues are not pretty to talk about, and neither are the statistics.

We know about the statistics.

We know about the deaths.

We know that this is preventable.

It is time to stop laying roses in Hyde Park and to do something meaningful to protect some of our most vulnerable people fleeing traumatising situations.

16. MY EXPERIENCES – Joint Committee for Coercive Control.

[REDACTED]

[REDACTED]

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