

**Submission
No 138**

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Settlement Services International

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Submission to Inquiry into Coercive Control in Domestic Relationships

Joint Select Committee of Coercive Control, NSW Parliament

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Settlement Services International (SSI) is a community organisation and social business that supports newcomers and other Australians to achieve their full potential. We work with people who have experienced structural and systemic vulnerability, including migrants, refugees, people seeking asylum and multicultural communities, to build capacity and enable them to overcome inequality.

Formed in 2000, SSI is a member-based organisation with 11 Migrant Resource Centres (MRCs) and multicultural organisations across NSW, including two in regional NSW, as members. SSI recently merged with Access Community Services in Queensland which significantly extends our service footprint and reach.

SSI is the largest provider in NSW of the Humanitarian Settlement Program, funded by the Australian Federal Government, to newly arrived refugees and other humanitarian entrants. It also leads a consortium, the NSW Settlement Partnership, of 20 partner agencies which deliver the Settlement Engagement and Transition Supports (SETS) program, also funded by the Australian Government, to refugees and eligible family stream migrants in the first five years of settlement across NSW. Settlement services often respond to Domestic and Family Violence (DFV) as they provide case work services, women's groups and extensively work with multicultural communities. SSI also operates a Community of Practice for Domestic and Family Violence and Settlement (DFVCOP).

SSI is a recognised voice for DFV and multicultural communities in NSW and national advocacy groups. SSI's CEO, Violet Roumeliotis, is an appointed member of the NSW Government's Council of Domestic and Family Violence and Sexual Assault. In partnership with Relationships Australia NSW, SSI provides a successful in culture and in language Men's Behaviour Change Program (MBCP), called Building Stronger Families (BSF). Although SSI has no specific funding to provide specialised DFV services, apart from a small COVID 19 related project, SSI collaborates in local, state and national advocacy groups in response to an identified need among the communities we support, and multicultural service providers, to have a greater focus on migrant and refugee specific DFV service delivery.

SSI carries the voices of its settlement consortium, the DFVCOP and SSI members in highlighting what is required for migrant and refugee communities at all levels of DFV – primary prevention, secondary and tertiary intervention.

SSI and its subsidiaries are well placed to contribute to the Committee's Inquiry into Coercive Control in Domestic Relationships. Given its large service footprint for migrant and refugee communities, SSI would be pleased to participate at the inquiry hearings.

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Summary

Settlement Services International (SSI) welcomes the opportunity to contribute to the Inquiry into Coercive Control in Domestic Relationships.

As SSI works with people from migrant and refugee backgrounds it has first-hand experience into how DFV (Domestic and Family Violence) affects families, and women in particular, within these communities. DFV is complex, but it is even more so in the context of diverse cultures and the structures and experiences of migration. Circumstances that often affect migrants and refugees in particular are, among others: recent arrival, temporary visa status, unfamiliarity with Australian systems, language barriers, entrenched patriarchal structures and attitudes, and fear of shaming family and community.

In this response gendered language is used, in order to reflect the data and statistics related to DFV. However, SSI is aware that some men may also be victim survivors of DFV in the context of the provisional spouse visa in particular, which is in essence a temporary visa.

The term migrant and refugee is used and also encompasses asylum seekers, temporary migrants and second and third generations who culturally identify with their migrant and refugee community. However, it cannot be said that all migrant and refugee communities experience circumstances as set out in this submission in the same way.

For the purpose of this inquiry SSI has undertaken consultations with community workers that work within their community or multicultural communities in general; the DFVCOP, facilitators from our in-language and in-culture Men's Behaviour Change program, called Building Stronger Families, and individual interviews with community leaders. As SSI does not have experience in providing legal support to victim survivors of DFV it cannot answer some of the questions that have a legal focus. Therefore SSI has not responded to questions 4-6 and 10-14.

The key points of the submission to highlight here include:

- There is overall support for criminalising coercive control, however there are concerns about implications of the law, the level of investment needed for communities to understand the concept and whether such investment would be forthcoming
- Investments in community education will need a long lead in time before the law comes into effect. Targeted investment for migrant and refugee communities is required
- Considerable efforts will be required to change processes of law enforcement agencies to be proficient in assessing coercive control and gathering evidence needed leading to convictions, particularly when working with people from migrant and refugee communities
- Criminalisation of coercive control, and subsequently looking at patterns rather than incidents of violence, would likely reduce the risk of misidentification of perpetrators and the identification of the person most in need of protection
- There is a risk that coercive and controlling behaviours may be classified as "cultural" by perpetrators and law enforcement and the concerns of victim survivors dismissed or the complaint not taken seriously.

1. What would be an appropriate definition of coercive control?

It is important for any definition of coercive control to reflect the realities of victim survivors from migrant and refugee communities. From the point of view of the migrant and refugee communities, an appropriate definition would be one that captured the issues integral to their communities beyond the general definitions and standards of proof. Migrants and refugees are affected by unique circumstances and face specific structural barriers.

- Any definition of coercive control must be mindful of the role of migration in coercive control

It is important to recognise, in any definition of coercive control, immigration-facilitated abuse. This is a form of DFV and coercive control which uses the immigration system in order to enforce compliance and instil fear in a victim survivor. One form of immigration-facilitated abuse sees perpetrators instilling the fear of deportation in victim survivors. Victim survivors may fear persecution, separation from children, shame and abandonment in returning to her home country. A study amongst Indian migrants in Australia by Singh and Sidhu's (2018), which indicated that coercive control is heightened due to migration in the Indian migrant communities in Australia, confirms observations by SSI of immigration-facilitated abuse. This point is exemplified by behaviour around spousal visas and other temporary visas in Australia, where the migrant wife (holder of the spousal visa – a temporary visa) is rendered dependent on the sponsor (the partner) to transition from the temporary to permanent visa status. There are also other ways in which coercive and controlling behaviours can be heightened due to migration status as exemplified in the below case study.

Case Study 1: A woman on a spousal visa as told by a community leader

“This well-educated woman can't go to the shopping centre, she can't go grocery shopping alone. She has to take her husband's nephew who is 5 or 6 years old. I would call her and she would not be able to answer her phone. Her sister-in-law has said she is not allowed to answer her phone and other friends have also commented that she cannot talk to her parents overseas. Her mother had a heart attack and she wanted to send money to help her mother but she was not allowed. She does all the work in the house. She cried to her sister-in-law, but the sister-in-law said she cannot do anything because it is her brother and he has the right to act as he does. No one can help her. She has been unable to conceive and now the family make fun of her. She is depressed and is taking medication. If she gets a divorce, she has no family here, if she goes back home to her parents, people will talk about her. If she divorces in her culture, they say it is her fault.”

- Definition of coercive control should include extended family and community relationships

The discussions and definitions of coercive control appear to focus on Intimate Partner Violence (IPV). The reference in the Government's Discussion Paper to Sophie Elmhirst's definition of coercive control as “intimate terrorism” also suggests this. In the case of migrant and refugee communities, coercive control is not only exercised by the intimate partner, but also by other family members and beyond that by the community at large.

The law should aim at being inclusive. The law should not focus only on IPV. Focusing on IPV is a Eurocentric approach that does not reflect experiences of many migrant and refugee communities.

The legislation needs to consider the role of community and culture. It should include how culture and patriarchy empowers family members like sons, parents-in-law, and other in-laws to carry out coercive control. There are cases where the family overseas has a part to play in keeping women in coercive situations to avoid shame to her family or the partner's family. Maintenance of patriarchy is also illustrated by the stepping up of other males in the family or community if there does not appear to be a male head of household.

Case Study 2: 25 year old woman, 8 months pregnant as told by a community leader

"The woman was made to stay with her in-laws whilst her husband was overseas.... The in-laws have control over her Centrelink payments. She was being bullied and slept in the dining room. The oldest brother-in-law is bullying her as well. She cannot move out, her parents won't let her move until her husband comes back. She cannot make her own decisions, yet she is not underage... She was offered support by services to help her move into her own home but she was scared. She later rang the community leader again to ask for help because she could not cope any longer."

Case Study 3: Single mother on a refugee visa as told by a participant at the community consultation

Some of the controlling behavior came from the brother or the son; not just the partner but also other members of the family, particularly if they don't have their own family here. The son can step into the role. There is also the overseas context, family overseas is still controlling what they can and cannot do. What they wear and demand money. It might not be as toxic as the coercive control by the partner who is present, but it is a negative influence. Community leaders can also be controlling. There are cultural expectations that you still have to abide by."

- Any definition of coercive control should be cognizant of complex forms of violence

Coercive control is also a powerful tool in the types of violence that are specific to migrant and refugee communities that are termed Complex Forms of Violence in Australia and Honour Based Violence elsewhere. These include Forced Marriage, Domestic Servitude, Dowry Abuse and Female Genital Mutilation. These sit outside of IPV and are very harmful to victim survivors and hidden to the mainstream community.

- The role of children and impact on them of coercive control

Coercive control is a strategy for establishing dominance across a spectrum of relationships that includes children. In Stark and Hester's (2018) update and review of England /Wales and Scotland's experience, they indicate that coercive control often extends to children. Children are exposed to the abuse, used as pawns in control strategies, weaponised as instruments of coercive control and harmed to subordinate and control the mother. Many women on temporary visas are more vulnerable to coercive control due to fears of deportation and loss of their children. They assume the father has more rights to the children, as might be the case in their own culture, and as a result might keep the children in Australia. Lack of understanding of the Australian law is also illustrated by one of SSI's clients where the mother, a victim survivor, voluntarily relinquished custody of her children "because he has a job and can feed the children".

Callaghan et al (2018) have written extensively on children and coercive control noting that children are common targets of coercive control alongside and independently of their mother, and children exhibit a similar range of strategic/adaptive agency in response, including forms of resistance.

- Behaviours to be recognised in a definition on coercive control

The definition as set out in the Government Discussion Paper already identifies certain behaviours including psychological, physical, sexual, emotional, financial and emotional abuse; these are behaviours that migrant and refugee communities are becoming aware of as part of DFV. Any definition also needs to stress the repeated patterns of control including name calling, threats, public denigration, surveillance, monitoring, gas lighting, financial deprivation. Stark and Hester (2018) indicated that: “Respondents were characterized as having experienced coercive control if they said their partner had both: repeatedly belittled you to the extent that you felt worthless; frightened you by threatening you or someone close to you.” Therefore, the definition also needs to incorporate:

- the nature of controlling behaviours including making the person subordinate and/or dependent by isolating them from sources of support
- exploiting their resources and capabilities for personal gain, depriving them of the means needed for independence, resistance, and escape (entrapment)
- regulating their daily lives
- impact on the victim including isolation, fear, loss of self-worth and dignity, loss of autonomy and capacity for decision making “*I don’t think I exist anymore*” (a victim survivor’s voice)
- insults to dignity and personhood over and above physical injury
- The intent and/or motivation for the actions of the perpetrator to isolate, degrade, intimidate, and coerce which are purposefully, strategically orchestrated.

Recommendations

- Ensure that the definition for coercive control in NSW incorporates the following:
 - the role of migration in coercive control
 - understanding of migrant and refugee communities’ traditional family relationship patterns that might be deemed as supporting coercive control
 - broadening the definition beyond Intimate Partner Violence to include the family and community relationships
 - include the experiences of children and impact of coercive control on them
 - clarity around motivation, intent, and patterns of coercive control.

2. How should it distinguish between behaviours that may be present in ordinary relationships with those that taken together form a pattern of abuse?

The phrase “ordinary relationships” in this question implies a socially acceptable relationship ideal, disregarding the complex intersectional elements that diversify relationships throughout Australia. In criminalising coercive control, the legislative framework needs to address the multiple intersecting variables influencing the relationships of people from migrant and refugee backgrounds.

The behaviours and interactions present within a relationship are influenced by a multitude of factors, some of which include sexual orientation, socioeconomic status, gender, age, and religion. Within migrant and refugee communities, relationships are influenced further by factors such as immigration status, language, ethnicity and culture, as well as the issues that accompany settling in a new country. These compounded factors need to be considered when investigating coercive control in the relationships of migrant and refugee communities.

DFV, including coercive controlling behaviours, in migrant and refugee communities is often rationalised by male perpetrators as reflecting their culture’s established gender roles. An objective standard of proof could counteract the perceived clash between cultural gender expectations and what is considered coercive control. The criminalisation of coercive control needs to embed an objective standard of proof when assessing the impact of the perpetrator’s behaviour on the victim survivor, where a ‘reasonable person’ would experience fear or harm under the same circumstances, to distinguish coercive control from non-harmful relationship behaviours. But, in the criminalisation of coercive control, it is important to counteract potential ‘culturalisation’, where the dominant values and behaviours reflected by majority society are re-embedded in the introduced legislation. The risk of establishing a Eurocentric relationship ideal or norm and subsequently excluding the important intersectional factors that characterise relationships within migrant and multicultural communities is significant.

In consultations with community leaders, there were frequent references to “cultural expectations” and “family culture”, emphasising the role that culture will play in the redefinition of gender roles in these communities. In accounting for this, it is important to have a ‘reasonable person’ test to maintain an awareness of intersectionality and complex identity factors in assessing harm to the victim survivor. An objective standard of proof, such as that in Scottish coercive control legislation, requires only that a ‘reasonable person’ experience distress under the same circumstances. This not only relieves victim survivors from the potentially traumatising ordeal of proving their own fear but distinguishes coercive controlling behaviours from non-harmful behaviours from the objective standpoint of ‘reasonableness’. However, reasonableness in the case of migrants and refugees has to include the cultural lens through which reasonableness is viewed. As such intent and impact play a critical role in assessing coercive control.

The forms of abuse that characterise coercive control are largely non-physical, with physical violence often playing a small to non-existent role in the attainment of control by the perpetrator and subsequent harm to the victim survivor. Despite this, police responses are often reductive in their focus on physical and incident-based DFV and dismissive of alternative forms of abuse such as

financial abuse, psychological manipulation, isolation, surveillance, and even those already criminalised such as stalking and intimidation.

It appears that an 'ideal' victim survivor image informs police response to DFV situations. Emphasising pattern-based and non-physical abuse in the definition of coercive control provides a guideline for police and support services to identify more covert forms of abuse, including those specific to migrant and refugee communities. This 'ideal' victim survivor is characterised by a weak and vulnerable woman battered by her husband (InTouch, 2021) and is often, arguably, white. Migrant and refugee women are most dangerously impacted by this 'ideal', as it is often unreflective of their DFV experiences. For example, as cited in Case Study 3 "the controlling behaviours came from the brother or son", rather than the husband or intimate partner. The criminalisation of coercive control must consider these alternatives to the 'ideal', necessitating system reforms such as extensive coercive control training for police, courts and support services.

Recommendations

- Develop coercive control legislation with an intersectional awareness of the unique pressures experienced by migrant and multicultural communities
- Dismantle the concept of the 'ideal' victim survivor through systemic reform that prioritises training in identifying pattern-based and non-physical forms of abuse, especially those specific to migrant and refugee communities
- Institute an objective standard of proof based on reasonableness in assessing harm to the victim survivor.

3. Does existing criminal and civil law provide the police and courts with sufficient powers to address domestic violence, including non-physical and physical forms of abuse?

Existing criminal and civil law do not appear to provide the police and courts with sufficient powers to address DFV, including non-physical and physical forms of abuse, in SSI's experience. The general focus on incidents of abuse rather than patterns of abuse means that DFV cannot be effectively addressed by police and courts. For example, police regularly state words to the effect of "there is nothing we can do till something has happened", thus endangering victim survivors. In practice, it is often the case that even the powers which are provided police and the courts are not effectively utilised to address DFV, meaning that the safety of victim survivors, particularly women and children is compromised. In the case of victim survivors from migrant and refugee communities the current laws do not address some of the complexities of their experience of DFV neither do they address the structural inequities they face as outlined in Question 2.

In consultations, community leaders discussed with us the way that existing laws in practice had not been able to address DFV effectively. One community leader reported multiple cases where police practice had marginalised women from migrant and refugee backgrounds. The leader said that "*the police are very rigid in the process, across the board; it needs to be more flexible*" citing examples of refusing to supply women police officers to take reports, not arranging interpreters, using children as interpreters, not considering women's responsibilities of childcare and so on. She said "*Police will not budge how things are done but it won't change unless the police change.*" This needs to be considered in relation to the laws currently in place and if criminalising coercive control. The following case study demonstrates some of the issues of the current laws in practice.

Case Study 4: Woman presenting to police as told by SSI counsellor

Hama, a woman who arrived on a humanitarian visa, disclosed to her SSI counsellor a history of DFV including physical, sexual, financial and emotional abuse. She said that the physical abuse had stopped on arrival to Australia and that she had recently separated from her husband. She reported that since the separation her ex-husband had begun regularly stalking her- waiting out the front of her house, following her at the shops and waiting outside her learning institution. He would show up in places and she did not know how he knew she would be there. She stated that he verbally abused her in public on these occasions.*

She went to police with two SSI staff present and gave her statement. Police at first stated that as there had been no physical abuse in Australia there "wasn't really grounds for an AVO". They were dismissive of the stalking, suggesting that it could be a coincidence, when the SSI staff attempted to advocate for Hama to be given an AVO. The police officer said that she would not "be bullied". The police also indicated that they weren't happy about SSI bilingual staff interpreting as "they might put words in her mouth". Yet no interpreter was offered.

Criminalising coercive control in and of itself will not address the issues outlined above seeing the limitations of current criminal and civil law in practice. The following recommendations are suggested alongside criminalising coercive control to ensure current and new legislation works in practice for victim survivors.

Recommendations

- Embedding skilled DFV practitioners within Police Area Commands who can advocate for victim survivors and can be involved in statement taking and following up with Persons In Need Of Protection (PINOPs)
- Training Multicultural Community Liaison Officers (MCLOs) in DFV for these positions to be able to better work with victim survivors from migrant and refugee backgrounds
- Increasing the numbers of staff such as Domestic Violence Liaison Officers (DVLOs) who are capable to attend incidents and take effective statements rather than leaving such tasks to general duty officers only.

7. What are the advantages and/or disadvantages of creating an offence of coercive control?

SSI's consultations with victim survivors, the DFVCOP, frontline staff (including case managers and facilitators of the Men's Behaviour Change Program), community leaders and member agencies highlighted advantages and disadvantages of criminalising coercive control, but focussed on increasing safety overall for victim survivors.

Although migrant and refugee communities generally welcome the legislation, there are several deep-seated concerns listed as disadvantages here, apart from the ones outlined in other sections.

Advantages

The advantages of coercive control legislation would be that it:

- Strengthens the mandate of Police to take action to protect women and children, thus likely increasing safety
- Sends a strong message to the community condemning coercive control and that these behaviours are damaging and unacceptable
- Sets a standard for acceptable and unacceptable behaviour within relationships and families
- Validates the experiences of victim survivors, including children, and legitimises their right to be protected
- Empowers victim survivors to seek help and understand their rights
- Potentially provides more opportunities for help-seeking, apprehension and rehabilitation of perpetrators
- Removes overemphasis on physical abuse and highlights the risk of coercive control
- Enhances early recognition of coercive and controlling behaviour.

The quotes below emphasise these sentiments:

"Criminalising coercive control will send a strong message to our community that family violence is serious and will not be tolerated. Many of our clients who experience coercive control suffer so much for long periods of time. The consequences of this abuse are often very severe and some women never completely recover. It needs to be condemned strongly" (Case Manager).

"Nobody should be allowed to suffer in silence" (Community Facilitator).

Disadvantages

The migrant and refugee communities concerns' about the legislation come mainly from how the legislation would be perceived by the communities, the possible impact on behaviours, perhaps posing additional barriers to reporting, and fear around complying with the law in a cultural context.

Concerns and risks include:

- Criminalisation may result in perpetrators engaging in increased coercive and controlling behaviours in order to decrease disclosure

- The law might not reflect critical issues for migrant and refugee communities; specifically the context of immigration and complex forms of violence as outlined in Question 1
- Far reaching consequences that may adversely impact both men and women from marginalised communities, including refugee and migrant communities, eg. detention, deportation which can also decrease disclosures and help-seeking behaviours
- Lack of preparedness of law enforcement agencies to implement such a law successfully in practice. Their current focus on responses to an incident, lack of an adequate response and prosecution of non-physical abuse, does not auger well for an effective judicial response to coercive control
- Risks if the law is not followed up with holistic interventions, education, and continuous support services, forcing women to return to a situation that is potentially worse than before
- Misunderstanding of cultural patterns could lead to inappropriate charges if focus is not placed on intent to hurt, threaten, subjugate, entrap, intimidate, restrict, and establish dependence and control
- Victim survivors from migrant and refugee communities are often at greater risk of not being identified as the person most in need of protection due to language barriers and a lack of understanding about the criminal and judicial systems in Australia and how to engage with those systems. The perpetrator might also be more skilled and knowledgeable to negotiate systems effectively.

Overall, migrant and refugee community leaders and workers hold the position that culture is not an excuse for breaking the law and they do not expect cultural patterns that cause harm, and fall under the definition of coercive control, to be excused.

Recommendations

- The law should be enacted with caution so that the aforementioned advantages will be realised for migrant and refugee communities
- Ensure that deliberate there is consideration of migrant and refugee communities' concerns during the creation and implementation of the law
- Strengthen the law so that weaponising immigration law and systems against women on temporary visas is recognised and incorporated in the legislation.

8. How might the challenges of creating an offence of coercive control be overcome?

In response to the disadvantages and challenges offered in the previous questions the creation and implementation of legislation for coercive control requires extensive consultation among the judiciary, law enforcement agencies and communities, ensuring that migrant and refugee communities are consulted extensively. In particular, SSI would like to highlight the following:

- The impact of the legislation on migrant and refugee women extends beyond the borders of NSW and even Australia, therefore, family, the community and extraterritorial influence to the law beyond the domestic setting has to be recognised within the law and in practice
- The use of interpreters and bi-cultural workers should be mandated in working with victim survivors. More in-language and in-culture services for victim survivors are needed. Referrals to in-language and in-culture Men's Behaviour Change Programs are an important option
- Comprehensive training of all first responders, including police, health and education staff as well as training of judicial staff is needed
- Consider additional roles in policing, where DFV practitioners accompany officers for comprehensive DFV related interviews or arrests
- Address the impact of coercive control on children. The impact on children should be acknowledged and child protection measures incorporated.

Children are often present in families experiencing DFV, and their safety must be of utmost importance to policy makers and community. Currently, there are frequent concerns of police leaving children who have witnessed DFV off ADVOs (Apprehended Domestic Violence Orders), and there are widespread concerns about the Family Court system. One example of how potential challenges may be reduced is acknowledging that the victim survivor parent may withhold contact with children due to concerns of risk. This could be viewed as coercive control, if the underlying motivation is not examined. Evan Stark in Welsh Women's Aid (2018) also notes that perpetrators coercively control children and weaponise children to control their mother, causing harm to the children, sometimes physically to prove a point, who are caught in the middle.

Services have suggested that challenges may be overcome through thorough training of all first responders, including police, health and education staff as well as training of judicial staff. However, a review of policies and procedures must precede the training as currently processes are not geared towards identifying patterns of control, but are focused primarily on single incidences, as outlined elsewhere in this submission.

Case Study 6: A woman reporting to Police as told by a community leader she reported to from a regional area

"A woman from the community wants to report safely to Police. I called to ask for a female Police Officer, but they said they would see what they can do but no guarantees. Even officers who are trained in DFV do not necessarily take the report. It makes it challenging for people to report. I call the police and there is no guarantee how long it will take. Women have children, they cannot report from home and they won't let them speak over the phone. Sometimes they want a conversation with the police rather than go straight to an AVO. But the community member was not explained that this is not possible. The Police are very rigid in the process across the board; it needs to be more flexible

There is trauma associated with the person reporting, it needs to be done delicately with a sense of care. I acknowledge police staff shortages, especially in the regional communities and this might contribute to it.”

Criminalising coercive control affirms the State’s obligation to protect victim survivors. For the law to be successful investment in infrastructure is needed. The Scottish experience stands as a “Gold Standard” around this point as it allowed time to introduce the legislation so that it was fully understood and supported by responsive services, capable first responders and a cognisant judiciary.

A well-functioning, well-funded, flexible and supportive service system is particularly pertinent for migrant and refugee communities in relation to the, at times, complex nature of their situation. The nature and length of time support can be provided should not be finite (e.g. 6 months in a refuge), nor can it be dependent on the woman’s migration status and access to financial and other social resources, especially when coercive control is at the heart of the DFV as it is a high risk factor. We know that in 99% of DFV-related homicides coercive control was a factor (Death Review Team Report 2017).

Recommendations

- Adoption of a ‘do no harm’ approach to ensure there are adequate protections in place to mitigate any potential negative consequences of criminalising coercive control
- Investment in research that includes police, DFV services and courts together with community groups to ensure that there is knowledge of the way such abuse manifests itself in migrant and refugee communities
- There needs to be dedicated funding of services and resources that can support migrant and refugee women to leave situations of coercive control, including targeted DFV funding for multicultural services.

9. If an offence of coercive control were introduced in NSW, how should the scope of the offence be defined, what behaviours should it include and what factors should be taken into account?

While the maintenance of cultural norms and practices is important for migrant and refugee communities, the justification of cultural practice cannot be used to justify coercive controlling behaviours that specifically experienced, or more likely to be experienced, by victim survivors from migrant and refugee backgrounds.

Forms of abuse that are quite uniquely experienced by women from migrant or refugee communities include:

- Immigration facilitated abuse e.g. threatening deportation or loss of visa
- Family violence from in-laws and other extended family
- Multi-perpetrator violence e.g. when residing with multiple family members
- Threats of bringing shame on family, which may also affect marriage prospects of the children, to enforce compliance.

The differentiation between core cultural practices and coercive control can be informed by assessing harm to the victim survivors using an objective standard of proof. The consultation with Building Stronger Families Facilitators showed a general agreement that male community members would find the law biased towards women and difficult to comprehend. Despite this, there were also strong sentiments that the men “need to learn” and “adjust to the country’s systems and laws”. Therefore, it is important that this offence is framed as a legal obligation beneficial to the family and broader community, to facilitate acceptance from the men of migrant and refugee communities.

Women from migrant and refugee communities often face daunting implications at the prospect of pursuing a coercive control prosecution, often due to economic insecurity, immigration status, possible lack of linguistic or occupational skills, and potential lack of shelter. Long-term support services are required to support the needs and welfare of these women throughout and after the legal process. Services, such as housing, financial and employment focused support, are required to make the criminalisation of coercive control effective for migrant and refugee communities. These services would ideally not only benefit the physical and psychological welfare of the victim survivor, but also prepare them for independent and self-sufficient living.

Women from migrant and refugee communities in a DFV situation also frequently experience instability of community support. For example, a case study shared with SSI’s Community Engagement team told the story of a woman who called the police on her husband and was then rejected by her husband. “...because the police came to the house her husband won’t accept her anymore. She had to be placed into emergency care.” Similarly, in consultation with a DFV academic, a case study showed a Community Leader who supported a woman experiencing DFV to be ostracised by the community and lost his role as Community Leader. Many victim survivors from migrant and refugee communities have also reported defamation against them within their communities after they reported DFV to the police. These examples demonstrate the extreme risk that people from migrant and refugee communities experience in reporting or addressing DFV.

Recommendations

- Ensure the scope of the coercive control offence includes a broad variety of relationships within which DFV can occur, to improve the accessibility of the offence to migrant and refugee women
- Include coercive control behaviours specifically experienced by women from migrant and refugee communities in the scope of the offence, including immigration-facilitated abuse and complex forms of violence
- Establish long-term support services for migrant and refugee women throughout and after the process of pursuing a coercive control prosecution, including housing support, financial support, and occupational training.

15. What non legislative activities are needed to improve the identification of and response to coercive and controlling behaviours both within the criminal justice system and more broadly?

SSI stresses the importance of reviewing law enforcement and judicial processes as well as tailored training on coercive control for these agencies but also for migrant and refugee communities. An increased awareness of patterns of behaviour which constitute coercive control will facilitate an improved police approach to DFV, specifically in identifying non-physical forms of abuse and their pattern-based character. Defining coercive control as pattern-based and not necessarily physical provides a foundation by which, after systemic reform and training, police and support services can accurately identify coercive control behaviours and gather relevant evidence.

The disproportionate vulnerability faced by women from migrant and refugee backgrounds as a result of unstable economic situations, immigration status, language and employment barriers has to be understood.

In order to facilitate reporting of coercive control safely, services specific to migrant and refugee communities must be established and further improved to work with the compounded disadvantage experienced by these women. In the words of participants at the SSI consultations:

“Education is the pathway, legislation is the other end of the line” (Community Worker)

“Legislation is not the sole answer. It requires education around it with community members consulted. How does it work in their community? It is important to have diverse communities’ voices” (Community Worker).

SSI recommends the following non legislative activities:

Education of communities

- Campaigns in language and in culture, sensitive to the needs of the communities, using methodologies that are tailored to communities and with community involvement and delivered by media outlets suitable for the communities. Strategies that resonate with communities like Radio Plays, audio messages on social media, utilising community celebrities to influence their followers. For example, in England, the Radio Drama “The Archers” was used successfully in 2016 to highlight gas lighting and other elements of coercive control to create public awareness and understanding
- Orientation programs for new arrivals to Australia that incorporate all forms of DFV and creates a comprehensive understanding of Australia’s policies and laws
- Education for community leaders and others of influence to build the capacity in the community to respond appropriately to disclosures. Develop programs with involvement of community leaders around DFV and coercive control
- Targeted education programs for men as empowerment of women in isolation can present risks without increasing the partner’s understanding also
- Invest in community bystander training to support victim survivors who are not reporting to police and to increase understanding in the community.

Education of law enforcement agencies including the judiciary

- Explore community structures and include nuances in police training to reduce likelihood of misidentification
- Establish community panels that assist with providing education about migrant and refugee communities to the police and the judiciary
- Conduct widespread education on coercive control including education in schools, to religious leaders, community leaders, police, courts, and general public as a tool for prevention
- Provide training on the effective use of interpreters and emphasise the necessity to use interpreters
- Strategically build a law enforcement workforce that is educated in DFV, skilled in assessing and responding to DFV, especially coercive control. This workforce might be an addition to core policing work, as they should be available to accompany call outs or undertake a comprehensive assessment soon after a disclosure or incident. There needs to be a focus on ensuring that the workforce includes people from diverse migrant and refugee backgrounds.

Review of practice

- Invest funds in the introduction and establishment of a multicultural; intersectional framework on DFV and coercive control
- Look at best practice models across Australia and overseas. For example, a researcher attending a consultation claimed: *“In Victoria they have really fantastic programs looking at integrating the CALD (Culturally and Linguistically Diverse) perspective and in NSW there seems to be a more mainstream DFV approach”*
- Consider alternatives to current policing responses to DFV, given that the current paradigms are focused on incidents and women often prefer to talk to other women. For example, in Argentina Women only Police Stations have been successful. This is a distinctive multidisciplinary model of policing that involves social workers, lawyers, psychologists and police
- Review policing procedures to ensure coercive control is understood, adequate skills are present and accessible to assess coercive control and that appropriate action is taken.

Service infrastructure support

- The service system struggles with servicing migrant and refugee communities as they are often overwhelmed with the complexity of cases. There is a strong system focus on separation and short-term solutions for victim survivors which is especially problematic for women from migrant and refugee backgrounds. These women need effective risk assessment, safety planning and practical support
- Government needs to invest in specialised service delivery for migrant and refugees, especially in the context of coercive control when extended families (in Australia and overseas) and at times communities are implicated in controlling a victim survivor
- Migrant and refugee communities often do not understand the impact of children of DFV. Settlement services need to be supported to better understand coercive control and the impact on children, so that they can better inform their communities and identify coercive control when present.

In conclusion, SSI suggests that the lead in time, until the law is in force, needs to be quite lengthy and consider the information needs of all communities. SSI and its subsidiaries are well placed to engage with the government around the needs of migrant and refugee communities and would welcome collaborative work.

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