

INQUIRY INTO CRIMES LEGISLATION AMENDMENT (COERCIVE CONTROL) BILL 2022

Organisation: Cult Information and Family Support (CIFS NSW)

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**Submission to the NSW Government Upper House Inquiry into the
Crimes Legislation Amendment (Coercive Control) Act 2022
*Exposure Draft Bill***

1. Preface

We thank the NSW Government for its initiative in tackling the issue of Coercive Control. By our reckoning, it is 26 years overdue. We feel it would be beneficial to expand on the points we make here at a meeting. We say that these issues are too important to rely upon written submissions alone, and we missed the opportunity to present at the public hearing in 2021 despite asking to do so.

We would appreciate speaking at the Inquiry hearing scheduled for October 31st which would allow us to present evidence and case studies that would confirm that there are many victims of coercive control whose suffering will remain unrelieved by the bill under consideration.

2. Who are CIFS?

Sadly, there are religious groups operating in Australia who abuse the vulnerable and the gullible for their own gain. The pejorative term for such groups are 'cults' but these behaviours encompass both organised and ad-hoc groups.

Some represent themselves as established religions, some as new-age spiritual groups, personal development groups, self-actualisation groups, meditation groups, therapy groups, product sales groups, study groups, etc. The term *high-demand groups* is often used in recognition that the harm is not religious belief *per-se* but rather harmful *behaviours* that transgress a boundary. Where we use the term *high demand groups* in this submission it is to underscore our commitment to freedom of religious belief.

The Cult Information and Family Support (CIFS) network is Australia's most respected organisation opposing these groups. Formed by the parents and family members of loved ones

caught up in abusive groups, the network has grown to include friends, ex-members and other ordinary citizens working together towards a common goal; to provide support and develop awareness on behalf of the adults and children harmed by these abusive high-demand groups.

The original members of CIFS came together in 1996 after being affected by high demand groups taking loved ones into their control and causing the severing of ties with established family and friends. This complete change in the personality of a loved one is bewildering to the family and poorly understood by authorities. There are few avenues to turn to for complaint or support.

CIFS has grown into a network of concerned people Australia wide. Each one has seen these psychological abuses perpetrated from a personal perspective. In its advocacy role CIFS seeks to have stronger laws enacted against the predations of cults and to strengthen both society and government to resist their negative effects.

3. Our key concern

A Coercive Control Bill is the best chance in many years to put a spotlight on a type of harm that occurs in many contexts other than intimate partner relationships.

We submit that Coercive Control is a common feature of cult abuse, and that the harm done to victims is at least, and often more horrific when perpetrated by cults, as it is in domestic relationships.

We feel that the Exposure Draft Bill's position is illogical. It says coercive behaviours ought to be criminalised in one setting (abusive domestic partner relationships) but not criminalised in others (abusive cults or other manipulative groups).

We submit that a good law judges the criminality of conduct objectively, by the psychological harm done to victims. A utilitarian view judges the good or evil of an act by its consequences. We say that selectively omitting the circumstances in which it can be prosecuted falls short of community expectations, and that this fails victims.

Coercive behaviour is equally damaging in domestic and non-domestic settings. We struggle to conceive of another behaviour which is criminalised in one setting but legal in another. Even the debate conducted since 1976 about whether rape can occur in a marriage has long since concluded that rape is rape, and that domestic circumstances does not mitigate

the established judgement it is an objective evil. We raise the analogy to observe that mature and progressive societies focus on the objective harm of the behaviour rather than continuing to provide exemptions from punishment based on relationship status or religious privilege.

4. Some history

We understand some advance this as a “bold” bill which enters new territory to criminalise a form of conduct that has not been criminalised before. But it isn’t bold; it’s tepid. The Bill ignores 25 years of work that tried to introduce a broader-based offence of “psychological abuse” that is harmonised across the various Australian jurisdictions.

As far back as 1996, the Australian *Standing Committee of Attorney’s General* formulated the *Model Criminal Code*. It was aimed at harmonising laws between the Commonwealth, the States and Territories. The Model Code contained a proposal to introduce both a definition and offence of *Psychological Abuse*. We felt this definition was durable and could account for both coercive control found in cult abuse *and* that perpetrated in domestic violence situations.

Chapter 5 Offences against the person

Part 5.1 Fatal and non-fatal offences

Note: *This Part gives effect to the discussion paper of MCCOC of June 1998 (relating to fatal offences) and the final report of MCCOC of September 1998 (relating to non-fatal offences).*

Division 1 Definitions

5.1.1 Harm

- (1) In this Part, ***harm*** means physical harm or harm to a person's mental health, whether temporary or permanent.
- (2) Physical harm includes unconsciousness, pain, disfigurement, infection with a disease and any physical contact with a person that a person might reasonably object to in the circumstances (whether or not the person was aware of it at the time).
- (3) Harm to a person's mental health includes **significant psychological harm**, but does not include mere ordinary emotional reactions such as those of only distress, grief, fear or anger.
- (4) Harm does not include being subjected to any force or impact that is within the limits of what is acceptable as incidental to social interaction or to life in the community.

Proposed definitions of ‘psychological harm’ to be incorporated into the law of all Australian jurisdictions¹

¹ [https://pcc.gov.au/uniform/crime%20\(composite-2007\)-website.pdf](https://pcc.gov.au/uniform/crime%20(composite-2007)-website.pdf)

We believe that only the Northern Territory ever adopted this definition into their statutes. It has sat in Section 1A of the Territory's Criminal Code for several decades. We observe that no caveat was attached regarding whether the psychological harm was perpetrated in domestic or non-domestic circumstances. Whether this generality has brought unintended negative consequences can be easily established by inquiring into the Territory's experience. We contend it makes the NSW law seem late, limited and inadequate, rather than pathfinding.

5. How the Coercive Control legislation should be improved

a) We strongly suggest that Element 4, that *"The 'abusive behaviour' must be directed against a current or former intimate partner"* be broadened.

The best approach would be to eliminate Element 4 entirely. It is inconsistent to tacitly admit that coercive conduct is objectively harmful and an unconscionable abuse, only to selectively criminalise it to partner relationships.

A compromise would be to expand the situations in which the offence could apply to include:

- Counselling, whether spiritual or lay pastoring. This would include those offering pseudo-medical or pseudo-psychological therapy without qualifications, given that qualified psychological professionals come under their own regulatory codes of conduct. This would fill a gap not covered by the regulation of qualified mental health professionals because (as an example), the HCCC will refuse to censure or 'negatively register' an already unqualified practitioner merely because it is claimed that the counselling has a 'pastoral character'.
- Other domestic relationships commonly found with abusive characteristics, such as so-called *folie-a-deux* partnerships, and non-intimate-partner relationships such as carers who perpetrate coercive control for financial advantage.
- Any situation characterised by
 - o Exorcism
 - o Gross perversion of a victim's medication or psychological care
 - o Control over a victim's movements, finances, relationships, or autonomy as the result of membership of a high-demand group.

We can provide many case-studies that demonstrate each of these situations.

The Government must recognise the close similarities between coercive control perpetrated in intimate partner relationships, and that perpetrated in other settings, be they

pastoral, counselling, pseudo-medical or otherwise. The following table details the commonalities between domestic abuse and high-demand groups like cults:

Coercive Control –The Similarities Between Domestic Violence and Cultic Abuse

Comparative Study, Cult Studies Journal, Volume 17, 2000, Page 6

Domestic Violence

Environmental Control

Perpetrators control who the woman sees. Talks to, what she reads and where she goes; limits outside involvement.

Economic Abuse

Perpetrators can prevent the woman from getting a job, make her ask for money, take her money, forbid access to family income.

Using Children

Perpetrators can use the children to make the woman feel guilty, threaten harm to children, alienate children from Mother.

Coercion & Threats

Perpetrators threaten to hurt and can use guilt and fear and other emotional manipulations to control the women.

Minimizing / Blaming

Perpetrators refuse to take responsibility for abusive behavior; they say it is the woman's fault or ignore or make light of abuse.

Powerlessness / Helplessness

Perpetrators ensure that the woman is dependent on the male; a learned helplessness is established.

Attack on Self

The result of DV can be a shattered self; a 'hollow shell': "I no longer feel like a person."

Performance Orientated

"As long as you do what you are told, it'll be OK". I'll try not to upset him tonight.

Residual Effects

Many battered women exhibit symptoms consistent with Post Traumatic Stress Disorder (PTSD) (Walker 1993)

Cultic Abuse

Environmental Control

Cults control whom the individual is allowed to see and associate with. Cults control reading matter, living arrangements, and lifestyle.

Economic Abuse

Cults often expect a large proportion of an individual's income, including signing over assets, getting money from family, moneymaking activities.

Using Children

Cults can emotionally, spiritually and physically abuse children. They can threaten to harm children to control the parents.

Coercion & Threats

Cults regularly use fear, guilt, and other emotional manipulations to control members.

Minimizing / Blaming

Cults make sure if something is wrong, it's the individuals fault; no critical thinking about the group is allowed.

Powerlessness / Helplessness

Cults systematically create a sense of powerlessness through a system of rewards and punishments.

Attack on Self

Cults destabilize the sense of self, reinterpret reality according to the group, and create a cult identity.

Performance Orientated

"Happiness" and commitment are measured through performance; measure up or suffer the consequences.

Residual Effects

One of the most common psychiatric disorders experienced by ex cult members is PTSD (Giambalvo)

b) We approve of Section 54F(g) of the proposed Act. The examples of the conduct described (“depriving a person of liberty, restricting a person’s liberty or otherwise unreasonably controlling or regulating a person’s day-to-day activities”) are very common in high-demand groups.

The examples of conduct that would qualify under 54F(g) should be broadened to mitigate against what are often referred to as the ‘tools of mind control’ used by abusive groups. These include deception, social isolation, aura of mystery, creation of grossly unequal power relationships, alienation from society, corrosion of the sense of self, financial control, enforcement of strict conformity and various physical punishments. We say this clause strikes closest to what we have been seeking for years in criminalising cult abuse.

c) Section 54I requires the Minister to review the law after three years. It is the hope of CIFS that if the law were to be enacted in its current form, it will soon be seen that it will not cause the unexpected or negative consequences some have claimed.

If this is the case, we would strongly urge the government at the time of that review to consider broadening the scope in which coercive conduct can be criminalised to encompass the most egregious cases of cult abuse. It is overdue and will bring Australia into line with anti-cult laws in many other enlightened nations.

At the very least, we believe that it would be appropriate to charge the Australian Law Reform Commission to investigate the degree of harm caused by cults and to report back to the Parliament.

That said, it would be better still to get this legislation right the first time, now.

6. Balancing the requirement for religious freedoms with mitigating harmful conduct

CIFS acknowledges that freedom of belief is an integral human right in any modern, pluralist society. CIFS has never sought to infringe on anyone’s freedom of belief. However, governments have a legitimate role to censure *behaviours* which are coercive, fraudulent, violent, outrage community standards of decency, or create a social burden on government

health and welfare services. We therefore encourage legislators to focus on the objective harm of certain *behaviours*.

We have acknowledged for many years that mainstream religions do manifest good in society and can strengthen our social fabric. However, governments have been reluctant to mitigate against the harm caused a minority of 'bad apples' who not only do enormous (and objectively identifiable) harm to their adherents, but also 'give religion a bad name'.

In seeking wisdom about the conundrum; in balancing a desire for tolerance with resisting the harms too much tolerance, we are reminded of Karl Popper's advice in 1945:

Less well known is the *paradox of tolerance*: Unlimited tolerance must lead to the disappearance of tolerance. If we extend unlimited tolerance even to those who are intolerant, if we are not prepared to defend a tolerant society against the onslaught of the intolerant, then the tolerant will be destroyed, and tolerance with them... We should claim that any movement preaching intolerance places itself outside the law and we should consider incitement to intolerance and persecution as criminal, in the same way as we should consider incitement to murder, or to kidnapping, or to the revival of the slave trade, as criminal.

-- From *The Open Society and Its Enemies*, 1945

CIFS says that government responses to the coercive practices of cults have been grossly inadequate for years. Some abuse their tax-exempt or charitable status for profitmaking ends. Some blur the boundaries at the intersection of medical/psychological therapy and pseudoscientific mumbo-jumbo which has no scientific or clinically proven basis. Untold misery has been perpetrated on voiceless victims. Lives have been destroyed, families rent, and futures crippled.

The work of CIFS over many years has included addressing reviews of the NSW Health Care Complaints Commission and its analogues in other jurisdictions; inquiries held by the Australian Health Ministers Advisory Council, and the Australian Charities and Not for profits Commission. We have for example drawn urgent attention to groups who practice highly manipulative 'counselling' which lay beyond the willingness of the HCCC in NSW to censure because it is wreathed in an aura of spirituality. We encourage the Committee to recognise the

links between the goals of this legislation and the work (or failures) of other regulators in related domains.

If a person or group practices exorcism, encourages the sundering of family ties, engages in financial manipulation, causes a victim to abandon a promising career and all their outside interests, perverts a person's psychiatric care, withholds (or gives) medication without professional oversight, and inculcates a fear-driven obligation of total obedience, then surely these behaviours meet the definition of coercive control? Why is the Bill silent on these counts?

We would respectfully suggest that to elaborate on these points, and to provide your Inquiry with some case studies of harmful cult groups who exercise quite horrific coercive control; to 'name names' as they say, would best be achieved at a meeting with Minister Speakman, and we request that to provide further information.

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