Coercive control - Key Literature

Australia

Australian Law Reform Commission and New South Wales Law Reform Commission, *Family Violence – A National Legal Response* *(ALRC Report 114)* **2010.**

Abstract: This report presents a comprehensive review of legal responses to Family Violence in Australia. The commissions received many submissions. Chapter 12 discussed penalties and sentencing for breach of protection orders. The report notes that: 'The overwhelming majority of stakeholders that addressed this issue were in favour of sanctions that could help to change the behaviour of those who commit violence. Therefore, there was support for 'perpetrator programs' such as violence and drug and alcohol rehabilitation programs; probation with special conditions, such as attending 'perpetrators' courses or counselling'; men's behaviour programs; psychiatric assessment and treatment; anger management programs; and educational programs on family violence with 'therapeutic interventions'' (at [12.172].) Other options raised (as an alternative to imprisonment) included community service orders (provided the work associated with the penalty is 'meaningful, constructive and rehabilitative') (at [12.173])

The underlying issue in Chapters 13 and 14 is the way in which the criminal law accounts for the nature and dynamics of family violence. Criminal laws are traditionally perceived as 'incident-based', in that they are focused upon discrete acts forming the basis of individual offences. As identified in Chapter 5, family violence is characterised by patterns of controlling, coercive or dominating behaviour and may include both physical and non-physical violence [13.2].

Australia's National Research Organisation for Women's Safety. (2021). *Defining and responding to coercive control: Policy brief* **(ANROWS Insights, 01/2021). Sydney: ANROWS.**

Abstract: This policy brief aims to assist policymakers developing legal or policy and practice frameworks to prevent or respond to coercive control in relation to domestic and family violence (DFV). It addresses three considerations emerging from current debates on this topic. The first is the need for consistent definition of coercive control and its relationship to the definition of DFV in policy and legislative settings, Australia-wide. The second key consideration, criminalising coercive control, necessitates making an assessment of whether the existing evidence base supports the creation of a specific offence. The third involves reforming the culture of response to DFV, in and around the legal system and in other settings. In considering changes to the way we define and respond to coercive control, it is also necessary to keep front of mind the barriers that diverse groups of women face in our existing justice system, and mitigate risks and unintended consequences of legislative and policy change.

Bagshaw, Dale et al, 'The effect of family violence on post-separation parenting arrangements The experiences and views of children and adults from families who separated post-1995 and post-2006' [2011] (86) *Family Matters* 49.

This article reports on the findings from the analysis of data from two national online surveys (one for adults and one for children), which collected quantitative data and also allowed for qualitative comments about family violence and its impact on parenting and parenting arrangements. The study included adults and children who had separated after 1995 and after the introduction of the Family Law (Shared Parental Responsibility) Amendment Act (Cth) in 2006. The researchers gained the views of a total of 1,153 adults (90%) and children (10%).

Many adults felt dissatisfied with service providers' acknowledgement and appreciation of the impact of family violence on adult and child victims. Adults were most dissatisfied with services for decision-making regarding planning for their children's care post-separation. Their concern for their children's safety was supported by children's own reports.

See in particular at p 53 – 'Some women felt powerless over arrangements to share care of the children with the fathers and felt they had been pressured into unfair agreements. For example, one woman who used services before the 2006 reforms said: 'The power he held over me during the relationship continued afterwards in regard to parenting arrangements and finances'. See also at p 55 where reports of confusion about the meaning of 'equal shared parental responsibility' are discussed.

Boxall H & Morgan A 2021. Experiences of coercive control among Australian women. Statistical Bulletin no. 30. Canberra: Australian Institute of Criminology.

Abstract: Awareness of coercive control within the context of abusive intimate relationships is greater than ever before in Australia. However, there is limited research examining the different patterns and characteristics of abuse, particularly among large Australian samples.

This study examines the characteristics of violence and abuse reported by 1,023 Australian women who had recently experienced coercive control by their current or former partner. The most frequently reported behaviours were jealousy and suspicion of friends, constant insults, monitoring of movements and financial abuse. Over half of the respondents also reported experiencing physical forms of abuse (54%), including severe forms such as non-fatal strangulation (27%). One in three of these women also reported experiencing sexual violence during the survey period (30%). Women were much more likely to seek advice or support when they had also experienced physical or sexual forms of abuse.

Boxall H & Morgan A 2021. Who is most at risk of physical and sexual partner violence and coercive control during the COVID-19 pandemic?. *Trends & issues in crime and criminal justice* **no. 618. Canberra: Australian Institute of Criminology.**

Abstract: In this study, data was analysed from a survey of Australian women (n=9,284) to identify women at the highest risk of physical and sexual violence and coercive control during the early stages of the COVID-19 pandemic.

Logistic regression modelling identified that specific groups of women were more likely than the general population to have experienced physical and sexual violence in the past three months. These were Aboriginal and Torres Strait Islander women, women aged 18–24, women with a restrictive health condition, pregnant women and women in financial stress. Similar results were identified for coercive control, and the co-occurrence of both physical/sexual violence and coercive control.

These results show that domestic violence during the early stages of the COVID-19 pandemic was not evenly distributed across the Australian community, but more likely to occur among particular groups.

Bruton, Crystal and Danielle Tyson, 'Leaving Violent Men: A Study of Women's Experiences of Separation in Victoria, Australia' (2017) *Australian & New Zealand Journal of Criminology***.**

This article explores women's experiences of leaving abusive relationships and seeks to combat assumptions about the nature of such relationships through in-depth interviews with 12 women who had separated from their male intimate partners (p 5). While separation is broadly recognised as a key time for increased risk of violence towards women and their children (p 1), studies demonstrate that most people believe women are able to leave violent relationships, and do not understand why they might stay (p 2). Such views place the responsibility for ending the violence on women, but in reality, these relationships often include complex circumstances, and the 'stay/leave binary' is rarely applicable (p 2). The results indicate that women's experiences of coercive control significantly affected their decision-making in the context of separation (p 6):

- Many women feared leaving because they were aware that separation may provoke retaliatory violence, with some experiencing an escalation of abusive behaviour when they attempted to leave (p 7);
- Many women were motivated to leave the relationship in order to protect their children, especially where violence became directed towards the children (p 8);
- Women's attempts to leave their relationships were often hindered by their partner's control over their finances (p 9); and
- Women adopted strategies to manage their safety both during and following separation (pp 9-10), and many women experienced escalating violence after separation (pp 11-12).

Council of Australian Governments. (2019). *Fourth action plan: National plan to reduce violence against women and their children 2010-2022*. **Canberra, Commonwealth of Australia.**

The Council of Australian Governments' "Fourth action plan: National plan to reduce violence against women and their children 2010-2022" explains IPV as a pattern of behavior involving a perpetrator's exercise of control over the victim with perpetrators employing a wide range of abusive tactics to control a victim's life.

Domestic and Family Violence Death Review and Advisory Board (Qld), 2018–19 Annual Report, **2019, Queensland Government.**

Includes detail on domestic and family violence related deaths referred to the Coroner. Useful information about how domestic violence-related suicides are recorded in Queensland.

Douglas, H. *Women, Intimate Partner Violence and the Law* **(2021; OUP).**

Abstract: This text explores the results of an interview study involving interviews with 65 women who had experienced domestic and family violence over three years. See chapter 3: Most women reported that the most difficult form of abuse they dealt with were forms of non-physical abuse, especially emotional abuse. Many women identified that non-physical abuse deeply impacted on their sense of self and freedom, and that it continued to affect them for years. Other forms of non-physical abuse that were also highlighted by the women included abusive tactics targeting their role as a mother, isolation within the relationship, financial abuse. The women in the study highlighted the particular impacts of non-physical forms of abuse, including isolation, financial abuse and threats about their visas, for women from culturally and linguistically diverse backgrounds especially those women with insecure visa status.

Douglas H. Legal systems abuse and coercive control. *Criminology & Criminal Justice.* **2018;18(1):84-99.**

Abstract: This article considers how legal engagement can be an opportunity to exercise coercive control

over a former intimate partner. Drawing on interviews with 65 women who engaged with the legal system as a result of violence in their intimate relationships, this article explores how women's engagement with the legal system is frequently experienced as an extension of an intimate partner's coercive control. It builds on existing research showing how legal processes provide an opportunity for perpetrators to continue and even expand their repertoire of coercive and controlling behaviours post-separation. I refer to this as legal systems abuse. This article explores women's reported experiences and considers how expectations of equality of access to justice and fair hearing; concepts that underpin legal processes, can be reconciled with legal engagements that seek to end coercive and controlling behaviours. The article concludes that improved understanding of domestic and family violence as coercive control by legal actors may help to circumvent the opportunities for legal systems abuse.

Joint Select Committee on Coercive Control, *Coercive control in domestic relationships*. Report 1/57–June 2021, Parliament of New South Wales.

The report of the Joint Select Committee on Coercive Control found that "NSW laws do not respond well to coercive control as a type of abuse, and there is poor understanding of it in our community." The Inquiry sought to identify better ways to respond to coercive control across the New South Wales community.

Chapter 2, "What is coercive control", summarises coercive control:

> Coercive control is a pattern of abuse that degrades, humiliates and isolates victims, and takes away their freedom and autonomy. It has severe psychological impacts on victims. While it does not always involve physical violence, it is a common factor in intimate partner homicides.

This chapter highlights the findings of the New South Wales Death Review Team that in 99% of intimate partner homicides from March 2008 to June 2016 'the relationship between the domestic violence victim and the domestic violence abuser was characterised by the abuser's use of coercive and controlling behaviours towards the victim. In each of these cases the domestic violence abuser (all male) perpetrated various forms of abuse against the victim, including psychological abuse and emotional abuse.'

The chapter acknowledges the evidence of the NSW Office of the Director of Public Prosecutions that 'many people have great difficulty recognising … behaviour that constitutes coercive control.' It also highlights different ways abusers may exploit the individual cultural and personal characteristics of victims to abuse and control them. It also highlights the impacts of coercive control, including case studies of the impacts of psychological abuse, economic abuse, isolation and financial dependence and using temporary visa status to control victims.

Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). Accurately identifying the "person most in need of protection" in domestic and family violence law (Research report, 23/2020). Sydney: ANROWS.

Abstract: This in-house project was conducted by ANROWS. It aimed to support the effective identification of the "person most in need of protection" in cases where there is some ambiguity about who perpetrated domestic violence and abuse.

The research responded to a recommendation of the Queensland Domestic Violence Death Review and Advisory Board in its 2016-17 Annual Report. The Advisory Board reported that in just under half (44.4%) of all cases of female deaths subject to the review, the woman had been identified as a respondent to a domestic and family violence (DFV) protection order on at least one occasion. Further, in nearly all of the DFV-related deaths of Aboriginal people, the deceased had been recorded as both respondent and aggrieved prior to their death (p. 82). The Board's report recommended research to identify how best to respond to the person most in need of protection where there are mutual allegations of violence and abuse (Recommendation 16).

Responding to that recommendation, the research used a mixed methods approach. This included a national analysis of statistical data (domestic violence order applications, police-issued orders and related criminal charges) and a national desktop review of existing legislative and police requirements and guidance on identifying the DFV victim or perpetrator. The project also involved an in-depth case study of Queensland as a state that has already incorporated the concept of the person most in need of protection into legislation.

The final report emphasises the need for improved guidance for police on identifying patterns of coercive control, and guidance for magistrates on how and when they can dismiss inappropriate applications and/or orders. It recommends clarifying processes of decision-making and accountability between police and the courts as a way of addressing the current ambiguity surrounding responsibility for the determination of the person most in need of protection.

NSW Domestic Violence Death Review Team, Report 2017-2019 **, 2020, NSW Government.**

Includes detail on deaths referred to the Coroner, drawing on both data analysis and in-depth case analyses. Useful information about how domestic violence-related homicides and suicides are recorded in NSW.

Victorian Systemic Review of Family Violence Deaths, Family Violence Related Homicides, 1 January 2011-31 December 2015**, June 2020, Coroner's Court of Victoria.**

Includes detail on domestic and family violence deaths referred to the Coroner.

International

Bonomi, A.E., Martin, D. Domestic Abusers: Expert Triangulators, New Victim Advocacy Models to Buffer Against It. *J Fam Viol* **36, 383–388 (2021). https://doi.org/10.1007/s10896-020-00156-2.**

Domestic abuse continues when abusers are behind bars, through voice or video calling or writing to victims from jail. New, emerging models of system response demonstrate that timely, competent, readily available professional advocacy services and options—delivered through electronic pathways—can buffer against this form of abuse. This research uses case examples to illustrate how detained abusers manipulate and tamper with their victim, along with successful interventions by victim advocates via text message.

L. Kevin Hamberger, Sadie E. Larsen, Amy Lehrner, Coercive control in intimate partner violence, Aggression and Violent Behavior, Volume 37, 2017, Pages 1-11, ISSN 1359-1789.

Abstract: The construct of coercive control has been central to many conceptualizations of intimate partner violence (IPV), yet there is widespread inconsistency in the literature regarding how this construct is defined and measured. This article provides a comprehensive literature review on coercive control in regards to conceptualizations, definitions, operationalization, and measurement; and attempts to provide a synthesis and recommendations for future research. A summary and critique of measures used to assess coercive control in IPV is provided. At least three facets of coercive control are identified: 1) intentionality or goal orientation in the abuser (versus motivation), 2) a negative perception of the controlling behavior by the victim, and 3) the ability of the abuser to obtain control through the deployment of a credible threat. Measurement challenges and opportunities posed by such a multifaceted definition are discussed.

Katz, E (2016) Beyond the Physical Incident Model: How Children Living with Domestic Violence are Harmed By and Resist Regimes of Coercive Control, Child Abuse Review Vol. 25, 46-59.

Abstract: This article begins to build knowledge of how non-violent coercive controlling behaviours can be central to children's experiences of domestic violence. It considers how children can be harmed by, and resist, coercive controlling tactics perpetrated by their father/father-figure against their mother. Already, we know much about how women/mothers experience non-physical forms of domestic violence, including psychological/emotional/verbal and financial abuse, isolation, and monitoring of their activities. However, this knowledge has not yet reached most children and domestic violence research, which tends to focus on children's exposure to physical violence. In this qualitative study, 30 participants from the UK, 15 mothers and 15 of their children (most aged 10-14) who had separated from domestic violence perpetrators, participated in semi-structured interviews. All participants were living in the community. Using the 'Framework' approach to thematically analyse the data, findings indicated that perpetrators'/fathers' coercive control often prevented children from spending time with mothers and grandparents, visiting other

children's houses, and engaging in extra-curricular activities. These non-violent behaviours from perpetrators/fathers placed children in isolated, disempowering and constrained worlds which could hamper children's resilience and development and contribute to emotional/behavioural problems. Implications for practice and the need to empower children in these circumstances are discussed.

Katz, E., Nikupeteri, A., & Laitinen, M., 'When Coercive Control Continues to Harm Children: Post-Separation Fathering, Stalking and Domestic Violence' (2020) *Child Abuse Review*.

Abstract: This article highlights how domestic violence perpetrators can use coercive control against their children after their ex-partner has separated from them. It provides insights into how children experience coercive control post-separation by drawing from two data sets: one from the UK and one from Finland. The data comprised narratives of 29 children and young people aged from 4 to 21 years old. Three overarching themes arose from the data: 1) dangerous fathering that made children frightened and unsafe; 2) 'admirable' fathering, where fathers/father figures appeared as 'caring', 'concerned', 'indulgent' and/or 'vulnerable-victims'; and 3) omnipresent fathering that continually constrained children's lives. Dangerous fathering made children's lives frightening, constrained and unpredictable. Admirable fathering was found to be a powerful tool of control when combined with dangerous fathering, because admirable fathering increased father-child emotional bonds and could make children want to see/live with their fathers, whilst dangerous fathering simultaneously made them fearful of him. Admirable fathering was typically aimed at professionals and wider communities, and could occur alongside fathers/father figures stalking, harassing and/or attacking ex-partners and children when they were not in the public eye. Perpetrators aimed to portray themselves as 'caring', 'concerned', 'indulgent' and/or 'vulnerable-victim' fathers, and to make their ex-partners seem like perpetrators or deficient mothers. Perpetrators disguised their use of coercive control tactics as 'admirable' behaviour. With respect to omnipresent fathering, children were fearful that their father/father figure could appear at any time to attack, harass, manipulate, upset or kidnap them or their mothers. This behaviour led to some children continuously monitoring their surroundings as a protective strategy. Fathers/father figures were able to maintain some degree of control, domination and emotional power over children even when they were not physically present. The article suggests that robust measures are necessary to prevent coercive control perpetrating fathers/father figures from using father-child relationships to continue exerting coercive control on children and ex-partners.

Kelly, Liz; Nicola Sharp and Renate Klein *Finding the Costs of Freedom How women and children rebuild their lives after domestic violence* **2014, Solace Woman's Aid.**

See especially pages 11-12 where the authors draw on Evan Stark's research to explain the concept of coercive control. 'The concept of coercive control recognises that it is the everydayness of living with unpredictability which saps women's energy, depletes their sense of self and isolates them from others: it decreases their 'space for action'… intimate partner violence is rarely a single incident but a pattern of

behaviour that extends beyond physical force, beyond the home and beyond the duration of a relationship. The concept of 'coercive control' is particularly insightful since he argues that physical and sexual abuse is interwoven with three equally important tactics: control, intimidation and isolation. It is their toxic combination which entraps leading him to argue that domestic violence is not a simple crime of assault but a 'liberty crime' which creates conditions of un-freedom … Coercive control is distinctive in that it draws on personalised knowledge of women's movements, habits, resources and vulnerabilities.' (references removed).

Myhill A, Hohl K. The "Golden Thread": Coercive Control and Risk Assessment for Domestic Violence. *Journal of Interpersonal Violence.* 2019; 34(21-22):4477-4497.

Abstract: Research on risk assessment for domestic violence has to date focused primarily on the predictive power of individual risk factors and the statistical validity of risk assessment tools in predicting future physical assault in sub-sets of cases dealt with by the police. This study uses data from risk assessment forms from a random sample of cases of domestic violence reported to the police. An innovative latent trait model is used to test whether a cluster of risk factors associated with coercive control is most representative of the type of abuse that comes to the attention of the police. Factors associated with a course of coercive and controlling conduct, including perpetrators' threats, controlling behavior and sexual coercion, and victims' isolation and fear, had highest item loadings and were thus the most representative of the overall construct. Sub-lethal physical violence—choking and use of weapons—was also consistent with a course of controlling conduct. Whether a physical injury was sustained during the current incident, however, was not associated consistently either with the typical pattern of abuse or with other context-specific risk factors such as separation from the perpetrator. Implications for police practice and the design of risk assessment tools are discussed. We conclude that coercive control is the "golden thread" running through risk identification and assessment for domestic violence and that risk assessment tools structured around coercive control can help police officers move beyond an "incident-by-incident" response and toward identifying the dangerous patterns of behavior that precede domestic homicide.

Sheehy, E 2021, 'Criminalizing Coercive Control within the Limits of Due Process', *Duke Law Journal*, vol. 70, no. 6, pp. 1221–1295.

Abstract: Sociological literature on domestic abuse shows that it is more complex than a series of physical assaults. Abusers use "coercive control" to subjugate their partners through a web of threats, humiliation, isolation, and demands. The presence of coercive control is highly predictive of future physical violence and is, in and of itself, also a violation of the victim's liberty and dignity. In response to these new understandings the United Kingdom has recently criminalized nonviolent coercive control, making it illegal to, on two or more occasions, cause "serious alarm or distress" to an intimate partner that has a "substantial effect" on their "day-to-day activities." Such a vaguely drafted criminal statute would raise

insurmountable due process problems under the U.S. Constitution. Should the states wish to address the gravity of the harms of coercive control, however, this Article proposes an alternative statutory approach. It argues that a state legislature could combine the due process limits of traditionally enterprise-related offenses such as fraud and conspiracy with the goals of domestic abuse prevention to create a new offense based upon the fraud-like nature of coercively controlling behavior. It argues that the most useful legal framework for defining coercive control is similar to that of common law fraud, and that legislatures should adapt the scienter requirements of fraud to the actus reus of coercive control. In so doing, this Article also argues that it is risky for legislatures to punish gender-correlated offenses with specialized legal solutions, rather than recognizing the interrelationship between such offenses and other well-established crimes.

Stark, Evan, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford University Press, 2007).

This book is a key text on domestic and family violence. Although Stark is based in the United States his work has been highly influential in Australia. In this book Stark explains that domestic and family violence is a pattern of controlling behaviours more akin to terrorism and hostage-taking. Drawing on court records, interviews, and FBI statistics, Stark details coercive strategies that men use to deny women their very personhood, from food logs to micromanaging dress, speech, sexual activity, and work. Stark urges us to move beyond the injury model and focus on this form of victimization. Stark reframes abuse as a liberty crime rather than a crime of assault. He explains how the perpetrator is able to control the victim through a variety of techniques which essentially lead to deprivation of liberty (pp373-374).

Stark Evan, Hester Marianne. Coercive Control: Update and Review. Violence Against Women. 2019;25(1):81-104.

This article reviews the background, introduction, and critical response to new criminal offenses of coercive control in England/Wales and Scotland. How the new Scottish offense is implemented will determine whether it can overcome the shortcomings of the English law. We then review new evidence on four dimensions of coercive control: the relationship between "control" and "violence," coercive control in same-sex couples, measuring coercive control, and children's experience of coercive control. Coercive control is not a type of violence. Indeed, level of control predicts a range of negative outcomes heretofore associated with physical abuse, including post-separation violence and sexual assault; important differences in coercive control dynamics distinguish male homosexual from lesbian couples; measuring coercive control requires innovative ways of aggregating and categorizing data; and how children experience coercive control is a problem area that offers enormous promise for the years ahead.

Walklate Sandra and Kate Fitz-Gibbon (2019) 'The criminalisation of coercive control: The power of law?' *International Journal for Crime, Justice and Social Democracy* 8(4): 94-108.

Abstract: Making sense of intimate partner violence has long been seen through the lens of coercive

control. However, despite the longstanding presence of this concept, it is only in recent years that efforts have been made to recognise coercive control within the legal context. This article examines the extent to which the law per se has the power, or indeed the capacity, to respond to what is known about coercive control. To do so, it charts the varied ways in which coercive control has entered legal discourse in different jurisdictions and maps these efforts onto what is evidenced about the nature and extent of coercive control in everyday life. This article then places the legal and the everyday side by side and considers the unintended consequences of 'coercive control creep'. In conclusion, it is suggested that the criminalisation of coercive control only serves to fail those it is intended to protect.

Woodyatt, Cory and Rob Stephenson, 'Emotional intimate partner violence experienced by men in same-sex relationships' (2016) 18(10) *Culture, Health and Sexuality* **1137-1149.**

Abstract: This US study is the first to examine the types, antecedents and experiences of emotional intimate partner violence ('IPV') that occur between male partners (p 1145). The study conducted 10 focus group discussions with gay and bisexual men (n = 64 participants) (p 1140). The study found that gay and bisexual men perceive emotional IPV to be commonplace and the 'most threatening form of intimate partner violence' (p 1144-6). The participants identified the most common antecedents to be jealousy, power differentials, and internalised homophobia (p 1143). The descriptions of emotional IPV in male-male relationships is similar to male-female relationships, but some coercive behaviours manifest differently (p 1145). For example, threatening to disclose a partner's sexual identity was identified as an example of emotional violence and coercive control (p 1145).