

Discussion paper: Criminalising coercive control in South Australia for women from multicultural backgrounds and their communities

Introduction

You have been invited to attend this session to share your expertise and your views about the implications of legislating against coercive control in South Australia for women from multicultural backgrounds and culturally diverse communities. This paper provides a brief overview of the research and the key issues raised through previous consultation with South Australian stakeholders about the proposed legislation in 2021 and earlier this year. It also contains questions that can be used to guide the discussion.

Terminology statement

The term 'multicultural backgrounds' will be used throughout this document to refer to people from diverse cultural, ethnical, religious and linguistic backgrounds and migrant and refugee women and children, including those on temporary visas.

Seeking your input

The South Australian government is seeking your expertise to ensure that when legislation is introduced it is effective and has the intended effect of protecting women from multicultural backgrounds and culturally diverse communities. A set of questions is included in this discussion paper for you to consider in your thinking and views on this topic.

Please be aware that the content in this document may be distressing or raise issues of concern for some readers. There are a range of services available if you require support after reading this paper. Lifeline provide 24/7 crisis support and can be contacted on 131 114. Beyond Blue also provide support services and can be contacted on 1300 224 636. Confidential information, counselling and support services can also be accessed through 1800RESPECT.

What is coercive control?

Coercive control, as a broad definition refers to an ongoing pattern of controlling and coercive behaviours that may include physical, sexual, psychological, financial and emotional abuse and intimidation. It is not a single act of violence, but a broader pattern of abusive behaviours used to dominate and control a person over time. Anybody can be a victim of family and domestic violence, and anyone can be a perpetrator. The vast majority of victims are women, and the vast majority of perpetrators are men. This is particularly so in relation to coercive control. Perpetrators use tactics such as isolating the woman from her friends and family, tracking her movements, controlling her access to money, where she goes and what she wears, who she speaks to and whether she works.

The [Women Safety and Justice Taskforce](#) in Queensland investigated different patterns of coercive control and found that Australian women in abusive intimate relationships identified the following behavioural themes in those relationships:

- **Jealousy or suspicion of friends and family:** This was the most common reported form of controlling behaviour.
- **Monitoring of movement:** Two in three women reported their movements were monitored and two in five women identified stalking behaviours either online or in person.
- **Financial abuse:** One in two women reported their partners using the woman's own or shared money without their consent, and two in five women reported their property being damaged, destroyed or stolen.
- **Social isolation:** One in two women reported partners interfered in family relationships. Two in five women reported communication or movement restrictions.
- **Emotionally abusive and threatening behaviours:** Two in three women reported behaviours used by their partner which belittled, humiliated or intimidated them.
- **Co-occurrence of coercive control and physical and sexual abuse:** Most women who experienced coercive control in the three months prior to the survey also experienced physical or sexual abuse.
- **Help seeking behaviour:** Most women who experienced coercive control were seeking help from police, government, or non-government services, and formal or informal services. Help seeking increased considerably where there was a co-occurrence of physical and/or sexual violence.

Fundamentally, coercive control is about power, and the motivator is for a perpetrator to gain power, control and exert dominance over a victim-survivor. Coercive control can have a devastating impact on a victim's identity, their physical health and social and emotional wellbeing, and their connection with friends, family and culture.

Questions

1. How do we define coercive control in culturally diverse contexts for multicultural women and their communities?
 - a) What can it look like?
 - b) How might coercive control present itself differently in multicultural communities across South Australia?

- c) How is coercive control understood by multicultural people and their communities?
- d) How is this type of violence described and discussed, if at all?

Why is South Australia legislating to criminalise coercive control?

Currently, coercive control is not a specific criminal offence in South Australia. There are strong reasons to criminalise coercive control.

Firstly, it is important to note that **coercive control can predict future intimate partner homicide**. According to research by [the NSW Domestic Violence Death Review Team](#), coercive controlling behaviours were a feature in 99% of domestic homicides in Australia between June 2008 and July 2016 – meaning out of 112 incidents of intimate partner homicide, coercive control was a feature of every relationship except one. A number of these cases did not have any evident history of physical violence. According to [Our Watch](#), in Australia on average one woman per week is murdered by her current or former partner. Homicide can often be the first act of physical violence in this type of abusive relationship, which is why it is so important that everyone recognises coercive control for what it is – a particularly insidious, highly dangerous form of domestic violence.

Secondly, and very much related to the point above, as highlighted by [Women’s Safety NSW](#) it is important to recognise the gravity of this behaviour in the eyes of the law. **Legislating against coercive control in South Australia is a way to improve the legal system’s response to all forms of family and domestic violence**. The South Australian Government wants the law to accurately reflect the experiences of victim-survivors and hold perpetrators accountable for the abuse they inflict on their partners. This includes a commitment to inclusive, culturally safe and responsive implementation to protect women who come forward. Legislation will assist the justice system to meet community expectations in this respect and assist in the prosecution of perpetrators. It will also give police the ability to intervene and stop offenders using criminal charges, without needing to wait for abuse to escalate into physical violence.

Third, **legislation will send a clear message to the community that this type of violence is just as serious as physical violence, is unacceptable and that it will not be tolerated**. As also highlighted by [Women’s Safety NSW](#) progressing coercive control legislation in the UK has significantly increased public awareness of the importance of reporting family and domestic violence. Legislating coercive control may serve an educational function in so far as it would help victim-survivors, their families, the broader service system and the wider community make greater sense of the harm they have experienced. It is for these reasons that the South Australian Government plans to legislate to criminalise coercive control.

Reforms to domestic violence law have been underway overseas for several years, with new offences of coercive control being introduced [in Scotland, England and Wales](#). While some Australian states and territories recognise coercive control under civil law, Tasmania is the only Australian jurisdiction that has introduced specific criminal offences covering elements of it.¹ In October 2022 New South Wales (NSW) introduced the Crimes Legislation

¹ In 2004, the Tasmanian Government passed the Family Violence Act 2004 (Tas) introducing two new criminal

Amendment (Coercive Control) Bill 2022. Parliament passed legislation on 16 November 2022, delivering on the NSW Government's commitments in December 2021 to develop, publicly consult on and introduce a standalone offence of coercive control.

As stated in the [Women's Safety and Justice Taskforce Discussion Paper](#), 'it is important that our laws, systems and processes are responsive to the range of abusive behaviours we are aware of, and it is also important that there is a full and accurate understanding of domestic violence in the community so we can all play a part in best preventing and responding to it'.

Questions

2. In your view, will legislating against coercive control improve the safety of women and children from multicultural backgrounds? If so, in what ways?

What has previous consultation told us about criminalising coercive control in the context of multicultural communities in South Australia?

Consultation on a proposed South Australian offence of coercive control was conducted during September and October 2021. There were 173 respondents to a public survey which was conducted by the Attorney-General's Department, with more detailed submissions received from 31 individuals and organisations.

Most people who responded to the surveys thought that criminalisation was a good way to address the issue of coercive control. They also noted the importance of the implementation process; including training for enforcement agencies to identify, charge and prosecute coercive control; a public awareness campaign, wrap-around support services for victim-survivors and counselling and treatment services for perpetrators.

Respondents also advocated for a focus on regional and remote victim-survivors, Aboriginal women, and the migrant community. Broadly, feedback to the Attorney-General's Department highlighted concerns that a coercive control offence may result in harmful unintended consequences for victims particularly those belonging to groups disproportionately represented in the criminal justice system, such as Aboriginal women and their communities, women with disabilities, LGBTIQ+ people, culturally and linguistically diverse communities (including migrant and refugee women).

What does the research tell us?

The following section provides an overview of themes from current research that focuses on family and domestic violence within a context that is specific to women from multicultural backgrounds and their communities. We ask you to consider how these findings apply to the clients and communities you work with and for.

offences – economic abuse (section 8) and emotional abuse (section 9). The Act was implemented alongside the Safe at Home Policy – a whole of government approach to coordinating criminal justice responses to DFV, with victim/survivor safety as the overarching goal. Low prosecution rates have been recorded in Tasmania following the implementation of coercive control offences. Factors contributing to low prosecution rates include resistance from the legal profession, lack of community awareness, poor resources for police and difficulty in obtaining evidence.

Family and domestic violence is experienced at higher rates by people from multicultural backgrounds.

In Australia, the Australian Bureau of Statistics found that 27.6% of the Australian population were born overseas, and that Arabic, Punjabi, Mandarin, Cantonese and Vietnamese are among the top five languages spoken at home. In January 2022, the [Australian Institute of Family Studies](#) found that women from non-English speaking backgrounds are more likely to experience family and domestic violence, and 1.4 times more likely to experience coercive control specifically.

Culturally appropriate services are important in reducing the barriers for support

In addition to a lack of understanding about available services, refugee and migrant women can also encounter a number of additional hurdles to obtaining support.

Research published in [The Journal of Intercultural Studies](#) found that workers in mainstream domestic violence organisations continue to be unaware of the nuanced issues facing women from migrant communities. Some workers who were interviewed communicated a belief that refugee and migrant women ‘put up with violence’ because of their ‘culture’, rather than focusing on what might be preventing them from leaving. The list is extensive, and includes homelessness, fear of being deported, fear for their children’s safety and [concerns that police cannot help them](#).

[Muslim Women Australia](#) report that women from multicultural and faith-based backgrounds frequently report experiences of discrimination when dealing with police and/or government service providers who do not understand the intimate, familial and communal relationships, expectations and norms that exist in their communities or do not listen to what victims want for themselves in the process.

Questions

3. What other barriers to accessing services have you, or members of your community, seen or experienced?
4. What do police and/or government service providers need to know about the factors such as family and community relationships, expectations and norms in different communities that may prevent women from accessing services?
5. Are you aware of any barriers that might prevent women from multicultural backgrounds seeking help for family and domestic violence?
6. What do you believe are effective communication channels to provide information about services?

There is often pressure from family for a woman not to take action against her partner, or to remain in the relationship, following experiences of abuse

Research published by [Asia and the Pacific Policy Society](#) highlights that ‘refugee and migrant women have reported being ‘blamed and shamed’ or socially ostracised by their community if they report violence or if police get involved without their consent. This could bring further violence against them from community members in Australia, and threats to family living overseas, yet our current domestic violence legislation is ill-equipped to deal with this kind of community violence levelled at women, even under family law provisions.

Women from multicultural backgrounds may experience mistrust of police and the justice system.

Women from multicultural backgrounds may see police and the justice system as '[not a source of help but a potential threat](#)' with some experiencing a lack of patience on the part of police when attempting to converse with a woman who cannot speak English and requiring an interpreter. A lack of interpreters exacerbates this issue.

Question

7. What improvements do you see police and/or government service providers can make to ensure better responses and protections for women and girls who are victims of coercive control?

Coercive control can look different within different cultural and community contexts

We also know that coercive and controlling behaviours are complex and can look vastly different across culturally diverse communities. For many vulnerable groups, including women from migrant and refugee communities, there are often significant unintended consequences created by the introduction of new legislative offences in this area. Their experiences are compounded by factors such as a lack of family and social support networks, communication or language difficulties, limited access to services, and consequences (or fear of consequences) for their migration status.

As one example, a recent publication, [Daughters of Durga](#), found that women in **South Asian communities** who have migrated to Australia may have lost their social networks, their support networks, often their biological family and have little knowledge of local support systems. They can be socially and geographically isolated, may not drive, and may not be employed. These factors increase their risk of family and domestic violence, and coercive control.

Unintended consequences of coercive control legislation can be compounded for women from multicultural backgrounds and culturally diverse communities

A position paper published by [InTouch](#) indicates that the introduction of coercive control legislation has the potential to disproportionately impact women from multicultural backgrounds. Specifically, women from migrant and refugee backgrounds are more likely to be misidentified as the predominant aggressor. Misidentification of the victim occurs when police attend a situation and arrest the wrong person as the perpetrator of violence and can have detrimental impacts to the lives of women who experience it.

According to [InTouch](#), misidentification for women from migrant and refugee backgrounds occurs when a victim-survivor's account of an incident has not been properly heard, understood, or believed. This can be attributed to:

- Methods used by police when investigating an incident
- Language barriers and infrequent/irregular use of interpreters
- Use of family, close community members or the perpetrator to interpret
- Police unwillingness/ lack of capacity to take additional time to investigate an incident
- Victim-survivors feeling unsafe disclosing to police

- Misinterpretation of visible emotional distress as an indication of violent behaviour or aggression
- The use of self-defence as indicative of a victim-survivor's role as perpetrator of violence in the relationship.

Questions

8. Are you aware of any concerns that women from different multicultural backgrounds have about being misidentified as an aggressor?

Belief that non-physical violence is not abuse

The [Queensland Women's Safety Justice Taskforce](#) discussion paper notes that many women from multicultural backgrounds do not recognise non-physical forms of domestic violence as abuse – particularly financial abuse and reproductive coercion.

It is important to remember that while coercive and controlling behaviours can sometimes be subtle, they [are extremely destructive](#) and can chip away at a person; destroying their sense of self, their wellbeing, their safety, and ultimately, it can destroy their lives.

Coercive, controlling behaviours can indicate risk for other behaviours such as stalking and homicide.

Questions

9. Are you aware of any forms of violence experienced by women from multicultural backgrounds that may not be recognised as abuse within their community or the broader community?

Refugee and migrant women can experience coercive control through the (mis) use of their visa

Refugee and migrant women can experience coercive control through the use/ control or threat from a perpetrator about taking away their visa, which can heavily restrict the choices they make and where, when and if they seek help.

Research published in the [Journal of the American Medical Women's Association](#) has found that immigration policies that prevent women on spousal visas from working and petitioning to change their status increase women's vulnerability to partner abuse. This is yet another layer of '[systems abuse](#)' on top of the violence they are experiencing from their partners and community, along with visa restrictions. Bridging visas for asylum seekers, spousal visas, and student visas do not entitle women to services such as housing and Medicare, or, in many instances, the basic income that they need to survive if they leave their partner and community.

The same concerns may be heightened for women on temporary visas where their partner who uses violence is also on a temporary visa and may face deportation because of their conviction.

Questions

10. Are you aware of situations where a woman's visa conditions have been used as a form, of control? How prevalent do you believe this is?
11. What do services and different systems need to know about the barriers that these women may face?

12. What do you consider as best practice approaches to educate women about their rights in relation to their visa status and rights?

Your contribution

What we know is that in order for legislation to be effective, targeted information and education campaigns must be undertaken to reach specific groups, such as women from multicultural communities. This process must also involve extensive education and training for first responders, police and the justice system, to understand the nuanced issues experienced by peoples and their communities. We must ensure that responses to coercive control is equitable, appropriate and effective.

Your input into this process is highly valued and greatly appreciated.

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