

Submission for Bill C-247

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What Is Coercive Control?

Coercive control has been defined as “a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.”¹ Cases of coercive control may not include incidents of physical violence, but through the tactics of intimidation, isolation and control abusers are able to deprive victims of basic human rights.² In December 2015, England and Wales introduced legislation that considered coercive and controlling behavior a criminal offence if it has a ‘serious effect’ on the victim and even if victims have not experienced any physical violence or damage to their property.³ In 2018, the Scottish government passed legislation that recognizes coercive and controlling behaviours as a statutory offence.⁴ Canada must similarly pass Bill C-247. Coercive control is a violation of basic human rights to security, dignity, autonomy, and liberty.⁵

¹ Home Office, 2015, as cited in Iain R. Brennan et al. “Service Provider Difficulties in Operationalizing Coercive Control,” *Violence Against Women* 25, no. 6 (2019): 637.

² Evan Stark, 2009. “Rethinking Coercive Control.” *Violence Against Women* 15, no. 12 (2009):1520-1521.

³ Cassandra Wiener, “Seeing What is ‘Invisible in Plain Sight’: Policing Coercive Control,” *Howard Journal of Crime and Justice* 56, no. 4 (2017): 501

⁴ *Ibid.*, 78.

⁵ Evan Stark, *Coercive Control: The Entrapment of Women in Personal Life*, 221 & Stark, “Rethinking Coercive Control.” *Violence Against Women* 15, no. 12 (2009): 1520-1521.

Tactics of Coercive Control

Coercive controllers – who are overwhelmingly male - exercise intimidation, isolation, control and deprivation, sexual coercion, economic exploitation, and legal harassment to control their overwhelmingly female victims. Victims are deprived of liberty and autonomy, and particularly when they attempt to leave, face risk of lethal reactions from controllers.

Intimidation

The three primary conducts of intimidation are threats, surveillance and degradation.⁶ Intimidation occurs when victims are frightened or threatened with harm or being killed if they do not comply with certain demands. Victims are under surveillance when their everyday activities and/ or their personal information are obtained and monitored without their knowledge or consent.⁷ Degradation occurs when victims are verbally, sexually, emotionally or psychologically assaulted, abused, and humiliated.⁸ Digital technologies (GPS, small camera, smartphone, and audio and video recorder etc.) and social media platforms (Facebook, Twitter etc.) enable perpetrators to continue to extend harm, isolation and control regardless of victims' physical locations.⁹

Isolation

Isolation occurs when victims are separated or disconnected from their families, friends, children, and other types of support as a means of having them physically and emotionally

⁶ Ibid., 249.

⁷ Ibid., 255.

⁸ Ibid., 258-259.

⁹ Molly Dragiewicz et al. "Technology Facilitated Coercive Control: Domestic Violence and the Competing Roles of Digital Media Platforms," *Feminist Media Studies: Online Misogyny* 18, no. 4 (July 4, 2018): 4-5.

dependent.¹⁰ Through tactics of isolation, victims' ability to seek help and make connection with the outside world is restricted.

Control and Deprivation

Abusers exploit the victims' capacities and resources for their own gain and gratification, deprive the victim of the means for independence, and regulate the victim's everyday life.¹¹ They may restrict or even deny access to basic needs such as food, money, and transportation. The control tactic limits victims' ability to speak their minds, make any decisions for themselves and their children, and live their lives the way in which they feel comfortable.

Sexual Coercion

Sexual coercion is another critical component of coercive control. Mitchell and Raghavan define sexual coercion as "the persuasion of an unwilling partner to comply with non-consensual sex through non-violent means".¹² Unfortunately, sexual coercion is not fully acknowledged, particularly in long-standing domestic partnerships, due to the cultural construct of gendered norms that define and reinforce gendered sexual obligation.¹³

Financial or Economic Control

Economic exploitation, economic control, and employment sabotage are factors that produce economic abuse.¹⁴ Economic exploitation is when the abuser uses or spends the money needed for basic necessities for his own benefit. Economic control occurs when the abuser makes

¹⁰ Molly Dragiewicz et al. 262-267 & Cassandra Wiener, "Seeing What is 'Invisible in Plain Sight': Policing Coercive Control," *Howard Journal of Crime and Justice* 56, no.4 (2017): 508.

¹¹ Evan Stark, *Coercive Control: The Entrapment of Women in Personal Life*, 271-272.

¹² Jenney E. Mitchell and Chitra Raghavan, "The Impact of Coercive Control on Use of Specific Sexual Coercion Tactics," *Violence Against Women*, (2019): 3.

¹³ Ibid.

¹⁴ Judy L. Postmus et al. "Understanding Economic Abuse in the Lives of Survivors," *Journal of Interpersonal Violence* 27, no. 3 (2012): 418.

all financial decisions for the household, demands that the victim report their spending or survive on a tight budget. Employment sabotage is when victims are restricted, or entirely stopped, from working.¹⁵ If the abuser has absolute control over the victims' financial resources, this will make it hard for the victim to gain independence and/or escape the abusive relationship.

Legal Harassment

Legal system abuse occurs when a perpetrator makes use of the legal system to extend his coercive and controlling behaviour beyond separation.¹⁶ He uses legal options to manipulate, exert power and control, to instill fear, force contact and financially burden his ex-partner.¹⁷ For example, custody stalking is a form of paper abuse in which the father/abuser threatens to use legal custody and/or child protection proceedings to obtain increased time with his children.¹⁸ Not abiding by the custody agreements set by courts or agreed upon by the parties, for example failing to return children after access visits, is also a form of legal harassment.

Risk of Fatality

A high level of control coupled with recent separation increases the risk of femicide and paternal filicide.¹⁹ Studies show that recent separation from a controlling abuser increases the risk that a woman will be killed by her former intimate partner.²⁰ Other factors associated with

¹⁵ Ibid., 420.

¹⁶ Heather Douglas, "Legal Systems Abuse and Coercive Control," *Criminology & Criminal Justice* 18, no. 1 (2018): 84.

¹⁷ Susan L. Miller and Nicole L. Smolter, "Paper Abuse': When All Else Fails, Batterers Use Procedural Stalking," *Violence Against Women* 17, no. 5 (May 2011): 641.

¹⁸ Vivienne Elizabeth, "Custody Stalking: A Mechanism of Coercively Controlling Mothers Following Separation," *Feminist Legal Studies* 25, no. 2 (2017): 187.

¹⁹ (Dayl & Wilson, 1998) as cited in Holly Johnson et al. "Intimate Femicide: The Role of Coercive Control," *Feminist Criminology* 14, no. 1 (January 2019): 4-5.

²⁰ (Campbell *et al.*, 2003) as cited in Kellie R. Lynch, Dylan B. Jackson and TK Logan, "Coercive Control, Stalking, and Guns: Modeling Service Professionals' Perceived Risk of Potentially Fatal Intimate Partner Gun Violence," *Journal of Interpersonal Violence*, (2019): 3.

the risk of intimate femicide include: the severity of violence, the desire for power and control, recent separation, male partner's unemployment and alcohol abuse, excessive jealousy, and a dispute over child custody.²¹ In addition to intimate partner homicide, paternal filicide (fathers killing their children) is another distressing reality. Chambers, Zweep and Verrelli argue that "paternal filicides might be preventable with better education about coercive control".²²

Criminalizing Coercive Control

The criminal justice system has been criticized for a failure to provide adequate protection to victims of domestic abuse and to hold perpetrators accountable for their criminal behavior or conduct.²³ In criminalizing coercive and controlling behaviours the law should not focus on "single acts of violence", but on the continuous deprivation of victims' liberty, and the violation of victims' right to security, dignity and autonomy.²⁴ Not only would this recognize women's rights to autonomy and self-determination, but also it would save lives.

England and Wales introduced legislation that deals specifically with coercive control cases. Section 76 of the *Serious Crime Act* came into force in England and Wales on December 29, 2015.²⁵ The provision makes coercive or controlling behavior that has a 'serious effect' on the victim a criminal offence which can result in five-year imprisonment.²⁶ In 2018, the Scottish government passed legislation that recognizes coercive and controlling behaviours as a statutory

²¹ Johnson *et al.*, (2019): 4-5.

²² Lori Chambers, Deb Zweep and Nadia Verrelli, "Paternal Filicide and Coercive Control: Reviewing the Evidence in *Cotton v Berry*," *University of British Columbia Law Review* 51, no. 3 (2018): 672.

²³ Michelle Burman and Oona Brooks-Hay, "Aligning Policy and Law", 68.

²⁴ Cheryl Hanna, "The Paradox of Progress: Translating Evan Stark's Coercive Control Into Legal Doctrine for Abused Women," *Violence Against Women* 15, no. 12 (2009): 1461.

²⁵ Cassandra Wiener, "Seeing What is 'Invisible in Plain Sight'", 50.

²⁶ *Ibid.*

offence.²⁷ The Scottish's legislation recognizes the impact and consequences of all types of abusive behaviour with an attempt to better reflect the experience of victims and facilitate access to justice.²⁸ The law recognizes that an offence of domestic abuse is committed under two conditions: (based on a reasonable person) the perpetrator knew or ought to have known that the behaviours are likely to cause the victim physical or psychological harm; and that the harm is caused by the commission (constitutes criminal intent) or omission (recklessness) on the part of the perpetrator.²⁹ Thus, the provision shifts the focus of to the behaviours and/or oppressive conduct of the perpetrator rather than the victims' reaction or their attempt to provide evidence of the actual harm. By doing so the provision aims at removing the requirement that obligates victims to prove specific harm. This is intended to reduce the risk of re-victimizing victims.³⁰

Conclusion

We need such legislation in Canada. I urge the legislature to make the right choice, to protect women and children, and to pass Bill C-247.

²⁷ Ibid., 78.

²⁸ Michelle Burman and Oona Brooks-Hay, "Aligning Policy and Law", 78.

²⁹ Michelle Burman and Oona Brooks-Hay, "Aligning Policy and Law", 74.

³⁰ Ibid.