

**Luke's Place/National Association of Women and the Law
Intimate partner and domestic violence in Canada: a Brief to the Status of
Women Committee**

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[Luke's Place](#) provides direct services to women in Durham Region who have left abusive relationships and are engaged with the family law process. We also work at the provincial and national levels, conducting research, [developing resources](#), [providing training](#) and engaging in systemic advocacy.

[The National Association of Women and the Law \(NAWL\)](#) works to achieve substantive equality and the realization of human rights for all women in Canada through legal education, research, strategic intervention, coalition work and feminist law reform advocacy, particularly at the federal level.

We offer the following recommendations and suggestions to the Status of Women Committee as it continues its study on intimate partner and domestic violence in Canada:¹

1. While much family law is a matter of provincial/territorial jurisdiction, the federal government can play an important leadership role in making those laws consistent from region to region across Canada. The recent revisions relating to family violence in the *Divorce Act* provide a strong foundation on which to build.
2. Ensuring the definition of family violence and the best interests of the child criteria as contained in the *Divorce Act* are adopted by all provinces/territories will increase access to justice for women and their children regardless of where in Canada they live.
3. The federal government must lead work to mandate intimate partner and domestic violence education and training, including the need for a trauma-informed approach, for all legal and justice actors across the country, including judges. Coupled with that, accountability systems must be built and put in place to ensure that, once educated, the individual is applying what they have learned.
4. Harmonizing protection/restraining order legislation across jurisdictions and building a national enforcement system would greatly enhance safety for women both before and after leaving a relationship where they have been subjected to abuse.
5. Women everywhere in Canada should have access to exclusive possession of the matrimonial/family home, regardless of their marital status or whose name is on the deed/lease. While this issue falls within provincial/territorial jurisdiction, there is a leadership role for the federal government to guide steps in this direction.
6. [Ontario's Family Court Support Worker program](#) has been a huge success, increasing safety, confidence and improving family law outcomes for women fleeing abuse. This

¹ Please see <https://nationalactionplan.ca/wp-content/uploads/2021/06/NAP-Final-Report.pdf>, pages 64 – 95 for more detailed discussion about many of these recommendations

program, which uses a trauma-informed approach, should be expanded and better resourced in Ontario, and similar models should be developed and implemented in all other provinces/territories.

7. The Unified Family Court system needs to be implemented in all jurisdictions in order to increase equitable access to justice nationally. Access to a UFC should not be dependent on where someone lives.
8. All women in or leaving relationships where they have been subjected to abuse need access to effective legal representation and services, regardless of their ability to pay. It's time to end the buck passing between the federal and provincial/territorial governments with respect to adequate funding for civil legal aid. The federal government needs to lead the way to eliminate the gendered inequity between resources for criminal and family legal aid so that adequate funding is available for family law.
9. Canada's domestic violence mandatory charging and vigorous prosecution policies, introduced in the mid-1980s, are overdue for review and revision. While helpful in many ways, these policies have also led to dual and counter-charging of women for actions they have taken in self-defence or to protect children. Such charges create serious, long-term difficulties for women in their family law cases as well as in employment, volunteer activities and travel.
10. Coercive control is now included in the *Divorce Act's* definition of family violence, and discussions are underway about criminalizing such behaviours. [While the legal recognition of coercive control may be a step forward in providing needed help to many women that the present system fails to protect, any such development must be set within the context of a broader survivor-led social movement and a campaign of education and multi-agency reform.](#) Discussions about criminalization of coercive control must consider unintended negative consequences and reflect the mandatory charging experience.
11. Public policy initiatives such as Saskatchewan's and Alberta's Clare's Law and Quebec's use of electronic monitoring in cases of intimate partner violence should be rigorously evaluated at the national level as to their effectiveness, especially in rural and remote communities and among women from marginalized communities. If they are found to work well and be accessed by those subjected to intimate partner violence, they should be implemented and properly resourced in all jurisdictions.

We hope these recommendations and suggestions, which represent only the most urgent of the changes we would like to see, are of assistance to the Committee's study. We would welcome the opportunity for a more fulsome discussion as you continue your work.



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