

Research Paper

Parliamentary Library and Information Service

ISSN 2204-4752 (Print) 2204-4760 (Online)

No. 2 | March | 2022

What is coercive control?

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Visualisations and design: Anwyn Hocking

***Content warning:** First Nations Australians are advised that this paper contains the name of a person who has died.

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Executive Summary

‘Coercive control’ describes a systematic pattern of behaviour used by a person to dominate and control another person—usually an intimate partner. It involves a range of behaviours that are not exclusively physical. These behaviours follow a distinct pattern and are repeated and integrated into everyday life as a means to control, manipulate and dominate.

Coercive control is almost exclusively perpetrated by men against women. Coercive control occurs within the context of family, domestic and sexual violence, which is recognised as a major health and welfare issue in Australia. First Nations women, those who mostly speak a language other than English, or those who live with disability are significantly over-represented as victim-survivors. The COVID-19 pandemic has amplified these impacts.

Coercive control is a known risk factor for homicide.

Most Australian states and territories recognise coercive control as abuse. These behaviours are addressed through relevant orders and notices under civil law. However, some suggest that coercive control should specifically be criminalised. Only Tasmania has criminalised types of coercive behaviour. England, Wales, Scotland, Northern Ireland and the Republic of Ireland have also criminalised it.

Those in favour of criminalisation argue it provides greater access to protection and justice for victim-survivors, and shows the behaviour is damaging and unacceptable. Those opposed believe that civil law better addresses the socio-legal complexities, and highlight the disproportionate impact of criminalisation on First Nations peoples. For some, support is conditional upon improved police and justice system responses to family and domestic violence, and prioritisation of prevention. Others seek evidence of positive outcomes for victim-survivors and further consultation with those directly impacted.

Australian Attorneys-General are developing national principles around a common understanding of coercive control and exploring criminalisation. In New South Wales, a parliamentary inquiry recommended that an offence be introduced. A Taskforce in Queensland recommends that an offence be introduced by 2024. Several bills have been introduced in South Australia, and discussions are currently underway in other Australian jurisdictions.

Terminology

Coercive control	‘a course of conduct aimed at dominating and controlling another’ (ANROWS, 2021).
Domestic violence	a type of family violence, relating specifically to violence that occurs between current or former intimate partners. It can include physical violence, sexual violence, emotional abuse and psychological abuse (AIHW, 2020; AIHW, 2021). It is sometimes called ‘intimate partner violence’.
Economic abuse	behaviours that seek to control another person’s ability ‘to acquire, use and maintain economic resources, thus threatening [their] economic security and potential for self-sufficiency’ (Centre for Women’s Economic Safety, 2021). Also known as financial abuse.
Elder abuse	‘a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person’ (World Health Organization, 2002).
Emotional abuse	‘behaviours or actions that are perpetrated with the intent to manipulate, control, isolate or intimidate, and which cause emotional harm or fear’ (AIHW, 2021). Also known as <i>psychological abuse</i> and <i>intimidation</i> .
Family violence	violence that occurs between family members—for example, between parents and children, siblings, and current or former intimate partners (AIHW, 2020).
Intimate partner violence	‘violent or intimidating behaviours perpetrated by a current or cohabiting partner, boyfriend, girlfriend or date’ (AIHW, 2021). See also: domestic violence.
Physical violence	the occurrence, attempt or threat of physical assault experienced by a person. This behaviour could include slaps, punches, being pushed, choking and burns, as well as the use of knives, firearms and other weapons (ABS, 2017; AIHW, 2021).
Sexual violence	sexual behaviours that are carried out against a person’s will. Sexual violence can occur in the context of family or domestic violence; it can also be perpetrated by others known to the victim-survivor or by strangers (AIHW, 2020).
Violence against women	‘any act of gender-based violence that causes or could cause physical, sexual or psychological harm or suffering to women. This includes threats of harm or coercion and can occur in public or in private life’ (Champions of Change Coalition, 2021).

01 | What is coercive control?

Coercive control describes a systematic pattern of behaviour used by a person to dominate and control another person (ANROWS, 2021, p. 1; National Domestic and Family Violence Bench Book, 2021). It is most commonly directed towards an intimate partner, though can be used against other family members—for example, in cases of elder abuse (ANROWS, 2021, p. 1).

In contrast to isolated assaults or incidents of abuse, a perpetrator integrates coercive, controlling behaviour into everyday life as a means to manipulate (Domestic Violence Victoria & Domestic Violence Resource Centre Victoria, 2020, p. 4). The behaviour has been summarised as ‘an attack on autonomy, liberty and equality’; some have even called it ‘intimate terrorism’ (ANROWS, 2021, p. 1; Hill, 2019b, p. 211).

While physical and sexual violence may be present, coercive control is characterised by non-physical behaviours, including emotional and psychological abuse, financial abuse, technology-facilitated abuse, stalking and intimidation (ANROWS, 2021, p. 1). The effect is that, over time, the person experiencing coercive control sees their sense of autonomy eroded.

Common features of coercive control include:

- jealousy and accusations of infidelity
- verbal abuse
- monitoring or control of movement
- restricting a partner’s access to money
- interfering with a partner’s relationships with family and/or friends
- making threats of self-harm, and
- making threats of violence against the partner, family, friends, children and/or pets (Boxall & Morgan, 2021a, pp. 6-8).

Coercive control is almost exclusively, but not entirely, perpetrated by men against women (Hill, 2019b, p. 205; ANROWS, 2021, p. 1). First Nations women, those who mostly speak a language other than English, or those living with disability are significantly over-represented as victim-survivors (Boxall & Morgan, 2021a, p. 5).

Coercive control is a known risk factor for homicide (Boxall & Morgan, 2021a, p. 1).

The term ‘coercive control’ was contemporised by Professor Evan Stark, a sociologist and forensic social worker, in his 2007 book, *Coercive Control: The Entrapment of Women in Personal Life* (House of Representatives Standing Committee on Social Policy and Legal Affairs, 2021, p. 104). Yet, researchers from Monash University’s Gender and Family Violence Prevention Centre emphasise that the concept is not new and has been articulated in the work of scholars going back to at least the 1970s (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1).

Though coercive and controlling behaviours are recognised as abuse in the family and domestic violence legislation of most Australian jurisdictions, there is currently no agreed-upon definition of coercive control itself (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1; Boxall & Morgan, 2021, p. 2). A 2017 study identified some 22 different definitions, all of which hold varying implications for research, practice and policy-making (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1).

Australia’s National Research Organisation for Women’s Safety (ANROWS) has called for a consistent definition of coercive control to be implemented across legislative and policy settings Australia-wide (ANROWS, 2021, p. 1).

02 | Why are we talking about coercive control?

Coercive control occurs within the context of family, domestic and sexual violence—a topic that has already been a significant part of the national conversation in recent years. Family, domestic and sexual violence is recognised as a major health and welfare issue in Australia, one that occurs across all socioeconomic and demographic groups and that predominantly affects women and children (AIHW, 2020).

The Australian Institute of Health and Welfare (AIHW) notes that the impacts of family, domestic and sexual violence can be ‘serious and long-lasting, affecting an individual’s health, wellbeing, education, relationships and housing outcomes’ (AIHW, 2020). The COVID-19 pandemic has amplified these impacts (Liotta, 2020).

In 2015, Rosie Batty AO was recognised as Australian of the Year and is credited with putting the issue of family violence ‘on the national agenda’ (National Australia Day Council, n.d.). That same year, the Royal Commission into Family Violence began in Victoria, and its report and 227 recommendations were handed down in 2016 (Royal Commission into Family Violence, 2019). As at 8 September 2021, the state government had implemented 204 of those recommendations (Victorian Government, 2021).

More recently, coercive control has become central to discussions around family, domestic and sexual violence. Scholars believe that the ‘watershed moment’ for the broader community—in understanding that family violence also involves non-physical forms of abuse—came in early 2020, when Hannah Clarke and her three young children were murdered by her estranged husband in Queensland (McGorry & McMahon, 2020).

Ms Clarke had apparently not experienced any physical violence at his hands, prior to her death. However, her family have said that he subjected her to years of psychological abuse and controlling behaviour (Riga & Kahn, 2021; Gearing, 2020; King, 2020b).

In the Victorian Parliament, discussions around family, domestic and sexual violence have continued to take place since the Royal Commission. Recently, the focus of these discussions has also shifted to coercive control.

In November 2021, Members of the Victorian Legislative Council agreed to a motion moved by Derryn Hinch’s Justice Party MP, Tania Maxwell, that recognised the ‘prevalence of coercive control in family violence offending’, and that called on the government to look into ways to ‘enhance the understanding of coercive and controlling behaviour in our community and the justice system’ (Maxwell, 2021, p. 4488).

Calls for legislative reform to address coercive control are occurring in a number of Australian jurisdictions. In New South Wales and Queensland, in particular, recent discussions have centred around whether or not coercive control should specifically be criminalised (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1; Riga, 2021). Several bills have been introduced in South Australia (see pp. 23–24).

However, not everyone agrees that criminalisation is the best way forward.

03 | How common is coercive control?

The Personal Safety Survey, conducted by the Australian Bureau of Statistics (ABS) in 2016, measured one aspect of coercive behaviour, in the form of partner emotional abuse. It found that almost one in four women (23 per cent) had experienced emotional abuse by a current or previous cohabiting partner since the age of 15, compared to around one in six men (16 per cent) (Figure 1) (ABS, 2017).

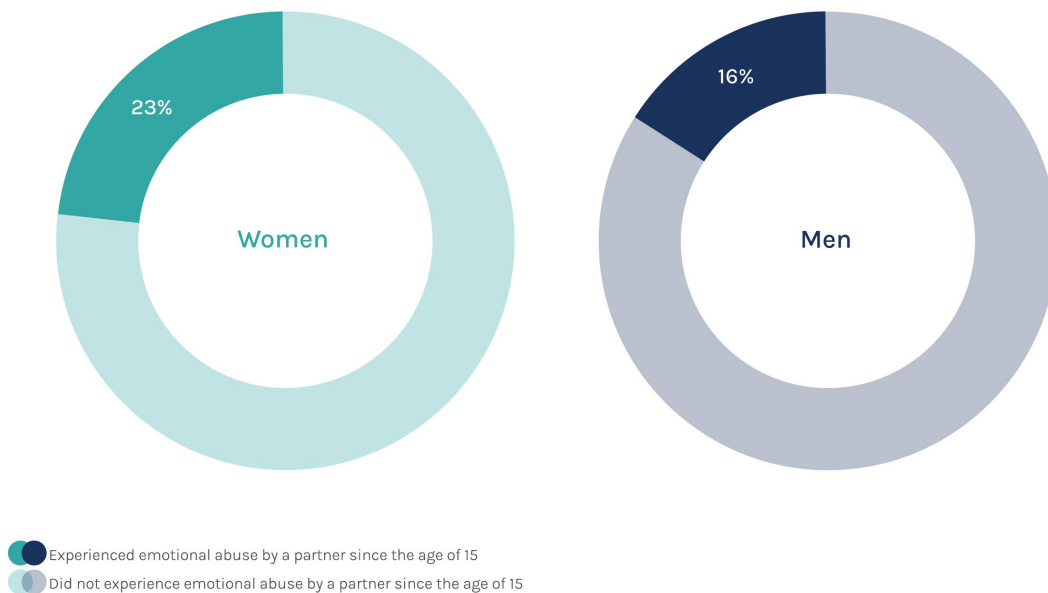


Figure 1: Experience of emotional abuse by a current or previous cohabiting partner since the age of 15, by gender.

It is believed that up to 90 per cent of women escaping family violence have experienced economic abuse. Concern is also growing about ‘coerced debt’, which is defined as debt ‘incurred by an abuser, in the name of a victim of domestic violence, through threat, force or fraud’ (Whitson, 2021).

According to the Gendered Violence Research Network (GVRN) at the University of New South Wales, the most common tactics of economic and financial abuse identified in the literature include: one partner withholding money; appropriating the partner’s income or finances; putting bills in one partner’s name to avoid financial liability; not allowing or sabotaging a partner’s employment or study; and deliberately prolonging Family Court matters affecting property settlement (Gendered Violence Research Network, 2020, pp. 5-6). Further, economic and financial abuse frequently occur alongside other forms of intimate partner violence (Gendered Violence Research Network, 2020, p. 6).

The GVRN found three common categories of economic and financial abuse: economic and financial control; economic and financial exploitation; and economic sabotage. Two additional categories were also identified: economic and financial manipulation, and economic and financial entanglement. However, the GVRN stated that a clear and consistent definition of economic and financial abuse is lacking (Gendered Violence Research Network, 2020, p. 5).

A survey by the Australian Institute of Criminology (AIC) in 2021, looking at the experiences of coercive control among Australian women, showed that 11 per cent of respondents had experienced the behaviour in the three months prior (Boxall & Morgan, 2021a, p. 5). The average age of women who had experienced coercive control was 34.8 years. Those who identified as Aboriginal and/or Torres Strait Islander, who mostly spoke a language other than English at home, or who had reduced ability to undertake regular activities unassisted due to a long-term health condition, were significantly over-represented among those who experienced coercive control (Boxall & Morgan, 2021a, p. 5).

The AIC reported that the numerous coercive controlling behaviours experienced by women during the study could be grouped around several consistent themes, including jealousy, monitoring of movements, financial abuse, social restriction, and emotional abuse or threatening behaviours. The report noted that these groups were not mutually exclusive and that the behaviours were likely to co-occur over time (Boxall & Morgan, 2021a, p. 6).

The AIC report also revealed a co-occurrence of coercive control and physical and/or sexual violence. During the three-month period prior to the survey, of the women who had experienced coercive control (*Figure 2*):

- one in two (54 per cent) indicated that they had experienced physical violence at the hands of their partner
- one in three (30 per cent) reported sexual violence, and
- one in four (26 per cent) had experienced both physical and sexual violence (Boxall & Morgan, 2021a, p. 9).

The study revealed that women who had experienced coercive control were unlikely to seek help from either formal or informal sources if they had not also experienced physical and/or sexual forms of abuse (Boxall & Morgan, 2021a, p. 12).

Less is understood about coercive control in LGBTIQ+ relationships, but researchers at the Australian Institute of Family Studies suggest that intimate partner violence is equally prevalent in LGBTIQ+ populations as within the heterosexual population (Campo & Tayton, 2015, p. 3). In the most recent Private Lives national survey of the health and wellbeing of LGBTIQ+ people, conducted by the Australian Research Centre in Sex, Health and Society at La Trobe University in 2020, emotional abuse was the most commonly reported form of intimate partner violence, followed by verbal abuse (Hill et al., 2020, p. 72).

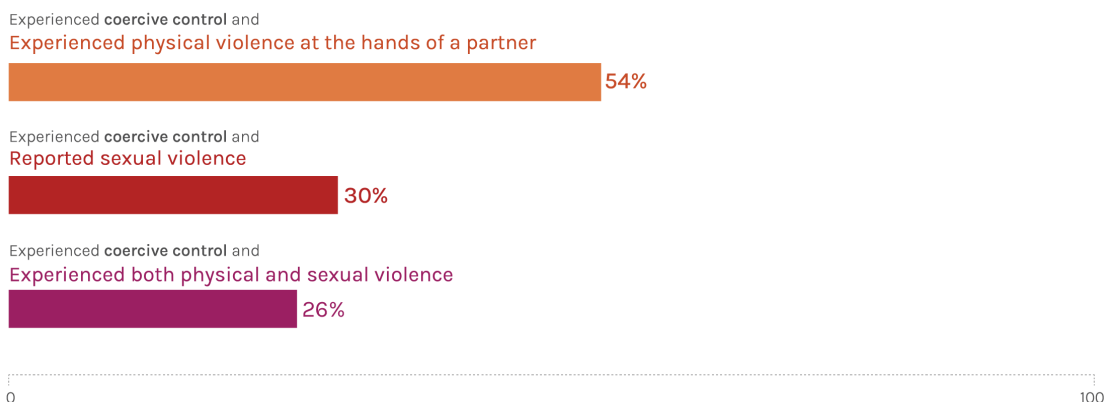


Figure 2: Co-occurrence of coercive control with physical and/or sexual violence.

Technology-facilitated abuse

Coercive control researchers are concerned about the rise in technology-facilitated abuse in the context of intimate partner relationships. Technology-facilitated abuse can be understood as ‘any behaviour that uses technology to harass, monitor, stalk, impersonate or make threats in order to control, frighten or humiliate someone’ (eSafety Commissioner, n.d.).

The eSafety Commissioner identifies three main types of technology-facilitated abuse: online abuse, cyberstalking and image-based abuse (eSafety Commissioner, n.d.).

Technology-facilitated abuse is perpetrated almost exclusively by men (96 per cent) and women are overwhelmingly the victims (93 per cent) (*Figure 3*) (Gearin, 2021).

A 2020 survey undertaken with several hundred frontline domestic violence practitioners found that almost all (99.3 per cent) of their clients had experienced technology-facilitated stalking and abuse. Perpetrators most commonly used text messaging, with smartphones and Facebook being other technologies used regularly. An increase in the use of video cameras and GPS tracking was also recorded (Woodlock et al., 2020, pp. 1-3). Technology-facilitated abuse is also being identified as a growing factor in cases of domestic and family violence homicide (Harris, 2021).

Certain groups, including women with disability, those from non-English speaking backgrounds and First Nations women are seen to be at particular risk (Woodlock et al., 2020, p. 3). Research from the Queensland University of Technology looking to increase the understanding of the abuse experienced by women with cognitive and intellectual disability found that they are increasingly being abused through technology, with image-based abuse being the most prominent (Campanella & Edmonds, 2021).

Technology-facilitated abuse can pose more risk for women who live in rural and remote areas, due to their lack of anonymity and isolation (Harris & Woodlock, 2022). A recent study has also highlighted the ways in which children are involved in technology-facilitated abuse and how mothers and their children become co-victims of coercive control (Dragiewicz et al., 2021).

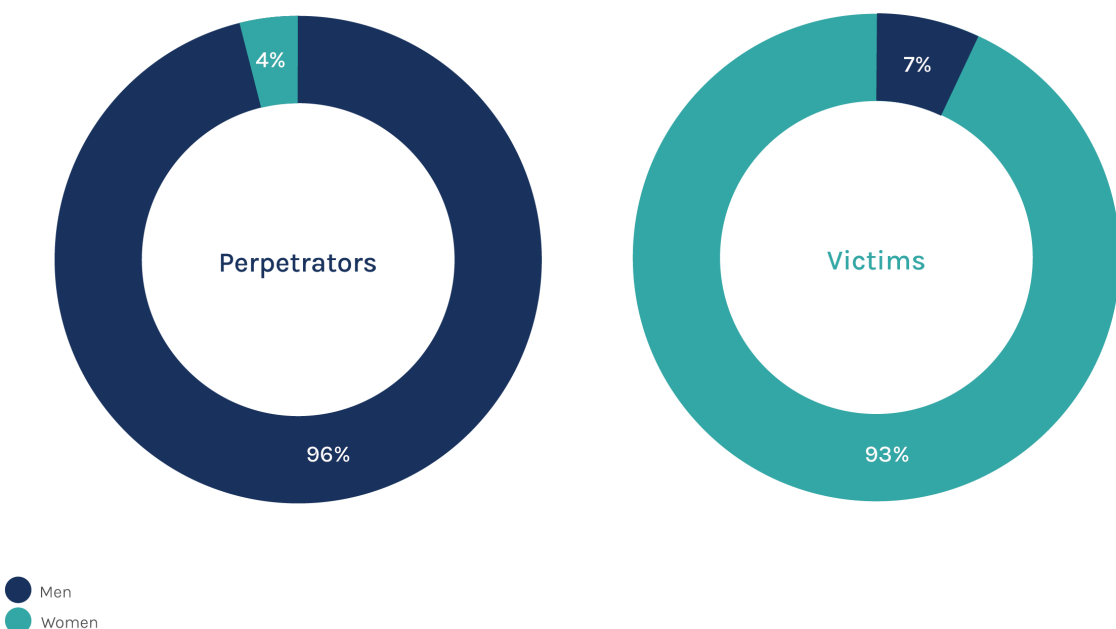


Figure 3: Perpetrators and victims of technology-facilitated abuse, by gender.

04 | How does legislation in Australia currently address coercive control?

In the majority of Australian states and territories, coercive and controlling behaviours are recognised as abuse in the civil law definitions of family and domestic violence (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1). Definitions generally include details of behaviour that is recognised as emotionally, psychologically and/or economically abusive and coercive or controlling in nature, and that causes a victim to fear for their own safety or the safety of another person. While these definitions generally acknowledge coercive and controlling behaviours, there is no specific offence in place for them—with the exception of Tasmania (New South Wales Government, 2020, p. 20).

Instead, under family and domestic violence legislation, behaviour is addressed through the provision of relevant orders and notices, such as protection orders. Under the National Domestic Violence Order Scheme, all domestic violence orders issued in an Australian jurisdiction are automatically recognised and enforceable across the country (Attorney-General's Department, n.d.). Though these orders fall under civil law, breaching an order is usually a criminal offence.

For an overview of these laws, please see the previous Library publication, [Chronology of current family and domestic violence legislation in Australia \(2020\)](#).

05 | Where is coercive control criminalised?

While the governments of New South Wales and Queensland have indicated that they will be introducing legislation to criminalise coercive control, and a government bill has been introduced in South Australia, Tasmania is currently the only Australian jurisdiction to have specifically criminalised some coercive, controlling behaviours (Caldwell, 2021).

Elsewhere, specific offences are in place in the countries of the United Kingdom (England, Wales, Scotland, Northern Ireland) and the Republic of Ireland. Other jurisdictions have also criminalised certain types of non-physical abuse. Please see pp. 9-14 for an overview.

Tasmania, Australia



Legislation	<u><i>Family Violence Act 2004</i></u>
Context and consultation	<p>In August 2003, the Tasmanian Department of Justice and Industrial Relations released an options paper proposing a new model for addressing family violence within criminal law. It included recommendations to broaden the definition of family violence to include non-physical forms of abuse (Tasmanian Department of Justice and Industrial Relations, 2003, p. 24); however, Barwick et al. have noted that the new offences that resulted were not a central feature of the reforms (2020, p. 136).</p>
Offence	<p>The <u><i>Family Violence Act 2004</i></u> established the offences of economic abuse and emotional abuse or intimidation.</p> <p>The Act specifies several types of conduct that constitutes economic abuse, including:</p> <ul style="list-style-type: none"> • coercing a spouse or partner to relinquish control over assets or income; • disposing of a spouse or partner's property without their consent; • preventing a spouse or partner from participating in household expenditure decisions; • preventing a spouse or partner from accessing joint financial assets to meet normal household expenses; and/or • withholding financial support for a spouse, partner or an affected child (s 8). <p>The Act defines emotional abuse or intimidation as a course of conduct that a person knows, or ought to know, is 'likely to have the effect of unreasonably controlling or intimidating or causing mental harm, apprehension or fear' in their spouse or partner (s 9(1)). This includes 'limiting the freedom of movement of a person's spouse or partner by means of threats or intimidation' (s 9(2)).</p> <p>A notable feature of the Tasmanian offences is the time limit for initiating proceedings. When the Act first commenced, no statute of limitations was specified, so a default time limit of six months applied. This was extended to 12 months in 2015 (Barwick et al., 2020, p. 153).</p>
Policing and prosecution	<p>In the first three years of the offences coming into effect, no charges were laid. From the Act's commencement to the end of 2017, 73 complaints had been finalised (Barwick et al., 2020, p. 137). Women's Legal Service Tasmania reports that, by the end of 2019, 198 charges had been laid, with most (186) of these being for emotional abuse (2020, p. 5).</p> <p>Barwick et al. have identified four key impediments to prosecutions:</p> <ul style="list-style-type: none"> • low community awareness; • a lack of police training; • the difficulty involved in conducting investigations; and • the short statutory limitation period (2020, pp. 149-153).

England and Wales



Legislation	<u><i>Serious Crime Act 2015</i></u>
Context and consultation	<p>In March 2013, the UK Government expanded its non-statutory definition of domestic abuse to recognise non-physical behaviour (UK Home Office, 2014a, p. 8). In August 2014, the Home Office published a consultation paper to seek views on how to harmonise laws in England and Wales with the expanded definition (UK Home Office, 2014a, p. 3).</p> <p>Eighty-five per cent of respondents felt that victims were not adequately protected by the law. Just over half of respondents favoured the introduction of a new coercive control offence (UK Home Office, 2014b, pp. 7-8).</p>
Offence	<p>The <u><i>Serious Crime Act 2015</i></u> established the offence of controlling or coercive behaviour in an intimate or family relationship (s 76).</p> <p>An offence is committed if:</p> <ul style="list-style-type: none"> • a person repeatedly or continuously engages in controlling or coercive behaviour towards another person; • the people are personally connected; • their behaviour has a serious effect on the other person; and • the person knows or ought to know that their behaviour will have a serious effect on the other person (s 76). <p>The definition of 'personally connected' covers a broad range of relationships, including marriage, engagement, civil partnership, ex-partners, co-parents and family members. In some cases, it is necessary that the two parties live together for the relationship to qualify under this section; in others, the only requirement is an ongoing relationship (s 76(2),(6)).</p> <p>There is no time limit for initiating proceedings, other than the requirement that the conduct occurred after the offence was enacted (Bettinson, 2020, p. 205).</p> <p>The <u><i>Domestic Abuse Act 2021</i></u> extends the offence of controlling or coercive behaviour in an intimate or family relationship. Once the new provision is in operation, the offence will no longer require that some parties be living together in order for the relationship to qualify as 'personally connected' (Domestic Abuse Act 2021, s 68).</p>
Policing and prosecution	<p>In the year ending March 2020, police recorded 24,856 coercive control offences (UK Office for National Statistics (ONS), 2020b, Table 20). In the same period, 1,208 prosecutions commenced at the magistrates' court (UK ONS, 2020a, Table 15). In the year ending March 2021, the number of coercive control offences had risen to 33,954 (UK ONS, 2021b, Table 13). During that period, 1,403 prosecutions commenced at the magistrates' court (UK ONS, 2021a, Table 15).</p> <p>In the year ending December 2019, the Ministry of Justice recorded 305 convictions for engaging in controlling or coercive behaviour in an intimate or family relationship (UK ONS, 2020a, Table 16). For the year ending December 2020, the number had risen to 374 convictions (UK ONS, 2021a, Table 16).</p>

Scotland



Legislation	<u><i>Domestic Abuse (Scotland) Act 2018</i></u>
Context and consultation	<p>The Scottish Government began consulting on the creation of a specific offence of domestic abuse in March 2015 (Scottish Government, 2015, p. 2). It released a consultation paper that asked stakeholders for their view on whether a domestic abuse offence should encompass coercive control (Scottish Government, 2015, p. 9).</p> <p>Of the 56 responses they received, 54 supported the principle that ‘any specific offence of domestic or partner abuse should be drawn so as to encompass both conduct, such as threats or physical abuse, which is currently criminal, and psychological abuse and coercive control’ (Scottish Government, 2016, p. 3).</p>
Offence	<p>The <u><i>Domestic Abuse (Scotland) Act 2018</i></u> established the offence of abusive behaviour towards a partner or ex-partner (s 1).</p> <p>An offence is committed if:</p> <ul style="list-style-type: none"> • a person engages in a course of abusive behaviour toward their partner or ex-partner; • a reasonable person would consider the course of behaviour to be likely to cause the partner to suffer physical or psychological harm; and • that the person either intends to cause physical or psychological harm; or is reckless as to whether their behaviour causes physical or psychological harm (s 1). <p>Section 2(2)(a) of the Act specifies that violent, threatening or intimidating behaviour directed toward a partner or ex-partner constitutes abuse.</p> <p>Sections 2(2)(b) and 3 broaden the definition of abuse to include behaviour that produces ‘relevant effects’ such as:</p> <ul style="list-style-type: none"> • making their partner or ex-partner dependent on or subordinate to them; • isolating their partner or ex-partner from friends and relatives; • controlling, regulating or monitoring their partner or ex-partner’s day-to-day activities; • restricting their partner or ex-partner’s freedom of action; or • frightening, humiliating, degrading or punishing their partner. <p>Behaviour directed toward another person (e.g. a partner’s child) that produces one or more of the ‘relevant effects’ also constitutes abuse under these sections.</p> <p>There is no time limit for initiating proceedings, other than the requirement that the conduct occurred after the offence was enacted (Bettinson, 2020, p. 205).</p>
Policing and prosecution	<p>Police Scotland has characterised the new law as ‘the single most significant step in our efforts to tackle domestic abuse in Scotland’ (Police Scotland, 2020, p. 26).</p> <p>In the first year the legislation came into force, police recorded 1,681 coercive control offences (Police Scotland, 2020, p. 26). In the Act’s second year of operation, 1,641 offences were recorded (Scottish Government, 2021).</p>

Republic of Ireland



Legislation	<u>Domestic Violence Act 2018</u>
Context and consultation	A coercive control offence did not appear in the Irish Government's original draft of the Domestic Violence Bill 2017; it was instead introduced as a Government amendment in the committee stage (Soliman, 2019, p. 25).
Offence	<p>The <u>Domestic Violence Act 2018</u> established the offence of coercive control (s 39).</p> <p>An offence is committed if a person knowingly and persistently engages in behaviour that:</p> <ul style="list-style-type: none"> • is controlling or coercive; • has a serious effect on a relevant person; and • a reasonable person would consider likely to have a serious effect on a relevant person (s 39). <p>Under the Act, 'the victim may be the defendant's spouse, civil partner or someone with whom they were or are in an intimate relationship' (Bettinson, 2020, p. 210).</p> <p>There is no time limit for initiating proceedings, other than the requirement that the conduct occurred after the offence was enacted (Bettinson, 2020, p. 205).</p>
Policing and prosecution	<p>The first conviction and sentencing for the offence of coercive control was handed down in February 2020 (An Garda Síochána, 2020).</p> <p>In January 2021, the Irish Times reported there had been 59 recorded cases of coercive control in 2020 and a total of three convictions since the legislation came into force (Lally, 2021).</p>



Northern Ireland

Legislation	<u>Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021</u>
Context and consultation	<p>A public consultation took place in 2016, which revealed calls for legislative change to: criminalise coercive control, including the psychological abuse of a partner, ex-partner or family member; recognise the patterned and repetitive nature of domestic violence and abuse; and take into account the experiences of victim-survivors (Northern Ireland Department of Justice, 2021, p. 1).</p> <p>The new legislation has the effect of criminalising coercive control and brings Northern Ireland into line with the United Kingdom and the Republic of Ireland (McQuigg, 2021).</p>
Offence	<p>The <u>Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021</u> established the offence of domestic abuse (s 1).</p> <p>An offence is committed if a person ('A'):</p> <ul style="list-style-type: none"> • engages in a course of behaviour that is abusive of another person ('B'); • A and B are personally connected to each other at the time; • a reasonable person would consider the behaviour to be likely to cause B to suffer physical or psychological harm; and • that person A either intends to cause physical or psychological harm, or is reckless as to whether their behaviour causes physical or psychological harm (s 1). <p>Under the Act, 'personally connected' means two people who are, or have been: married, civil partners, living together as if spouses, or in an intimate personal relationship with each other; or, members of the same family (s 5).</p> <p>Section 2 of the Act specifies that violent or threatening behaviour towards person B constitutes abuse, as does behaviour directed at B, their child or another person, that produces 'relevant effects'. These include:</p> <ul style="list-style-type: none"> • making person B dependent on or subordinate to them; • isolating person B from friends, relatives or other sources of social interaction and support; • controlling, regulating or monitoring person B's day-to-day activities; • depriving of, or restricting person B's freedom of action; or • making person B feel frightened, humiliated, degraded, punished or intimidated (s 2). <p>There is no time limit for initiating proceedings. The offence only applies once it comes into operation and does not have retrospective effect (Northern Ireland Department of Justice, 2021, p. 24).</p>
Policing and prosecution	The offence of domestic abuse came into operation on 21 February 2022 (Police Service of Northern Ireland, 2022).

Other jurisdictions

In France, psychological abuse in the context of domestic relationships was criminalised in 2010. Under the offence, those convicted can face up to five years' jail and a fine of €75,000 (currently equivalent to around A\$112,000) (Women for Women France, n.d.; 2010, *BBC News*).

In 2011, the Council of Europe established the [Convention on preventing and combating violence against women and domestic violence](#). Known as the 'Istanbul Convention', the treaty came into force in 2014 and creates a legally binding framework at the European level to prevent, prosecute and eliminate violence against women and domestic violence (Council of Europe, 2022b).

The Convention defines 'domestic violence' as:

all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim (Convention on preventing and combating violence against women and domestic violence, 2014, art 3).

Parties to the Convention are required to take any legislative and other measures necessary 'to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised' (art 33). There are also a number of aggravating circumstances that must be taken into consideration (art 46).

As at 31 March 2022, the treaty has entered into force in 35 States (Council of Europe, 2022a).

06 | What do experts and stakeholders say about criminalising coercive control?

No consensus exists among academics, frontline service providers and those with lived experience of coercive control as to whether or not the behaviour should be criminalised.

Missing voices

People living with family violence are generally reluctant to engage in the criminal justice system (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1). This means that victim-survivors of coercive control face considerable barriers to participation in this discussion. Researchers have also remarked that a shift has taken place in the way we talk about coercive control—what began as a recognition of the behaviour, rooted in women’s own experiences of it, has now become a discussion about whether coercive control should be criminalised. That discussion has occurred without systematic evidence from those affected, nor an understanding of whether it would be a solution to the violence they experience in their relationships (Fitz-Gibbon, Walklate & Meyer, 2020b, p. 1).

Fitz-Gibbon et al. (2020b, p. 1) state that ‘the absence of survivor voices is a fundamental evidential gap in contemporary knowledge about and argument for criminalisation’. One victim-survivor who has been willing and able to contribute to the debate argues that introducing legislation to address coercive control isn’t the only action that would need to be taken. They pointed to educating young people, overhauling the Family Court, enforcing domestic violence orders and funding support services as essential to addressing coercive and controlling behaviour (ABC News, 2021).

Respect Victoria—a Statutory Authority established by the state’s Prevention of Family Violence Act 2018 following a recommendation of the Royal Commission into Family Violence—has highlighted that there is also a need to grow the knowledge base around understandings of the perpetration, experience and impact of coercive control outside the context of heterosexual, intimate partner relationships (Respect Victoria, 2021b, p. 2).

Support for criminalisation

In October 2020, a group of organisations within the Family and Domestic Violence (FDV) sector in Australia—including Women’s Safety NSW, White Ribbon Australia and Women’s Legal Service Queensland—formed a coalition, and launched a campaign for coercive control to be criminalised (Women’s Safety NSW, 2020). The group called on state and territory governments to: commit to criminalising coercive control by July 2021; implement a consultation period to inform how the new laws would operate; and guarantee that the necessary resources would be in place in the judicial and policing sectors so that the new laws could work as intended (Women’s Safety NSW, 2020, pp. 2-3).

The campaign is supported by *Marie Claire*, *The Australian Women’s Weekly* and *Better Homes & Gardens*, as well as by Jess Hill, investigative journalist and author of *See What You Made Me Do*. Ms Hill stated in a speech launching the campaign that criminalising coercive control would ‘replace the broken lens we have on domestic abuse: instead of seeing a collection of incidents, it will make visible the system of abuse that endangers – and even kills – so many women and children’ (Pascoe, 2020; Hill, 2020).

Those in support of attempts to criminalise coercive control include, among others, former Chief Justice of the Family Court, Alistair Nicholson, as well as Annabelle Daniel, the CEO of Women’s Community Shelters, and Dr Karen Williams, the founder of Doctors Against Violence Towards Women (King, 2020a; McGorry et al., 2020).

inTouch Multicultural Centre Against Family Violence also supports the move, stating that ‘criminalising this serious and destructive behaviour would protect women and children, and will provide women with better opportunities for recourse for the suffering they have endured’ (inTouch, 2021, p. 1). inTouch notes, however, that education, training and policy change will be needed to reduce the risk of adverse impacts on vulnerable people, as well as improvements to the working relationship between police and victim-survivors (inTouch, 2021, p. 1).

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) has indicated its support for the introduction of coercive control legislation in NSW, making it the first medical college in Australia to do so (Fuller, 2021). RANZCP NSW Branch Chair, Dr Angelo Virgona, stated that ‘current civil and criminal offences do little to intervene and change the trajectory of the victim survivors and their children’, and argued that ‘the force of specific legislation is required to protect them’ (Fuller, 2021).

Advocates also argue that criminalisation of coercive control should form part of wider reforms to address the problem of intimate partner homicide (McGorrrery & McMahon, 2020).

Opposition to criminalisation

Conversely, there are a number of stakeholders and experts who believe that coercive control should not be criminalised. Women’s Legal Service Victoria (WLSV) opposes attempts to criminalise coercive behaviour, and instead believes that the civil law is best suited to ‘respond to the socio-legal complexities of family violence’ (Women’s Legal Service Victoria, 2020, p. 5).

In a policy brief, WLSV argued that:

There is currently no compelling evidence that laws criminalising coercive control internationally have contributed to victim survivor safety, recovery and long-term wellbeing. Women’s Legal is of the view that the creation of laws to criminalise coercive control are detrimental to safety and accountability outcomes and offer no clear benefits that justify their introduction (WLSV, 2020, p. 3).

Disproportionate impact on First Nations peoples

Indigenous advocacy organisations have also raised concerns over moves to criminalise coercive control and any subsequent increase in police powers, due to the disproportionate impact it will have on First Nations peoples.

The Victorian Aboriginal Legal Service (VALS), while recognising ‘the unique and pervasive harm caused by coercive control’, does not view criminalising coercive control as a necessary or appropriate step. VALS argues that a new offence would be unlikely to protect women at risk of violence, and could become a new source of harm to the Aboriginal community (Victorian Aboriginal Legal Service, 2022, p. 6). VALS instead advocates for better education and training, to ensure the existing civil protection framework functions effectively to protect victim-survivors (VALS, 2022, p. 22).

Responding to the Joint Select Committee in that state, the director of Legal Aid NSW, Annmarie Lumsden, stated, ‘It’s almost certain that if a stand-alone offence is implemented, there will be a further significant impact on the rate of incarceration of Aboriginal and Torres Strait Islander people’ (Dudley, 2021). Scholars from the University of New South Wales also found it ‘alarming’ that the voices and experiences of Aboriginal women are ‘almost entirely absent’ from the discussion (Davis & Buxton-Namisnyk, 2021).

Risk of misidentification and further harm

Other advocates have expressed concerns that some female First Nations victim-survivors may be hesitant to report domestic violence to police, for fear of it potentially leading to mistreatment or a death in custody (Dudley, 2021). Criminologists Harry Blagg and Thalia Anthony have called attention to the case of Ms Dhu, a 22-year-old Yamatji woman who died in custody after police arrested her during a domestic violence callout in which she was the victim (Blagg & Anthony, 2019, p. 212).

The issue of perpetrator misidentification has also been highlighted by other scholars, including Professor Chelsea Watego and her colleagues in Queensland. They argue that police-based solutions have the potential to harm Indigenous women, and that seeking to criminalise coercive control fails to understand ‘how the state itself perpetrates abuse and coercive control over Indigenous women’ (Watego et al., 2021).

A 2021 study in Victoria showed that being misidentified as a predominant aggressor on a family violence order ‘can have a significant impact on women’s lives and their access to safety’ (Reeves, 2021). In Victoria, it is believed that around one in ten family violence intervention order applications involve misidentification (Reeves & Fitz-Gibbon, 2021).

Incarceration as an ineffective deterrent

Others have contended that incarceration is an ineffective deterrent against coercive control. They challenge the idea that domestic violence can be meaningfully prevented with punitive measures.

Indigenous writers, Georgia Mantle and Mali Hermans, who both live with disability, have argued that the push to criminalise coercive control fails to recognise ‘the violence rooted in the criminal justice system itself’, pointing out that the benefits secured through the criminalisation of domestic violence have not been felt equitably by all women (Mantle & Hermans, 2020).

University of Maryland Professor of Law, Leigh Goodmark, has suggested that carceral responses to domestic violence should be replaced with economic, public health, community-based and human rights solutions (Barclay, 2020). Nadine Miles, principal legal officer at the Aboriginal Legal Service, states that, ultimately, ‘existing laws can be better used to keep women and children safe, along with significant increases to funding for community services, including Aboriginal services’ (Blagg & Anthony, 2019, p. 212).

A number of advocates—including Professor Marcia Langton AM, Professor Bronwyn Carlson, the Change the Record coalition and the National Family Violence Prevention Legal Services Forum—have instead called for a response tailored specifically to the needs of First Nations peoples (Carlson, 2021; Murphy, 2021; Change the Record, 2021).

Preconditions to criminalisation

Need for adequate police and justice system responses to FDV

Scholars from the Monash Gender and Family Violence Prevention Centre have argued that Australia is not ready for a stand-alone offence of coercive control, and that it would be ‘risky’ to introduce one at this stage (Fitz-Gibbon, Walklate & Meyer, 2020a). One main reason for this is that successful law reform would depend on whether or not victim-survivors are willing and able to involve police (Fitz-Gibbon, Walklate & Meyer, 2020a).

Jess Hill has highlighted that the ‘problem’ at the centre of the justice response is that most victim-survivors do not want to report to police—only 20 per cent of those in abusive relationships have ever reported their abuse (Hill, 2019a). Reasons for underreporting by victim-survivors are varied—Hill explains: ‘they think it’s trivial, they’re ashamed, they’re afraid their partner will respond, they’re afraid their children will be removed, or they just don’t trust police to act in their best interests’ (Hill, 2019a).

For this reason, some advocates of criminalisation assert that divisiveness within the FDV sector over the question of criminalisation is actually due to a frustration with the justice system’s (in)ability to protect victims, rather than an issue with criminalising coercive control itself (McGorrery et al., 2020).

Victorian family violence survivor and disability advocate, Nicole Lee, shares the concern about any move to criminalise coercive control, arguing that the criminal justice system ‘is not trauma informed or a safe system at the moment’ (Topsfield, 2020b). Ms Lee believes that institutional changes are required alongside any legislation—as victim-survivors have historically been ‘brushed off or ignored’—and argues that the ‘law might be there, but we’ve got to rebuild trust with people, police, lawmakers and courts’ (Hughes, 2020). Ms Lee also highlighted that the burden of proof is much higher in the criminal justice system than in civil law (Topsfield, 2020b).

ANROWS has also emphasised that ‘legislative change cannot on its own transform the culture of response to [domestic and family violence] within and around the [current] legal system’ (ANROWS, 2021, p. 8). In its policy brief on coercive control, more than half of its recommendations relate to the need for reform in and around the legal system (ANROWS, 2021, p. 9).

No to Violence, a national body for organisations and individuals working with men to end family violence, states that criminalisation ‘is not and should not be the endpoint’, and that any offence is ‘only as effective as the justice and social services system responses’ that support it (No to Violence, 2021, p. 11).

Need for prevention to be prioritised

A number of family violence services have argued that criminalisation alone is only one part of the puzzle and that more focus needs to be put on preventing coercive control from occurring in the first place. Respect Victoria stated in a recent position paper that it advocates an approach to coercive control grounded in primary prevention that would ‘complement’ any enforced legal sanctions (Respect Victoria, 2021b, pp. 2-3).

Acting CEO of Respect Victoria, Amy Prendergast, argued that ‘We all have a right to safety, which is why prevention can no longer be an afterthought when it comes to dealing with coercive control’ (Respect Victoria, 2021a). Respect Victoria has also called for primary prevention initiatives to be inclusive of and led by ‘the diverse experiences of the Victorian community, including Aboriginal people, people from migrant and refugee backgrounds, LGBTIQ+ people, older people, and people with disability’ (Respect Victoria, 2021b, p. 3).

A primary prevention approach is supported by a range of organisations, including Domestic Violence Victoria and the Domestic Violence Resource Centre, Djirra, the Multicultural Centre for Women's Health, the Victim Survivor Advisory Council and Switchboard, as well as former Australian of the Year, Rosie Batty (Respect Victoria, 2021a; Gleeson, 2021).

Need for evidence of positive outcomes for victim-survivors

Associate Professor of Criminology Kate Fitz-Gibbon and others have highlighted that there is limited evidence about what impact criminalisation would have. They argue that information from jurisdictions where offences are currently in place has not revealed how many court cases are successful. It's also unclear whether victim-survivors feel safer following a conviction, or if the offence of 'coercive control' has been used to downgrade behaviours attracting a higher penalty (such as attempted murder) (Fitz-Gibbon, Walklate & Meyer, 2020a).

Further, they highlight that there is also limited understanding of how laws would affect those groups who traditionally have experienced 'further harm and disempowerment' when engaging with the criminal justice system—namely First Nations peoples, members of culturally and linguistically diverse communities, and people living with disability (Fitz-Gibbon, Walklate & Meyer, 2020a).

ANROWS (2021, p. 9) has suggested that robust evidence of the effectiveness of criminalisation might include:

- monitoring the progress and implementation of coercive control offences in other jurisdictions
- identifying unintended consequences of criminalisation
- measuring the number of successful prosecutions under the offences, and
- examining qualitative improvements in attitudes to violence against women.

Need for further consultation and consideration

The Australian Psychological Society (APS), in its submission to the NSW inquiry, noted that coercive control was an area that 'requires social and legal reform', though stopped short of advocating for criminalisation specifically (Australian Psychological Society, 2021).

The APS instead indicated that codification of the behaviour needed to be 'carefully considered', as regulation is challenging to enforce. It also stressed that coercive control is both difficult to define and contextual in nature (Australian Psychological Society, 2021).

Dr Manjula O'Connor, chair of the Family Violence Psychiatry Network at the RANZCP, has highlighted the importance of any legislative reform also accounting for the lived experience of those in multicultural communities, as the way in which coercive behaviours present in practice can vary between cultures (Choahan, 2021).

Similar concerns have been shared by members of culturally and linguistically diverse communities in their submissions to the NSW inquiry, with many calling for a cautious and considered approach (Brancatisano, 2021).

Similarly, Tania Farha, CEO of Domestic Violence Victoria, said any move to criminalise coercive control would need to be carefully considered, and implored the Victorian Government to 'listen to all voices to ensure the full range of possible impacts are fully considered including any unintended consequences' (Topsfield, 2020b).

This view is echoed by Fitz-Gibbon et al., who expressed that 'There may be a place for coercive control in criminal law, but until Australia has undertaken a thorough consultation and set up a rigorous evidence base for change, we need to press pause' (Fitz-Gibbon, Walklate & Meyer, 2020a).

07 | What effect has the COVID-19 pandemic had on coercive control?

An ANROWS study into intimate partner violence during the COVID-19 pandemic, completed by researchers at the AIC in 2021, asked survey respondents about their experiences of 27 different emotionally abusive, harassing and controlling behaviours. The study showed that one in three respondents (31.6 per cent) had experienced these behaviours in the 12 months prior (Boxall & Morgan, 2021b, p. 10).

These non-physical behaviours were grouped into five categories, namely:

- financial abuse
- verbally abusive and threatening behaviours
- socially restrictive behaviours
- stalking and monitoring behaviours, and
- reproductive coercion (Boxall & Morgan, 2021b, p. 10).

Financially abusive behaviour was the most common coercive behaviour (19.3 per cent) reported among this cohort, followed by verbally abusive and threatening behaviours (18.7 per cent) and socially restrictive behaviours (17.4 per cent) (*Figure 4*) (Boxall & Morgan, 2021b, p. 10).

Indeed, the superannuation sector has indicated that, during the pandemic, up to 70,000 women may have been coerced by abusive partners into withdrawing their superannuation early (Curtis, 2022).

Technology-facilitated abuse was also reported by one in ten survey respondents (11.6 per cent) (Boxall & Morgan, 2021b, p. 10). The Salvation Army, which provides support and resources through the federal government's Safer in the Home program to enable women and children experiencing family violence to stay in their homes, also reported a 95 per cent increase in demand for support from women experiencing technology-facilitated coercive control in 2020 (Tuohy, 2021).

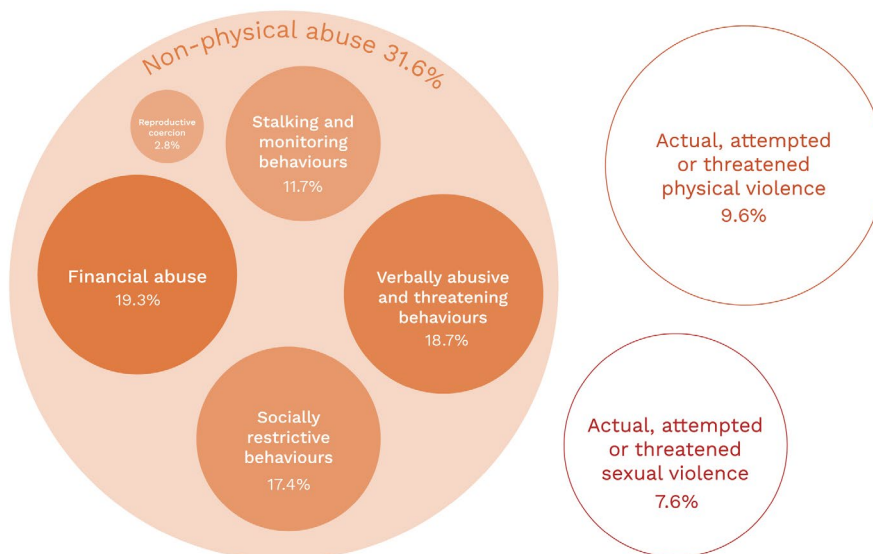


Figure 4: Experience of physical violence, sexual violence and non-physical abuse among women who have been in a relationship during the COVID-19 pandemic (Boxall & Morgan, 2021b, p. 10).

08 | What are the recent developments in Australian jurisdictions?

Commonwealth

The National Federation Reform Council Taskforce on Women's Safety (known as the 'Women's Safety Taskforce') is made up of the relevant women's safety ministers from the Commonwealth, state and territory governments and is responsible for driving and reporting on the National Plan to Reduce Violence against Women and their Children (National Federation Reform Council, n.d., p. 1). Following the first meeting of the Taskforce in December 2020, the ministers stated it was a priority for all jurisdictions to explore options to address 'the serious matter of coercive control' (Women's Safety Taskforce, 2020, p. 2).

In February 2021, the Senate passed a motion relating to violence against women. The motion, put forward by cross-party representatives from the Greens, the ALP and the LNP, noted that:

- i. 19 February 2021 marks one year since the murder of Hannah Clarke and her three children,
- ii. since that date a further 52 women have been killed by violence in Australia, and
- iii. coercive control and persistent emotional or psychological abuse is abuse in its own right, and a strong indicator of future physical violence (Australia, Senate, 2021, p. 3072).

The motion also noted the developments occurring in various jurisdictions around Australia and called on the federal government to 'recognise the harm caused by persistent controlling behaviour' and to 'coordinate a national discussion regarding criminalising coercive control and related implementation support' (Australia, Senate, 2021, p. 3072). The motion passed successfully and was transmitted to the House of Representatives, which also concurred with the resolution of the Senate (Australia, House of Representatives, 2021, p. 1654).

At a June 2021 meeting, Australian Attorneys-General agreed to co-design national principles to 'develop a common understanding of coercive control and matters to be considered in relation to the potential criminalisation of coercive control' (Attorney-General's Department, n.d.).

In January 2022, the Australian Government released the draft National Plan to End Violence against Women and Children 2022-2032 for public consultation (Hitch, 2022). The draft Plan acknowledges the seriousness of coercive control, and highlights that the national principles will consider the impact on diverse groups of people, the barriers they may face in accessing support, and how to ensure system responses are 'effective, inclusive and culturally appropriate' (Australian Government, 2022, p. 17).

The federal government is also establishing a Domestic, Family and Sexual Violence Commission to oversee the new Plan's implementation (Payne & Ruston, 2021).

Australian Capital Territory

In February 2021, the ACT Justice and Community Safety Directorate released the final report of a review of the Territory's *Family Violence Act 2016* (ACT) (Justice and Community Safety Directorate, n.d.). The report, prepared for the ACT Government by academics from the Australian National University and the University of Canberra, sought to determine the extent to which the Act had increased the protection of family violence victims and whether it had resulted in systemic and/or cultural change. It also looked at ways to increase the Act's effectiveness (Bartels, Easteal & Dodd, 2020, p. vi).

The report determined that the legislation was not operating as intended, and was leaving victims unprotected (Evans, 2021). The authors recommended that the Act be amended to refer to specific types of abuse, principally technological abuse, and to include specific examples of what that abuse looks like. The authors also recommended that further consultation be undertaken with Indigenous peoples, as well as culturally and linguistically diverse peoples, in relation to cultural abuse (Bartels, Easteal & Dodd, 2020, p. ix).

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The ACT Labor Government has given in-principle support to creating new offences to address coercive control. Attorney-General Shane Rattenbury stated that discussion was ongoing and ‘we believe that the ACT’s legislation actually covers issues of coercive control’ (Bladen, 2021). Analysis is underway to determine whether a gap exists in the ACT’s legal framework, and the Family Violence Minister, Yvette Berry, has referred the issue to the Domestic Violence Prevention Council for its consideration (Bladen, 2021).

New South Wales

In September 2020, Labor opposition MP Anna Watson introduced a Private Member’s Bill to the NSW Legislative Assembly, the [Crimes \(Domestic and Personal Violence\) Amendment \(Coercive Control—Preethi’s Law\) Bill 2020](#) (Parliament of New South Wales, 2020a). The Bill is named in memory of Dr Preethi Reddy, who was murdered by her former partner in 2019 and had been subjected to coercive, controlling behaviour during their relationship (Fuller, 2020; Drewitt-Smith, 2020).

The Bill seeks to create an offence of coercive control in a domestic relationship, and includes a maximum penalty of five years’ imprisonment. Where children are involved, the offence of aggravated coercive control applies, with a maximum penalty of ten years’ imprisonment (proposed sections 14A–14B). In March 2021, the Bill was defeated in the Assembly and did not progress to a third reading (Parliament of New South Wales, 2020a).

In October 2020, a Joint Select Committee on Coercive Control was established at the Parliament of New South Wales, tasked with inquiring into and reporting on coercive control in domestic relationships (Parliament of New South Wales, 2020b). The Committee submitted its final report on 30 June 2021 and made a number of recommendations. These included that changes be made to the state’s domestic violence laws to make it clear that coercive control is a form of domestic abuse, that the NSW Government work with other jurisdictions to create a nationally consistent definition of domestic violence, and that coercive control be criminalised (Parliament of NSW Joint Select Committee on Coercive Control, 2021, pp. vi-viii).

The NSW Government responded to the inquiry on 17 December 2021, supporting in full, in part or in principle 17 of the 23 recommendations made by the Committee. It has ‘noted’ six recommendations, and will consider them further. The NSW Government has flagged its intention to criminalise coercive control in intimate partner relationships by creating a standalone offence (New South Wales Government, 2021, p. 1).

The state’s Attorney-General, the Hon Mark Speakman MP, has said that consultations to draft the law will begin soon. The NSW Government is aiming to introduce a bill in the second half of 2022, with laws potentially enacted by late 2023 (Cormack, 2021).

Northern Territory

The NT Labor Government is looking at developing new domestic violence offences relating to coercive control. In February 2021, NT Families Minister the Hon Kate Worden stated that ‘We know this legislation needs to exist, and we are working on getting it off the ground’ (Heaney, 2021; Morgan, 2021).

Attorney-General, the Hon Selena Uibo, clarified that discussions around what potential coercive control offences could look like are being considered as part of the government’s review of the Territory’s *Domestic and Family Violence Act 2007*, which was due to be released for public consultation in mid-2021 (Heaney, 2021; Morgan, 2021).

In May 2021, members of the Territory's Domestic, Family and Sexual Violence Cross Agency Working Group—which includes the NT Government, the Domestic and Family Violence Network, and the NT Police, among others—agreed that there was 'a need to consider changes to the law and policy to effectively address coercive control as an integral part of DFV' (Northern Territory Domestic, Family and Sexual Violence Cross Agency Working Group, 2021, p. 2).

The Working Group stated that this could be through criminalisation, as well as amending the definition of domestic and family violence in the Act to better address coercive control, among other measures (Northern Territory Domestic, Family and Sexual Violence Cross Agency Working Group, 2021, p. 2).

Queensland

In February 2021, the Queensland Labor Government indicated that an independent taskforce would be established to look into potential coercive control legislation (Zillman, 2021). In March 2021, the Women's Safety and Justice Taskforce was asked to undertake 'a wide-ranging review into the experience of women across the criminal justice system' (Queensland Department of Justice and Attorney-General, 2021).

The Taskforce, led by Margaret McMurdo AC, examined the issue of coercive control, including whether there is a need for a specific offence of domestic violence in the state (Women's Safety and Justice Taskforce, 2021a). In May 2021, it released a discussion paper looking at options for legislating against coercive control (Women's Safety and Justice Taskforce, 2021c, p. 7; Read, 2021; Kyriacou & Chamberlain, 2021).

In December 2021, the Taskforce released the Hear her voice report, making 89 recommendations to the Queensland Government about system and legislative reform in the domestic violence space. The Taskforce recommended that a new offence of coercive control be implemented, though not immediately and only once system-wide reform has occurred (Women's Safety and Justice Taskforce, 2021b).

The state's Attorney-General, the Hon Shannon Fentiman, previously indicated that the Queensland Government was hoping to have a Bill before the parliament in early 2022 (Zillman, 2021). Ms Fentiman has since stated that the state government will consider all 89 recommendations made by the Taskforce, and introduce legislation in 2022 to clarify that coercive control is included in the definition of domestic violence. It is expected that an offence will be introduced from 2024 (Caldwell, 2021).

South Australia

In October 2018, Independent MLC, the Hon John Darley, introduced the [Criminal Law Consolidation \(Domestic Abuse\) Amendment Bill 2018](#). The Bill, which Mr Darley based on legislation in the United Kingdom, sought to introduce a new offence against controlling or coercive behaviour in a relationship, with a maximum penalty of seven years' imprisonment (Darley, n.d.; proposed section 20A).

The Bill lapsed at the conclusion of the parliament. It was subsequently reintroduced in the Legislative Council by Mr Darley in February 2020, where it reached the first reading stage ([Criminal Law Consolidation \(Domestic Abuse\) Amendment Bill 2020](#)).

In November 2020, the South Australian Liberal Government indicated that it was looking to address coercive control. In a media release, Attorney-General, the Hon Vickie Chapman, stated that she was keeping an eye on the Joint Select Committee process in NSW, and explained that, 'I look forward to reading the response to the New South Wales inquiry, and we are committed to reviewing their findings in detail so we can bring this matter to a conclusion in South Australia' (Chapman, Lensink & Power, 2020).

In December 2020, Labor opposition MLA, Katrine Hildyard, introduced the [Criminal Law Consolidation \(Coercive Control\) Amendment Bill 2020](#). The Bill seeks to define conduct that constitutes coercive control and to introduce two new offences: one for coercive control, with a maximum penalty of seven years' imprisonment; and one for aggravated coercive control, that carries a maximum penalty of 15 years' imprisonment (proposed sections 14E and 14F). The Bill is currently at the second reading stage.

In September 2021, the SA Liberal Government stated it intended to introduce legislation to criminalise coercive control, and released a draft Criminal Law Consolidation (Abusive Behaviour) Amendment Bill 2021 for community consultation (yourSAy, n.d.a). The Attorney-General stated, 'Be it emotional, physical or mental abuse – this type of controlling behaviour can isolate a victim and erode their confidence, autonomy and wellbeing ... It's often quite subtle, but, over time, has potentially devastating outcomes' (Chapman, 2021a).

The draft Bill seeks to create a criminal offence for a person who recklessly engages in abusive behaviour towards a current or former partner, with a maximum penalty of two years' imprisonment. If the person intentionally engages in the abuse, the maximum penalty is five years. Penalties are higher if the acts of abuse involve a child, at three and five years' imprisonment, respectively ([Criminal Law Consolidation \(Abusive Behaviour\) Amendment Bill 2021](#), Draft bill, proposed section 20B; yourSAy, n.d.b).

The community consultation period closed in early October 2021 and the SA Government introduced the revised Bill in the House of Assembly on 27 October. Chapman stated, 'By criminalising this type of controlling behaviour, we will give authorities the legislative tools they need to act before irreversible damage occurs' (Chapman, 2021b).

Rather than the original offences for 'recklessly' or 'intentionally' engaging in abusive behaviour found in the draft Bill, the revised Bill instead includes a single offence for engaging in abusive behaviour, with a maximum penalty of five years' imprisonment. Where a child is involved, the maximum penalty increases to seven years. The offence applies when a person commits three or more acts of abuse ([Criminal Law Consolidation \(Abusive Behaviour\) Amendment Bill 2021](#), proposed section 20B). The Bill is currently at the second reading stage.

Tasmania

Tasmania is currently the only jurisdiction in Australia to have criminalised aspects of coercive control, through the offences in place for 'economic abuse' and 'emotional abuse or intimidation' (see: 'Where is coercive control criminalised', pp. 8-14).

In February 2021, the Chief of the Women's Legal Service in Tasmania, Yvette Cehtel, acknowledged that the criminal offences introduced in Tasmania to address coercive control had started a conversation that was now taking place at the national level—and that this conversation in turn had the ability to strengthen Tasmania's response (Duggan, 2021). Ms Cehtel also stated that a national approach has the potential to 'start an important cultural conversation about family violence and coercive control' (Duggan, 2021).

Victoria

In October 2020, it was reported that then-Attorney-General, the Hon Jill Hennessy, had ordered a review into possible coercive control laws in Victoria. Ms Hennessy said, 'I have asked the Department of Justice and Community Safety to examine options for strengthening responses to coercive behaviour' (Simonis, 2020; Topsfield, 2020a). The status of this review is unknown.

In November 2021, Tania Maxwell, MLC for Derryn Hinch's Justice Party, moved a motion relating to coercive and controlling behaviours in the context of family violence offending. Ms Maxwell moved that the Legislative Council:

1. recognises —
 - a) the prevalence of coercive control in family violence offending;
 - b) that perpetrators of family violence may offend against multiple family members and intimate partners;
 - c) that disclosure of relevant information about the criminal history of a perpetrator is a key indicator in family violence risk assessment and management;
2. calls on the Government to —
 - a) review legislative and procedural frameworks in relation to family violence to consider how evidence of coercive and controlling behaviour is available to illustrate the experience of family violence; and
 - b) consider the suite of initiatives and opportunities available to enhance the understanding of coercive and controlling behaviour in our community and the justice system (Victoria, Legislative Council, 2021, p. 4).

The motion was agreed to.

Western Australia

In November 2019, the Western Australian Labor Government introduced the [Family Violence Legislation Reform Bill 2019](#). The Bill sought to amend a number of Acts and to introduce two new criminal offences—a specific offence for suffocation and strangulation, and an offence of persistent family violence (proposed sections 298 and 300; McGurk & Quigley, 2020). The Act received the Royal Assent in July 2020 (Parliament of Western Australia, n.d.).

Though the Act did not introduce a specific coercive control offence, Minister for Prevention of Family and Domestic Violence, the Hon Simone McGurk, indicated that the government was monitoring the developments in other jurisdictions and engaging with relevant stakeholders (Elks & Bashan, 2020).

In June 2021, it was reported that the WA Government was looking into criminalising coercive control. A spokesperson for the state's Attorney General, the Hon John Quigley, indicated that the Commissioner for Victims of Crime would be investigating coercive control laws. The Commissioner was also working with the Director of Public Prosecutions to evaluate sexual assault laws and to find ways to improve victims' experience of the criminal justice system (Kirk, 2021).

In March 2022, the WA Government announced a community consultation process relating to coercive control, inviting the community to consider whether the behaviour should be criminalised or dealt with in a different way (Government of Western Australia, 2022a). To facilitate the consultation process, the government released a discussion paper looking at legislative responses to coercive control in the state, asking several questions including whether existing responses are adequate (Government of Western Australia, 2022b).

The consultation process is due to conclude on 30 July 2022 (Government of Western Australia, 2022a).

References

Relevant legislation

- [Convention on preventing and combating violence against women and domestic violence](#), opened for signature 11 May 2011, CETS No. 210 (entered into force 1 August 2014)
- [Crimes \(Domestic and Personal Violence\) Amendment \(Coercive Control—Preethi’s Law\) Bill 2020](#) (NSW)
- [Criminal Law Consolidation \(Abusive Behaviour\) Amendment Bill 2021](#) (SA)
- [Criminal Law Consolidation \(Coercive Control\) Amendment Bill 2020](#) (SA)
- [Criminal Law Consolidation \(Domestic Abuse\) Amendment Bill 2018](#) (SA)
- [Criminal Law Consolidation \(Domestic Abuse\) Amendment Bill 2020](#) (SA)
- [Domestic Abuse \(Scotland\) Act 2018](#) (Scot)
- [Domestic Abuse Act 2021](#) (E&W)
- [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (NI)
- [Domestic Violence Act 2018](#) (IR)
- [Family Violence Act 2004](#) (Tas)
- [Family Violence Legislation Reform Bill 2019](#) (WA)
- [Family Violence Protection Act 2008](#) (Vic)
- [Family Violence Reforms Bill 2021](#) (Tas) (draft)
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Suggested citation

Otter, C., M. Bosanko & A. Hocking. (2022). *What is coercive control?* Parliamentary Library and Information Service. Melbourne, Parliament of Victoria.

Acknowledgments

The Parliament of Victoria Library acknowledges the Traditional Owners of the lands across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present and future; and we value Aboriginal and Torres Strait Islander history, culture and knowledge.

Meg Bosanko made a significant contribution to the research and writing of this paper prior to her departure from the Parliamentary Library in May 2021. Caley and Meg would like to thank Dr Dolly MacKinnon, Dr Ben Huf, Anwyn Hocking and Debra Reeves for their help with the preparation of this publication.



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