



WESNET

The Women's Services Network

CRIMINALISATION OF COERCIVE CONTROL

This policy position paper is drawn directly from the AWAVA Issues Paper [Criminalisation of Coercive Control](#).

Policy position

- The justice system needs to recognise violence and coercive control as a pattern of abuse and not just as incident-based behaviour.
- A do-no-harm approach must be taken to ensure that evidence is examined to avoid unintended harm, especially for marginalised groups.
- For coercive control to be meaningfully addressed, an appropriately funded, holistic response to family and domestic violence across the whole system is required.
- Intersectional primary prevention, community education and awareness raising on what constitutes violence, as well as relevant legislation and rights of victims/survivors, is critical.
- Where criminalisation is considered, comprehensive consultation and evaluation is required. To be effective, legislation must be underpinned by substantial cultural change in police responses to violence, along with cultural and attitudinal change across the entire criminal justice system.
- Above all else, the justice system must ensure its efficacy and safety for victims/survivors.

Understanding the criminalisation of coercive control

Coercive control is an umbrella term that refers to an ongoing pattern of controlling and coercive behaviours used by perpetrators that pervade an individual's daily life with a devastating impact. As with all forms of sexual and gender-based violence against women, it is driven by gender inequality and gender and other dominant stereotypes. Examples of behaviours used in coercive control include constant monitoring, isolation from friends and family, controlling access to money, 'gas lighting', and humiliation and threats.

While coercive control is recognised as a form of abuse in most states and territories, it is not, on its own, currently subject to criminal sanctions in most states and territories. Only New South Wales explicitly criminalises coercive control through the assent of the *Crimes Legislation Amendment (Coercive Control) Bill 2022* in November 2022, and Tasmania explicitly criminalises non-physical forms of family violence such as economic abuse and emotional abuse or intimidation in its *Family Violence Act 2004*. Consultations and legislative development activities are currently underway in South Australia and Western Australia. The Queensland government has committed to introducing legislation by the end of 2023 to make coercive control within domestic relationships a criminal offence. In April 2021, a Commonwealth House of Representatives Standing Committee recommended that the

Australian Government and state and territory governments develop shared principles to guide any criminalisation of coercive and controlling behaviour, with a view to ensuring consistency across jurisdictions. [These principles](#) are currently in development.

Extensive background and discussion concerning coercive control and its criminalisation can be found in AWAVA's issues paper [Criminalisation of Coercive Control](#).

Recognising intersectionality

There are concerns that the criminalisation of coercive control could increase barriers for women who are already disadvantaged in accessing and navigating justice systems. It is essential to note also that it is not people's identities that cause vulnerability but is instead systems and practices that are based on outdated and discriminatory biases and assumptions. Many victim-survivors are misidentified as perpetrators by police.

- Disability advocates have raised concerns that the pressure for carrying the burden of proof could become an adverse barrier for women with disability, especially for women with intellectual disabilities. Similar challenges could also be faced by elderly women, migrant and refugee women and for those women for whom English is a second language ([DPOs Australia & NWA, 2019](#)).
- Other particular issues faced by refugee and migrant women may include becoming targeted by their community when involving the police; visa restrictions which render them unable to access social services without their spouse; language barriers which can lead to women being misidentified as perpetrators'; and systemic racism and xenophobia ([Maturi & Munro, 2020](#)).
- Aboriginal and Torres Strait Islander women fear reporting their experiences of violence and seeking help because of the ongoing social and cultural marginalisation, racism, and lack of culturally sensitive services, as well as the extremely high rates of the removal of their children ([ANROWS, 2020](#)). Women's 'use of force' to protect themselves often results in the victim/survivor being misidentified as the perpetrator
- LGBTIQ+ people also experience significant barriers with reporting their experiences of violence to police. It is common that victim-survivors 'claim that the police, justice system, and/or intimate partner and family violence support services are not culturally safe for LGBTI people and therefore will not help the victim' ([National LGBTI Health Alliance, 2020](#)).

About WESNET

WESNET is a member of the Attorney-General's Coercive Control National Principles Advisory Group.

With almost 350 eligible members across Australia, WESNET represents a range of organisations and individuals including women's refuges, shelters, safe houses and information/referral services.

Harnessing its large national network of members and associate members, WESNET plays an important role in identifying unmet needs, canvassing new and emerging issues, facilitating policy and sector debate and providing expert advice to government to provide improved responses to the problem of domestic and family violence. We do this within our communities - including the Australian Women's Against Violence Alliance (AWAVA) - and in partnership with non-government stakeholders.

Key recommendations

Recommendation 1: That the national principles establish a consistent national definition of family and domestic violence, in which coercive control is recognised as a pattern of abuse with gender-based underpinnings.

Recommendation 2: That extensive consultation and codesign of laws, plans and policies on family and domestic violence with diverse groups of women (particularly those who are victims/survivors) and with specialist women and family violence services underpin any consideration of the criminalisation of coercive control.

Recommendation 3: That governments ensure ongoing funding and resourcing for intersectional primary prevention activities including community awareness-raising and attitudinal change in relation to all forms of sexual and gender-based violence.

Recommendation 4: That the Australian Government undertakes research and data collection about prevalence, reporting rates and experience within the justice systems in relation to sexual and gender-based violence against women from diverse backgrounds, including qualitative and quantitative research on their experiences of coercive control.

Recommendation 5: That the Australian Government works with state and territory governments and specialist women's and family violence services to review family and domestic violence strategies, with a view to identifying and removing barriers to justice for diverse groups of women. This process should be co-designed with diverse cohorts and specialist women's and family violence services.

Recommendation 6: In developing new policies and legislation that will impact marginalised groups, the Australian Government undertakes a substantial intersectional gender analysis and engages these communities in co-design to ensure that proposed policies and legislation do not create further obstacles for diverse groups of women to live their life free from violence.

Recommendation 7: That police are supported with training, clear policies and efficient procedures that emphasise the importance of identifying the person most in need of legal protection in the context of a pattern of coercive control ([ANROWS, 2020](#)).

Recommendation 8: That governments ensure sufficient resourcing and guidance for judicial officers to enable consistent understandings of when and how they may strike out or dismiss inappropriate applications ([ANROWS, 2020](#)).

Recommendation 9: That governments ensure thorough, mandatory training and ongoing professional development on the nature and dynamic of sexual and gender-based violence, trauma-informed practice, accessibility, cultural competency and inclusion to all relevant law enforcement personnel and justice system officials.

Recommendation 10: That the Australian Government appropriately tracks progress, monitors and evaluates impacts of family and domestic violence legislation, publishes evaluation results, and budgets adequate funding for data collection, monitoring and evaluation.

References and further reading

Australian National Research Organisation for Women's Safety (2020). [Improving family violence legal and support services for Aboriginal and Torres Strait Islander women](#).

Australian National Research Organisation for Women's Safety (2020). [Accurately identifying the "person most in need of protection" in domestic and family violence law](#).

Australian Women Against Violence Alliance (2021). [Criminalisation of Coercive Control. Issues Paper](#).

[Joint Position Paper](#) from Disabled People's Organisations Australia (DPOs Australia) and the National Women's Alliances (NWA) (2019) Position Paper to the Commission on the Status of Women (CSW) Twenty-Fifth Anniversary of the Fourth World Conference on Women and The Beijing Declaration And Platform For Action (1995).

Maturi, J., and Munro J. (2020). [Should Australia criminalise coercive control? Fighting domestic violence and unintended consequences](#).

National LGBTI Health Alliance (2020). [Submission to the Inquiry into family, domestic and sexual violence](#).