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**NSW Parliamentary Joint Select Committee
on Coercive Control
Supplementary Paper to the
Submission of Women's Electoral Lobby,
New South Wales**

January, 2021

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Menaka Iyengar Cooke would be glad to appear before the Coercive Control committee regarding points made in this submission. She requests that the Case Studies be kept confidential in any publication of submissions afterwards.

Women's Electoral Lobby, established in 1972, is national, independent, non-party, feminist, political lobby group dedicated to creating a society where women's participation and their ability to fulfill their potential are unrestricted, acknowledged and respected and where women and men share equally in society's responsibilities and rewards. WEL NSW has worked tirelessly for nearly 50 years to improve the position of women in Australian society.

WEL applies a feminist approach to all its work from policy analysis and development to campaigning. In proposing and analyzing policy solutions, we measure fairness and justice for all women (Indigenous, CALD, ability/disability and sexual preference) and thus fairness and justice for society. WEL lobbies and works with governments at all levels to achieve better and fairer legislative, policy and program outcomes in order to achieve equality for women of all ethnicities, colour, ability/disability, and Indigenous women.

WEL NSW welcomes the establishment of a Joint Select Committee on Coercive Control to report on this issue in domestic relationships as well as to respond to the 15 questions raised in the NSW Government's Discussion Paper on Coercive Control released in October, 2020 by Attorney-General, Mark Speakman.

WEL NSW supports new legislation or amendment to existing laws to criminalise coercive control. WEL NSW recognizes that there are a range of definitions extant of coercive control, including those in the Discussion Paper and one in Section 14A and B of the Bill introduced in the NSW Parliament by Anna Watson MP which proposes to amend the **Crimes (Domestic and Personal Violence) Amendment (Coercive Control – Preethi's Law) Bill 2020**.

The NSW Parliamentary Research Service in its **Issues Backgrounder**, Number 4, October 2020: *Criminalising coercive control in the context of domestic and family violence: key sources*, also provides an overview of existing laws in Australia and some coverage of laws in the United Kingdom, recently enacted.

What is important to recognize is that any law or amendment to an existing law must capture a "course of conduct" rather than an incident-based model of criminalization. Coercive control includes a range of behaviours or pattern of behaviours. The objective of such a law should be to enable earlier intervention into a domestic relationship to prevent an escalation into severe physical and sexual violence too often leading to the murder of a partner and harm to children or their murder.

Background – Coercive control experience in CALD communities

Women from CALD backgrounds experience a range of intersecting and compounding challenges (cultural, linguistic, economic, social, legal and more) that place them at greater risk of experiencing Domestic and Family Violence (DFV). These challenges and attendant risks restrict their ability to seek support and redress for the varied experiences which make up the spectrum of abuse within intimate partner and family relationships.

Additionally, DFV agencies generally and those in multicultural sectors are concerned for the safety of women potentially isolated with the perpetrator during the pandemic; the risks are marginally mitigated by online checks by frontline staff and invitations to attend webinars.

Other challenges are that migrants and refugees have the highest level of unemployment and work in lower paid jobs (Harmony Alliance, 2019). Many are not aware of and don't know how to access Centrelink resources and may not be eligible for income support (e.g. refugees, temporary visa holders). Therefore, they are more likely financially dependent on a perpetrator.

Other challenges include a lack of understanding of gender equality, power and control within CALD communities. Many CALD communities are patriarchal in nature and men in the family (father, uncle, husband, son) as well as religious elders (usually male) rule and instruct women in what is acceptable in the home and societal environment.

CALD communities have a lower level of understanding English and how legal and regulatory instruments affect them. Many have come from cultures where patriarchy and the primacy of men was an established axiom of life. Interpreting such laws and regulations and their effects into various languages is not a solution due to low levels of literacy in some CALD communities. There may also be a lack of or limited access to relevant TV and radio stations which may carry messages showing how to access help for and support for people experiencing DFV along with low levels of cultural understanding that the scope of DFV includes coercive control

Coercive control in the CALD community has many forms including:

- Financial control – limiting access to money i.e. doling out money for necessities, limiting access to bank accounts or available finances or credit cards, closely monitoring and questioning women’s spend. In many instances, the husband has used the wife’s lack of education and financial understanding to get her to sign away sums of money into his name or into a trust that only he has access to or the deeds to the family dwelling. During the pandemic, we have seen instances where the abuser (usually male) has started doing the family shopping thus denying the spouse any funds or social access to people outside the immediate family
- Denying freedom or autonomy to the spouse/partner by forbidding them from going to school, work, shopping, attending doctor’s surgeries or clinics. In some instances we have seen men controlling aspects of women’s health and diets, their beauty regimen, sleep or bathroom time
- Many CALD women (particularly those older or less educated) have lower levels of digital literacy. Additionally, the spouse/father may limit access to digital and mobile devices, giving them very little access to or providing very limited data for internet access. In many CALD homes, there is only one mobile phone and/or laptop/personal computer, which is used mainly by the males or older children.
- Many women have their daily activity monitored during the day via cameras and recording devices; in some cases, the passwords may be changed regularly and/or spyware installed on mobile phones and other devices (‘technology facilitated coercive control’).
- Many women report verbal abuse, name–calling, criticising, jealous accusations, putting the person down, constantly showing them their deficiencies, and bullying in a variety of ways. When added to lower levels of education, understanding of and access to help in the community it leads to ‘Gaslighting’.
- Turning the children against the spouse/mother by abusing, ‘brainwashing’ and criticising the parent (usually mother) in front of the children, then asking the children to spy and report on the abused parent
- Making sexual demands not just about the amount of times when there is sexual intercourse but also insisting that the spouse participate in pornographic fantasies and scenarios. Some women have been coerced into prostitution or into ‘swingers’ groups’ at their husband’s will. A number

of CALD service providers report a steep rise in people (usually male) watching pornography and acting out fantasies during the pandemic and forced isolation at home last year

- Isolating a person from their support system (family and friends) or limiting contact with them unless closely supervised. Women, often traumatised by being in a new country far from their family in their home country, talk of not having access to phones or being able to ring family back home but also not having access to people in the local community whom they may have met at community events or religious functions.
- Many women have reported that their feelings of sadness and depression either due to migrational trauma, isolation and/or continuing abuse in the family home in Australia have been used by their husbands to threaten that they will be 'committed to psychiatric wards', thus losing access to their children, or as a grounds for divorce, or loss of residency/citizenship leading to deportation
- Women have experienced threats of pulling their sponsorship (permanent residency or spouse visas in order to stay in Australia or forcing them to return to the home country) where there are disputes over joint finances, savings or dowry
- Many husbands have also denied wives/families access to assistance from agencies or community elders

Some points of intervention

Services and agencies supporting CALD communities report a low level of engagement of victim-survivors with the criminal justice system. Limitations are seen in the criminal justice response in prosecuting and supporting the needs of victim-survivors and getting them to engage (proactively or reactively) with the criminal justice system. There is a need to enhance the use of civil and non-legislative remedies, particularly with respect to accessing support which would add significant value to protection for victim-survivors.

- Investment in primary prevention and early intervention services for newly arrived migrants and newer communities.
- The language used in primary prevention work needs to be nuanced for CALD communities to be more effective. The narratives and primary prevention models need to start at the point where communities are currently at; it needs to include an understanding and reference to cultural mores of the countries where the migrants come from
- Broadening service delivery to aspects beyond Intimate Partner Violence. This means cultivating an understanding of how various aspects of coercive control play out in CALD communities so it is more relevant to the experience of CALD women
- Investing in collaborative in-language and in-culture adaptation of programs with the support, involvement and consultation of CALD communities including involvement of community leaders
- Increasing the focus and education regarding sexual assault in CALD communities – including the role of consent within marital relations, effect of pornography and its role within a relationship
- Just translating pamphlets, leaflets, TV messages into a number of languages is not enough! Many women from CALD communities may not watch or listen to such programs and even if they do, they do not understand the scope and depth of 'coercive control'

- This means funds for specialist services for supporting women affected by coercive control but also funds for community education and consultation at a grass-roots level

Additionally,

- The national women's alliances including CALD representative organisations should be used to inform government policies and actions
- States/territories need to recognise and agree on the specific manifestations of DFV including coercive control, particularly as the state/territory police are in a better position to identify instances of this particular form of violence.
- All planning instruments should include communities including CALD services in disaster scenario planning
- There needs to be coordination and harmonisation between efforts of the Commonwealth, states/territories is of great concern—as seen in Victoria.

Key Points for the Family Law Court Community:

- Two-thirds of state domestic violence statutes require the victim to prove they are victims of physical violence or were threatened physically in order to be considered victims of abuse and be able to petition for a civil protection order.
- Non-physical abuse can be just as, if not more, devastating than physical violence for victims.
- Coercive control is a catch-all term that emphasizes the core of most domestic abuse i.e. the need for power and control over another person and incorporates numerous types of non-physical domestic abuse.
- Adding coercive control under the definition of abuse in these statutes will better match the reality of intimate partner abuse, afford protection to victims, and aid in preventing further abuse.
- The definition of coercive control must be gender neutral in order to provide protection for all potential victims of this form of abuse and not bar anyone from recovery based on gender.

Conclusion

The criminalization of coercive control must not serve as another legal token. It must be accorded full political and legal leadership in partnership with the many professional women's, community (including CALD communities) and legal organisations advocating for women's safety and equality.

Criminalisation must make a material difference to people's lives particularly those of victim-survivors'. Besides reducing fatalities, it must address, ameliorate and reduce the experiences of physical and sexual violence. It must better protect children from trauma and exposure to abuse. It must aim to reduce domestic and family violence in the longer term and contribute to major system wide reform. It offers a generational opportunity for more effective intervention and prevention.

The NSW Government needs to seize this legislative reform opportunity to construct a strategic framework with enough resources allocated to specialist agencies, services and consultations so that the laws with system change take women and children escaping domestic violence and abuse into living safely and securely.

CONFIDENTIAL CASE STUDIES FOR SUBMISSION COMMITTEE ONLY

Menaka Iyengar Cooke - WEL, NSW

Case Study A (Coercive Control) A twenty-five year old, university educated woman migrated to Australia with her husband twelve years ago. She had a traditional arranged marriage and expected that it would be respectful on both sides as experienced for generations in her community in India.

After coming to Australia, she started to adjust to living conditions in Australia. She got a job and brought home pay which would be given to and entirely managed by her husband. He did not help around the house except to eat and sleep; he spent most of his time with friends gambling and in other activities, leaving her on her own for days on end. If she questioned him on his whereabouts, he would turn on the 'silent' treatment which she recounted as going from two to three weeks at a time to a year in one case. He took to communicating with his wife via email and text messages, often abusing her in vile language in the text of the email or SMS, even when he was living under the same roof – threatening her, interrogating her on whereabouts and 'gaslighting' her on numerous occasions. Besides mind control and financial control, he started hitting her. She continued to live and work feeling isolated from her family in India and only having a few acquaintances (in Australia) through work. She did not know where to seek help and came to believe that 'whatever doesn't destroy me makes me stronger'. Any verbal and emotional assistance given by colleagues was pounced on by the husband and depicted by him as his wife having affairs with colleagues, thus leading to more abusive and vile language. She has had one holiday in thirteen years in another country when she accompanied her husband on a work commitment. She had to stay in a hotel room as she was given no money or had access to a debit or credit card. On the one occasion, when she accompanied him on a day out, he argued with her, then abandoned her without money so that she had to walk and hitchhike to get home.

Within three years of marriage, she got pregnant and gave birth to a daughter. At this time, the husband left home for the first time and she did not see him for two to three years. She continued to go to work to look after herself and her daughter and received no money for herself or the daughter's upkeep. When she asked him for financial help towards the daughter's upkeep, she was told that she had a job and he would report her to the Govt. for asking money from him. On another occasion, when he had disappeared from home for several months, she was sent for training by her employer to another state. With great trepidation she left her daughter in the care of a cousin but the husband found out (via family in the home country) and accused of her negligence. He said he would report her to the police and the Govt. office responsible for children's services. In the meantime, he filed divorce papers after eight years of a meaningless and unhappy marriage. The Family court ordered him to pay child support but he gave up his well-paying job, became a student and worked a 'cash' job for some time. Later he accepted a lower paying job, which allowed him to give the mother and child the lowest amount of child support. The Family court appointed a lawyer and a counsellor for the child, who is now ten years old. After a couple of visits, the child has said she is unwilling to see the father for supervised visits. She told her mother and counsellor about the abusive words of her father regarding the mother. Due to limited means, the mother and child lived in a one-bedroom unit. The father implied to the court that this was suspicious, thus forcing the woman

to get a two-bedroom unit she can barely afford. She has little money for clothes, incidentals and for going out. The woman (now in her late thirties) seems to be bearing the brunt of the emotional, financial and legal turmoil. Her court costs so far are over \$50,000 and as a single parent, she continues to work to pay these legal costs for herself as well as legal counsel and counselling for her daughter with on-off child support payments from her ex-husband.

Case Study B (Coercive Control)

CONFIDENTIAL FOR SUBMISSION COMMITTEE ONLY (by M.I.Cooke)

A thirty-year old woman recently arrived in Australia to marry a man who is a permanent resident from the Indian sub-continent. It is a traditional arranged marriage with the families of both parties knowing each other. She has limited education, no job or money, does not know how to drive nor has a car, and little knowledge or money for food and bus/train travel. She discovered that her husband had married her so as to have a home-bound housewife who would cook, clean and look after a child from a previous marriage. She said she was willing to do all this but wanted to have a child of her own. Instead he said he was unwilling to let her have a child of her own but wanted her to baby-sit and look after the child from the first marriage.

The disputes led to several shouting matches which involved hitting. Neighbours called the police who were unable to help her but advised her to go to a refuge. The husband was asked to find another residence while she lived in the house and the matter was satisfactorily resolved. Being a new migrant and unsure of her rights, she decided to stay in the family home. The husband came back after a few days and a 'reconciliation' took place. Soon after another argument ensued; he then locked her in one of the bedrooms for a whole day (7am to 5 pm) without food and access to the bathroom. This happened a few more times, making the woman scared of saying a word. On another occasion, when she requested to go out for food shopping an argument took place followed by locking her into the toilet for a full day without food. The CALD service she finally got in touch with had to go and visit her in her home which she now lives in on her own. She does not know enough of bus or train travel or even the direction in which to walk to get to a shopping centre. She does not have money or a bank account, get on a bus, do food and related shopping and needs the CALD Services' guidance on how to accomplish these.

She is now afraid to leave the husband and has accepted him back into the family home even though she is living in a difficult and often dangerous situation. She is unable to go shopping, which the husband does fortnightly (getting her basic staples and toiletries) thus denying her the ability to become adjusted to the community and living circumstances in Australia. Most of the time she lives on dry rations at home. She does the cooking and cleaning and keeping house for the husband, minding his child from a previous relationship and watching TV. She has no friends and little access even to her religious temple and services or to the community who gather there.

Case Study C (Coercive Control)

CONFIDENTIAL FOR SUBMISSION COMMITTEE ONLY (by M.I.Cooke)

A woman who has spoken to a CALD Service provider confidentially on a couple of occasions narrated the extremely dangerous circumstances under which she lives. She has three young children and works part-time as a cleaner (once a week).

Her husband has a well-paying job but is addicted to pornography. She discovered this early in their marriage and has been forced to engage in his pornographic fantasies. She has also experienced 'rape' in marriage. In recent years, he has taken to 'trafficking' his wife on numerous occasions for sex with his friends and any others willing to pay him. If she demurs, she is forcibly held down and raped by the husband and his friends.

She has very little money and education and is not able to mingle freely in the community. She is now deeply fearful for her young children because the sexual trafficking is reaching new heights and is ongoing. She is unable to use her mobile phone or laptop because she says her husband has installed 'spyware' on the devices. Sometimes she is able to use the phone where she does cleaning to talk to the CALD Service provider. She is too afraid to leave the home (1) because she has no money and resources to make a new life (2) she is constantly monitored by her husband's family and friends who live close by (3) she has been told that he can find her anywhere if she leaves because of his contacts, 'bribe' money and spyware (3) that her residency status is dependent on him as he is the main provider (4) that she would lose her children and be deported if he so chose and (5) her husband has threatened physical revenge on her and her children.