

## **Discussion Paper: Coercive Control as Elder Abuse in Family Relationship Contexts**

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### **I Introduction**

In 2015, England and Wales became the first jurisdiction to create a criminal offence of coercive control (“Coercive or Controlling Behavior in an Intimate or Family Relationship”).<sup>1</sup> Coercive control legislation has now been passed in Scotland, Ireland, and several Australian states.<sup>2</sup> Canada may soon follow suit.<sup>3</sup> Across these jurisdictions, the legislation sets out two required elements. The first pertains to the conduct of the alleged perpetrator; the second to the relationship between the perpetrator and the victim. Both are required to establish the offence.

The relationship requirement distinguishes coercive control from other offences that may, but need not, occur within a particular relationship context (assault, theft, criminal harassment and uttering threats e.g.). A course of conduct occurring *outside* of the relationship/s specified in the legislation may meet the criteria for one of these relationship-neutral crimes, but it will not meet the criteria for the criminal offence of coercive control.

This structure reflects the nature of coercive control as a form of “capture crime”, like hostage taking or cult exploitation, in which the perpetrator’s relationship with the victim provides the means of capture.<sup>4</sup> Once “inside” the relationship, behaviours easily recognised as unacceptable by a stranger may be rationalised (a form of cognitive dissonance), especially where perpetrators of coercive control utilise techniques of shame, psychological manipulation, or gaslighting. The

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<sup>1</sup> *Serious Crime Act*, 2015 c. 9, s. 76.

<sup>2</sup> See, Carrier, J. “Criminalising Coercive Control in Canada: Learning from an International Comparative Analysis” (2023-2023) 46 *Man. L.J.* 1; Walby, Sylvia & Towers, Jude “Untangling the concept of coercive control: Theorizing domestic violent crime” 18(1) *Criminology and Criminal Justice* 7; Tolmie, Julie “Coercive control: To criminalize or not to criminalize?” (2018) 18(1) *Criminology and Criminal Justice* 50; Burman, Michele & Brooks-Hay, Oona “Aligning policy and law? The creation of a domestic abuse offence incorporating coercive control” (2018) 18(1) *Criminology and Criminal Justice* 67; Douglas, Heather “Do We Need a Specific Domestic Violence Offence?” (2015-2016) *Melbourne University Law Review* 434; Walklate, Sandra & Fitz-Gibbon, Kate “The Criminalisation of Coercive Control: The Power of Law?” (2019) 8(4) *International Journal for Crime, Justice and Social Democracy* 94; McGorrery, Paul & McMahon, Marilyn *Criminalising Coercive Control: Family Violence and the Criminal Law* (Singapore: Springer Publications, 2020).

<sup>3</sup> Bill C- 19, the Protecting Victims Act, s. (tabled December 2025).

<sup>4</sup> Stark, Evan “Re-presenting Woman Battering: From Battered Woman Syndrome to Coercive Control” (1994-1995) 58 *Albany Law Review* 973; Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007). See also, (2023) *Controlling or Coercive Behaviours: Statutory Guidance Framework*, Home Office (UK) at 13  
[https://assets.publishing.service.gov.uk/media/642d3f9e7de82b001231364d/Controlling\\_or\\_Coercive\\_Behaviour\\_Statutory\\_Guidance\\_-\\_final.pdf](https://assets.publishing.service.gov.uk/media/642d3f9e7de82b001231364d/Controlling_or_Coercive_Behaviour_Statutory_Guidance_-_final.pdf)

effect on victims has been described as analogous to the “Stockholm Syndrome” experienced by hostages.<sup>5</sup>

The dynamics of coercive control are most commonly identified with intimate partner relationships<sup>6</sup> and, for this reason, coercive control legislation in several jurisdictions (including Canada’s Bill C-16) is limited to relationships of that kind.<sup>7</sup> Other jurisdictions (Queensland, England and Wales) have recognised that relationship dynamics enabling and perpetuating coercive control may also be present within other forms of personal relationships. In England and Wales, the relationship criteria for coercive control includes family relationships broadly (“relatives”) in addition to intimate partners. Legislation in Queensland applies to persons in family relationships (“someone who is ordinarily understood to be or to have been connected to the person by blood or marriage”),<sup>8</sup> intimate partners, and relationships of informal caregiving. The offence in New South Wales<sup>9</sup> currently applies to intimate partner relationships only but the state has indicated that it will review the legislation in 2026 to consider its possible extension to other relationships.<sup>10</sup> Legislation passed in South Australia in September 2025 makes coercive control a criminal offence in “a relationship” defined as marriage or engagement (including betrothal) to one another, domestic partnership, or “some other form of intimate personal relationship in which their lives are inter-related and the actions of one affects the other.”<sup>11</sup>

Older adults may be impacted by intimate partner violence of all kinds, including coercive control. Within family relationships more broadly, coercive control may also be used as a mechanism of elder abuse. The dynamics of intergenerational relationships, in particular, are vulnerable to exploitation for this purpose. As in intimate partner relationships, those dynamics (together with the cognitive dissonance caused by techniques of coercive control) increase the likelihood of apparent consent or acquiescence by the victim; the conceptual framework of coercive control allows us to “see”, and therefore respond to, the perpetrator’s abusive behaviour in these circumstances. Just as the hostage does not truly consent to their capture, so the victim of coercive control does not consent to their abuse.

## II What is Coercive Control

The objective of coercive control is the control another person, the victim, for the purpose of securing personal benefit or privileges from that victim.<sup>12</sup> In the context of intimate partner relationships, these benefits include “personal services, control over material resources (“exploiting the benefits women derive from their newfound equality by taking the money they

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<sup>5</sup> Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007).

<sup>6</sup> In which the parties previously or currently have a sexual relationship, or anticipate doing so in the future (in the case of betrothal or similar attachments).

<sup>7</sup> *Domestic Abuse (Scotland) Act 2018* ss. 1 and 2; *Domestic Violence Act (Ireland) 2018*, s. 39.

<sup>8</sup> Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024

<sup>9</sup> *Crimes Legislation Amendment (Coercive Control) Act 2022*. See, H. Gibbon & E. Buston-Naminsynk “The new coercive control offence in NSW: (how) will it work?” (2024) 37(3) *Current Issues in Criminal Justice*

<sup>10</sup> <https://www.nsw.gov.au/family-and-relationships/coercive-control/law>

<sup>11</sup> Criminal Law Consolidation (Coercive Control) Amendment Act 2025 (Division 7-AAB Coercive Control).

<sup>12</sup> See discussion, Weiner, Cassandra *Coercive control and criminal law* (London: Routledge, Talor and Francis Group 2023) at pp .148-149.

earn”)<sup>13</sup> and access to sex.”<sup>14</sup> Where coercive control is used in close personal relationships with older adults, these “privileges” are primarily (but not exclusively) material or economic. These material benefits include access to financial resources, with a corresponding deprivation to the older person. It is important to note that financial deprivation of older adults through coercive control is not limited to victims with extensive assets, and may also be utilised to take control of pensions and other benefits provided to low income victims. The “capture” of a victim’s home through coercive control has also been identified as a source of significant harm in this context affecting older victims from diverse backgrounds with various resources at their disposal, The one resource these victims have in common is a place to live, whether rented or owned.

There is nothing inherently pathological about co-residence between older adults and other family members and it is important to distinguish these ordinary arrangements from residential capture through coercive control. The distinctive nature of coercive control in this context is illustrated in the story of Loretta, an older woman (widowed for many years) now retired and living on a fixed income.<sup>15</sup> Loretta still lived in the small home she and her husband had purchased when her son was a small child. Now an adult, her son approached Loretta to ask if he, his partner, and their infant child could stay with Loretta temporarily. Loretta agreed but the temporary arrangement turned into twelve years and by the time Loretta was able to remove the family from her home five additional children had been born.

Loretta described feeling increasingly displaced and unsafe within her own home during this period. Her daughter-in-law treated Loretta with disrespect, expecting Loretta to clean up after the family and instructing her children to lie to children’s services about abuse by their grandmother (presumably with the objective of removing Loretta from the home). Loretta’s son sought to have his mother evicted from the home, arguing that his father (who had died when the son was 10 years old) had really wanted the son to “have” the home. The son engaged in extensive “law-fare” in his attempts to have Loretta removed. Loretta, after obtaining free advice from a legal centre for seniors, was finally able to obtain an exclusionary order of protection her son but her son managed to obtain a warrant for his mother’s arrest unless she granted him and his family entry to her home. When the police arrived, Loretta was put in handcuffs (despite her order of protection) and taken to jail; the experience, terrible as it was, proved to be the “breaking point” for Loretta, allowing her to finally *see* the relationship and the

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<sup>13</sup> Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007). See also, Postmus, Judy L., Plummer, Sara-Beth, McMahon, Sarah, Shaanta Murshid, N. & Sung Kim, Mi (2011) 27(3) “Economic Abuse in the Lives of Survivors” *Journal of Interpersonal Violence* 411; Sanders, CK “Economic Abuse in the lives of women abuse by an intimate partner: a qualitative study” (2015) 21(1) *Violence Against Women* 3; Kutin, Jozica, Russell, Roslyn & Reid, Mike “Economic Abuse Between Intimate Partners in Australia: Prevalence, Health Status, Disability and Financial Stress” (2017) 41(3) *Australian and New Zealand Journal of Public Health* 269; AM Stylianou “Economic Abuse Within Intimate Partner Violence: A Review of the Literature” (2018) 33 (1) *Violence and Victims* 3; CK Welter, T Dundon, K. Valandra, & A Bruce “Economic Abuse: A Subtle but Common Form of Power and Control” (2020) 37 (1-2) *Journal of Interpersonal Violence*; S. Singh “Economic Abuse and Family Violence Across Cultures: Gendering Money and Assets Through Coercive Control” in McMahon, M., McGorry, P. (eds) *Criminalising Coercive Control*. (Springer, Singapore: 2020).

<sup>14</sup> Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007). See also,

<sup>15</sup> J.R. Smith. *Difficult: Mothering Challenging Adult Children Through Conflict and Change* (Lanham, Maryland: Rowan & Littlefield, 2022).

situation for what it was. Loretta was eventually able to have her protection order enforced, and her son's family evicted.

Loretta's story shows us very clearly the distinction between ordinary co-residence between family members and residential capture through coercive control. The capture in this case involved the attempt to literally remove Loretta from her home in order to take it over; residential capture may also take more subtle forms, especially where the victim is compliant (in this case Loretta's attempts to regain control appear to have triggered her son's attempts to evict her). Loretta's story also illustrates how the psychological dynamics within relationships can sustain behaviours and situations that, to an outsider, are obviously unacceptable and abusive.

Loretta had been using what mental health professionals call the defence mechanism of "minimization" or filtering out the negatives of a situation and only letting herself focus on the positives. This generosity of spirit... was likely at play when [Loretta] accepted her son's request that he move into her small one-family home with his girlfriend and their baby.... Loretta's capacity to tune out the problematic effects of [her son's] behaviour can explain how she allowed him and his expanding family to continue to live with her all these years [until the reality became undeniable when her son's actions resulted in Loretta's arrest]<sup>16</sup>

#### *"Techniques" of Coercive Control*

The various techniques through which coercive control is effected are means to that end. Forensic social worker and sociologist Evan Stark described coercive control techniques as "personalised", with perpetrators using knowledge gained through the relationship to exploit their victim's vulnerabilities.<sup>17</sup> Examples of commonly used coercive control techniques include psychological and emotional abuse (belittling e.g.), sexual oppression and humiliation,<sup>18</sup> isolation, threats (including threats to others), psychological manipulation ("gaslighting"), financial abuse, stalking, monitoring and following. Sexual humiliation is a common technique in intimate relationship contexts, in which shame is used to facilitate secrecy, recruiting the victim into keeping the nature of their relationship secret and hidden from outsiders.<sup>19</sup> The harms caused by coercive control include psychological, emotional and physical harms experienced by victims as a result of these techniques in addition to benefits extracted by the perpetrator through their control of the victim (financial loss e.g.).

Coercive control legislation across jurisdictions follows this model, providing illustrative *examples* of coercive control techniques within the legislation or statutory guidance. The offence of coercive control is defined in Bill C-16 as including "any" conduct that, in all the circumstances could reasonably be expected to cause the intimate partner to believe that the intimate partner's safety, or the safety of anyone known to them, is threatened (followed by a non-

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<sup>16</sup> J.R. Smith. *Difficult: Mothering Challenging Adult Children Through Conflict and Change* (Lanham, Maryland: Rowan & Littlefield, 2022) at pp. 144-147.

<sup>17</sup> Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007) at p. 5.

<sup>18</sup> Mitchell, Jenny E. & Raghavan, Chitra "The Impact of Coercive Control on Use of Specific Sexual Coercion Tactics" (2021) 27(2) *Violence Against Women* 182.

<sup>19</sup> Palmer, Tanya & Weiner, Cassandra "Telling the Wrong Stories: Rough Sex, Coercive Control and the Criminal Law" (2021) *Child and Family Law Quarterly* 331; Tanya Palmer, 'Failing to See the Wood for the Trees: Chronic Sexual Violation and the Criminal Law' 2020 84(6) *The Journal of Criminal Law* 573; Weiner, Cassandra *Coercive control and criminal law* (London: Routledge, Taylor and Francis Group 2023) at p. 91.

inclusive list of techniques that may be used for this purpose).<sup>20</sup> If this wording is retained, I recommend that “safety” be interpreted as including psychological and financial safety.

### *Perpetrator dependence*

Stark described the “tactical repertoires” used by coercive control perpetrators in intimate partner relationships as “only intelligible as a way for men to protect their investment in a partner... [r]egardless of whether their dependence on their partner is primarily material, sexual, or emotional, there is no greater challenge in the field than getting [male perpetrators] to exit from abusive relationships”.<sup>21</sup> “Men take up these challenges,” according to Stark, for “three compelling reasons: because women’s gains threaten the privilege they believe they are due; because women’s gains increase the potential rewards if the abuse is successful; and because they can think of no other way to secure these privileges and benefits.”<sup>22</sup> This dependency dynamic deviates from common perceptions of both domestic abuse and elder abuse, in which victims are trapped by their dependence (economic or physical) on the perpetrator. While economic dependency has been found to increase the risk of domestic violence *generally*, Stark persuasively describes how increased economic opportunities for women have increased their value as targets of coercive control. A family member’s economic dependence on a functional older adult increases the risk of abuse of all kinds (as illustrated in Loretta’s story, above).<sup>23</sup>

### *Lethal and physical violence*

Physical violence, because it is more likely to draw attention from outsiders or motivate the victim to extricate herself from the relationship (breaking the gaslighting spell), is comparatively risky and therefore less likely to be used so long as alternate techniques continue to work. As with other capture crimes, perpetrators are most likely to use physical violence, including lethal violence, where alternate means of control failed them.<sup>24</sup> Thus, victims are at the highest risk of being killed if and when they attempt to leave the relationship. Victims of intimate partner coercive control are also at a higher risk of suicide<sup>25</sup> and are more likely to kill their partner than victims of other forms of intimate partner violence (homicide being the only perceived alternative to suicide or being killed themselves).<sup>26</sup> Intimate partners’ attempts to leave coercive

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<sup>20</sup> Bill C-16, s. 264.01(2)

<sup>21</sup> Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007) at p. 130.m

<sup>22</sup> Stark, Evan *Coercive Control: How Men Entrap Women in Personal Life* (New York: Oxford University Press, 2007) at p. 131.

<sup>23</sup> R. F. Bornstein, “Synergistic dependencies in partner and elder abuse” (2019) 74(6) *American Psychologist* 713.

<sup>24</sup> Johnson, Holly, Eriksson, Li, Mazerolle, Paul & Wortley, Richard “Intimate Femicide: The Role of Coercive Control” (2017) 14(1) *Feminist Criminology* 3

<sup>25</sup> Stark, Evan & Flitcraft, Anne “Killing the Beast Within: Woman Battering and Female Suicidality” (1995) 25(1) *International Journal of Health Services* 43; McLaughlin, J., O’Carroll, R.E. & O’Connor, R.E. “Intimate Partner Abuse and Suicidality: A Systematic Review” (2012) 32(8) *Clinical Psychology Review* 677.

<sup>26</sup> The connection between coercive control and female perpetrated homicide of male intimate partners gave rise to Stark’s initial articulation of coercive control as an alternative to “battered woman syndrome” in the context of self-defence; see, Stark, Evan “Re-presenting Woman Battering: From Battered Woman Syndrome to Coercive Control” (1994-1995) 58 *Albany Law Review* 973. See also, Midson, Brenda “Coercive Control and Criminal Responsibility” (2016) 27(4) *Criminal Law Forum* 417. Coercive control has also been proposed as a partial

control relationships have also been identified as a trigger for mass casualty incidents<sup>27</sup> and family massacres.<sup>28</sup> High profile cases involving lethal violence and coercive control in intimate partner relationships have raised public awareness of coercive control in this context. This awareness is reflected in the trend towards criminalisation. Justice Canada has described the proposed criminal offence as “target[ing] patterns of coercive and controlling behaviour [to give] the justice system the tools to intervene before violence escalates.”<sup>29</sup>

While threats of physical violence (including threats to others and perpetrator suicide) *may* be used as techniques to maintain coercive control, threats are not an essential element of coercive control. The Statutory Guidance in England and Wales describes “coercive and controlling behaviour” as “shar[ing] general elements with other capture or course of conduct crimes such as stalking and harassment, including that the conduct is ongoing and perpetrators will use various means to hurt, humiliate, intimidate, exploit, isolate and dominate their victims.”<sup>30</sup> The emotional and psychological nature of these techniques means that victims will often appear to consent or acquiesce to the terms of the relationship without coercion through physical threat; “[v]ictims of controlling or coercive behaviour may not be aware of, be ready to acknowledge, or be able to communicate that the abuse they are currently experiencing, or have previously experienced, is part of a pattern of controlling or coercive behaviour.”<sup>31</sup>

### III Coercive Control and Older Adults

The conceptual framework of coercive control was developed in relation to intimate partner relationships involving members of the opposite sex. In that context, coercive control is generally understood as a male behaviour perpetrated against female victims. Coercive control behaviours have been described as exaggerated “examples of accepted male behaviours”<sup>32</sup> making coercive control less visible to outsiders (unlike the more obvious deviance of physical violence) and, in the early stages where coercive control behaviours begin to emerge, to the victim herself

Academic researchers have subsequently explored the extent to which other forms of relationships offer similar opportunities for “capture” and benefit through coercive control. Coercive control is now recognised within intimate partner relationships between members of the

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defence similar to provocation, Vanessa Bettinson “Aligning Partial Defences to Murder with the Offence of Coercive or Controlling Behaviour” (2019) 83 *Journal of Criminal Law* 71.

<sup>27</sup> Turning the Tide Together: Final Report of the (Nova Scotia, Canada) Mass Casualty Commission 2023 <https://masscasualtycommission.ca/final-report/>

<sup>28</sup> Chambers, Lori, Zweep, Deb & Verrelli, Nadia “Paternal Fillicide and Coercive Control: Reviewing the Evidence in *Cotton v Berry*” (2018) 51 *U.B.C. Law Review* 671.

<sup>29</sup> <https://www.canada.ca/en/department-justice/news/2025/12/canada-overhauls-criminal-code-to-protect-victims-and-keep-kids-safe-from-predators.html>

<sup>30</sup> [https://assets.publishing.service.gov.uk/media/642d3f9e7de82b001231364d/Controlling\\_or\\_Coercive\\_Behaviour\\_Statutory\\_Guidance\\_-\\_final.pdf](https://assets.publishing.service.gov.uk/media/642d3f9e7de82b001231364d/Controlling_or_Coercive_Behaviour_Statutory_Guidance_-_final.pdf)

<sup>31</sup> 2023) Controlling or Coercive Behaviours: Statutory Guidance Framework, Home Office (UK) at 13 [https://assets.publishing.service.gov.uk/media/642d3f9e7de82b001231364d/Controlling\\_or\\_Coercive\\_Behaviour\\_Statutory\\_Guidance\\_-\\_final.pdf](https://assets.publishing.service.gov.uk/media/642d3f9e7de82b001231364d/Controlling_or_Coercive_Behaviour_Statutory_Guidance_-_final.pdf)

<sup>32</sup> Vanessa Bettinson “Aligning Partial Defences to Murder with the Offence of Coercive or Controlling Behaviour” (2019) 83 *Journal of Criminal Law* 71 at 74.

same gender,<sup>33</sup> and a gender-neutral framing has now been incorporated within coercive control legislation generally.

Quinlan, Donnelly and O’ Donnell have used the term “filial coercive control”<sup>34</sup> to describe coercive control of older parents by adult children. Unlike romantic partners, parents do not need to be enticed into filial relationships with their children; the parent-child relationship provides a pre-existing mechanism or vehicle for “capture” and control for an adult child who seeks to use the relationship for that purpose. The “privileges” to be obtained through control of an older parent are, as described above, primarily material, but may include services more broadly, psychological and emotional benefit and, in some cases, sexual exploitation.

As in intimate partner relationships, the techniques through which filial coercive control is effected incorporate, intimidation, shame, and entrapment.<sup>35</sup> Hungerford et al have defined coercive control of older adults (including but not limited to filial coercive control) as “a subtle and covert abuse of power involving a persistent pattern of controlling and manipulative behaviors, including threatened or actual physical, psychological, social, emotional, sexual, economic, and/or medical maltreatment or exploitation that isolates, creates dependency and/or fear in the victim and reaps benefits, tangible or intangible, for the perpetrator.”<sup>36</sup> An older adult’s experience of dementia will facilitate the effectiveness of these techniques while further incentivising isolation of the victim (so as not to draw the attention of health care professionals or others who may disrupt the relationship). Physical violence is relatively uncommon with less apparent techniques preferred to avoid detection by friends, neighbours, health professionals, family members and others.

A link between coercive control in family relationships involving older adults and lethal violence has not been established. The issue is under-explored, however; a similar link may exist, but the question has not been asked.<sup>37</sup> It must also be assumed, that older parents- especially mothers- are much less likely to attempt to extricate themselves from coercive control relationships with their adult sons and daughters.<sup>38</sup> Parent/child relationship dynamics tend to prioritise the protection and well being of children, even at great cost to the parent. Exposing their child’s

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<sup>33</sup> Frankland, Andrew & Brown, Jac “Coercive Control in Same Sex Intimate Partner Violence” (2013) 29(1) *Journal of Family Violence* 15. See discussion, Stark, Evan and Hester, Marianne “Coercive Control: Update and Review” (2019) 25(1) *Violence Against Women* 81 at pp. 91-94.

<sup>34</sup> Quinlan, Freda, Donnelly, Sarah and O’ Donnell, Deirdre “Coercive control of older adults in filial relationships: a hybrid concept analysis” (2024) 30(6) *Journal of Adult Protection* 279 at pp. 283-286.

<sup>35</sup> Quinlan, Freda, Donnelly, Sarah and O’ Donnell, Deirdre “Coercive control of older adults in filial relationships: a hybrid concept analysis” (2024) 30(6) *Journal of Adult Protection* 279 at pp. 283-286. See also, Policastro, C. and Finn, M.A. “Coercive control and physical violence in older adults: analysis using data from the national elder mistreatment study” (2017) 32(3) *Journal of Interpersonal Violence* 311.

<sup>36</sup> C Hungerford, D Blanchard, H Hickson, H Lovatt & M Bernoth “Coercive Control and Older People: Towards Definitional Consistency” (2025) 1 *Journal of Elder Abuse and Neglect* 1

<sup>37</sup> S.M. Benbow, S. Bhattacharyya & P. Kingston “What’s in a Name? Family Violence Involving Older Adults” (2018) 20 (5-6) *Journal of Adult Protection* 187.

<sup>38</sup> See, J.R. Smith. *Difficult: Mothering Challenging Adult Children Through Conflict and Change* (Lanham, Maryland: Rowan & Littlefield, 2022).

mistreatment of them will often be a source of deep personal shame.<sup>39</sup> Parents have a crucial stake in presenting their children as “good”, successful and loving, reflecting positively on their own parenting skills. Thus, the relative *unlikelihood* of the triggering event (ending the relationship) may account in part for a (assumed/hypothesized) low incidence of lethality. Older parents, in sum, are more likely to simply suffer and stay until unable to do so by reason of hospitalisation, death, criminal charges (criminal negligence/failing to provide the necessities of life), or possibly intervention by another family member (although isolation and intimidation by the perpetrators may dissuade non-official intervention). Similar dynamics may exist within extended family relationships, or relationships of informal caregiving, although the parent/child relationship is distinct in its intensity.

An established connection with lethal violence is not a pre-requisite for criminalisation, however. The criminal deterrent is justified where coercive control is used as a tool for elder abuse, to prevent harm to the individuals affected and as a reflection of socially acceptable behaviours and public morality. The criminal sanction is justified as a means of providing justice and safety to victims and the community more broadly.

#### **IV Recommendation**

The relationship is an essential element of coercive control and coercive control criminal legislation in all jurisdictions includes a relationship requirement. Intimate partner relationships and filial relationships between older parents and adult children are vulnerable to exploitation through the techniques of coercive control. Similar psychological and emotional dynamics may also exist or be fostered in relationships between older adults and other relatives (grandchildren e.g.), especially where adult children are not present or are estranged. The *de facto* nature of the relationship is key.

Expanding the relationship criteria in Bill C-16 to include “family relationships” in addition to intimate partner relationships would provide a needed, and justified, response to coercive control as a relationship-based form of elder abuse. Restricting an expanded scope to “family relationships involving older adults” would be unworkable, requiring an inappropriate (because arbitrary) age-based definition. It would also exclude other family relationships that, in an individual case, share the characteristics of filial relationships enabling and supporting coercive control. The reference to a “relative” in the proposed amendment below refers to this broad class of family relationships.

In some circumstances, informal caregivers (who are not subject to oversight by a third-party body or organisation) may play a role similar to family members, as where the “helpful neighbour” or “new friend” steps in to help with meal preparation, grocery shopping, and household chores. This is especially likely where the older adult has no extended family available to step in to this role (with the informal caregiver becoming “like family”). Queensland is the only jurisdiction to date which has included informal caregiving as meeting the relationship criteria for coercive control.

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<sup>39</sup> See, J.R. Smith. *Difficult: Mothering Challenging Adult Children Through Conflict and Change* (Lanham, Maryland: Rowan & Littlefield, 2022).

At this time, my recommendation is not to include informal caregivers within the class of relationships included within the criminal offence, but to suggest that the legislature undertake to review the legislation after a period of two years to consider a possible, further extension. This approach is similar to the approach taken in New South Wales, where the current offence (limited to intimate partner relationships) is scheduled to be reviewed this year and further expansion considered. The review provides an opportunity to evaluate implementation of the Canadian offence (as set out below) and to learn from Queensland's experience (including any challenges associated with the "informal caregiver" definition in the Queensland legislation). Additional expansions in scope may also be considered at this time

## **Bill C-16 | Coercive Control Offence**

### **PROPOSED DRAFT AMENDMENTS**

**28 The Act is amended by adding the following after section 264:**

#### **Coercive control**

**264.01 (1)** Everyone commits an offence who engages in a pattern of coercive or controlling conduct referred to in subsection (2), with intent to cause ~~their intimate partner~~ a relevant person to believe that the ~~intimate partner's~~ relevant person's safety is threatened or knowing that, or being reckless as to whether, the pattern of coercive or controlling conduct would cause ~~their intimate partner~~ the relevant person to believe that the ~~intimate partner's~~ relevant person's safety is threatened.

#### **Pattern of coercive or controlling conduct**

**(2)** A pattern of coercive or controlling conduct consists of any combination, or repeated instances, of any of the following acts:

- (a)** using, attempting to use or threatening to use violence against
  - (i)** the ~~intimate partner~~ relevant person,
  - (ii)** any person under the age of 18 who is the ~~intimate partner's~~ relevant person's child or who is in the ~~intimate partner's~~ relevant person's lawful care or charge,
  - (iii)** any other person known to the ~~intimate partner~~ relevant person, or
  - (iv)** any animal that is in the care or is the property of the ~~intimate partner~~ relevant person;
- (b)** coercing or attempting to coerce the intimate partner to engage in sexual activity;
- (c)** engaging in any other conduct — including conduct listed in any of the following subparagraphs — if, in all the circumstances, the conduct could reasonably be expected to cause the relevant person to believe that the relevant person's safety, or the safety of anyone known to them, is threatened:

- (i) controlling, attempting to control or monitoring the relevant person's location, movements, actions or social interactions, including by a means of telecommunication,
- (ii) controlling or attempting to control the manner in which the relevant person cares for any person under the age of 18 referred to in subparagraph (a)(ii) or any animal referred to in subparagraph (a)(iv),
- (iii) controlling or attempting to control any matter related to the relevant person's employment or education,
- (iv) controlling or attempting to control the relevant person's finances or other property or monitoring their finances,
- (v) controlling or attempting to control the relevant person's expression of gender, physical appearance, manner of dress, diet, taking of medication or access to health services or to medication,
- (vi) controlling or attempting to control the relevant person's expression of their thoughts, their opinions, their religious, spiritual or other beliefs, or their culture, including the relevant person's use of their language or their access to their linguistic, religious, spiritual or cultural community, or
- (vii) threatening to die by suicide or to self-harm.

### **Circumstances**

(3) The circumstances referred to in paragraph (2)(c) include the nature of the relationship between the accused and the relevant person, in particular whether the relevant person is in a position of vulnerability in relation to the accused and whether the accused manipulated the relevant person by targeting their vulnerabilities.

### **Punishment**

- (4) Everyone who commits an offence under this section is
- (a) guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years; or
  - (b) guilty of an offence punishable on summary conviction.

### **For greater certainty**

- (5) For the purposes of this section, and for greater certainty,
- (a) a person's safety includes their psychological safety, and
  - (b) a "relevant person" means a person who is, or was previously in, an intimate relationship with the accused or who is a relative of the accused