



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **THE SHADOW PANDEMIC: STOPPING COERCIVE AND CONTROLLING BEHAVIOUR IN INTIMATE RELATIONSHIPS**

**Report of the Standing Committee on Justice and  
Human Rights**

**Iqra Khalid, Chair**

**APRIL 2021  
43<sup>rd</sup> PARLIAMENT, 2<sup>nd</sup> SESSION**

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## **NOTICE TO READER**

### **Reports from committees presented to the House of Commons**

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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# **THE STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS**

has the honour to present its

## **NINTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the committee has studied the issue of controlling or coercive conduct within intimate relationships and has agreed to report the following:





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# LIST OF RECOMMENDATIONS

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*As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.*

## **Recommendation 1**

**That the House of Commons acknowledge the significant harms coercive and controlling behaviour causes in intimate partner relationships, recognize that these harms are not captured in criminal law at present, and further recognize that physical violence in intimate partner relationships is almost always preceded by a pattern of coercive and controlling behaviour. .... 35**

## **Recommendation 2**

**That the Minister of Justice engage with his provincial and territorial counterparts to initiate a taskforce of experts with a mandate to review existing federal criminal legislation using a gender-based analysis plus and other inclusive measures and make recommendations concerning the drafting of government legislation regarding a coercive and controlling behaviour offence in the *Criminal Code*, considering Bill C-247 as possible language for such an offence, and related measures to meet the needs of victims. This taskforce should report to the Minister within 12 months of formation. .... 35**

## **Recommendation 3**

**That the House of Commons call on the federal government, the provinces and territories to implement measures to combat the challenges presented by the justice system for victims of coercive and controlling behaviour and intimate partner violence, and in particular for women who are Indigenous, racialized, or living in poverty, with the clear objective of avoiding revictimization and unintended capture of victims in the charging process and further calls on the federal government to fund measures to support all victims of coercive and controlling behaviour and intimate partner violence through court processes..... 35**

**Recommendation 4**

**That the federal government consider increasing its funding for *Canada’s Strategy to Prevent and Address Gender-Based Violence* to assist organizations working to support victims of coercive and controlling behaviour to deliver adequate levels of support services, such as counselling, housing, and other services aimed at helping victims in re-establishing their lives, and ensure that culturally appropriate services are available and accessible. .... 36**

**Recommendation 5**

**That the federal government engage with provincial and territorial governments and other relevant stakeholders to promote and fund a public awareness campaign on coercive and controlling behaviour, as well as training of judicial system actors, such as police, lawyers, and judges, about the dynamics of such behaviour. Training must be trauma-informed, integrate intersectional perspectives and be accompanied by tools and policies to support action on this issue. .... 36**



# THE SHADOW PANDEMIC: STOPPING COERCIVE AND CONTROLLING BEHAVIOUR IN INTIMATE RELATIONSHIPS

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## CHAPTER 1 – INTRODUCTION

On 26 November 2020, the House of Commons Standing Committee on Justice and Human Rights (the Committee) agreed to embark on a study of domestic violence by adopting the following motion:

That, the committee undertake a study on controlling or coercive conduct in intimate relationships; that it hear from representatives of the Office of the Federal Ombudsman on Victims of Crime, the Royal Canadian Mounted Police, and community and advocacy groups on the topic of the increase in incidents of domestic violence causing serious harm to victims, even in cases where there is no apparent violence; that it also consider the proposal for controlling or coercive conduct to be considered a criminal offence, in keeping with Bill C-247; and that it report its findings and recommendations to the House.<sup>1</sup>

The Committee allocated four meetings to hear witnesses on this important matter that harms mostly women and children and “costs us billions of dollars every year.”<sup>2</sup> Often referred to by witnesses as a shadow pandemic, domestic violence and coercive and controlling behaviour have been exacerbated by the COVID-19 pandemic. As highlighted by several witnesses throughout the study:

[O]ver the course of the last year, as much of the world's attention has been focused on the COVID-19 pandemic, there has been another shadow pandemic playing out as lockdowns have isolated women with their abusive partners. Frontline workers in shelters and transition homes across the country have reported increases in physical violence, as well as a dramatic rise in reports of coercive control being used by partners.<sup>3</sup>

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- 1 House of Commons Standing Committee on Justice and Human Rights (JUST), 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, *Minutes of Proceedings*, 26 November 2020.
  - 2 JUST, *Evidence*, 4 February 2021 (Heidi Illingworth, Ombudsman, Office of the Federal Ombudsman for Victims of Crime).
  - 3 JUST, *Evidence*, 16 February 2021 (Megan Stephens, Acting Executive Director and General Counsel, Women's Legal Education and Action Fund).



The Committee appreciates the expertise and time provided by all the witnesses who participated in this study. The objectives were twofold: to raise the profile of this important matter that is exacerbated by the pandemic and to look for solutions to end the violence.

This report summarizes the evidence submitted during the study and presents the Committee’s recommendations for reform.

## **CHAPTER 2 – THE CANADIAN EXPERIENCE: THE SHADOW PANDEMIC**

### **Incidence and Nature of Domestic Violence, Including Coercive and Controlling Behaviour**

Domestic violence is a serious violation of human rights that contributes to gender inequality.<sup>4</sup> It can be defined as “any form of abuse, mistreatment or neglect that a child or adult experiences from a family member, or from someone with whom they have an intimate relationship.”<sup>5</sup> As explained by the witnesses, domestic violence typically manifests within a context of coercive and controlling behaviour. Although coercive and controlling behaviour is not exclusive to intimate relationships,<sup>6</sup> it “is present in 95% of relationships where there's domestic violence.”<sup>7</sup>

### **Prevalence of Domestic Violence in Canada**

There are many data gaps and limitations that affect our understanding of domestic violence. Nevertheless, studies consistently show that such violence is highly gendered. The great majority of abusive partners or ex-partners are men, whereas the victims are generally women and children.<sup>8</sup> Evidence also indicates that marginalized women have a higher risk of experiencing violence.<sup>9</sup> As explained by Megan Stephens, Acting Executive

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4 For more information, see: JUST, [Evidence](#), 4 February 2021 (Carmen Gill, Professor, Department of Sociology, University of New Brunswick, As an Individual).

5 Department of Justice, [Family Violence](#).

6 JUST, [Brief](#), February 2021 (Sagesse Domestic Violence Prevention Society). For more information, see also: JUST, [Evidence](#), 4 February 2021 (Janine Benedet, Dean pro tem and Professor of Law, Peter A. Allard School of Law, University of British Columbia, As an Individual; Andrea Silverstone, Executive Director, Sagesse Domestic Violence Prevention Society).

7 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

8 JUST, [Evidence](#), 16 February 2021 (Megan Stephens); JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

9 JUST, [Evidence](#), 18 February 2021 (Yasmine Youssef, National Manager, Nisa Homes).

Director and General Counsel, Women's Legal Education and Action Fund, “[t]he risks of such violence are greater for women who live with multiple intersecting inequalities, including Indigenous, Black and racialized women, women with disabilities and migrant women.”<sup>10</sup>

Based on data reported by police services across Canada in 2018, “women in rural areas experienced the highest overall rates of intimate partner violence in the country.”<sup>11</sup>

It is estimated that one in four Canadian women has experienced domestic violence. However, as explained by Genevieve Isshak, Clinical Director of Residential and Community Services, Hiatus House, it is likely closer to one in three women, considering that many incidents of domestic violence are not reported to the authorities.<sup>12</sup> The Committee was told that approximately 36% of domestic violence incidents are reported to the police, and that only 5% of sexual assaults are reported.<sup>13</sup>

As the Committee was reminded, there are many known reasons for women not to report their victimization. With regard to sexual violence, victims often fear that “they are going to be treated with contempt by the police and that their cases will not be properly investigated.”<sup>14</sup> Similar reasons are conveyed regarding victims of intimate partner violence; they often report feeling “that they are not heard, believed or treated fairly when they report their experiences to the police.”<sup>15</sup> This lack of trust in police and the legal system is unfortunately acting as a serious obstacle to accessing legal protections for these women and their children. Further discussion about underreporting of intimate partner victimization and barriers to accessing victim services and legal protections are discussed in later sections.

Overall, it is estimated that approximately one-quarter of all calls to police made in Canada are connected to intimate partner violence.<sup>16</sup> To illustrate the magnitude of such violence across the country, the Federal Ombudsman for Victims of Crime, Heidi

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10 JUST, *Evidence*, 16 February 2021 (Megan Stephens).

11 JUST, *Evidence*, 2 February 2021 (Lisa Smylie, Director General, Communications and Public Affairs Branch, Research, Results and Delivery Branch, Department for Women and Gender Equality).

12 JUST, *Evidence*, 4 February 2021 (Genevieve Isshak, Clinical Director of Residential and Community Services, Hiatus House).

13 JUST, *Evidence*, 2 February 2021 (Lisa Smylie).

14 JUST, *Evidence*, 4 February 2021 (Janine Benedet).

15 JUST, *Evidence*, 4 February 2021 (Heidi Illingworth).

16 JUST, *Evidence*, 18 February 2021 (Kimberley Greenwood, Vice-President of the Board of Directors, Canadian Association of Chiefs of Police).



Illingworth, as well as Chief Nishan Duraiappah of the Peel Regional Police, presented the following statistics to the Committee:

- In 2020, between January and September, the Calgary Police Service responded to 15,038 domestic incidents. Annually, this is about 55 calls a day in a city with a population of approximately 1.5 million.<sup>17</sup>
- In Winnipeg, a city with approximately 817,000 residents, they typically record 16,000 domestic incidents each year. That is 44 per day.<sup>18</sup>
- In Peel Region, “officers respond to over 1,000 calls for family violence and intimate partner violence per month.” This represents over 19,000 calls a year. Over the last two years, it is estimated that 40% of all homicides in Peel Region were the product of family violence.<sup>19</sup>

## Defining Coercive and Controlling Behaviour in the Context of Domestic Violence

Manifestations of coercive and controlling behaviour may include physical, sexual, and emotional abuse, financial control, implicit or explicit threats to the partner or ex-partner, and against their children, belongings, or pets.<sup>20</sup> Coercive and controlling behaviour does not relate to a single incident, but a pattern of behaviour that takes place repeatedly and continuously. Indeed, taken on their own, certain behaviours may seem normal, but when considered all together, they amount to coercive and controlling behaviour.<sup>21</sup> As explained by Professor Carmen Gill of the University of New Brunswick, Department of Sociology:

Of course, there is physical violence and sexual violence, but there are tactics, as well, that are going to include limiting transportation, denying access to household, controlling food consumption, disconnecting phone lines, breaking cell phones or

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17 JUST, [Evidence](#), 4 February 2021 (Heidi Illingworth).

18 Ibid.

19 JUST, [Evidence](#), 18 February 2021 (Nishan Duraiappah, Chief, Peel Regional Police).

20 JUST, [Evidence](#), 16 February 2021 (Julie Matthews, Executive Director, Sussex Vale Transition House). See also: JUST, [Evidence](#), 2 February 2021 (Nathalie Levman, Senior Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall, Department of Sociology, University of New Brunswick).

21 JUST, [Evidence](#), 4 February 2021 (Carmen Gill).



preventing them from going to work or going to school. If you accumulate all those forms of behaviour, combined together, they are going to fall under coercive control.<sup>22</sup>

This point was also illustrated by Andrea Silverstone, Executive Director, Sagesse Domestic Violence Prevention Society, who noted:

What's most important to recognize about coercive control is that it's a pattern of behaviour that is low-level, repetitive, often doesn't involve physical violence and takes away a person's sense of personal agency. They no longer make decisions based on what their own best interests are or what their driving motivators are, but they make decisions based on fear of what the other person in the relationship is going to do to them if they don't make a decision in a certain way.<sup>23</sup>

There is no universally accepted definition of coercive and controlling behaviour but, as Megan Stephens noted, “[w]hile there are many different working definitions of coercive control, it's generally understood as a course of intimidating, degrading and regulatory practices used by abusers to instill fear and threat into the everyday lives of their victims.”<sup>24</sup> Victims of coercive and controlling behaviour are deprived of their liberty and autonomy.<sup>25</sup> The intent is to gain and maintain power and control and “strip away a person's freedom and their sense of self.”<sup>26</sup> As illustrated by Genevieve Isshak:

Abusive behaviours are intended to cause fear and gain power and control over a woman's thoughts, beliefs and actions. Controlling another person's thoughts, beliefs and actions does not require specific overt acts of violence, although those acts certainly may be occurring as well.<sup>27</sup>

Isolating victims is an important aspect of coercive and controlling behaviour, as noted by Genevieve Isshak:

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22 Ibid.

23 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

24 Of note, the concept of coercive and controlling behaviour “has long been recognized by both front-line service providers and academics as lying at the core of intimate partner violence.” JUST, [Evidence](#), 16 February 2021 (Megan Stephens). For additional information about defining coercive and controlling behaviour, see also: JUST, [Brief](#), February 2021 (Lori Chambers, Professor, Gender and Women's Studies, Lakehead University).

25 JUST, [Evidence](#), 18 February 2021 (Carla Neto, Community Programs Manager, Women's Habitat of Etobicoke).

26 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

27 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak).



Abusive partners use isolation—both physical and psychological—as a means to control their partner’s contact with friends and family to emotionally bind the partner to them with the shackles of fear, dependency and coercive tactics of control.<sup>28</sup>

As will be discussed further in later sections, social isolation hinders victims’ access to support and legal protections.

Coercive and controlling behaviour also occurs post-separation.<sup>29</sup> In fact, “[i]t is commonly recognized that the most dangerous time for a woman experiencing intimate partner violence is at the time of separation.”<sup>30</sup> As explained by Carla Neto, Community Programs Manager, Women’s Habitat of Etobicoke, the tactics used post-separation can take many forms, including discrediting victims as parents by accusing them of having drug or mental health issues, making threats to the children to kill the other parent if they “choose to reside with the victim in situations of child custody,”<sup>31</sup> or simply not abiding by child custody agreements.

As explained by Professor Lori Chambers of Lakehead University, Department of Gender and Women’s Studies, the legal system is used to extend the coercive and controlling behaviour beyond separation.<sup>32</sup> Carla Neto said that, in the context of domestic violence, “state-sanctioned structures [are used by the abusers] ... to continue to coerce and control women through custody of and access to the children.”<sup>33</sup>

Victims of coercive and controlling behaviour can be under constant surveillance, a state that can be facilitated by the use of digital technologies and social media platforms. Technological advancements, such as GPS, small cameras, smartphones, and various social media platforms, allow abusers “to extend harm, isolation and control regardless of victims’ physical locations.”<sup>34</sup> Even after separation, “it [is] very difficult for the woman to truly separate from her abuser.”<sup>35</sup> Manifestations of cyber-violence are numerous, including “sending persistent or threatening text messages; impersonating

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28 Ibid.

29 The Family Dispute Resolution Institute of Ontario explains in its brief that those behaviours do not cease as a result of separation, criminal charges, or convictions. Indeed, they can often be aggravated by these factors. JUST, [Brief](#), February 2021. Also see JUST, [Brief](#), February 2021 (Angela Matthews, As an individual).

30 JUST, [Brief](#), February 2021, p. 3 (Carmen Gill and Mary Aspinall).

31 JUST, [Evidence](#), 18 February 2021 (Carla Neto).

32 JUST, [Brief](#), February 2021 (Lori Chambers).

33 JUST, [Evidence](#), 18 February 2021 (Carla Neto).

34 JUST, [Brief](#), February 2021, p. 2 (Lori Chambers).

35 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

the victim; or distributing private information or sexual content about the victim online.”<sup>36</sup>

The witnesses who participated in the Committee’s study were in complete agreement: coercive and controlling behaviour must be recognized and considered by the legal system in order to protect the victims and prevent further violence. Some forms of coercive and controlling behaviour are currently criminal offences, but many of these behaviours do not correspond to a criminal offence, as explained by Professor Janine Benedet of the University of British Columbia’s law school: “Threatening to destroy someone’s property or keeping them away from their friends doesn’t really amount to the offence of unlawful confinement, which requires physical restraint of the person.”<sup>37</sup> This absence of a criminal offence that recognizes the experiences of victims of coercive and controlling behaviour is discussed in the section entitled “Gaps in the Law.”

### Harms Resulting from Coercive and Controlling Behaviour

The harms resulting from coercive and controlling behaviour are cumulative over time,<sup>38</sup> and, as argued by Professor Jennifer Koshan from the University of Calgary’s Faculty of Law, “can be intensified and unique for persons experiencing intersecting inequality, such as Indigenous, racialized and migrant women.”<sup>39</sup> As previously stated, coercive and controlling behaviour affects a victim’s sense of self-worth and creates “barriers to accessing the resources they need to get away from an abuser.”<sup>40</sup> While it is possible that the violence endured by the victim will never be physical,<sup>41</sup> the evidence indicates that coercive and controlling behaviour is a strong precursor to physical violence. In the words of Professor Janine Benedet, physical violence is “omnipresent as the backup to any resistance to the controlling behaviour.”<sup>42</sup> This point was also made by Carla Neto, who noted:

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36 JUST, [Brief](#), February 2021, p. 3. (Carmen Gill and Mary Aspinall). See also: JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

37 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

38 JUST, [Evidence](#), 4 February 2021 (Carmen Gill).

39 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan, Professor, Faculty of Law, University of Calgary, As an Individual).

40 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

41 JUST, [Evidence](#), 16 February 2021 (Maud Pontel, Provincial Co-coordinator, Alliance des maisons d’hébergement de 2<sup>e</sup> étape pour femmes et enfants victimes de violence conjugale).

42 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).



Although we can't say that coercive control will always eventually result in physical abuse, it is fair to say that in our experience and work with victims and survivors of abuse, all physical abuse was preceded by and will continue to include coercive control.<sup>43</sup>

On that point, Lisa Smylie, Director General, Communications and Public Affairs Branch, Research, Results and Delivery Branch, Department for Women and Gender Equality, reminded the Committee that “when one woman is killed every seven days by a partner, that isn't the first violence that they have experienced.”<sup>44</sup> Not surprisingly, witnesses repeatedly told the Committee that addressing coercive and controlling behaviour “may serve to prevent further serious violence.”<sup>45</sup>

Based on the evidence heard by the Committee, a pattern of coercive and controlling behaviour can be more damaging than a single violent incident. As illustrated by Genevieve Isshak, women's experiences tell us “that those psychological effects, the controlling, are much more long-lasting.”<sup>46</sup> As put forth by Professor Janine Benedet:

I would discourage you from thinking that somehow coercive control is less, that it's just a step en route to physical violence, which is invariably more serious. Sometimes this behaviour is so enormously degrading and harmful that it eclipses the physical violence in the woman's experience.<sup>47</sup>

Professor Jennifer Koshan also reminded the Committee that “coercive control is a risk factor for femicide.”<sup>48</sup> Andrea Silverstone noted that it is indeed “one of the best indicators of lethality.”<sup>49</sup> It is widely documented that the risk of lethal reactions in the context of domestic violence is significant, particularly when women attempt to leave

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43 JUST, [Evidence](#), 18 February 2021 (Carla Neto).

44 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

45 JUST, [Evidence](#), 4 February 2021 (Janine Benedet). See also: JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

46 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak).

47 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

48 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan). Similar arguments were made by other witnesses throughout the study.

49 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

the abusive relationship.<sup>50</sup> To illustrate the magnitude of femicide in this context, “[i]n Quebec, a woman is a victim of attempted murder by her ex-partner every 10 days.”<sup>51</sup>

During the Committee’s study, a few witnesses noted that when abusers have access to firearms, the risks of lethality are heightened.<sup>52</sup> Chief Nishan Duraipappah noted the following:

The access to firearms—legal or illegal—is just another factor that compounds the risk to an individual. With the legislative ability, especially the new bill, we know there are opportunities now for application to the firearms officer when there's even just a risk or a possibility of risk to look for either a temporary retraction or prohibition of the firearms. I keep coming back to that quiver analogy; we'll take any tool we can get. I think there's no one solution to mitigate risk for intimate partner or family violence, but every incremental change that can help us round off a corner, even though it might not be dealing with the highest or most immediate risk, in my view is a benefit to us.<sup>53</sup>

Julie Matthews, Executive Director of Sussex Vale Transition House, noted:

The abuser's owning or keeping of guns in the household not only increases the risk of homicide, but the guns can be used as psychological tools to control or coerce behaviour simply because they are present.<sup>54</sup>

In the context of coercive and controlling behaviour, these witnesses were of the view that any effort to remove firearms from the home has the potential to prevent harm.<sup>55</sup>

Throughout the study, several witnesses stressed the importance of considering the situation of children who are living in these conditions and recognizing the harms coercive and controlling behaviour causes to them, even when they are not direct victims. As explained by Simon Lapierre, a professor at the University of Ottawa’s School of Social Work who represented the organization Quebec contre les violences sexuelles before the Committee:

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50 JUST, [Brief](#), February 2021 (Lori Chambers).

51 JUST, [Evidence](#), 16 February 2021 (Gaëlle Fedida, Provincial Co-coordinator, Alliance des maisons d’hébergement de 2<sup>e</sup> étape pour femmes et enfants victimes de violence conjugale).

52 JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah; Abimbola Ajibolade, Executive Director, The Redwood); JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

53 JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah).

54 JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

55 JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah; Abimbola Ajibolade); JUST, [Evidence](#), 16 February 2021 (Julie Matthews).



There is a general tendency to consider that when children are exposed to domestic violence, they are exposed to isolated incidents or acts or a series of isolated acts. However, children's experience shows us that those who live in a context of domestic violence are in fact exposed to a set of strategies that correspond to controlling or coercive behaviours. These children are affected by the set of strategies deployed by the perpetrators of domestic violence. These strategies have repercussions on the mothers of these children, but also on the children themselves, since they live their daily lives in an atmosphere of tension and terror.<sup>56</sup>

Research indicates that the harms of coercive and controlling behaviour on children are numerous. Children living in coercive control environments show symptoms of PTSD, depression, anxiety, and school disengagement. Moreover, they are often less successful in school and have difficulty concentrating.<sup>57</sup>

## The Impact of the COVID-19 Pandemic on Domestic Violence

Since the COVID-19 pandemic was declared, the safety of many women and children has been threatened. The restrictions resulting from the pandemic augmented the risk of domestic violence. According to several frontline workers who testified before the Committee, the restrictions resulted in more frequent and severe violence, and created greater obstacles for victims to access services and protections.

### Heightened Risks of Domestic Violence

Different risk factors associated with domestic violence, such as social isolation, loss of employment, and reduced income were exacerbated during the COVID-19 pandemic. Other risk factors related more precisely to the pandemic restrictions, such as victims being forced to spend more time with their abusers in their homes, increased stress resulting from the closure of schools and childcare facilities, and reduced opportunities to leave abusive partners, contributed to put many more women and children at risk.

In Canada, it is estimated that rates of domestic violence increased by 30% since the beginning of the pandemic.<sup>58</sup> For many shelters across the country, the violence reported during these unprecedented times has been not only more frequent, but

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56 JUST, [Evidence](#), 16 February 2021 (Simon Lapierre, Professor, School of Social Work, University of Ottawa, Québec contre les violences sexuelles).

57 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

58 JUST, [Brief](#), February 2021 (Sagesse Domestic Violence Prevention Society).

also more severe.<sup>59</sup> Indeed, a survey conducted by Women’s Shelters Canada in November 2020 showed that, “52% of their shelters across the country were seeing more severe, more frequent forms of violence than before the pandemic.”<sup>60</sup>

A survey conducted by Statistics Canada also revealed that, during the pandemic, one in 10 Canadian women was “very or extremely concerned about the possibility of violence in the home.”<sup>61</sup>

### Challenges in Accessing Services During the COVID-19 Pandemic

As noted by Stéphanie Bouchard, Senior Legal Counsel and Director, Department of Justice, the pandemic has “brought to light many of the violence-related challenges victims face” in their homes.<sup>62</sup> As recounted by several witnesses, “the most common location of abuse for women and their children is in their own homes.”<sup>63</sup> When your home is not a safe place to be, stay at home orders put you at greater risk of violence.

As pointed out by witnesses, the stay at home orders have created the perfect environment for abusers who use isolation to control their partner’s contacts with family and friends. The isolation resulting from these orders and the constant surveillance of phones and internet use have left the victims with little opportunity to reach out for support or escape their abuser.<sup>64</sup> For those women from marginalized communities or living in rural or remote areas, who have limited access to technologies, the pandemic has contributed to an even greater isolation and impeded their capacity to access the services they need. As explained by Carla Neto:

[T]he pandemic has created even more challenges. We have women who are not able to access our services. Although we are not having in-person services, we do have virtual services. We provide support via the phone. These women, they can't. They often call us

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59 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie). See also: JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak); JUST, [Evidence](#), 18 February 2021 (Yasmine Youssef).

60 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

61 Statistic Canada, [Canadian Perspectives Survey Series 1: Impacts of COVID-19](#), *The Daily*, 2020.

62 JUST, [Evidence](#), 2 February 2021 (Stephanie Bouchard, Senior Legal Counsel and Director, Department of Justice).

63 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak). See also: JUST, [Evidence](#), 4 February 2021 (Carmen Gill).

64 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak).



from the washroom. They often call us from the laundry room. The level of vulnerability has increased to the degree where they're really afraid for their lives now.<sup>65</sup>

Frequent changes in restrictions applicable in different parts of the country have also contributed to confusion. As a result, several victims have not reached out, thinking that the services have not been operating during the pandemic when, in fact, they are.<sup>66</sup>

The Committee recognizes and commends the work done by victim service providers across the country to adjust to the restrictions imposed throughout the pandemic.<sup>67</sup> The Committee also recognizes that organizations and government officials from all levels of government “are working hard to find practical and effective ways of helping victims during the pandemic.”<sup>68</sup> Nevertheless, like many witnesses, the Committee believes that more needs to be done to reach out to victims, who are struggling more than ever during this pandemic.

Other barriers not related directly to the COVID-19 pandemic also hinder victims’ access to services. As previously mentioned, it is often difficult for women, family, friends, and first responders to recognize patterns of coercive and controlling behaviour.<sup>69</sup> Maud Pontel, Provincial Co-coordinator, Alliance des maisons d’hébergement de 2<sup>e</sup> étape pour femmes et enfants victimes de violence conjugale, told us the following:

Realizing that you are experiencing domestic violence can take time. We aren't talking about an episode of violence at the beginning of the relationship, but about an insidious dynamic that can take time to establish.<sup>70</sup>

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65 JUST, [Evidence](#), 18 February 2021 (Carla Neto).

66 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak).

67 The Committee was informed, for example, that The Redwood was able to expedite and launch the iDetermine platform, a 24/7 live chat and texting option for women and children in need, in May 2020. Within the first six months, 700 calls for assistance came through the platform. JUST, [Evidence](#), 18 February 2021 (Abimbola Ajibolade). In the same vein, the “Canadian Women's Foundation did a campaign to put out a hand signal to increase awareness and to ensure that when people see the hand signal—putting your palm to the camera, tucking in your thumb and closing your fist—they know it means, on a Zoom call like this, that someone is in trouble and needs help... There's the Arc app. Those who are experiencing gender-based violence can download the app and privately, securely and safely record the behaviours they're experiencing. They can upload photos, or they can take video and can provide an evidence base for the abuse they're experiencing.” JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

68 JUST, [Evidence](#), 2 February 2021 (Stéphanie Bouchard).

69 JUST, [Evidence](#), 18 February 2021 (Carla Neto).

70 JUST, [Evidence](#), 16 February 2021 (Maud Pontel).



Furthermore, as previously mentioned, these women live “in fear on a daily basis but also in fear of being unable to survive on their own if they were to leave.”<sup>71</sup> When victims do not have access to money, it makes it difficult for them to gain financial independence that would allow them to escape.<sup>72</sup> As discussed in the final sections of the report, increasing public awareness is key to ending such violence.

Overall, the Committee study reveals how critical community-based organizations, such as women’s shelters and Indigenous-specific organizations like friendship centres, are for supporting and protecting victims of domestic violence and preventing gender-based violence more generally. Throughout the study, several crucial initiatives and programs to support and protect victims of domestic violence were mentioned. For example, the Committee was informed of culturally sensitive services and programs led by organizations such as the National Association of Friendship Centres, Nisa Homes, and the Redwood. These organizations’ understanding of cultural and systemic factors allows victims from marginalized communities to feel safe to disclose their abuse and feel supported. The Committee was also told of a program in Alberta provided through friendship centres entitled “I am a kind man” that addresses the needs of men who have been violent in order to prevent further violence.<sup>73</sup> In their briefs, the Redwood and the Family Dispute Resolution Institute of Ontario address the importance of supporting and working towards rehabilitating these individuals who are responsible for the abuse in order to break the cycle of violence.<sup>74</sup>

Unfortunately, crucial organizations providing services to women and children across the country often lack the funding and resources necessary to meet the needs of their communities. For example, the Committee learned that there is only one shelter and 42 beds available for women experiencing domestic violence in Windsor-Essex, Ontario, a county serving over 400,000 people, which is clearly insufficient.<sup>75</sup> Resources for women living in rural, remote and other underserved areas are also inadequate.<sup>76</sup> As noted by Julie Matthews, victims living in rural areas may have limited access to transportation to get to the services they need. Moreover, when everyone knows

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71 JUST, [Evidence](#), 18 February 2021 (Reena Vanza, Counselor and Mental Health Promoter, Nisa Homes).

72 JUST, [Brief](#), February 2021 (Lori Chambers); JUST, [Evidence](#), 18 February 2021 (Carla Neto; Yasmine Youssef; Abimbola Ajibolade).

73 JUST, [Evidence](#), 18 February 2021 (Jocelyn Formsma, Executive Director, National Association of Friendship Centres).

74 JUST, [Brief](#), February 2021 (The Redwood); JUST, [Brief](#), February 2021 (Family Dispute Resolution Institute of Ontario).

75 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak).

76 JUST, [Brief](#), February 2021 (Canadian Labour Congress).



everyone, it can be more difficult for victims to find a safe place to stay where their abuser will not find them.<sup>77</sup> What is clear from the testimony is that the lack of resources hinders many women's ability to find the assistance and protection they need.

It is crucial that these organizations receive adequate funding.<sup>78</sup> Ensuring that they have access to additional funding to cope is even more crucial during a crisis, such as the pandemic, which contributes to increased demands for assistance and requires innovative methods to reach victims.

In response to the pandemic, since March 2020, the federal government has invested over \$100 million to support shelters, sexual assault centres, and organizations providing supports to women and children experiencing gender-based violence. According to Lisa Smylie, this funding "has helped more than 700,000 women and children during the pandemic," and has been vital in keeping organizations running and assisting them in tailoring some of their services to online support services.<sup>79</sup> This is in addition to funding as part of Canada's Strategy to Prevent and Address Gender-Based Violence, which was launched by the federal government in 2017. Starting in 2017-18 until 2022-23, the Government invested over \$200 million to prevent and address gender-based violence. It also committed to an ongoing \$40 million per year starting in 2022-23.<sup>80</sup>

Several witnesses were very supportive of the agreement recently reached among ministers responsible for the status of women from across Canada to develop a national action plan to end gender-based violence.<sup>81</sup> The agreement includes the creation of a framework with new programs and laws. This action plan will involve the federal, provincial, and territorial governments as well as many survivors, community organizations, and other experts on gender-based violence, working together to prevent gender-based violence. The opportunities provided by this new vehicle for change are discussed further in the last sections of the report.

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77 JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

78 JUST, [Evidence](#), 18 February 2021 (Carla Neto). See also: JUST, [Evidence](#), 2 February 2021 (Lisa Smylie); JUST, [Evidence](#), 18 February 2021 (Yasmine Youssef).

79 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

80 Ibid. For additional information on the federal strategy, see Status of Women Canada, [The Gender-Based Violence Strategy](#).

81 JUST, [Brief](#), February 2021 (UFCW Canada). See also: Julie Ireton, "[After decades of talk, national action plan to protect women finally in the works](#)," *CBC*, 3 February 2021; Joint Declaration for a Canada free of Gender-Based Violence.

## CHAPTER 3 – THE CURRENT LEGAL SYSTEM RESPONSE

### Existing Protections and Remedies in Canadian Law

As several witnesses noted, there are a number of existing offences under the *Criminal Code* that can be used to address domestic violence-related conduct. These include offences related to:

- physical or sexual violence, such as assault (sections 265-268), sexual assault (sections 271-273), non-consensual distribution of intimate images (section 162.1), and forceable confinement (section 279(2));
- psychological or emotional abuse, such as uttering threats (section 264.1), trespassing at night (section 177), intimidation (section 423), indecent and harassing communications (section 372), and criminal harassment (section 264);
- financial abuse, such as theft (sections 322, 328-330, and 334), extortion (section 346), and fraud (section 380).<sup>82</sup>

Under section 810 of the *Criminal Code*, anyone who causes someone to have a reasonable fear of personal injury (including to their spouse or child) or damage to property may be required to enter into a recognizance to keep the peace and be of good behaviour for up to a year, otherwise known as a peace bond. As with many court orders, breaching a peace bond is a criminal offence (section 811).

Amendments to the *Criminal Code* passed in 2019 with the coming into force of Bill C-75 “strengthened the criminal law’s response to intimate partner violence” by reversing the onus of proof on bail for repeat offenders, allowing for longer maximum sentences for repeat offenders, and clarifying that abuse of an intimate partner or family member is an aggravating factor in sentencing.<sup>83</sup> Unfortunately, evidence regarding the practical impact of this bill is not yet available.<sup>84</sup>

The issue of domestic violence has also been addressed in the family law context. In particular, the Committee heard about amendments to the *Divorce Act*, which came into force on 1 March 2021, that explicitly recognize coercive and controlling behaviour as

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82 For a comprehensive overview of existing family violence laws, see: Department of Justice, [Family Violence Laws](#).

83 JUST, [Evidence](#), 2 February 2021 (Stéphanie Bouchard speaking for Nathalie Levman).

84 JUST, [Evidence](#), 2 February 2021 (Nathalie Levman).



part of a definition of “family violence,” regardless of whether the conduct constitutes a criminal offence. As a result, judges are now required to consider coercive and controlling behaviour as a factor informing the best interests of the child when determining parenting arrangements.<sup>85</sup>

Victims of domestic violence may also seek civil protection orders such as restraining orders and emergency intervention orders provided for in provincial family law and/or family violence legislation.<sup>86</sup>

## Problems with the Law’s Implementation in Practice

### Underreporting to the Police

As previously mentioned, the reasons for underreporting intimate partner victimizations to the police are myriad. Without broader societal awareness of coercive and controlling behaviour, it can take time for victims to recognize the serious nature of the abuse they are experiencing.<sup>87</sup> Friends and neighbours may fail to intervene due to a belief that the conduct is not violent, or not a serious form of abuse.<sup>88</sup>

Throughout the study, witnesses highlighted victims’ lack of confidence in the police and the justice system as a significant impediment to reporting.<sup>89</sup> Such concerns are heightened for Indigenous, racialized, and other marginalized communities who have experienced systemic discrimination within the justice system.<sup>90</sup> As Heidi Illingworth stated: “We have to look at what the response of the criminal justice system is to these communities. Traditionally, it hasn’t been positive. They are disbelieved and the violence

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85 JUST, [Evidence](#), 2 February 2021 (Claire Farid, Director and General Counsel, Department of Justice), referring to [Bill C-78](#).

86 JUST, [Evidence](#), 2 February 2021 (Stéphanie Bouchard speaking for Nathalie Levman). [Saskatchewan](#) and [Alberta](#) have also recently passed versions of “Clare’s Law,” first implemented in England and Wales, which allows police to disclose information about a person’s past violent conduct to an intimate partner who may be at risk in certain circumstances.

87 JUST, [Evidence](#), 16 February 2021 (Megan Stephens); JUST, [Evidence](#), 18 February 2021 (Kimberley Greenwood).

88 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

89 JUST, [Evidence](#), 18 February 2021 (Nishan Duraiappah). See also: JUST, [Evidence](#), 4 February 2021 (Janine Benedet); JUST, [Evidence](#), 16 February 2021 (Maud Pontel; Megan Stephens).

90 JUST, [Evidence](#), 18 February 2021 (Christopher Sheppard, President, National Association of Friendship Centres); JUST, [Brief](#), February 2021 (Les Femmes Michif Otipemisiwak/Women of the Métis Nation); JUST, [Brief](#), February 2021 (The Redwood); JUST, [Brief](#), February 2021 (Tracy Coates, Waasabiik Consulting Services).

they've experienced is minimized.”<sup>91</sup> Megan Stephens echoed these sentiments: “many survivors, particularly those from marginalized or vulnerable communities, face real barriers to reporting, including a distrust of police. Real work is needed to restore the trust of survivors in police and the justice system more generally.”<sup>92</sup>

Victims may also be dependent on their abusive partners in various ways including financially, as mentioned earlier.<sup>93</sup> As noted by the Office of the Federal Ombudsman for Victims of Crime, “The abuser as the main provider for the family is another nuance: sending the abuser to jail means sending the provider away.”<sup>94</sup> Furthermore, victims may fear that reporting to the police will lead to adverse legal consequences. “I think that victims have a great fear that they are going to lose their children if they even bring it up,” stated Julie Matthews.<sup>95</sup> Professor Jennifer Koshan also flagged the danger of women being criminalized by the very laws that are intended to protect them.<sup>96</sup> As stated by The Redwood:

A call to the police for a family violence-related incident can serve as a trigger event from which criminal, family law, child protection, and immigration issues can flow. [...] This fear can deter survivors from seeking state assistance, especially those from more vulnerable cohorts such as immigrants; and those from over-policed, over-incarcerated communities, the same communities that tend to see an over-representation of their children apprehended within the child protection system.<sup>97</sup>

In Chief Nishan Duraipappah’s words: “What I think goes through everybody's mind is: Is this phone call to the police actually going to compound my situation and make it worse?”<sup>98</sup>

In some Canadian jurisdictions, such concerns may be heightened by the tendency for different legal systems to operate in silos. As Genevieve Isshak urged, “all the systems have to work together. We know there's a disconnect between the criminal court

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91 JUST, [Evidence](#), 4 February 2021 (Heidi Illingworth). See also: JUST, [Evidence](#), 16 February 2021 (Megan Stephens); JUST, [Evidence](#), 18 February 2021 (Abimbola Ajibolade; Christopher Sheppard).

92 JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

93 JUST, [Brief](#), February 2021 (The Redwood).

94 JUST, [Brief](#), February 2021 (Office of the Federal Ombudsman for Victims of Crime).

95 JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

96 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

97 JUST, [Brief](#), February 2021, p. 9-10 (The Redwood). See also: JUST, [Evidence](#), 18 February 2021 (Abimbola Ajibolade; Nishan Duraipappah).

98 JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah).



system, the family court system and the community-based agencies.”<sup>99</sup> According to Gaëlle Fedida, Provincial Co-coordinator, Alliance des maisons d’hébergement de 2<sup>e</sup> étape pour femmes et enfants victimes de violence conjugale:

Currently, the two systems [civil and criminal] are completely sealed off from each other, unfortunately. Often, women are even advised not to talk about domestic violence in criminal cases, even in civil cases, in order not to lose their children or appear antagonistic, for example.<sup>100</sup>

These witnesses emphasized the importance of better coordination between criminal and family courts in particular, pointing to the proposal for a unified family court in Quebec as a promising development.<sup>101</sup>

### **Myths, Stereotypes, and the Failure to Recognize Women’s Experiences**

The reluctance of victims to report domestic violence stems in part from “the unwillingness of those in the first line of response—the police and later Crown counsel—to actually see and to recognize the experiences of women.”<sup>102</sup> “We stop reporting abuse because we’re never taken seriously,” stressed author and survivor Kamal Dhillon.<sup>103</sup> Witnesses emphasized the failure to believe victims as particularly problematic. This may be linked to gendered “myths and stereotypes about [women’s] credibility when they make allegations of domestic violence.”<sup>104</sup> As previously noted, women often feel they are not heard, believed or treated fairly. This, according to Maud Pontel, is victims’ “greatest fear, when they reveal what they’ve experienced.”<sup>105</sup> Women from marginalized communities may face particular challenges in having their experiences understood due to racist or discriminatory stereotypes.<sup>106</sup>

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99 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak).

100 JUST, [Evidence](#), 16 February 2021 (Gaëlle Fedida). See also: JUST, [Evidence](#), 16 February 2021 (Megan Walker, Executive Director, London Abused Women’s Centre).

101 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak); JUST, [Evidence](#), 16 February 2021 (Gaëlle Fedida and Maud Pontel).

102 JUST, [Evidence](#), 4 February 2021 (Janine Benedet). See also: JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

103 JUST, [Evidence](#), 16 February 2021 (Kamal Dhillon, Author, As an Individual).

104 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

105 JUST, [Evidence](#), 16 February 2021 (Maud Pontel).

106 JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

Chief Nishan Duraiappah recognized that “survivors’ experiences have probably seen a lack of reception from policing,” but also suggested that police have made progress on this front. He pointed to a lack of effective tools for intervention as contributing to the perception that police continue to not take domestic violence seriously.<sup>107</sup> However, the problem is not only with police. As Professor Jennifer Koshan observed:

Judges sometimes have difficulty seeing coercive control and, conversely, some survivors have been accused of coercive control when they were trying to protect their children from abuse, with negative consequences for their cases.<sup>108</sup>

This issue was also highlighted by Megan Walker, Executive Director, London Abused Women’s Centre: “so often judges are blaming women for being the ones that are coercive. Women are often blamed. They are losing their children to the courts.”<sup>109</sup> Professor Janine Benedet attributed this phenomenon to “the persistent stereotype that women engage in these family court processes only in order to punish dads and to keep them away from their kids.”<sup>110</sup> As noted above, the potential for such a negative reception in court may discourage victims from disclosing abuse to the authorities in the first place.

### **Underenforcement, Ineffective Protection, and Lack of Access to Courts**

The Committee heard from several witnesses who were critical of police and Crown counsel for “failing to use the tools they already have at their disposal” to intervene in situations of domestic violence.<sup>111</sup> In addition to the underenforcement of existing laws at the outset, witnesses pointed to the inadequacy of legal system responses in ongoing cases. For instance, Megan Walker noted: “The courts regularly reduce multiple charges against abusive men to one single charge, usually assault. That charge is then often withdrawn in exchange for a peace bond.”<sup>112</sup> While Nathalie Levman, Senior Counsel, Criminal Law and Policy Section, Department of Justice, described peace bonds as a “very useful tool” where there is insufficient evidence to support a criminal charge,<sup>113</sup> Megan Stephens was more skeptical: “Those who work on the front lines in shelters [...]

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107 JUST, [Evidence](#), 18 February 2021 (Nishan Duraiappah).

108 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

109 JUST, [Evidence](#), 16 February 2021 (Megan Walker).

110 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

111 Ibid. See also: JUST, [Evidence](#), 16 February 2021 (Megan Stephens; Gaëlle Fedida; Megan Walker).

112 JUST, [Evidence](#), 16 February 2021 (Megan Walker).

113 JUST, [Evidence](#), 2 February 2021 (Nathalie Levman).



I think would tell you that the 810 peace bonds are not all that helpful and that there is a gap.”<sup>114</sup>

Similar concerns were raised regarding other types of court orders intended to protect victims. Chief Nishan Duraiappah told the tragic story of a young woman who was shot and killed by her intimate partner after he was released from detention four times, despite repeatedly breaching no-contact orders, and being found with a loaded handgun on his person. He opined: “Repeat high offenders who show a propensity for victimization I think need to be treated differently from people who are provided a GPS [monitoring device].”<sup>115</sup> Kamal Dhillon pointed to the need for “[n]ot just a piece of paper that says ‘restraining order’, but something like an ankle bracelet, something more concrete, where the victims are protected and the perpetrator cannot lie and say he wasn’t there.”<sup>116</sup> Julie Matthews expressed similar concerns about women being denied emergency intervention orders because “the adjudicating officers don’t seem to understand the significance of the dangers that the women are in.”<sup>117</sup>

Professor Jennifer Koshan also highlighted the challenges victims face in accessing the courts, especially in light of the COVID-19 pandemic:

One barrier we haven’t talked about is the one that the courts themselves have created through hearing only urgent cases, and especially in the family law area that has really made it difficult for women to even get into court.<sup>118</sup>

## Evidentiary Challenges and the Potential for Revictimization

Witnesses, including several with direct experience working in the criminal justice system, also highlighted the challenges of successfully prosecuting criminal charges in cases of domestic violence. Chief Nishan Duraiappah explained that the “standard of proof for offences like criminal harassment or threatening is very specific and has a very confined context.”<sup>119</sup> Megan Stephens, who has over a decade of experience working as a Crown prosecutor, opined that “criminal harassment charges are challenging to prove at the best of times and would be particularly challenging in the context of an ongoing

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114 JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

115 JUST, [Evidence](#), 18 February 2021 (Nishan Duraiappah).

116 JUST, [Evidence](#), 16 February 2021 (Kamal Dhillon).

117 JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

118 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

119 JUST, [Evidence](#), 18 February 2021 (Nishan Duraiappah).



relationship where people are living together—and uttering threats, as well.”<sup>120</sup> According to her, the prosecution of any new offence for coercive and controlling behaviour would also raise significant challenges.<sup>121</sup>

Several witnesses expressed particular concern regarding the impact on victims of having to testify about events that occurred in the context of their relationships.<sup>122</sup> As Professor Jennifer Koshan warned, victims “are going to have to testify about very terrible traumas that have happened to them, and they will need supports to assist them in being able to do that.”<sup>123</sup>

Others also expressed concerns about the treatment of victims in the criminal justice process. “[I]n its very essence, criminal law too often challenges our experience and our reality. Since it is essentially focused on the rights of the accused, we are only witnesses,” stated Mélanie Lemay, Art Therapist and Co-founder, Québec contre les violences sexuelles.<sup>124</sup> The Redwood further elaborated in its brief:

The nature of criminal law, where the State sues the accused, and the survivor’s role is that of a witness, can also create fears surrounding the Crown’s ability to arrest and compel survivors to attend court as witnesses, against their will. The impact this can have on survivors includes re-traumatization, further loss of agency, and the passing of control from causer-of-harm to the State.<sup>125</sup>

## Gaps in the Law

There was a general consensus among witnesses that existing laws are inadequate to address coercive and controlling behaviour. Many witnesses were critical of the criminal law’s traditional focus on specific incidents of aggression. “Right now the criminal justice system prosecutes specific isolated incidents and typically violent incidents. That’s not really how intimate partner violence or domestic violence happens.”<sup>126</sup>

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120 JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

121 Ibid.

122 Ibid.; JUST, [Evidence](#), 16 February 2021 (Megan Walker); JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

123 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

124 JUST, [Evidence](#), 16 February 2021 (Mélanie Lemay, Art Therapist and Co-founder, Québec contre les violences sexuelles).

125 JUST, [Brief](#), February 2021, p. 10 (The Redwood).

126 JUST, [Evidence](#), 16 February 2021 (Megan Stephens). See also: JUST, [Evidence](#), 4 February 2021 (Heidi Illingworth); JUST, [Evidence](#), 18 February 2021 (Carla Neto); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).



The tendency to focus only on physical violence was of particular concern to Kamal Dhillon, who asked, “What about the abuse that has no visible signs?”<sup>127</sup>

Many suggested that the current incident-based approach limits how justice system actors understand and respond to domestic violence. “[W]ithout having an offence around coercive control in the *Criminal Code*, [the police] are not likely going to see certain behaviour as part of the dynamic of intimate partner violence.”<sup>128</sup> Professor Jennifer Koshan pointed to a similar problem amongst judges in family law matters: “They tend to see violence very much as an incident-based scenario, and they tend to rely much more on physical violence.”<sup>129</sup> Frontline service providers emphasized how their clientele are thereby faced with “a lack of understanding of their experience as a whole, since the preferred approach is one based on offences recognized in the Canadian *Criminal Code*.”<sup>130</sup>

Others indicated that police are often well aware of coercive control dynamics at play in a relationship but are unable to intervene because they lack the appropriate legislative tools.<sup>131</sup> “[T]here is no offence capturing coercive control in its totality.”<sup>132</sup> Even the offence of criminal harassment, which was specifically enacted to address patterns of behaviour and thus serves as an exception to the incident-based focus of criminal law,<sup>133</sup> was described as insufficient in many circumstances:

[S]ometimes we don't meet the threshold of criminal harassment or threatening. We just don't meet the definition, but we are clearly aware that the individual has imposed psychological, verbal or non-verbal pressures to restrict mobility, finances and a variety of different artifacts such as that.<sup>134</sup>

In the words of Professor Janine Benedet:

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127 JUST, [Evidence](#), 16 February 2021 (Kamal Dhillon).

128 JUST, [Evidence](#), 4 February 2021 (Carmen Gill).

129 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

130 JUST, [Evidence](#), 16 February 2021 (Maud Pontel). See also: JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

131 JUST, [Evidence](#), 4 February 2021 (Carmen Gill); JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah; Francis Lanouette, Co-Chair of the Crime Prevention, Community Safety and Well-being Committee, Canadian Association of Chiefs of Police).

132 JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).

133 JUST, [Evidence](#), 2 February 2021 (Nathalie Levman).

134 JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah).

[W]e are talking here about behaviours that aren't necessarily covered by any other provision. [...] It's a kind of psychological terror and punishment that has the effect of restricting people's day-to-day lives in a way that doesn't necessarily involve overt threats of violence or overt physical force.<sup>135</sup>

Ultimately, the message received from witnesses was that there is a gap in the law, and that “a paradigm shift” is needed in terms of the justice system’s approach to domestic violence.<sup>136</sup>

## CHAPTER 4 – POTENTIAL SOLUTIONS: WHAT THE COMMITTEE HEARD

### Experiences in Other Countries

Witnesses told the Committee that several American states have passed legislation to criminalize coercive and controlling behaviour, along with jurisdictions in the United Kingdom, Ireland, Australia, and France. Such laws are quite new, with the Australian state of Tasmania criminalizing economic and emotional abuse in 2004 and France criminalizing psychological violence in 2010. The first law specifically referring to coercive and controlling behaviour, in England and Wales, was adopted in 2015.<sup>137</sup> Much of the testimony focused on the laws in the United Kingdom.

Scotland implemented a new law in 2019 and took a different approach, creating a domestic abuse offence which includes all forms of abuse. The Scottish legislation:

concentrates on the evidence of perpetrated abuse rather than evidence of injury to the victim, the overall context as opposed to a single incident, it is based in human rights, and utilizes wording and experiences provided directly by women and children who have been impacted by these behaviours.<sup>138</sup>

Along with the legislative changes, British jurisdictions have developed several tools to assist police and prosecutors in identifying coercive and controlling behaviour and prosecuting the offence. These include a Statutory Guidance Framework, which outlines the types of conduct that can constitute coercive and controlling behaviour, and the

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135 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

136 JUST, [Evidence](#), 4 February 2021 (Carmen Gill); JUST, [Evidence](#), 16 February 2021 (Maud Pontel); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).

137 JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).

138 *Ibid.*, p. 6-7.



Domestic Abuse Stalking and Honour Based Violence tool, which helps police to evaluate whether coercive and controlling behaviour exists in a relationship.<sup>139</sup>

The British experience confirms that police often struggle to identify patterns of coercive and controlling behaviour, but that police training has been helpful.<sup>140</sup> Andrea Silverstone noted that improvements in training and increased comfort levels with the new offence over time have resulted in better evidence being collected.<sup>141</sup>

Several witnesses referred to statistics in England and Wales. The UK's Office for National Statistics noted a 49% increase in the number of coercive and controlling behaviour offences recorded by police in England and Wales between the year ending in March 2019 and the year ending in March 2020. During the year ending in December 2018, there were 516 prosecutions and 308 individuals convicted and sentenced where controlling or coercive behaviour, as the phenomenon is referred to there, was the principal offence. For the following year ending in December 2019, there were 584 prosecutions and 293 individuals convicted and sentenced.<sup>142</sup>

While the British legislative changes were seen as a positive step by most witnesses, some witnesses made suggestions for improvements. Professor Carmen Gill felt that the legislation in England and Wales, for example, should not limit the application of the offence to partners still living together.<sup>143</sup> The government has recently introduced amendments to expand the application of the offence to situations where the victim and abuser do not live together, in recognition of this gap in the law.<sup>144</sup>

The Redwood was also critical of the British experience with the application of the new law. They noted that charges have predominantly been brought against Muslim men. They also noted that there is no evidence that domestic violence rates have decreased since the coming into force of the legislation in 2015. The Redwood

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139 JUST, [Evidence](#), 18 February 2021 (Francis Lanouette); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall); Home Office, [Controlling or Coercive Behaviour in an Intimate or Family Relationship Statutory Guidance Framework](#), December 2015.

140 JUST, [Evidence](#), 2 February 2021 (Nathalie Levman).

141 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

142 Office for National Statistics, [Domestic abuse and the criminal justice system, England and Wales: November 2019](#); Office for National Statistics, [Domestic abuse and the criminal justice system, England and Wales: November 2020](#).

143 JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).

144 UK Government, [New laws to protect victims Added to Domestic Abuse Bill](#), 1 March 2021.

concluded that their “understanding of the benefits in the UK are all directly related to public and professional education campaigns, rather than the criminalization itself.”<sup>145</sup>

## Pros and Cons of Criminalizing Coercive and Controlling Behaviour

Witnesses were supportive of criminalizing coercive and controlling behaviour. As one witness stated:

It is unacceptable that in Canada, in 2021, a woman fleeing her partner's violence can be told by the authorities that her experiences or history are not sufficient elements to file a complaint, when all the elements of control and domination are present.<sup>146</sup>

Witnesses outlined several expected benefits if coercive and controlling behaviour is criminalized, with one describing it as a “game-changer.”<sup>147</sup> Such an offence is expected to:

- fill a gap in the law;<sup>148</sup>
- provide an additional tool for police to disrupt the cycle of violence earlier, prevent harm, and save lives;<sup>149</sup>
- permit earlier intervention by friends and neighbours;<sup>150</sup>
- change abusers’ behaviour by holding them accountable;<sup>151</sup>
- be “symbolically powerful,” showing that this morally reprehensible conduct is taken seriously;<sup>152</sup>

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145 JUST, [Brief](#), February 2021, p. 11 (The Redwood).

146 JUST, [Evidence](#), 16 February 2021 (Maud Pontel).

147 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone).

148 JUST, [Evidence](#), 4 February 2021 (Heidi Illingworth); JUST, [Evidence](#), 16 February 2021 (Gaëlle Fedida; Julie Matthews); JUST, [Evidence](#), 18 February 2021 (Francis Lanouette).

149 Many witnesses identified this point. See, for example: JUST, [Evidence](#), 16 February 2021 (Maud Pontel); JUST, [Evidence](#), 18 February 2021 (Nishan Duraiappah; Reena Vanza); JUST, [Brief](#), February 2021 (Lori Chambers).

150 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

151 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak); JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

152 JUST, [Evidence](#), 16 February 2021 (Megan Stephens); JUST, [Evidence](#), 18 February 2021 (Raheena Dahya, Lawyer and Family Law Mediator, The Redwood).



- empower women, validate victims' experiences, and affirm commitments to gender equality;<sup>153</sup>
- educate victims, the public, and individuals in the justice system about coercive and controlling behaviour;<sup>154</sup> and
- increase victims' confidence in the justice system and provide them with access to victim services.<sup>155</sup>

At the same time, witnesses warned that there are risks to criminalization. Witnesses highlighted several concerns during the study, though they are not exclusive to this proposed offence:

- there are operational, policing, and prosecutorial challenges to be addressed;<sup>156</sup>
- victims could be accused of the offence, particularly when trying to protect their children;<sup>157</sup>
- the new offence may be underutilized if victims fear that a call to police will trigger a loss of custody of the children, loss of income, or immigration issues;<sup>158</sup>
- Black, Indigenous, and other disproportionately incarcerated groups could be disproportionately affected, as they are generally in the criminal justice system;<sup>159</sup>

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153 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan); JUST, [Evidence](#), 18 February 2021 (Francis Lanouette; Reena Vanza); JUST, [Brief](#), 9 February 2021 (Lori Chambers).

154 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan); JUST, [Evidence](#), 16 February 2021 (Simon Lapierre); JUST, [Evidence](#), 18 February 2021 (Yasmine Youssef); JUST, [Brief](#), February 2021 (UFCW Canada).

155 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone); JUST, [Evidence](#), 16 February 2021 (Simon Lapierre; Maud Pontel).

156 JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

157 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

158 JUST, [Brief](#), February 2021 (The Redwood).

159 JUST, [Brief](#), February 2021 (Canadian Labour Congress).

- there is the potential for revictimization by the criminal justice system when testifying, including credibility being impugned and requests for access to medical and therapeutic records;<sup>160</sup> and
- reliance on criminal justice system solutions may not be as successful as hoped because of low levels of trust in the system, particularly for marginalized and vulnerable groups.<sup>161</sup>

### Recommendations Regarding *Criminal Code* Amendments

Bill C-247, An Act to amend the Criminal Code (controlling or coercive conduct), was introduced in the House of Commons by Randall Garrison on 5 October 2020.<sup>162</sup> The bill proposes to criminalize coercive and controlling behaviour:

**264.01 (1)** Everyone commits an offence who repeatedly or continuously engages in controlling or coercive conduct towards a person with whom they are connected that they know or ought to know could, in all the circumstances, reasonably be expected to have a significant impact on that person and that has such an impact on that person.<sup>163</sup>

The offence would be a hybrid offence with a maximum of five years imprisonment.<sup>164</sup>

The most consistent recommendation by witnesses regarding the text of Bill C-247 was to expand the application of the bill to include ex-partners, and possibly other family members, who may not be members of the same household as their abuser.<sup>165</sup>

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160 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan); JUST, [Evidence](#), 16 February 2021 (Megan Stephens); JUST, [Brief](#), February 2021 (Family Dispute Resolution Institute of Ontario).

161 JUST, [Evidence](#), 18 February 2021 (Christopher Sheppard).

162 LEGISinfo, [C-247, An Act to amend the Criminal Code \(controlling or coercive conduct\)](#).

163 House of Commons of Canada, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, [Bill C-247, An Act to amend the Criminal Code \(controlling or coercive conduct\)](#).

164 In a [June 2020 letter](#) to the Minister of Justice, the Federal Ombudsman for Victims of Crime also recommended creating a new criminal offence to address coercive and controlling behaviour in intimate relationships.

165 JUST, [Evidence](#), 4 February 2021 (Janine Benedet; Heidi Illingworth); JUST, [Evidence](#), 16 February 2021 (Simon Lapierre); JUST, [Evidence](#), 18 February 2021 (Kimberley Greenwood; Francis Lanouette); JUST, [Brief](#), February 2021 (Lori Chambers); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).



Some witnesses questioned whether the elements of the offence would be sufficiently clear to allow for appropriate evidence collection and prosecution.<sup>166</sup> Megan Stephens expressed concern that Bill C-247 is “unduly complex.” She also noted that, because it is inspired by the legislation in England and Wales, it may not reflect Canadian terms. She recommended using language inspired by existing provisions of the *Criminal Code*, such as criminal harassment and human trafficking offences.<sup>167</sup> She also cautioned that, as currently drafted, the offence requires proof of both the objective and subjective impact on the victim. The subjective element would require evidence that could revictimize the victim, as has occurred in sexual assault cases. Megan Stephens also noted that the objective element would be difficult to prove without a better understanding by justice system actors of coercive and controlling behaviour and what should be “reasonably seen as having a significant impact,” particularly where racist and other discriminatory stereotypes may affect perceptions of the victim.<sup>168</sup>

As noted previously, Professor Simon Lapierre recommended that children who are in a home with coercive and controlling behaviour be considered victims, whether they are the direct victim or exposed to the coercive and controlling behaviour, and that the punishment be more severe in such cases.<sup>169</sup> Others stressed the importance of considering how a new criminal offence would impact family law and child protection proceedings.<sup>170</sup>

Professor Janine Benedet said that, while it is already implicit in the language of Bill C-247, it might be beneficial to clearly state in the legislation that electronic means of controlling a victim are included in the offence.<sup>171</sup> Similarly, the Canadian Centre for Child Protection called for clarification of the term “violence” used in the bill to ensure use of technology is incorporated.<sup>172</sup>

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166 JUST, [Evidence](#), 18 February 2021 (Nishan Duraipappah); JUST, [Brief](#), February 2021 (Family Dispute Resolution Institute of Ontario).

167 See section 264 of the [Criminal Code](#) for the criminal harassment offence and section 279.01 and subsequent for human trafficking.

168 JUST, [Evidence](#), 16 February 2021 (Megan Stephens).

169 JUST, [Evidence](#), 16 February 2021 (Simon Lapierre).

170 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak; Jennifer Koshan).

171 JUST, [Evidence](#), 4 February 2021 (Janine Benedet).

172 JUST, [Brief](#), February 2021 (Canadian Centre for Child Protection).



Some witnesses also recommended considering the Scottish model.<sup>173</sup> Others suggested including a new offence for coercive and controlling behaviour within a larger reform to integrate all domestic violence-related offences in one area of the *Criminal Code* or separate legislation.<sup>174</sup> As Megan Walker explained:

[D]omestic violence-related crimes are spread out among at least 35 different sections in the Criminal Code, making it difficult to connect them to a pattern of behaviour by the male abuser to gain and maintain power and control over his partner... Domestic violence cases are different from other criminal cases. The present laws in Canada, under which perpetrators are charged, are simply not adequate for responding to the distinct dynamics present in domestic violence cases.<sup>175</sup>

## Recommendations for Additional Measures in Conjunction with Criminalization

While witnesses generally approved of criminalizing coercive and controlling behaviour, they also argued that *Criminal Code* amendments alone would be insufficient for real change.

### National Coordination and Review

Several witnesses spoke positively about the government's national action plan to end gender-based violence, as noted above. They recommended integrating reflections about criminalization and other measures to address coercive and controlling behaviour into the development of that plan to allow for broad consultation on the best approach to take. Some suggested creating a committee or taskforce to study coercive and controlling behaviour.<sup>176</sup>

The Office of the Federal Ombudsman for Victims of Crime recommended:

the creation of a task force or committee comprised of criminal justice representatives from all levels (police officers, prosecutors, defence lawyers) including experts on coercive controlling behaviours and IPV [intimate partner violence], and representatives of victim services, to lay the groundwork of the amendments needed before the

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173 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan); JUST, [Evidence](#), 16 February 2021 (Simon Lapierre); JUST, [Brief](#), February 2021 (Lori Chambers); JUST, [Brief](#), February 2021 (Sagesse Domestic Violence Prevention Society).

174 JUST, [Evidence](#), 16 February 2021 (Megan Walker); JUST, [Brief](#), February 2021 (Canadian Labour Congress).

175 JUST, [Evidence](#), 16 February 2021 (Megan Walker).

176 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak; Jennifer Koshan); JUST, [Evidence](#), 16 February 2021 (Mélanie Lemay; Megan Stephens).



proposed legislation is brought into effect. [It] recommend[ed] that the Committee studying this Bill uses the GBA+ analysis, and consults with a wide variety of experts, including hearing the lived experiences of victims and survivors, Indigenous communities, Black people, people of colour (POC), disabled individuals, and members of the 2SLGBTQIA community to ensure diverse voices are considered in the discussion around this proposed legislation.<sup>177</sup>

In a letter to the Committee, the RCMP welcomed the opportunity to be involved in such efforts.<sup>178</sup> Tracy Coates, Waasabiik Consulting Services, called for system-wide changes, many of which are outlined above, to address the complexities of domestic violence and coercive and controlling behaviour.<sup>179</sup> It is clear to the Committee that criminalization must be accompanied by coordinated measures if it is to result in meaningful change for victims.

Witnesses also called for ongoing review if coercive and controlling behaviour is criminalized. This could be in the form of a statutory review which, according to Andrea Silverstone, has been helpful in England and Wales, or the creation of an independent oversight body or commission of inquiry. Andrea Silverstone also suggested the creation of a position of “coercive control and abuse commissioner for Canada.”<sup>180</sup>

## Public Education and Training for Justice System Actors

Many witnesses saw education of both the public and justice system actors, including the police, lawyers, and the judiciary, as essential for a specific criminal offence for coercive and controlling behaviour to have a meaningful impact.<sup>181</sup>

Yasmine Youssef, National Manager, Nisa Homes, told the Committee that women need to realize that coercive and controlling behaviour is abuse and education could allow them to recognize the patterns earlier and get out of the relationship.<sup>182</sup> Similarly, bystanders need to be able to recognize the signs and know how to intervene. Public awareness campaigns are crucial for this purpose.<sup>183</sup>

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177 JUST, [Brief](#), February 2021, p. 5 (Office of the Federal Ombudsman for Victims of Crime).

178 JUST, Correspondence, February 2021 (Brenda Lucki, Commissioner, Royal Canadian Mounted Police).

179 JUST, [Brief](#), February 2021 (Tracy Coates).

180 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone); JUST, [Brief](#), February 2021 (Tracy Coates).

181 JUST, [Evidence](#), 4 February 2021 (Andrea Silverstone); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall); JUST, [Brief](#), February 2021 (The Redwood); JUST, [Brief](#), February 2021 (Angela Matthews).

182 JUST, [Evidence](#), 18 February 2021 (Yasmine Youssef).

183 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie).

Professor Jennifer Koshan noted that judicial decisions demonstrate that judges are not recognizing coercive and controlling behaviour and instead tend to focus on physical violence. Lawyers are often not screening for domestic violence either, affecting how cases unfold, especially in family law.<sup>184</sup> Police also struggle at times to identify coercive and controlling behaviour, as noted above. This will not change without education. As Heidi Illingworth explained: “You can't just pass criminal law and hope that the situation is going to change. There have to be resources behind implementation—monitoring, evaluation and ongoing training.”<sup>185</sup>

Training must provide concrete tools and knowledge to support the identification of coercive and controlling behaviour, address stereotypes, build trust with victims, collect evidence, and prosecute these cases. In her brief, Tracy Coates recommended that training include education about gender-based analysis+, how to distinguish parental alienation from efforts to protect children from abuse, the phenomenon of litigation abuse, and the impact of various forms of abuse on mothers and children.<sup>186</sup> Training must also be intersectional, include information about Indigenous histories, traditions, and current realities, recognize the distinct needs of First Nations, Métis, and Inuit people, and acknowledge the experiences of marginalized communities within the justice system.<sup>187</sup> Yasmine Youssef stated, “we know that often that first response can make it or break it for a survivor.”<sup>188</sup> This is why training is so important.

Justice system actors such as police, prosecutors, and judges also need assessment tools and policies to guide them. This has proven key in countries such as the United Kingdom, as noted above, and police witnesses testified to the Committee of its importance. Chief Kimberley Greenwood, Vice-President of the Board of Directors, Canadian Association of Chiefs of Police, noted the importance of collaboration with academics, service providers, and survivors in developing such tools.<sup>189</sup>

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184 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

185 JUST, [Evidence](#), 4 February 2021 (Heidi Illingworth).

186 JUST, [Brief](#), February 2021 (Tracy Coates).

187 JUST, [Evidence](#), 18 February 2021 (Christopher Sheppard; Yasmine Youssef); JUST, [Brief](#), February 2021 (Les Femmes Michif Otipemisiwak/Women of the Métis Nation).

188 JUST, [Evidence](#), 18 February 2021 (Yasmine Youssef).

189 JUST, [Evidence](#), 2 February 2021 (Nathalie Levman); JUST, [Evidence](#), 4 February 2021 (Heidi Illingworth); JUST, [Evidence](#), 18 February 2021 (Kimberley Greenwood); JUST, [Brief](#), February 2021 (Carmen Gill and Mary Aspinall).



## Addressing the Needs of Families and Communities Experiencing Domestic Violence

Survivors need to have confidence that they will be respectfully heard and trust in the justice system needs to be fostered. Christopher Sheppard, President, National Association of Friendship Centres, asked, “How are Indigenous people supposed to report non-overtly violent acts while systemic racism and overt violence against our people persist?”<sup>190</sup> Such concerns must be addressed if criminal law amendments are going to make a true difference in the lives of women and children in abusive situations.

Witnesses called for funding for independent legal representation for victims.<sup>191</sup> Counselling and supports for all family members were also recommended to change the abusive behaviour and improve the family situation.<sup>192</sup> Support for family violence prevention is also key.<sup>193</sup>

Funding is also necessary to provide for additional shelter beds and affordable housing for women and children escaping abuse. Basic needs must be met as well to relieve women of their economic dependency on their abuser.<sup>194</sup> The unique needs of specific communities, such as rural, First Nations, Métis, and Inuit women, must be considered in developing and resourcing services.<sup>195</sup>

Chief Nishan Duraippah outlined efforts in Peel to work with community organizations to integrate police responses with service providers offering legal aid, settlement assistance, mental health, housing, and other supports to better meet the needs of families experiencing domestic violence.<sup>196</sup> This could be an interesting model to explore.

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190 JUST, [Evidence](#), 18 February 2021 (Christopher Sheppard).

191 JUST, [Evidence](#), 4 February 2021 (Jennifer Koshan).

192 JUST, [Evidence](#), 4 February 2021 (Genevieve Isshak); JUST, [Brief](#), February 2021 (Family Dispute Resolution Institute of Ontario); JUST, [Brief](#), February 2021 (The Redwood).

193 JUST, [Evidence](#), 18 February 2021 (Jocelyn Formsma).

194 JUST, [Evidence](#), 18 February 2021 (Abimbola Ajibolade; Carla Neto; Yasmine Youssef).

195 JUST, [Evidence](#), 2 February 2021 (Lisa Smylie); JUST, [Evidence](#), 16 February 2021 (Julie Matthews).

196 JUST, [Evidence](#), 18 February 2021 (Nishan Duraippah).

## **CHAPTER 5 – CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE**

As clearly illustrated by the evidence, coercive and controlling behaviour is exacerbated by the pandemic context, while access to services and the justice system are restricted. The Committee felt compelled to study this important issue and discuss with experts to identify solutions to prevent such violence and support victims. The following recommendations are meant to address this shadow pandemic and identify necessary changes that will benefit survivors of domestic violence now and far into the future.

### **Recommendation 1**

**That the House of Commons acknowledge the significant harms coercive and controlling behaviour causes in intimate partner relationships, recognize that these harms are not captured in criminal law at present, and further recognize that physical violence in intimate partner relationships is almost always preceded by a pattern of coercive and controlling behaviour.**

### **Recommendation 2**

**That the Minister of Justice engage with his provincial and territorial counterparts to initiate a taskforce of experts with a mandate to review existing federal criminal legislation using a gender-based analysis plus and other inclusive measures and make recommendations concerning the drafting of government legislation regarding a coercive and controlling behaviour offence in the *Criminal Code*, considering Bill C-247 as possible language for such an offence, and related measures to meet the needs of victims. This taskforce should report to the Minister within 12 months of formation.**

### **Recommendation 3**

**That the House of Commons call on the federal government, the provinces and territories to implement measures to combat the challenges presented by the justice system for victims of coercive and controlling behaviour and intimate partner violence, and in particular for women who are Indigenous, racialized, or living in poverty, with the clear objective of avoiding revictimization and unintended capture of victims in the charging process and further calls on the federal government to fund measures to support all victims of coercive and controlling behaviour and intimate partner violence through court processes.**



#### **Recommendation 4**

**That the federal government consider increasing its funding for *Canada's Strategy to Prevent and Address Gender-Based Violence* to assist organizations working to support victims of coercive and controlling behaviour to deliver adequate levels of support services, such as counselling, housing, and other services aimed at helping victims in re-establishing their lives, and ensure that culturally appropriate services are available and accessible.**

#### **Recommendation 5**

**That the federal government engage with provincial and territorial governments and other relevant stakeholders to promote and fund a public awareness campaign on coercive and controlling behaviour, as well as training of judicial system actors, such as police, lawyers, and judges, about the dynamics of such behaviour. Training must be trauma-informed, integrate intersectional perspectives and be accompanied by tools and policies to support action on this issue.**

## APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
<b>Department for Women and Gender Equality</b> Lisa Smylie, Director General Communications and Public Affairs Branch, Research, Results and Delivery Branch	2021/02/02	17
<b>Department of Justice</b> Stéphanie Bouchard, Senior Legal Counsel and Director Claire Farid, Director and General Counsel Nathalie Levman, Senior Counsel Criminal Law Policy Section, Policy Sector	2021/02/02	17
<b>As an individual</b> Janine Benedet, Dean pro tem and Professor of Law Peter A. Allard School of Law, University of British Columbia Carmen Gill, Professor Department of Sociology, University of New Brunswick Jennifer Koshan, Professor, Faculty of Law University of Calgary	2021/02/04	18
<b>Hiatus House</b> Genevieve Isshak, Clinical Director of Residential and Community Services	2021/02/04	18
<b>Office of the Federal Ombudsman for Victims of            Crime</b> Heidi Illingworth, Ombudsman	2021/02/04	18
<b>Sagesse Domestic Violence Prevention Society</b> Andrea Silverstone, Executive Director	2021/02/04	18
<b>As an individual</b> Kamal Dhillon, Author	2021/02/16	19

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Alliance des maisons d’hébergement de 2<sup>e</sup> étape pour femmes et enfants victimes de violence conjugale</b> Gaëlle Fedida, Provincial Co-coordinator Maud Pontel, Provincial Co-coordinator	2021/02/16	19
<b>London Abused Women's Centre</b> Megan Walker, Executive Director	2021/02/16	19
<b>Québec contre les violences sexuelles</b> Simon Lapierre, Professor School of Social Work, University of Ottawa Mélanie Lemay, Art Therapist and Co-founder	2021/02/16	19
<b>Sussex Vale Transition House</b> Julie Matthews, Executive Director	2021/02/16	19
<b>Women's Legal Education and Action Fund</b> Megan Stephens, Acting Executive Director and General Counsel	2021/02/16	19
<b>Canadian Association of Chiefs of Police</b> Kimberley Greenwood, Vice-President of the Board of Directors Francis Lanouette, Co-Chair of the Crime Prevention, Community Safety and Well-being Committee	2021/02/18	20
<b>National Association of Friendship Centres</b> Jocelyn Formsma, Executive Director Christopher Sheppard, President	2021/02/18	20
<b>Nisa Homes</b> Reena Vanza, Counsellor and Mental Health Promoter Yasmine Youssef, National Manager	2021/02/18	20
<b>Peel Regional Police</b> Nishan Duraiappah, Chief of Police	2021/02/18	20
<b>The Redwood</b> Abimbola Ajibolade, Executive Director Raheena Dahya, Lawyer and Family Law Mediator	2021/02/18	20



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<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Women's Habitat of Etobicoke</b> Carla Neto, Community Programs Manager	2021/02/18	20



## **APPENDIX B LIST OF BRIEFS**

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The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

**Aspinall, Mary**

**Canadian Centre for Child Protection**

**Canadian Labour Congress**

**Canadian Resource Centre for Victims of Crime**

**Chambers, Lori**

**Coates, Tracy**

**Family Dispute Resolution Institute of Ontario**

**Gill, Carmen**

**Matthews, Angela**

**Office of the Federal Ombudsman for Victims of Crime**

**Sagesse Domestic Violence Prevention Society**

**The Redwood**

**United Food and Commercial Workers Union Canada**

**Women of the Métis Nation - Les Femmes Michif Otipemisiwak**



# MINUTES OF PROCEEDINGS

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 17 to 21 and 26 to 29](#)) is tabled.

Respectfully submitted,

Iqra Khalid  
Chair

