

Criminalization of coercive control: Are we just putting another tool in the hands of abusers to use against their partners?

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Good morning. Thank you for this opportunity to speak with you. I hope you've had a chance to take a look at our brief, where we elaborate on the points I am about to make.

Luke's Place works with women in Ontario who have been subjected to intimate partner abuse --- through both the delivery of direct services to those involved with the family law system and engagement in system change work.

While we acknowledge that there are a number of reasons to think criminalizing coercive control could have positive outcomes, we believe the problems with criminalization are greater than the potential benefits.

Over the past 40 years, we've seen the many ways in which the criminal law has failed survivors of IPV. Despite many legal interventions and initiatives, IPV -- including lethal violence -- remains a serious social problem in this country.

While we absolutely need to find ways to validate the experiences of those subjected to coercive control, we do not believe creating a criminal offence is the way to do this.

As with any law reform, criminalizing coercive control will have an impact beyond the criminal law. In particular, the intersections between the criminal and family law systems are so deep that it is not possible to make changes to one without impacting the other.

We are also concerned, based on the negative consequences that have flowed from Canada's long-standing mandatory charging policies, that a new criminal offence of coercive control could lead to women being inappropriately charged, which would have disastrous impacts, including on women's family law cases.

Let me make a few remarks about Bill C-332 specifically:

1. Coercively controlling behaviours are insidious, subtle and often invisible to anyone outside the relationship. What constitutes coercive control is different from one relationship to another. It builds, with one incident leading to another and then another,

and only when all of them are examined in totality can the pattern of abuse be recognized – by the survivor herself, as well as by outsiders. For this reason, the Bill needs a clear and inclusive definition of the prohibited behaviours and what constitutes repeated or continuous engagement if it is to be effective.

2. It also requires a clear and inclusive definition of who it is intended to protect. We encourage you to consider the definition used by Ontario's Domestic Violence Death Review Committee.
3. Given the reality that abuse often continues long after separation – especially for women with children – the two-year time limitation should be removed.

We recommend:

1. Do not move ahead with Bill C-332 at this time.
2. Follow the Mass Casualty Commission's recommendation to establish an expert advisory group to examine whether and how criminal law could better address coercive control.
3. Provide training, with real accountability measures, for police to ensure they understand the prevalence of IPV, including coercive control.
4. Develop new and mandatory education for Crowns and judges, with accountability measures.
5. Fund access to free independent legal advice for survivors of gender-based violence who are considering accessing the criminal system.
6. Create a Criminal Court Support Worker Program to work in collaboration with existing criminal court victim assistance programs.
7. Fund national stakeholder consultations and discussions about the appropriate use of transformative justice models as a response to GBV in addition to the existing criminal system.

Then, and only then, consider how the criminal law might need adaptation to respond effectively to coercive control, using a collaborative consultation process with all stakeholders.

I look forward to your questions.

Thank you.