

Position Statement

21 March 2021



Coercive Control

Recent attention has been given to further reform and improvement of Queensland's domestic violence regime. Men's Legal Service welcomes the review of domestic violence laws, recognising the opportunity for reform and protection of vulnerable adults and children.

Recently, calls for a new offence for "coercive control" behaviours outside of the domestic violence framework have been made, with significant voices pushing for implementation.

Criminalising Coercive Control behaviours is about introducing a harsher penalty, a criminal conviction, as opposed to the operation of current domestic violence legislation.

A Conversation of Gender

We appreciate the following promising statements by key stakeholders in this discussion:

- Queensland Attorney-General Shannon Fentiman has committed to "strong, robust and carefully thought-out new laws considered from all perspectives".
- Queensland Law Society's (QLS) President Elizabeth Shearer's has affirmed that "QLS always supports the development of evidence-based policy and legislation".

We are saddened and concerned that such resolute statements are not adopted by much of the otherwise thoughtful consideration of the issue and possible reform where female victims are often discussed exclusively. We are deeply concerned that the development of this regime will miss opportunities to improve the situation and provide protection for all victims, in particular, vulnerable children of affected relationships.

Language and emphasis used to date suggest a risk of a gender-centric and political approach ignoring real issues and solutions.

Our primary concerns on review of the push for a coercive control legislation is as follows:

1. Australia, and Queensland, already have a comprehensive system, largely uniform across Australia, for domestic violence protection. It's practice is well developed and understood as both a pre-emptive tool and system of punishment. There are few behaviours that fall under



Coercive Control that are not already categorised as and dealt with under domestic violence legislation.

2. Research from Tasmania where coercive control is already a criminal offence shows the offence is rarely used.¹ Would the outcomes for victims be different knowing it's a criminal as opposed to a civil offence...no. The severity of punishment has little effect on deterring people from offending or even re-offending, the only thing shown to reduce offending slightly is the chance of getting caught.²
3. The current discussion clearly and blatantly excludes male victims. We note with concern the same voices who assault 'Parental Alienation' behaviours appear to seek a gender-centric, anti-male 'Coercive Control' regime.

We work with many men:

- a. going through family court who have had access to their children stopped or restricted without any reason whatsoever.
- b. falsely and vexatiously accused of domestic violence, only to have the matter withdrawn or thrown out months later.
- c. who have been victims, often with their children, of extreme domestic violence.

These behaviours belong firmly within any definition of 'Coercive Control' and require broader recognition within the domestic violence framework – together with behaviours that are more frequently experienced by female victims from men that fall outside of current definitions of domestic violence. Each are examples of coercive control that can lead to deaths.

4. The proposed review seems to be at risk of promotion for virtue-signalling rather than focussing on the substance of the problem. It runs the risk of a well-worn path of reviews before it that are unlikely to produce any new or effective change.

¹ McMahon, M., Mcgorrey, P. (2017). Criminalising emotional abuse, intimidation and economic abuse in the context of family violence: The Tasmanian experience. University of Tasmania law review 35(2)

² Knight, B. (2020). Do harsher punishments deter crime?. [online]. Available at: <https://newsroom.unsw.edu.au/news/business-law/do-harsher-punishments-deter-crime#:~:text=Deterrence%20is%20sentencing's%20dirty%20secret%2C%20says%20UNSW%20Law%20expert.&text=The%20criminal%20justice%20researcher%20says,actually%20have%20the%20opposite%20effect.> [Accessed March 2021].

A Lost Generation and The Forgotten Men

Of the 352 men who completed suicide in 2020, relationship separation was a factor in 29.3% (103 men per year), pending legal matters 13.2% (47 men per year), child custody dispute 6% (21 men per year) and a domestic violence order 4.7% (16 men per year).³

Hundreds of men are killing themselves every year in circumstances of separation. They face any combination of being denied contact with children, removal from their homes and loss of belongings, alienated from their friends, families and jobs and unable to afford legal representation. These voices must be heard or the review and any potential new laws will be inconsequential.

Seemingly forgotten in the Discussion Paper and conversation around coercive control is the major impact that coercive parents have in alienating children from a parent, abuse of existing court processes and domestic violence that is defined within but that goes unaddressed due to gender bias in the existing Domestic Violence framework.

After a decade and \$700 million, the National Plan to Reduce Violence against Women and their Children is failing⁴. Anecdotally, most money is being spent on victim support and a small portion on men's behaviour change programs which are focussed on reducing repeat offenders.

Engagement and Next Steps

Men's Legal Service:

1. Raise our voice with that of all genders and children in seeking a fair, genderless approach to antisocial and abusive behaviours. We view relationship breakdowns as an opportunity to address and remove these behaviours from the generational cycle and homes within our society.
2. Calls on all stakeholders to support the appointment and training of further judges to reduce wait times and judge file loads.

The QLS has been calling for the appointment of further family court

³ Leske, S., Adam, G., Schrader, I., Catakovic, A., Weir, B., & Crompton, D. (2020). Suicide in Queensland: Annual Report 2020. Brisbane, Queensland, Australia: Australian Institute for Suicide Research and Prevention, School of Applied Psychology, Griffith University https://www.griffith.edu.au/__data/assets/pdf_file/0035/1196855/QSR_Annual_Report_2020.pdf

⁴ Laschon, E. (2019). Australia is spending over \$700m to curb domestic violence — but it's unclear if it's working. [online]. Available at: <https://www.abc.net.au/news/2019-06-14/auditor-general-report-serious-concerns-domestic-violence/11210314?nw=0> [Accessed March 2021].

judges for over a decade and that call has not been heeded, creating an unprecedented crisis for families and our judicial officers.

3. Seeks evidence-based and rational consideration of comparative regimes in adding further offences that may further complicate or create further parallel proceedings in family and relationship breakdowns.

Inherent in the work that MLS does and its contribution to the discussion is an acknowledgement that men contribute to and perpetrate domestic violence. MLS makes no rationalisation for nor enablement of domestic violence, however recognises and points to the success of the following factors that reduce male-perpetuated domestic violence within communities:

1. Access to justice to advise on and assist with both recognising unlawful behaviours and promptly and professionally navigating the family law process.
2. Amendment to existing Domestic Violence definitions and application to recognise broader coercive control behaviours.
3. Programs of peers and trained professionals to promote wellbeing.
4. Improving boy's educational completion and achievement, government and workplace policy that challenges gender norms (paternity leave/flexible hours) and more men's mental wellbeing programs.

We can't rely on a legal system to respond on its own to social and cultural problems, however MLS believes that reducing access to justice issues reduces a significant lever and cause of domestic violence.

Summary

Men's Legal Service argues for a better-funded and resourced judiciary, together with the refinement of and recognition of broader abusive and coercive behaviours including parental alienation, stalking, denigration and abuse of legal processes.

We believe that a broader judiciary would enable police, victims and parties to family law proceedings to be dealt with promptly, providing peace of mind to victims and narrower windows for offenders and removing the greatest variable that causes family violence, being the period of a family breakdown. Any discussion must include a consideration of suicide victims as victims of domestic violence and child victims of coercive control – whether by parental alienation or any other name.

Finally, real change relies in reducing gender-based emphasis and changing systems. This review of domestic violence legislation has the potential to save

lives and bring justice to the lives lost as a result of intimate partner violence. Yet there will be no justice for victims with the review's terms as they stand.

Greater engagement and consideration of the opportunities to reduce family violence in our community is rightly a firm societal imperative and deserves a considered and dogma-free approach that has a chance to make a real difference.

Men's Legal Service is a not for profit law firm established to assist men and their families by providing pragmatic and cost-effective family law services.

MLS is a registered charity, deductible gift recipient and offers legal services across Australia. Our primary focus is to assist fathers with continuing to be available and involved in the lives of their children after family law events and does not discriminate on any basis.