

2024-05-16

**Opening Statement**

**"Exploring Coercive Behavior: A Global Legislative Inquiry"**

(<sup>1</sup>Pursuant to Standing Order 108(2), the committee undertakes a study of coercive behaviour, focusing on countries or jurisdictions around the world that have already legislated on this issue. The committee has devoted at least six meetings to this matter and will then report its findings and recommendations to the House).

Thank you for inviting us to speak to the committee on this panel. The Barbra Schlifer Commemorative Clinic offers trauma-informed legal services, counselling, and multilingual interpretation to marginalized and racialized women and gender-diverse people who have experienced violence. Since its founding in 1985, the Clinic has assisted more than 100,000 women and gender-diverse survivors of violence through its direct services, and many others through advocacy efforts, legal reform, submissions, projects, and programs.

I will focus on two broader points:

- what coercive behaviour is in the experience of the Clinic; and
- our observations on legislative changes regarding coercive behaviour globally, along with our recommendations for the changes in the Canadian Context.

What is coercive behaviour? We are having this conversation at a time when there is a consensus among many municipalities, cities and provinces in Canada and around the world that 'Gender-Based Violence is an Epidemic'. There is also widely accepted acknowledgement that Gender-Based Violence (GBV) impacts everyone, regardless of their background—it's pervasive, reaching across all socioeconomic levels, races, ethnicities and immigration status. In the realm of coercive behaviour, we confront a maze of challenges, especially within our legal systems, which becomes even tougher for immigrant, refugee, disabled, and gender-diverse communities. Embedded within Gender-Based Violence coercive control is a harmful pattern—a web of assault, threats, and humiliation designed to scare and control survivors. It's not just one event; it's a series, often accompanied by emotional abuse, leaving victims feeling trapped and powerless. Now, let's delve into the legal side of things. Litigation abuse is an ugly truth that happens across family, criminal, and immigration law.

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<sup>1</sup> <https://www.ourcommons.ca/DocumentViewer/en/44-1/FEWO/meeting-88/minutes>

Consider Maria's story: a racialized immigrant woman who doesn't speak English and is trapped in an abusive marriage. Her husband, fluent in the language and with resources, manipulates the legal system to his advantage. He even flips the narrative, getting Maria charged in a criminal case where he is the real perpetrator. It's a terrifying scenario, where power imbalances and language barriers leave Maria unjustly accused and vulnerable.

Unfortunately, Maria's story isn't unique. Countless survivors face similar struggles daily, their voices drowned out by those who hold power over them. But there's hope. At our Clinic, we've supported survivors like Maria for years. Last year, we launched a groundbreaking 30-month national project<sup>2</sup> funded by Women and Gender Equality Canada. Led by Barbra Schlifer Commemorative Clinic, this initiative aims to directly tackle the criminalization of survivors of Gender-Based Violence. Our project isn't about talk—it's about action. We're scaling up promising practices and developing a policy paper to combat coercive control and litigation abuse experienced by GBV survivors. Together, we're fighting for a world where justice isn't just a dream—it's a reality for everyone.

## **COERCIVE CONTROL AND LEGISLATIVE CHANGES**

Recognizing coercive control as abuse is crucial. Coercive control strips survivors of their fundamental rights and freedoms, placing them at the mercy of their abuser. Research indicates that coercive control is a stronger predictor of severe violence or even death in intimate partner relationships than the frequency or severity of physical abuse alone. As a result, numerous jurisdictions have recently moved to enact legislation specifically targeting coercive control.

Notably, in 2015, England and Wales introduced the offence of "controlling or coercive behaviour in an intimate or family relationship" to capture controlling/ coercive conduct beyond physical assault.<sup>3</sup> In 2018, Scotland introduced a specific offence of domestic abuse which includes controlling/ coercive behaviour, and criminalizing patterns of abusive conduct.<sup>4</sup>

In England and Wales, data suggests that criminalizing coercive/ controlling behaviour has not had a significant impact on the rates of domestic abuse, and securing convictions for coercive control has proven to be challenging. The volume of coercive/ controlling behavior being reported in

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<sup>2</sup> Criminalization and Survivorship: Strengthening GBV-sector responses to criminalization, coercive control, and litigation abuse in Canada - Barbra Schlifer Commemorative Clinic (schliferclinic.com)

<sup>3</sup> Serious Crime Act, 2015 c. 9, s. 76. Scottish Government, "Domestic Abuse Act in Force" (April 2019) <https://www.gov.scot/news/domestic-abuse-act-in-force/>.

<sup>4</sup> Scottish Government, "Domestic Abuse Act in Force" (April 2019) <https://www.gov.scot/news/domestic-abuse-act-in-force/>.

England and Wales has increased each year since 2015, but the proportion of these offences leading to a charge remains only 6% as of 2018.<sup>5</sup> Proving coercive and controlling behavior is a significant challenge for prosecutors due to the practical challenges of collecting evidence which proves non-physical violence beyond a reasonable doubt.<sup>6</sup>

While Scotland’s 2018 legislation creating a specific offence for coercive control is seen to be the “gold standard” of legislation on domestic violence, victims of such offences have not felt the same way. Interviews with victims revealed that many felt that the final sentence in their case did “not reflect their whole experience,” and found that the psychological abuse and control they experienced by the accused was not taken fully into consideration by the court, with only a small aspect of the abuse they endured was revealed during the trial.<sup>7</sup>

This raises important considerations. Legislation aimed at combatting coercive control must offer survivors a comprehensive range of remedies while allowing individuals to determine the best course of action for themselves. Criminalizing coercive control risks disempowering survivors and may inadvertently increase the likelihood of survivors themselves facing criminal charges.

In our experience proving coercive control in family court is also tough. It needs skill, time, money, and proper training. In family court, where many survivors get financial help from legal aid, there's not enough support to prove coercive control. People representing themselves in court, who don't qualify for legal aid, have a hard time understanding that what happened to them was coercive control. They also struggle to show how it's legal importance and to gather the proof they need.

## RECOMMENDATIONS

The Schlifer Clinic recommends taking the following measures to better support individuals experiencing coercive control.

- 1. Training for criminal justice system actors.** Legal professionals require training and education to help them understand the complexities of coercive control cases. This recommendation aligns with several recommendations in the Renfrew County Inquest, including

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<sup>5</sup> British Government Home Office, “Review of the Controlling or Coercive Behaviour Offence” (March 2021) at 6. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/982825/review-of-the-controlling-or-coercive-behaviour-offence.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982825/review-of-the-controlling-or-coercive-behaviour-offence.pdf).

<sup>6</sup> *Ibid.*, at 7.

<sup>7</sup> The Scottish Parliament Criminal Justice Committee, “Post-legislative scrutiny of the Domestic Abuse (Scotland) Act 2018” (May 2023) at 9. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/%20CJ/2023/5/4/dc22c15c-8bfa-4421-ad25-168abf3084ed/CJ062023R5.pdf>.

recommendations 29 and 30: providing professional education and training for justice system personnel on IPV-related issues and providing enhanced IPV training for police officers. It is crucial that judges, police officers, and other criminal justice system actors are properly educated on coercive control, as coercive behaviour in relationships can be concealed within the complexities of interpersonal relationships, making it challenging to recognize the extent of the harm being inflicted. By being well-versed in the signs of coercive control, justice system actors can more effectively assess situations and provide appropriate support to victims/survivors.

- 2. Diversity in the criminal justice system.** Furthermore, it is important that there is diversity among justice system professionals. Judges and police officers from various backgrounds can bring vital perspectives when addressing coercive control. This inclusivity can allow for culturally sensitive interventions and enhanced trust between victims/ survivors and the system.
- 3. More sustainable access to justice resources.** Ensuring victims/ survivors seeking help in cases of coercive control can access reliable and sustainable justice resources is crucial. Through our legal services and special projects, the Schlifer Clinic is proud to actively assist individuals experiencing coercive control. Supporting initiatives and organizations that provide accessible and enduring justice resources is fundamental to supporting victims/ survivors of coercive control.
- 4. Public legal education** plays a vital role in eradicating coercive control and providing essential support to its victims. Raising awareness about the signs and available legal remedies can empower individuals to recognize and respond to coercive control. This education also fosters a society that stands against such behaviour, creating a supportive environment for individuals to seek help. Promoting awareness within communities contributes to putting an end to coercive control and offering a strong safety net for those affected.
- 5. Risk Assessment** for coercive control involves evaluating the level of danger faced by survivors and assessing the likelihood of further harm, considering factors such as the severity and frequency of abusive behaviours. Integrating risk assessment into legal proceedings is crucial for ensuring the safety and well-being of survivors and informing decisions regarding protective measures and support. Collaboration between various stakeholders is essential to develop comprehensive risk management plans tailored to the unique needs of survivors affected by coercive control.

## CONCLUSION

In conclusion, the call to action laid out by the committee to study coercive behavior is both timely and imperative. As we navigate the complexities of Gender-Based Violence, it's evident that legislative changes globally are vital, but they must be approached with caution and nuance. By prioritizing survivors' voices, promoting diversity within our justice systems, and enhancing access to resources and education, we can work towards a future where coercive control is eradicated and justice prevails for all.

Thank you.

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