



Criminalising Coercive Control

By Alicia Lucas, Lawyer



On 2nd December 2021 the Women’s Safety and Justice Taskforce (the Taskforce) – chaired by the Honourable Margaret McMurdo AC – released their first Report “Hear her Voice”. This Taskforce was established in response to the Queensland Government election commitment to legislate against coercive control.

Hear her Voice makes 89 recommendations to reform the justice and domestic and family violence specialist service systems, to ensure the safety of victims and accountability of perpetrators.

On 10th May 2022, Premier Anastacia Palaszczuk announced an intention for coercive control to be a criminal offence by the end of 2023.

What is Coercive Control?

Coercive control is a form of domestic violence that involves a pattern of behaviour used by one partner to control the other partner. This results in an uneven power dynamic being present within a relevant relationship.

Typically, coercive control is categorised by the use of manipulation and intimidation by one partner (the perpetrator) against the other partner (the victim). This control often begins slowly, and steadily increases in intensity. The victim is often left feeling scared, isolated, disorientated and dependent upon the perpetrator. It is the pattern of ongoing and escalating behaviour that is crucial to the establishment of coercive control and often, cannot be pinpointed to a single point in time.

Coercive control can include, but may not be limited to:

- Isolating a victim from friends and family to reduce their support network, thereby removing the victim from outside influence and increasing the perpetrators control over the victim.
- Monitoring the activity of the victim e.g. constantly wanting to know the location of the victim; relentlessly texting, calling or otherwise contacting the victim when apart; monitoring communication between the victim and other persons; tracking or recording the victim.
- Restricting the victims autonomy i.e. through access to transport, employment, and/or communication with other persons.
- Degrading comments being made to the victim, to damage their self-esteem.
- Controlling a victims access to money i.e. by providing an allowance of money for the victim to access, or imposing a budget upon common everyday expenses.
- Making threats to a victim, their children, their family, their pets.

The above list is not exhaustive, and each incident ought not be considered individually. It is the pattern of behaviour by the perpetrator towards the victim that is significant, when identifying coercive control. That pattern will often require analysis of the entirety of the parties relationship.

Why is this important?

In considering domestic violence, and whether a party is a victim or a perpetrator, the current approach appears primarily targeted to assess the risk to one partner, over the other, resulting from a one-off incident or a series of specified incidents.

The push to recognise coercive control, and the desire to implement legislative and social steps to address this risk, is focused upon addressing the pattern of behaviour rather than the individual or isolated incidents.

The Taskforce identified that not only is coercive control a serious form of abuse in its own right, it is often an indicator of further violence being perpetrated in the future, particularly if one partner were to separate from the other and/or the perpetrator considered their control of the victim was lessening or being removed entirely.

It is hoped that by addressing the coercive control at the source, the risk of further violence is reduced if not thwarted in its entirety.

What changes are needed?

The Taskforce identified that systematic changes needed to occur at all levels of not only government, by society at large. A primary drive is upon the education of civilians, Police Officers, support workers, solicitors and the judiciary as to what behaviour constitutes coercive control, and how can this be identified.

The Taskforce recommended that particular steps be taken to address the above behaviours, prior to the introduction of offences that criminalise domestic and family violence.

The criminalisation of coercive control

Prior to the criminalisation of domestic and family violence, the Taskforce has recommended that firstly the service and justice systems that are presently in place ought to be improved.

In line with this recommendation, on 11th May 2022 the Queensland Government has established an independent Commission of Inquiry to examine the Queensland Police Service response to domestic and family violence. This Commission of Inquiry will be led by Her Honour Deborah Richards.

The Commission of Inquiry will commence on 30th May 2022 and take four (4) months, with expected completion to occur in October 2022. This Commission of Inquiry is a step on the pathway outlined by the Taskforce for the criminalisation of coercive control.

Coercive control is not presently a criminal offence in Queensland although there are laws that can be used to respond to domestic and family violence. Those laws are presently limited to a civil Protection Order, and certain criminal offences including unlawful stalking, and strangulation.

The concern with the current criminal offences is that they apply to only some behaviours, and the application is retrospective. Furthermore, the need to isolate particular behaviours as criminal (compared to being sufficient to enable a civil protection) overlooks the evidence of coercive control as a pattern of behaviour, not simply isolated incidents.

The purpose of the Commission of Inquiry is to set Queensland on the road to the criminalisation of coercive control and to ensure such criminalisation, when it occurs, achieves the intended purpose of protecting victims from coercive control.

Need assistance?

If you or someone you know needs legal advice in relation to family law matters or domestic violence, our experienced and compassionate lawyers are here to help.

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