



REGROUPEMENT DES MAISONS
POUR FEMMES VICTIMES
DE VIOLENCE CONJUGALE

Coercive Control: A Tool to Better Identify and Address Intimate Partner Violence

Literature review
conducted as part of the project
*Improving justice system practices
to increase the safety of women
who are victims of intimate partner
violence*

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Summary

This literature review is part of a project undertaken by the Regroupement des maisons pour femmes victimes de violence conjugale (RMFVVC) to improve the justice system experience of women who are victims of intimate partner violence.

For many years now, the scientific and grey literature have underscored the need to change the way the judicial system views intimate partner violence in order to effectively address all forms of such violence. In addition to the violence that makes a dramatic impression, there is a wide range of violence and control that is difficult to grasp for those who work with victims. Intimate partner violence must no longer be seen as a series of violent episodes but instead as a continuum of controlling tactics, sometimes unseen, and a permanent climate of terror imposed on victims.

The concept of coercive control helps reveal the often hidden face of intimate partner violence. It precisely describes the dynamics of deprivation of freedom, of “intimate terrorism,” and makes it possible to detect intimate partner violence sooner and implement the safety net needed to better protect

women. Indeed, the presence of coercive control in a relationship is a major indicator of lethality.

This literature review first presents the conceptual framework around coercive control by defining it and outlining its signs and impacts on both victims and the justice system.

It then lays out some of the current limitations of criminal law, family law and immigration law in accounting for the manifestations of coercive control as women move through the justice system.

The review then presents an overview of promising justice system practices being implemented in Quebec and elsewhere in the world. These best practices all ensure that the justice system better takes into account coercive control and its consequences.

Finally, the review addresses the benefits of criminalizing coercive control, discusses related issues and provides a brief analysis of legal practices in countries that have criminalized coercive control.

Introduction

The goal of the RMFVVC's project to improve justice system practices to increase the safety of women who are victims of intimate partner violence is to equip the justice system and community organizations to better understand coercive control and take into account its impacts on the lives of women who are victims of that violence.

This work is part of an effort to develop awareness tools and training for the stakeholders the project is designed to reach. Its goal is to shed new light on the inclusion of coercive control in justice system practices, particularly in criminal law, family law and immigration law.

The proposed approach, both cross-sectional (criminal, family and immigration law) and intersectoral (caseworkers, police forces, lawyers, prosecutors, judges), seeks to develop a common language for and build bridges between those involved.

This literature review is not intended to be comprehensive, but seeks to provide a snapshot in time of constantly evolving practices. A broad consultation process complemented the documentary research.¹ Resource persons in Canada and elsewhere in the world (Scotland, England, France, Spain, Belgium, Australia) shared their experiences and best practices. We were also able to draw on a wide variety of areas of expertise and the respective practices of caseworkers, researchers, police, lawyers and judges.

This review is also meant for all specialists working in the field of intimate partner violence. It is designed to make the scientific literature on the concept of coercive control accessible in Quebec and, more broadly, in French-speaking countries. "Due to a lack of texts available in French, this concept is little known in Quebec and the French-speaking world."² [translation] The review also offers a cross-sectional and intersectoral look at current and potential best practices to improve victims' access to justice.

¹ About 50 organizations and resources were consulted.

² I. Côté, S. Lapiere. "Pour une intégration du contrôle coercif dans les pratiques d'intervention en matière de violence conjugale au Québec." *Intervention* 2021, No. 153: 115–125. https://revueintervention.org/wp-content/uploads/2021/06/ri_153_2021.2_Cote_Lapierre.pdf. [in French only]

Background

Despite repeated efforts, attempts to improve the lives of victims of intimate partner violence in a lasting way have long failed. This failure is largely due to the now scientifically outdated paradigm that defines violence based on episodes that involve reactions (frustration, anger, alcohol), taken out of the context of ongoing male domination that continues after separation. As a result, the violence continually suffered by victims was not seen or understood as such, resulting in interventions that address only the tip of the iceberg rather than the root of the problem.

Looking at coercive control is therefore essential in order to understand violence as a continuum (Kelly 1987; Romito 2006; Stark 2007) and prevent aggressors from continuing it after separation (Prigent 2020; Sueur 2020), or even after incarceration.

For several years, we have seen “growing international interest in translating [the] concept of coercive control into criminal justice policy and practice (Barlow et al. 2020; McMahan and McGorriery 2020). “A global movement toward better accounting for coercive control in the dynamics of intimate partner violence” [translation] is underway to improve the justice system’s response to persistent violence against women.³

In 2015, England and Wales become the first countries in the world to legislate against “[c]ontrolling or coercive behaviour in an intimate or family relationship” when they enacted the *Serious Crime Act*, which made coercive control punishable by up to five years

in prison.⁴ In 2018, Scotland and Ireland passed similar laws on coercive control and intimate partner violence.⁵ In Scotland, the law includes funding to train police forces and judges.⁶

At the same time as governments move to criminalize coercive control, the scientific literature in Anglo-Saxon countries, among others, is increasingly employing the concept of coercive control in the context of intimate partner violence. More symposiums and seminars on the topic have been held in recent years, including the Americas Conference to End Coercive Control (2021); Not All Violence Is Physical (2021), a conference organized by Women For Women France; and the 2019 FemAnVi symposium specifically dedicated to coercive control.⁷

In Canada, coercive control is not yet included in the *Criminal Code*. However, interesting steps have been taken toward improving legal recognition of the impacts of coercive control in criminal and family law.

Recent amendments to the *Divorce Act* that came into effect on March 1, 2021, explicitly recognize coercive and controlling behaviour in the definition of family violence.⁸ The courts must now consider coercive and controlling behaviour as an aggravating factor when assessing the best interests of the child in determining access rights.

In October 2020, MP Randall Garrison introduced Bill C-247 in the House of Commons to amend the *Criminal Code* to include

³ C. Gill, M. Aspinall. *Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?* Report presented to Justice Canada. University of New Brunswick. April 2022. <https://www.victimfirst.gc.ca/res/cor/UCC-CCC/index.html>.

⁴ *Serious Crime Act 2015*. United Kingdom. <https://www.legislation.gov.uk/ukpga/2015/9/contents/enacted>.

⁵ *Domestic Abuse Act 2018*. Scotland. <https://www.legislation.gov.uk/asp/2018/5/contents/enacted>; *Intimate partner violence Act 2018*. Ireland. <https://www.irishstatutebook.ie/eli/2018/act/6/enacted/en/html>.

⁶ M. Ryszik, K. Benner. “What Defines Domestic Abuse? Survivors Say it’s More than Assault.” *The New York Times*. January 22, 2021. <https://www.nytimes.com/2021/01/22/us/cori-bush-fka-twiqs-coercive-control.html>.

⁷ Research collective. <https://www.femanvi.org/en/conferences/ccv2019en/>.

⁸ *An Act to amend the Divorce Act*. https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2019_16/FullText.html.

controlling and coercive behaviour.⁹ In April 2021, the House of Commons Standing Committee on Justice and Human Rights published a report entitled *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*. The committee members unanimously recommended criminalizing coercive control.¹⁰ While the federal election ended work on Bill C-247, the same MP introduced a new bill, Bill C-202, on November 25, 2021, putting the criminalization of coercive control back on the agenda.

In addition, Bill C-233, referred to as Keira's Law, introduced by MP Anju Dhillon on February 8, 2022, seeks to amend the *Judges Act*

to include symposiums on issues related to intimate partner violence and coercive control as part of the ongoing training of judges.¹¹

Finally, the concept of coercive control is increasingly used by shelter resources for women who are victims of intimate partner violence in Quebec. Some already include in their practices knowledge and know-how for better defining and documenting controlling and coercive behaviour. There are screening tools to enable women to quickly detect coercive control in a relationship. Other tools, such as the Power and Control Wheel or quizzes, educate women about the signs of control and coercion that they may experience during or after a relationship.¹²

⁹ Bill C-246. Act to amend the Criminal Code (controlling and coercive conduct). House of Commons. First reading, October 5, 2020. https://parl.ca/Content/Bills/432/Private/C-247/C-247_1/C-247_1.PDF.

¹⁰ *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*. Report of the House of Commons Standing Committee on Justice and Human Rights, Chaired by Iqra Khalid, House of Commons of Canada. April 2021. <https://www.ourcommons.ca/DocumentViewer/en/43-2/JUST/report-9>.

¹¹ Bill C-233. An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner). House of Commons of Canada. First reading, February 7, 2022. https://www.parl.ca/Content/Bills/441/Private/C-233/C-233_1/C-233_1.PDF.

¹² Power and Control Wheel, developed by the Domestic Abuse Intervention Project, Duluth (Minnesota) [online] <http://www.ncdsv.org/images/powercontrolwheelnoshading.pdf>.

1. Concept and value of coercive control

Concept

The concept of coercive control was developed by American sociology and social work researcher Evan Stark, who has been involved in the movement against intimate partner violence since the mid-1970s. In 2007, he published *Coercive Control: How Men Entrap Women in Personal Life* (Oxford University Press). In this book, he reviewed a series of studies and statistics from the United States to conclude that, despite decades of progress on intimate partner violence, women today are still at risk of being abused by their partner and that their partners are rarely punished.¹³

Stark's conclusion led him to propose a paradigm shift in our understanding of the problem of intimate partner violence. Stark proposed that adopting the concept of coercive control would better identify intimate partner violence and improve interventions in such situations.¹⁴ Citing the findings of Statistics Canada, Stark revealed that 60% to 80% of violent incidents reported involve non-physical violence.

According to Stark, coercive control consists of a set of acts of intimidation, degradation and enslavement that an abuser uses to create a climate of fear and threat in the victim's daily life.¹⁵ Stark uses the term to describe a pattern of "calculated, malevolent conduct deployed almost exclusively by men to dominate

individual women by interweaving repeated physical abuse with equally important tactics" (Stark 2007:5). These tactics include isolating women, depriving them of rights and resources, exploiting their resources and micro-regulating their behaviour to force them to comply (Stark 2012).

Coercive control is conceptualized as a crime of deprivation of freedom. It sheds light on what violent men do to their victims, but also what they prevent women from doing. The concept emphasizes women's safety, but also their freedom, independence and dignity and their equality with men. Stark thus proposes to change interventions with women victims by considering their freedom at the same time as their safety (Stark 2019).

Several analogies were used in the literature to describe the mechanisms at work in a controlling and coercive relationship. Like a hostage-taking or kidnapping, coercive control lets the aggressor maintain control over the victim, who is trapped (entrapment), in a cage or at the end of an "invisible leash." This approach "is also essential in getting police, courts and other providers to acknowledge how forcefully they would respond to someone who held a stranger hostage, or who tightly regulated how they dressed, walked, talked, spent their time or money."¹⁶

¹³ I. Côté, S. Lapierre. "Pour une intégration du contrôle coercif dans les pratiques d'intervention en matière de violence conjugale au Québec." *Intervention* 2021, No. 153: 115–125. https://revueintervention.org/wp-content/uploads/2021/06/ri_153_2021.2_Cote_Lapierre.pdf. [in French only]

¹⁴ Ibid.

¹⁵ E. Stark. *Coercive Control: How Men Entrap Women in Personal Life*. Oxford University Press, 2007. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/coercive-control-how-men-entrap-women-personal-life>.

¹⁶ Site *End Coercive Control* [online] <http://www.coercivecontrol.us/what-is-coercive-control/>.

The value of the concept

An enhanced understanding of intimate partner violence based on the aggressor's patterns of behaviour

The main value of this concept is in getting away from an understanding of intimate partner violence that is based wholly on acts of physical violence and a search for isolated incidents. Although efforts have been made in recent years to recognize forms of violence other than physical abuse, including psychological abuse and harassment, intimate partner violence is still too often understood as acts of physical violence committed by an individual.

The concept of coercive control helps understand the complex dynamics that enable aggressors to establish and maintain their control over their partner or former partner. Thus, through multiple tactics of intimidation, isolation and control, aggressors can deprive their victims of their fundamental rights.¹⁷ This concept helps analyze the intentions behind seemingly innocuous behaviour, such as sending flowers, giving a certain look or speaking to the victim, that can be enough to terrorize her, without anyone noticing the veiled coercion.¹⁸

This understanding of the aggressor's patterns of behaviour helps better assess situations of intimate partner violence and the risks that it presents to the safety of women and children.

Coercive control: A sign of gender-based domination

It is important to understand that coercive control is rooted in the dynamics of

domination and inequality in a heterosexual couple. Indeed, it takes place in a social context of ongoing gender inequality and male domination of private life that is part of the broader structures of discrimination (Stark 2007:241).

While it is true that women can be abusive and violent toward men in heterosexual relationships, and that coercive control and violence also occur in homosexual relationships involving men or women, most such behaviour is committed by men against women.¹⁹ For example, in 2019, 79% of acts of intimate partner violence reported by police in Canada were committed by men against women (Conroy 2021:33), and 67% of family violence reported to police was committed by men against women and girls (Conroy 2021:4).

Data from English police forces highlight the already well-documented gendered nature of intimate partner violence, particularly coercive control, as 95% of victims of coercive control are women and 93% of perpetrators are men. Cases of coercive control are also more likely to occur in a context of intimate partner violence (89%).²⁰

Coercive control: An important predictor of intimate partner femicide

When a woman is a victim of coercive control, she may never suffer physical violence, but the data show that coercive and controlling behaviour is a major warning sign for physical violence. Physical violence is “omnipresent as the backup to any resistance to the controlling

¹⁷ E. Stark. “Rethinking Coercive Control.” *Violence Against Women* 15. No. 12 (2009): 1520–1521. <https://pubmed.ncbi.nlm.nih.gov/19850959/>.

¹⁸ I. Côté, S. Lapierre. *Op cit.* https://revueintervention.org/wp-content/uploads/2021/06/ri_153_2021.2_Cote_Lapierre.pdf.

¹⁹ A. Myhill. *The police response to intimate partner violence: Risk, discretion, and the context of coercive control*. PhD Thesis. University of London Department of Sociology. March 2018. https://openaccess.city.ac.uk/id/eprint/19905/1/Myhill.%20Andy_Re-dacted.pdf.

²⁰ C. Barlow, S. Walklate. “Gender, risk assessment and coercive control: Contradictions in terms?” *The British Journal of Criminology* (2021) 61, 887–904. <https://www.liverpool.ac.uk/media/livacuk/law-and-social-justice/3research/Gender.Risk.Assessment.and.Coercive.Control-Barlow.and.Walklate.2021.pdf>.

behaviour.”²¹ Thus, addressing the problem of coercive and controlling behaviour can help prevent other serious violence. According to many experts, controlling coercive behaviour is a key warning sign for femicide, which are committed around the world. It is in fact “one of the best indicators of lethality.”²²

Many cases of femicide are associated with controlling coercive behaviour not noticed as “warning signs” in the relationship.²³

In addition, Johnson et al. (2019) showed that coercive control was part of the violent dynamic of incarcerated men in Australia who had murdered their partner. Another study of 358 homicides in the United Kingdom found controlling behaviour in 92% of spousal homicides; coercive control and criminal harassment were most often present at the same time in a relationship between intimate partners (Monckton Smith et al. 2017).²⁴

More recently, in her book *In Control: Dangerous Relationships and How They End in Murder* (2021), English criminologist Jane Monckton Smith explained that intimate partner femicides are among the most predictable murders. She argued that the path that leads to the fatal act is almost always the same: Men who abuse their partner follow the same *pattern*, which begins with grand declarations of love and may, if no one intervenes, result in death. Based on a study of 400 spousal homicides, the book identifies eight steps that illustrate the escalation of

violence leading to femicide. Coercive control is always present and is central to the violence process.²⁵

Coercive control: Socially unacceptable

Coercive control involves a pattern of ongoing actions that result in the “continuous deprivation of victims’ liberty, and the violation of victims’ right to security, dignity and autonomy”²⁶

As noted by social work experts Isabelle Côté and Simon Lapierre, the main value of this paradigm shift is its message that coercive control is socially unacceptable. This shift is a significant advance in human rights, specifically in women’s rights. As noted by Stark (2007), “Security, dignity, autonomy, and liberty are rights that are universally recognized as worthy of state protection.”

“This emphasis on freedom and human rights therefore requires not only that women be protected from assault, threats and harassment [...], but also that intervention practices be adopted to allow them to feel entirely free and safe in all aspects of their lives.”²⁷ [translation]

Côté and Lapierre further argue that this concept should prompt “a review of all policies and practices related to intimate partner violence to ensure that women’s rights, particularly the right to liberty, are at the heart of interventions.” [translation]

²¹ *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*. Report of the House of Commons Standing Committee on Justice and Human Rights, Chaired by Iqra Khalid, House of Commons of Canada. April 2021. Evidence from law professor Janine Benedet, p. 10. https://publications.gc.ca/collections/collection_2021/parl/xc66-1/XC66-1-1-432-9-eng.pdf.

²² Ibid. Evidence from Andrea Silverstone, Executive Director, Sagesse Domestic Violence Prevention Society, p. 11.

²³ M. Dawson et al. #CallItFemicide: *Understanding gender-related killings of women and girls in Canada 2020*. Canadian Femicide Observatory for Justice and Accountability, 2020. <https://femicideinCanada.ca/callitfemicide2020.pdf>.

²⁴ J. Monckton Smith et al. *Exploring the Relationship between Stalking and Homicide*. University of Gloucestershire and Suzy Lamplugh Trust, UK, 2017. <https://www.equallyyours.org.uk/suzy-lamplugh-trust-report-exploring-relationship-stalking-homicide/>.

²⁵ J. Monckton Smith. *In Control: Dangerous Relationships and How They End in Murder*. Bloomsbury, UK, 2021. <https://www.bloomsbury.com/ca/in-control-9781526642929/>.

²⁶ L. Chambers. *Submission for Bill C-247*. Lakehead University (Ontario). 2021:5. <https://www.ourcommons.ca/Content/Committee/432/JUST/Brief/BR11101619/br-external/ChambersLori-e.pdf>.

²⁷ I. Côté, S. Lapierre. *Op cit.* p. 123.

2. Recognizing the signs of coercive control

Control takes the form of a series of strategies that occur at various times in the relationship and continue during and after separation, including through children (Dragiewicz 2014; Feresin et al. 2019) and parenting (Sadlier 2015a, b; Durand 2013).²⁸

Signs of coercive control in an intimate relationship

The following quote from the book by Stark (2007) fully and concisely describes the elements that define a conjugal relationship involving coercive control:²⁹

“Victims of coercive control are frequently deprived of money, food, access to communication or transportation, even as they are cut off from family, friends, and other supports. But unlike other crimes, coercive control extends through space as well as over time, and is gendered in that it is based on vulnerabilities created by sexual inequalities. Another difference is its aim. Men deploy coercive control to secure privileges that involve the use of time, control over material resources, access to sex, and personal services. But the main means used to establish control is micro-regulation of everyday behaviours associated with stereotypic female roles, such as how women dress, cook, clean, socialize, care for their children or perform sexually.”³⁰

In an intimate relationship, coercive control is achieved through two mechanisms: coercion and control.

Coercion includes any strategy the aggressor uses to obtain what he wants at a given moment. The use of force or the threat of force are particularly effective strategies in this respect (Stark 2007:28).³¹ Control consists of a series of strategies used at various times in the relationship that include deprivation of rights and resources and micro-regulation.

In Stark’s analysis, micro-regulation refers to rules imposed by the aggressor, be they general, specific, written, implicit or negotiated (Stark 2007:283).³² These rules are complex and contradictory and can change at any time and without warning. For example, a victim may be required to keep the house clean at all times (general rule), to respond to all text messages from the aggressor within five minutes (specific rule), to keep a record of her expenditures (written rule), to give in to certain unrealistic demands (negotiated rule) and to focus all her attention on him when he comes home (implicit rule).³³

Coercive control serves to highlight the cumulative and invisible effect of the aggressor’s strategies, several of which are seen as less serious. Those who exercise coercive control often use a combination of tactics or draw on perceived weaknesses or insecurities to

²⁸ A. Gruev-Vintila, F. Toledo, “Le contrôle coercitif. Repérer les violences au sein du couple dans les interactions et le rapport de pouvoir entre l’auteur et la victime,” in *L’emprise et les violences au sein du couple*, I. Rome and É. Martinent, eds. Paris: Dalloz. 2021, p. 277-290. <https://www.boutique-dalloz.fr/l-emprise-et-les-violences-au-sein-du-couple-p.html>.

²⁹ E. Stark. *Coercive Control: How Men Entrap Women in Personal Life*. Oxford University Press. 2007. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/coercive-control-how-men-entrap-women-personal-life>.

³⁰ Réseau international des mères en lutte. <https://reseauiml.wordpress.com>. [in French only]

³¹ E. Stark. Op cit. 2007.

³² Ibid.

³³ I. Côté, S. Lapierre. “Pour une intégration du contrôle coercitif dans les pratiques d’intervention en matière de violence conjugale au Québec.” *Intervention* 2021, No. 153: 115–125. https://revueintervention.org/wp-content/uploads/2021/06/ri_153_2021.2_Cote_Lapierre.pdf. [in French only]

exercise their power and control over the victim.³⁴ It is important to understand that there are endless strategies to deprive someone of their freedom.

Signs of coercive control during and after separation

Research in the field of intimate partner violence and intrafamilial homicide, whether in Quebec, in Canada or abroad, shows very clearly that separation is a critical period in intimate relationships characterized by violence and control (Côté 2012; Hotton 2011; Léveillé, Doyon and Touchette 2017; Léveillé and Lefebvre 2008, 2011; Lindsay 2014; Morrison 2015; Nikupeteri 2017; and Toews and Bermea 2015).³⁵ For example, 67% of intrafamilial homicides in Ontario between 2003 and 2018 involved a couple who were separating or about to separate.³⁶

As noted by Côté and Lapierre, a study by Toews and Bermea (2017) documents the control tactics of violent former partners through the experiences of divorced women.³⁷ These tactics are a continuation of the control and domination exercised during the relationship: use of children; threats; harassment; intimidation; physical, psychological and economic abuse; strategies to hurt them; disruption of the relationship with the children; use of systems, etc.³⁸

It has also been shown that the parental role is often used to maintain control. Aggressors can

ask for parenting time and decision-making responsibilities in order to maintain contact with a former partner. For example, they can refuse to comply with parenting orders, threaten to make the former partner lose her parenting time, undermine the victim's authority as a parent, try to obtain a parenting arrangement that requires in-person transfers, and impose ongoing communication with the other parent.³⁹ Moreover, the violent partner often uses the justice system process to continue harassing or intimidating his former partner, allowing him to maintain his domination and control over the relationship. For example, the partner tends to file multiple court cases and intimidate the victim at the courthouse.

As reported by the Réseau international des mères en lutte,⁴⁰ a recent longitudinal study conducted in Italy helped better understand the mechanisms of coercive control and violence following separation and the way violent men use children to achieve their goals.⁴¹ The study showed that women suffered high levels of violence and the children were very involved. Women with children who no longer lived with their violent partner experienced threats, violence, forms of manipulation and controlling behaviour during father-child contacts. The vast majority of women in the longitudinal survey, 78.9%, and the 13 women in the qualitative study reported at least one such behaviour.

³⁴ I. Côté, S. Lapierre. *Op cit.*

³⁵ D. Guilmette, S. Léveillé. "Séparation et violence conjugale: une intervention de sensibilisation à l'égard des conjoints violents." Collection *Comment intervenir?* (5). Partenariat de recherche Séparation parentale, recomposition familiale. Université Laval: Québec. 2020. https://arucfamille.ulaval.ca/wp-content/uploads/2020/12/Comment_intervenir_5-Guilmette-Leveillee.pdf. [in French only]

³⁶ Intimate partner violence Death Review Committee. 2018 Annual Report. Office of the Chief Coroner, Ontario. [online] <https://www.ontario.ca/document/domestic-violence-death-review-committee-2018-annual-report>.

³⁷ I. Côté, S. Lapierre. *Op cit.*

³⁸ M. L. Toews, A. M. Bermea. "I was naive in thinking, 'I divorced this man, he is out of my life': A Qualitative Exploration of Post-Separation Power and Control Tactics Experienced by Women." *Journal of Interpersonal Violence*, vol. 32, no. 14: 2166–2189, 2017. <https://journals.sagepub.com/doi/10.1177/0886260515591278>.

³⁹ Excerpt from the course *Family Violence and Family Law for Legal Advisers*. Justice Canada. [online] <https://www.justice.gc.ca/eng/fl-df/cfl-mdf/trai-form/story2/story.html>.

⁴⁰ Source: Réseau international des mères en lutte. <https://reseauiml.wordpress.com/>. [in French only]

⁴¹ M. Feresin et al. The Involvement of Children in Postseparation Intimate Partner Violence in Italy: A Strategy to Maintain Coercive Control?. Université de Trieste, June 2019. <https://journals.sagepub.com/doi/10.1177/0886109919857672>.

The study showed that 70.1% of mothers were afraid that the father would be abusive with the child. In addition, over half of women (52%) feared transferring the child between

homes, as the father has all the power because post-separation violence remains poorly identified by social and legal services.

3. The impacts of coercive control on victims

As many studies have shown, coercive control is a particularly harmful and lasting form of intimate partner violence (Lehmann et al. 2012). Adult and child victims say that the coercive aspect of the abuse is more devastating than physical aspect and harder to recover from (Litrownik et al. 2003; Stark 2007). Its devastating impact stems from its similarities to political terrorism (Morgan 1982), control by a sect (Stark 2007:200), tactics for controlling hostages and the treatment of prisoners of war and detainees in concentration camps (Okun 1986; Herman 1992).

Impacts on women

Coercive control affects all women; no sub-category is exempt. However, the results of the Survey of Safety in Public and Private Spaces showed that over half (56%) of young women aged 15 to 24 who had ever been in intimate partner relationship reported experiencing some form of intimate partner violence at least once since age 15.⁴² This proportion was much higher than that observed among women aged 25 or older who had been in a relationship (43%). Research shows that adolescence and young adulthood, when many youth are negotiating intimate relationships and limitations for the first time, pose a higher risk of experiencing violence (Johnson et al. 2015). The most common psychologically abusive behaviours reported by young women are a partner being jealous and not wanting them to talk to other men or women (29%);

being put down or called names to make them feel bad (20%); and being told they are crazy, stupid or not good enough (17%).⁴³

Major physical and psychological impacts

“It is not easy to get out.... There is guilt, the fact that the violent person takes away your self-esteem, ‘You want to leave? Where will you go? You can’t get by on your own. You always need me. You don’t talk to anyone anymore, even your parents. You really think they’ll agree to have you move back in with them?’ The grand declarations of love with apologies, when he tells you he is nothing without you... Leaving is generally almost impossible, on the one hand because he is always there and on the other hand because he makes us believe that it is worse elsewhere.”⁴⁴ [translation]

Coercive control eliminates the victim’s sense of individuality and prevents her from believing in her own ability to make decisions. It eliminates all sense of self. The victim no longer makes decisions based on what is best for her or what motivates her, but based on fear of what her partner will do to her if she makes the wrong decision.⁴⁵ The purpose of coercive and violent behaviour is to provoke fear and acquire power and control over a woman’s thoughts, beliefs and actions.

“In situations of captivity, the aggressor becomes the most powerful person in the victim’s life, and the victim’s psychology is shaped by the aggressor’s actions and belief”

⁴² L. Savage. *Intimate partner violence: Experiences of young women in Canada, 2018*. Statistics Canada. 2021. <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00009-eng.htm>.

⁴³ L. Savage. *Op cit*.

⁴⁴ Lacta. *Cette histoire d’amour N’EST PAS une histoire d’amour*. [online] https://m.facebook.com/watch/?v=392938162615431&_rdr. [in French only]

⁴⁵ C. Gill, M. Aspinall. *Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?* Reported presented to Justice Canada. University of New Brunswick. April 2022. <https://www.victimfirst.gc.ca/res/cor/UCC-CCC/index.html>.

[translation] (Herman 1992:75). He is able to control and devalue the victim, to produce a “distortion of her subjective reality” [translation] (Kirkwood 1993) and harm her psychological and physical health.

Some women can be victims of gaslighting, a form of manipulation that seeks to make a person doubt themselves using lies, denial, selective omission or altering of facts to make the woman anxious and confused and benefit from it.

The ongoing effect of coercive control can result in complex trauma. It takes away the victim’s confidence and judgment. She suffers from avoidance, dissociation, hypervigilance, loss of identity and confidence, and sometimes deep shame, terror and guilt. “The most serious condition of oppression is not having the words to explain the feelings and difficulties being experienced while the belief systems of the dominant culture deny its reality” [translation] (Hanmer 1990:443).

In this maelstrom of oppression, the victim is neutralized and can make decisions only within a structure controlled by the aggressor (Gill and Aspinall 2020).

In *Women at Risk – Domestic Violence and Women’s Health*, Stark and Flitcraft show how the mental prison some women are in can push them to suicide.⁴⁶ Research shows a 44% greater risk of mortality among women who are victims of intimate partner violence compared with other women of similar age and physical condition (Chandan et al. 202; Garcia-Moreno et al. 2013). The reality of forced suicide is still little known. The number of femicides is often mentioned, while that of

women who commit suicide due to intimate partner violence is less cited.

For example, in France in 2018, 217 women took their own lives owing to violence from their partner.⁴⁷ An important step forward was taken in July 2020 when France became the first country in Europe to recognize the aggravating circumstance of psychological harassment in the *Penal Code*. Now, when harassment leads a victim to commit or attempt suicide, the aggressor’s sentence is increased by 10 years in prison.⁴⁸

Impact on the ability to participate equitably in the justice system process

Coercive control can have a profound impact on a person’s ability to equitably participate in the justice system process and appear in court.

First and importantly, coercive control and influence also blocks the revelation of facts and continues after separation: The National Survey on Violence Against Women in France (ENVEFF) (2003) shows that women who separated from their partner in the previous 12 months report more violence than those still in a relationship (Jaspard 2011:24, 39). This is especially true if they had children with him: 9 out of 10 of these women suffer assaults (Romito 2011:89). Indeed, 82% of victims of intimate partner violence are mothers (Sourd 2019), and most of the violence occurs around the children, as the aggressors are struggling with their status as a parent (Sadlier 2015a).⁴⁹

The victim initially fears the likelihood that the justice proceedings will become fertile ground for an escalation of the violence. In addition, intimate partner violence can cause

⁴⁶ E. Stark, A. Flitcraft. *Women at Risk: Domestic Violence and Women’s Health*. Sage Publications. 1996. <https://sk.sagepub.com/books/women-at-risk-domestic-violence-and-womens-health>.

⁴⁷ C. Vasquez “Violences conjugales: trois questions sur le ‘suicide forcé’, grand absent de la loi.” *L’Express*. October 29, 2019. https://www.lexpress.fr/actualite/societe/justice/violences-conjugales-trois-questions-sur-le-suicide-force-grand-absent-de-la-loi_2105223.html. [in French only]

⁴⁸ *Loi no 2020-936 du 30 juillet 2020 visant à protéger les victimes de violences conjugales*, France [online] <https://www.legifrance.gouv.fr/lorf/id/JORFTEXT000042176652>. [in French only]

⁴⁹ A. Gruev-Vintila. F. Toledo, “Le contrôle coercitif. Repérer les violences au sein du couple dans les interactions et le rapport de pouvoir entre l’auteur et la victime,” in *L’emprise et les violences au sein du couple*, I. Rome and É. Martinent, eds. Paris: Dalloz. 2021. p. 277–290. <https://www.boutique-dalloz.fr/l-emprise-et-les-violences-au-sein-du-couple-p.html>. [in French only]

increased long-term apprehension and a persistent fear that will affect the legal proceedings. It can cause psychological harm that will lead to loss of self-esteem, a reduced ability to defend oneself with assurance or withstand settlement pressure, and several psychological disorders that only mental health professionals can diagnose.

Doctors and psychologists report that the harm caused by trauma does not end simply because the trauma ends. The care needed for harm caused by trauma must be provided in a safe and supportive environment.⁵⁰ In addition to the lasting effects of the harm, a related concern, revealed by empirical research, is the risk that the coercive intimate partner violence creates greater vulnerability to settlement suggestion.⁵¹

Finally, many women who are victims show signs of post-traumatic syndrome with events that return in the form of “intrusive” thoughts or flashbacks, or cause nightmares. It can lead to disorientation or mental confusion, with delusional or paranoid thoughts. When these women go to court, significant cognitive distortions about their body image and abilities, a reduced capacity for self-assertion and a range of problems linked to their victimization can surface.

Moreover, one in two women who experience violence may be subject to frequent unreported and untreated physical violence to the head. Such violence may lead to traumatic brain injury, comparable to that experienced by some athletes. People who experience brain trauma often have memory problems, physical symptoms (nausea, dizziness, pain,

ringing in the ears, vision problems, headaches), mood changes (anger, depression) or difficulty sleeping.⁵²

Women who have experienced traumatic brain injuries related to intimate partner violence may also have difficulty assessing danger, making decisions related to safety, remembering and getting to appointments, learning new information and managing substance use. And repeated traumatic brain injuries may lead to longer recovery times and have more serious consequences.⁵³

The Acquired Brain Injury (ABI) Research Lab at the University of Toronto studies brain injuries and inequalities in access to health services in vulnerable populations, particularly women.

The Abused & Brain Injured program was created to draw attention to the largely unknown crossover between intimate partner violence and traumatic brain injuries. To improve the lives of survivors and the work environment of front-line workers, this research centre developed a tool kit that provides information, resources, research and practical recommendations to ensure trauma is better taken into account.⁵⁴

As criminologist Lise Poupart has noted, “a range of consequences can thus hinder the ability or desire of victims to testify and unfortunately sometimes even affects their credibility.”⁵⁵ [translation]

⁵⁰ *Enhancing Safety: When Domestic Violence Cases are in Multiple Legal Systems ... A Family Law, Domestic Violence Perspective*. Justice Canada. [online] <https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/enhan-renfo/p3.html>.

⁵¹ Ibid.

⁵² *Traumatic Brain Injury (TBI) and Intimate Partner Violence (IPV): Supporting Survivors in Shelters*. Centre for Research & Education on Violence Against Women & Children. Ontario. [online] <https://www.vawlearningnetwork.ca/our-work/infographics/traumatic-brain-injury/Traumatic-Brain-Injury-Infographic-Plaintext.pdf>.

⁵³ Ibid.

⁵⁴ *Abused and Brain Injured*. [online] <http://www.abitoolkit.ca/>.

⁵⁵ L. Poupart, *La violence conjugale: une problématique complexe, une judiciarisation controversée*. Les Cahiers de PV. Association québécoise Plaidoyer-Victimes. Montréal. February 2010. https://aqpv.ca/wp-content/uploads/poupart_fevrier2010.pdf. [in French only]

Impacts of stereotypes about the expected behaviour of victims

Current research shows that women are more likely to turn to violence for self-defence or resistance, or in response to current or past trauma (Boxall, Dowling and Morgan 2020). Violence by women can be helpfully understood through the prism of coercive control.

Violence by women, if not seen as a response to ongoing coercive control, may seem like an “overreaction,” or the woman herself may be seen as—or portrayed as—an instigator of violence.

This problem is aggravated by certain stereotypes about the expected behaviour of “real” victims. A “real” victim is a submissive and passive person who does not defend themselves and cooperates with law enforcement. However, many victims do not fit this profile and have extremely varied reactions. They may refuse to talk to police, be angry, aggressive or fearless, be confused or be unable to provide a clear account or story, or, alternatively, express the desire not to take any action against the other person or leave the person (Salter 2020; Segrave, Wilson and Fitz-Gibbon 2018).

According to a 2020 Australian study, these prejudices lead to an incorrect identification of the “person most in need of protection” in a context of intimate partner violence.⁵⁶ Women are wrongly “over-identified” as initiators of such violence.

Conversely, men who coercively control their partners may seem to more under control, as they are not being influenced. They often present themselves well, appear to be calm, have a coherent account and are sometimes the first to call the police. In addition, coercive control behaviour can sometimes be less visible due to expectations based on gender roles. For

example, aggressors sometimes take advantage of marriage- or maternity-related values, making expectations or requirements related to household chores, employment or reproduction seem “reasonable.”

⁵⁶ H. Nancarrow et al. *Accurately identifying the “person most in need of protection” in domestic and family violence law*. Australia's National Research Organisation for Women's Safety (ANROWS). Sydney. 2020. <https://www.anrows.org.au/publication/accurately-identifying-the-person-most-in-need-of-protection-in-domestic-and-family-violence-law/>.

Impacts on some women at the intersection of various kinds of oppression

Although it is recognized that the tactics used in intimate relationships characterized by control and coercion affect all women, research has shown that some groups of women are more exposed to intimate partner violence than others, particularly young women, women with physical or intellectual disabilities (Jaffray 2021a) and Indigenous women (Heidinger 2021).⁵⁷ In other words, other characteristics that overlap with gender affect the likelihood of being a victim of intimate partner violence. Some women therefore face additional barriers because they are at the intersection of several types of oppression.

Moreover, recent research sought to document access to justice in Quebec for women victims of intimate partner violence, sexual abuse and sexual exploitation who are further marginalized (immigrant women, racialized women, Indigenous women, deaf women and women from sexual and gender minorities).⁵⁸ That research led to an initiative by the main feminist groups in Quebec that work to address and combat violence against women, based on the finding that women—particularly those who are further marginalized—face major obstacles when seeking justice for gender-based violence.

Our literature review focuses on the impact of coercive control observed among immigrant,

refugee and non-status women, and among women in poverty. Given the multiple oppressive factors, the Regroupement chose to pay particular attention to these women specifically, as they represent a significant proportion of women who use their member transition and shelter houses. The Regroupement hopes that other women's organizations will also explore the impacts of coercive control on other sub-groups of victims of multiple oppressions.

Immigrant, refugee and non-status women

Although immigrant, refugee and non-status women experience forms of violence in their intimate relationships similar to those suffered by women born in Canada, they also face barriers to access to justice specific to them. Recommendation 4⁵⁹ from the Quebec report *Rebâtir la confiance* specifically addresses this issue.⁶⁰

Partner's control of the migration process

Control and coercion can occur in situations where a partner seeks to control the immigration process by confiscating identification documents or having proxies or authorizations signed that enable him to control a woman's file and access to her information. Sometimes, the vulnerability arises because the woman does not speak or understand English or French, thus increasing her dependency on her partner for information. The partner sometimes prevents the victim from attending

⁵⁷ B. Jaffray. *Intimate Partner Violence: Experiences of sexual minority women in Canada*, 2018. Canadian Centre for Justice and Community Safety Statistics. Statistics Canada. 2021. [online] <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00005-eng.htm>.

⁵⁸ S. Thibault, G. Pagé, C. Boulebsol et al. (2022). *Justice pour les femmes marginalisées victimes de violences sexospécifiques. Ce que la littérature et les intervenantes nous apprennent*. Montréal: Service aux collectivités de l'Université du Québec à Montréal/ Fédération des maisons d'hébergement pour femmes / Regroupement des maisons pour femmes victimes de violence conjugale / Concertation des luttes contre l'exploitation sexuelle / Regroupement québécois des centres d'aide et de lutte contre les agressions à caractère sexuel. https://sac.uqam.ca/upload/files/2022/Rapport_recherche_Justice_femmes_marginalisees_WEB.pdf. [in French only]

⁵⁹ Recommendation 4: "Improve, adapt and extend psychosocial/judicial services to victims from minority groups, particularly support and accompaniment...for non-status people; people from ethnocultural communities; new immigrants and people who do not speak English or French...." [translation]

⁶⁰ *Rebâtir la confiance – Synthèse*. Report of the expert committee on support for victims of sexual assault and intimate partner violence, co-chaired by Elizabeth Corte and Julie Desrosiers. Secrétariat à la condition féminine. Government of Quebec. December 2020. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

francization workshops in order to hinder access to a form of independence.

The constant fear of being reported to immigration offices and deported is a fear that particularly affects female refugee claimants and non-status women.⁶¹

Finally, a man with the access code and security questions for the file will be able to access his partner's personal information, including her new address in the event of a separation.

Fears relating to various immigration statuses or lack of status

Sponsorship can put violent men in a position of power over their partners. If they are victims of intimate partner violence, women rarely report the situation, as they fear a reprisal from their partner, deportation or separation from their children.⁶² Women who are in the process of being sponsored, but who are still waiting for permanent residency, are particularly dependent on the person sponsoring them. There is an obligation for the couple to live together until the documents are obtained. The sponsor can withdraw the application at any time before the papers arrive conferring permanent residency on his partner. The pandemic worsened this vulnerability, as processing times for sponsorship applications grew longer and can now be up to almost two years. Boosting the sometimes unbalanced power dynamic thus favours abusive partners.

There is a temporary resident permit (TRP) for victims of intimate partner violence. However, it grants a much more precarious immigrant status, which encourages women to remain with their violent partner.

If a woman applying for refugee status is a victim of intimate partner violence by the partner with whom she submitted a joint claim, she often does not know that she is

entitled to separate her refugee claim from that of her partner. Some women fear they will be offered refugee status only if they remain with their partner, as the risk of persecution may be greater for the partner. Many do not know that they are entitled to ask that their refugee claim be reopened to add a new ground of fear of persecution.

Non-status women are particularly vulnerable because, having no legal status, they are often afraid to call the police for incidents of intimate partner violence. They fear police involvement will lead to their deportation. For the same reasons, they rarely seek access to services, such as resources for women or other community organizations.⁶³ They may also believe that they do not have the right to do so, or they may not be aware of the services. Others avoid reporting the abuse they suffer because they do not want their partner to be barred from staying in Canada.

In cases where the woman is the guarantor and the partner is the sponsored person, separation for abuse does not end the guarantor's commitment, and she is therefore required to meet the needs of her violent partner until the end of the commitment (three years from acceptance of the application).

Deprivation and isolation imposed by the partner, vulnerability factors

Control can be exercised in a particularly harmful way for these women through deprivation or various isolation tactics employed by their partner. According to Menjivar and Salcido (2002), "immigrant women who are victims of intimate partner violence face increased social isolation. For example, some men control their partner's life by forbidding

⁶¹ Canadian Council for Refugees. *Violence against newcomer women*. [online] <https://ccrweb.ca/en/violence-against-women>.

⁶² Ibid.

⁶³ Ibid.

them from having any social contact.”⁶⁴ [translation] A partner can stop a woman from learning English or French, or from working.⁶⁵ The isolation tactics of coercive control add to the linguistic and cultural barriers these women face and their lack of social and family networks. Finally, this isolation is an additional barrier to their ability to seek help and support.

Social or religious practices used to maintain control

The power imbalance in a relationship can sometimes be accentuated by social or religious practices that directly support men’s domination of women. Divorce and separation remain unacceptable solutions in many cultures, which can make it more difficult for women to leave a relationship.⁶⁶ They may fear the negative consequences of a separation in their cultural community (dishonour, shame, etc.) for them and their family in Canada and in their home country. The partner may then use the threat of alienating them from their cultural community by ruining their reputation to maintain control over them.

However, some immigrant women are not aware that they are in an abusive relationship characterized by coercive control. For example, the fact that the partner controls her bank account or limits her communications with people around her may be considered normal or socially acceptable, meaning that these

forms of deprivation are normalized and women do not seek help.

Economic precarity, which increases dependency on the partner

A lot of these women are already in a very precarious economic situation. In this context, getting out of a situation of intimate partner violence increases their financial vulnerability. This vulnerability stems from the discrimination they face on the labour market, when their partner allows them to work, or the lack of recognition of their diplomas or qualifications.⁶⁷ Some, without status or a work permit, simply cannot work legally in Canada. When they do work, despite everything, they do so in difficult conditions, in addition to being subject to the risk of being reported by their partner, for their status or their income taxes.⁶⁸

Lack of confidence and difficulties gaining access to social and legal services

Finally, recent immigrant women face several obstacles that prevent them from obtaining justice and community services. First, they lack access to information on their rights and legal recourse because of their isolation and language barriers. Seeking justice system services, particularly the police, may be even more difficult, or even unthinkable, for these women. For example, they may fear the police and be hesitant to seek help if they are from a country where the police are unlikely to help

⁶⁴ G. Berteau et al. *Sensibiliser les communautés ethnoculturelles à la violence conjugale : Bilan et résultats de l'évaluation de la campagne du Bouclier d'Athéna*, Bouclier d'Athéna - Services familiaux et Université du Québec à Montréal, 2008. <https://bit.ly/386T7K7>. [in French only]

⁶⁵ Canadian Council for Refugees, *op. cit.*

⁶⁶ *Preventing, Detecting and Ending Conjugal Violence – Policy on Intervention in Conjugal Violence*. Expert committee on support for victims of sexual assault and intimate partner violence. Government of Quebec. 1995. <https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/education/publications-adm/SCF/publications/violences-en/Politique-Prevenir-depister-contrer-EN.pdf?1632323208>.

⁶⁷ C. Rojas Viger. “Corps-fait-histoire, médiateur de l’itinéraire de femmes péruviennes immigrantes à Montréal,” in S. Arcand et al. *Violences faites aux femmes*, Montreal: Presses de l’Université du Québec. 2008. p. 149–181. https://extranet.puq.ca/media/produits/documents/1556_9782760519886.pdf. [in French only]

⁶⁸ “Réalités ethnoculturelles,” in A. Fortin et al., *Soutenir les mères pour prévenir les effets néfastes de la violence conjugale chez les enfants: Guide pour les intervenantes des maisons d’aide et d’hébergement*, Montreal and Quebec City: Centre de recherche interdisciplinaire sur la violence familiale et la violence faites aux femmes. 2007. pp. 73–81. [in French only]

women experiencing intimate partner violence or where they are corrupt.

In addition, the discrimination and racism they may face often discourages them from defending their rights in the justice system. Some may also hesitate to file a complaint because they fear the legal and social consequences that it could have on their partner. Others fear being in legal trouble themselves, being reported to immigration or losing their children to child protection or to the partner in cases involving cross-complaints.

When they consult or need the services of an interpreter, particularly a non-professional interpreter, women are very hesitant to reveal their real problems, as they fear that their statements will not remain confidential. Some interpreters unfortunately do not remain neutral and try to convince them to remain in the relationship, without other stakeholders realizing it.

In addition, women who have recently arrived in Canada and are in abusive situations often fall between the cracks in the safety net. The lack of training and awareness among caseworkers about the specifics of their vulnerability and the problems they face may also make the fact that they are not receiving the services they need worse.

Human trafficking

Some victims may be subject to human trafficking by someone they know: a current or former partner. This is violence in which the victim is often psychologically manipulated and exploited. In the sex trade, for example, the victim is completely controlled in a modern version of slavery. In interactions with institutions, the control the victim has experienced very often takes a back seat to the illegal

trafficking practices; their credibility may also be questioned.

Women in poverty and financial violence

Economic precarity

The economic precarity of some women can be another barrier to leaving a violent partner. The following are some of the barriers reported in the available literature and in discussions with resource-persons in the community:⁶⁹

- Difficulty, or inability, to find new housing, as they are unable to afford the first month's rent for a new dwelling, in a context of a housing shortage
- Inability to obtain a first individual social assistance cheque because they are still living with the partner when they apply
- A lack of spaces in transition houses or shelters
- A lack of access to social housing
- No financial means for essential services (moving expenses, reconnection fees, transportation, Internet access, etc.) for them and their children
- An inability to pay the entire rent on their own

Economic violence during the relationship

Although very widespread, economic violence committed as part of coercive intimate partner violence is not well-known. It consists of exercising various forms of control throughout the relationship that make the victim financially dependent and force her to beg for money for everyday expenses. The victim is thus completely deprived of any financial independence.

⁶⁹ In particular, the Regroupement spoke with the following organizations: [Rose du Nord](#), a member of the Front commun des personnes assistées sociales du Québec, and [Project Genesis](#).

The following are some examples of frequently reported situations of economic violence that some victims may experience:⁷⁰

- The abusive partner forces his partner to work or prohibits her from working.
- He controls some or all of his partner's finances.
- He controls the budget by closely monitoring all of her expenses.
- He encourages his partner to go into debt or enters into debts in her name.
- He requires that she pay all of his expenses or give him funds.
- He forces her to cover all household expenses alone, thus ensuring that she can never build up any savings.
- He deprives her and her children of certain essentials (medication, food, water).
- He forces her to steal or commit fraud.
- He threatens to quit working so she will owe money to social assistance if she sponsors him.

Economic violence post-separation

For other women, economic problems arise following separation and are caused by coercion and control strategies that the former partner used to avoid paying support or by costs incurred to get themselves and their children out of that environment of intimate terrorism.

The former partner can sometimes conceal income.⁷¹ Upon separation, he can use the justice system as a control strategy by initiating numerous processes, particularly in situations

where he has access to legal aid when she does not.

In 2021, University of Glasgow researcher Jenn Glinski⁷² created a tool based on the Power and Control Wheel that deals specifically with post-separation economic violence.⁷³ The wheel highlights the many economic control strategies that can affect the former partner, even after separation. The following are some examples:

- The abusive partner can use other people's bank accounts to conceal financial resources, withdraw all money from joint accounts and children's savings accounts, continue building up debt in his partner's name, flee and leave her responsible for shared financial commitments.
- He can use threats to force the children to live with him to obtain support payments from her, threaten to stop agreed payments, force her to borrow money from her family and friends, and refuse to pay support.
- He can also use various forms of economic abuse, such as withholding personal documents (visas, passports, diplomas), making her pay rent or a mortgage for a shared residence where he lives, blocking access to shared economic resources and interfering with her ability to work or study.

Coercive violence and homelessness

Finally, some studies show that intimate partner violence (Watson 2016; Petering et al. 2014) is a factor in women becoming homeless. In one study, Adams et al. (2013) show that the socio-economic conditions of women who suffer intimate partner violence become precarious for up to three years after

⁷⁰ SOS violence conjugale. 6 forms of financial violence [online] <https://sosviolenceconjugale.ca/en/tools/sos-infos/6-forms-of-financial-violence>.

⁷¹ M. Dubé et al., *L'engagement de ne pas troubler l'ordre public utilisé en matière de violence conjugale (article 810): Que nous en disent des victimes?* Regroupement des maisons pour femmes victimes de violence conjugale et Services aux collectivités de l'UQAM. 2020. https://sac.uqam.ca/upload/files/Rapport_810CC.pdf. [in French only]

⁷² J. Glinski. *Post-Separation Economic Power and Control*. University of Glasgow. 2021 [online] <https://www.theduluthmodel.org/wp-content/uploads/2021/07/Post-Separation-Economic-P-and-C-University-of-Glasgow.pdf>.

⁷³ Ibid.

the separation from their partner. Homelessness is also described as a survival strategy that women deliberately adopt to escape that violence (Flynn 2015; Tutty et al. 2013), leading them to consistently and voluntarily change areas to prevent their partner from finding them.⁷⁴

In other situations, developing an intimate link to a violent partner (Watson 2016; Côté et al. Murray 2011) also seems to be a strategy many women use to overcome the difficult living conditions of homelessness or because they feel they owe something to that partner, who is seen as a “saviour.” On the street, a place where gender inequalities are reproduced (Côté et al. 2017; Flynn 2015; Wesely 2009), women are particularly likely to again experience abuse. There, male intimate partners can adopt masculine roles and be dominant and violent toward homeless women (Dej 2018; Watson 2016; Petering et al. 2014). Similarly, the precarious economic conditions of homelessness apparently lead some women to return to their violent partner to stabilize their living conditions (Tutty et al. 2013).⁷⁵

Impact on children

International scientific research and the Istanbul Convention both recognize the major traumatic impact of intimate partner violence on children and its massive impact on parental abilities, noting that “children are therefore also victims.”⁷⁶ [translation]

Exposure to intimate partner violence is the second most common form of abuse leading to child protection investigations and the main

form of psychological abuse reported and documented in clinical populations in Canada and Quebec, representing 34% and 21% respectively of cases identified.⁷⁷

One of the ways the concept of coercive control adds value is that it provides a more comprehensive analysis of the situation and what children experience by going beyond the known consequences shown by studies on intimate partner violence, such as exposure to incidents.

Exposure to coercive violence results in children growing up in an unsafe environment and a climate of tension. They are therefore directly affected by the consequences of the pattern of behaviour by their father or their mother’s partner. They live in fear, are afraid that their mother will be hurt or killed, etc.

Multiple studies show that coercive and controlling behaviour causes a lot of harm to children. Children who live in environments where coercive control is used show symptoms of post-traumatic stress disorder, depression and anxiety and are disengaged from their studies. They are also often less successful in school and have difficulty concentrating. Research has just recently begun taking into account the traumatic effect on children (Katz et al. 2020) in all areas of their life: health, education, development of relationships, recreation, the likelihood of at-risk or violent behaviour, and the possibility of becoming a victim again (WHO 2010).

The stress causes trauma for children, affects their health, early brain development, nervous and immune systems, and all areas of their life for decades (Litrownik et al. 2003;

⁷⁴ M.-M. Cousineau, C. Flynn et al. *Violence faite aux femmes de la part de partenaires intimes et itinérance: mieux comprendre pour intervenir de façon concertée*, Research report – Programme Actions concertées, Université de Montréal, Université du Québec à Chicoutimi, Government of Quebec Fonds de recherche Société et culture. 2021.

https://frq.gouv.qc.ca/app/uploads/2021/04/cousineau-et-flynn_rapport_violence-femmes-itinerance.pdf

⁷⁵ Ibid.

⁷⁶ Council of Europe Convention on Preventing and Combating Violence against Women (Istanbul Convention). Council of Europe. 2019. <https://edoc.coe.int/en/children-s-rights/7869-childrens-rights-istanbul-convention.html>

⁷⁷ M.-É. Clément et al. “Chapitre 2 – La violence et la maltraitance envers les enfants,” in *Rapport québécois sur la violence et la santé*. Institut national de santé publique du Québec. 2018. https://www.inspq.qc.ca/sites/default/files/publications/2380_chapitre-2.pdf

Stark 2007; Fulu et al. 2017; Felitti et al. 1998). The WHO (2010) notes that boys who are exposed to interparental violence during childhood are three or four times more likely to become violent toward an intimate partner as an adult (Gil-Gonzalez et al. 2008).⁷⁸

Unfortunately, research shows that professionals have difficulty protecting children when mothers report violent fathers (Meier 2019; Prigent and Sueur 2020). The focus and blame is often on the mother for managing the situation, rather than on the violent person.

“For women with children...separation is more complicated and, when it happens, joint parental authority means continued ties can overexpose them to violence” [translation] (Brown et al. 2019:12). Intimate partner violence post-separation is “the same as intimate partner violence.... [I]t is a series of behaviours characterized by a desire to dominate and control...which may include...the use of children for these purposes..., forcing them to spy on their mother or threatening her to take away the children—or even kill them—in the event of separation” [translation] (Romito 2011:92; Romito and Feresin 2020).⁷⁹

After separation, control takes on other forms and intensifies, exposing the woman and the children to a greater risk, even as serious as homicide. The violent partner uses all means available, including the exercise of parenting rights, to maintain control (Sadlier 2015a). Children suffer ongoing psychological harm (trauma) when their father belittles their mother in front of them, prevents or controls their activities and reduces their time with her, limits their contact with grandparents, monitors them, abuses them emotionally or

psychologically, etc. (Katz 2015; Navarro 2015).⁸⁰

The strategies used by the coercive controlling parent range from parenting that is dangerous and frightening for the children to parenting that is “admirable” to corrupt the social norm of a “good parent” to appear like a “victim” and “concerned,” to parenting that is omnipresent in all areas of the child’s life: school, care, time with the mother (Katz et al. 2020, fig. 3).

This puts children in a world of restrictions that are harmful to their development (Katz 2016). Some children “resist” (reluctance to have contact with the abusive parent, silence), while others adapt by changing their behaviour (Herman 1992), or may make requests supporting the abusive parent to ensure their safety (“conflict protection,” Sadlier 2015a), or to satisfy the abuser’s needs.⁸¹

Recovery is a long process for children and first requires their protection (living with the protective parent in a safe place, away from the aggressor), suitable care that gives meaning to their experiences and the assignment of blame for the impact of the coercion on the aggressor, not the female parent (Sadlier 2015b; Salmona 2016, 2017).

Using the system

The expression “using the system” refers to strategies employed by violent partners who make use of the system for their purposes or their benefit, such as by drawing out court proceedings to put the woman in a precarious financial situation or by making false statements to the police to hurt the partner.

The legal system becomes a weapon when the aggressor uses it to continue his coercive and

⁷⁸ A. Gruev-Vintila, F. Toledo. “Le contrôle coercitif. Repérer les violences au sein du couple dans les interactions et le rapport de pouvoir entre l’auteur et la victime,” in *L’emprise et les violences au sein du couple*, I. Rome and É. Martinent, Paris: Dalloz. 2021. pp. 277–290. <https://www.boutique-dalloz.fr/l-emprise-et-les-violences-au-sein-du-couple-p.html>. [in French only]

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

controlling behaviour after separation. The violent partner uses legal avenues to manipulate, exercise power and control, cause fear, force contact and cause financial problems for his former partner. For example, harassment related to custody is a form of administrative abuse in which the father or aggressor threatens to file for legal custody or call child protection to spend more time with his children. Non-compliance with custody orders issued by the court or agreed to by the parties, such as failure to return children following a visitation, is also a form of legal harassment.⁸²

Others ensure that they consult all the lawyers in small towns so the victim is unable to be represented by local counsel. Self-representation in the justice system can also be a strategy that sometimes creates some flexibility in timelines and proceedings while increasing contact with the victim. It is essential that the

justice system be aware that legal proceedings can unfortunately be used and hijacked to serve the interests of the violent partner.

To conclude this chapter, note that the scope and gravity of the repercussions of coercive control, on both victims and those close to them, are clearly significant. This reality calls for a collective response suited to the physical and psychological impact of the continuum of violence that they suffer. The responses implemented in Canada's justice system are still not enough to fully recognize the harm suffered and enable women to uphold their rights in an equitable manner.

The next chapter discusses some of the current limitations of criminal law, family law and immigration law in accounting for the manifestations of coercive control in the justice system process for women.

⁸² L. Chambers. *Submission for Bill C-247*. Lakehead University (Ontario). 2021:5. <https://www.ourcommons.ca/Content/Committee/432/JUST/Brief/BR11101619/br-external/ChambersLori-e.pdf>.

4. Limitations of the current system

Criminal law

The Quebec government recognizes that coercive control is part of the dynamic of violence between intimate partners. Its *Policy on Intervention in Conjugal Violence* defines intimate partner violence as follows: “Conjugal violence includes psychological, verbal, physical and sexual abuse as well as acts of economic domination. It is not the result of loss of control; on the contrary, it is a method chosen to dominate another person and assert power over that person. It may be experienced in a marital, extramarital or love relationship at any age in life.”⁸³

The Government Action Plan on Intimate partner violence (2018–2023) also states the following: “This cycle, set up and orchestrated by the perpetrator, enables the perpetrator to continue to dominate their partner. In a domestic relationship marked by violence, the cycle is repeated over and over and accelerates over time.” It distinguishes between intimate partner violence and situational violence: “It is therefore important to make a clear distinction between the notion of domestic violence as it has been defined earlier in the text, that is, a ‘coercive’ type of violence, and other types of violence that may occur between intimate partners. This distinction allows for consideration of the different dynamics, characteristics and effects associated with each type of violence so that the appropriate interventions can be determined.”⁸⁴

However, Canada’s criminal justice system still treats intimate partner violence as an isolated event, preventing the recognition of repeated violent tactics and appropriate responses. Coercive control involves more than a single incident; it is a series of behaviours adopted over time that are repeated and ongoing.

As noted by sociologist Carmen Gill in her report, criminal laws emphasize specific assaults, and prosecutions address cases involving isolated and usually violent incidents.⁸⁵ Some offences in the *Criminal Code* relate to psychological and emotional abuse, such as criminal harassment (section 264), uttering threats (section 264.1), making indecent or harassing telephone calls (section 372), trespassing at night (section 177) and mischief (section 430).

Some of these offences include aspects of coercive control. However, it is very rare for charges to be brought in situations of coercive control. As noted by several witnesses in the report of the House of Commons Standing Committee on Justice and Human Rights, *The Shadow Pandemic*, “the ‘standard of proof for offences like criminal harassment or threatening is very specific and has a very confined

⁸³ *Preventing, Detecting and Ending Conjugal Violence – Policy on Intervention in Conjugal Violence*. Expert committee on support for victims of sexual assault and intimate partner violence. Government of Quebec. 1995. <https://cdn-content.quebec.ca/cdn-content/adm/min/education/publications-adm/SCF/publications/violences-en/Politique-Prevenir-depister-contrer-EN.pdf?1632323208>.

⁸⁴ *Government Action Plan on Intimate partner violence 2018–2023*. Secrétariat à la condition féminine, Government of Quebec. 2018, pp. 4–5. http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/plan-violence18-23-access_en.pdf.

⁸⁵ C. Gill, M. Aspinall. *Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?* Reported presented to Justice Canada. University of New Brunswick. April 2022. <https://www.victimfirst.qc.ca/res/cor/UCC-CCC/index.html>.

context.”⁸⁶ Indeed, “criminal harassment charges are challenging to prove at the best of times and would be particularly challenging in the context of an ongoing relationship where people are living together—and uttering threats, as well.... [T]he prosecution of any new offence for coercive and controlling behaviour would also raise significant challenges.”

In addition, while the soon-to-be-created specialized tribunal for sexual and intimate partner violence will in principle return victims to the centre of the justice system process, victims are still seen as mere witnesses and struggle to be heard at various stages of the process. Many recommendations from the report *Rebâtir la confiance* call for more consideration of the victim’s voice and safety. Its recommendations include having victims

- be regularly informed of the status of their case and the next efforts and steps;
- be automatically contacted by prosecutors before a guilty plea is entered, apart from exceptional circumstances, to involve them in the legal process, verify the consequences of the crime and potential compensation.⁸⁷

On the ground, police forces are sometimes well aware of the dynamic of coercive control in a relationship, but they feel powerless to intervene without the appropriate legislative tools.

Recent research in Australia, mentioned above, examined situations involving “misidentification of the primary aggressor” and

the victim in cases of intimate partner violence.⁸⁸ That research highlights the fact that police work tends to be based on a search for incidents and hindsight, rather than on a behavioural model and assessment of the need for protection from future harm.

This means that police often conduct quick assessments to determine the primary aggressor in a single incident instead of carefully examining the behavioural model and protecting the person most at risk of future harm. This finding highlights the need for training, identified in particular in the report *Rebâtir la confiance*. Recommendation 103 reads as follows: “Ensure that training is provided to future police officers and new prosecutors to raise their awareness of the elements that identify the primary aggressor and victim and to distinguish an assault from a defensive act.”⁸⁹ [translation]

Finally, remedy orders, such as a recognition to keep the peace (section 810 of the *Criminal Code*) or a restraining order, are limited in their ability to effectively protect women in a lasting way. Their use in situations of intimate partner violence, and of coercion and control in particular, raise several questions. Based on the testimony of several women for a research report by the RMFVVC and UQAM, breaches of conditions under section 810 and strategies used by the former partner to circumvent the conditions mean that these measures are not enough to end the partner’s violent behaviour and protect the victim.⁹⁰

⁸⁶ *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*. Report of the House of Commons Standing Committee on Justice and Human Rights, chaired by Iqra Khalid, House of Commons of Canada. April 2021. <https://www.ourcommons.ca/DocumentViewer/en/43-2/JUST/report-9>.

⁸⁷ *Rebâtir la confiance – Synthèse*. Report of the expert committee on support for victims of sexual assault and intimate partner violence, co-chaired by Elizabeth Corte and Julie Desrosiers. Secrétariat à la condition féminine. Government of Quebec. December 2020. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>.

⁸⁸ H. Nancarrow et al. *Accurately identifying the “person most in need of protection” in domestic and family violence law*. Australia’s National Research Organisation for Women’s Safety (ANROWS). Sydney. 2020. <https://www.anrows.org.au/publication/accurately-identifying-the-person-most-in-need-of-protection-in-domestic-and-family-violence-law/>.

⁸⁹ *Rebâtir la confiance*. *Op cit.* (Recommendation 103).

⁹⁰ M. Dubé et al. *L’engagement de ne pas troubler l’ordre public utilisé en matière de violence conjugale (article 810): Que nous en disent des victimes?* Regroupement des maisons pour femmes victimes de violence conjugale et Services aux collectivités de l’UQAM. 2020. https://sac.uqam.ca/upload/files/Rapport_810CC.pdf. [in French only]

In addition, some requests and requirements in decisions by family and youth courts regarding parental contact and conditions on former partners are also a structural barrier for these women, who are forced to adhere to contradictory injunctions.

The current dynamics of control and coercion seen in situations of intimate partner violence are essentially ignored by the law and leave victims with no recourse to ensure their safety and their ability to enjoy their right to freedom.

Family law

The *Divorce Act* was amended in 2021 to include a definition of family violence, which specifically mentions coercive and controlling behaviour, including any violent behaviour that is not necessarily criminal but that a person uses repeatedly to control or dominate another family member (Department of Justice 2021). This improvement is an important tool for recognizing the dynamics of coercive control in separations and better protecting children who are direct victims.

Moreover, the upcoming amendments to the *Civil Code of Quebec* concerning parental authority (Bill 2) provide for the inclusion of the intimate partner violence criterion in assessing the interests of the child and in decisions regarding the loss of parental authority.

In practice in Quebec, some professionals, including in family law and child protection, still have difficulty distinguishing domestic conflict and intimate partner violence (Bernier, Gagnon and FMHF 2019; Lapierre and Côté 2011; Vincent 2019). This conflation in the interpretation of conflictual domestic situations (including severe conflicts involving

separation) and relationships of dominance in families poses significant problems, particularly for the safety of the victims.⁹¹

This confusion can be explained by several factors, including the fact that violent and controlling men use a range of tactics to cast doubt on the family dynamic and manipulate social and legal services professionals (Bancroft 2019). Moreover, it is recognized that, when entrapped, women use various violent and non-violent strategies to escape the influence and control of their aggressor (Dichter, Thomas, Crits-Christoph et al. 2018; Young Larance and Miller 2017).⁹²

In addition, research by the Department of Justice Canada on screening for intimate partner violence in family law and mediation revealed the limitations of FVSTs (family violence screening tools).⁹³

“Taken together, these limitations include: a focus on certain types of abuse, such as physical abuse; narrow definitions of what constitutes risk (both with respect to the definition of risk and risk for victimization or perpetration); a failure to screen for coercive controlling behaviours; a lack of behaviourally specific questions (i.e., they assess subjective experience); not being specific to separating couples; and a failure to address issues of comorbidity (e.g. substance abuse, mental illness) or contextual factors (e.g., lack of social support, religious significance).”

It is important to note that sections 7.7 and 10 of the *Divorce Act* encourage lawyers and judges to favour reconciliation, except perhaps in cases of intimate partner violence. However, as intimate partner violence is often undetected, it is very likely that many victims

⁹¹ I. Côté, S. Lapierre. “Pour une intégration du contrôle coercif dans les pratiques d’intervention en matière de violence conjugale au Québec”. *Intervention* 2021, No. 153: 115–125. https://revueintervention.org/wp-content/uploads/2021/06/ri_153_2021.2_Cote_Lapierre.pdf. [in French only]

⁹² Ibid.

⁹³ *What You Don’t Know Can Hurt You: The importance of family violence screening tools for family law practitioners* 2018. Luke’s Place. Justice Canada. 2018. <https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/can-peut.pdf>.

face some pressure to reconcile with the controlling partner.

Furthermore, the negative consequences of using the concept of parental alienation in situations involving violence against women or children have raised concerns among experts in various fields (Adams 2006; Bruch 2001; Elizabet et al. 2012; Meier 2009; Romito 2006, 2011; Walker and Shapiro 2010). The theory of parental alienation is based on the idea that a child would reject one parent based on alienating comments or behaviour by the other parent.⁹⁴ In such a situation, the court can set aside the desire of the child deemed to be alienated or find that the parent deemed to be alienating has poor parenting skills.

The main red flag is that, when justice system participants do not detect the signs of coercive control, they may wrongly invoke the conflict of separation and the concept of parental alienation. Its use therefore invalidates and conceals women and children's fears and comments about men's violence. This outcome has been documented in Quebec (Côté and Lapierre 2021; Lapierre and Côté 2016; Lapierre and FMHFVD 2013) and elsewhere in Canada (Jaffe et al. 2008; Winstock 2014). Since violence is not always recognized or is misunderstood, women who report it risk being seen as "alienating" mothers speaking ill about the partner and refusing to cooperate with him for the well-being of the children. The concept of parental alienation thus allows women who report violent behaviour by their partner or former partner to be labelled as "alienating."⁹⁵ In this respect, clearer and stricter guidelines on the use of parental alienation

absolutely must be developed to ensure the accuracy, consistency and equity of case law.

In closing, here is a thought on children's role in the justice system: their voice is still too little heard despite consensus in the scientific community and fields of practices that specialize in intimate partner violence about the atmosphere of terror that children and teens experience in a context of intimate partner violence. Moreover, most measurement instruments used in surveys on health or justice focus on physical or sexual intimate partner violence. They leave little room for youth to speak freely about their experience and feelings in the climate of fear and tension inherent to intimate partner violence or their strategies and reactions in response to violence.⁹⁶

Immigration law

The lack of knowledge of the laws in force and services available in the host society is the first barrier to access to the justice system and social protections. In *Rebâtir la confiance*, the committee of experts recommends improving the information provided to new immigrants in Quebec and including information about their fundamental rights, the justice system in Quebec, sex crimes and intimate partner and family violence offences.⁹⁷

Laurence Ingenito's master's thesis in sociology (2019) notes that, for some women from countries where the police and legal framework are different from Canada's, the lack of information on victims' aid services and the Canadian justice system can be a barrier to reporting crimes.⁹⁸

⁹⁴ I. Côté, S. Lapierre et al. *L'aliénation parentale: stratégie d'occultation de la violence conjugale?, pour le Collectif de recherche féministe anti-violence (FemAnVi)*. 2019. <https://rcentres.qc.ca/wp-content/uploads/2019/02/rapport-alienation-parentale.pdf>. [in French only]

⁹⁵ Ibid.

⁹⁶ J. Laforest et al. *Rapport québécois sur la violence et la santé*, Montréal: Institut national de santé publique du Québec. 2018. https://www.inspq.qc.ca/sites/default/files/publications/2380_rapport_quebecois_violence_sante.pdf. [in French only]

⁹⁷ *Rebâtir la confiance*, op cit. (Recommendation 5).

⁹⁸ L. Ingenito. *Rendre justice aux victimes de violence à caractère sexuel: étude avec des femmes immigrantes et des femmes racisées*, Thesis presented as partial requirement for a master's degree in sociology. UQAM. 2019. <https://archipel.uqam.ca/13608/1/M16315.pdf>. [in French only]

This lack of knowledge could also lead immigrant women to believe that they could be deported to their home country if they report their situation, a fear that can be fuelled by the controlling partner. Violent partners can inflame this situation by exercising control using disinformation about how the Canadian justice system works and using psychological manipulation (Frenette et al. 2018:50).⁹⁹ Women in these situations are therefore very likely to have incorrect impressions of the justice system, of how government bodies function and on the help resources available to them, which greatly reduces the chance of filing a complaint with authorities.¹⁰⁰ Immigrant women may also fear being separated from their children if they report the intimate partner violence they are experiencing.

In an immigration context, women face certain structural barriers. These include the requirements of immigration laws and barriers to access to certain services (lack of interpretation or culturally appropriate support services, social assistance, etc.). In this respect, in *Rebâtir la confiance*, the committee of experts recommends that, in an emergency, victims of intimate partner violence receive the public services they need even if they cannot show any identification or other documents.¹⁰¹

The complexity of the administrative steps needed for immigration files is also a major barrier: the search for documents is sometimes difficult, lawyers are not easily available and the many steps, such as the statement at a

police station, reporting, the court docket and making copies of files at the courthouse, are tedious.

If a married woman who is waiting to be sponsored wants to report intimate partner violence, the partner sometimes uses the justice process to maintain his influence. He can then use various strategies to avoid legal proceedings, such as accusing his partner of fraudulent marriage or withdrawing the sponsorship application if it has not yet been accepted.¹⁰²

In addition, some of these women have little income and therefore rely on legal aid for access to legal services. The amounts paid to lawyers are still woefully inadequate for the amount of work to be done, particularly for humanitarian applications. These applications require a lot of time, and the woman's vulnerability often means she is unable to obtain documents, fill out forms or prepare a sworn statement on her own. In this context, it can be hard for women to find a lawyer who will accept legal aid immigration assignments. These difficulties are greater in some areas that are far from major centres.

Finally, because of social isolation, these women lack access to support and guidance from caseworkers from specialized resources for immigrant women, another barrier to the legal steps required for their immigration process. Moreover, lacking resources, training and tools, some caseworkers still cannot assume their role of providing guidance in immigration processes.

⁹⁹ M. Frenette et al. *Femmes victimes de violence et système de justice pénale : expériences, obstacles et pistes de solution*. UQAM, Université de Montréal, Université d'Ottawa, RMFVVC, FMHF, RQCALACS, CLES. 2018. https://sac.uqam.ca/upload/files/Rapport_femmes_violence_justice.pdf. [in French only]

¹⁰⁰ S. Thibault, G. Pagé. *Revue de littérature*. Comité de recherche, Justice pour les femmes victimes de violence. 2020. [in French only]

¹⁰¹ *Rebâtir la confiance*, op cit. (Recommandation 81).

¹⁰² M. Rinfret-Raynor et al. *Services d'aide en matière de violence conjugale: état de la situation et besoins prioritaires*. Centre de recherche interdisciplinaire sur la violence familiale et la violence faite aux femmes. Montréal and Québec. 2010. https://www.raiv.ulaval.ca/sites/raiv.ulaval.ca/files/publications/fichiers/pub_02122010_144450.pdf. [in French only]

5. Integrating coercive control into intimate partner violence intervention practices

The previous chapters of this literature review showed how coercive control is at the heart of the dynamics of intimate partner violence: it is a key component of it. Indeed, we cannot properly understand situations of intimate partner violence without a careful examination of the continuum of tactics and the harms caused by aggressors and without recognizing the serious impact on victims' physical, psychological and mental health.

Consequently, a paradigm shift in the collective response to intimate partner violence is needed to acquire the tools to ensure the safety and freedom of women who are still too often victims.

Promising practices are being adopted around the world to better account for the signs of coercive control. The following is a partial but representative summary of initiatives currently underway in justice system and community settings that work to better protect women. The common element is that they put freedom and human rights at the heart of intervention practices, recognize the experiences of the women and children who are victims, deconstruct gender myths, norms and stereotypes, and, finally, take a step back from the hierarchy of prejudice.

This review of best practices is not comprehensive but is designed to show that, at each stage of the justice system, progress is possible, regardless of whether or not coercive control is criminalized.

Best practices in education

Awareness among women

Too many women are still largely unaware that coercive and controlling behaviour is indeed violence. Moreover, the process of insidious domination and ongoing control can also lead women to tell themselves that such behaviour is normal or acceptable.

Implementing an awareness strategy helps them become aware sooner and increases the chances of ending the relationship or staying in it while finding ways to protect themselves. In addition, people who witness such behaviour must be able to see the signs and know how to intervene. Public awareness campaigns are absolutely critical in this regard. The importance of continuing these awareness efforts is noted in the report *Rebâtir la confiance*.¹⁰³

Several campaigns have been launched in recent years to raise awareness among the public and among women who are victims of this less visible, but equally destructive, form of intimate partner violence.

In 2021, the Quebec government's province-wide campaign *La violence faite aux femmes, ça s'arrête maintenant/là* offered a series of striking radio and video messages to hold those committing intimate partner violence accountable. The messages related to the signs of coercive control, going beyond the classic images associated with physical violence.

Also in Quebec, SOS violence conjugale developed a self-administered, interactive online questionnaire with 25 questions to help

¹⁰³ *Rebâtir la confiance – Synthèse*. Report of the expert committee on support for victims of sexual assault and intimate partner violence, co-chaired by Elizabeth Corte and Julie Desrosiers. Secrétariat à la condition féminine. Government of Quebec. December 2020. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

victims identify the various forms of intimate partner violence in their relationship with a partner or former partner.¹⁰⁴ The vast majority of the questions refer to controlling and coercive behaviour.

Following the criminalization of coercive control in Scotland, the Scottish organization Scottish Women's Aid launched the Hidden in Plain Sight campaign to raise awareness about the concept. This campaign includes two videos that explain in a very educational way the signs of control and its consequences for victims.

Women's Aid (United Kingdom) has just launched the Not Model's Own campaign, which shows three women posing for a fashion photo shoot. Instead of credits for clothing, style and photography, the campaign highlights the impact of coercive control. The brand names usually associated with the model's clothing are all replaced with "by model's partner" and, besides the models' physical characteristics, psychological injuries are listed instead of credits.

The Power and Control Wheel is another example of a heuristic tool that shows that "violence is part of a pattern of behaviours rather than isolated incidents of abuse or cyclical explosions of pent-up anger, frustration or painful feelings."¹⁰⁵

The iceberg of gender-based violence raises awareness of lesser known, less visible forms of violence against women. The submerged part of the iceberg includes many controlling and coercive tactics.

In France, the violentomètre is a simple and useful tool to help women assess whether their romantic relationship is based on free consent and whether it includes violence and forms of control or coercion. This awareness tool was designed by violence against women

watchdogs in Seine-Saint-Denis and Paris, the association En Avant Toute(s) and the mayor's office in Paris. Its objective is to raise women's awareness of intimate partner violence by distributing the tool widely at public events. It complements the #Tu-MaimesTTumeRespectes campaign, launched in 2017, to prevent the violent situations experienced primarily by young women. In the form of a ruler, the violentomètre shows what is violence and what is not by colour grades in three segments that assess whether the romantic relationship is healthy: "Enjoy," "Be careful, say stop!" and "Protect yourself, ask for help."

In addition, a video released by a former French lawyer raises awareness about situations of intimate partner violence that could lead to forced suicide. It shows how being influenced can lead controlled women to take their own lives. This awareness tool highlights a reality that is still little known to the general public, but that creates a lot of victims.

For immigrant women who are victims of coercive control, people working on the ground note the importance of developing awareness strategies in the places frequented by these women: places of worship, grocery stores frequented by these women, hairdressing salons, multicultural radio stations and safe spaces such as community kitchens. Trusted resources, such as medical staff, doctors and people who work in education and sports in certain communities, can also be good intermediaries.

Medics against Violence and the Scottish Violence Reduction Unit have developed a short film (four minutes) to help family and friends recognize some "red flags" for coercive intimate partner violence. It raises awareness about the fact that everyone can, in their own way, help victims of violence by listening,

¹⁰⁴ Links to videos from the *La violence faite aux femmes, ça s'arrête là* campaign:

<https://youtu.be/ICcRb6qXxi0>; <https://youtu.be/dURO3zs6UdV>; <https://youtu.be/Eq2fWHmwMfi>. [in French only]

¹⁰⁵ Wheel Information Center. Domestic Abuse Intervention programs – Home of the Duluth Model. Duluth (Minnesota) [online] <https://www.theduluthmodel.org/wheels/>.

respecting the person's pace of action and being able to refer them to the right resources. The film is intended particularly for health professionals and other workers in the service sector, such as hairdressers.

Awareness among youth

Several awareness tools already exist for youth, their parents and their family and friends to better detect, react to and seek help in the event of controlling and coercive behaviour. These tools provide them with relevant resources on healthy romantic relationships, the identification of risks, and ways that family and friends can provide support, help or intervene on behalf of the victim.

In Quebec, the *It's not violent* campaign launched by SOS violence conjugale is aimed primarily at young people aged 15 to 25 and is suitable for many educational initiatives. By putting youth in the place of a victim of violence, the experience fosters recognition of the various subtler forms of violence. The *itsnotviolent.com* platform presents five situations that each explore the various forms of non-physical violence. It also offers an animation guide to increase awareness of the reality of victims of intimate partner violence and encourage personal reflection on such violence.

In 2013, the Table de concertation régionale en matière de violence faite aux femmes launched *L'univers de Roxane* for youth aged 15 to 18 to combat violence in teen couples.¹⁰⁶ It consists of a workshop that puts youth through a maze to simulate the life of Roxane, a fictional character. Along the way, a self-directed audio guide lets participants follow the evolution of Roxane's relationship and discover the signs of violence and their consequences. Caseworkers await them as they come out of the maze to answer their questions.

This year, the *Auberge de l'Amitié Roberval* launched a board game called *Les choix de Raphaëlle* to inform and equip youth to deal with violence. This new board game is designed to develop empathy and improve the ability of youth to act so they can make more informed decisions when faced with difficult situations. The game addresses various types of violence, such as what might be seen in a family or in teen romantic relationships. Topics such as cyberbullying and consent are also addressed during the game.

The questionnaire on healthy relationships developed by YWCA Canada places a lot of emphasis on recognizing the signs of a good or bad relationship through a series of behaviours involving technological, emotional, psychological, verbal, financial or racial violence.

In the United Kingdom, the non-governmental organization Women's Aid has developed a very thorough awareness tool, Controlling Behaviour in Relationships – Talking to young people about healthy relationships. It presents examples of signs of coercive control in early romantic relationships, highlights the feelings experienced by young victims and explores ways to discuss the topic with one's child.

Also in the UK, the site LoveRespect, with an appealing interface, gives young men and women the opportunity to answer a few simple questions to assess whether their romantic relationship is healthy. There is also testimony from young women who have experienced control or coercion. The organization Tender offers theatre workshops in primary and secondary schools. Young people play the roles of teens in a relationship, while others comment on the coercive control tactics they recognize. This approach lets them discuss the issue without necessarily sharing their personal story.

In Scotland, Scottish Women's Aid has created a short educational video that shows the

¹⁰⁶ This project is run by the Maison des femmes de Baie-Comeau, the Maison l'Amie d'Elle de Forestville and Autour d'Elles.

specific signs of intimate partner violence in young couples, You are not alone, support for young people. The government in Wales has also launched a major awareness campaign, This is control, this is not OK, which includes a screening tool, videos showing situations of coercive control and an emergency phone and chat line for youth.

Finally, in Australia, the government in Queensland launched numerous resources for youth and their family and friends in 2019. Particular attention is paid to behaviour that does not involve physical violence, with several very relevant resources in the Non-physical violence section.

Education on the impact on children

Intimate partner violence is not just about the lives of the couple. It also affects the children and affects their education and their lives.

In the US, the Joe Torre Safe at Home Foundation works every day to raise awareness of the consequences of intimate partner violence on education. In cooperation with the Gyro agency, the foundation proposed a shock campaign to open people's eyes to this cause. Each visual shows a child's head with the brain visible, and a closer look at the brain reveals drawings portraying intimate partner violence.

In Belgium, the ONE (Office de la naissance et de l'enfance) launched a campaign entitled Les impacts de violences conjugales: parlons-en! on the impact of intimate partner violence on children and encouraged people to dare talk about it. The campaign tailors information to the age of the child to reflect their stage of development and growth needs, and shows what is complex for the child and how the child is hurt by having to struggle with these situations of intimate partner violence. The impacts of intimate partner violence are a

form of child abuse, and it is one of the most common forms seen by the SOS-Enfants teams, multidisciplinary teams that address situations of abuse in the Wallonia-Brussels Federation.

An article published by Woman's Aid UK entitled How can my children be affected by domestic abuse? provides some key information for recognizing how children react when they are raised in a home with a violent person and the consequences that exposure to stress, tension and violence can have on them.

Good police practices

Police departments in Quebec and elsewhere are at the centre of many multi-partner strategies to improve awareness and interventions in situations of intimate partner violence. The strategies identified in this section account for the main aspects of control and of coercion strategies in violent dynamics.

Prevention

Several police initiatives have recently been developed, and all raise awareness among youth about intimate partner violence and the specific signs of coercive control.

Awareness

An innovative prevention project has been developed by the Laval police department. Called Préven-Quête, this escape room game gives participants an immersive experience while raising their awareness about dating violence. Youth aged 14 to 18 are invited to enter the trailer to find clues and solve the mystery, which will make them aware of the often subtle violence that can exist in romantic relationships. The project was made possible by the cooperation of several community partners.¹⁰⁷

¹⁰⁷ Partners involved in the Préven-Quête project: the Centre intégré de santé et de services sociaux (CISSS) de Laval, Maison de Lina, the Crime Victims Assistance Centre (CAVA), the Centre de prévention et d'intervention pour victimes d'agression

In the Montérégie region of Quebec, Projet XOX is an example of a multi-partner initiative in which the Maison d'hébergement l'Égide (stage 2), the Régie intermunicipale de police Roussillon, the Service de police de Châteauguay and the Montérégie Crime Victims Assistance Centre (CAVAC) worked together to develop a project to promote healthy dating relationships among high school youth. To raise awareness and equip them, teens are invited to interactive experience that will inform them about the escalation of violence and the various forms it can take on, including harassment and the sharing of intimate pictures. Dating violence is presented as gaining power and control over the other partner. Informative examples of signs of control and coercion are among the tools offered to recognize violence: "I can't dress the way I want! When I refuse to make love, he gets angry and sulks! I have to give in if I want to avoid conflicts. My friends aren't good enough for him. He controls my outings with them. He monitors what I do on social media." [translation]

Another promising initiative is the Geolocation and New Technologies: High Risks for Victims of Domestic Violence project of the Sûreté du Québec, along with numerous partners. Geolocation can pose a risk, particularly for victims of intimate partner violence, as it can be used as a means of control and harassment. The tools developed by the SQ are intended for caseworkers in contact with victims of intimate partner violence, but also for the victims themselves. They inform them of the dangers that new technology can represent and provide them with advice to enhance their safety. Posters, brochures and evidence retention and police intervention forms are available at no cost and are translated into 18 languages, including several Indigenous languages.

In 2008, the Sûreté du Québec, the Centre de services scolaires du Lac-Saint-Jean, the Table de concertation en matière de violence familiale et d'agression à caractère sexuel Lac-Saint-Jean-Est and the La Passerelle shelter created a tool called Les couloirs de la violence amoureuse for high school teens. It immerses youth in a multimedia universe where they discover the warning signs of dating violence. The cycle of violence begins gradually, and at each stage of the process, students are educated about the various emotions involved. Students are taken into a universe that resembles theirs: diary entries, voicemail messages, text messages and simulations. The concept of control is clearly discussed, and youth are educated about issues such as their right to freely choose their friends, activities and clothes.

Finally, the 24 heures textos project from the Association québécoise Plaidoyer-Victimes is aimed at high school boys and girls aged 14 to 17. It encourages discussion of youth dating issues and encourages them to find solutions when problems arise. A video and guide address various forms of violence, including some signs of coercive control: cyber harassment, bullying, threats and sexting.

Clare's Law

In the UK, legislation known as Clare's Law was named in memory of Clare Wood, a woman killed in 2009 by her former domestic partner who she did not know had a history of violence against women.

This law, which allows a person to ask the police for information about their partner's violent past or behaviour, is seen by many stakeholders as a good way to protect people who are at risk. Under the law and its principles of "right to ask" and "right to know," a person can now seek and receive this information from police. The latter will process the file with a committee that will examine the past

sexuelle (CPIVAS), Mesures alternatives jeunesse de Laval (MAJL), Maison L'Esther, Maison Le Prélude, Immersia escape room game, Roulottes A.S. Lévesque and the Government of Quebec.

interactions of the person in question. Once the file is analyzed, police will contact the person who made the request for information to tell them whether the partner's past behaviour poses a high, medium or low risk.

Saskatchewan is the first Canadian province to have passed legislation inspired by Clare's Law, entitled *The Interpersonal Violence Disclosure Protocol (Clare's Law) Act*, which came into effect on June 29, 2020.¹⁰⁸ A similar law came into force in Alberta in 2021.¹⁰⁹ The Royal Canadian Mounted Police have been able to enforce this legislation since the spring of 2021.¹¹⁰ The Government of Newfoundland and Labrador passed its version of the law in the spring of 2019, but it has not yet come into effect.¹¹¹

The report *Rebâtir la confiance* from the expert committee on support for victims of sexual assault and intimate partner violence suggests considering enacting a Clare's Law.¹¹²

Intervention

Rebâtir la confiance notes the central role that police can play in improving the justice system process for women,¹¹³ by addressing the needs of victims, receiving complaints,¹¹⁴

referring to resources¹¹⁵ or identifying the primary and dominant aggressor.¹¹⁶

In Quebec

The *Guide des pratiques policières*, developed by the Quebec Department of Public Security (MSP), includes an appendix that guides police interventions in Quebec in relation to intimate partner violence. The appendix is checklist that helps more accurately describe the risks of homicide in a situation of intimate partner violence. The observed risk of homicide is thus documented by the police in their report based on information gathered from the victim and the suspect using various markers, including signs of coercive control. This checklist was updated in June 2021.

THE SÛRETÉ DU QUÉBEC'S PROACTIVE STRATEGY

The Stratégie d'intervention proactive en violence conjugale, implemented in early 2021, is an innovative means of intervention for the police. Its purpose is to reinforce existing intervention procedures by checking the safety of individuals current and past victims of intimate partner violence. It introduces the concept of coercive control by taking into account

¹⁰⁸ *The Interpersonal Violence Disclosure Protocol (Clare's Law) Act*. Government of Saskatchewan. 2020. <https://www.saskatchewan.ca/residents/justice-crime-and-the-law/victims-of-crime-and-abuse/clares-law>

¹⁰⁹ Clare's Law. Alberta [online] <https://www.alberta.ca/clares-law.aspx>.

¹¹⁰ RCMP can now participate in Clare's Law legislation in Saskatchewan and Alberta. <https://www.canada.ca/en/public-safety-canada/news/2021/03/rcmp-can-now-participate-in-clares-law-legislation-in-saskatchewan-and-alberta.html>.

¹¹¹ *Violence conjugale: l'entrée en vigueur de la loi de Clare se fait attendre à T.-N.-L.* Radio-Canada. June 2021. [online] <https://ici.radio-canada.ca/nouvelle/1801300/attente-loi-clare-violence-conjugale-terre-neuve-labrador>. [in French only]

¹¹² *Rebâtir la confiance – Synthèse*. Report of the expert committee on support for victims of sexual assault and intimate partner violence, co-chaired by Elizabeth Corte and Julie Desrosiers. Secrétariat à la condition féminine. Government of Quebec. December 2020. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

¹¹³ Ibid.

¹¹⁴ Harmonize police practices and procedures for receiving victims at all police stations, and consolidate the use of central referral lines to direct them (Recommendation 9); Review the classification of requests for intervention or calls to exclude the identification of a "domestic dispute" or "normal situation" in the history of intimate partner violence calls (Recommendation 79); Designate a person to respond to intimate partner violence at each police station or neighbourhood station (Recommendation 35); Ensure that reports of sexual or intimate partner violence take place at a safe location suited to the victim's needs (recommendation 42); Develop and implement a provincial protocol on the process of recovering the victim's personal effects from her home that includes police accompaniment for the victim at her home (Recommendation 80).

¹¹⁵ Recommendation 126 : Ensure that police always refer abusers to the intake and referral line for abusers.

¹¹⁶ Ensure that police practices for intimate partner and intrafamily violence reflect the importance of identifying the primary and dominant aggressor through a comprehensive investigation and mention cross-complaints in requests to bring charges submitted to the prosecutor (Recommendation 104); Establish a process to allow cross-complaints to be filed at the same time where possible or let police from another department consult the other file of the partner involved (Recommendation 105).

the victim's situation and expanding the assessment to behaviours that limit freedom.

This strategy can include the following:

- Call centre staff will always check for any facts related to past violent incidents, for most types of calls.
- Police will take specific action when there is a history of violence or when the presence of intimate partner violence is suspected.
- Facts relating to non-criminal intimate partner violence, coercive control and an increased risk of homicide are recorded using the "Info-Lieu" strategy.

The Info-lieu tool creates a history of the intimate partner violence beyond criminal offences. The police have an intervention support file to guide discussions, which includes elements of coercive control, such as the victim's fear, harassment and intimidation.

Patrol officers play a multifaceted role: checking safety, determining the victim's situation, creating a relationship of trust by telling individuals that they are there for them if needed, explaining or reminding them of their options and referring them to available resources.

To strengthen the actions taken and support the use of this strategy, the Sûreté du Québec now has resources dedicated to intimate partner violence. This nine-person team acts as a link to the various resources working to combat intimate partner violence, proposes innovative intervention strategies and ensures the measures in place are understood and implemented.

Finally, the Sûreté du Québec is part of rapid response units, such as those put in place during the Rabaska, P.H.A.R.E., Carrefour sécurité en violence conjugale (CSVC) and Alerte Lanaudière projects. The goals of those

strategies and their intervention methods are outlined in the section of this document on coordination mechanisms for improving the safety of victims of intimate partner violence and their loved ones.

MONTREAL POLICE DEPARTMENT (SPVM) SPECIALIZED INTIMATE PARTNER VIOLENCE DIVISION

At the SPVM, a special investigation unit handles intimate partner violence complaints that require special attention or that have been assessed as being highly dangerous with a high risk of homicide.¹¹⁷ Its investigators therefore handle sensitive cases or cases involving sensitive elements, such as a prior history of intimate partner violence, the objective seriousness of the assault (strangulation, injuries), a significant increase in the frequency and severity of the violence and coercive control, or harassment, etc. The members of this unit develop interventions to structure follow-up and increase surveillance of attackers after they are released to check whether they comply with the court's conditions. These resource persons play an advisory role to investigators at the SPVM investigation centres. By focusing on intimate partner violence investigations, the members of this unit develop in-depth expertise on intimate partner violence, which they share for the benefit of their colleagues. The section also works on prevention, investigation and coordination within the same team and therefore takes a multidisciplinary approach to the dynamic of intimate partner violence.

The specialized intimate partner violence section works and liaises with all institutional, community and legal stakeholders. This partnership mobilizes psychosocial, medical, police and legal resources to create a safety net around victims. Finally, the SPVM has a community of practice for intimate partner violence. It ensures an intimate partner violence

¹¹⁷ *Section spécialisée en violence conjugale*. SPVM. [online] <https://spvm.qc.ca/fr/Fiches/Details/Section-specialisee-en-violence-conjugale>. [in French only]

resource-person is posted to each neighbourhood station and each investigation centre.

ELECTRONIC BRACELETS

Following the recommendations in the report *Rebâtir la confiance*, the Quebec government decided to implement the anti-approach bracelet, an electronic monitoring tool designed to keep abusers away from their victims. To this end, Bill 24 was introduced on February 2, 2022.

This new device will be gradually deployed beginning in the spring of 2022, first in the Québec City area, then throughout the province. The wearing of this device can be ordered by judges, members of the Commission québécoise des libérations conditionnelles and wardens of detention facilities. Experiences with similar devices in France, England, Australia, Portugal and the US show a greater sense of security for women and less tendency for violent men to breach their release conditions.

Elsewhere in the francophone world

FRANCE

With respect to training, the Direction centrale du recrutement et de la formation de la Police nationale (DCRFPN) provides front-line police with enhanced training on the intake of victims of intimate partner violence that covers coercive control, the assessment of the risk faced by the victim (assessment grid) and police interventions in homes. Ongoing training is also offered.

Interprofessional training involving judges and investigators are to be launched regionally in 2022 in cooperation with the École nationale de la magistrature (ENM).¹¹⁸ This training will involve feedback to foster discussions of

the legal and procedural elements of investigations and charges, on mutual expectations between judges and investigators and on the difficulties they face in carrying out their missions. A booklet on handling intimate partner violence, designed as a practical aid for handling victims and the investigation, will be widely distributed by all department heads.

To improve the intake and handling of victims by the police and the gendarmerie, an intake confidentiality sheet was created.¹¹⁹ This sheet, clearly posted outside offices and in reception areas, shows two different coloured circles and informs arriving individuals that reception staff will ask them to choose the colour indicating the reason they came to the station (orange for acts of sexual, intimate partner or intrafamilial violence and sexual assaults, or blue for any other offences). When a person indicates the colour orange, reception staff inform the appropriate service for discreet priority consideration. Once identified as such, victims of intimate partner violence must be the subject of specific and appropriate treatment and be processed in a safe place that ensures confidentiality.

Finally, victims have access to a 24/7 reporting portal on the arretonslesviolences.gouv.fr site through chat-style messaging. This tool allows for a discussion with police officers specifically trained to take in victims of sexual or gender-based violence or intimate partner violence, with the support of psychologists. This portal enables victims to prepare their complaint with these specialized officers and to be supported. Victims can also obtain a personal appointment for filing the complaint. In August 2020, police processed 4,136 chats related to intrafamilial violence.

In Paris, the Direction de la sécurité de proximité de l'agglomération parisienne (DSPAP) developed the PoliceRendezVous application

¹¹⁸ *Les violences sexistes et sexuelles sont interdites et punies par la loi*. Government of France. [online] <https://arretonslesviolences.gouv.fr/>. [in French only]

¹¹⁹ In France, large urban centres are under police jurisdiction; rural and semi-urban areas and small- and medium-sized cities are under gendarmerie jurisdiction.

in June 2020.¹²⁰ Deployed at all stations in the city, the app lets people make an appointment online to file a complaint or “report” in time slots available seven days per week.¹²¹ Over 22,000 appointments have been made since its implementation. The application is popular among victims of intimate partner violence because it ensures some confidentiality of intake and avoids wait times.

SWITZERLAND

In the Canton of Vaud in Switzerland, control or intimate terrorism are considered elements of intimate partner violence in the same way as other types of violence. When the victim (or a third party) informs the police of such a situation, an “intimate partner violence” proceeding is initiated in which all types of violence are considered. The victim then does not need to file a complaint for the police to legitimately do their work. Once the first proceeding, which can be considered a warning, is complete every subsequent report of violence in a relationship leads to an intimate partner violence proceeding.

To appropriately intervene, the Canton of Vaud does the following: 1) police officers are properly trained on the topic and able to detect situations of control; 2) jurisdiction is given to its senior officers to immediately expel the abusers for 30 days; 3) a department within the canton police assesses high-risk situations; and 4) an “interservice platform” can cross-assess serious or high-risk situations between “intimate partner violence” partners.

CATALONIA

The Catalanian police, Mossos d’Esquadra, has developed methods that enable documenting the presence of coercive control at the time of a complaint. The level of control exercised

by the aggressor on the woman and its effects on her (fear, guilt, loneliness, trivialization of risks) are assessed. These indicators of control and coercion are approached as elements that make the woman vulnerable and that are themselves a risk factor.

When a complaint is made, the Mossos d’Esquadra officers use a risk assessment tool that consists of a questionnaire with 25 questions, some of which assess the level of coercive control and the vulnerability of victims of gender-based violence. The following are some of the questions:

- Did the victim refuse to go to the police or court, did she try to withdraw her complaint or did she exercise her right not to testify?
- Is the victim isolated from her environment (family, friends, workplace, etc.)?
- Does the victim downplay or justify the behaviour?
- Does the victim fear for her physical safety or think that the aggressor could kill her?
- Does the victim confront the aggressor to express her opinion or wishes?

In emergencies, the Catalanian police sets out in operational procedures the emergency care that police must provide first in cases of gender-based or intimate partner violence. At this stage, the police’s mandate is to observe whether the aggressor is exercising control over the victim such that the victim feels intimidated or threatened and does not dare speak about the facts. If so, to avoid that control, police follow certain instructions: they verify the information provided to them, physically separate the victim from the aggressor to facilitate her testimony and protect minors

¹²⁰ *Police Rendez-vous*. Préfecture de police. Government of France. [online] <https://www.prefecturedepolice.interieur.gouv.fr/vos-services-en-ligne/police-rendez-vous>. [in French only]

¹²¹ Unlike a complaint, the purpose of a report is not to bring charges against the abuser, but to report the nature and date of the events to law enforcement. This can be useful in future proceedings.

to avoid exposing them to stress or the account of the events.

Best practices in criminal law

In the criminal system today, prosecutions address isolated incidents, usually those involving physical violence. Unfortunately, this approach does not reflect the reality of all the violence inflicted by an intimate partner or family violence. The criminal law should enable a woman who wants the violence from a partner to stop to see the harm she has suffered recognized as enough for a complaint as soon as there are elements of control and domination.

Use of existing offences

Although coercive control is not yet a criminal offence, several of its hallmarks are in the *Criminal Code*. While there is no comprehensive list of applicable offences, some are more frequently associated with coercive control, including criminal harassment (section 264, CCC), threats (section 264.1, CCC), harassing communications (section 372(3), CCC), intimidation (section 423, CCC) and mischief (section 430, CCC).

As noted previously, the use of current offences to report coercive control strategies is not straightforward. Discussions with resource-persons in the legal field reveal some of the obstacles. First, most offences are based on specific isolated incidents, whereas these strategies are part of a continuum that presents challenges in terms of evidence. Moreover, victims are not always aware that they are experiencing criminal acts. Some may fear that filing a complaint would trigger more violence, worse than the alleged acts on their own. Others worry that, if the complaint fails, the experience would give even more power to the aggressor, who will feel his behaviour is

legitimate. Finally, some tactics, micro-regulations and isolation techniques unfortunately may not fall under a recognized offence.

Citing judgments in criminal harassment cases over a 10-year period (2005–2015), researcher Isabel Grant argues that the elements of the offence—specifically the requirements that the accused cause the complainant to fear for her safety, that this fear be reasonable and that he intended to harass her—feed into the tendency to hold women responsible.¹²² “Women are disbelieved if they fail to report the harassment promptly to police, fail to obtain a no contact order, or fail to communicate to their harassers that the harassment is unwanted. The accused’s behaviour is never subjected to a standard of reasonableness.”

However, one can imagine that charges laid for manifestations of coercive control help send a message to victims, aggressors and society in general that such behaviour is not normal or acceptable. Actions that would be seen as threatening if they were committed against a stranger are at least as threatening when committed by a former partner who refuses separation. For some women, it can be an important step in retaking power.

In addition, victims of offences against the person can apply for qualification with Indemnisation des victimes d’actes criminels (IVAC).¹²³ Compensation is possible even if the victim does not file a complaint against the aggressor, the aggressor is not prosecuted or he is not convicted following criminal proceedings.

The purpose of this exercise is not to analyze in detail all the *Criminal Code* offences that could be considered for manifestations of coercive control, but instead to show how some offences could be used to have abusive coercive control behaviour recognized.

¹²² I. Grant. “Intimate Partner Criminal Harassment Through a Lens of Responsibilization.” *Osgoode Hall Law Journal* 52.2 (2015): 552–600. [online] <http://digitalcommons.osgoode.yorku.ca/ohlj/vol152/iss2/8>.

¹²³ IVAC (*Indemnisation des victimes d’actes criminels*) [online] <https://www.ivac.qc.ca/en/Pages/default.aspx>.

For example, the offence of criminal harassment can be suited to this purpose, both for acts that constitute an offence and for the required criminal intent.

Criminal harassment (s. 264, CCC)

264 (1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

Prohibited conduct

- (2) The conduct mentioned in subsection (1) consists of
- (a) repeatedly following from place to place the other person or anyone known to them;
 - (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
 - (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or
 - (d) engaging in threatening conduct directed at the other person or any member of their family.

...

Factors to be considered

- (4) Where a person is convicted of an offence under this section, the court imposing the sentence on the person shall consider as an aggravating factor that, at the time the offence was committed, the person contravened
- (a) the terms or conditions of an order made pursuant to section 161 or a recognizance

entered into pursuant to section 810, 810.1 or 810.2; or

- (b) the terms or conditions of any other order or recognizance, or of an undertaking, made or entered into under the common law, this Act or any other Act of Parliament or of a provincial legislature that is similar in effect to an order or recognizance referred to in paragraph (a).¹²⁴

Given the risk that violent conduct is part of a series of behaviours likely to diminish the victim's sense of physical or psychological safety, the *Criminal Code* has included the offence of criminal harassment since 1993. In the same way that strategies of coercive control present an increased risk of lethality, the offence of criminal harassment is intended to ensure the safety of the victim. Indeed, criminal harassment often precedes acts of aggression such as assault and femicide.¹²⁵ The offence criminalizes conduct that would make a person reasonably fear for their psychological safety or that of someone they know. The offence applies in particular to behaviour stemming from intimate partner violence.¹²⁶

This offence is usually related to the cumulative consequences of violence for the victim, not those of isolated incidents. Caselaw recognizes that “[t]he very nature of the offence of criminal harassment is that it consists of accumulation of what may appear in isolation as innocuous communications.”¹²⁷ However, some acts do not need to be repeated to meet the threshold required for the offence, such as besetting or watching, or engaging in threatening conduct. A single incident can be enough. Abusive conduct during a relationship can also constitute harassment, as established by decisions in Ontario.¹²⁸

¹²⁴ *Criminal Code*, section 264. <https://laws-lois.justice.gc.ca/eng/acts/c-46/>.

¹²⁵ A.-C. Bergeron, C. Dumais. *Droit pénal – Infractions, moyens de défense et peine*. Collection de droit 2021-2022, vol. 13, Barreau du Québec, p. 110. [in French only]

¹²⁶ *Ibid.*

¹²⁷ Bell, 2009 ONCJ 312. Cited in *A Handbook for Police and Crown Prosecutors on Criminal Harassment*, Part 3: The law. Government of Canada [online] <https://justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/har/part3.html>.

¹²⁸ *Ibid.*, Chugh, 2004 ONCH 21 and Rosato, 2007 OJ No. 5481 (CS) (QL).

To determine whether the *actus reus* of the offence has been established,¹²⁹ the judge must, among other things, determine whether a reasonable person placed in the victim's situation would fear for their safety.¹³⁰ Highlighting coercive control strategies in the history of the relationship could be relevant in this regard to show that the victim reasonably feared for her safety. It could also be used to determine whether the accused had the *mens rea* required for the offence,¹³¹ that is, that he knew that the victim felt harassed or he did not care.¹³²

The victim may fear not only for her physical safety, but also for her mental, psychological or emotional safety. Thus, the profound impacts of the manifestations of coercive control could be considered in assessing this criterion.¹³³ A decision in Ontario also established that, in some circumstances, remaining married to a violent partner does not preclude the existence of such a fear.¹³⁴

The Court of Quebec has also found that this offence could open the door to dangerous or long-term offender status.¹³⁵

Other offences:

Threats, intimidation, mischief, harassing communications

Other offences can also be reported in the case of some acts of coercive control, including the following:

- Threats, section 264.1, CCC, including threats to cause death, bodily harm, destruction of property, or injury or death to

an animal. For example, threatening to kill the family dog if the victim leaves

- Intimidation, section 423, CCC, including hiding or depriving the victim of clothing or items that she owns or uses. For example, hiding the victim's boots and shoes to prevent her from leaving the house
- Mischief, section 430, CCC, including destroying or damaging an item, making it ineffective or unusable. For example, breaking the victim's cell phone after she fails to follow micro-regulations on its use
- Harassing communications, section 372(3), CCC, including repeatedly communicating with the victim without a valid reason, or having someone repeatedly communicate with her, by a means of communication for the purpose of harassing her. For example, bombarding the victim with continual calls on her phone to harass her
- Unauthorized use of a computer, section 342.1, CCC, fraudulently obtaining a computer service without colour of right. For example, consulting the victim's personal information on her personal computer, without authorization
- Offences that demonstrate financial exploitation, such as theft, section 322(1), CCC; fraud, section 380, CCC; or extortion section 346, CCC.

Caseworkers at transition and shelter houses and the police can play an important role in explaining to women behaviour that could

¹²⁹ The *actus reus* is the physical element of the offence, i.e., the prohibited act or conduct. D. Lahiton, N. Léger-Riopel. *Droit pénal générale: jurisprudence, notes et commentaires*. Wilson & Lafleur, Montréal. 2020. p. 36. [in French only]

¹³⁰ A.-C. Bergeron, C. Dumais. *Droit pénal – Infractions, moyens de défense et peine*. Collection de droit 2021-2022, vol. 13, Barreau du Québec, p. 111. [in French only]

¹³¹ *Mens rea* refers to the intent required for the offence. D. Lahiton, N. Léger-Riopel. *Droit pénal générale : jurisprudence, notes et commentaires*. Wilson & Lafleur, Montréal. 2020. p. 36.

¹³² *Ryback* (1996), 105 CCC (3d) (BCCA). Cited in *A Handbook for Police and Crown Prosecutors on Criminal Harassment*, Part 3: The law. Government of Canada [online] <https://justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/har/part3.html>.

¹³³ *Ibid.* *Gowing*, 1994 OJ No. 2743.

¹³⁴ *Ibid.* *Chugh*, 2004 ONCJ 21.

¹³⁵ *Droit pénal – Infractions, moyens de défense et peine*, *op cit.*, p. 112 – *R. v. Gauthier*, 2010 QCCQ 11322; *R. v. Trudel*, 2011 QCCQ 6692.

potentially constitute offences other than incidents of physical violence.

From complaint to sentence: Potential tools to better account for the manifestations of coercive control and its impacts on the victim

Police complaint

Any intervention in intimate partner violence is considered an event and is the subject of an event report. As reported by some police practices, the preparation of a full report is an important part of understanding the charges and the more general context of the offence. The description of the context surrounding the incident, with supporting evidence, helps better document intimate partner violence. Law enforcement first responders play a key role in detecting dynamics of intimate partner violence. Their ability to see the invisible is just as important.¹³⁶

The report *Rebâtir la confiance*¹³⁷ notes the importance of providing for a pre-complaint meeting before the victim's formal statement is taken.¹³⁸

The support role of caseworkers at shelters is crucial in preparing a woman to give her statement. They can help the woman prepare a full and detailed history of the various forms of violence she has suffered (dates, times, temporal points of reference), help her find and print any relevant evidence related to the crimes in question (text messages, telephone messages, screen captures from social media, witnesses, etc.). If children were the targets, they can ask

the woman to document the narrative while separating it from the chronology of the crimes she experienced, but in the same way, that is, ordered in time and attempting to establish dates. Moreover, caseworkers can play a key role in filing the complaint: they can offer to help the woman open a file and make a statement. Their presence helps the police and reassures the victim.¹³⁹

*Rebâtir la confiance*¹⁴⁰ made a specific recommendation to better inform caseworkers about the justice system process so they are better equipped to assist victims.¹⁴¹ It also proposed to “create, within police departments, models for reviewing complaints of intimate partner violence.” [translation]

Bail hearings

The prosecutor's use of the Service d'évaluation des conjoints violents during the bail hearing—a part of the *Plan d'action spécifique pour prévenir les situations de violence conjugale à haut risque de dangerosité 2020–2025*—is an interesting tool for increasing the safety of women whose partners have been prosecuted.

The evaluation service, which aims to contribute “to the protection and safety of presumed victims,” [translation] was launched in November 2018 in four regions (Abitibi-Témiscamingue, Capital-Nationale–Chaudière–Appalaches, the North Shore and Montreal). It has since been expanded to all regions.

The first report of the Comité d'examen des décès liés à la violence conjugale, *Agir*

¹³⁶ Based on the content of the training course *Les femmes et le droit criminel: pour enrichir nos compétences*. Regroupement des maisons pour femmes victimes de violence conjugale – 2021. <https://maisons-femmes.qc.ca>. [in French only]

¹³⁷ *Rebâtir la confiance – Synthèse*. Report of the expert committee on support for victims of sexual assault and intimate partner violence, co-chaired by Elizabeth Corte and Julie Desrosiers. Secrétariat à la condition féminine. Government of Quebec. December 2020. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

¹³⁸ Recommendation 45: Provide, with some exceptions, for a pre-complaint meeting between a psychosocial caseworker and victims of sexual assault, before the formal statement is taken by the police.

¹³⁹ Based on the content of the training course *Les femmes et le droit criminel: pour enrichir nos compétences*, *op cit*.

¹⁴⁰ *Rebâtir la confiance – Synthèse*, *op cit*. Recommendation 174. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

¹⁴¹ Recommendation 174: Improve the information provided to caseworkers, including information on victims' rights, the duties of the various authorities and the mechanisms in place, to help them better assist victims.

ensemble pour sauver des vies, released in December 2020, recommended that the Directeur des poursuites criminelles et pénales (DPCP) be permitted to promote the evaluation service for pre-trial releases of violent partners.¹⁴² Recommendation 70 in the report *Rebâtir la confiance* advocates the same.¹⁴³

The role of prosecutors at this stage is key because they are the only ones with the authority to propose this bail evaluation hearing. At their request and with the consent of the accused, a probation officer evaluates the accused's behaviour and the risk that he presents. This opportunity to shed light in court gives justice stakeholders information and evaluations that facilitate decision-making about whether or not to release these individuals, the list of specific conditions to be imposed, if any, and referral to resources to help them. This evaluation is an opportunity to document controlling or coercive behaviour and put it into perspective with related risk factors to offer a better safety net for the woman. *Rebâtir la confiance* also recommends "requiring consultation of victims of intimate partner violence by the officer responsible for the evaluation of the partner showing violent behaviour."¹⁴⁴ [translation]

A recent bill, Bill C-233, known as Keira's Law, introduced by MP Anju Dhillon on February 8, 2022, would amend the *Criminal Code* to require a judge, before making a release order in respect of an accused charged with an offence against their intimate partner, to consider whether it is desirable to include

as a condition that the accused wear an electronic monitoring device.¹⁴⁵

Trial

EXAMINATION AND CROSS-EXAMINATION OF WITNESSES

Prosecutors examine and cross-examine witnesses (including the victim) and experts. In a situation of intimate partner violence characterized by control and coercion, it is essential that the court take into account the trauma experienced by the woman and its impact on her ability to testify, both in the conduct of the examination and in the assessment of her credibility (inconsistencies, possible ambivalence of the victim) and thus eliminate the risk of revictimizing her.

To make it easier for a woman to testify as a witness, she can ask the court for permission to testify behind a screen, a panel or a device that prevents her from seeing the accused, or to testify by video from outside the hearing room. This measure allows her to avoid the stress of seeing the accused and reduces potential interactions, including attempts at intimidation.¹⁴⁶ Measures to assist in testimony are explicitly included in the recommendations of the report *Rebâtir la confiance*.¹⁴⁷

SENTENCING

At the request of the court or the parties, the probation officer may prepare and file a presentencing report to inform the court about the accused and recommended sentence. Based

¹⁴² *Agir ensemble pour sauver des vies*. First annual report of the Comité d'examen des décès liés à la violence conjugale. Office of the coroner. Government of Quebec. December 2020 <https://www.coroner.gouv.qc.ca/medias/communiqués/detail-dun-communiqué/382.html>. [in French only]

¹⁴³ *Rebâtir la confiance – Synthèse, op cit.* Recommendation 70. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>.

¹⁴⁴ *Rebâtir la confiance – Synthèse, op cit.* Recommendation 71. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>.

¹⁴⁵ Bill C-233, *An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner)*. House of Commons of Canada. First reading on February 7, 2022. <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-233/first-reading>.

¹⁴⁶ *Faciliter la participation des victimes au processus judiciaire criminel – Mesures d'accompagnement et de protection*. DPCP, November 2021. <https://bit.ly/3qEkBgo>. [in French only]

¹⁴⁷ *Rebâtir la confiance – Synthèse, op cit.* Recommendations 63, 67, 143 to 146. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

on the officer's investigation and evaluation, the report outlines the offender's personality, any criminal history and recommendations on various issues, including the risk of recidivism, helping the judge choose a sentence. The prosecutor and counsel for the defence mention any aggravating and mitigating factors, what the accused has done since the offences, the consequences for the victim, etc. This report can be an important tool for informing the court about the accused's behaviour and potential aggravating risk factors for the victim, such as obsessive behaviour by the accused, the victim's intuitive fear of the accused or the victim's vulnerability.

In reviewing the sentencing criteria, the judge can play a key role in assessing the accused's patterns of behaviour and the impacts of coercive control on the victim, particularly when the judge observes the following criteria, among others:¹⁴⁸

- The moral guilt felt by the accused for the offence of which he has been convicted, the presence of regret, empathy or denial
- The extent of the harm caused to the victim by the offence committed and of which the accused has been convicted: a perpetual fear for the safety of her children, her friends and herself, a loss of financial independence, social isolation, hypervigilance, doubts about her abilities, shame, physical injuries and violation of her sexual integrity
- The penalty needed to protect the public, society and the victim

The fact that the offence the aggressor committed constitutes abuse, against his intimate partner or a member of the victim's or his own family, must be considered as an aggravating factor pursuant to section 718.1(a)(ii) of the

CCC. Under section 718.201, the court must also consider the increased vulnerability of female victims, paying particular attention to the situation of Indigenous female victims.¹⁴⁹ Finally, with the enactment of Bill C-75 (2019), the court may now, under section 718.3(8), impose a prison sentence that is more than the maximum prison term provided for "[i]f an accused is convicted of an indictable offence in the commission of which violence was used, threatened or attempted against an intimate partner and the accused has been previously convicted of an offence in the commission of which violence was used, threatened or attempted against an intimate partner."¹⁵⁰

VICTIM STATEMENT

During sentencing, the victim's statement can also be used to show the manifestations and impact of coercive control.

For example, it may include the following emotional consequences: feelings experienced; inability to work, attend school or study; loss of concentration, sadness, trauma, insomnia, anxiety; changes in lifestyle and activities; and effects on relationships with others. The financial consequences can also be cited, including loss of salary or income, debts incurred, lack of access to bank accounts and deprivation of money.

Furthermore, the prosecutor may ask the court to allow certain measures to be taken when the victim presents her statement, such as the following:

- Installing a screen in order to not see the accused or speaking from outside the court room using a television system

¹⁴⁸ Based on the content of the training course *Les femmes et le droit criminel: pour enrichir nos compétences*. Regroupement des maisons pour femmes victimes de violence conjugale – 2021. <https://maisons-femmes.gc.ca>.

¹⁴⁹ J.-P. Perron. *Droit pénal - Infractions, moyens de défense et peine*. Collection de droit 2021–2022, vol. 13, Barreau du Québec, p. 288. [in French only]

¹⁵⁰ *Criminal Code*, section 718.3(8). <https://laws-lois.justice.gc.ca/eng/acts/c-46/>.

- Having a family member, friend or person of her choice with her, such as a worker from a victim assistance service

If the victim does not want to read her statement in front of the accused, the prosecutor can read it, file a copy so the judge can read it or recount the consequences of the crime.¹⁵¹ If the victim does not understand or speak the language used in the proceedings, or if she has a hearing impairment, she is entitled to the assistance of an interpreter. The victim may also receive help in preparing the statement from CAVAC staff. The victim can describe in the statement the effects that the control and coercion had emotionally, physically and economically.

Finally, if the victim fears for her safety or that of her family or friends, she should express her concerns about potential contact with the accused at this time.

Remedy orders

RECOGNIZANCE TO KEEP THE PEACE (S. 810 OF THE *CRIMINAL CODE*)

To protect victims, including victims of intimate partner violence, the *Criminal Code* also provides for a recognizance to keep the peace. A recognizance can be imposed before the offence is committed in cases where a person has reasonable grounds to fear that another person will injure them, their partner or their child, or will damage their property.

Despite the limitations set out earlier in the document, remedy orders in a situation where the victim experiences various forms of coercive control can be used as a first step toward justice system action against the violent partner, including where the victim refuses to file a complaint. Indeed, since July 19, 2015, the breach of any condition of a recognizance to

keep the peace is an indictable offence. A conviction for this offence is punishable by up to four years in prison.

Note that the amendments to the *Criminal Code* enacted in 2019 by Bill C-75 increased the severity of criminal law respecting intimate partner violence by shifting the burden of proof for bail to the accused repeat offender, which requires a maximum sentence for repeat offenders, and by specifying that violence against a partner or family member is an aggravating circumstance. Unfortunately, data on the concrete repercussions of this legislative measure have yet to emerge.

In addition, if there is no admitted offence when police are at the scene, they can play a proactive role by suggesting that section 810 be used and by preparing a statement when they see elements of intimate partner violence with coercion. Police can then question the victim using questions that identify coercive control tactics and their consequences on her physical and psychological health. Police can then conduct an investigation, which may include questioning other witnesses, checking the defendant's criminal record and questioning him.

Issuing certain conditions is particularly useful in the context of fear generated by coercive control, including not communicating with the person or their partner or their child, not visiting the person, not calling the person, not writing letters and not sending text messages.

CIVIL PROTECTION ORDERS

The *Code of Civil Procedure* allows the Superior Court to issue an order to protect a physical person whose life, health or safety is threatened, including in a violent environment.¹⁵² A person is entitled to be protected from an individual's behaviour, even if that

¹⁵¹ *Faciliter la participation des victimes au processus judiciaire criminel - Mesures d'accompagnement et de protection*. DPCP. November 2021. <https://bit.ly/3qEkBgo>. [in French only]

¹⁵² *Demander une ordonnance de protection en matière civile*. Government of Quebec [online] <https://www.justice.gouv.qc.ca/vic-times/demander-une-ordonnance-de-protection-en-matiere-civile/>. [in French only]

individual has not committed a crime. The victim can ask a judge of the Superior Court to issue a civil protection order. It lists some behaviour associated with coercive control, such as “behaviour deemed to be threatening, such as harassment, intimidation or psychological violence.” [translation] However, the process does not cover all coercive behaviour.

In *Rebâtir la confiance*, the expert committee made several recommendations to improve the use of civil protection orders:¹⁵³

- “Ensure that victims and caseworkers are informed of the benefits and drawbacks of a civil protection order.
- “Ensure that police are informed of the enforceability of a civil protection order and the measures to take to bring a charge in the event of a breach.” [translation]

Researcher Evan Stark proposes expanding the range of behaviour that is prohibited. By expanding the range of actions identified, the scope of the resulting investigation is expanded. Thus, minor but regular acts of violence, intimidation, surveillance, acts of sexual coercion, acts of isolation, and explicit and implicit rules that govern the partner’s activities should be included in a civil protection order.

Best practices for prosecutors

The 2021 revision of Directive VIO-1, which sets out how intimate partner violence cases are to be handled, is an important step forward because it encourages the filing of formal complaints, promotes the participation of victims in the justice system process and preserves public trust in the administration of justice.¹⁵⁴

It includes the recommendation that responsibility for the case be assigned to a prosecutor who has been specifically trained in intimate partner violence and that this prosecutor take responsibility for the case after the first communication with the victim and until the end of legal proceedings (vertical prosecution), except for appearances on weekends and holidays. This method limits the number of people working with the victim, fosters the creation of a relationship of trust with her and ensures that the case is tracked by a single prosecutor who knows all the details, which also facilitates discussions between stakeholders (e.g., investigator, support organization, defence counsel).

On the Government of Quebec website, quebec.ca, a section dedicated to victims of crime was put online in February 2022.¹⁵⁵ Developed by the DPCP, in cooperation with the Quebec Department of Justice, it offers resources for victims of crime, caseworkers supporting them, and their family and friends. This section offers information and advice to prepare and facilitate victims’ court testimony, outline measures that ensure their safety and explain the role of criminal and penal prosecuting attorneys and their duties to victims of crime.

RELEVANT ATTITUDES AND BEHAVIOUR OF VIOLENT PARTNERS

Although coercive control has not been criminalized in Canada, guides developed for prosecutors in countries that have made coercive control an offence can be a good source of information for prosecutors in Quebec. Indeed, the best practices listed below can be useful in building their prosecution case. These practices can also help them be proactive in identifying patterns of controlling behaviour and

¹⁵³ *Rebâtir la confiance – Synthèse, op cit.* Recommendation 88 and 89. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

¹⁵⁴ *VIO-1 - Violence conjugale.* DPCP. <http://www.dpcp.gouv.qc.ca/ressources/pdf/envoi/VIO-1.pdf>. [in French only]

¹⁵⁵ *Accompagnement des personnes victimes d'un crime.* Government of Quebec. [online] <https://www.quebec.ca/justice-et-etat-civil/systeme-judiciaire/processus-judiciaire/processus-judiciaire-au-criminel/accompagnement-victimes-crime>. [in French only]

the impacts on victims. *Legal Guidance – Domestic abuse*, used in the United Kingdom, provides a series of instructions.¹⁵⁶ Some examples are provided in the following paragraphs.

First, the prosecutor must know that a pattern of controlling or coercive behaviour can be well established before a single incident is reported. The victim may not be aware of or ready to acknowledge abusive behaviour.

Accounting for the cumulative impact of controlling or coercive behaviour in a relationship is crucial. This approach will help prosecutors effectively assess whether a pattern of behaviour can create fear that violence will occur or a fear of serious distress for the victim, affecting her usual day-to-day activities.

There might also be confusion about where an “appropriate” relationship dynamic ends and where unlawful behaviour begins. The College of Policing Authorised Professional Practice on Domestic Abuse states the following: “In many relationships, there are occasions when one person makes a decision on behalf of another, or when one partner takes control of a situation and the other has to compromise. The difference in an abusive relationship is that decisions by a dominant partner can become rules that, when broken, lead to consequences for the victim.” Therefore, prosecutors should consider the impact on the victim of complying, or not complying, with rules imposed on them within the broader context of the relationship.¹⁵⁷

The first series of instructions notes the importance of gathering evidence to build a robust prosecution case, focusing on (1) an analysis of the aggressor’s patterns of behaviour based on the timing of coercive and violent acts, and (2) the cumulative impact of that

behaviour on the victim. The instructions provide a non-exhaustive list of the types of evidence that could be used to prove the existence of controlling or coercive behaviour.¹⁵⁸

Such behaviour can include the following:

- Isolating a person from their friends and family
- Depriving them of their basic needs
- Monitoring their time
- Monitoring a person using online communication tools or spyware
- Taking control over aspects of their everyday life, such as where they can go, who they can see, what they can wear and when they can sleep
- Depriving them of access to support services, such as specialist support or medical services
- Repeatedly putting them down
- Enforcing rules and activity that humiliate, degrade or dehumanize them
- Forcing them to take part in criminal activity such as shoplifting, neglect or abuse of children to encourage self-blame and prevent disclosure to authorities
- Financial abuse, including control of finances, such as allowing a person only a punitive allowance
- Threats to hurt or kill
- Threats to harm a child
- Threats to reveal or publish private information (e.g., threatening to “out” someone)

¹⁵⁶ *Legal Guidance – Domestic abuse*. Crown Prosecution Service (CPS) [online] <https://www.cps.gov.uk/legal-guidance/domestic-abuse>.

¹⁵⁷ *Controlling or Coercive Behaviour in an Intimate or Family Relationship*. CPS [online] <https://www.cps.gov.uk/legal-guidance/controlling-or-coercive-behaviour-intimate-or-family-relationship>.

¹⁵⁸ *Ibid.*

- Preventing them from having access to transportation or from working
- Preventing them from attending school, college or university

Prosecutors should also note that violent partners may be highly manipulative. For example, they may adopt attitudes and behaviour aimed at misleading the investigation and prosecution. This can include counter-allegations or arguments that violent acts were committed in self-defence, making it difficult to distinguish between the primary victim and the primary aggressor. The investigation should explore the nature of the relationship, the context of the offence and any other legal proceedings that could affect an allegation, such as civil or family proceedings.¹⁵⁹

A violent partner may use various techniques to mislead the investigation, such as the following:

- Altering behaviour when being watched or supervised; using others to assert control over the victim; accusing the victim of ‘nagging’ them and other spurious complaints to the authorities
- Targeting vulnerable people recognizing that they may face additional barriers to accessing help or support. For example: exploiting someone’s vulnerability owing to their immigration status, disability or sexual orientation; or combining controlling or coercive behaviour with enforced sexual activity to humiliate the victim and reduce the risk of them seeking help. It is therefore important to consider the context of the relationship and the relative position of power to help with the assessment of the case. For example, if a disabled person relies on their aggressor for support, they may be manipulated into believing that nobody else is trustworthy enough or able to care for them, and if abuse was

reported then they would go to a residential care home.

- Making repeated applications for variations of a restraining order or child arrangement order so as to continue to try to control or coerce the victim further. In such cases, prosecutors should remind the court of its powers to control abuse of process
- Minimizing, or giving mitigation for, their offending behaviour. In general, if offending behaviour amounts to controlling or coercive behaviour, and that is the appropriate charge, prosecutors should not accept a plea to a lesser offence simply out of expediency.¹⁶⁰

CONSIDERATION OF THE HARM CAUSED BY COERCIVE CONTROL OVER THE VICTIM DURING INVESTIGATION AND PROCEEDINGS

An effective assessment of the impact on the victim requires that prosecutors recognize the harm caused by the cumulative impact of a pattern of abuse.

It is important to not assume victims will behave like a “typical” victim. Victims react to abuse in a number of ways, such as by using drugs or alcohol, and by showing signs of humiliation, detachment, anger and retaliation. Victims may also interpret abuse very differently, depending on their social or cultural context, including by expressing feelings of guilt.

In addition, controlling or coercive behaviour may be underestimated, as victims may be seen as colluding or consenting to the behaviour. In some circumstances, the victim may not be aware or be ready to acknowledge, and least of all to report, being abused. It is important not to assume that compliance, dependence, denial and other responses are

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

collusive. Rather, these reactions may be strategies used by the victim to cope, adapt to or survive the control. Other reasons why controlling or coercive behaviour may not be identified or reported early, include feelings of self-blame or the failure of first responders on calls to ask the right questions to adduce the cumulative harm caused by the dominant or controlling relationship.

Increasing the safety of victims is essential to help build trust in the criminal justice system and facilitate their participation in the process, as noted in several recommendations in the expert committee report *Rebâtir la confiance*.¹⁶¹ There may be an ongoing threat to their well-being, and their needs must be determined at the outset and taken into account throughout and after legal proceedings.

A number of measures can be taken to support victims throughout the criminal justice process, including using special measures, having a single point of contact, such as an independent intimate partner violence advisor, and taking other practical steps such as organizing a pre-trial meeting, setting up a screen or offering the option of video testimony.¹⁶²

The risk to the victim can quickly worsen. If it does, close ties to services specializing in intimate partner violence (independent counsellors, prevention experts, etc.) are recommended to ensure that the victim's needs are well understood. Strict application of a prohibition order can play an important role in managing risks and preventing future offences.

The clarity and consistency of the account depend on the victim's ability to concentrate, her knowledge of the events and her ability to communicate them. However, as we know, victims of coercive control often have post-traumatic stress or gaslighting syndromes. The following factors must be considered

when presenting a person who is subject to controlling or coercive behaviour to the court: the impact of recalling a traumatic event, manipulation by the defendant or others, fear of or allegiance to the defendant, and communication barriers, including language barriers or other difficulties.

¹⁶¹ *Rebâtir la confiance – Synthèse, op cit.* Recommendation 158 to 160. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

¹⁶² *Faciliter la participation des victimes au processus judiciaire criminel – Mesures d'accompagnement et de protection.* DPCP, November 2021. <https://bit.ly/3qEkBgo>. [in French only]

Best practices in family law

Recent amendments to the *Divorce Act*, which took effect on March 1, 2021, explicitly recognize coercive and controlling behaviour in the definition of family violence, regardless of whether the behaviour is severe enough to be a criminal offence. The Department of Justice Canada has posted a three-hour online training course, designed for family law advisers but potentially of interest to anyone seeking a better understanding of the new legislation.¹⁶³ This course provides valuable insights into the interpretation of the new provisions as well as on how to approach victims, the consequences of trauma and the intersection of oppressions.

The Department of Justice Canada has also developed the *HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers*.¹⁶⁴ Coercive control is one of the forms of violence it catalogues. The toolkit provides the kind of practical advice legal advisers need both for processing cases and to connect their clients with other services to ensure their safety.

A recent report on family violence and family law prepared by the Centre for Research and Education on Violence Against Women and Children (CREVAWC) on behalf of the Alliance of Canadian Research Centres on Gender-Based Violence, merits a closer look.

This report provides an introduction to coercive control for experts in law, social services and healthcare who specialize in supporting survivors of family violence in family court. It addresses the following: (1) key concepts of

coercive control, including how this form of family violence differs from the more conventional pattern of the “violent incident,” and why gender is relevant to understanding coercive control; (2) current law regarding inclusion and the notion of coercive control in the *Divorce Act* and the *Criminal Code*; and (3) recommendations and advice for future responses to coercive control in the courts.¹⁶⁵

As a complement to this resource, the Battered Women’s Justice Project (USA) has assembled a collection of guides to screening for violence, designed to improve decision-making by family court specialists dealing with custody cases involving family violence.¹⁶⁶ The guides included in this compilation were assembled with the help of the National Council of Juvenile and Family Court Judges and representatives of the Association of Family and Conciliation Courts. The definition of family violence here incorporates elements of coercive control and the identification of abusers’ strategies for gaming the system.

This visual tool provides advice on how to identify, understand and account for the nature, context and implications of violence at each stage of the family court proceedings and by every stakeholder. It promotes informed decision-making that focuses on the lived experiences of parents and children. The included documents function as a whole. They are colour coded and separated into four parts.

The following section proposes best practices to be developed, including for screening for intimate partner violence, identifying immediate risks and safety concerns, documenting

¹⁶³ Training for professionals, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/cfl-mdf/trai-form/index.html>.

¹⁶⁴ HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/help-aide/index.html>.

¹⁶⁵ Family Violence & Family Law Brief - Coercive Control and Family Law, Issue 3, May 2021, Alliance of Canadian Research Centres on Gender-Based Violence. [online] https://fvfl-vfdf.ca/fr/M%C3%A9moires/Family_Violence_Family_Law_Brief-3-.pdf.

¹⁶⁶ G. Davis et al., Practice Guides for Family Court Decision-Making in Domestic Abuse-Related Child Custody Matters / Forms and Instructions), Battered Women’s Justice Project, USA, 2015 [online] <https://www.bwjp.org/assets/documents/pdfs/practice-guides-for-family-court-decision-making-ind.pdf>.

coercive family violence and parenting arrangements.

Screening for intimate partner and family violence

The article “Best Practices for Representing Clients in Family Violence Cases,” by lawyer Cynthia L. Chewter, provides an excellent counselling guide in cases involving family violence, outlining practices to follow starting when the lawyer initially signs on and continuing to the end of the trial.¹⁶⁷

First, as regards best practices in screening for coercive intimate partner violence, it is generally acknowledged that women are unlikely to voluntarily disclose violence unless they are questioned directly (Sohal, Eldridge and Felder, 2007). Screening every client for family violence helps lawyers ensure they are providing competent and effective representation (Chewter, 2003; Minnesota State Bar, 2013; Sussman and Carter, 2007).¹⁶⁸ Parker and McFarlane (1991) found that routine screening for intimate partner violence increases the likelihood of discovering it when this screening is face-to-face. Women may be reluctant to talk about it, because they believe that this form of violence does not count, or because they do not feel safe discussing it (Stith, Rosen, Barasch and Wilson, 1991). Furthermore, the aftermath of trauma can affect the amount of information a woman initially discloses, her ability to recall facts, the consistency in the details of her story and her emotions (Neilson, 2013). Finally, the interpretation and application of family and divorce laws often seem to assume that joint

custody is always in the best interests of the child. This may dissuade mothers from reporting abuse, fearing that judges and lawyers may construe these allegations as an attempt to limit the father’s access to their children (Dragiewicz, 2014).¹⁶⁹

Tools exist to guide family law advisers in their practice. Appendix B of the 2018 Department of Justice report mentioned above proposes two screening tools that provide a series of recommended questions, including a section on coercive control.¹⁷⁰ The first screening tool is to be used universally by all family law lawyers with each new client. The lawyer may use the second screening tool only if the first detects red flags or the client has self-disclosed abuse. It should not be used by rote, but rather as a discussion guide to assist the lawyer, who must also use their professional judgment, analytical skills and critical thinking, all while observing the client’s non-verbal cues to choose the right questions to ask. The suggested questions are divided into categories that correspond to common tactics of abuse: coercive control, threats, physical, sexual and psychological violence, and financial exploitation.

Tab 9 of the Justice Canada toolkit “Questions about specific forms of family violence” provides examples of questions that can be asked for each form of family violence, including coercive control.¹⁷¹

A 2019 publication by the Canadian Bar Association provides additional information on how to screen for abuse and explains its importance for lawyers specialized in family

¹⁶⁷ Cited by E. Jollimore in Best Practices for Representing Clients in Family Violence Cases, Justice Canada [online] <https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/bpfv-mpvf/viol1.html>.

¹⁶⁸ What You Don’t Know Can Hurt You: The importance of family violence screening tools for family law practitioners, Justice Canada [online] <https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/p8.html>.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid. <https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/p8.html>.

¹⁷¹ “Tab #9 Questions about specific forms of family violence,” HELP Toolkit –Supplemental Materials, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/help-aide/docs/tab-9.pdf>.

law.¹⁷²

Thus, lawyers who are aware and trained in these matters will be particularly well equipped to have a conversation with their client about the appropriate procedure and potential outcomes, give legal advice, receive direction, and share information about complementary services as appropriate. Lawyers will also be better able to argue coercive control early in the proceedings and thus better defend their client's rights. Moreover, they will know early in the professional relationship with the client if there are security concerns requiring immediate attention.¹⁷³

To wrap up on this point, recall the recommendation of the expert committee in the report *Rebâtir la confiance*, to “create a roster of lawyers specialized in sexual assault and intimate partner violence, to structure it around the areas of law/keywords used by victims and to ensure that it is kept up to date.”¹⁷⁴ [translation]

Screening for head injuries

Particular attention must also be paid to screening for head injuries, which are quite frequent in women having experienced intimate partner violence but are frequently not diagnosed, as many studies have shown.¹⁷⁵

Some good practices will be easy to deliver: help accompanying the women to the appropriate medical resources or accounting for any consequences of the trauma during the legal proceedings. Here are a few suggested by the

Centre for Research & Education on Violence against Women & Children in Ontario:¹⁷⁶

- Allow time for rest in a quiet dark place
- Keep meetings brief and to a minimum
- Review safety plans often and in detail
- Provide notebooks, calendars and agendas to support her efforts to be organized
- Be realistic about her abilities and limitations. Everything may take longer and she may be easily frustrated.
- Encourage her to seek medical attention or access brain injury rehabilitation services
- Seek support from a shelter to help her travel to appointments or offer to accompany her on those occasions
- Seek support from a local brain injury association

Identifying immediate risks and safety concerns

Since there are many reasons why a client may not disclose her experiences of intimate partner violence to her lawyer up front, it is a good idea to ask about her safety, regardless of whether or not she has indicated any problems. Here again, the Justice Canada toolkit suggests ways to address safety issues surrounding court proceedings, such as knowing the indicators of heightened risk of ongoing or deadly violence or how to respond (safety plan) in case of immediate danger to the

¹⁷² Family Violence Screening by Family Law Lawyers, Canadian Bar Association, December 2016 [online] <https://www.cba.org/Sections/Family-Law/Articles/Family-violence-screening-by-Family-Law-lawyers?lang=en-ca>.

¹⁷³ What You Don't Know Can Hurt You, op. cit. [online] <https://www.justice.gc.ca/eng/rp-pr/jr/can-peut/p8.html>.

¹⁷⁴ *Rebâtir la confiance - Synthèse*, op. cit., recommendation 30 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>.

¹⁷⁵ Traumatic Brain Injury (TBI) and Intimate Partner Violence (IPV): Supporting Survivors in Shelters, Learning Network, Ontario, 2018 [online] <https://www.vawlearningnetwork.ca/our-work/infographics/traumaticbraininjury/index.html>; Abused & Brain Injured, ABI Research Lab, Ontario [online] <http://www.abitoolkit.ca>.

¹⁷⁶ Traumatic Brain Injury, op. cit. [online] <https://www.vawlearningnetwork.ca/our-work/infographics/traumaticbraininjury/index.html>.

client.¹⁷⁷

Identifying potential concurrent criminal proceedings

In most jurisdictions, the criminal law case and the family law case will proceed separately. However, there are often issues of overlap, such as concerns about contact between the parties. A better understanding of the criminal charges, conditions of release, court dates and possible outcomes will help justice system stakeholders better defend the interests of their clients. In this matter, Tab 16 of the Justice Canada toolkit describes some good practices to develop.¹⁷⁸

Raising awareness of how the parental role can be used to exercise control¹⁷⁹

It is important to understand that the perpetrators of coercive violence are very often fixated on their need to retain power over their former partner. Generally, their main concern is not the interest of the child, even though they appear to be devoted and caring parents. They may seek parental time and decision-making responsibilities in order to maintain contact with the former partner. Therefore, it is important for courts to bear in mind that the primary concern of abusers may, in fact, be to maintain control rather than to watch over the welfare of their child.

For example, they may refuse to comply with parenting orders, threaten the former spouse with loss of parenting time, undermine the victim's authority as a parent or resort to various forms of psychological abuse, such as

threatening to harm or abduct the children.

They may request a parenting arrangement that requires an in-person transfer of the child, sustained communication with the other parent or the sharing of information that goes above and beyond what is required by the interests of the child. All these imposed contacts are opportunities for the dominant person to interact with the victim, to shore up their power and pose a threat. Not to mention that the large number of proceedings may cause the victim financial hardship.

Documenting coercive family violence¹⁸⁰

The court needs to determine whether the nature of the family violence is coercive and controlling. Indeed, experience shows that the perpetrators of this type of violence are more likely to sustain this behaviour after separation. They will use a variety of tactics to maintain or re-establish their domination over the former partner. The ongoing actions an abuser takes against his former partner in order to dominate, threaten or harass her affect the child's wellbeing (physical, emotional and psychological health). This behaviour may also seriously undermine the victim's ability to adequately take care of the children. Those who commit coercive and controlling violence are also more likely to mistreat their children after a separation.¹⁸¹

It is thus essential that, beginning with the very first proceedings, the professionals involved document any manifestations of violence, coercion or intimidation, as this will have ramifications for how the case plays out. Sussman and Carter (2007) similarly

¹⁷⁷ HELP Toolkit, op. cit. [online] <https://www.justice.gc.ca/eng/fl-df/help-aide/discussion-discuter.html#sl-3>.

¹⁷⁸ HELP Toolkit, op. cit. [online] <https://www.justice.gc.ca/eng/fl-df/help-aide/tab16-onglet16.html#c>.

¹⁷⁹ Family law – Training for professionals, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/cfl-mdf/trai-form/index.html>.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

suggest that “context is everything” and that lawyers need to pay attention to the individual and social circumstances (age, economic class, ethnicity, etc.) of their client. Some practitioners use checklists to ensure they detect the telltale signs of coercive and controlling behaviour and its impacts on the victim. To this end, the risk assessment tool (VIGIE-VC grid) [in French only] developed by the Carrefour sécurité en violence conjugale (CSVC) offers a very relevant list of elements to document, some of which are presented here.

Manifestations of abuse and history of the violent partner:

- Manifestations of violence: economic, social control, climate of fear, tension, harassment;
- Frequency and persistence of this control: repetition over time, escalation, persistence of manifestations;
- Attitude and behaviour of the aggressor: presence or absence of remorse, attrition, possessiveness, obsession, contemptuous or hateful statements, inappropriate language, etc.;
- Significant changes to living conditions: loss of a child, loss of a job, retirement, serious or chronic health issues, etc.;
- Blackmail with threats of suicide, problematic consumption of drugs or alcohol, and diagnosed mental health problems.

Repercussions on the victim:

- The victim’s fears for herself and her loved ones
- Impacts on the victim: loss of financial autonomy, social isolation, centring of the victim on the expectations of the

dominant person (hyper-vigilance), obedience to restrictions, distortion of events, doubt about their abilities, shame, physical injuries, violation of sexual integrity, etc.;

- The victim’s vulnerability: functional limitations, subject of discrimination, pregnancy, poor knowledge of the language, financial or emotional dependence, etc.

Parental cooperation in coercive family violence cases¹⁸²

In family violence cases involving coercive control, the court needs to ask whether it is appropriate to oblige the two parties to work together on issues regarding the child.

In France, for example, section 5 of its July 30, 2020, law prohibits mediation in family matters in cases where violence is alleged or controlling behaviour is obvious.¹⁸³

Indeed, in these situations it may be impossible for the victim to work with the other parent owing to trauma or the fear of triggering further abuse. A more thorough understanding of the abusive parent’s patterns of behaviour helps prevent misinterpreting the victim’s failure or refusal to participate as an unwillingness to cooperate with the judicial process and thus avoids revictimization. It may not be possible to negotiate in the interests of the child if one controls the other.

As for the abuser, coercive control is often perpetrated by using the legal system to, for example, deflect the mother’s allegations of abuse with expressions of “concerns” that she is isolating their children from him, using apparently “caring,” “concerned” or “indulgent” paternal behaviours to mask underlying

¹⁸² Ibid.

¹⁸³ It amends sections 255 and 373-2-10 of the Civil Code.

intentions to diminish the mother's credibility and re-establish control.

Parenting arrangements, custody orders and access in the context of coercive intimate partner violence¹⁸⁴

Many researchers have found that the parent who engages in coercive intimate partner violence exhibits harmful parenting practices. In addition to the many correlations between physical intimate partner violence and physical child abuse, it is not surprising that these harmful parenting practices tend to mirror the psychological and coercive elements of intimate partner violence.

Thus, checking for the presence of coercive control in a spousal relationship and reflecting this in the parent-child access provisions is crucial for the welfare of children.

As a consequence, family law practitioners must take the following into account in performing their respective duties:¹⁸⁵

- The likelihood that the perpetrator will direct high levels of coercion and control at the children when the relationship between the partners is fraught with high levels of coercion and control
- The likelihood of excessive physical, disciplinary force being used against children in cases involving patterns of physical violence against intimate partners
- The likelihood of contact with children being used to monitor the whereabouts and activities of the other parent in cases

involving spousal stalking, monitoring and coercive control

- The likelihood of sexual denigration of children in cases involving sexual denigration of intimate partners
- The likelihood of the use of contact with the children to undermine or to psychologically denigrate the child or the child's relationship with the other parent in cases where coercive intimate partner violence is associated with patterns of denigration

As a result, each case must be assessed to determine which parenting arrangement would best provide for the child's physical, emotional and psychological safety and wellbeing.

Cases of coercive and dominant violence require a more vigorous response than isolated or minor incidents:¹⁸⁶

- It may be better to limit, supervise or deny the time spent with the abusive parent because of the potential risk to the child or the other parent
- Visiting arrangements that require a great deal of coordination between parents may not be safe, even when feasible
- On rare occasions, a blanket denial of visitation with the abusive parent may be the only safe arrangement

The amended law requires courts to consider all orders or proceedings in other fields of law that are relevant to assessing the interests of the child, even those that are no longer in effect.¹⁸⁷

If the relationship with the perpetrator is

¹⁸⁴ Family law – Training for professionals, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/cfl-mdf/trai-form/index.html>.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ *Divorce Act*, Justice Canada (entry into effect of divorce, section 12) [online] <https://laws-lois.justice.gc.ca/eng/acts/d-3.4/FullText.html>.

considered beneficial, the goal becomes ensuring that the contact is safe. The following are child-centred principles and priorities for custody and visitation cases where intimate partner violence is present:¹⁸⁸

- Priority 1: Provide for the safety and protection of the children
- Priority 2: Provide for the safety and well-being of the victim parent
- Priority 3: Respect the right of adult victims to conduct their own lives
- Priority 4: Hold perpetrators accountable for abusive behaviour
- Priority 5: Allow children access to both parents

While the preferred option is satisfying all five priorities in this model, priority number five (as many visits as possible) is conditional on satisfying priorities one through four.

Intimate partner violence experts seldom recommend severing children's contact with abusive parents entirely unless such contact

- Offers no benefit to the child;
- Is resisted by the child (subject to considerations associated with parental manipulation, a complex issue, beyond the scope of this report); or
- Is not and cannot be made emotionally and physically safe for both the custodial parent and the child.¹⁸⁹

In terms of resource requirements, the expert committee behind *Rebâtir la confiance* recommends that providing a sufficient number of practitioners and safe, accessible locations

to facilitate and supervise access rights.¹⁹⁰

In concluding this section, awareness of how coercive control operates in the context of intimate partner violence enables lawyers, judges and social workers to better understand the safety concerns expressed by survivors in family court.

Best practices in immigration law

There is limited literature on best practices in dealing with coercive control in the context of migration. This section outlines some of the best practices developed by immigration law practitioners consulted as part of this exercise to better address manifestations of coercive control in applications for asylum, temporary residency permits for women victims of intimate partner violence and permanent residency on humanitarian grounds.

Some food for thought and tools intended for women's shelters, police forces and lawyers are also presented to foster awareness and equip professionals to see the specific hurdles faced by immigrant women who are victims of coercive control.

Immigration law options

Applications for asylum

“The definition of a Convention refugee in the *Immigration Act* does not include gender as an independent enumerated ground for a well-founded fear of persecution warranting the recognition of Convention refugee status. As an evolving area of law, it has been more widely recognized that gender-related

¹⁸⁸ Family law – Training for professionals, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/cfl-mdf/trai-form/index.html>.

¹⁸⁹ Ibid.

¹⁹⁰ *Rebâtir la confiance - Synthèse*, op. cit., recommendations 133 and 134 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>.

persecution is a form of persecution which can and should be assessed by the Refugee Division panel hearing the claim.”¹⁹¹

Where a woman claims to have a gender-related fear of persecution, the central issue is thus the need to determine the linkage between gender, the feared persecution and one or more of the definition grounds.

Women may thus apply for asylum on the grounds of family violence, and their situations can be evaluated using the directives governing refugee status claimants fleeing gender-based persecution. These women are then deemed Convention refugees in the category “social group” for purposes of the *Immigration Act*.

In addition, the scope of the guidelines on “recognition of vulnerable persons” includes victims of intimate partner violence. Submitting a claim for recognition of vulnerable persons status opens the door for certain procedural accommodations. Examples are the ability to have a social worker present with the claimant (normally no one else is allowed), the ability to request that the officer and the interpreter be female and the ability to request more breaks during the hearing.¹⁹²

In the fall of 2020, the Immigration and Refugee Board of Canada (IRB) assembled a Gender Related Task Force (GRTF) to further enhance the quality of decision-making at the Refugee Protection Division (RPD).¹⁹³ This task force is a dedicated team with specialized training to hear and decide gender-related refugee claims. However, recourse to this task

force is not automatic, but must be explicitly requested.

The GRTF will ensure respectful, trauma-informed and consistent adjudication of gender-related claims. It will also identify, implement and refine best practices for adjudicating gender-related claims and share those best practices for adjudication broadly across the RPD. This team is trained in questioning from a cross-cultural and trauma-informed perspective, for example.

Sometimes an asylum seeker who arrives in Canada had a pre-existing risk of persecution in her country of citizenship, she is either fleeing the country to evade an abusive spouse or her spouse is entering Canada with her, and she is afraid that he will be increasingly abusive once here. In these cases, women are often hesitant to separate their asylum claims from those of their partner. Therefore, it is important to explain to women that they can separate their application from their husband’s and add this fear of intimate partner violence to their application as another ground. This practice generally works even when there is coercive control without physical violence.

Temporary residency permits for female victims of family violence (TRP-FV)

Another challenge that female victims of intimate partner violence must frequently overcome is that their status is often contingent on their relationship with their spouse and that they fear losing their status in the event of separation. Two scenarios are common: (1) the spouse has filed a sponsorship application for his partner and children and threatens to withdraw it before the papers confirming

¹⁹¹ Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution, Immigration and Refugee Board of Canada (IRB) [online] <https://irb.gc.ca/en/legal-policy/policies/Pages/GuideDir04.aspx>.

¹⁹² Chairperson Guideline 8: Procedures With Respect to Vulnerable Persons Appearing Before the IRB, IRB, [online] <https://irb.gc.ca/en/legal-policy/policies/Pages/GuideDir08.aspx>.

¹⁹³ Gender Related Task Force, IRB [online] <https://irb-cisr.gc.ca/en/refugee-claims/Pages/gender-related-task-force-rpd.aspx>.

permanent residency are obtained, or was supposed to file and never did, or (2) the spouse has obtained a closed work permit allowing him to include his partner, who has an open work permit.

In both cases, use of temporary residency permits (TRP) for women victims of intimate partner violence is very appropriate.¹⁹⁴ Since July 2019, non-status people living in Canada whose immigration application depends on a violent partner can apply for an expedited temporary residency permit for themselves and their children at no cost.

Aside from physical and sexual violence, the definition of family violence includes:

- Psychological violence, such as threats and intimidation
- Financial abuse, such as fraud and extortion
- Negligence, which consists of failing to meet a person's basic needs, including food, clothing, medical care, shelter, or any action or omission that creates a serious risk of harm

To determine whether a person is a victim of intimate partner violence, the officer must weigh the available evidence on a case-by-case basis, relying on the information provided by the claimant. The following pieces of evidence may be submitted: incident reports; police notes; reports that passports or travel

documents were not provided; restraining orders; and letters, statements or reports from a victim or witness assistance program, women's shelter or intimate partner violence support agency.¹⁹⁵

This permit gives access to temporary resident status, a work permit and healthcare coverage.¹⁹⁶ The TRP generally works well, even in cases where there is no physical violence. Moreover, in acute cases of intimate partner violence, lawyers are able to send the TRP application directly to the Montreal office, thus bypassing an initial triage in Vancouver.

However, this remedy has the drawback of being temporary. If the woman wishes, she can then apply for permanent residency on humanitarian grounds, which includes provisions for victims and survivors of intimate partner violence.¹⁹⁷ Intimate partner violence in the form of coercive or controlling behaviour or repeated threats is explicitly included in the types of violence covered.¹⁹⁸ Legal practitioners in Canada report that many applications for permanent residency on humanitarian and compassionate grounds are based on evidence of coercive control.

Application for permanent residency on humanitarian and compassionate grounds (PR HC)

Should one of the partners withdraw their sponsorship, the other person can submit an expedited application for permanent residency

¹⁹⁴ Temporary resident permit (TRP) for victims of family violence, Immigration, Refugees and Citizenship Canada (IRCC) [online] <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/family-violence.html>.

¹⁹⁵ Humanitarian and compassionate considerations: Assessment and processing, IRCC [online] <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing.html>.

¹⁹⁶ TRP, op. cit.

¹⁹⁷ The humanitarian and compassionate assessment: Dealing with family relationships, IRCC [online] <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing/assessment-dealing-family-relationships.html>.

¹⁹⁸ Abuse: Types of abuse, IRCC [online] <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/service-delivery/abuse/types-abuse.html>.

on humanitarian and compassionate grounds. In order to obtain permanent residency, immigrant women must meet demanding integration and financial autonomy criteria that are sometimes irreconcilable with the situation in which they find themselves.¹⁹⁹ Sometimes, the control exercised by the abusive spouse and the ensuing isolation has made it impossible for them to acquire this required autonomy or demonstrate the integration beforehand.²⁰⁰

In this case, it is wise to centre the request on compassion. The lawyer can produce a detailed narrative of the hardships the person has faced and document her psychological distress, for example, by providing evidence of medical problems.²⁰¹

Role of support staff in shelters

For women, many complexities come into play in the migration process: they need legal information about the applicable laws and the procedures to be completed depending on their immigration status. They need an immigration lawyer, and they need to understand their rights as women residing in Canada and as mothers. The importance of informing immigrant women of their rights, such as their eligibility for benefits according to their status (family allowance, legal aid, social assistance, medical care, support from VCI or the crime victims' assistance centre), is essential to their immigration journey, especially when they are victims of intimate partner violence.

Providing shelter workers with a basic knowledge of how the immigration system works, enabling them to identify issues and refer victims to the right resources, is a sound practice. Special attention should be given to shelter workers outside of major centres, as an increasing number of immigrant women are settling in more remote regions and specialized knowledge remains concentrated in large urban centres.

Case workers' supporting role in legal proceedings is also essential. If a woman needs help from her lawyer, the assistance of a support worker will be very useful for gathering evidence and understanding what is expected of her. To this end, tools have been developed for frontline workers to support women who wish to make such a request—for example, by Refugee Rights in Ontario with its CLEO Project.²⁰² The Regroupement des maisons pour femmes victimes de violence conjugales (RMFVVC) produced “Conjugal Violence and Individuals Without Status,” a fact sheet available online in four languages (French, English, Arabic and Spanish), which lists resources and programs available to non-status women who are victims of intimate partner violence.²⁰³

In addition, the guide “Violence conjugale et familiale: les statuts d'immigration,” developed by the Fédération des maisons d'hébergement pour femmes, informs and equips workers to respond properly to the needs of abused women whose immigration status is

¹⁹⁹ S. Castro Zavala, “Politique d'immigration : femmes et violence conjugale dans le contexte québécois,” *Alterstice*, 3(2), 2013:97–109. [online] https://www.journal.psy.ulaval.ca/ojs/index.php/ARIRI/article/view/CastroZavala_Alterstice3%282%29. [in French only]

²⁰⁰ “Contexte de vulnérabilité: femmes immigrantes,” *Trousse média sur la violence conjugale*, Institut national de santé publique (INSPQ) and N. Brodeur, Université Laval [online] <https://www.inspq.qc.ca/violence-conjugale/comprendre/contextes-de-vulnerabilite/femmes-immigrantes>. [in French only]

²⁰¹ Excerpt from a presentation by Guillaume Cliche-Rivard (Cliche-Rivard Avocats inc), former president of the Quebec Immigration Lawyers Association (AQAADI).

²⁰² Women, family violence, and immigration, Refugee Rights in Ontario, 2019 [online] https://www.cleo.on.ca/sites/default/files/book_pdfs/famvio.pdf.

²⁰³ Fact Sheet – Conjugal Violence and Individuals Without Status, RMFVVC [online] <https://maisons-femmes.qc.ca/wp-content/uploads/2021/06/Fiche-violence-conjugale-et-personnes-sans-statut-rmfvvc-Anglais.pdf>.

precarious.²⁰⁴ It discusses the different categories of immigration status in Canada and the rights associated with each, as well as the remedies available to women who are victims of domestic or family violence to resolve their perilous immigration status.

Finally, alongside the provision of legal support for women, it is essential to ensure that they feel safe, consider their experiences and the multiple traumas of intimate partner violence they have suffered and consider their migration pathway.

Role of police

As mentioned above, immigrant women may be reluctant to file a complaint, mistrust public services and agencies such as the police or child protection, or fear being judged by them because of their lack of knowledge about their mandates or the services offered. In some cultures, the police and child protection are perceived as predisposed to intervene in private family matters. The fear that non-status women will be reported to immigration, the fear of corruption or the fear that police will be complicit in gender-based violence, as was the case in their country of origin, all contribute to resistance to seeking police services.

This is why the expert committee recommends in *Rebâtir la confiance* that policies be adopted to ensure that victims of intimate partner violence who seek police protection are not reported to the Canada Border Services Agency.²⁰⁵

Police outreach programs can make a difference to the experience of these women. A better understanding of the realities of their journey and their relationship with the authorities

(and the fear they may associate with them), the deconstruction of certain myths and stereotypes in relation to intimate partner violence, and a knowledge of value systems and cultural differences are all of interest. Consideration of their sense of safety and the implementation of protective scenarios should be integrated into police practices. It is also important to address the woman directly, even if she does not speak English or French well, and to avoid the pitfall of addressing only the person accompanying her (interpreter, worker, etc.).

Interactive training and awareness-raising workshops based on an intercultural outreach approach, with role-playing to act out scenarios that police officers may encounter with immigrant women, provide a real added value.

For instance, in situations of control, the spouse may work the system by making the victim believe that he has the power to deport her by reporting her to the authorities. Of course, the decision to deport is never made by the spouse, but by the system. Police who are aware of this reality can be proactive and remind women of their rights.

Another good practice that has proved its worth is, when police do intervene, to automatically refer women to relevant resources such as legal aid and community organizations that work with immigrants. This practice can play an essential role in improving the safety net and the continuum of services offered to women.

People in the field also report that there is a need for vigilance regarding the role of interpreters. In some territories with smaller communities, interpreters may know the spouse or family. This can undermine the neutrality of

²⁰⁴ Violence conjugale et familiale: les statuts d'immigration, Fédération des maisons d'hébergement pour femmes, March 2014 [online] [https://regroupelles.org/data/documents/2014-03-fmhf-violence conjugale et familiale les statuts d immigration.pdf](https://regroupelles.org/data/documents/2014-03-fmhf-violence_conjugale_et_familiale_les_statuts_d_immigration.pdf). [in French only]

²⁰⁵ *Rebâtir la confiance – Synthèse*, op. cit., recommandation 137 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

the interpreter, as well as the confidence of the victim. Experts recommend an evaluation of the services of translators and interpreters and the creation of a roster of accredited professionals.²⁰⁶

Finally, with regard to risk assessment, Ontario has developed the Risk Identification & Assessment (RIA) tool, a tool that includes questions about the systemic barriers that some women face.²⁰⁷ One section addresses the impact on these women of factors such as migration status, race, gender identity, sexual orientation, the existence of forced marriage, and history of living in a conflict zone, war or refugee camp.

Role of lawyers

First, after obtaining the woman's consent, lawyers conducting legal proceedings involving women who are victims of intimate partner violence should always inquire about the existence of any other ongoing proceedings (family law, criminal). For example, it is essential that family law judges be aware of the existence of any ongoing immigration law cases, and vice versa. Communication between these different branches of the legal system helps avoid inconsistencies, significant contradictions and verdicts that are difficult to implement in practice. This approach may even work in favour of the victim in her defence strategy.

Early in the consultation, the lawyer should check the woman's status and never take it for granted. This allows for "mutual aid" between cases and precludes mistakes that could be very damaging to the victim. For instance, a woman pleading guilty in a cross-complaint

could seriously undermine her immigration proceedings.

Affidavits from witnesses (family, friends), medical reports or reports from other institutions, social workers or women's shelters, which outline the overall situation and the woman's physical and psychological health, are important to include in the evidence.

In the case of applications for asylum and temporary residency permits, a checklist-type tool with all the documents necessary or useful for preparing a file (declaration and denunciation, criminal record, information on intimate partner violence in the country of residence, medical file, etc.), templates for the submission of asylum applications or the sharing of case law could be very helpful for lawyers. A list of lawyers who accept such cases, with or without a legal aid mandate, would also be useful. This list could be sent to women's shelters, for example.

Finally, immigration commissioners, immigration officers and border services, all of which have discretionary power over the outcome of cases, must be made aware of the concept of coercive control.

²⁰⁶ *Rebâtir la confiance – Synthèse*, op. cit., recommendation 11 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

²⁰⁷ Enhanced Safety: Risk Assessment Tool in Family Courts, Barbra Schlifer Commemorative Clinic, Toronto [online] <https://www.schliferclinic.com/wp-content/uploads/2021/04/PROJECT-ENHANCED-SAFETYFINAL2021.pdf> (p. 66).

Best practices for understanding coercive control against a backdrop of poverty

In Quebec

Joint debt and coercive control

Some women who are victims of coercive control may find themselves jointly and severally liable for a debt to social assistance as a result of fraud by their partner, even though they had no knowledge or control over their finances or access to administrative documents such as social assistance declarations. Others do not know what social assistance is or what rules apply, while others are unaware that their family receives it or that the spouse is working.

In such a situation, the *Individual and Family Assistance Act* provides that spouses are jointly and severally liable for the repayment of certain income security benefits, unless, among other things, “[the] spouse proves that the spouse’s real circumstances could not be declared because of the violent behaviour of the other spouse toward the spouse or the spouse’s dependent child.”²⁰⁸ In this situation, only the other spouse is liable for the entire debt. The coercive control situation experienced by this person can then be highlighted in the file to prove the occurrence of violence. While the mechanics of contesting a decision are not straightforward, community organizations that help social assistance recipients, such as ROSE du Nord (the only association

for unemployed women in Quebec), can accompany victims in the process.²⁰⁹

Awareness and education

Several agencies offer assistance and strategies to help victims of economic violence understand their situation and regain control of their finances.

For example, Option consommateurs has posted resources on its website that provide information on the different aspects of economic violence and its associated manifestations of control. Moreover, an online questionnaire (18 questions) enables individuals to screen their own situation for economic violence.²¹⁰

The ACEF des Basses-Laurentides, in collaboration with the Rayon de femmes centre in Sainte-Thérèse, is running a project to help women who are victims of economic violence or who are at risk of experiencing it.²¹¹ The program offers educational workshops on topics such as economic violence, financial independence, consumer choices, budgeting, debt and credit. One-on-one meetings to help women dealing with the financial consequences of economic violence draw up a budget are also part of the project.

Other avenues for shoring up the safety net for women victims of economic violence could be explored:

- Creating a contingency fund to meet the basic needs of victims of intimate partner

²⁰⁸ *Individual and Family Assistance Act*, Department of Labour, Employment and Social Solidarity, Government of Quebec [online] <https://www.legisquebec.gouv.qc.ca/en/document/cs/A-13.1.1>.

²⁰⁹ Groupes de défense des droits, Front commun des personnes assistées sociales du Québec [online] <http://fcpasq.qc.ca/groupes-de-defense-des-droits>. [in French only]

²¹⁰ La violence économique, Option consommateurs [online] <https://option-consommateurs.org/violence-economique>. [in French only]

²¹¹ Projet de l'ACEF pour contrer la violence économique, ACEF Basses-Laurentides [online] <http://acefbl.org/projet-de-la-cef-pour-contrer-la-violence-economique>. [in French only]

violence or sexual assault in emergency situations²¹²

- Providing that the termination of a lease takes effect upon acceptance of the application by the public officer²¹³
- The possibility of issuing a social assistance cheque to a woman who is preparing to leave her partner in the context of intimate partner violence, despite the fact that there is a marital relationship, supported by affidavits or letters from community agency workers
- A housing law reform that would guarantee any victim of intimate partner violence a dwelling after leaving the family home
- Extension of the VCI program to include victims of coercive control for non-judicial events

In other jurisdictions

Emergency financial aid

Australia created the Escaping Violence Payment (EVP) Program, which provides financial assistance to relocate victims of intimate partner violence.²¹⁴ Any person aged 18 and over who is experiencing financial stress as a result of intimate partner violence leading to changes in their living conditions is eligible. The understanding of intimate partner violence used here is very broad:

- Physical, verbal, sexual, economic, emotional, spiritual or psychological violence

- Threats, control or domination of the other person

Financial assistance can go as high as \$5,000. It includes \$1,500 in cash for basic necessities, as well as services such as moving, deposits or basic items for a new home.

Removal of abusive partners from the home

In Scotland, following a long process of mobilization by several women's rights organizations and supported by researchers, a new bill was passed on May 5, 2021.²¹⁵ This bill recognizes the need to better protect women's and children's right to remain in their homes by imposing terms on perpetrators of intimate partner violence, including their removal from the home. It marks a turning point in the prevention of women's homelessness by removing the abuser from the home, giving landlords more leeway to transfer the lease to the victim and thereby upholding the right of women to remain in their homes.

Part 2 of this law allows a landlord to apply to court to annul the lease of a perpetrator of intimate partner violence. The law establishes a new ground (paragraph 15A) on which a landlord may apply to the court under section 14 of the *Housing Act 2001* to terminate the perpetrator's tenancy, with a view to transferring the tenancy to the victim of intimate partner violence—annulling the perpetrator's rights to the tenancy—where the perpetrator and the victim are co-tenants. This lets the victim continue residing in the family home. Landlords

²¹² *Rebâtir la confiance – Synthèse*, op. cit., recommendation 12 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

²¹³ *Rebâtir la confiance – Synthèse*, op. cit., recommendation 136 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

²¹⁴ Escaping Violence Payment, Uniting, Australia [online] <https://www.unitingvictas.org.au/services/family-services/family-violence-services/escaping-violence-payment/>.

²¹⁵ *The Domestic Abuse (Protection) (Scotland) Act 2021* and Social Housing: How can RSLs prepare?, BTO, Scotland [online] [https://www.bto.co.uk/blog/the-domestic-abuse-\(protection\)-\(scotland\)-act-2021-and-social-housing-how-can-rsls-prepare.aspx](https://www.bto.co.uk/blog/the-domestic-abuse-(protection)-(scotland)-act-2021-and-social-housing-how-can-rsls-prepare.aspx).

can only do this if the victim expresses the desire to continue living in the home.

The new grounds require the tenant or a house-mate to act abusively toward a partner or ex-partner. Abusive behaviour is broadly defined in this law, potentially including physical and psychological harm as well as behaviour that is inimical to a person or property. In addition, it might involve an isolated incident or a pattern. "Partner or ex-partner" is defined as a spouse, ex-spouse, civil partner, ex-civil partner or a person who has lived in the house for a period of at least six months during the 12-month period preceding the commencement of proceedings. This may consist of intermittent periods that add up to a total of six months over the course of the previous 12 months.

6. Survey of tools for professionals to identify coercive control and assess the risk of recidivism and femicide

Assessment tools designed to predict the threat level in situations of intimate partner violence tend to mostly ignore abuse tactics other than physical and sexual abuse. Coercive control includes some acts that are criminal, such as harassment, but also other acts that are not (yet) criminalized, as they are part of a strategy of severe violence that can cause significant harm to the victim. Furthermore, these tools should be used at all times in situations of domestic abuse, even when no physical violence has been observed.

The justice system—police, prosecutors and judges—needs assessment tools and policies to guide it. These tools and policies have been found to be indispensable in countries that have criminalized coercive control, such as England and Scotland.

Tools to screen for coercive control

In Quebec

The West Island Women’s Shelter has developed a support guide that specifically addresses the concept of coercive control.²¹⁶ The tool includes a screening grid in the form of a concise questionnaire designed specifically for practitioners who wish to quickly assess and screen for the presence of various forms of coercive control in a relationship: managing income, movement, appearance, relationships with friends, sexual relations, etc. A comprehensive evaluation grid created for workers specialized in intimate partner violence and wishing to accurately determine the forms of control experienced by the woman victim is also integrated into the guide. This grid incorporates a wide range of tactics of coercion (physical, sexual, humiliation, intimidation, harassment) and control (isolation, criticism, motherhood, temper, anger, threats, money, disregard for rights, needs and opinions).

The Montreal shelter Assistance aux femmes has created the tool La violence conjugale post-séparation... une situation bien réelle, which identifies certain aspects of post-separation violence. This tool does not explicitly address coercive control because it was created before this concept gained currency in Quebec. Rather, the tool refers to

²¹⁶ The West Island Women’s Shelter, Coercive Control – Additional Tools to the Support Guide. [online] <https://wiws.ca/coercive-control>.

psychological violence and control, but is still very relevant, as it covers many of the same actions.

The “processus de domination conjugale” (PDC) model, developed in the early 2000s by La Séjournelle, a support and shelter resource for women and children victims of intimate partner violence, is also useful to explore when learning about coercive control. This model examines intimate partner violence as an interactive and evolving process in which a dominant person, a person who is the target of attempts at domination and the social networks in the couple’s environment interact. The PDC provides a framework for actuarial, clinical and scientific indicators of risk to the safety of adult and minor victims and their relatives. This model ensures interventions are guided by the prevailing dynamics of intimate partner domination.

In other jurisdictions

The New Brunswick Domestic/Intimate Partner Violence in the Workplace Committee has developed the It’s Your Business toolkit. This toolkit provides a complete list of red flags, including various forms of coercive control, showing that a person is being abused.

The UK-based Community Care, a support organization for social workers, has developed a comprehensive and concise guide with information on coercive control and its manifestations and impacts, including on children and the LGBTQIA+ community, along with some practical advice.²¹⁷

The American site healthline has published a very thorough article on recognizing coercive control. It includes concrete examples of how

controlling behaviours manifest themselves in the day-to-day of the relationship.

²¹⁷ LGBTQIA+: L (lesbian) G (gay) B (bisexual) T (trans) Q (queer) I (intersex) A (asexual)+ (all others).

Tools for the collective evaluation and management of risk that account for coercive control

In 2020, research conducted in British Columbia confirmed the seminal role played by coercive control in a pattern of intimate partner violence.²¹⁸ The study showed that the presence of coercive control is a significant risk factor for future serious or lethal violence, particularly when the victim is trying to leave or has recently separated from her partner.

Risk assessment tools should therefore include detailed information on patterns of coercive and controlling behaviour that are likely to continue and worsen after separation. The questions should help professionals explore the nature, frequency and escalation of the abuse that characterizes coercive control.

More specifically, the inclusion of certain factors—such as psychological, emotional and verbal abuse, micromanagement of daily activities, extreme jealousy, limiting access to transportation and communications, isolation from family and friends, sexual coercion, destruction of property and control of economic resources, such as money and access to

employment—allow for better identification and recognition of the presence of coercive control.²¹⁹

Furthermore, several studies have shown that the victim's own understanding of her exposure to risk is at least as accurate as that yielded by many tools that purport to predict the same.²²⁰

It should be noted that these factors are often missing from some of the official and standardized risk assessment tools currently in use.²²¹ Some of the risk assessment tools used in North America (DA, SARA, ERVFO/ODARA, B-SAFER) do not cover coercive control.²²² However, some of the tools listed in this section, used in Canada and elsewhere in the world, incorporate this particularly damaging form of intimate partner violence into the assessment of homicide risk.

In Canada

In *Rebâtir la confiance*,²²³ the expert committee reiterates the importance of supporting intervention mechanisms for collaborative homicide prevention²²⁴ and the need to train resource-persons in the use of homicide risk

²¹⁸ Amanda McCormick, The BC Summary of Domestic Violence Risk /SDVR} factors, Updated Review of the Literature, June 2020, Blackbird Research & Consulting.

²¹⁹ A guide to risk assessment and risk management of intimate partner violence against women for police, European Institute for Gender Equality, 2019 [online] <https://eige.europa.eu/publications/guide-risk-assessment-and-risk-management-intimate-partner-violence-against-women-police>.

²²⁰ C. Barlow, S. Walklate, "Gender, risk assessment and coercive control: Contradictions in terms?" *The British Journal of Criminology*, Volume 61, Issue 4, July 2021, pages 887–904 [online] <https://academic.oup.com/bjc/article/61/4/887/6105801>.

²²¹ A guide to risk assessment ..., op. cit.

²²² C. Gill, M. Aspinall, "Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?" Report presented to the Department of Justice, Canada, University of New Brunswick, April 2020. [online] <https://victimsfirst.qc.ca/res/cor/UCC-CCC/Research%20Paper%20on%20Coercive%20Control%20-%20April%202020.pdf>

²²³ *Rebâtir la confiance – Synthèse*, op. cit., [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

²²⁴ Fund and implement in all regions of Quebec concerted intervention mechanisms (crisis cells) aimed at preventing homicides or serious injuries in the context of intimate partner violence (Recommendation 72); Identify and examine best practices regarding the assessment of the risk of homicide or serious injury (Recommendation 73); Determine, in collaboration with workers specializing in victims and violent partners, the best tools for assessing the risk of intimate partner violence and promote their use (Recommendation 74).

assessment tools.²²⁵

Vigie VC

In Quebec, various tools are used by resources that work with women and men. The Carrefour sécurité en violence conjugale (CSVC) has developed a standardized and verified safety assessment tool, the Vigie VC grid, in response to the need to establish and support collaboration between community partners to improve the safety of victims of intimate partner violence.

This grid is of particular relevance for detecting the presence of coercive control. It incorporates an assessment of this abuse's occurrence and its impact on the victim on many levels: (1) control (economic, social, an undercurrent of threat, tension, harassment), the frequency and persistence of this control, (2) fear (the victim's fear for herself and her loved ones), (3) impacts on the victim and (4) attitudes and behaviours of the abuser (remorse, attrition, possessiveness, obsession, contemptuous or hateful statements, inappropriate language, etc.).²²⁶

In addition, the grid enables risks to be assigned a colour code ranging from white (lack of information) to red (imminent threat justifying suspension of confidentiality and professional secrecy rules). It is also a tool for planning collective action, as it attempts to identify the intersectoral stakeholders in the case, to determine situations requiring

monitoring, and to identify the actions required to ensure the immediate safety of the victim.²²⁷

Furthermore, by using the same tool for assessing safety in cases of intimate partner violence, regardless of whether the information comes from the victim or the perpetrator, the Vigie VC grid ensures that the partners use a common language that facilitates collaborative work between them. The CSVC model identifies risk factors before serious problems arise. It thus enables tackling issues at the source to mitigate the risk of homicide or serious injury (physical and psychological) to victims until the crisis is resolved. In other words, when individuals present several risk factors simultaneously, practitioners deploy protective strategies in a consistent and focused manner until the causes are identified and the risk of serious assault or intimate partner or domestic homicide is mitigated.²²⁸

Rabaska Project Checklist

As part of the Rabaska project in Abitibi-Témiscamingue, a checklist is used by community and police resources to weave a safety net around people (men, women and children) living in a high-risk situation for domestic homicide.²²⁹ This checklist includes questions related to control (e.g., of daily activities and social network), different types of threats in the relationship and the victim's level of fear.

²²⁵ Provide ongoing training on risk factors for homicide or serious injury to all professionals and workers who regularly interact with victims of intimate partner violence (Recommendation 76); Ensure that police officers systematically use a homicide or serious injury risk assessment tool during a distress call or request for information about a partner or ex-partner if they suspect intimate partner violence in order to properly identify, assess and document the situation (Recommendation 77)

²²⁶ Messier-Newman, K. Le Modèle Du CSVC – Documentation des pratiques qui visent la création de « non-événements », Carrefour sécurité en violence conjugale, 2020 [online] http://csvg.ca/wp-content/uploads/2021/11/Rapport-non-evenements_FINAL.pdf. [in French only]

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Rabaska aims to improve collaboration between different services working in intimate partner violence in situations where there is a risk of intra-family homicide in the Abitibi-Témiscamingue region. Rabaska - Prévention des homicides conjugaux, 2018. [online] <https://www.rabaska-at.com/>. [in French only]

Summary of Intimate Partner Violence Risk Factors (SIPVR)

In 2020, research conducted in British Columbia determined that the risk assessment tool in use, Summary of Intimate partner violence Risk (SDVR), would benefit from inclusion of indicators that account for the following behaviour: intimidation, isolation, oppression, domination and control over the victim.²³⁰ One of the report's recommendations was to create a new set of indicators for coercive control behaviours that would specifically measure some of its manifestations—obsessiveness, possessiveness, dominance and intimidation—as risk factors.

In follow-up to this research, SIPVR was created in 2021. While not a formal risk assessment tool, SIPVR is a heuristic used by police officers trained in intimate partner violence to help them identify risk factors in their investigations. The presence of coercive control behaviours appears to play a key role in increasing the likelihood and severity of violence, particularly in the context of a recent or impending separation.

In addition to identifying individual risk factors for intimate partner violence, police forces should document escalating, persistent or repeated behaviours and patterns of coercive control such as the following:

- Expressing jealousy, sexual jealousy or signs of obsessive or possessive behaviour
- Isolating the victim by controlling or limiting activities or contacts with others

- Withholding, restricting or monitoring use of the car, telephone, clothing, finances, medication or any other resource
- Micromanaging day-to-day activities
- Monitoring the victim in person or through technology (cameras, tracking apps, phone or social media, etc.)
- Establishing rules, curfews, schedules
- Threatening consequences for non-compliance (violence, self-harm, harm to others, harm to pets, destruction of property, revenge porn, etc.)

Any overlap of these patterns of behaviour with other risk factors such as threats, sexual coercion or suicidal ideation should also be investigated.

Intimate Partner Violence Risk Identification Assessment (IPV RIA)

In Ontario, another Risk Identification Assessment (RIA) tool, developed for the family law milieu, considers all forms of coercive control: physical, emotional, mental, social/cultural, financial, legal and spiritual abuse.²³¹ The questions help the assessor explore the nature, frequency and escalation of abuse. Another aspect worth highlighting is that it incorporates issues related to the multiple sources of oppression and systemic barriers that women face. Finally, the questions and categories in the RIA reflect the definition of intimate partner violence in the new *Divorce Act* and the factors that courts must take into account when assessing situations of intimate partner violence.

²³⁰ Amanda McCormick, The BC Summary of Domestic Violence Risk /SDVR} factors, Updated Review of the Literature, June 2020, Blackbird Research & Consulting.

²³¹ Enhanced Safety: Risk Assessment Tool in Family Courts, Barbra Schlifer Commemorative Clinic, Toronto [online] <https://www.schliferclinic.com/wp-content/uploads/2021/04/PROJECT-ENHANCED-SAFETYFINAL2021.pdf>.

The RIA framework is divided into three parts:

- RIA I (Risk Screening) consists of 13 questions based on accepted risk factors that help the parties in court proceedings identify the warning signs of high-risk situations. If red flags are detected, the evaluator should move on to RIA II.
- RIA II (Risk Identification) consists of seven categories: type of abuse; relationship history; survivor; perpetrator background; systemic/institutional factors; indigeneity factors; and children. The assessor explores a range of risk factors requiring appropriate interventions to protect survivors and their children from future harm.
- RIA III (Risk Mitigation) helps family law professionals and survivors think about court orders and strategies (i.e., safety plans) that can minimize the risk of future violence and harm.

In other jurisdictions

Checklist of Coercive Controlling Behaviours

As the Checklist of Coercive Controlling Behaviours reveals, there are countless coercive control tactics. This instrument consists of 84 questions based on theory and clinical and professional observations (Lehmann et al., 2012).²³² Ten subscales focusing on physical abuse, sexual abuse, male privilege, isolation, minimization and denial, blaming, intimidation, threats, emotional abuse and financial exploitation highlight the various facets of a victim's life that coercive control can affect

(Lehmann et al., 2012:915). This checklist is used in clinical practice, but not in the UK justice system.²³³

Domestic Abuse, Stalking and Honour Based Violence Risk Identification, Assessment and Management Model (DASH)—under review (pilot project)

Currently in use in England and Wales, DASH is a model for identifying, evaluating, and managing the risk of intimate partner violence. DASH is a structured professional judgment tool used by police to determine the presence of coercive control and to identify and manage the current and future risk of harm to victims (Medina Ariza et al., 2016; Myhill and Hohl, 2019; Robinson et al., 2016).

In total, police officers assess 27 risk factors by asking the victim questions about the perpetrator, usually while at the scene, and determine whether the level of risk is “normal,” “medium” or “high” (Kebbell, 2019; Medina Ariza et al., 2016; Myhill and Hohl, 2019; Robinson et al., 2016). The DASH assessment has four sections containing information on the current situation, children and dependents, history of intimate partner violence, and the abuser (Almond et al., 2017).²³⁴

It should be noted that the DASH model is under review and a DARA pilot project is being tested in three regions (Sussex, West Midlands and Humberside). Research is being conducted by the College of Policing, particularly in relation to the fact that officers often find it difficult to establish and document ongoing and dangerous patterns of coercive

²³² P. Lehmann et al., “The Validation of the Checklist of Controlling Behaviors (CCB): Assessing Coercive Control in Abusive Relationships,” *Violence against Women*, 2012 [online] <https://journals.sagepub.com/doi/abs/10.1177/1077801212456522>.

²³³ C. Gill, M. Aspinall, “Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?” op. cit., [online] <https://victimsfirst.qc.ca/res/cor/UCC-CCC/Research%20Paper%20on%20Coercive%20Control%20-%20April%2020.pdf>.

²³⁴ Ibid.

control and abuse.²³⁵ The revised risk tool called DARA is therefore intended to enable frontline officers to identify abuse, in particular coercive control, more effectively and to produce more consistent initial assessments of the risk of harm to the victim.

Unlike DASH, which only allows yes or no answers, DARA asks victims to specify how often specific behaviours have occurred, on a scale from “never” to “all the time,” in order to create a clearer picture of the nature and intensity of the abuse. Officers are required to complete a single open-ended section at the end of the process, justifying the level of risk and taking into account aggravating factors such as substance abuse and mental health problems, as well as other contributors to vulnerability such as pregnancy.²³⁶

First impressions have been somewhat favourable, as victims revealed coercive and controlling behaviour and harassment at higher rates using the pilot risk assessment tool. Frontline officers recorded proportionally more coercive control crimes during the pilot, although the overall number is still low. However, while the pilot project showed an increase in the number of officers documenting coercive and controlling behaviour, this did not always translate into an appropriate risk level being assigned. This finding was strongest for harassment and post-separation harassment. One of the report’s recommendations is that, should this pilot be adopted, officers must have a thorough understanding of

coercive control to apply the tool effectively.²³⁷

Coordination mechanisms to improve the safety of intimate partner violence victims and their loved ones

In its report *Rebâtir la confiance*, the expert committee stressed the importance of improving intersectoral cooperation in each region of Quebec, in part to ensure the presence of all partners at coordination forums and to promote intersectoral cooperation initiatives.²³⁸

In Quebec

The various joint efforts in Quebec to prevent homicides or serious assaults arising from intimate partner violence often have one thing in common: they were set up after a serious event, often an intimate partner femicide.²³⁹

These assessment and intervention mechanisms are multidisciplinary initiatives designed to prevent serious injuries and homicides involving intimate partner violence. Examples include the Arrimage-Groupe d’intervention rapide (A-GIR) in Laval (Godmer, 2016), Alerte Lanaudière, P.H.A.R.E. Jardins-Roussillon, P.H.A.R.E. Vaudreuil-Soulanges, Rabaska in Abitibi-Témiscamingue and Carrefour sécurité en violence conjugale in Mauricie, the Quebec City region and the Lower St. Lawrence (Tremblay and Mercier, 2016). However, this type of practice is not yet established in every administrative region of the

²³⁵ J. Wire, A. Myhill, Piloting a new approach to domestic abuse frontline risk assessment – Evaluation report, College of Policing, United Kingdom, 2018.

²³⁶ Ibid.

²³⁷ Ibid.

²³⁸ *Rebâtir la confiance – Synthèse*, op. cit., recommandation 13 [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

²³⁹ Messier-Newman, K. Le Modèle Du CSVc – Documentation des pratiques qui visent la création de « non-événements », Carrefour sécurité en violence conjugale, 2020 [online] http://csvc.ca/wp-content/uploads/2021/11/Rapport-non-evenements_FINAL.pdf. [in French only]

province.²⁴⁰

“A process to assess the effects of the CSVC model, started in 2015, identifies some benefits from its implementation. It enables (1) partners to better assess the risks posed by offenders and coordinate follow-up of high-risk situations, helping reduce the level of risk; (2) victims to develop a positive perception of regaining power over their lives, as well as an increased awareness of the level of risk involved; (3) an increase in the number of cases where intimate partner violence is identified by all the partners involved, increasing the number of referrals from victims and aggressors; and (4) collaboration to be encouraged by supporting a better flow of information in high-risk situations, which fosters the sharing of expertise, helps clarify procedures between partners and allows them to develop a common language, facilitating communication (Proulx, 2017; Messier-Newman and Riendeau, 2018).”²⁴¹ [translation]

Other assessment and intervention mechanisms identified earlier in other regions are likely to have similar positive impacts.

In other jurisdictions

“High-risk intimate partner violence assessment and monitoring panels have been implemented in the UK (Multi-Risk Assessment Conferences, MARAC) and Australia (Risk Assessment Management Panels, RAMP) (Davis, 2015). Furthermore, in the US, innovative projects such as the San Francisco Family Violence Project (SFFVP) in San Francisco and the Duluth Domestic Abuse Intervention Project (DAIP) in Duluth, Minnesota (Anderson, 2007) were developed as early as 1980. These projects aim to organize

and facilitate consultation between the various bodies dealing with intimate partner violence. For example, Cerulli et al. (2015) present the Duluth Model (DAIP) as: ‘a coherent philosophical approach centralizing victim safety; developing “best practice” policies and protocols for intervention agencies that are part of an integrated response; enhancing networking among service providers; building monitoring and tracking into the system; ensuring a supportive community infrastructure for battered women; providing sanctions and rehabilitation opportunities for abusers; undoing the harm violence does to women and children.’”²⁴² [translation]

“The handful of international studies of this type of panel or body show that high-risk assessment and monitoring panels have increased victim safety. These studies have found that a number of victims who benefited from this type of intervention reported they were no longer subject to violence (Robinson, 2004; Robinson and Tregida, 2007). However, this research also reveals that, a year later, the number of victims who do not report any violence drops dramatically. This illustrates the importance of monitoring risk situations for intimate partner violence over a long period. While risk may have decreased over time, the dynamics of intimate partner domination may change in response to various events (receipt of divorce papers, application for child custody, going to court, arrival of a new spouse, etc.) and may require further safety nets to reduce risk. Separately, one of these studies found that these panels help information exchange and contact identification within participating organizations (Robinson, 2004).”²⁴³ [translation]

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Ibid.

7. The criminalization of coercive control

Ever since Professor Evan Stark published his book *Coercive Control: How Men Entrap Women in Personal Life* in 2007, there has been a growing desire in many countries to better understand and acknowledge this insidious form of intimate partner violence.

Benefits of criminalization

Making coercive control behaviour an offence can offer some significant benefits from the point of view of the victims, of course, but also from the perspective of society as a whole and of the justice system's ability to better provide protection. The literature available today finds the following main benefits.²⁴⁴

From the point of view of victims (women, children and loved ones):

- Empower women, validate the experience of victims and reaffirm commitments to the equality of men and women
- Increase victims' confidence in the justice system and give them access to support services
- Make victims of coercive control eligible for victims of crime compensation that

supports their recovery, including loss of income, emergency financial assistance to assist people who have to leave their homes (moving expenses, first month's rent, etc.), access to psychological support services, etc.²⁴⁵

- Recognize the impact of coercive control on women and children
- Analyze women victims' stories in their entirety, as the notion of coercive control encompasses a multitude of coercion and control tactics employed by the primary perpetrators of intimate partner violence (Myhill 2017)

From society's point of view:

- Signal "symbolic power" by showing that this socially unacceptable behaviour is taken seriously;
- Act as a deterrent to the perpetrators of this behaviour
- Significantly advance human rights, specifically with regard to women's rights to security, dignity, independence and freedom

²⁴⁴ Based on the following resources:

- Controlling or Coercive Conduct within Intimate Relationships, Brief submitted by the Canadian Labour Congress to the House of Commons Standing Committee on Justice and Human Rights, 26 February 2021 [online] <https://www.ourcommons.ca/Content/Committee/432/JUST/Brief/BR11143605/br-external/CanadianLabourCongress-e.pdf>.
- *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, op. cit. [online] <https://www.ourcommons.ca/DocumentViewer/en/43-2/JUST/report-9>.
- C. Gill, M. Aspinall, "Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?" op. cit., [online] <https://victimsfirst.qc.ca/res/cor/UCC-CCC/Research%20Paper%20on%20Coercive%20Control%20-%20April%2020.pdf>.

²⁴⁵ Michaël Lessard, esq., "L'indemnisation des victimes d'actes criminels: le régime exclut-il des victimes de violences sexuelles et conjugales?" Web conference hosted by the Fondation du Barreau du Québec (Quebec Bar Foundation), 2021 [online] <https://www.fondationdubarreau.qc.ca/webconference-me-michael-lessard-ivac>. [in French only]

- Raise awareness of coercive and controlling behaviours among victims, the public and justice system workers
- Enable early intervention by family, friends, colleagues or neighbours

From a legal point of view:

- Enable the judiciary to take into account the context in which the dynamics of intimate partner violence take place
- Provide an additional tool for the police to break the cycle of violence earlier
- Prevent harm and save lives
- Hold the perpetrator accountable for his actions and lead him to unlearn the behaviour

Issues with criminalization

While the criminalization of coercive control is useful in many respects, the creation of a specific coercive control offence may raise issues of effective enforcement, the determination of what constitutes a coercive control offence and, in particular, the potential impact of criminalization on marginalized communities that are already overrepresented in the criminal justice system.

Furthermore, experts remind us that changes to the *Criminal Code* are not, in and of themselves, enough to bring about real change. Research in the field recommends a comprehensive strategy that goes well beyond judicialization and includes the expansion of social services, inter-institutional collaboration, and training and support programs to improve judicial and community practices.

Enforcement of the coercive control offence

Coercive and controlling behaviours are often difficult to perceive for people outside the relationship. To enshrine coercive control in law would therefore not solve the difficulty of satisfying the burden of proof for, to give an example, the micromanagement of everyday life, especially as this micromanagement can be trivialized and normalized in a society marked by gender inequalities.

Thus, criminalizing coercive control will not remove the complexity of categorizing or recognizing the dynamics of coercive control in an intimate relationship. In a criminal context, a wide range of behaviours are assessed by people outside the relationship (judges, police, etc.) who determine what is, or is not, a case of coercive control. The dynamics of coercive control are rarely easy to categorize or recognize. According to Sandra Walklate and Kate Fitz-Gibbon, “Problematically, when these distinctions are drawn in the realm of law, it is not the individual experiencing the behaviour who decides whether the actions constitute coercive control or which actions should be considered criminal, but rather the legal actors involved.”²⁴⁶ Awareness-raising and training the judiciary to understand the dynamics of coercive intimate partner violence are crucial in this respect.

Impacts on diversity and Indigenous communities

As the House of Commons Standing Committee on Justice and Human Rights recently pointed out, “Taking a criminal justice approach, especially when taken without also increasing alternative community supports, is likely to disproportionately impact

²⁴⁶ S. Walklate and K. Fitz-Gibbon, “The criminalisation of coercive control: The power of law?,” *International Journal for Crime, Justice and Social Democracy*, vol. 8, no 4, 2019, pp. 94–108, [online] <https://www.crimejusticejournal.com/article/view/1205/831>.

communities who are already under-protected and overpoliced. Though there is not yet available demographic data on charging for jurisdictions with coercive control legislation, it is reasonable to assume that in Canada, Indigenous and Black men, in particular, are more likely to be charged with new criminal offences, as they are with existing criminal offences.²⁴⁷

Moreover, Indigenous and Black children are overrepresented in Canada's child protection system. Since women often cite fear of losing custody of their children as a reason for not reporting their experiences of intimate partner violence, adding criminal offences that could be used in child protection cases may compound this fear.²⁴⁸

In and of itself, criminalizing coercive control will not provide a satisfactory response to the coercive and controlling violence that some women experience from their current or past intimate relationships. Measures to support and accompany the criminalization of coercive control need to be put in place to effect this important change within the justice system. Educating the public, raising awareness and continuous training of the judiciary are therefore essential to achieve the paradigm shift required to better integrate coercive control into judicial practice. If not, criminalization alone could create the misleading impression that the issue is conclusively resolved, removing responsibility from institutions for what happens next.

Support and assistance measures to complement the criminalization of coercive control

Awareness raising and continuous training of the judiciary

Realizing the paradigm shift involved in integrating coercive control into intimate partner violence practice remains a challenge. One thing we know with certainty is that a key element must be training all professionals involved to ensure they are knowledgeable about and sensitive to coercive control and its underlying dynamics; a collective response is needed to identify the problem and change current practices.²⁴⁹

As we heard from experts in the report of the Standing Committee on Justice and Human Rights, *The Shadow Pandemic*, “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.”

Several lessons can be learned from international experiences with training and supporting the judiciary's efforts to gain a greater understanding of the dynamics of coercive control in intimate partner violence. Canada can benefit from the experience places such as England, Wales and Scotland have had with criminalization.

These experiences show first the need for training on this complex issue, which is not widely understood. The importance of training is also repeatedly stressed in various

²⁴⁷ Controlling or Coercive Conduct within Intimate Relationships, Brief submitted by the Canadian Labour Congress to the House of Commons Standing Committee on Justice and Human Rights, 26 February 2021 [online] <https://www.ourcommons.ca/Content/Committee/432/JUST/Brief/BR11143605/br-external/CanadianLabourCongress-e.pdf>.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

recommendations of the Quebec report *Rebâtir la confiance*.²⁵⁰

These training courses should provide concrete knowledge and tools to improve the detection of coercive and controlling behaviour, raise awareness of gender stereotypes, build or bolster victims' trust in the system and equip stakeholders to collect evidence of coercive control in many processes.

The training should also raise awareness of "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."²⁵¹

Some training should also adopt an intersectional perspective: providing information about the experiences, history, traditions and current realities of Indigenous peoples; recognizing the unique needs of First Nations, Métis and Inuit people; and considering the experiences of marginalized communities in the justice system.²⁵²

While training is indispensable, it is still not enough to make the required paradigm shift. A strategy based solely on knowledge transfer could create the illusion that a few training modules would suffice to explain and resolve the issue. Ongoing training, coaching and the

identification of success indicators should be included in the strategies if new practices are to be instilled. The changes in attitudes and behaviours involved in mainstreaming this concept will not happen overnight.

Furthermore, experience (especially in Scotland) shows the need to establish a system of accountability in each organization and institution. Evaluation tools should be integrated into established systems in order to monitor and document the evolution of practices.

Public education

It can be difficult to understand the dynamics a person faces when only the physically violent behaviours that are present in a relationship are considered. To understand intimate partner violence, it must be envisioned in terms of power relationships, domination and loss of freedom.²⁵³ Coercive control is still largely unknown to the general public. However, its consequences are immense, both for the women who are its victims and for the children, who also bear the brunt.

Laws cannot work if society at large is not sensitive to the warning signs of coercive control. There is a need to develop awareness-raising campaigns that clearly explain coercive control. These campaigns should include the consequences of coercive control and

²⁵⁰ *Rebâtir la confiance – Synthèse*, op. cit., [online] <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

Recommendation 31: Provide all lawyers in the roster, regardless of their area of expertise, with relevant and ongoing training in sexual assault and intimate partner violence.

Recommendation 33: Provide specialized training in intimate partner violence investigations to officers in some police forces who are on the beat and are assigned all or part of this type of investigation.

Recommendation 112: Provide specialized training on intimate partner and sexual violence to professionals working in the various agencies with responsibilities toward victims at the sentencing stage (detention facilities, probation offices, Quebec Parole Board).

Recommendation 183: Ensure that all psychosocial, judicial and medical workers receive general and interdisciplinary training on sexual and intimate partner violence, including the various aspects targeted by the committee, on an ongoing basis.

Recommendation 163: Provide prosecutors assigned to the dedicated intimate partner violence court with specific and ongoing training on the issue of sexual assault and intimate partner violence, covering both legal and interpersonal skills.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Comme une cage de verre: emprise et contrôle coercitif en violence conjugale, SOS violence conjugale [online] <https://sosviolenceconjugale.ca/fr/outils/sos-infos/comme-une-cage-de-verre-emprise-et-contrôle-coercitif-en-violence-conjugale>.

intimate partner violence on children in order to better protect them. Some should also target young people entering their first romantic relationships. Specific awareness-raising campaigns for certain communities should be developed, including for First Nations, Métis and Inuit people, people from culturally and linguistically diverse backgrounds, people with disabilities and LGBTQIA+ people.

Easily accessible information and tools on how witnesses can help victims access services and support and encourage perpetrators to get help quickly to change their behaviour should also be disseminated.

Finally, media coverage and interviews should reflect a trauma-informed approach.

Analysis of legal practices in countries that have criminalized coercive control

While all the laws mentioned in the following section have criminalized coercive control (or are in the process of doing so), these laws are not all created equal, as some are more sweeping than others in their scope. This section will briefly survey how these laws overlap and take a closer look at where they diverge from each other and how they are applied.

For more information on this topic, the Americas Conference to End Coercive Control website²⁵⁴ has an international watch on draft coercive control legislation.²⁵⁵ It provides an understanding of the significance and history of each coercive control bill passed.

England

Section 76 of the *Serious Crime Act* (2015) sets out the four main conditions for determining whether the offence of coercive control may apply:

- (1) the behaviour is repeated or ongoing;
- (2) the behaviour's repercussions on the victim;
- (3) the perpetrator has an intent, or motive, with respect to the victim;
- (4) a personal link exists between the perpetrator and the victim (current or previous partners).²⁵⁶

The Act focuses on the harm caused to the victim by coercive controlling behaviour by a partner or ex-partner. In other words, the behaviours must have a serious impact on the victim, causing fear of future violence or distress to the victim.

In addition to legislative changes, English authorities developed a number of tools to help police and prosecutors identify and prosecute the perpetrators of coercive and controlling behaviour. These tools include the Statutory Guidance Framework, which describes the types of conduct that can constitute coercive and controlling behaviour, and the Domestic Abuse Stalking and Honour Based Violence (DASH) model—an assessment tool that screens for coercive and controlling behaviours in a relationship—which was discussed earlier.²⁵⁷

The *Domestic Abuse Bill* of 2020 amended section 76 of the *Serious Crime Act 2015* by

²⁵⁴ Americas Conference to End Coercive Control (ACECC) [online] <https://www.theacecc.com>.

²⁵⁵ Coercive Control Bill Tracker, ACECC [online] <https://www.theacecc.com/billtracker>.

²⁵⁶ *Serious Crime Act 2015*, UK Government [online] <https://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted>.

²⁵⁷ *Controlling or Coercive Behaviour in an Intimate or Family Relationship - Statutory Guidance Framework*, Home Office, United Kingdom, 2015 [online] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf.

introducing a new legal definition of domestic abuse. The definition now includes economic exploitation and introduces a new and improved definition of “personally connected,” which determines who can be charged with these offences. Specifically, the victim and the abuser no longer need to be in a relationship or reside together for abuse to be reported. Thus, the notion of “personally connected” covers a very broad spectrum of persons with a relationship to the victim.²⁵⁸ These measures enable the police to intervene at an early stage, especially among young people who are not necessarily cohabiting, and provide an opportunity to report the post-separation abuse suffered by many women and thus prevent the escalation of violence at a later stage.

The UK Office for National Statistics reported a 49% increase in the number of coercive and controlling behaviour offences recorded by police forces in England and Wales in the fiscal year from March 2019 to March 2020. In the 12 months prior to March 2020, 24,845 offences involving coercive and controlling behaviour were reported to the police in the UK. This represents approximately 3% of all offences reported by the police. In 2019, 1,112 defendants were prosecuted for this offence—an increase of 18% over the previous year. It appears that police in England and Wales benefit from this as an additional tool for intervening before the risk increases.²⁵⁹

Ireland

In January 2019, coercive control became a criminal offence in Ireland under section 39 of the *Domestic Violence Act 2018*. This law

makes coercive control a more serious act precisely because it relates to tactics used by a current or past intimate partner—a spouse, ex-spouse or civil partner.

The maximum penalty for the offence is 12 months’ imprisonment on summary conviction and 5 years’ imprisonment on indictment. According to Safe Ireland’s CEO, the lengthy prison sentence sends a powerful message to all abusers that they can no longer control, stalk, assault, isolate or mistreat a woman with impunity, that what was once done in secret behind closed doors is now public.

Scotland

The Scottish law is exemplary in this area, as it offers a high level of protection for victims of coercive control.

Scotland enacted new legislation in 2019 and took a different path from England by creating an intimate partner violence offence that encompasses all forms of violence.²⁶⁰ The Scottish law recognizes the impact and consequences of all types of abusive behaviour and strives to better reflect the experience of victims and facilitate their access to justice. Further amendments to the legislation add recognition of the impact on children, identifying it as an aggravating factor to the offence.

“Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality. This can encompass, but is not limited to,

²⁵⁸ Section 63(1) of the *Family Law Act 1996*: “relative,” in relation to a person, means - the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse, former spouse, civil partner or former civil partner], or the brother, sister, uncle, aunt, niece, nephew or first cousin] (whether of the full blood or of the half blood or by marriage or civil partnership)] of that person or of that person’s spouse, former spouse, civil partner or former civil partner].

²⁵⁹ A. Silverstone, Coercive Control Brief [online] <https://www.ourcommons.ca/Content/Committee/432/JUST/Brief/BR11112021/br-external/SagesseDomesticViolencePreventionSociety-e.pdf>.

²⁶⁰ *Domestic Abuse (Protection) (Scotland) Bill*, The Scottish Parliament [online] <https://www.parliament.scot/bills-and-laws/bills/domestic-abuse-protection-scotland-bill>.

the following types of abuse: psychological, physical, sexual, financial and emotional.”

Coercive control is defined as follows:

- Coercive behaviour is an act or series of acts of aggression, threats, humiliation and intimidation, or other abuse that is used to hurt, punish or frighten its victim.
- Behavioural control is a series of actions designed to make a person subordinate or dependent by isolating her from her support network, exploiting her resources and abilities for personal gain, depriving her of the means necessary for independence, resistance and escape, and regulating her everyday behaviour.

What makes this law a landmark and groundbreaking is that it focuses on the oppressive behaviour or conduct of the perpetrator rather than on the victims’ reaction or attempt to provide evidence of actual harm. The provision therefore removes the requirement for victims to prove a particular injury. Its intent is to reduce the risk of re-victimization.

Data from the Scottish National Statistics Office show that offences recorded by the police since passage of the law have increased slightly. The police reported 62,907 incidents of intimate partner violence in 2019–2020, an increase of 4% over the previous year.

United States

In the United States no federal laws prohibit coercive control, though several states have taken steps to prohibit it. California, Hawaii and Connecticut have enacted such laws. Both Maryland and South Carolina are working on bills, amendments and legislation. New York

State has a bill that has passed both houses and is awaiting the governor’s signature to take effect. While the pandemic has spotlighted the need for these protections, it has occasionally slowed the process.

HAWAII

The bills passed in Hawaii in September 2020 were modelled on the Scottish laws, which are the strictest laws in force.

Hawaii’s new law, HB 2425, defines coercive control as “a pattern of threatening, humiliating, or intimidating actions, which...seeks to take away the individual’s liberty or freedom and strip away the individual’s sense of self, including bodily integrity and human rights.”²⁶¹

The law provides several examples:²⁶²

- Isolating the individual from friends and family;
- Controlling how much money is accessible to the individual and how it is spent;
- Monitoring the individual’s activities, communications, and movements;
- Name-calling, degradation, and demeaning the individual frequently;
- Threatening to harm or kill the individual or a child or relative of the individual;
- Threatening to publish information or make reports to the police or the authorities;
- Damaging property or household goods; and
- Forcing the individual to take part in criminal activity or child abuse.

²⁶¹ H.B. No. 2425 -A Bill for an Act Relating to Domestic Abuse, House of Representatives, State of Hawaii, 2020 [online] https://www.capitol.hawaii.gov/session2020/bills/HB2425_.pdf.

²⁶² C. N. Baker, “A New Frontier in Domestic Violence Prevention: Coercive Control Bans,” in MS. Magazine, 2020 [online] <https://msmagazine.com/2020/11/11/coercive-control-hawaii-california-domestic-violence>.

Hawaii law allows courts to consider evidence of coercive control when deciding whether to issue a protection order against an abuser.

CALIFORNIA

Since September 2020, California law SB 1141 has expanded protection of victims of intimate partner violence by allowing them to invoke coercive control in family court hearings and criminal trials.²⁶³

The law defines coercive control as “a pattern of behavior that unreasonably interferes with a person’s free will and personal liberty.” It includes the following actions:

- Isolating the other party from friends, relatives, or other sources of support.
- Depriving the other party of basic necessities.
- Controlling, regulating, or monitoring the other party’s movements, communications, daily behaviour, finances, economic resources, or access to services.
- Compelling the other party by force, threat of force, or intimidation, including threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage.²⁶⁴

In addition to authorizing protection orders in cases of coercive control, the California law amended the *Family Code* to include coercive

control in custody and access decisions.

CONNECTICUT

A new law enacted in June 2021 (SB 1091) expands the definition of domestic violence to include coercive control.²⁶⁵ This means that threatening, humiliating or intimidating acts that harm a person and deprive them of liberty will now be considered domestic violence.²⁶⁶ This new, expanded definition of domestic violence will henceforth apply to all family court proceedings: restraining orders, divorce and child custody. The Act also establishes a new legal aid program to provide legal representation to victims of domestic violence who seek restraining orders.

Australia

Australia has not yet criminalized coercive control, but is currently studying the matter. In September 2020, the Australian Labor Party of New South Wales (NSW) introduced a bill in Parliament to criminalize coercive control, with a maximum penalty of 10 years. In November of the same year, a federal all-party alliance was formed, calling for a national approach to understanding and criminalizing coercive control. In 2021, the government of Queensland also established an independent task force to advise it on a possible legislative response to the issue of coercive control. The content of the work carried out merits attention, as it provides useful fuel for the debate on these issues.

In its terms of reference, the task force paid particular attention to the training needs of

²⁶³ SB 1141 - Domestic violence: coercive control, California Senate Bill, 2020 [online] <https://openstates.org/ca/bills/20192020/SB1141/>.

²⁶⁴ Ibid.

²⁶⁵ Substitute Senate Bill No. 1091 - Public Act No. 21-78, An act concerning the definition of domestic violence... Connecticut, June 2021 [online] <https://cga.ct.gov/2021/ACT/PA/PDF/2021PA-00078-R00SB-01091-PA.PDF>.

²⁶⁶ K. Margolfo, Governor Lamant signs “Jennifers’ Law,” expanding definition of domestic violence in CT, News 8, Connecticut, June 2021 [online] <https://www.wtnh.com/domesticviolence-awareness/governor-lamont-signs-jennifers-law-expanding-definition-of-domestic-violence-in-ct>.

frontline workers and the need for public education and awareness; the real or perceived barriers that contribute to low reporting and high attrition rates throughout the formal justice system for those who do report; the need for attitudinal and cultural change across governmental, not to mention community, institutional and professional levels, including in the media coverage of intimate partner violence; and the specific barriers faced by girls, Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women in prison, older women, women in rural, remote and regional areas, and LGBTQIA+ people.

In its report, published in December 2021, the task force supports the criminalization of the offence of coercive control, but makes a series of recommendations to define it and add vital additional measures.²⁶⁷ Its main points are listed below. On December 18 of the same year, the State Attorney General announced that the NSW government would support criminalizing coercive control.

Some of the task force's recommendations follow:

- The gradual introduction of the reform to criminalize coercive control over four phases, spanning a period stretching from 2022 to 2024 and beyond, to allow judicial actors to prepare adequately
- A five-year review of the legislation to ensure that it is adequately meeting the objectives it was designed to achieve
- A sentence of up to 14 years' imprisonment for proven cases of coercive control
- Statutory review of laws relating to defence strategies (provocation, self-defence, murder in self-defence) as well as a compulsory life sentence for murder

- A commitment by the government to collaborate with First Nations to address their overrepresentation in the prison population
- A public inquiry to document the failure of the police to adequately manage intimate partner violence despite being given more capacity
- The establishment of an independent judicial commission to hear and resolve complaints about officers of the court, lawyers or judges
- Dissemination of a sweeping education campaign on coercive control and healthy relationships, with particular attention to children, youth, seniors, people with disabilities, First Nations and people from culturally and linguistically diverse backgrounds. In the case of First Nations, this campaign should be led by and for the communities themselves.
- Increased prevention and intervention services for men, whether incarcerated or not, in keeping with the wishes expressed by victims who say they do not want their partner to be in prison, but just want the violence to stop
- Creation of a register of "high risk offenders" who have repeatedly breached orders, sometimes with several women. This register should not be public in order to protect the rights of the individual, and to avoid creating a false sense of security for victims.

²⁶⁷ Women's Safety and Justice Taskforce [online] <https://www.womenstaskforce.qld.gov.au/publications>.

Conclusion

Recognizing that coercive control is at the heart of the dynamics of intimate partner violence is an important step toward improving access to justice for victims of intimate partner violence.

Training legal stakeholders in the concept of coercive control allows the pernicious damage and wide range of tactics used by abusive partners to be highlighted (Lee et al., 2020; Stark 2007, 2012). In their analysis of coercive control legislation in the UK, researchers have pointed to a lack of working knowledge of coercive control as an impediment to practitioners' ability to provide more effective responses to victims.²⁶⁸ In practical terms, this can lead to confusion about what qualifies as evidence in court proceedings. It can also lead to persistent misunderstandings about the types of harm or behaviour that can be considered “real” violence.

This awareness needs to be shored up by practical tools that enable legal professionals to identify patterns of behaviour that may otherwise go unnoticed in court proceedings.

Improving skills and attitudes in the legal system can also help to counter certain myths and stereotypes about the credibility of victims when they make allegations of intimate partner violence, and thus ensure that they are not used against them, either by the aggressors or the judicial system itself. For example,

Hrymak and Hawkins (2021) point out that “women who experienced types of abuse that did not leave physical evidence faced severe barriers in being viewed as ‘credible’ survivors of violence.”²⁶⁹

In addition, strengthening intersectoral collaboration between the legal system (lawyers, prosecutors, judges) and the community can lead to better treatment of victims of coercive control by ensuring a continuum of services and an adequate safety net, while respecting the expertise of each. “In particular, there is a need for tools and frameworks that coordinate the work of police, lawyers, judges, and front-line health and support service workers.”²⁷⁰

On a legislative level, in light of the correlations between coercive control and femicide—particularly after a recent separation—empowering the courts by, for example, criminalizing coercive control has the potential to save lives.

Thus, legal changes, such as the amendments to the *Divorce Act* in Canada, can be important tools for gaining legal recognition of coercive control and its harmful impacts on victims in the courts. However, there is still considerable work to be done to create the conditions for the necessary “paradigm shift” to ensure that victims are entitled to dignity, safety and

²⁶⁸ A. Robinson, A. Myhill, J. Wire. “Practitioner (mis)understandings of coercive control in England and Wales.” *Criminology & Criminal Justice*. 18(1):29-49. [online] <https://journals.sagepub.com/doi/abs/10.1177/1748895817728381>.

²⁶⁹ H. Hrymak, K. Hawkins. Why can't everyone just get along? How BC's family law system puts survivors in danger. Vancouver, BC: Rise Women's Legal Centre, 2021. [online] <https://womenslegalcentre.ca/wp-content/uploads/2021/01/Why-Cant-Everyone-Just-Get-Along-Rise-Womens-Legal-January2021.pdf>.

²⁷⁰ R. Nonomura et al. Coercive Control. *Family Violence and Family Law Brief* (3). London, Ontario: Centre for Research & Education on Violence Against Women & Children (CREVAWC), 2021. [online] https://www.fvfl-vfdf.ca/briefs/Family_Violence_Family_Law_Brief-3-.pdf.

fairness throughout the justice system process.²⁷¹

Some caveats are in order regarding changes to the law respecting claims of coercive control, particularly against already disadvantaged populations (Fitz-Gibbon, Walklate and Meyer, 2020). Policies to combat coercive control cannot be fairly enacted without ensuring that their implementation does not cause further harm and injustice to systematically marginalized groups. As Jennifer Koshan (2021) stated in her recent testimony before the Standing Committee on Justice and Human Rights, “It’s also crucial that we think about how criminalization disproportionately affects Indigenous and racialized populations. Tools for assessing the presence of coercive control by a family member must therefore be developed with full consideration of the harms that racial biases (both psychological and systemic) can and do have in legal proceedings.”²⁷²

Although legislative changes will ultimately be required to fully recognize coercive control as a crime, it is nevertheless possible for the justice system to integrate the concept of coercive control into current practice by being more aware of its manifestations and its impacts on both victims and abuse of the system.

This is the purpose of the project the RMFVVC is currently working on. The level of buy-in and mobilization by the partners involved since started are, in this respect, a very good sign.

²⁷¹ C. Gill, M. Aspinall, “Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?” op. cit., [online] <https://victimsfirst.qc.ca/res/cor/UCC-CCC/Research%20Paper%20on%20Coercive%20Control%20-%20April%202020.pdf>.

²⁷² R. Nonomura et al. *Coercive Control, Family Violence and Family Law Brief* (3). op.cit. [online] https://www.fvfl-vfdf.ca/briefs/Family_Violence_Family_Law_Brief-3-.pdf.

Recommended reading

Rather than providing a complete list of all the references cited in this document, we have selected 10 references that were “indispensable” to this literature review.

Controlling or Coercive Behaviour in an Intimate or Family Relationship, CPS [online] <https://www.cps.gov.uk/legal-guidance/controlling-or-coercive-behaviour-intimate-or-family-relationship>.

I. Côté, S. Lapierre, “Pour une intégration du contrôle coercitif dans les pratiques d’intervention en matière de violence conjugale au Québec,” *Intervention* 2021, number 153: 115–125. https://revueintervention.org/wp-content/uploads/2021/06/ri_153_2021.2_Cote_Lapierre.pdf. [in French only]

C. Gill, M. Aspinall, “Understanding coercive control in the context of intimate partner violence in Canada: How to address the issue through the criminal justice system?” Report presented to the Department of Justice, Canada, University of New Brunswick, April 2020. <https://victimsfirst.gc.ca/res/cor/UCC-CCC/Research%20Paper%20on%20Coercive%20Control%20-%20April%202020.pdf>.

The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships
Report of the Standing Committee on Justice and Human Rights, Iqra Khalid, Chair, House of Commons, Canada, April 2021. <https://www.ourcommons.ca/DocumentViewer/en/43-2/JUST/report-9>.

J. Monckton Smith, *In Control: Dangerous*

Relationships and How They End in Murder, Bloomsbury, UK, 2021. <https://www.bloomsbury.com/ca/in-control-9781526642929/>.

A. Myhill, *The police response to intimate partner violence: Risk, discretion, and the context of coercive control*, PhD Thesis, University of London Department of Sociology March, 2018 https://openaccess.city.ac.uk/id/eprint/19905/1/Myhill,%20Andy_Redacted.pdf.

Rebâtir la confiance - Synthèse, Rapport du Comité d’experts sur l’accompagnement des victimes d’agressions sexuelles et de violence conjugale, co-chair Elizabeth Corte and Julie Desrosiers, Secrétariat à la condition féminine, Government of Quebec, December 2020. <http://www.scf.gouv.qc.ca/fileadmin/Documents/Violences/Synthese-Rapport-AG-VC.pdf>. [in French only]

E. Stark, *Coercive Control: How Men Entrap Women in Personal Life*, Oxford University Press, 2007. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/coercive-control-how-men-entrap-women-personal-life>.

S. Thibault, G. Pagé, C. Boulebsol et al. *Justice pour les femmes marginalisées victimes de violences sexospécifiques. Ce que la littérature et les intervenantes nous apprennent*. Service aux collectivités de l’Université du Québec à Montréal, Fédération des maisons d’hébergement pour femmes, Regroupement des maisons pour femmes victimes de violence conjugale, Concertation des luttes contre l’exploitation sexuelle, Regroupement

québécois des centres d'aide et de lutte contre les agressions à caractère sexuel. Montreal, 2022.

https://sac.uqam.ca/upload/files/2022/Rapport_recherche_Justice_femmes_marginalisees_WEB.pdf. [in French only]

HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers, Justice Canada [online] <https://www.justice.gc.ca/eng/fl-df/help-aide/overview-aperçu.html>.