



**MULTICULTURAL
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**Domestic and Family Violence
Protection (Combating Coercive
Control) and Other Legislation
Amendment Bill 2022**

1 November 2022
Committee Secretary
Legal Affairs and Safety Committee
PARLIAMENT HOUSE QLD 4000
Email submission: lasc@parliament.qld.gov.au

Re: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022

Multicultural Australia is pleased to provide this submission to the Legal Affairs and Safety Committee.

Multicultural Australia welcomes the Queensland Government's commitment and action on the prevention of Domestic and Family Violence (DFV) in our state and nationally. The work of the Women's Safety and Justice Taskforce has provided a significant roadmap for domestic violence and justice system reform in Queensland, and we welcome the Queensland Government's staged response towards implementing this reform.

The establishment of the Independent Commission of Inquiry into QPS responses to Domestic and Family Violence, and the introduction of the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022* in Parliament, are very significant milestones for our State.

The introduction of the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022*, is intended as the first round of legislative reforms to strengthen Queensland's response to coercive control before the introduction of a standalone criminal offence next year.

We support the government's staged approach to legislating against coercive control and recognise the value in sending a strong message to the community around acceptable behaviours in families and relationships, shifting entrenched beliefs around DFV, responding to the gravity of the very significant risks of coercive control, and validating victims' experiences and empowering them to understand their rights and seek help. At the same time, there is need to proceed with caution – to reflect on any potential unintended consequences and risks for marginalised individuals – especially in migrant and refugee communities. It is therefore critically important to ensure the legislative settings are right, to underscore this historic reform process.

In providing this submission, Multicultural Australia's intention is to ensure that the Committee Inquiry considers the impact of impending legislation on diverse communities in Queensland. As

Queensland's Settlement Service Provider for migrants and refugees, Multicultural Australia works closely with diverse multicultural communities in Queensland – from new and emerging communities to the more established communities. We have previously engaged in this important conversation around *Coercive Control* – providing a detailed submission to the Women's Safety and Justice Taskforce. Our submission to the Taskforce spoke to the experiences of DFV across diverse cultures, in the context of migration, as well as the experiences of diverse communities within the DFV systems.

Multicultural Australia has committed to engaging in constructive conversation on this important national issue. We consider that the ongoing national conversations around creating a shared national understanding of coercive control are relevant to the Committee's consideration of the Bill currently before it. In this regard, we note the current work by the Australian Government, in collaboration with state and territory governments, to develop National Principles to Address Coercive Control.¹ This is an opportunity for Queensland to take leadership in developing a culturally safe, trauma-informed, therapeutic model of community education and capacity building that will effectively address the root causes of offending in this space.

For any queries in relation to this submission, please contact Rose Dash, Chief Client Officer, Multicultural Australia RoseD@multiculturalaustralia.org.au or 0448 085 531.

Yours sincerely,



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¹ Attorney-General's Department. Consultation Draft – National Principles to Address Coercive Control. consultations.ag.gov.au/families-and-marriage/coercive-control/.

Introduction

Multicultural Australia seeks careful consideration of the potential unintended consequences of legislating against coercive control, and its impact on migrant and refugee communities who already face significant challenges in the context of the current *Domestic and Family Violence Protection Act 2012* (Qld). In making this submission, we reference our submission to the Women's Safety and Justice Taskforce (Options for Legislating Against Coercive Control).²

Our submission to the current Inquiry seeks to highlight the following:

1. Consideration of legislative changes around domestic and family violence (DFV) and Coercive Control must be informed by a multitude of experiences. In particular, we submit that this inquiry should consider the vulnerabilities of migrant and refugee victim-survivors, and how their experiences of violence and abuse are shaped by an intersection of gender with other social categories including race, ethnicity, immigration status, etc. These factors impact the ability to identify and report domestic violence, and the ability to collect sufficient and credible evidence to support enforcement. Further, there should be consideration of potential inadvertent negative consequences of legislation for victims and perpetrators within multicultural communities.
2. Introduction of any legislative changes must be accompanied by a wide-ranging implementation process that includes communication, education, resourcing, and carefully planned and staged lead-in time.

Diversity of Experiences

There is a diversity of identities and experiences across the broad group of migrant and refugee communities that have implications for understanding and defining coercive control. There are variations in coercive controlling behaviours or risk factors used by perpetrators in domestic relationships as well as variations in community understanding of coercive control, including its gravity and available service responses.

Multicultural Australia considers it important for the Committee to consider the different understandings of DFV that may be held within communities, and the way in which these unique understandings impact the complex forms of abuse and control that can be perpetrated (including in relation to specific vulnerabilities, such as migration status and fear of support service

² **Attachment 1** to this submission.

responses, including child safety); and rationalisations by perpetrators and acceptance by victim-survivors.

Victim-Survivors and Children

For migrant and refugee communities, current understandings about DFV must be interlaced with understandings of cultural expectations around gender, sexuality, family formation, etc. For some communities, DFV may be seen as a family matter requiring resolution only from family, without any 'outside' intervention. The 'family' itself could be viewed as the extended family, or even the cultural community. Families from collectivist societies may subordinate their needs to those of the collective. Victim-survivors in marital violence and abusive relationships may choose to protect and conceal the status quo to uphold family's status and reputation.

Coercive control can generally extend across relationships to children, who can be used as part of a strategy to control victim-survivors. For victim-survivors from migrant and refugee communities these could include fears of deportation and loss of children or an assumption that the perpetrator has more rights to children.

Immigration-related abuse is another critical consideration in understanding coercive control for this cohort. Many victim-survivors experience types and effects of violence that are a unique intersection of immigration and/or their ethnicity and identity as an immigrant. The structural complexity of immigration, and the related legal and practical considerations, can control and trap victim-survivors, with visa status being leveraged as a weapon for control and abuse.

Perpetrators

DFV and controlling behaviours in migrant and refugee communities can often be rationalised by perpetrators as part of cultural expectations and established gender roles. However, it is important that there is recognition of the way in which the behaviours of perpetrators of DFV from migrant and refugee backgrounds can be shaped and impacted by culturally specific factors and/or by the experience of war, conflict, torture, trauma, rape, and sexual assault, which can result in significant physical and mental health conditions. These experiences increase the likelihood of contact with the criminal justice system and can also create barriers, including fear and distrust of services and government, that deter perpetrators from seeking appropriate help. At the same time, Multicultural Australia notes the very limited options currently available that address issues specific to culturally and linguistically diverse and/or refugee backgrounds and offending of this nature, including early intervention programs. In the absence of culturally safe and appropriate support services to address offending behaviours, the criminal justice system becomes the default

management system and further entrenches disadvantage. Without addressing the structural causes behind the criminalisation of at-risk populations, legislating against coercive control will only exacerbate current inequality within the community.

Service Responses

As outlined above, there are significant barriers that deter victim-survivors and perpetrators from migrant and refugee communities from seeking a service response to DFV

For those that seek service interventions, limited literacy of language (both English and first language) and lack of knowledge of processes and systems can be key barriers. Appropriately credentialed interpreters are not always made available through Court and Queensland Police Services (QPS) responses, and there is a lack of accessible, culturally appropriate and safe spaces available for migrant and refugee victim-survivors leaving abusive relationships.

Significantly, how refugee and migrant victim-survivors and perpetrators appear and present to services can influence service responses. Victim-survivors and perpetrators may report prior trauma, experiences of war or conflict, rape, sexual assault, torture etc., that has resulted in physical, mental and sexual health conditions, and these may influence how they present to services. Further, refugee and migrant communities' prior experience of abuses of trust by service systems may leave survivors or perpetrators fearful to speak out or seek help outside of their trusted relationships.

In terms of services, a lack of cultural knowledge or respect for diversity, lack of a representative workforce, limited specialist CALD services, and ingrained racism and stigma can impact community help-seeking behaviours. There is an urgent need to resource specialist consultancy and advice services that can provide assistance to mainstream organisations supporting victim-survivors and perpetrators from CALD backgrounds. Our current system – even with its focus on responding to physical incidents and violence – is stretched in supporting migrant and refugee communities. Overlaying requirements to prosecute non-physical abuse will likely impact current legal and justice systems. We highlight the importance of ensuring that the legislative reforms, which will expand the QPS mandate, are accompanied by appropriate – and adequately resourced – systemic and cultural reforms. This is important to ensure that current deficits in responding to the needs of victim-survivors and perpetrators of DFV from diverse communities are addressed, rather than exacerbated.

The need for community education

Through our community conversations, Multicultural Australia has noted a gap in information

about the different forms of abuse classified under DFV law. While there is predominant acceptance of DFV as a serious issue in the community, requiring at times the involvement of community leaders, elders, or religious leaders, there remains opacity around its various forms. In our conversations, individuals across diverse community and cultural groups identified a range of 'issues' as causal factors of DFV. These ranged from traditional or religious beliefs and cultural norms; relationship patterns particular to communities (e.g., arranged marriages); settlement issues (e.g., unemployment or financial pressures); alcohol and drugs; and mental health-related factors (e.g., settlement stress and depression).

Due to a lack of understanding of the Australian legal system, victim-survivors and perpetrators in migrant and refugee communities may not know and/or recognise that family violence is prohibited and that it extends beyond physical violence (to include financial, emotional, and psychological abuse). This can mean people may not easily identify themselves as victims of DFV and may lack knowledge of whether and how to report and seek assistance.

Legislative changes

Proposed legislative reform

Multicultural Australia supports in principle the reforms proposed by the Bill that pertain to implementation of the first tranche of legislative amendments recommended by the Women's Safety and Justice Taskforce in its first report,³ as part of the system-wide reform that was recognised to be needed prior to the creation of the standalone criminal offence of coercive control.

We emphasise that there must be careful, nuanced consideration of the potential unintended consequences of legislating against coercive control and its impact on migrant and refugee communities, with a view to mitigating adverse effects. Multicultural Australia seeks careful consideration of the unintended consequences of criminalisation for both victim-survivors and perpetrators.

We do not seek to respond to the entirety of the reforms proposed by the Bill, but make the following comments:

- Proposal to rename, modernise and strengthen the offence of unlawful stalking in Chapter

³ Women's Safety and Justice Taskforce. *Hear her Voice – Report One – Addressing coercive control and domestic and family violence in Queensland*.

33A of the *Criminal Code 1899* (Qld):

- We acknowledge the value, recognised by the Women's Safety and Justice Taskforce, of reflecting (through the creating of a circumstance of aggravation) the additional harm caused by stalking that occurs within an intimate, family or informal care relationship DFV. We also support broadening unlawful stalking conduct to include use of technology to facilitate this, including unauthorised electronic surveillance of victims and provision and publication of offensive materials on websites and social media platforms. We consider that this amendment is important and timely and is consistent with reforms in other Australian jurisdictions.
- We note that the Taskforce's recommendations for training – for police, lawyers and judicial officers – prior to the commencement of these reforms is predominantly directed at ensuring enforcement. We consider that there is a strong need for community education and capacity building, to ensure that there is awareness and understanding of the legislative changes and targeted support for perpetrators and potential perpetrators to change behaviours, as noted above.
- Proposed amendments to the *Domestic and Family Violence Protection Act 2012* (Qld):
 - We support in principle the amendments to include reference to a 'pattern of behaviour', which may occur over a period of time and should be considered cumulatively against the threshold test and in the context of the relationship as a whole. We note that, while these reforms have the potential to strengthen systems' responses to coercive control, to effectively achieve this we reiterate the critical importance of targeted, early intervention strategies aimed at preventing the perpetration of coercive control.
 - We would like to note that, while the recommendations of the *Not Now, Not Ever* Report of the Special Taskforce on Domestic and Family Violence in Queensland sought a holistic response that focussed on effectively responding to perpetrators and victim-survivors, to date the development of effective, targeted intervention strategies and supports aimed at changing abusive behaviour have been extremely limited.
 - Multicultural Australia's Case Managers report a lack of appropriate services to support perpetrators to change their behaviours, particularly

those who are appropriately trained and resourced to support perpetrators from CALD and refugee backgrounds. We submit that there is an urgent need for funding to properly resource these supports and note the value in investing in preventative services, including as part of the funding committed by the Queensland Government to achieve the proposed reforms.

- We support the amendments to require applications and cross applications to be heard together, so that a holistic consideration of the person(s) most in need of protection can be engaged in, with only one order made to protect the person most in need of protection (absent exceptional circumstances supported by clear evidence).
- We support in principle the recommended amendments to ensure a respondent's criminal and domestic violence history is disclosed, to inform the court's assessment of risk in an application for a protection order. However, we note that the definition of 'criminal history' (inclusive of all convictions of, and charges against, a person for an offence in Queensland or interstate) and 'domestic violence history' (defined to include all Queensland current and expired domestic violence orders and police protection notices between the respondent and any other person) in Clause 56 are very broad. We note the importance of permitting evidence to be provided by the respondent in relation to mitigating factors relating to their histories, akin to the mitigatory circumstances proposed for youth offenders and victims of domestic violence who have been charged with criminal offending. We also note the risk of compromise to the right to a fair hearing for the accused. We therefore suggest that this provision could be amended to achieve a greater balance between the rights of victim-survivors and perpetrators in this regard.
- Proposed amendments to the *Youth Justice Act 1992* (Qld):
 - We strongly support the proposed amendments aiming to provide specific mitigatory circumstances for child offenders who are victims of, or who have been exposed to, domestic violence. We note with concern the over-representation of youth offenders from CALD and First Nations backgrounds, who have experienced torture and trauma and consider this an important reform, that will also bring Queensland into closer alignment with other Australian jurisdictions.

- Proposed amendments to the *Evidence Act 1977 (Qld)*:
 - We support the expansion of the class of protected witnesses for cross-examination and the removal of limitations around accessibility of evidence of the history of a domestic relationship. We also support amendments allowing for expert evidence about domestic violence to be given in criminal proceedings. Further, we submit that consideration should be given to expanding the scope of the expert evidence that may be given to permit supplementary expert evidence relating to a diversity of experiences relevant to DFV and its intersection with various identities to be given. In defining the expert for this expanded scope of evidence, we submit that the ability to demonstrate specialised knowledge, gained by training, study or experience (including lived experience), across a diversity of relevant vulnerabilities, should be considered. For example, this could include a person with expertise in visa-related abuse, disability, or culturally-specific gender roles. This evidence could supplement expert evidence in relation to DFV.
 - We also support the proposed amendments to require jury directions to address common stereotypes, myths and other misconceptions jurors may hold, and to inform jurors of the factors impacting victims of DFV. In this regard, we emphasise the critical importance of cultural capability training for the judiciary, to ensure that there is a nuanced understanding of the impact of torture and trauma, particularly for refugees and those with a refugee-like experience, on behaviour. We note that the Explanatory Notes to the Bill focusses on the impact on the behaviour of victims of DFV, a focus which we support. We also note the importance of directions that address the behaviour of perpetrators, with a view to providing insight into the causes of this behaviour.
- Proposed amendments to the *Penalties and Sentences Act 1992 (Qld)*:
 - We support the proposed amendments to require the court, in sentencing an offender who is a victim of domestic violence, to treat as a mitigating factor the extent to which the commission of the offence is attributable to the impact of the violence. We consider empowering the court to consider all relevant factors in sentencing important in protecting the right to recognition and equality before the law of all defendants.

In implementing the proposed reforms, Multicultural Australia emphasises the importance of

acknowledging the particular challenges that the current legal and justice systems pose for migrant and refugee communities and of ensuring that legislative reform does not replicate or amplify existing inequities.

Implementation of proposed reforms

A well-defined offence of coercive control could have significant benefits by providing an objective basis for education and behavioural change across ethnic and faith-based organisations about appropriate behaviour in relationships. However, this will only be effective if it is supported by a carefully crafted legislative solution, and by investment in education, cultural capability, and support (including translator/interpreter services) for service providers, law enforcement agencies, and the judiciary.

Multicultural Australia recommends an accessible program of education, training and awareness raising with stakeholders, police, and frontline services prior to introduction of a criminal offence of coercive control. This will require systemic reform to prioritise identifying, learning and training around specific forms of controlling and non-physical abuse in migrant and refugee communities.

Further, we recommend rolling-out awareness campaigns about coercive control, as a priority. This should include targeted and contextually specific campaigns for diverse communities, including migrant and refugee communities.

Multicultural Australia strongly recommends the engagement of people with lived experience of a refugee/resettlement journey in this important work.

Multicultural Australia provides the following example of a strong and effective community leadership model that has been collaboratively developed to respond to DFV. The program seeks to raise awareness and develop skills and confidence to prevent family violence, resolve conflict, and promote individual and community transformation. We consider that this model provides a blueprint for community-led and held programs of education in this area. This is particularly pertinent at present, in the context of the current work by the Australian Government, in collaboration with state and territory governments, to develop National Principles to Address Coercive Control.⁴ We consider this an opportunity for Queensland to take leadership in developing a culturally safe, trauma-informed, therapeutic model of community education and capacity building that will effectively address the root causes of offending in this space.

⁴ Attorney-General's Department. Consultation Draft – National Principles to Address Coercive Control. <consultations.ag.gov.au/families-and-marriage/coercive-control/>.

Family Peace-Building

The 'Family Peace-Building' Project emerged in Brisbane out of deep engagement and collaboration between multicultural service agencies and community leaders.

Experienced multicultural agencies in deep partnership with community leaders have developed training and dialogue to up-skill people to become leaders in family and community peace building.

The Peace-Building team (comprising the 'Community Leaders Gathering', Multicultural Australia, Refugee and Immigration Legal Service (RAILS), South Community Hub and the Islamic Women's Association of Australia) have built on their years of experience and collaboration with multicultural communities to develop the Peace-Building and family violence prevention training – delivered thus far on very limited funding. The agencies have also worked closely with key domestic violence services, Queensland Police Service and the Dispute Resolution Branch of the Department of Justice.

The first 'Family Peace-Building' Training Program commenced in 2020 following a two-year 'Community Conversations' consultation with 27 refugee-background communities and close collaboration with key DFV agencies and the national research centre ANROWS. The 'Community Conversations' consultation was a project of the ongoing 'Community Leaders Gathering' hosted by Multicultural Australia. It found that most in the community didn't know the full legal meaning of family violence, some accepted family violence as normal, and some men saw the system as threatening their manhood and favouring women. The main reasons given for family violence were cultural, financial and lack of understanding of the law.

The 2020 'Family Peace-Building' program co-designed with community leaders covered:

- Understanding and communicating conflict, violence and the law;
- The extent and causes of family violence;
- Ways to prevent family violence;
- Getting to know and work more effectively with key services;
- Strengthening skills in working with abusers to promote change and accountability;
- Resolution and restoration of the community.

Two key resources co-designed with community leaders were developed for the training - a [Peace-building Leaders Toolkit](#) and a [Peace-building Pledge](#) which were launched by the State Attorney General in 2021.

Three 'Family Peace-Building' programs have been presented to 50 community leaders thus far. Short evaluations and reports of the three programs have indicated success in developing community capacity. For example: post-session polls indicated 100% felt more confident to engage with police and to use new communication skills; nearly 90% were more confident to speak to men who used violence; and 80% were more aware of when to use Dispute Resolution Branch services. Anecdotally, post-program reports are also very promising, as the following examples highlight:

- A male religious leader gave pastoral advice which emphasised the woman had a choice to leave her husband if she needed. Previously the leader would have advised

to keep the marriage together with little consideration of alternatives;

- A female leader was able to identify, name and explain psychological abuse to a female community member who was being tormented and manipulated by her husband over many years;
- A male religious leader for the first time included a female leader in negotiations between partners in a family dispute; and
- DV Connect developed closer relationships with leaders and services following the training.

Finally, we emphasise the importance of ensuring that communities are adequately resourced and supported to engage in the important, transformative work of addressing gender norms and the drivers of gender-based violence. In our experience, community elders and leaders are generous with their time and effort in supporting families through DFV issues. This is a significant impost on community members, and there is no remuneration available for such roles. We submit that the resourcing committed by the Queensland Government to accompany the implementation of this first tranche of legislative reforms should include specific consideration of meeting the needs of diverse communities.