



Catholic Religious
Australia Submission
to the feedback for
Public Consultation
draft Crimes
Legislation
Amendment (Coercive)
Bill 2022

Catholic Religious Australia (CRA) welcomes the opportunity to provide feedback on the draft *Crimes Legislation Amendment (Coercive Control) Bill 2022*.

CRA is the peak body representing the Leaders of 150 Catholic Religious Institutes and Societies of Apostolic Life which operate in Australia. Our religious institutes comprise more than 5,000 Catholic religious women and men and their lay colleagues, who work in education, health care and social services. Australia's religious congregations are strongly committed to action for justice. Through their justice ministries, they work with and advocate for Australia's most vulnerable communities, including those who suffer domestic abuse.

CRA wholeheartedly supports the Bill as a means of closing gaps that currently exist in New South Wales criminal law. There is a need for a clear and accessible definition of domestic abuse and a stand-alone offence for coercive control.

Domestic Abuse

We fully support the Bill's introduction of a definition for domestic abuse.

While other states and territories currently provide a legal definition for domestic abuse, it is significant that it is absent from the NSW *Crimes (Domestic and Personal Violence) Act 2007*.¹

CRA agrees with the recommendation contained in the report by the Joint Select Committee on Coercive Control that such a definition is required to improve the safety of victim survivors.² There needs to be a recognition within law that violence extends beyond physical and sexual assault to include behaviours such as economic, emotional and psychological abuse. Defining the term would also help with public education campaigns, early interventions programmes and provide a common language and shared understanding by all systems across society which respond to situations of domestic abuse.³

Coercive Control

We fully support the Bill's introduction of a stand-alone offence for coercive control.

The presence of coercive control in a relationship is one of the most significant risk factors for being killed by an intimate partner. ⁴ We note the submission provided to the Joint Select Committee on Coercive Control by the Domestic Violence Death Review Team that coercive control is present in a significant proportion of domestic violence homicides that take place in NSW. Of these, many do not contain any evidence of physical abuse having taken place prior to the death. Rather, other forms of coercive and controlling behaviour were present.⁵

¹ Parliament of New South Wales, Joint Select Committee on Coercive Control, report 1/57 – June 2021, Coercive control in domestic relationships, p. 25

² Ibid. p. 25.

³ Ibid. pp. 25-6

⁴ Submission No. 24, *Coercive Control in Domestic Relationships*, Domestic Violence Death Review Team, 28 January 2021, p. 2.

⁵ Ibid.

We are deeply concerned that under current law non-physical forms of violence by an intimate partner are not identified as domestic violence and are not responded to appropriately by police.

We therefore support the introduction of a specific offence that addresses coercive and controlling behaviour.

However, we note the potential such an offence may have for criminalising behaviour that is dysfunctional rather than coercive, such as mental ill health and drug and alcohol addiction.⁶ We agree with the submission by the Law Society of NSW that the inclusion of specific intent is an important safeguard.⁷ In addition to intending to cause fear (or being recklessly indifferent to it), the requirement that the behaviour be engaged in 'repeatedly and continuously' is another crucial safeguard.⁸ The inclusion of these two elements, together with other aspects of the offence, will enable dysfunctional behaviour to be properly distinguished from coercive and controlling behaviour.

We also support the compulsory training of police and the judiciary to properly identify behaviour that amounts to coercive and controlling as defined by the proposed Bill.

It is imperative to consider the generational suffering of First Nations people's perspectives when implementing the legislation. Domestic abuse within Aboriginal and Torres Strait Islander communities takes place within the context of a history of violence brought about colonisation, intergenerational trauma, and continuing discrimination.⁹ This nuanced and contextualised perspective needs to be properly understood and responded to by police and the judiciary.

Although the introduction of the draft Bill will likely assist in reducing the incidence of domestic abuse, we also judge it necessary to ensure non-legislative measures such as social services, education campaigns around respectful relationships, programmes that aim at early intervention, as well as programmes for perpetrators, are adequately funded and supported by the NSW government. This will help to prevent the incidence of domestic abuse from occurring in the first place.

Conclusion

CRA strongly supports the passing of the draft *Crimes Legislation Amendment (Coercive Control) Bill 2022* and encourages Government to take effective action to support all people who are impacted by domestic abuse, particularly women and children.

⁶ Submission no. 18, *Coercive Control in Domestic Relationships*, The Law Society of New South Wales, 27 January 2021, p. 2.

⁷ *Ibid.* p. 4.

⁸ *Ibid.* pp 4-5.

⁹ Australian Catholic Bishops Conference, *Respect: Confronting Violence and Abuse: Social Justice Statement 2022-23*, pp. 3-4, 6-7.