



June 26, 2024.

## **Brief Submission to the Standing Committee On The Status of Women for its Study on Coercive Behaviour**

*Aura Freedom is a grassroots, intersectional feminist organization working to eradicate male violence against women and human trafficking through advocacy, education, research, policy change, media reform and survivor support.*

### **Background**

Coercive control is an ongoing pattern of domination and control where abusive partners repeatedly and constantly engage in psychological and emotional violence using intimidation, devaluation, degradation, isolation, humiliation, and more. It is an insidious form of violence that is constant, repetitive, relentless, deceitful, and aims to break a person down from the inside.<sup>1</sup> Aura Freedom provides training on coercive control to frontline workers in the gender-based violence (GBV) and human trafficking (HT) sectors and stresses the importance of recognizing its **patterns**, as single events in isolation do not paint an accurate picture of this extremely damaging type of abuse that is difficult to “see” and a challenge to identify. Coercive control is present in many Intimate Partner Violence (IPV) situations and can also include physical and sexual violence, but not always. In cases of sex trafficking, which is deeply connected to IPV, coercive control is a tool employed by traffickers to entrap their victims in a never-ending cycle of abuse and exploitation. Coercive control is still not fully understood by many frontline workers and those working in the criminal justice system, resulting in survivors not receiving the support they need, as well as experiencing post-separation abuse, litigation abuse, bogus ‘parental alienation’ claims (which must be banned), loss of custody of children, stalking, femicide, filicide, and criminalization by the very system that is supposed to protect them.

In 2023, Aura Freedom submitted a [brief](#) to the Standing Committee on the Status of Women for its study on human trafficking, where we advocated for coercive control to be explicitly recognized in Canada’s Criminal Code in relation to HT cases. In that same brief, however, we also clearly stated that it was crucial to employ the Non-Punishment Principle in HT cases, from the 2002 *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, issued by the UN High Commissioner for Human Rights, to ensure trafficked persons are not punished for crimes they were forced and/or coerced to commit while being exploited, or that they committed along with their traffickers. A failure to employ the Non-Punishment Principle has profound, lifelong impacts on victims/survivors, infringes upon their human rights, and may discourage them from reporting and cooperating with investigations, negatively affecting the justice system at large.<sup>2</sup>

### **Potential Negative Impacts of Criminalizing Coercive Control**

In line with necessitating the employment of the Non-Punishment Principle alongside the criminalization of coercive control for HT cases, we also recognize that for survivors of IPV, presently suggested legislation around coercive control does not identify nor integrate the necessary systems, mandates, training, procedures, etc. to prevent survivors from being accused of and/or charged using the same legislation intended to protect them. This is a warranted concern: those in the sector continue to see survivors face punishments intended for their abusers through current legislation and its consequences, such as abusers accusing their victims of IPV, mandatory charging, family court procedures, and bogus accusations of ‘parental alienation’ (which must be banned). In fact, using the criminal justice system to further abuse, control and entrap victims is a cornerstone tactic of coercive control itself.

Placing another legislation, especially one in isolation of comprehensive, multi-factor change, within a system that: has historically been retraumatizing and is systematically used against survivors through litigation abuse; focuses on the incidental rather than the ongoing pattern of abuse often seen in IPV cases; and simply does not recognize IPV nor classify and structure coordinated charges used in instances of IPV, prioritizes intention over impact.

Importantly, including coercive behaviour in the criminal code would suggest that the intended result is for punishments to be dealt to abusers. However, including criminal legislation does not ensure the legislative process (i.e. charges, prosecution, and guilty verdicts) reliably punishes abusers. This issue is only exacerbated by the reliance on legislators to define and outline coercive control effectively, and legal stakeholders (i.e., police, judges, lawyers, and the jury) to have and apply intricate knowledge of a highly nuanced, contextual form of abuse. Further, this step leaves out the 70% of survivors who do not report to police (often due to the systemic issues laid out above) and does little to eradicate gender-based violence by addressing its root causes.

We have heard these warnings from the community organizations that have been filling the gap, bridging social services and the legal

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<sup>1</sup> *Human Trafficking Information Hub*, Aura Freedom International, Nov. 2021, <https://aurafreedom.org/relentless-resilience/human-trafficking-info-hub/>.

<sup>2</sup> *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, Office of the High Commissioner for Human Rights, Nov. 2002.

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system for survivors - we must ensure that these experts on the law who work day in and day out with survivors, utilize a trauma and GBV lens, and who are consistently met with how the law impacts survivors (rather than how it is intended to) are heard.

### **The Importance of Survivor Voices & Feminist Legislation**

As we lay out the risks of criminalizing coercive behaviour and the potential negative impacts on survivors, we would like to highlight the importance of listening to *all* survivors, both those who have been criminalized by the very system in place to protect them, and those who see accountability for their abusers as necessary for their safety and the safety of their children. While restorative justice alternatives are crucial, we must recognize that some perpetrators are simply too dangerous to have access to people in our communities, as the potential harm, especially to women and children, is simply too great to ignore.

In the same way, it is important to recognize the value and cruciality of feminist legislation and acknowledge where it has brought us today. The divorce surge in the 60s and again in the late 80s, which saw many women leave violent marriages, was the result of feminist legislation, as were many positive developments for women and children experiencing violence (i.e., Pay Equity Act, Keira's Law, etc.). Indeed, there is value to advancing women's rights through law and policy, when potential harms are carefully considered.

### **Conclusion and Recommendations**

Overall, Aura Freedom urges the federal government to take more time before passing legislation to criminalize coercive behaviour, and recommends that all survivors as well as GBV and HT experts be consulted through an expert advisory group to examine how criminal law can address coercive and controlling behaviour. Further, we urge the federal government to recognize how coercive behaviour legislation may impact various forms of gender-based violence (i.e., HT, IPV, etc.) prior to criminalizing it.

Aura Freedom continues to call for the federal government to also recognize the alternative ways the justice system can bring awareness to, support survivors of, and ultimately prevent coercive control. Experiences of coercive control must be validated by the justice system - a system that, at present, prompts numerous survivors of coercive control to disclose, "I wish he just hit me". This is because the justice system centers physical violence, despite the fact coercive control precedes most (if not all) instances of physical IPV, and studies suggest may be a better indicator of femicide. Aura Freedom urges the federal government to address other gaps, such as coordinating efforts to end coercive control across ministries, streamlining and including definitions of coercive control and IPV that can be referenced by justice system stakeholders, and restructuring legislation to identify patterns of (rather than instances of) Intimate Partner Violence, such as coercive control.

A number of recommendations have been made by the Mass Casualty Commission (MCC)<sup>3</sup> and the Renfrew County Inquest<sup>4</sup> related to coercive behaviour that must not be done in silos, nor conducted without ensuring interrelated recommendations are fulfilled in the order that would best support survivors, and prevent further harm. This includes additionally implementing recommendations such as the one from MCC to amend the Criminal Code to recognize reasonable resistance violence by the victim of coercive and controlling behaviour as self-defense, an example of efforts to prevent survivors from being criminalized. This also includes improving impacts on survivors making contact with the justice system by requiring capacity building and training in all sectors of justice (i.e., police, judges, lawyers, etc.), a recommendation echoed in the Renfrew County Inquest, which could be modeled after legislation like Keira's Law. It must be recognized that GBV/HT organizations such as Aura Freedom have been conducting historically unfunded primary prevention initiatives for years. It is this upstream, preventative work such as education, training, and public awareness-building that is time and time again called for by GBV/HT experts, and recommended in both the MCC and Renfrew County Inquest. Further, this work must receive sustainable funding as it is this work that supports the 80% of those experiencing abuse who speak to a friend or family member first, the 70% who will never go to police, and ultimately prevents coercive behaviour from happening in the first place.

Finally, we remind the federal government that Canada has ratified numerous international human rights conventions and treaties which are in place to address GBV and protect survivors. The Palermo Protocol and the General Recommendations made by the UN's Committee on the Elimination of Discrimination against Women (CEDAW), both include recommendations around coercion. By ratifying these treaties, Canada has formally committed itself to implement their provisions.

We thank the Committee for considering this brief and look forward to working closer with you in the future. For further information, contact Marissa Kokkoros [marissa@aurafreedom.org](mailto:marissa@aurafreedom.org) or Danielle Warren [danielle@aurafreedom.org](mailto:danielle@aurafreedom.org).

<sup>3</sup> *Final Report of the Mass Casualty Commission Recommendations*, Mass Casualty Commission, Apr. 2020, <https://masscasualtycommission.ca/files/documents/Turning-the-Tide-Together-List-of-Recommendations.pdf>

<sup>4</sup> *2022 Coroner's Inquests' Verdicts and Recommendations*, Government of Ontario, June. 2020, <https://www.ontario.ca/page/2022-coroners-inquests-verdicts-and-recommendations#section-4>