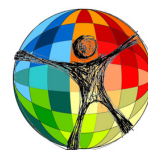


VOL. 10 | NO. 1 | SUMMER 2021

Legal Lacunae and Coercive Control: Employing International Law to Combat Intimate Partner Violence

Kassandra Neranjan

McGill Centre for
Human Rights
and Legal Pluralism



Centre sur les droits de la
personne et le pluralisme
juridique de McGill



McGill FACULTY OF
Law

ABOUT CHRLP

Established in September 2005, the Centre for Human Rights and Legal Pluralism (CHRLP) was formed to provide students, professors and the larger community with a locus of intellectual and physical resources for engaging critically with the ways in which law affects some of the most compelling social problems of our modern era, most notably human rights issues. Since then, the Centre has distinguished itself by its innovative legal and interdisciplinary approach, and its diverse and vibrant community of scholars, students and practitioners working at the intersection of human rights and legal pluralism.

CHRLP is a focal point for innovative legal and interdisciplinary research, dialogue and outreach on issues of human rights and legal pluralism. The Centre's mission is to provide students, professors and the wider community with a locus of intellectual and physical resources for engaging critically with how law impacts upon some of the compelling social problems of our modern era.

A key objective of the Centre is to deepen transdisciplinary collaboration on the complex social, ethical, political and philosophical dimensions of human rights. The current Centre initiative builds upon the human rights legacy and enormous scholarly engagement found in the Universal Declaration of Human Rights.

ABOUT THE SERIES

The Centre for Human Rights and Legal Pluralism (CHRLP) Working Paper Series enables the dissemination of papers by students who have participated in the Centre's International Human Rights Internship Program (IHRIP). Through the program, students complete placements with NGOs, government institutions, and tribunals where they gain practical work experience in human rights investigation, monitoring, and reporting. Students then write a research paper, supported by a peer review process, while participating in a seminar that critically engages with human rights discourses. In accordance with McGill University's Charter of Students' Rights, students in this course have the right to submit in English or in French any written work that is to be graded. Therefore, papers in this series may be published in either language.

The papers in this series are distributed free of charge and are available in PDF format on the CHRLP's website. Papers may be downloaded for personal use only. The opinions expressed in these papers remain solely those of the author(s). They should not be attributed to the CHRLP or McGill University. The papers in this series are intended to elicit feedback and to encourage debate on important public policy challenges. Copyright belongs to the author(s).

The WPS aims to meaningfully contribute to human rights discourses and encourage debate on important public policy challenges. To connect with the authors or to provide feedback, please contact human.rights@mcgill.ca.

ABSTRACT

Coercive control grows to be a debated topic in Canada. Recognizing increasing rates and prominence of intimate partner violence and the specific gendered victimisation of women and girls beyond the traditional understandings of physical and sexual violence, new legislation is needed to address abuse in all its forms. Many ideas and understandings of coercive control and intimate partner violence, however, need not be reinvented or reimagined.

This paper argues that lessons from public international law and international humanitarian law specifically can be applied, through analyzing rules surrounding terrorism, torture, and pillaging, to Evan Stark's conception of coercive control. This paper attempts to analyze opportunities in Canada to incorporate these lessons into Canadian criminal law and policy. Ultimately, this paper argues that solutions already exist and holistic, flexible understandings of coercive control and abuse are necessary to protect survivors of intimate partner violence.

CONTENTS

I. INTRODUCTION	6
II. IPV, COERCIVE CONTROL, AND THE CANADIAN CONTEXT	7
III. APPLYING PUBLIC INTERNATIONAL LAW	23
IV. DEVISING SOLUTIONS	37
V. CONCLUSION	41
BIBLIOGRAPHY	43

I. Introduction

“What about the abuse that has no visible signs?”¹

These words were shared by Kamal Dhillon on the topic of intimate partner violence. Addressing the Standing Committee on Justice and Human Rights, Dhillon interrogated why physical and sexual violence were persistently socially imagined as exclusive manifestations of violence against women recognized by the law and greater society. She is not alone in her questioning.

For all the violence forgotten, dismissed, and undermined, such as psychological abuse, social isolation, financial restrictions, and the hostile environments these forms of abuse exist within, these often serve as warning signs for greater and sometimes fatal abuse.² Regardless, these “minor” forms of violence that loved ones and friends may be conscious of and made uncomfortable by have greater impacts upon the abused individual than is often made out to be the case. Situated in comprehensive contexts of “coercive control,” Evan Stark argues that women are abused by their male intimate partners to be dominated and limit their autonomy to ultimately assert the authority and power of men.³ This power struggle results in horrific breaches of the dignity and liberty of women, shaping their mental and physical well-being, social and familial relations, productivity in the workplace academia, and fundamentally altering all other facets of their life.

Coercive control has surfaced as a topic of concern, especially after the dawn of the “shadow pandemic” concurrently emerging with the COVID-19 global pandemic of heightened and exacerbated rates of domestic violence.⁴ Recommendations,

¹ See House of Commons Canada, Standing Committee on Justice and Human Rights, *Evidence*, 43-2, No 019 (16 February 2021) at 12:05 (Kamal Dhillon).

² See Holly Johnson et al, “Intimate femicide: The role of coercive control” (2019) 14:1 Fem Crim 3 [*Intimate Femicide*]. See also Danielle Tyson, “Coercive Control and Intimate Partner Homicide” (2020) Fam Viol & Crim L 73.

³ See Evan Stark, *Coercive Control; The Entrapment of Women in Personal Life* (London: Oxford University Press, 2009) [*Coercive Control*].

⁴ See UN Women, “Measuring the Shadow Pandemic: Violence Against Women during COVID-19” (November 2021), online (pdf): UN Women

policy research, and draft legislation have all been considered. But in the midst of devising solutions to match the zeitgeist, I ask if there are already lessons Canadian society has learned, goals Canada has already committed to, and values Canada can draw from to outlaw coercive control? Building on Stark's analogy of coercive control as parallel to a capture crime, I employ three harms governed by international humanitarian law and international human rights law—terrorism, torture, and pillage—to examine how coercive control can be better understood through a legal perspective and how this can translate into new legislation.

To make this argument, I begin by defining the terms and scope of intimate partner violence and coercive control this paper will employ. I will predominantly rely on Evan Stark's seminal text on Coercive Control that has shaped the literature surrounding IPV. I will then examine the domestic context of IPV in Canada through statistics and research, and examine proposed policy changes with an eye to the merits of Bill C-247. I will then undergo an analysis of public international law to devise recommendations for future legislation. This paper will employ a survivor-centric focus, examining harms and solutions for them specifically. More research is required to address the needs and healing trajectories of those who abuse.

II. IPV, Coercive Control, and the Canadian Context

A. Parameters of Violence: Definitions & Frameworks

Domestic violence is heavily theorized and per these definitions, manifests in multiple modalities of harm and force. Terms such as family violence, intimate partner violence, conjugal violence, and other labels have been used to often refer to similar and overlapping contexts of harms committed directly or indirectly by an abuser against an abused individual within a relationship

data.unwomen.org/sites/default/files/documents/Publications/Measuring-shadow-pandemic.pdf.

of familiarity: i.e. parents and young children, between spouses, between intimate partners, adult children and elderly parents, and more.⁵ To narrow the scope of this paper, I will employ the term “intimate partner violence” (IPV) as is used by the World Health Organization (WHO) and the Canadian federal government. This is to ensure a specific focus upon the interaction between those who are, or have been, intimately linked, creating a context in which violence arises.

The WHO defines intimate partner violence as “any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship.”⁶ This includes “acts of physical violence”; “sexual violence” including “forced sexual intercourse”; “emotional (psychological) abuse” including “insults”, “humiliation”, and “threats of harm”; as well as “controlling behaviours” such as isolating an individual from their networks of friends and family, “monitoring their movements” and “restricting access to financial resources, employment, education or medical care.”⁷ This definition lends to a broad interpretation of the multiple iterations of violence and their gradations in purported harm and impact upon the abused individual. These harms manifesting within an intimate relationship often defy stereotypes limited solely to physical violence, providing a broader scope of understanding violence. This will also provide leeway for further discussion upon coercive control and its links to the forms of violence enumerated by the WHO under the IPV umbrella.

Before examining the context of intimate partner violence any further, it is important to note the macro context such micro relationships exist within. It has been noted that globally, women

⁵ See Ola Barnett, Cindy L Miller-Perrin & Robin D Perrin, *Family Violence across the Lifespan: An Introduction* (Thousand Oaks: SAGE Publications, 2011). See also Kelsey Hegarty et al, “Domestic Violence in Australia: definition, Prevalence and Nature of Presentation in Clinical Practice” (2000) 173:7 *Med J Aust* 363. See also Edem F Avakame, “Intergenerational transmission of violence, self-control, and conjugal violence: A comparative analysis of physical violence and psychological aggression” (1998) 13:3 *Viol & Victims* 301.

⁶ See Pan American Health Organization, “Understanding and Addressing Violence Against Women” (2012) at 1, online (pdf): *World Health Organization* apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf <apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf>.

⁷ *Ibid* [emphasis added].

are much more likely to survive intimate partner violence than men.⁸ This is a broad consensus in the literature, and thus this paper will be examining the contexts of abused women predominantly. Such violence is experienced across intersections of race, class, age, socioeconomic status, (dis)ability, and other indices of social stratification.⁹ Furthermore, this recognition of intersectionality aims to recognize manifestations of vulnerability, violence, and strategies of resilience through a holistic analysis of layers of impact.¹⁰ This paper aims to address these intersections in its analyses. This is especially pertinent as the role of cultural violence, epistemic violence, and structural violence continue to be contested and more thoroughly researched in the context of IPV.¹¹

I also will be writing in the perspective of relationships between abusive men against abused women. Although research is required to further understand the impact of coercive control in queer relationships or how it is weaponized perhaps by women,

⁸ See World Health Organization, “Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines” (2013), online (pdf): World Health Organization <apps.who.int/iris/bitstream/handle/10665/85240/9789241548595_eng.pdf>.

⁹ See *Intimate Femicide*, *supra* note 2. See also Elizabeth P Cramer & Sara-Beth Plummer, “People of Color with Disabilities: Intersectionality as a framework for analyzing intimate partner violence in social, historical, and political contexts” (2009) 18:2 J Agg, Malt & Trauma 162; Ursula A Kelly, “Theories of intimate partner violence: From blaming the victim to acting against injustice: Intersectionality as an analytic framework: (2011) 34:3 Adv in Nurs Sci E29.

¹⁰ See Kimberlé Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics” (1989) U Chi Legal F 139.

¹¹ See Anita Raj & Jay Silverman, “Violence against immigrant women: The roles of culture, context, and legal immigrant status on intimate partner violence” (2002) 8:3 Viol ag W 367. See also Joseph A Vandello & Dov Cohen, “Culture, gender, and men’s intimate partner violence” (2008) 2:2 Soc & Pers Psych Comp 652. See generally Public Health Canada, “A Focus on Family Violence in Canada” (2016) at 22, online (pdf): Chief Public Health Officer <www.canada.ca/content/dam/canada/public-health/migration/publications/departement-ministere/state-public-health-family-violence-2016-etat-sante-publique-violence-familiale/alt/pdf-eng.pdf> [“Family Violence Canada”].

this paper relies heavily on theory and statistics within a context of IPV between abusive men and abused women.

B. Coercive Control and IPV

Coercive control is defined in convoluting discussions obfuscating its origins. Although many limit coercive control to behaviours of direct control over an abused individual in an intimate partner relationship, it has been theorized on a more macro scale that lends credence to a refined understanding of how and why such violence is weaponized.

Evan Stark argues that coercive control is more than just a behaviour of abuse. Tracing its utility to men's needs in the Industrial Revolution, Stark argues coercive control is a by-product of strategies of dominating women for men's perceived autonomy.¹² Physical violence is argued to have been rendered insufficient in dominating women as they entered the workforce and were no longer solely confined to the domestic realm.¹³ Indeed, their new roles in the workplace, academia, and politics allowed women "to initiate divorce, demand contraception, abort unwanted pregnancies, delay marriage and childbirth, reduce the number of children they bore, form single-parent and same-sex families, enter the professions, and participate in civic life in unprecedented numbers."¹⁴ Stark argues,

[i]n the name of sustaining traditional male privileges, coercive control suppresses the revolutionary potential of sexual reciprocity for both sexes: by downsizing the subjective capacities women inherit from their new social agency, men suspend their own capacity for reciprocity, trying to reconstruct from within relationships, *de novo*, the rigidities of power and control they once inherited with their biology. Each household governed by coercive control, each relationship, becomes a patriarchy in miniature, complete with its own web of rules or codes, rituals of deference, modes of enforcement, sanctions, and forbidden

¹² See *Coercive Control*, *supra* note 3.

¹³ See *ibid*.

¹⁴ See *ibid* at 193.

places, all devised with a particularity that is completely foreign to traditions of male dominance.¹⁵

Such a definition of “coercive control” situates violence not as a singular offence, behaviour, or even pattern. Instead, it highlights an ecosystem of abuse. Stark has defined coercive control as a “comprehensive framework for approaching partner abuse, not as a specific offence.”¹⁶

I take issue, however, with the monolithic view of women’s ‘liberatory’ gains in Western democracies, finding it somewhat unconvincing. That women in liberal democracies are purported to *all* possess the *same* access to second-wave feminist activism dismisses intersections of race and class in structural inequality, and the historic strategic sacrificing by white, upper class, heterosexual women of marginalized women’s equal political status so as to achieve a modicum of civil rights applicable to the former strata of women.¹⁷ For example, Stark addresses that women received the right to vote in the early twentieth century in Canada¹⁸, but this is not true for all women as many racialized women did not receive this right until much later on, with staggered milestones for Indigenous women as well.¹⁹ Moreover, the perception of some women to be liberated in such a sense denies histories of orientalism and post 9/11 saviouristic complexes against South Asian and Middle Eastern women. Although Stark argues gender inequality persists in the West, and its covert nature directly fuels Western Saviourism in dichotomizing “civilized” and “uncivilized” peoples that require intervention such as that of the US in Afghanistan to “save brown women,”²⁰ he dismisses the manner in which gender inequality

¹⁵ See *ibid* at 194 [emphasis added].

¹⁶ See Evan Stark, “The ‘Coercive Control Framework’ Making Law Work for Women in Marilyn McMahon & Paul McGorrey, eds, *Criminalising Coercive Control* (Singapore: Springer Nature Singapore Pte Ltd, 2020) at 33 [“Coercive Control Framework”].

¹⁷ See Valerie Amos & Pratibha Parmar, “Challenging imperial Feminism” (1984) 17:1 *Fem Rev* 3.

¹⁸ See *Coercive Control*, *supra* note 3 at 181.

¹⁹ See Joan Sangster, *One Hundred Years of Struggle: The History of Women and the Vote in Canada* (Vancouver: University of British Columbia Press, 2018).

²⁰ See *Coercive Control*, *supra* note 3.

manifests along racial biases in the West itself. Canada not too long ago implemented the (now-repealed) *Zero Tolerance for Barbaric Cultural Practices Act* which sought to outlaw violence against women and girls that specifically related to ‘honour’ killings, coding a racialized target for whom these laws intended to address.²¹ Conservative nominees ahead of a federal election at that time concurrently proposed a hotline for neighbours to report those they believed to violate the Act.²² It is clear such legislation was rooted in racial stereotypes of biases against certain communities assumed to produce higher rates of IPV which has been debunked in the literature.²³ This analysis does not negate the existence of coercive control, but nuances its context in Canada. Contextualizing purported gains for some women against paternalistic attitudes they may bear against other women is thus critical for addressing coercive control in Canada. Moreover, acknowledging systemic barriers many racialized, queer, disabled, and other women have known for centuries have always impeded their ‘equal rights’ is also important to understanding mechanisms of coercive control in both how they are deployed and what consequences they have for women which will be explored throughout this paper.

In recognizing Stark’s macro setting of coercive control as translated into individual milieus of hostile patriarchy, this helps situate the actual violence perpetrated and felt by survivors. Stark argues that because women may have access to rights and resources that subvert men’s dominance,

²¹ See Government of Canada, Backgrounder, “Zero Tolerance for Barbaric Cultural Practices Act: An Overview” (2014), online: www.canada.ca/en/news/archive/2014/11/zero-tolerance-barbaric-cultural-practices-act-overview.html.

²² See Lucas Powers, “Conservatives pledge funds, tip line to combat ‘barbaric cultural practices’”, CBC News (2 October 2015), online: www.cbc.ca/news/politics/canada-election-2015-barbaric-cultural-practices-law-1.3254118.

²³ See Adam Cotter, “Intimate partner violence: Experiences of visible minority women in Canada, 2018” (May 2021), online: www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00008-eng.htm. See also Stephanie Taylor, “‘Barbaric cultural practices’ hotline idea still haunts Tories, MP says”, Global News (14 November 2021), online: globalnews.ca/news/8373704/barbaric-cultural-practices-conservatives-2021/.

the technology of control men devise must be equally expansive in time and social space, reaching into the economic, political, and social realms to which women's freedoms have given them access, into their educational lives, their workplace, and their involvement with the public sector. And men must do this without attracting public attention.²⁴

The requirements of such violence thus manifest in a fashion that traditional criminal law may not be equipped to accept as a harm, let alone greater society would accept in the context of purported gender equality. These technologies of violence are intended to be covert, and fly under the radar of socially imagined violence against women.

The uniqueness of coercive control lies in the context of its intimate relationship. Firstly, the violence is frequent and routine, enabled through repeated contact in a relationship.²⁵ Similarly, access to an individual permits strategizing tactics based in deducing precisely what an individual fears or is uncomfortable by; knowledge that is developed through an original circumstance of trust and exposure in a relationship.²⁶ Thus, there is no abstract 'standard behaviour' one may attempt to legislate against in traditional criminal law such as sexual assault or financial abuse, although these may very well arise in these contexts and perhaps be common but not the sole mechanism of violence.²⁷ For example, Stark relays the story of a woman whose husband hid in a closet and would jump out and scare her upon her returning home from work. He claimed this was humorous, but the abused woman shared he knew this was a specific fear-inducing tactic because she shared a childhood trauma with him of an uncle who hid in a closet and then sexually assaulted her.²⁸ The techniques deployed are thus also experimental in assessing what in fact eventually induces fear.²⁹ Coercive control also takes place in all realms of

²⁴ See *Coercive Control*, *supra* note 3 at 197.

²⁵ See *ibid* at 206.

²⁶ See *ibid* at 207.

²⁷ See *ibid*.

²⁸ See *Coercive Control*, *supra* note 3 at 206.

²⁹ See *ibid* at 207.

an abused person's life—she may be prevented from seeing friends, staying late at work etc. unlike a single physical jail cell that one is accustomed to conceiving when considering a deprivation of liberty.

All of these nuances point to coercive control as existing well beyond a singular criminal offence or 'type' of abuse. Rather they contour the absolute dynamic, power structures, agency, and violence in the relationship. This theory is critical to help better situate the terrain of IPV in Canada.

C. Intimate Partner Violence in Canada

The facts of intimate partner violence in Canada reflect a grievous and ubiquitous reality for women. In a series of reports produced by Statistics Canada on Intimate Partner Violence in 2019, over six million women aged fifteen or older – and had been in an intimate partner relationship – identified experiencing IPV in their lifetime.³⁰ This included 43% reporting being subject to psychological abuse, 23% reporting physical violence, and 12% reporting sexual violence.³¹ This is not to be confused with assessing these types of harm in isolation, as “[n]early one in three (29%) women who were victims of IPV had experienced 10 or more of the abusive behaviours measured by the survey.”³²

The experiences of women surviving IPV can also be highlighted along certain identity markers. Statistics Canada notes that younger women are much more likely than older women to be subject to intimate partner violence.³³ In the time period prior to the survey being conducted, women aged 15 to 19 were five times more likely than women 25 and older to have been sexually assaulted by an intimate partner.³⁴ 2SLGTBQIA+ women are

³⁰ See Adam Cotter, “Intimate Partner Violence in Canada, 2018: An overview” (April 2021), online: Statistics Canada <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00003-eng.htm> [“IPV Overview”].

³¹ See *ibid.*

³² See *ibid.*

³³ See Laura Savage, “Intimate Partner Violence: Experiences of women with disabilities in Canada, 2018” (April 26 2021), online: Statistics Canada <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00006-eng.htm> [“IPV Disabilities Canada”].

³⁴ See *ibid.*

more likely than cisgender, heterosexual women to experience IPV.³⁵ In fact, two-thirds had experienced “at least one type of IPV since the age of 15” which is much higher than that of heterosexual women.³⁶ As well, trans women of colour and queer Indigenous women have been reported to face higher rates of IPV.³⁷ Women with disabilities are reported to be almost twice as likely to experience physical or sexual assault by an intimate partner than those without disabilities.³⁸ Arab, Black, and Latin American women are reported to experience higher rates of IPV in Canada.³⁹ This is to be distinguished from Indigenous women’s experiences who not only face high rates of IPV, but their risks to such violence are shaped by “consequences of historical trauma, discrimination and violence rooted in colonialism in Canada, such as the Indian Act, sixties scoop, and residential schools.”⁴⁰ Women in all their multifaceted lived experiences and identities continue to repugnantly be subject to grotesque violence.

The ramifications of experiencing IPV are multifold. Consequences include basic survival strategies: in attempting to flee situations of violence, many women oscillate between precarious housing contexts or often find themselves unhoused and reliant upon shelters and community resources.⁴¹ Effects are

³⁵ See Briana Jaffray, “Intimate Partner Violence: Experiences of Sexual Minority Women in Canada, 2018” (April 2021), online: *Statistics Canada* <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00005-eng.htm>.

³⁶ *Ibid.*

³⁷ See Egale Canada, “Egale Universal Periodic Review 2017 Submission Annex 4: Gender-based violence” (2017), online (pdf): *Egale* <www.upr-info.org/sites/default/files/document/canada/session_30_-_may_2018/egale_upr30_can_e_annexe4.pdf>.

³⁸ See “IPV Disabilities Canada”, *supra* note 33.

³⁹ See Adam Cotter, “Intimate partner violence: Experiences of visible minority women in Canada, 2018” (May 2021), online: *Statistics Canada* <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00008-eng.htm>.

⁴⁰ See Loanna Heidinger, “Intimate partner violence: Experiences of First Nations, Métis and Inuit women in Canada, 2018” (May 2021), online: *Statistics Canada* <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00007-eng.htm>.

⁴¹ See Leslie M. Tutty et al, “I Built My House of Hope: Abused Women and Pathways Into Homelessness” (2013) 19:12 *Violence Against Women* 1498 at 1500

additionally often felt in the greater social relations women foster. Women reported IPV as impacting their workplace performance resulting in having to take time off, while 10% of survey respondents lost their jobs due to consequences of IPV.⁴² These realities cannot be divorced from existing wage gaps women face, with vast disparities for women of colour and those with disabilities. Nor can they be divorced from violence in the workplace itself such as workplace harassment. Although this paper will not delve too deep into this phenomenon, IPV also has consequences for children who are exposed to violence within the home as well. One example, is that children who face stressful experiences in childhood may be developmentally affected in how their “genes are activated and expressed, which can lead to poor health later in life” including depression.⁴³ This in turn, has consequences for mothers who care for these children. The magnitude of IPV ultimately rests with the abused person. In 2014, it was found that every six days a woman in Canada was killed by an intimate partner.⁴⁴ IPV kills.

In assessing these trends, it is important to highlight their relationship with coercive control. Psychological abuse is the most prevalent manifestation of IPV across all identities. Although Statistics Canada does not define psychological abuse in terms of coercive control, of the sixteen indicia of “emotional, financial, or psychological abuse” several point to coercive behaviours. For example, “been jealous and didn’t want you to talk to other men or women”, “Followed you or hung around outside your home or work”, “Kept you from seeing or talking to your family or friends” and “Demanded to know who you were with and where you were at all times” point to social isolation characteristic of the hostile environments Stark alludes to.⁴⁵ Other markers include “Forced

⁴² See C Nadine Wathen, Jennifer CD MacGregor & Barbara J MacQuarrie, “The impact of domestic violence in the workplace: Results from a pan-Canadian survey” (2015) 57:7 J of Occupational and Environmental Med 25.

⁴³ See “Family Violence Canada”, *supra* note 11 at 19.

⁴⁴ See Sibley Slinkard, “She Chose to Get Rid of Him by Murder, Not by Leaving Him: Discursive Constructions of a Battered Woman who Killed in *R v Craig*” (Doctor of Philosophy, York University Faculty of Graduate Studies, 2019) [unpublished].

⁴⁵ See Adam Cotter, “Table 1A Intimate partner violence, since age 15 and in the past 12 months, by type of intimate partner violence, Canada, 2018” (2021),

you to give them money or possessions” and “Kept you from having access to a job, money, or financial resources” reflecting coercive financial and autonomy-driven control.⁴⁶

Coercive control has slowly been unearthed as necessitating action and response in Canadian society. In a recent journalistic investigation, it was found that 1 in 3 Canadian homicides of intimate partners had warning signs—many of which pointed to coercive control.⁴⁷ In 36% of cases, at least one warning sign manifested prior to the homicide while “patterns of coercive or controlling behaviour” were the second-most prevalent harbingers of violence.⁴⁸ Some argue however, that in IPV cases “95 to 97 percent ... have elements of coercive control.”⁴⁹ Many community stakeholders have echoed similar viewpoints before the House of Commons arguing that coercive control is almost always present in cases dealt by shelters and women’s NGOs.⁵⁰

To assess a subculture of violence and patriarchal domination in each intimate partner relationship is a nuanced understanding particular to the details of each unique relationship. There are thus stories and values in these statistics that will never truly be captured in the literature. Nonetheless, these analyses point to the same finding: coercive control is a problem in Canada. Recognizing its prevalence, I now turn to existing law and policy to assess if coercive control is adequately addressed.

online: Statistics Canada <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00003/tbl/tbl01a-eng.htm>.

⁴⁶ *Ibid.*

⁴⁷ See Tara Carman, Kimberly Ivany & Eva Uguen-Csenge, “Warning signs present in 1 in 3 homicides of intimate partners, CBC investigation finds”, CBC News (6 December 2021), online: <www.cbc.ca/news/canada/warning-signs-intimate-partner-homicide-1.6269761>.

⁴⁸ *Ibid.*

⁴⁹ See Shaina Luck, “Coercive control, the silent partner of domestic violence, instils fear, helplessness in victims”, CBC News (7 December 2021), online: <www.cbc.ca/news/canada/nova-scotia/relationships-domestic-violence-control-1.6271236>.

⁵⁰ See House of Commons, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, (Report of the Standing Committee on Justice and Human Rights) (April 2021) 43 Parl 21 S [Ombudsman Report].

D. IPV Law in Canada

At present, domestic violence is not itself an offence within the *Criminal Code*.⁵¹ What is criminalized are specific manifestations of violence that might occur within an intimate partner relationship. This non-exhaustively includes physical violence, sexual violence, sexual assault, non-consensual distribution of intimate images, forceable confinement, hurling threats, trespassing at night, intimidation, indecent and harassing communications, criminal harassment, theft, extortion, and fraud.⁵² Ostensibly, this presents an extensive list that could outlaw IPV en masse. But these laws are insufficient in capturing coercive control for two major reasons.

Firstly, all the crimes listed are robbed of their context. As articulated above, coercive control is more than a type of offence but a comprehensive system of domination against another individual shaped by the intimate relationship. To cherry-pick certain forms of violence as worthy of being outlawed over others denies the variety of harms committed against abused individuals and the overarching hostile environment these harms exist within. It divorces the technologies of fear adduced from continued exposure in a relationship to learn what uniquely makes one individual afraid and how that fear can be exploited to further subject them to the domination of the abuser. Without codifying the relationship coercive control violence exists within, survivors' experiences are stripped of the intimate context of original trust and care that shaped their manipulation and domination.⁵³

Secondly, by failing to create provisions that specifically address IPV, the escalation of how purportedly 'minor' offences that might be excluded from this list can increase to physical and sometimes fatal violence is also dismissed. If the purpose of criminal law is not just to sanction but also to prevent harm against individuals, the behaviours exhibited in coercive control must be outlawed. Until such criminal prohibition is instated, a gap persists in protections for those surviving violence.

⁵¹ See *Criminal Code*, RSC, 1985, c C-46.

⁵² See *ibid*.

⁵³ See "Coercive Control Framework", *supra* note 16.

Ramifications of legal inadequacies can be felt in other aspects of the criminal law as well, particularly in contexts where women kill their abusers. Stark has argued that when using coercive control to assess the psychological state of women who murder their abusers, it makes much more sense to view this from a lens of a hostage attempting to flee as opposed to the stereotype of a hysterical woman who snapped.⁵⁴ In *R v. Lavallee*, the Supreme Court of Canada addressed the role of relying on psychological, medical, and social work experts sharing these same views that the psyche of women in these contexts must be addressed contextually and without lending to stereotypes.⁵⁵ But yet, the defense in Canadian criminal law is incredibly difficult to prove. “Battered Woman Syndrome” (BWS) is not an official defense in and of itself but is a recognized line of argumentation under Canada’s self-defense laws addressing the specific context of women who have been repeatedly abused and eventually murder their abusers when threatened.⁵⁶ The requirements of the defense denote an immediate and pressing threat of violence which may not always manifest in IPV the way it does in typical self-defense arguments. This includes assessing whether the harm was imminent, whether a weapon was threatened to be used, the nature of the instigator’s force, and more.⁵⁷ Although this section of the Criminal Code has been rewritten to induce flexibility and inclusivity for pleading BWS, it nonetheless emphasizes threats of physical and immediate violence. Moreover, since mandatory minimum sentences are incredibly high, many women do not wager the chance of attempting to prove their self-defense arguments that ostensibly present as flimsy in an IPV context and alternatively vie for (what many have argued to be unjust) plea

⁵⁴ See *Coercive Control*, *supra* note 3.

⁵⁵ See *R v Lavallee* [1990] 1 SCR 852 at 889–90, 55 CCC (3d) 97 [*Lavallee*].

⁵⁶ See Kit Kinports, “The Myth of Battered Woman Syndrome” (2014) 24 Temp Pol & Civ Rts L Rev at 313.

⁵⁷ See *Criminal Code*, *supra* note 51, s 34. See also Regehr & Glancy, “Battered Woman Syndrome Defense in Canadian Courts” (1995) 40:3 Can J Psychiatry (note: in academic literature examining BWS including medical academia, this list has been enumerated as the following: “1. The existence of complex post-traumatic stress disorder; 2. The existence of battered woman syndrome; 3. The uniqueness of the events leading to the offense; 3. The woman’s psychological functioning which affected her apprehension of death and led to the use of lethal force; 4. Why the woman remained in the abusive relationship” at 131).

deals.⁵⁸ If there were perhaps codified law on the books that outlawed coercive control violence that women are subject to in IPV, this could provide better platforms to explain the psychological state and the way in which the threat to their life was perceived to better argue self-defense.

Responses have arisen to fill these gaps in law. The Government of Canada's Office of the Federal Ombudsman for Victims of Crime commissioned research that recommends the adoption of a coercive control offence. Interviewing multiple community stakeholders including non-profit organizations, scholars, survivors, law enforcement personnel, and others, the Ombudsman issued recommendations including that the House of Commons acknowledge the harms of coercive control and that the Minister of Justice initiate a taskforce of experts to consider legislating against coercive and controlling behaviour in the Criminal Code.⁵⁹ This is a necessary first step to address the dilemma of coercive control, but does not provide tangible solutions.

Bill C-247

A private member bill, Bill C-247 is currently being studied by the Canadian Parliament to add this offence to the Canadian Criminal Code.

Offence: 264.01 (1) Everyone commits an offence who repeatedly or continuously engages in controlling or coercive conduct towards a person with whom they are connected that they know or ought to know could, in all the circumstances, reasonably be expected to have a significant impact on that person and that has such an impact on that person.

⁵⁸ See Debates of the Senate, Official Report (Hansard), 152 No 10 (5 November 2020) at 296 <publications.gc.ca/collections/collection_2020/sen/Y3-432-10-eng.pdf> [Senate].

⁵⁹ See *Ombudsman Report*, *supra* note 50.

Interpretation – significant impact (2) For the purposes of subsection (1), the conduct has a significant impact on the person if

(a) it causes the person to fear, on reasonable grounds, on more than one occasion, that violence will be used against them;

(b) it causes the person's physical or mental health to decline; or

(c) it causes the person alarm or distress that has a substantial adverse effect on their day-to-day activities, including

(i) limits on their ability to safeguard their well-being or that of their children,

(ii) changes in or restrictions on their social activities or their communication with others,

(iii) absences from work or from education or training programs or changes in their routines or status in relation to their employment or education, and

(iv) changes of address

It outlaws repeated or continuous engagement "in controlling or coercive conduct towards a person with whom they are connected that they know or ought to know could, in all the circumstances, reasonably be expected to have a significant impact on that person and that has such an impact on that person."⁶⁰ Coercive and controlling behaviour is defined as any of the following: causing the person to "fear that violence" will be used against them, causing "the person's physical or mental health to decline," or causing "alarm or distress that has a substantial adverse effect on their day-to-day activities" which include the ability to take care of children, engage in social activities and communications, cause absences at work or school,

⁶⁰ See Bill C-247, *An Act to amend the Criminal Code (controlling or coercive conduct)*, 2nd Session, 43rd Parliament, 2020.

or cause them to change their address.⁶¹ Central here, is a defining of coercive control as a pattern of creating fear.

Although this is commendable for its focus upon the impacts on survivors as well as its focus upon domination and harm there are still some gaps. Notable in this definition is that coercive control excludes physical or sexual violence. To allege those acts of violence requires turning to other provisions in the Criminal Code. Is this a disservice to limit coercive control to anything but physical violence? Stark argues, in an analysis of different laws in the United Kingdom, that the goal of legislating

is to identify a singular malevolent intent to dominate, whatever the interplay of the means deployed to instil fear of resistance/refusal and/or dependence/incapacitation. Properly drawn, coercive control sets physical and sexual violence against women in the context of myriad complementary nonviolent coercive and controlling tactics that make the serious criminal intent to dominate coherent over time and across social space.⁶²

He admonishes efforts of the UK legislature to simply add psychological abuse to the books, and redirects efforts to a comprehensive framework of outlawing violence against women.⁶³ Here, although the bill clearly attempts to grapple with the nuances of coercion through broad language that centers the survivor's experience, a regime is required to adequately encapsulate all the violence that can fall into coercive control, including sexual and physical violence. This in turn lends to seeing coercive control beyond a pattern but an environment of abuse as Stark argues. The aim is not to legislate a new offence or pattern of behaviour, it is to codify a system of abuse.

But what would this look like in the criminal law?

In the face of an epidemic of coercive control pervading Canadian society, the social consensus contends domestic laws have yet to catch up; that we must newly legislate to protect survivors. But what if there are already obligations Canada has committed to that can draw as inspiration for such legislation?

⁶¹ *Ibid.*

⁶² See "Coercive Control Framework", *supra* note 16 at 40.

⁶³ See *ibid.*

What if the principles to fight against coercive control already exist?

Returning to Stark's argument of the specificities of coercive control contexts, I build on his argument that they mirror capture crimes.⁶⁴ In public international law, these crimes are governed by international humanitarian law (IHL) and international human rights law (IHRL) predominantly.⁶⁵ IHL—the law of war—addresses the rights of civilians and combatants in gruesome bloodshed to prevent their deprivation of liberty.⁶⁶ This heightened context of violence and attempts to regulate it provide a critical glimpse into what values the international community believes are fundamental even in a state of violent war-making. Many of these norms are peremptory, meaning that they are universally accepted and binding upon all states, including Canada.⁶⁷ Canada has also signed onto many treaties ratifying their convictions to respect civilian and combatants' rights in war. Concurrently, IHRL endows rights and freedoms to all persons at all times, including where capture crimes happen outside of armed hostilities.⁶⁸ I argue that lessons can be drawn from what Canada has already committed to international law (IL) on a global scale, applied to the domestic realm to support their own citizens.

III. Applying Public International Law

A. Rationale

To begin examining IHL and IHRL as regimes for domestic coercive control solutions, it is important to first flesh out whether

⁶⁴ See *Coercive Control*, *supra* note 3.

⁶⁵ International Criminal Law is also a viable option in certain contexts to hold individuals accountable. This will not be explored in this paper.

⁶⁶ See Sandesh Sivakumaran, "International Humanitarian Law" in Daniel Moeckli et al, eds, *International Human Rights Law*, 3rd ed (Oxford: Oxford University Press, 2018).

⁶⁷ See René Provost, *International Human Rights and Humanitarian Law* (Cambridge: Cambridge university Press, 2002).

⁶⁸ See *ibid*.

this parallel is apt. Indeed, it is not a perfect analogy for many of the unique features of coercive control mentioned previously in this paper. But this does not negate the value that IHL can still provide.

Stark analogizes coercive control violence to that of capture crimes. Capture crimes include taking prisoners of war, hostage-taking, and/or kidnapping.⁶⁹ The parallel to intimate partner violence via coercive control emerges in the following ways: the two are both designed “to punish, hurt, or control a victim; [their] effects are cumulative rather than incident-specific; and [they] frequently result in severe injury or death.”⁷⁰ Stark argues that the deprivation of liberty in “unannounced room searches, bathroom inspections, interrogations, forced confessions, lockdowns ... periods of forced silence, and being denied access to rites of personal hygiene, eating, sleeping, and toileting ... [t]alking about persons in the third person or acting as if they are invisible” are among just some of the few hostile tactics used to humiliate and degrade abused individuals.⁷¹ Therein, coercive control is a comprehensive system of technologies intended to incite fear and establish dominance common in international violations of IHL and IHRL.

It is also not a new phenomenon to draw a parallel between conflict and capture crime to domestic contexts of coercive control. Ann Jones employed domestic US human rights literature to address men’s domination as similar to hostage taking, controlling inmates in concentration camps, and the experiences of American prisoners of war.⁷² She did so through comparing Amnesty International’s ‘chart of coercion’ in global conflict to accounts of intimate partner violence in domestic women’s shelters.⁷³ Lewis Okun also theorized the violent husband as the political terrorist in a context of seeking control and inciting fear.⁷⁴ I take these arguments further by applying these contexts to international legal regimes.

⁶⁹ See *Coercive Control*, *supra* note 3.

⁷⁰ See *ibid* at 205.

⁷¹ See *ibid* at 204.

⁷² See *ibid* at 201.

⁷³ See *ibid*.

⁷⁴ See *ibid* at 200.

It can also be argued that IHL is a state-centric legal regime and drawing state obligations from this order of law is not apt for the domestic setting between private actors. But this denies the humanitarianism embedded within IHL. As much as IHL is about the laws of war, much of it regards protections for civilians and the vulnerable—indeed this comprises much of the premise of the four Geneva Conventions. As well, IHRL deconstructs a sovereignty-driven public international law sphere by forcing a subject out of the individual, instead of solely states.⁷⁵ This will complement the argument further by putting the individual first.

IHRL also may be argued to be superfluous in analysis, as much of its provisions are codified in domestic laws of states such as those of anti-discrimination this paper will heavily rely on.⁷⁶ Although this may be true, IHRL reflects a normative consensus of the global community—a value-add that cannot be found in domestic law. Such communal understandings of anti-discrimination, women's rights, and human rights protections overall provide more gravity to the provisions this paper will invoke.

There are nonetheless limitations with these regimes. There are several outdated concepts that can be deemed paternalistic, patriarchal, and entrenching of the gender binary in IHL. This includes the preservation of "honour" in provisions outlawing sexual violence against women.⁷⁷ I in no way argue that these provisions are acceptable in their written form. It is however accepted in much of the scholarly literature and present interpretation of IHL to glean the underlying principles of protection while denouncing old guard conceptualisations of gender.

All this determined, this paper will examine a select few rules of customary IHL read in the spirit of certain IHRL provisions.

⁷⁵ See Frédéric Mégret, "International Human Rights Law Theory" in Alexander Orakhelashvili, ed, *Research Handbook on Theory and History of International Law* (Toronto: Edward Elgar, 2010).

⁷⁶ See generally Canada Human Rights Commission, "Human Rights in Canada" (2021), online: CHRC <www.chrc-ccdp.gc.ca/en/about-human-rights/human-rights-canada>.

⁷⁷ See ICRC, "Internal Conflict or other situations of violence—what is the difference for victims" Interview (October 2012).

Parallels will be drawn to understand historical context of how the violence allows for domination, how these harms were outlawed, and how parallels can be drawn to coercive control. These linkages in coercion will formulate addressing solutions for a comprehensive legal framework that outlaws coercive control. I do this by examining two key features of capture crimes: terrorism and liberty deprivation.

B. Terrorism

Customary IHL Rule 2 prohibits acts or threats of violence, the primary purpose of which is to spread terror among the civilian population.⁷⁸ This provision of IHL outlaws any form of terrorism. Terrorism is difficult to define as its manifestations, responsible actors, and mechanisms to punish it are hotly contested in international law.⁷⁹

The ICRC identifies that terrorism includes threats of violence against civilians including “their life, their property, [and] their well-being.”⁸⁰ From this understanding, many parallels can be drawn to coercive control. Stark argues that domination is the main goal of coercive control to ensure the subservience of abused partners, already rooted in women’s inequitable status in society.⁸¹ This is asserted through threats of violence. This can include threats of physical and sexual violence as one may assume, but it may also include threats of violence in structural and resource-driven manners, such as threatening to cut someone off financially, render them unhoused, withhold child support or familial financial support, and other threats militating material violence.⁸² Indeed, uncertainties women often face when seeking to flee an abusive relationship revolve around this monopoly of

⁷⁸ See IHL Database, “Rule 2: Violence Aimed at Spreading Terror among the Civilian Population” (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule2> [“CIHL Rule 2”].

⁷⁹ Note, I begin with an analysis of terrorism per IHL as there are no comprehensive terrorism prohibitions in IHRL.

⁸⁰ See Hans-Peter Gasser, “Acts of terror, “terrorism” and international humanitarian law” (2002) 847:84 Intl Rev Red Cross 547 at 553 [“Acts of Terror”].

⁸¹ See *Coercive Control*, *supra* note 3.

⁸² See *ibid.*

resources; uncertainties of financial and legal stability impede freely leaving domains of coercive control.⁸³ This notion of dependence is critical to render the domination and terrorism effective. Recognizing that IHL outlaws terrorist threats to property, parallels can be drawn to the preservation of civilians' physical, mental, and material well-being as paramount even in hostile armed conflicts.

The actual acts of violence can nonetheless be embodied physically. It is important to note here that unlike the stereotypical image of terrorism imagined of a singular incident that claims the lives of multiple people in a public display of rebellion against a political entity, terrorism in coercive control is routine and "minor," adding up to a sustained context of terror. Among survivors of intimate partner violence in Canada 30% of women have stated that at least one particular form of violence recurred repeatedly—daily, weekly, or even monthly.⁸⁴ This variance is crucial to recognize the public/private divide of terrorism. The ICRC recognizes that terrorism operationalizes as "part of a strategy ... to attain a political goal which allegedly could not be attained by ordinary, lawful means"; to create fear in order to establish conditions which, in the perpetrators' opinion, should further their cause."⁸⁵ Typically, political terrorism only requires one major public act to make its point. Whereas in the domestic context, coercive control necessitates creating fear in a way that is sustained but hidden, so that domination is preserved within the home without further ramifications for the abuser in greater society.⁸⁶ The silent terror abusers are able to devise through coercive control behaviours of humiliation, degradation, and striking fear may not be able to be conducted any other way in the public sphere without social dissent—it requires a private sphere of domination. This directly links to a strategic understanding of terrorism that requires a discrete agenda and exclusive means of deployment. A critical takeaway is thus the

⁸³ See Canadian Women's Foundation, "Day 4: Leave? Easier Said Than Done", *SHE Magazine* (2015), online: <canadianwomen.org/blog/leave-easier-said-than-done/>.

⁸⁴ See "IPV Overview", *supra* note 30.

⁸⁵ See "Acts of Terror", *supra* note 80 at 553.

⁸⁶ See *Coercive Control*, *supra* note 3.

intentionality of coercive control and its reliance upon the cloak of domesticity.

Terrorism can cause great humiliation and turmoil for survivors. Per IHRL, terrorism is a breach to the dignity, liberty, and physical integrity of a person.⁸⁷ Recognizing that women may exist in greater society as employees, bosses, and leaders, the dissonance between their subjugation at home and their purported liberty in the world outside their home can create confusion and shame for women living in coercive control harming their health and sense of self-worth.⁸⁸ This ricochets to a further privatization of the violence, internalized as a fault of the abused as opposed to recognizing the device of control embedded within charging those feelings to begin with. In this way, the terrorism of abusers in coercive control has his goals of domination reach incredibly far into all crevasses of a woman's life. This can impair the enjoyment of guarantees under IHRL such as the right to work or mental health.⁸⁹

This prohibition against terrorism in IHL is widespread. It is one that is found in numerous military manuals, domestic laws, and supported by state practice.⁹⁰ Its value in IHL can also be found in the articulation of IHL devised by states when adopting the Additional Protocols:

Mexico stated that Article 51 of Additional Protocol I was so essential that it "cannot be the subject of any reservations whatsoever since these would be inconsistent with the aim and purpose of Protocol I and undermine its basis." Also at the Diplomatic Conference, the United Kingdom stated that Article 51(2) was a "valuable reaffirmation" of an existing rule of customary international law.⁹¹

Cognizant of the original aim of Additional Protocol I as ensuring the protection of civilians and vulnerable individuals who

⁸⁷ See OHCHR, "Human Rights, Terrorism, and Counter-Terrorism Fact Sheet No 32" (July 2008), online (pdf): OHCHR <www.ohchr.org/documents/publications/factsheet32en.pdf>.

⁸⁸ See *Coercive Control*, *supra* note 3.

⁸⁹ See *International Covenant on Economic, Social and Cultural Rights*, GA Res 2200 (XXI), UNGAOR, UNTS 993 (1966) 3 Art 6, Art 12 [ICESCR].

⁹⁰ See "CIHL Rule 2", *supra* note 78.

⁹¹ See *ibid*.

were growing to become more and more affected by war, the prevention of terrorism is intrinsically tied to a greater purpose: protecting vulnerable civilians.⁹² If protecting civilians is the aim of IHL regulations against terrorism, what parallel can be drawn for coercive control?

In marrying IHRL to this analysis a critical insight emerges for coercive control legislating. The crafting of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was situated in a consistent failing of equality rights guarantees for women. Traditional anti-discrimination human rights mechanisms seemed to fall short of addressing the particular vulnerabilities of women.⁹³ With the rise of neoliberal economic development, women's fates worsened while their structural and systemic inequality globally became more and more entrenched.⁹⁴ CEDAW was a direct response to recognize the vulnerability of women on a systemic scale for the first time in modern institutionalised human rights.⁹⁵ Women are vulnerable under global systems of capitalism, white supremacy, and heteropatriarchy.⁹⁶ If vulnerability is the measure for protecting civilians in IHL from terrorism, parallels can be drawn to coercive control. Stark argues that regardless of women's purported gains in society,

If the threats posed by equality prompt men to initiate coercive control, its foundation is continued sexual discrimination and particularly women's default consignment to domesticity. To implement coercive control, men must personalize their dominance over women by piecing together the remnants of structural and cultural

⁹² See ICRC, "Protocols I and II additional to the Geneva Conventions" (2009), online: ICRC <www.icrc.org/en/doc/resources/documents/misc/additional-protocols-1977.htm>.

⁹³ See UN Women, "Short History of CEDAW Convention" (2009), online: UN Women <www.un.org/womenwatch/daw/cedaw/history.htm>.

⁹⁴ *Ibid.*

⁹⁵ See Christine Min Wotipka & Francisco O Ramirez, "World society and human rights: an event history analysis of the convention on the elimination of all forms of discrimination against women" (2008) 3096 *Gl Diff Markets and Democ* 303.

⁹⁶ See Bonnie J Fox, "Conceptualizing patriarchy" (1988) 25:2 *Cdn Rev Soc* 163 ["Patriarchy"].

constraints on which male privilege depended in the past and tailoring the resulting strategy to their individual relationships. The result is makeshift and transparent, setting the stage to eliminate sexual dominance in everyday life once and for all. As always, the devil is in the details.⁹⁷

Not only do men in coercive control terrorize, but they weaponize vulnerability that is specific to each individual abused woman, but also the greater social structures she is subjugated by as well. IHRL and IHL provide critical tools to understand that terrorism protections are intended to protect the vulnerable, which includes women. That systematically men discriminatorily terrorise women to exert dominance through coercive control necessitates legislation that not just outlaws the inciting of fear but recognizes a subjective vulnerability that is weaponized to terrorise women in repeated and routine behaviours intended to subjugate and reduce a woman to the status of a subject.

This is exemplified through how terrorism may manifest intersectionally in coercive control IPV. Where abusers or abused women are people of colour, stereotypes about angry, barbaric, or 'uncivilized' communities may spark further fear in sharing their stories of furthering harm to a community or being reduced to a stereotype instead of receiving responsive and culturally sensitive help.⁹⁸ Divorcing the terrorism created by abused partners from the social context in which abused people exist renders a disservice to the lengths in which fear can run rampant for a survivor of violence. As well, where survivors may be queer or trans, sharing violence directed at those identities and belittling them requires seeking support that may 'out' their identities.⁹⁹ The silence around such violence manipulates the structural and systemic inequalities women exist within. Ultimately, violence will manifest differently for racialized, trans, queer, disabled women

⁹⁷ See *Coercive Control*, *supra* note 3 at 172.

⁹⁸ See Allison E Monterrosa, "How race and gender stereotypes influence help-seeking for intimate partner violence" (2019) *J Interpers Viol*.

⁹⁹ See Sarah M Peitzmeier et al, "Intimate partner violence in transgender populations: Systematic review and meta-analysis of prevalence and correlates" (2020) 110:9 *Am J Pub H* e1. See also Julia K Walker, "Investigating trans people's vulnerabilities to intimate partner violence/abuse" (2015) 6:1 *Partner Abuse* 107.

and marginalized others using racism, transphobia, homophobia, ableism, and other means of discrimination to harm women.

Therefore, IHL provides insights to assess the strategy, domestic covert context, and weaponization of vulnerability inherent to coercive control that must be legislated against in a comprehensive framework.

C. Torture

The prohibition against torture is a *jus cogens* norm; no matter the circumstance this must always be guaranteed and cannot be derogated from.¹⁰⁰ It is also a customary norm of IHL¹⁰¹ and codified under IHRL through the United Nations Convention Against Torture (UNCAT).¹⁰² I rely on the prohibition under IHL as it applies to private parties, unlike the UNCAT. Under IHL, torture consists of “severe physical or mental pain or suffering” for purposes such as “obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.”¹⁰³ Parallels can be drawn to coercive control.

Stark argues that although the general analogy of torture is apt, within intimate relationships it is not a political act and is highly personal and individualized. Indeed, as was discussed prior in this paper the unique features of coercive control are dependent upon specialized knowledge through continued exposure and diffuse acts of violence probably deemed ‘minor’ to the external spectator—all not easily mapped onto traditional ideas of torture. I argue, however, that IL provides leeway for

¹⁰⁰ See Pisilo Mazzeschi, “Protection of Life and Physical Integrity of the Person” in *International Human Rights Law* (Switzerland: Springer Nature, 2021).

¹⁰¹ See *ibid.*

¹⁰² See UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85 online (pdf): <www.refworld.org/docid/3ae6b3a94.html>.

¹⁰³ See IHL Database, “Rule 90: Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, are prohibited” (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule90>.

analogizing more so than Stark gives traditional torture conceptualizations credit for.

Firstly, torture under IHL attempts to inflict pain to instill coercion and obedience. This is a critical similarity to coercive control as it recognizes the imposition of harm for the domination of the torturer at the other's expense. As well, torture under IHL is recognized as a means of discriminating against the victim, not necessarily mandating any other political purpose. As has been argued throughout this paper under international law and coercive control theory, women are discriminated against on the basis of their gender. For women of intersecting identities of race, class, queerness, and ability, this will manifest in intersecting systems of oppression and discrimination. This bolsters Stark's thesis of subjugation through discriminating against women and rendering torture as it exists in IL an apt parallel.

Secondly, Common Article 3, common to all four Geneva Conventions, outlaws torture and degrading inhumane treatment violating personal dignity. It has been articulated that "the principle of humane treatment 'is in truth the leitmotiv of the four Geneva Conventions.'"¹⁰⁴ The prohibition against torture in IHL is thus fundamental to some of its earliest and defining legislative texts. At this point, it would not be possible for IHL to conceive of all possible interrogation methods or techniques, especially as technologies rapidly progress. Droege writes that the definitions are intended to comprise vast swaths of action and circumstance, thus there is no exhaustive list of interrogation methods but these rather respond to the circumstances of each case.¹⁰⁵ Per this logic, it is not necessarily impossible to conceive the intentional infliction of pain to incite obedience from abusive men to their intimate partners as torturous. Although Stark speaks of political torture as often encompassing solely established practices of torture such as waterboarding, per the law there is technically no exhaustive list, only existing recognized practices.¹⁰⁶ Further, if the severity of the harm did not necessarily meet the definition of torture it could still constitute cruel or inhuman treatment through serious physical or

¹⁰⁴ See Cordula Droege, " 'In truth the leitmotiv': the prohibition of torture and other forms of ill-treatment in international humanitarian law" (2007) 89:867 Intl Rev Red Cross 515.

¹⁰⁵ See *ibid.*

¹⁰⁶ See *ibid.*

mental suffering or serious attack on human dignity.¹⁰⁷ What is pertinent is not the label, but the lengths to which IHL can be tested to ensure its fundamental assertion that all individuals should be treated humanely.

The takeaway, therefore, is the focus IHL places on humane treatment and maintaining dignity. Where an individual inflicts harm to discriminate or induce domination, IHL recognizes this as possibly torturous. This provides lessons for legislation as what appears 'humane' or 'minor' to an outsider, when read in a context of torture through inflicting pain intentionally to coerce, provides enriched perspective to nuance what torture may actually constitute. Thus criminal law sanctioning and prohibiting coercive control should address this scope of harm as understood through torture rooted in inflicting pain and seeking an end goal of domination.

D. Pillage

Customary IHL rule 52 prohibits pillage. This acts as a harbinger for an underlying theme of resource control: the vulnerable should have access to material resources even during the context of war.

Pillage is defined as "the forcible taking of private property by an invading or conquering army from the enemy's subjects."¹⁰⁸ It has been outlawed since the earliest iterations of IHL as in the Lieber Code used during the US Civil War.¹⁰⁹ Today, even with laws of belligerent occupation¹¹⁰, a state must leave the economic and material resources of a region at the same state or in an

¹⁰⁷ See *ibid.*

¹⁰⁸ IHL Database, "Rule 52: Pillage" (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule52> ["CIHL Rule 52"].

¹⁰⁹ See Patrick J Keenan, "Conflict Minerals and the Law of Pillage" (2014) 14:2 Chic J Intl L 524.

¹¹⁰ Belligerent Occupation takes place when a territory and consequently a population is placed under the authority of a hostile army. They take effective control of the region (see Sylvain Vit , "Occupation" in Ben Saul & Dapo Akande, eds, *Oxford Guide to International Humanitarian Law* (Oxford: Oxford University Press 2020) 299).

ameliorated position to when it seized the territory.¹¹¹ Present norms governing property and material resources is shaped by the destruction enacted throughout World War II and a reconceptualizing of war as beyond victor's justice but of preserving vulnerable individuals' well-being. This is evidenced by the focus of Article 16 of the Fourth Geneva Convention. This articulated that Parties must "search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment."¹¹² The association between protecting the vulnerable in times of hostilities and ensuring their property and resources are not robbed is critical to drawing a comparison to coercive control.

Although pillage is not a capture crime, I argue that the analogy is warranted because of its use as an abusive tactic. In the context of coercive control similar to torture and terrorism I've described above which have similarities to capture crimes, the analogy I draw is that of an abuser pillaging the abused's material, economic, financial resources and property. The abuser takes the role of a conqueror through coercive control against a person he makes an enemy through forceful subjugation. Although Stark might argue that an analogy to being conquered or colonized is not the same as the capture crime analogy because of the context of perceived 'gender equality'¹¹³ of women and men, I argue this is too positivistic an understanding of equality. Focusing on the actual material and social status of women in relation to men under patriarchy lends to a context of institutional discrimination and women's systemic subjugation.¹¹⁴ On Canadian land where settlers literally colonized Indigenous peoples' lands, the colonizer-colonized parallel can be perceived as somewhat fair.¹¹⁵

One may confine pillaging to men's withholding or preventing access to existing tangible finances, but Stark provides

¹¹¹ See generally Yoram Dinstein, *The International Law of Belligerent Occupation*, 2nd ed (Cambridge: Cambridge University Press, 2019).

¹¹² See Christopher Greulich & Eric Talbot Jense, "Cyber Pillage" (2020) 26:264 *Southwestern J Intl L* 265 at 275 ["Cyber Pillage"].

¹¹³ See *Coercive Control*, *supra* note 3 at 199.

¹¹⁴ See "Patriarchy", *supra* note 96.

¹¹⁵ See Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada Interim Report*, (Winnipeg: 2012).

a gendered understanding of financial control that IHL provides a lens to assess. He argues that “ceding major financial decisions to men or quitting work to ‘make a home,’ or target[ing] devalued activities to which women are already consigned, like cooking, cleaning, and child care” are all tactics of coercive control.¹¹⁶ I argue that the feminization of domestic labour in these contexts without pay, recognition, or equal division along lines of gender within the home constitutes pillaging. It is to be noted that care work has historically been devalued under patriarchy which situates this overall conversation.¹¹⁷ Indeed, if IHL assesses that material resources are conquered through subjugation, an abused partner’s contributions to the functioning of a home without equitable contribution from the abuser or compensation while continuing to be terrorized and forced into a domestic position constitutes pillaging.¹¹⁸ The destruction during World War II of property was visible, and necessitated protecting the material resources of individuals leading to a prohibition of pillaging.¹¹⁹ Coercive control renders this pillaging visible by spotlighting restrictions of material resources as abusive.

It is important to note that this does not necessarily mean that women’s employment reduces odds of coercive control. As has been mentioned prior in this paper, that is very much a reality and can impede women’s quality of work and ability to retain employment. Indeed, the premise of coercive control’s manifestation post-Industrial Revolution is the threat of women’s autonomy through an income undermining men’s dominance.¹²⁰ The focal point of an argument assessing pillage in domestic labour is the confining of control within a singular space for the ‘patriarchy in miniature’ Stark describes to thrive in a concentrated fashion. Coercive control simply manifests differently when a woman works in a separate workplace as

¹¹⁶ See *Coercive Control*, *supra* note 3 at 211.

¹¹⁷ See generally Meg Luxton, “The UN, women and household labour: Measuring and valuing unpaid work” (1997) 20:3 W S Intl Forum 431.

¹¹⁸ See “CIHL Rule 52”, *supra* note 108.

¹¹⁹ See “Cyber Pillage”, *supra* note 112.

¹²⁰ See *Coercive Control*, *supra* note 3.

well.¹²¹ Moreover, under IHRL women have the right to material resources. This is envisaged in their right to work.¹²² Indeed, Canadian courts have interpreted this right to work as inherent to identity and self-worth, through the ability to produce and contribute to society.¹²³ These are important to nuance in such considerations.

The requirement for aid to continue to be provided during conflict under IHL further highlights the emphasis on access to material resources necessary for vulnerable persons during war.¹²⁴ Even in conflict, states have obligations to ensure that humanitarian relief is made possible to those affected by the hostilities. This accentuates the importance of material resources to autonomy and survival. I argue this highlights the violence and ramifications inherent to coercive control that restricts access to material goods, finances, and property.

This focus on material resources provides important insight to legislating against coercive control. It is not only the withholding of financial resources or restricting of access to these goods, but the gendered dynamics that produce a structure of dependency and undervalued labour is also inherent to coercive control. This is important to consider so as not to draw parameters too stringent around financial abuse.

Ultimately, terrorism, torture, and pillage as assessed herewith under international law provide extensive elaboration and explication to bolster a more holistic and nuanced understanding of criminalizing coercive control. More importantly, Canada has recognized all of these obligations internationally through treaty ratification and customary law. The values shared globally through its obligations must translate into the domestic sphere to protect its citizens.

¹²¹ See generally Ana Tur-Pats, "Unemployment and intimate partner violence: A Cultural approach" (2021) 185 J Econ Behv & Org 27.

¹²² See ICESCR, *supra* note 89 at Art 12.

¹²³ See *Slaight Communications Inc v Davidson* [1989] 1 SCR 1038, 59 DLR (4th) 416 (Dickson J argues that "[a] person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being" at 1054).

¹²⁴ See ICRC, "Rule 55: Access for Humanitarian Relief to Civilians in Need" (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule55>.

IV. Devising Solutions

Having assessed three key components of IHL and IHRL that translate onto the coercive control operation, I return to Bill C-247. Recall, Bill C-247 attempts to prohibit the following:

Offence: 264.01 (1) Everyone commits an offence who repeatedly or continuously engages in controlling or coercive conduct towards a person with whom they are connected that they know or ought to know could, in all the circumstances, reasonably be expected to have a significant impact on that person and that has such an impact on that person.

Interpretation – significant impact (2) For the purposes of subsection (1), the conduct has a significant impact on the person if

(a) it causes the person to fear, on reasonable grounds, on more than one occasion, that violence will be used against them;

(b) it causes the person's physical or mental health to decline; or

(c) it causes the person alarm or distress that has a substantial adverse effect on their day-to-day activities, including

(i) limits on their ability to safeguard their well-being or that of their children,

(ii) changes in or restrictions on their social activities or their communication with others,

(iii) absences from work or from education or training programs or changes in their routines or status in relation to their employment or education, and

(iv) changes of address

The bill excels in ensuring that there is no exhaustive list of criteria that must be met to meet a coercive control tactic or behaviour. By keeping language ambiguous, it supports survivors by being able to flexibly maneuver these provisions to adapt the circumstances of each unique case of coercive control.

It should also be noted that Stark's theory of coercive control centers around domination by men, while this bill centers upon the felt effects of subjugation of survivors of IPV. This is a welcome decentralizing of power structures and narratives to focus on the lived experiences of those who have survived abuse.

There are, however, concerns regarding the wording that relates to the lessons drawn from IHL and IHRL explained above.

In assessing the interpretation of significant impact the idea that fear of violence must be assessed on reasonable grounds might make it difficult for survivors to prove their claims. Specifically, the terror incited is often construed as 'minor' as was previously mentioned, while threats of violence may not always be followed through. Moreover, what form this violence manifests as—sexual, physical, financial, social etc.—shapes the fear of the threat. Without defining violence, the reasonableness of the fear is also rendered somewhat ambiguous. As was deduced throughout the paper, fears of financial threats of violence itself could render someone in a context of coercive control among many other methods.

Further to the point of ambiguity in threats of violence, the "reasonableness" of threats of violence should be assessed from a subjective perspective of the survivor as opposed to a detached third party. Recognizing that coercive control is particular and unique to each 'patriarchy in miniature' Stark describes, reasonableness can only really be construed per each intimate relationship.

Proving substantial adverse effects in the workplace can be difficult for many women. As was addressed, Stark outlines the feelings of shame and humiliation women feel being coercively controlled in the domestic sphere while thriving as employees and leaders in the workplace.¹²⁵ Although coercive control can impede many people's workplace performance, many work to

¹²⁵ See *Coercive Control*, *supra* note 3.

hide this for control and stability in their lives. Harms in the few settings women have control over should be addressed flexibly.

Furthermore, in assessing labour changes, the bill should also be open to considering gendered dynamics in which abused women have stayed home and performed domestic work. The undervaluing of their labour while exploiting it can constitute alarm or distress resulting in changing relations of their 'employment' from a lens of feminized labour.

As well, there is no addressing of discrimination anywhere in the bill. It must be asserted, that the violence used and manipulated weaponizes existing vulnerabilities and greater social vulnerabilities women may have as a result of gender inequality among other discriminatory social phenomena women may be subject to. That violence is not defined via discrimination, that felt consequences do not address discrimination, and that overarchingly social positioning as shaping consequences is not outlined should be of note. This can often be pivotal in understanding the violence. If not in the bill itself, perhaps it should be accompanied in guidelines intended to help adjudicate such cases for judges and advocates.

In assessing IHL and IHRL, I made numerous observations about terrorism, the weaponization of vulnerability, the focus upon intentional infliction of harm for the gains of domination and subjugation, the withholding of resources as pillaging and more. These are critical insights, but the question arises as whether these can in fact be mapped onto the criminal law adequately. The more and more particularities emerge in understanding coercive control, the more and more difficult it may be to prove each one. Indeed, Stark cautions against a laundry list of harm. I argue that a survivor-centric focus requires focusing on the felt experiences of abuse. Ambiguous language, such as that found in Bill C-247 may be the answer, but too many holes without addressing a system of abuse can also create harm.

What emerges in this analysis of both domestic and criminal law is the need for flexible interpretations of coercive control that recognize systems of harm, power, and victimisation. Perhaps then, the value of legal analyses shows up not in the construction of the law but its assessment. This provides a human-rights-based approach to policy that can be essential to how law is understood

and equipped to criminalize coercive control.¹²⁶ For example, manuals and guidelines for judges, prosecutors, and police to better understand the goals of coercive control and its protective values for survivors could be worthwhile in substantiating the lessons advanced from IHL and IHRL outlined in this paper.

Moving forward, criminal legislation should focus on encapsulating a hostile environment in which abused individuals are terrorised, tortured, and pillaged. Violence should not be limited to an exhaustive list, but they should also not require turning to other arbitrary parts of a criminal code to bolster a claim. Systematizing and centralizing violence under one comprehensive regime in the criminal law will better lend to a holistic understanding of the unique violence and its multiple iterations that can manifest under coercive control.

A Note on Battered Woman Syndrome

Earlier in this paper I noted that ramifications in the criminal law from a lack of coercive control may be felt for women who murder their abusive partners. Throughout the analysis of IHL and IHRL I have focused on how the terrorising of women is part of a strategy of domination that weaponizes vulnerabilities of women to particularly induce fear unique to them. Moreover, in depriving them of their liberty through acts of IPV torture and pillaging they are confined to dependency, shame, and humiliation. These lend to fundamentally altering the psyche of women. This can easily map onto Lenore Walker's famous 'cycle of violence' in which women are abused, there is a period of reconciliation, and the violence continues cyclically. In recognizing the particular coercive control harm addressed by IHL and IHRL, we can consider Stark's analogy of capture crime as providing footing to legislate better supports for pleading Battered Woman Syndrome.

Stark's analogy catalyzes a critical lens to assess women's reactions to abuse through understanding coercive control as similar to a capture crime:

¹²⁶ See Savitri Goonesekere "A rights-based approach to realizing gender equality" (1998) in *Keynote speech at the Seminar on a Rights-Based Approach to Gender Equality Rome 5-7*.

Reflecting the high value we place on individual liberty is an almost unqualified right for POWs, kidnap victims, and hostages to act proactively to free themselves, even if this means killing their captors when they are most vulnerable. Reframing abused women as hostages suggests they be accorded a similar right, thereby bypassing narrow standards of self-defense. Rarely do we apply demeaning stereotypes to persons who commit violence in the defense of their freedom or autonomy.¹²⁷

This emphasis on a survivor-centric understanding of coercive control – envisioned through capture crime criteria – lends to assessing responses of women equipped by a paradigm beyond the confines of the perceived histrionics of battered women who ‘snapped’ and instead assess their resilience in attempting to escape entrapment. If the law codified coercive control as a legitimate offence in which women’s altered mental state was legally recognized, unique threats of violence were understood as legitimate beyond stereotypical understandings of self-defense¹²⁸, perhaps women would feel more confident even in the face of mandatory minimums to plead their cases as they’d have a stronger foundation to make their case. The law would automatically recognize the harms that were historically committed against them and prompted their reactions.

V. Conclusion

This paper has ultimately undertaken a rights-based framework to assess how coercive control can better protect survivors of intimate partner violence. Numerous recommendations have been made and lessons drawn to build better policy.

In this framing, it is however important to consider the greater context. As coercive control becomes outlawed, the question emerges as to what resources survivors may need apart

¹²⁷ See *Coercive Control*, *supra* note 3 at 204.

¹²⁸ See *Lavallee*, *supra* note 55. See also Dennis J Stevens, “Interviews with Women Convicted of Murder: Battered Women Syndrome Revisited” (1999) 6:2 *Intl Rev Victimology* 117.

from just legislation and what resources may abusers need to rehabilitate and re-enter society without causing harm to others and themselves.

Law cannot exist without adequate social policy. Canada is presently engaging in a national strategy to end gender-based violence.¹²⁹ Coercive control legislation must tack onto these precepts to better support survivors through the various facets of their lives that may be affected by abuse: the wage gap must be secured to ensure adequate employment for financial stability, housing precarity must be addressed so women can leave circumstances of intimate partner violence, student loans may be forgiven for those whose financial precarity and contexts of coercive control render their inability to pay those amounts, healthcare should be provided to heal both physically and mentally from the scars of coercive control. Similarly, perpetrators should be provided access to counselling, therapy, and other emotional supports to identify and unlearn harmful behaviours.

Recognizing the overarching framework of coercive control, an exclusively carceral and legislative approach will not solve the overarching problem of intimate partner violence. Holistic policy and data-driven responses can help ensure a safer community for individuals to partake in free from violence against women.

¹²⁹ See Government of Canada, “The Gender-Based Violence Strategy” (2021), online: Women and Gender Equality Canada <women-gender-equality.canada.ca/en/gender-based-violence-knowledge-centre/gender-based-violence-strategy.html>.

Bibliography

LEGISLATION

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UNGAOR, UNTS 1465 (1984) 85.

Criminal Code, RSC, 1985, c C-46.

International Covenant on Economic, Social and Cultural Rights, GA Res 2200 (XXI), UNGAOR, UNTS 993 (1966) 3.

JURISPRUDENCE

R v Lavallee, [1990] 1 SCR 852, 55 CCC (3d) 97.

Slaight Communications Inc v Davidson, [1989] 1 SCR 1038, 59 DLR (4th) 416.

SECONDARY MATERIALS: GOVERNMENT DOCUMENTS

Bill C-247, An Act to amend the Criminal Code (controlling or coercive conduct), 2nd Session, 43rd Parliament, 2020.

Canada Human Rights Commission, "Human Rights in Canada" (2021), online: CHRC <www.chrc-ccdp.gc.ca/en/about-human-rights/human-rights-canada>.

Debates of the Senate, Official Report (Hansard), 152 No 10 (Thursday November 5, 2020) at 296 <publications.gc.ca/collections/collection_2020/sen/Y3-432-10-eng.pdf>.

Government of Canada, "The Gender-Based Violence Strategy" (2021), online: Women and Gender Equality Canada <women-gender-equality.canada.ca/en/gender-based-violence-knowledge-centre/gender-based-violence-strategy.html>.

Government of Canada, Background, "Zero Tolerance for Barbaric Cultural Practices Act: An Overview" (2014), online: <www.canada.ca/en/news/archive/2014/11/zero-tolerance-barbaric-cultural-practices-act-overview.html>.

House of Commons Canada, Standing Committee on Justice and Human Rights, Evidence, 43-2, No 019 (16 February 2021) at 12:05 (Kamal Dhillon).

House of Commons, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, (Report of the Standing Committee on Justice and Human Rights) (April 2021) 43 Parl 21 S

Public Health Canada, "A Focus on Family Violence in Canada" (2016) Chief Public Health Officer online (pdf): www.canada.ca/content/dam/canada/public-health/migration/publications/departement-ministere/state-public-health-family-violence-2016-etat-sante-publique-violence-familiale/alt/pdf-eng.pdf.

SECONDARY MATERIALS: MONOGRAPHS & CHAPTERS

Barnett, Ola, Cindy L Miller-Perrin & Robin D Perrin, *Family violence across the lifespan: An Introduction* (Thousand Oaks: SAGE Publications, 2011).

Dinstein, Yoram, *The International Law of Belligerent Occupation*, 2nd ed (Cambridge: Cambridge University Press, 2019).

Mazzeschi, Pisilo, "Protection of Life and Physical Integrity of the Person" in *International Human Rights Law* (Switzerland: Springer Nature, 2021).

Mégret, Frédéric, "International Human Rights Law Theory" in Alexander Orakhelashvili, ed, *Research Handbook on Theory and History of International Law* (Toronto: Edward Elgar, 2010).

Provost, René, *International Human Rights and Humanitarian Law* (Cambridge: Cambridge University Press, 2002).

Sangster, Joan, *One hundred years of struggle: The History of Women and the Vote in Canada* (Vancouver: University of British Columbia Press, 2018).

Sivakumaran, Sandesh, "International Humanitarian Law" in Daniel Moeckli et al, eds, *International Human Rights Law*, 3rd ed (Oxford: Oxford University Press, 2018).

Stark, Evan, *Coercive Control; The Entrapment of Women in Personal Life* (London: Oxford University Press, 2009).

———, "The 'Coercive Control Framework' Making Law Work for Women in Marilyn McMahon & Paul McGorrey, eds,

Criminalising Coercive Control (Singapore: Springer Nature Singapore Pte Ltd, 2020).

Vité, Sylvain, "Occupation" in Ben Saul & Dapo Akande, eds, *Oxford Guide to International Humanitarian Law* (Oxford: Oxford University Press, 2020) 299.

SECONDARY MATERIALS: JOURNAL ARTICLES

Amos, Valerie & Pratibha Parmar, "Challenging imperial Feminism" (1984) 17:1 Fem Rev 3.

Avakame, Edem F, "Intergenerational transmission of violence, self-control, and conjugal violence: A comparative analysis of physical violence and psychological aggression" (1998) 13:3 Viol & Victims 301.

Cramer, Elizabeth P & Sara-Beth Plummer, "People of Color with Disabilities: Intersectionality as a framework for analyzing intimate partner violence in social, historical, and political contexts" (2009) 18:2 J Agg, Malt & Trauma 162.

Crenshaw, Kimberlé, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics" (1989) U Chi Legal F 139.

Droege, Cordula, " 'In truth the leitmotiv': the prohibition of torture and other forms of ill-treatment in international humanitarian law" (2007) 89:867 Intl Rev Red Cross 515.

Fox, Bonnie J, "Conceptualizing patriarchy" (1988) 25:2 Cdn Rev Soc 163.

Gasser, Hans-Peter, "Acts of terror, "terrorism" and international humanitarian law" (2002) 84:784 Intl Rev Red Cross 547.

Greulich, Christopher & Eric Talbot Jensen, "Cyber Pillage" (2020) 26:264 Southwestern J Intl L 265.

Hegarty, Kelsey et al, "Domestic Violence in Australia: definition, Prevalence and Nature of Presentation in Clinical Practice" (2000) 173:7 Med J Aust 363.

Johnson, Holly et al, "Intimate femicide: The role of coercive control" (2019) 14:1 Fem Crim 3.

Keenan, Patrick J, "Conflict Minerals and the Law of Pillage" (2014) 14:2 Chic J Intl L 524.

- Kelly, Ursula A, "Theories of intimate partner violence: From blaming the victim to acting against injustice: Intersectionality as an analytic framework: (2011) 34:3 Adv in Nurs Sci E29.
- Kinports, Kit, "The Myth of Battered Woman Syndrome" (2014) 24 Temp Pol & Civ Rts L Rev.
- Luxton, Meg, "The UN, women and household labour: Measuring and valuing unpaid work" (1997) 20:3 W S Intl Forum 431.
- Peitzmeier, Sarah M et al, "Intimate partner violence in transgender populations: Systematic review and meta-analysis of prevalence and correlates" (2020) 110:9 Am J Pub H e1.
- Raj, Anita & Jay Silverman, "Violence against immigrant women: The roles of culture, context, and legal immigrant status on intimate partner violence" (2002) 8:3 Viol ag W 367.
- Regehr & Glancy, "Battered Woman Syndrome Defense in Canadian Courts" (1995) 40:3 Can J Psychiatry.
- Monterrosa, Allison E, "How race and gender stereotypes influence help-seeking for intimate partner violence" (2019) J Interpers Viol.
- Stevens, Dennis J, "Interviews with Women Convicted of Murder: Battered Women Syndrome Revisited" (1999) 6:2 Intl Rev Victimology 117.
- Tur-Pats, Ana, "Unemployment and intimate partner violence: A Cultural approach" (2021) 185 J Econ Behv & Org 27.
- Tutty Leslie M et al, "I Built My House of Hope: Abused Women and Pathways Into Homelessness" (2013) 19:12 Violence Against Women.
- Tyson, Danielle, "Coercive Control and Intimate Partner Homicide" (2020) Fam Viol & Crim L 73.
- Vandello, Joseph A & Dov Cohen, "Culture, gender, and men's intimate partner violence" (2008) 2:2 Soc & Pers Psych Comp 652.
- Walker, Julia K, "Investigating trans people's vulnerabilities to intimate partner violence/abuse" (2015) 6:1 Partner Abuse 107.
- Wathen, C Nadine, Jennifer CD MacGregor & Barbara J MacQuarrie, "The impact of domestic violence in the workplace: Results from a pan-Canadian survey" (2015) 57:7 J of Occupational and Environmental Med.

Wotipka, Christine Min & Francisco O Ramirez, "World society and human rights: an event history analysis of the convention on the elimination of all forms of discrimination against women" (2008) 3096 *Gl Diff Markets and Democ* 303.

SECONDARY MATERIALS: ONLINE & NEWS SOURCES

Canadian Women's Foundation, "Day 4: Leave? Easier Said Than Done", *SHE Magazine* (2015), online (blog): canadianwomen.org/blog/leave-easier-said-than-done/.

Carman, Tara, Ivany, Kimberly & Uguen-Csenge, Eva, "Warning signs present in 1 in 3 homicides of intimate partners, CBC investigation finds", *CBC News* (6 December 2021), online: www.cbc.ca/news/canada/warning-signs-intimate-partner-homicide-1.6269761.

Cotter, Adam, "Intimate Partner Violence in Canada, 2018: An overview" (April 2021), online: *Statistics Canada* www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00003-eng.htm.

Cotter, Adam, "Intimate partner violence: Experiences of visible minority women in Canada, 2018" (May 2021), online: *Statistics Canada* www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00008-eng.htm.

Cotter, Adam, "Table 1A Intimate partner violence, since age 15 and in the past 12 months, by type of intimate partner violence, Canada, 2018" (2021), online: *Statistics Canada* www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00003/tbl/tbl01a-eng.htm.

Egale Canada, "Egale Universal Periodic Review 2017 Submission Annex 4: Gender-based violence" (2017), online: Egale (pdf) www.uprinfo.org/sites/default/files/document/canada/session_30_may_2018/egale_upr30_can_e_annexe4.pdf.

Goonesekere, Savitri "A rights-based approach to realizing gender equality" (1998) in Keynote speech at the Seminar on a Rights-Based Approach to Gender Equality Rome 5-7.

Heidinger, Loanna, "Intimate partner violence: Experiences of First Nations, Métis and Inuit women in Canada, 2018" (May 2021), online: *Statistics Canada* www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00007-eng.htm.

ICRC, "Internal Conflict or other situations of violence—what is the difference for victims" Interview (October 2012).

ICRC, "Protocols I and II additional to the Geneva Conventions" (2009), online: ICRC <www.icrc.org/en/doc/resources/documents/misc/additional-protocols-1977.htm>.

ICRC, "Rule 55: Access for Humanitarian Relief to Civilians in Need" (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule55>.

IHL Database, "Rule 2: Violence Aimed at Spreading Terror among the Civilian Population" (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule2>.

IHL Database, "Rule 52: Pillage" (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule52>.

IHL Database, "Rule 90: Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, are prohibited" (2021), online: ICRC <ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule90>

Jaffray, Briana, "Intimate Partner Violence: Experiences of Sexual Minority Women in Canada, 2018" (April 2021), online: Statistics Canada <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00005-eng.htm>.

Luck, Shaina, "Coercive control, the silent partner of domestic violence, instils fear, helplessness in victims", CBC News (7 December 2021), online: <www.cbc.ca/news/canada/nova-scotia/relationships-domestic-violence-control-1.6271236>.

OHCHR, "Human Rights, Terrorism, and Counter-Terrorism Fact Sheet No 32" (July 2008), online (pdf): OHCHR <www.ohchr.org/documents/publications/factsheet32en.pdf>.

Pan American Health Organization, "Understanding and Addressing Violence Against Women" (2012), online (pdf): World Health Organization <apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf>.

Powers, Lucas "Conservatives pledge funds, tip line to combat 'barbaric cultural practices' ", CBC News (2 October 2015), online: <www.cbc.ca/news/politics/canada-election-2015-barbaric-cultural-practices-law-1.3254118>.

Savage, Laura, "Intimate Partner Violence: Experiences of women with disabilities in Canada, 2018" (April 26 2021), online: Statistics Canada <www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00006-eng.htm>.

Slinkard, Sibley, "She Chose to Get Rid of Him by Murder, Not by Leaving Him: Discursive Constructions of a Battered Woman who Killed in *R v Craig*" (Doctor of Philosophy, York University Faculty of Graduate Studies, 2019) [unpublished].

Taylor, Stephanie, "'Barbaric cultural practices' hotline idea still haunts Tories, MP says", *Global News* (14 November 2021), online: <globalnews.ca/news/8373704/barbaric-cultural-practices-conservatives-2021/>.

Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada Interim Report* (Winnipeg: 2012).

UN Women, "Measuring the Shadow Pandemic: Violence Against Women during COVID-19" (November 2021), online (pdf): UN Women <data.unwomen.org/sites/default/files/documents/Publications/Measuring-shadow-pandemic.pdf>.

UN Women, "Short History of CEDAW Convention" (2009), online: UN Women <www.un.org/womenwatch/daw/cedaw/history.htm>.

World Health Organization, "Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines" (2013), online (pdf): World Health Organization <apps.who.int/iris/bitstream/handle/10665/85240/9789241548595_eng.pdf>.