Twitter Thread by Paul McGorrery

Paul McGorrery
@paulmcgorrery

The ever-incredible @SWACEO from @scotwomensaid is about to give evidence to the Australian federal government's inquiry into family, domestic and sexual violence on criminalising coercive control. I'm going to try and live-tweet.

Link to watch live: https://t.co/KpszEWL8C2

Chair Andrew Wallace is opening this evening's proceedings and inviting Dr Scott to give evidence via teleconference.

Very awkward comment that the Chair wants Dr Scott to speak slowly because of her Scottish accent.

The Chair says in 3 months he hasn't opened a newspaper with an article in it on criminalising coercive control. It's a "hot button topic".

While the Commonwealth won't legislate in this area it could try and help find consistency in the legislation that is developed.

Chair: For every group that comes out in support of this sort of legislation there's another that thinks it's an awful idea.

Dr Scott: I've lived, breathed and written about the development of our law. The first thing I would say is that the status quo was not acceptable in Scotland. And it's not acceptable in Australia either.

Dr Scott: We started out with all this noise that you're describing, about the nanny state. By the time of the stage 3 debate and the vote it was virtually unanimous.

Dr Scott: the Bill was developed over time with significant consultation with Women's Aid and survivors of domestic abuse, both children and adults. Their language is very much reflected in our Bill.

Dr Scott: domestic abuse is complex. It requires a complex law. The original legislation developed for E&W was done in a period of 6 weeks and it just wasn't up to the task. I can't stress enough the importance of working with the women's sector because they are the experts.

Dr Scott: We've had our law passed in 2018, started in April 2019, a year of implementation before COVID. We had widespread training of sheriffs and judges and police. Training isn't a panacea. It is important but not enough.

Dr Scott: What we've seen in the first year of implementation, we're cautiously optimistic. We had over 1000 prosecutions in the first year.

Dr Scott: where implementation has gone well women and children are having more positive experiences with the justice system.

Dr Scott: if I could do it over there are a couple of things we would change. What we wanted was that children were identified as co-victims (not witnesses) of abuse.

Now Jacqui Kilburn from @womensaid.

Ms Kilburn: the important thing that happened, before the legislation was introduced, was changing the focus of police from single incidents to courses of conduct, what really happened in a relationship.

Ma Kilburn: When it comes to the introduction of the legislation we worked with the College of Policing on the training. I have some personal ideas about that training...

Ms Kilburn: it's not all about training, that doesn't change the system. You need a systematic approach to make it effective. Scotland were better at that than we were in England.

Ma Kilburn: you're changing police behaviour, hearts and minds. You're changing the way they understand domestic incidents when you deliver that training. But you have to start from scratch because they don't know about coercive control.

Ms Kilburn: one of the first things we would change is a systematic approach. In order to prosecute and evidence coercive control you need everyone involved. Police collect evidence and prosecutors say it's not good enough. I would train police and prosecutors *together*.

Ms Kilburn: they have to learn how to record coercive control in a completely different way to what they're used to.

Ms Kilburn: everyone comes into contact with coercive control. Health care workers do, social workers do. They all need to understand.

Ms Kilburn: it's important that civil and criminal courts don't operate in silos. We've got legislation coming through that will require more liaison between family courts and criminal courts. (Take note - family and criminal law are intertwined in this respect.)

Chair: we have states and territories with their own laws. Over the top of that we have a federal family law system.

Dr Scott: issues around family and child contact and criminal cases all go on with the same sheriffs and judges. It's quite unusual though to have the same sheriff or judge in the same case. Scotland just passed a new Bill that addressed a lot of the problems that were coming up.

Chair: a number of women's groups are very resistant to the introduction of coercive control as a criminal offence by putting a woman and/or child victim in a situation of giving evidence against their partner or ex-partner is going to be even more traumatic. Comments?

Dr Scott: my heart goes out to them. So many women and children have that experience where they go the system for justice and get retraumatised. One of our biggest concerns is that when you implement new laws you get a spike in arrests of women who are actually victims.

Dr Scott: in Scotland prior to our new law arrests of women ran between 12 and 15 percent of all arrests. We were really concerned that would go even higher. So we did some evidence gathering.

Dr Scott: at the most, at the very most, because domestic abuse is such a gendered phenomenon, women would be perpetrating at less than 5%. So if we exceeded 5% we would know there was a problem.

Dr Scott: so we did a huge amount of prep work to try and prevent this from going wrong. Most of what we wanted was to get the right data from the very beginning. I was very glad to see that the cases that were prosecuted reflected that 5% figure.

Dr Scott: I think the government should listen to concerns about current problems with policing.

Ms Kilburn: victim voices are extremely important. We have victimless prosecutions. Proceedings can go ahead without the survivor giving evidence if there's enough other evidence to do that.

Ms Kilburn: the statistics tell us that 97% of defendants are male and in heterosexual relationships.

Ms Kilburn: they are taught a out coercion and how to have those conversations when the victim and perpetrator both say it's the other one. Counter allegations are problematic, but what we do is speak to victims about their experiences of using police and the courts.

Ms Kilburn: we then go back 6 months after our training. And we have seen a huge shift in what victims are telling us about the way their evidence has been gathered and police understanding about what the relationship is really about.

Dr Scott: the Crown Office and the police here have developed really good protocols for discouraging dual arrests and collecting evidence.

Dr Scott: it's really important that in our law you don't have to prove harm to the victim to prove the crime. You don't have to bring a witness into court and demonstrate that they've been traumatized.

Dr Scott: one of the good parts of our law is that our law can be proven based on intended harm, or if a reasonable person can assume the perpetrator was reckless about whether they'd caused harm to the victim.

Ms Kilburn: it has to have had a serious effect on the victim here in England and Wales.

Chair: conviction rates seem to be low in the UK (I don't know where this keeps coming from - people keep saying it).

Kate Thwaites MP (ALP): we've heard concerns suffering women are reluctant to engage with police and may be even more reluctant over something that's not a physical bruise.

Kate Thwaites: have people been reluctant to come forward about coercive control?

Dr Scott: actually part of our incentive to get a new law was we had thousands of women over 4 years saying what was being prosecuted wasn't their experience.

Dr Scott: I rarely see cases of domestic abuse that don't involve some element of coercion.

Dr Scott: physical violence as an aspect of coercive control are all embedded together. But what women were having prosecuted by police was the tip of the iceberg. Police would trivialize it, saying "well you don't have a broken bone".

Dr Scott: women were rightly concerned. It's getting better. So that's a justifiable concern but it certainly wasn't increased by the legislation. If anything ... we had a woman call our hotline and she wanted us to know she'd been experiencing CC but police kept ...

... telling her that what was happening wasn't against the law. So when the law came in she went back to police. They charged him. He was found guilty. She was over the moon.

Dr Scott: re: conviction rates, they are at least equal to around 85% under the previous law (for domestic abuse). I've had prosecutors say that one of the reasons they like this new law so much is that it gives them more evidence.

Dr Scott: the evidence of coercive control is everywhere. It's on their mobile phones. It's in their bank records. It's everywhere.

Dr Scott: there are really positive consequences in doing a good job of describing the complexity of this phenomenon.

Ms Kilburn: to add to what Marsha says, coercive control isn't a new phenomenon (since the 70s). Prof Stark was the driver in the last 20 years to bring it back into the limelight.

Ms Kilburn: when it comes to disclosure, it has to be the right time for survivors. If it isn't the right time, if they don't feel safe, they will not disclose. But they will disclose more often with the right approach.

Ms Kilburn: physical abuse is *part* of the coercion. It often happens when that survivor might step outside those rules and norms.

Ms Kilburn: the majority of convictions of coercive control in E & W were still being run alongside charges of physical assault.

Ms Kilburn: in the majority of domestic homicide reviews they are highlighting measures of coercive control. One of the major factors is they need to feel safe to disclose, not just to police but to doctors, friends, etc.

Ms Kilburn: when the legislation came out, we put together training. It should have been mandated more broadly.

Dr Scott: the Scottish government funded us to do some training. Multi agency training at the local level, across police, social workers, victim services, the Crown Office.

Dr Scott: COVID has confused the picture somewhat. There is far from an adequate understanding of coercive control in courts in communities in our GPS.

Dr Scott: “you’ll excuse my New York phrase” - hilarious and subtle shade at the Chair’s inappropriate comment on her accent at the start.

Ms Kilburn: unless you get a whole of system approach it’s not going to work. We trained family courts, who support both victims and perpetrators. On one of the deliveries a judge came into the room and said how pleased she was the training was happening.

Ms Kilburn: she said “I want to remind you all to remain impartial”. We didn’t train all the judges. We should have trained all of them.

Ms Peta Murphy MP (ALP): how does it work in Scotland and the UK about training for gender equality and respectful relationships?

Dr Scott: we have a primary prevention work stream. To end violence against women we have to end inequality.

Dr Scott: anyone who hangs their hat on a new law is deluded.

(Side note, I was already a massive fan of Marsha, but her cut-to-the-chase attitude is sorely missing in a lot of Australia.)

Ms Murphy: will criminalising coercive control have a deterrent effect?

Ms Murphy: there’s different penalties for summary and indictable, Scotland went a bit heavier. What are the thresholds for the difference between summary and indictable?

Dr Scott: in the grand scheme of things I’m pretty cynical about deterrence. We’re concerned with safety.

Dr Scott: I will say we were pleased with the 14 year tariff. There's a menu of possible disposals at the summary level. 85% of our cases are heard in summary court. There's not a lot of custodians but even prior to the new law <1% of domestic abuse led to custodials.

Dr Scott: we have a lot of faith in our programs but they will only take so many perpetrators, and only if they want to change. I think we have to start with safety first.

Ms Kilburn: a lot of what Marsha said, we've had quite a few 5Y imprisonments in England (the maximum). Added to those have been really long term injunctions (intervention orders).

Ms Kilburn: we get more short term 12 month prison or community orders. We're disappointed. Although some perpetrator programs have good evidence research behind them most applied to physical abuse.

Dr Scott and Ms Kilburn: no there isn't research on recidivism yet. Sure it would be very useful to know.

I'm going to intercede here and say that the patrionising tone of some of these questions to guests from overseas, who are providing insights out of sheer generosity, has been pretty on the nose.

I won't say which members of the committee or which questions, but the tone and content of the questions has not demonstrated the gratitude we owe to both Dr Scott and Ms Kilburn for sharing their insights with Australia.

Dr Scott: the other thing we have learned is that we have a very powerful tool in the voices of women and children that we work with. Bringing them into the chambers of our parliament ... their voices have to be part of it.

Dr Scott: "this is a labour love for us. We're happy to help in any way we can."

Ms Kilburn: will this sort of legislation make women and children safer in the long term? Will it change the behaviour if perpetrators? Survivor networks need to be part of your decision-making process.

And there endeth the live-tweet. Big day tomorrow but I won't be live-tweeting it.