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**Coercive Control, the Offense and Men:
Reply to Bates and Taylor
By Cassandra Weiner* & Evan Stark****

We wish to clarify one point raised by Bates and Taylor with respect to the narrow focus of the English legislation (section 76 of the Serious Crime Act 2015) and respond to their plaint that the offense fails to anticipate the unique circumstances of male victimization. Our main interest is to help readers appreciate the scope of current efforts to incorporate coercive control into policy.

An outstanding dilemma in shaping policy around coercive control was whether to craft a “bespoke definition” (a definition or law specifically designed to capture the particular pattern of behaviours) or an ‘incremental’ definition that only incorporates elements of the crime existing law failed to cover. The risk in the former approach is requiring too radical a paradigm shift. The latter approach can imply all that is needed is ‘more of the same.’ In fact, the constituent parts of the UK have taken very different approaches to this dilemma. The UK Home Office initially adapted the broad definition offered by Evan Stark. Section 76 Serious Crime Act 2015 (‘section 76’) came into force in England and Wales in December 2015. This law took an incremental approach, as Bates and Taylor (2019) rightly suggest, and ‘aimed to capture the types of non-physical abuse that can be detrimental to physical and mental health’. The Domestic Abuse Scotland Act 2018 (the Scottish Offense) took the broadest and in our view the most progressive approach. Section 76 is currently being revised and may address some of the coverage gaps they identify in their article.

In England, the broad strategic framework for an appropriate “cross-governmental response” was spelled out by the Home Office in a new ‘Working Definition’ of Coercive Control to include “Any incident or *pattern of incidents* of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.” (UK Home Office, 2013).

“*Coercion* encompassed psychological, physical, sexual, financial and emotional abuse. *Controlling behaviour* was defined as “making a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday lives.” These definitions are taken from Evan Stark’s (2007) book on *Coercive Control*. From 2012-2014, the new Working Definition replaced more than twenty other, conflicting definitions that guided the funding and delivery of services to abuse victims throughout Britain. But the new Working Definition had no legal standing.

Wiener (2019) argues that the Conservative Party Attorney General crafted the offense (s76) of coercive and controlling behavior in England/Wales far too narrowly to carry the weight or breadth of the Working Definition. In distilling the working definition into law, the government took the position that ‘new law’ was unnecessary because existing statutes already covered violence, sexual assault, stalking and harassment, for instance. To our mind, section 76 is weak not only because of its minimalist language but also because it set aside the larger coercive control framework which makes the particular acts identified by the offense intelligible as part of a malign pattern of (male) domination.

The explicit enumeration of bad acts in the Scottish Offense makes sense only against the background of this larger context. The Bates and Taylor (2019) article seems oblivious to this context.

The Scottish Offense came into force in April earlier this year. It places coercive control at the centre of a new offence of domestic abuse, which incorporates all of the different behavioural manifestations of coercive control: physical, sexual, psychological and economic abuse. It also, crucially, applies to partners *and* ex-partners. Another limitation, picked up by Bates and Taylor, is that the definition of personal connection in subsection 7(4) of section 76 means that an abusive ex-partner who is no longer living with the victim is

exempt. As is well known, post separation abuse is ‘a dangerous time for women’ and the inadequacy of section 76 in this regard is a cause for concern. The government’s stated intention at the time was that post separation abuse could be captured by the Protection from Harassment Act 1997 (Hansard, 2015), but Bates and Taylor are correct to point out that abuse around court processes and child contact orders would in all likelihood fall outside its remit. In any event, the ‘end of the relationship’ rarely occurs as a single transactional moment (Tuerkheimer, 2013), and using it as a legal boundary separating two key offences (coercive control and/or harassment and stalking) creates as many problems as it solves.

The thrust of Bates and Taylor’s argument, however, is that there are particular types of post separation abuse that are experienced only by men that are currently not reported in the literature or captured by the criminal law. They offer as an example that men fear the threat and use of, false allegations as a ‘form of manipulation used by their partners both during and after the relationship.’ The power of these false allegations exists because ‘social narratives about IPV construct men as perpetrators and women as victims’. Section 76 is a gender-neutral offence. The fact that 99.99 % of the first 180 or so successful prosecutions to date have involved a male perpetrator and a female victim could be the result, as Bates and Taylor suggest, of ‘barriers men face when seeking help.’ But it is more likely a reflection of the gendered nature of the power imbalance that makes coercive control possible. Barriers to help-seeking cannot explain why the same sex differences are reflected in answers to questions about *needing* help with coercive control asked by the Crime Survey of England and Wales (Office for National Statistics, 2018).

In an era when the family law dockets in the U.S. and UK are filled with contested custody claims from men claiming to have been (psychologically) victimized by their wives, we remain sceptical about the hidden population of reticent men exposed by the small volunteer sample drawn by Bates and Taylor. This is not to dismiss the reality that many

women coercively control their partners. For the rest, however, at least where patterns of criminal behavior are concerned, the early statistics on section 76 support the view that the social narratives referred to by Bates and Taylor that construct men as perpetrators and women as victims are, unfortunately, entirely accurate.

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References

Bates, E. and Taylor, J. (2019 forthcoming). *Coercive Control Involving Male Victims of Intimate Partner Violence*. London: Routledge Pub.

Hansard (2015). HC Deb (House of Common Debates), 20 January 2015, Vol. 591, Col. 171.

Home Office (2013). Guidance Domestic Violence and Abuse. Retrieved from: <https://www.gov.uk/guidance/domestic-violence-and-abuse>

Office for National Statistics (2019). Domestic Abuse in England and Wales, Year Ending March 2018. Retrieved from: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2018#prevalence-of-domestic-abuse>

Stark, E. (2007). *Coercive Control: How Men Entrap Women in Personal Life*. New York: Oxford Univ. Press.

Tuerkheimer, D. (2013). Breakups. *Yale Journal of Law and Feminism* 51, 1 – 49.