

Institution: De Montfort University		
Unit of Assessment: 18		
Title of case study: Criminalising Coercive Control		
Period when the underpinning research was undertaken: January 2015–present		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Vanessa Bettinson	Professor of Criminal Law and Criminal Justice	September 2004–present
Period when the claimed impact occurred: January 2015–September 2020		
Is this case study continued from a case study submitted in 2014? N		
1. Summary of the impact		
<p>Bettinson's research on coercive control in the criminal law has directly influenced legislative change in England, Wales and Scotland, increasing recognition of coercive control in criminal offences and defences. Her work is used to train stakeholders to implement coercive control offences. Bettinson advised legal counsel for Sally Challen in a coercive control case that has influenced criminal law profoundly following the Court of Appeal decision in 2019. Bettinson (with others) has launched an International Coercive Control Legal Network that enables supporters to lobby for policy and legal reform of coercive control.</p>		
2. Underpinning research		
<p>Prior to the enactment of s. 76 Serious Crime Act 2015, there were no criminal offences addressing non-physical systematic coercive and controlling behaviour within intimate or family relationships. SafeLives data show that 82% of domestic abuse victims supported by Independent Domestic Violence Advocates experience controlling behaviours by the perpetrator (D. McLeod, 'Coercive control: impacts on children and young people in the family environment' in S. Flood (ed.) <i>Research in Practice</i> (Cafcass, SafeLives, 2018: 8–10)). Bettinson and Bishop's article [R1] analysed existing criminal offences and their application to coercive control, establishing that there was a gap in the legal framework and detailing the specific nature and harm of the behaviour. The justification for criminalisation was outlined and the components of the s. 76 offence critiqued providing a useful resource for criminal justice practitioners to understand coercive control in the context of identifying this type of offending and bringing charges. The research for this article informed Bettinson and Bishop's submission to the Public Bill Committee [C1]. The extent of this criminal issue is illustrated by the fact that in March 2019, recording of this offence increased by 95% to 17,616 since its inception (ONS, 'Domestic abuse prevalence and trends, England and Wales: year ending March 2019'; https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabuseprevalenceandtrendsenglandandwales/yearendingmarch2019).</p> <p>After exploring the English and Welsh law on coercive control Bettinson took a field trip to Scotland, funded by the Faculty of Business and Law at DMU. Here, she spoke with members from Women's Aid Scotland, scholars at Strathclyde Law School and observed the Edinburgh Domestic Abuse court. She studied Scottish legal texts at Edinburgh's Scottish library and analysed Scottish criminal law applicable to domestic abuse. This research informed Bettinson's article [R2], where she argued that joint criminal justice policy responses between Police Scotland and the Office of the Procurator Fiscal had developed in its own unique way, applying a definition of domestic abuse that did not extend to family members, in contrast to England and Wales. As joint working policies differed in Scotland, developing a coercive control-based offence in line with these would be more beneficial than structuring the offence in the same way as England and Wales had done. Scotland's government sought to review its own criminal law addressing domestic abuse in 2017 leading to the introduction of s. 1 Domestic Abuse (Scotland) Act 2018.</p>		

Deakin University, Australia conducted a Roundtable of international academics and criminal justice practitioners to discuss criminalising coercive control in other jurisdictions. Consequently, Marilyn McMahon and Paul McGorrery edited a collected volume, *Criminalising Coercive Control*, with Bettinson contributing a chapter to assist other legal jurisdictions in determining how to criminalise this behaviour [R3]. The chapter provides the first comparative exploration of the English and Scottish offences, alongside the Irish domestic abuse offence and Tasmania's offences of emotional and economic abuse. Mapping out the components of the offences allows other jurisdictions to consider offences that suit their own legal framework.

Once criminalised, Bettinson with Bishop [R4] and Robson [R5] explored innovative methods of evidencing and proving the offence under s. 76 Serious Crime Act 2015. By analysing provisions governing hearsay, special measures and secondary sources about the investigatory and prosecutorial processes, this research explains the specific difficulties facing victims of coercive control and the legislative tools available to alleviate these problems. The number of prosecutions for the offence are growing and use of the measures outlined in these articles are reported in Crown Prosecution Service Violence Against Women annual reports.

Finally, Bettinson's doctrinal work on the partial defences to murder [R6] explores how the criminal law would be incoherent if these defences did not align with the creation of a coercive control offence. Using the available data on the Sally Challen case prior to the appeal court hearing, Bettinson explored how a coercive control-informed approach could and should be taken.

3. References to the research

All references are published in prestigious internationally recognised peer-reviewed journals or edited collections.

- [R1] Bettinson, V. and Bishop, C. (2015) 'Is the creation of a discrete offence of coercive control necessary to combat domestic violence?', *Northern Ireland Legal Quarterly*, 66(2): 179–197; <https://nilq.qub.ac.uk/index.php/nilq/article/view/149>
- [R2] Bettinson, V. (2016) 'Criminalising coercive control in domestic violence cases: should Scotland follow the path of England and Wales?', *Criminal Law Review*, 3: 165–180; <https://www.researchgate.net/publication/297161736>
- [R3] Bettinson, V. (2020) 'A comparative evaluation of offences: criminalising abusive behaviour in England, Wales, Scotland, Ireland and Tasmania', in M. McMahon and P. McGorrery (eds), *Criminalising Coercive Control: Family Violence and the Criminal Law*, Singapore: Springer, pp 197–218; ISBN 9789811506529
- [R4] Bishop, C. and Bettinson, V. (2018) 'Evidencing domestic violence, including behaviour that falls under the new offence of "controlling or coercive behaviour"', *The International Journal of Evidence and Proof*, 22(1): 3–29; <https://doi.org/10.1177/1365712717725535>
- [R5] Bettinson, V. and Robson, J. (2020) 'Prosecuting coercive control: reforming storytelling in the courtroom', *Criminal Law Review*, 12: 3–18; https://www.researchgate.net/publication/345947753_Prosecuting_Coercive_Control_Reforming_in_the_Courtroom
- [R6] Bettinson, V. (2019) 'Aligning partial defences to murder with the offence of coercive or controlling behaviour,' *Journal of Criminal Law*, 83(1): 71–86; <https://doi.org/10.1177/0022018318814362>

4. Details of the impact

The impact has four key strands: (1) contribution to legislative reform, (2) partial defences to murder: Sally Challen appeal, (3) international lobbying power and (4) training and informing practices of the police, Crown Prosecution Service and magistrates.

(1) LEGISLATIVE REFORM

Bettinson and Bishop's article [R1] provided the basis for their submission of written evidence informing the Westminster government's consultation process to the Public Bill Committee about

a draft offence of coercive and controlling behaviour in s. 76 Serious Crime Bill 2015 [C1]. This was the only academic contribution on this issue and the language of the draft offence was altered to reflect a change advocated in the written evidence (see para 1.6).

Bettinson's article [R2] was written to explore whether Scotland should take a different approach to criminalising coercive control compared to England and it shaped her responses to the initial Scottish consultation on reforming domestic abuse law (2017) and the Domestic Abuse (Scotland) Bill (2018) [C2]. The research validated the Scottish decision to develop a different offence to s. 76 Serious Crime Act 2015. *The Scotsman*, Scotland's national newspaper (monthly circulation online and print: 5.8 million), commissioned an opinion piece by Bettinson on the enactment of the Domestic Abuse (Scotland) Act 2018 [C9], stressing the importance of the criminal justice system agencies to successfully implement the offence and to encourage other legal jurisdictions to follow its model.

(2) PARTIAL DEFENCES TO MURDER: SALLY CHALLEN APPEAL

In 2011, Sally Challen was sentenced to 22 years imprisonment for her husband's murder, reduced to 18 years on appeal. However, an appeal against her conviction was launched by her defence team in 2019 on the basis that an advance in knowledge about coercive control amounted to fresh evidence. Sally Challen's successful appeal was groundbreaking. The court agreed that she could raise a partial defence to murder, in her case diminished responsibility, with consideration given to the years of coercive control by her husband she experienced throughout her marriage.

Bettinson's research was cited in a key expert report on the understanding of coercive control before early 2011 by the Court of Appeal in *R v Challen* [2019] EWCA Crim 916 (pp 2, 13) [C3]. The report containing Bettinson's research, was integral to the decision by the Court of Appeal, because it established that at the time of Challen's original trial, the legal community's knowledge and understanding of the concept of coercive control was minimal and, therefore, had there been greater knowledge, the trial verdict could have been different from the one reached. Consequently, increased knowledge of coercive control did represent fresh evidence in Challen's appeal. This expert report widely cited Bettinson and Bishop's research [R1]. It stated that 'The UK academics Vanessa Bettinson and Charlotte Bishop (2015) note that there has until the 2015 Act been "an inability by the substantive criminal law to capture the distinctive nature of coercive control that is, arguably, a defining feature of many cases of domestic violence and/or abuse" [C3: 5.3].

Bettinson's article [R6] explored the capacity for coercive control arguments to be aligned with the existing partial defences to murder and this formed the basis of her advice to Challen's legal counsel.

The outcome of the appeal in which Bettinson's (and Bishop's) contribution played a significant role, first, led to Challen's murder conviction to be quashed and a retrial ordered (prosecution accepted a guilty plea to manslaughter by reason of diminished responsibility). Second, the result means that future cases where a victim of domestic abuse kills their abuser can ensure that evidence of coercive control is admissible and relevant to support a partial defence to murder [C9].

The case made headlines in mainstream media and has influenced criminal law profoundly (Harriet Hall, 'The Sally Challen case isn't a cause for celebration' *The Independent* (2 March 2019); <https://www.independent.co.uk/voices/sally-challen-case-appeal-murder-david-husband-domestic-violence-a8804276.html>) and a further outcome from Bettinson's research is a contribution to a wider societal awareness of domestic abuse and criminal justice responses, as evidenced by Bettinson's interview on BBC national news in February 2020 following the suicide of a former Love Island presenter [C4].

(3) NEW INTERNATIONAL COERCIVE CONTROL NETWORK AND IMPROVED LOBBYING POWER

Bettinson's connections on the Challen case and her key contribution to the international book *Criminalising Coercive Control* (2020; [R3]) led to the formation of the first ever International Coercive Control Legal Network with representation on the Planning Committee from Rutgers

University and the Centre for Women's Justice, the University of Auckland and the University of Ottawa (<https://www.svdv.org.uk/international-coercive-control-legal-network/>). The network enables members to share best practice, experiences of developing coercive control-informed legal reform and support to lobby for further legislative changes. Members are represented by academics, legal practitioners, domestic abuse professionals and women's rights organisations from Oceania, North America and Europe. Bettinson's research has informed the debate in Australia around the question of creating a specific criminal offence of coercive control. Her work is cited by Women's Legal Service Tasmania's submission to the Australian Government's review of family, domestic and sexual violence (<https://womenslegaltas.org.au/wordy/wp-content/uploads/2020/08/Submission-240720-Inquiry-into-Family-Domestic-and-Sexual-Violence-Coercion-and-Control.pdf>) and requested by the Assistant Director on Complex Violence and International Policy in the Australian Government to inform government thinking around coercive control legislation [C8].

(4) TRAINING AND INFORMING PRACTICES

Bettinson's work with Dr Bishop [R4] formed the basis of training sessions provided by Bettinson for the Domestic Abuse Investigation Unit of Leicestershire Police CID, East Midlands Crown Prosecution Service and Magistrates Association, London Branch. Investigating and evidencing crimes of coercive control is essential to the successful criminalisation of the offence and Bettinson's training sessions 'contributed to developing our [police] understanding at an important point' in the progression of police and prosecutorial practice' according to Detective Inspector, Leicestershire Police [C6]. Bettinson trained 105 London magistrates who use the learning in their practice at the magistrates' courts. The Chair of the Magistrates Association London Branches said the training has ensured that participants 'ask more questions and delve a little deeper into the cases put forward by both the defence and the prosecution before reaching our conclusion' [C7].

5. Sources to corroborate the impact

[C1] Written evidence by Bettinson on parliamentary website:

<https://publications.parliament.uk/pa/cm201415/cmpublic/seriouscrime/memo/sc12.htm>

Scottish consultation outputs:

[C2] Written submission by Bettinson;

https://www.parliament.scot/S5_JusticeCommittee/Inquiries/DA-Bettinson.pdf

Stage 1 Report on the Domestic Abuse (Scotland) Bill 2017, pp 10, 13, 24; [https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2017/9/21/Stage-1-Report-on-the-Domestic-Abuse--Scotland--Bill/Stage%201%20Report%20on%20the%20Domestic%20Abuse%20\(Scotland\)%20Bill.pdf](https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2017/9/21/Stage-1-Report-on-the-Domestic-Abuse--Scotland--Bill/Stage%201%20Report%20on%20the%20Domestic%20Abuse%20(Scotland)%20Bill.pdf)

Responses to Consultation 7 November 2016, Annex 2 Draft offence – suggested amendments p 5; <https://consult.gov.scot/criminal-law-and-sentencing-team/criminal-offence-domestic-abuse/>

[C3] Expert Report on understanding of Coercive Control before early 2011' (2019).

[C4] BBC News interview 17 February 2020.

[C5] Email from Sally Challen legal Counsel.

[C6] Testimonial letter regarding training activities from Detective Inspector, Leicestershire police Domestic Abuse Investigation Unit, dated 22 October 2020.

[C7] Testimonial letter regarding training activities from Chair, Magistrates Association London Branches, emailed 6 November 2020.

[C8] Email from Assistant Director on Complex Violence and International Policy for the Australian Government, dated 11 September 2020.

Newspaper articles:

- [C9] Article in *The Scotsman*, 'Scotland gives hope to world's domestic abuse victims' (12 February 2018); <https://www.scotsman.com/news/opinion/columnists/vanessa-bettinson-scotland-gives-hope-worlds-domestic-abuse-victims-1431998>
- Jonathan Ames, in the *Times*, 'Sally Challen case: "Victims are forced to stay with their abusers" ' (28 February 2019); <https://www.thetimes.co.uk/article/sally-challen-case-victims-are-forced-to-stay-with-their-abusers-236kplpcz>
- Jonathan Este, in *The Conversation*, 'Sally Challen: what quashing of murder conviction means for similar cases alleging coercive control' (4 March 2019); <https://theconversation.com/sally-challen-what-quashing-of-murder-conviction-means-for-similar-cases-alleging-coercive-control-112739>